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Council rights vote expected

By Tracy Baim

The Chicago City Council was expected yesterday to vote on the pending gay and lesbian civil rights ordinance. According to the bill's sponsor, Ald. Cliff Kelley (20th), the bill would be called for a vote during the July 9 Council session.

Mayor Harold Washington has publically voiced his support for the measure during recent weeks—both at the 17th Annual Gay and Lesbian Pride Rally and on WMAQ radio.

According to Mayor's Liaison to the Gay and Lesbian Community Kit Duffy, the measure appeared to have a good chance of passing. She estimated there would be 26 "yes" votes, not counting on the support of Ald. Ed Vrdolyak, who has in the past voiced support but lately has given no indication which way he would vote.

On June 25, the bill was not brought up for a vote because Kelley did not give the proper 24-hour advance warning to the other aldermen. However, as of this past Monday, five other aldermen had signed on to a letter announcing the bill would be called. The five were: Bernie Hansen (44th), Jerome Orbach (46th), David Orr (49th), Burton Natarus (42nd), Martin Oberman (43rd); if Kelley did not sign on, the bill would still be able to be called.

If there is a 25-25 tie in the Council, Washington could be the tie-breaking vote. Jim Flint, who has been lobbying aldermen for several weeks in an effort to get the ordinance passed, said Monday it appeared as if the ordinance would pass.

According to estimated vote tallies by Duffy and Flint, if a vote was called yesterday, a Council vote could have broken down according to the vote tallies accompanying this article.

One thing which could influence the outcome, however, is the vote will be on roll call, not voice vote as previously indicated. Mayor Washington has said he does not want the



Ald. Kelley (second from left) and Ald. Hansen (right) confer with Mayor Washington and others about the gay and lesbian rights bill at the June 25 session. Photo: William Burks

"YES" votes:

Fred Roti (1st)
Bobby Rush (2nd)
Dorothy Tillman (3rd)
Timothy Evans (4th)
Lawrence Bloom (5th)
William Beavers (7th)
Marlene Carter (15th)
Anna Langford (16th)
Clifford Kelley (20th)
Jesus Garcia (22nd)
William Henry (24th)
Juan Soliz (25th)
Luis Gutierrez (26th)
Wallace Davis (27th)
Ed Smith (28th)
Danny Davis (29th)
Miguel Santiago (31st)

Richard Mell (33rd)
Wilson Frost (34th)
Percy Giles (37th)
Burton Natarus (42nd)
Martin Oberman (43rd)
Bernard Hansen (44th)
Jerome Orbach (46th)
Marion Volini (48th)
David Orr (49th)
Bernard Stone (50th)
"NO" votes
Aloysius Majerczyk (12th)
John Madrzak (13th)
Robert Kellam (18th)
Michael Sheahan (19th)
William Krystyniak (23rd)
George Hagopian (30th)
William Banks (36th)

Thomas Cullerton (38th)
Anthony Laurino (39th)
Possible "YES" or "NO"
Marian Humes (8th)
Eugene Sawyer (6th)
Perry Hutchinson (9th)
Ed Vrdolyak (10th)
Patrick Huels (11th)
Ed Burke (14th)
Allan Streeter (17th)
Niles Sherman (21st)
Terry Gabinski (32nd)
Joseph Kotlarz (35th)
Patrick O'Connor (40th)
Roman Pucinski (41st)
Gerald McLaughlin (45th)
Eugene Schuller (47th)

results challenged in court, which could happen if there was a voice vote. Therefore, some aldermen may not want to be on record in support of gay and lesbian rights. But despite this, Flint and others were optimistic for the bill's passage.

The ordinance does not "condone" or "promote" a lifestyle or sexual practice, according to supporters. "Being gay or lesbian is a condition of birth, and should not be the basis for discrimination any more than being black, latino, Catholic or female," according to a printed flyer distributed by ordinance backers.

The flyer also notes the political clout of gays and lesbians and their families, and calls the bill "an issue of civil rights...not privilege or license...involving the protection of people whose condition of birth has brought upon them arbitrary and unfair discrimination."

Because *Windy City Times* goes to press on Tuesday, results from the Council meeting could not appear in this issue. Next week, look for full coverage of Council action.

The full text of the ordinance is as follows: Section 1: That Chapter 198.7A of the Municipal Code of Chicago ("Fair Employment Practices Ordinance") is hereby amended by adding thereto the words "sexual orientation" following the word "creed" or the word "religion", wherever said words shall appear.

Section 2. That Chapter 198.7B of the Municipal Code of Chicago ("Chicago Fair Housing Ordinance") is hereby amended by adding thereto the words "sexual orientation" in the first three sections following the word "religion", wherever said word shall appear.

Section 3. That Chapter 199A of the Municipal Code of Chicago ("Civil Rights") is hereby amended by deleting the words "race and color" in the first section thereof, and by inserting in lieu thereof the words "race, color or sexual orientation".

Section 4. This ordinance shall be in full force and effect from and after its passage.

Sodomy: The effect of 'Bowers v. Hardwick'

By William Burks

Calling the idea that rooted in the concept of ordered liberty is the right of individuals to engage in consensual homosexual sex "at best, facetious," the U.S. Supreme Court upheld Georgia's sodomy statute as it applies to homosexuals last week.

The decision crushed the hopes of gay rights activists that the right of privacy would be extended to protect consensual sexual acts by gay people in their own homes. The case caused bitter division between the Supreme Court Justices, with both Justices Byron R. White and Harry A. Blackmun reading passages from the court's opinion and a dissent, respectively, from the bench.

The case, *Bowers v. Hardwick*, involved an Atlanta man, Michael Hardwick, arrested in his own bedroom while engaging in oral sex with another man in August 1982. The arresting officer had come to his home to serve an outstanding warrant for public drunkenness. A third man let the officer in and told him he could look for Hardwick if he chose.

Hardwick challenged the arrest—even though charges were not pressed "pending further evidence"—and a U.S. Court of Appeals held that Hardwick's constitutional right of privacy had been violated. Bowers, Georgia's Attorney General, petitioned the Supreme Court to reverse the decision, which it did.

The opinion of the court, written by White, stated that "respondent [Hardwick] would have us announce, as the Court of Appeals did, a fundamental right to engage in homosexual sodomy. This we are quite unwilling to do." White's opinion was joined by Chief Justice Warren E. Burger, Justices Lewis F. Powell, Jr., William H. Renquist, and Sandra Day O'Connor. Burger and Powell filed concurring

opinions.

Justices Harry A. Blackmun, William J. Brennan, Jr., Thurgood Marshall, and John Paul Stevens voted for the respondent in a 5-4 decision. Blackmun wrote a dissenting opinion in which Brennan, Marshall, and Stevens joined; Stevens wrote a separate dissenting opinion that Brennan and Marshall joined.

None of the court's previous cases involving personal choices in the areas of marriage, family relationships, and procreation bear any resemblance to this case, the court stated. "No connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated, either by the Court of Appeals or by the respondent."

The court's opinion then traced the history of sodomy statutes from their "ancient roots" to the laws of the original 13 states, and the laws of those states ratifying the Fourteenth Amendment [Due Process Clause]. It denied that *Stanley v. Georgia* (1969), upholding the right of an individual to possess pornography in the home, was anything but a First Amendment [Freedom of the Press] issue.

Finally, the court denied Hardwick's claim that the law must have a rational basis beyond the presumed belief of a majority that homosexual sodomy is immoral and unacceptable. "The law, however, is constantly based on notions of morality," White's opinion stated, "and if all laws representing essentially moral choices are to be invalidated under the Due Process Clause, the courts will be very busy indeed."

Concurring opinions

Chief Justice Burger's concurring opinion dwelt at even greater length on the historical roots of antisodomy laws, and concluded "to hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral

teaching."

Justice Powell's opinion suggested that the Eighth Amendment [barring cruel and unusual punishment] might apply in such a case, saying that a prison sentence was inappropriate. "In my view, a prison sentence for such conduct—certainly a sentence of long duration—would create a serious Eighth Amend-

ment issue," Powell wrote.

The State of Georgia never pressed charges against Hardwick, however, and did not suggest it would do so in the future.

Dissenting opinions

Justice Blackmun's dissent begins, "This case is no more about 'a fundamental right to

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Dannemeyer, Grossman on 'Oprah' show July 11

California Rep. William Dannemeyer (left), Harvey Grossman (right) of the Illinois chapter of the American Civil Liberties Union, former Chicagoan Darrell Yates-Rist, and others are set to discuss AIDS legislation and the U.S. Supreme Court's decision on sodomy on Friday, July 11, 9 a.m. on WLS-TV's 'Oprah' show, hosted by Oprah Winfrey. Photo: Jill Burgin