

SPECIAL MEETING OF THE BILLINGS CITY COUNCIL
February 28, 2011

The Billings City Council met in special session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Thomas W. Hanel called the meeting to order at 5:30 p.m. and served as the meeting's presiding officer.

ROLL CALL: Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, Ulledalen, Astle and Clark. Councilmember McCall was excused.

SPECIAL AGENDA:

1. Legislative Review with Lobbyist Ed Bartlett.

Mr. Bartlett was present at the meeting. He said they were at the half-way point of the 90-day legislative session. He said the legislature would re-convene from the recess late the following afternoon and between Wednesday, Thursday and Friday there were 105 hearings scheduled. He said revenue and appropriation bills were not subject to the transmittal deadline. Mr. Bartlett said all 150 legislators knew from day one that the issue for the session was the budget. He said all of the subcommittees had taken substantial information from people across the state, and beginning on Wednesday of that week, the House Appropriations Committee would start considering the preliminary recommendations made by all of the subcommittees. He said the matter of the budget always started in the House and then transferred to the Senate. He said the only thing the Legislature had to do when it met was pass the budget and never had to pass any bills, even though it always did. Mr. Bartlett said he predicted they would pass about 400 bills during the current session.

Mr. Bartlett referenced workers compensation, medical marijuana, and the tax increment financing bills and said they continued to be extremely important.

Mr. Bartlett began his report.

- TIFD Bills: Currently before the House Taxation Committee, and a hearing date had not been set.
- SB358: First hearing set for March 4. Bill was 70 pages long and primarily applied to counties with several provisions that would apply to cities. He said generally it would be a favorable bill.
- Medical Marijuana: Would continue to be an issue during the second half of the session. Not sure how many medical marijuana bills there were. Eventually the legislature would take some kind of action on medical marijuana but could not predict if it would be repeal or regulation.

- ✓ HB43: Provided that all employers had rights to test and discharge an employee even if the employee had a medical marijuana card. Passed the House and would be heard in Senate Business Committee on March 2.
- ✓ HB161: One of several bills that would repeal medical marijuana. Had not been set for a Senate hearing and was a straight repeal on the initiative.
- ✓ HB68: Revision to the Medical Marijuana Act. Pending and not subject to the 45-day deadline. No hearing date had been set.

Astle: Asked for the constitutionality of a full repeal since it was a citizen initiative.

Mr. Bartlett: Said he guessed full repeal was lawful and would be upheld. He said there was nothing in the law that said when citizens enacted an initiative it could not be overturned by the legislature. The sentiment he heard most from legislators was that what was passed was not what they had.

Pitman: Asked if there was a house bill that repealed and put it back to the voters.

Mr. Bartlett: Said there were several that would send it back to the voters.

Ruegamer: Repealing a voter initiative would reflect negatively on the legislators and cast a lot of doubt onto the voters' powers.

Mr. Bartlett: There was a strong sense with a number of legislators that what they were working with was not what was passed.

Ronquillo: Moved to support HB161, seconded by Gaghen.

Atty Brooks: HB68 was a lengthy bill of about 60 pages for which he and Mr. Bartlett attended interim committee meetings in August. He said Council's direction was that they preferred the local option to completely prohibit medical marijuana but in the absence of that, they supported a very strict regulation.

Ulledalen: Said he thought it was a complicated poker game and he still felt they would end up with the legislative session done and nothing accomplished. He said the ideal thing would be a referendum giving it back to the voters. His concern was that if a bill passed both houses and the governor vetoed it, they would be back to square one.

Astle: Said he thought it was premature to take a stand. He said he did not remember how he voted in 2004. He said a complete repeal may be too much, so he would not support it.

Ruegamer: Said he agreed with Ronquillo to a point, but he was hesitant to take something the voters said they wanted and change it. He said the legislators did not know what the people wanted and it was dangerous to say they did.

Ronquillo: Said Council supported HB68, and they were now saying they did not want to support HB161. He said they did not know what was going to happen to medical marijuana. He thinks the city needed to get behind it and say they wanted to

get rid of it altogether. He said it was not what they voted for and the only way to get rid of it was to vote against it.

Gaghen: Asked Mr. Bartlett to review HB68 and asked if it encompassed overturning the initiative.

Mr. Bartlett: Said HB68 was a good regulation and control bill and gave the state and local governments fairly decent authority to regulate and control but it did not come close to repeal and did not give local or state government the right to prohibit medical marijuana.

Gaghen: Which one was the local option?

Atty Brooks: HB68 was the bill where the Council's direction was preference to have a bill passed by the legislature allowing local cities and towns the options to completely prohibit within the boundaries; but in the absence of that, the support was to heavily regulate it like alcohol. He said HB68 heavily regulated the industry and allowed cities and towns to decide where and in what zone the activity could occur.

Pitman: Concerned that if they just pushed repeal and it made it through the House and Senate, the governor would veto it and they would be left at the end of the session with no ability to do anything and be right back where they started. He said restricting it and getting it back to the voters would be the most logical way to approach it. He said when there was a citizen initiative process, they needed to be very cautious on how it was approached.

Hanel: Said it was no surprise that he strongly supported a repeal. He said the state had been tricked. He said the number of people who had the medical marijuana cards, in addition to the number of providers and the quantity of marijuana they were allowed to cultivate, produce and sell far, far exceeded the number of persons allowed to use it. He said if the numbers were broken down, those allowed to use it would have to smoke it almost 24 hours a day, 7 days a week to keep up with the quantity the providers were able to provide. He said they were headed for trouble that would create a criminal element and cartels. He said what they saw as a problem now would be a huge problem if they did not take a stand. He said if the repeal was unsuccessful, it was his prediction they would have another bill ready that would be very strict as far as the disbursement of medical marijuana.

Ulledalen: Asked if HB68 gave local municipalities the right to prohibit.

Mr. Bartlett: No

Ulledalen: Did any bill have it?

Mr. Bartlett: No

Pitman: Are they doing silver bullets this year?

Mr. Bartlett: No

Clark: Asked if HB68 allowed the City, as a self governing power, to prohibit within the city limits.

Mr. Bartlett: No

Atty Brooks: Said HB68 specifically prohibited self governing entities from completely excluding the operations from the exterior boundaries of the city.

McFadden: Asked if the bills giving more regulation involved the medical community.

Mr. Bartlett: Many of them did and put a number of restrictions and regulatory authority on the medical profession.

Mr. Bartlett: HB161 was a straight repeal.

Ulledalen: Said he would support it. He said they needed to understand the consequences because it had a long way to go. He said they could be right back here after the legislative session with nothing done in Helena, and they would have to be ready to act with their own set of regulations.

Pitman: Asked if the bill had a fiscal note to it as far as financially helping cities take care of it.

Mr. Bartlett: Said he did not recall but staff did not think so.

On a roll call vote, the motion to support HB161 failed due to a 5 to 5 tie. Councilmembers Pitman, Cimmino, McFadden, Ruegamer, and Astle voted in opposition. Councilmembers Ronquillo, Gaghen, Ulledalen, Clark and Mayor Hanel voted in favor.

Mr. Bartlett continued his report:

- HB316: Statutory appropriation bill that would ultimately be merged with HB2, the General Budget bill. Scheduled for executive action on March 2.
- SB372: Came up fast and is scheduled for Senate hearing on March 3. The bill was a phased reduction of the business equipment tax with a 90% reimbursement for local governments.
- HB325: Companion bill to SB372 and was a total elimination of the business equipment tax with no reimbursement for local governments. Ms. Volek advised if bill was passed, local governments would lose \$15 million in the first year. She strongly encouraged taking opposition to the bill.

McFadden: Asked for the argument in support of eliminating the tax.

Mr. Bartlett: Said it was clearly a positive thing for existing and new business. He said it was a simple argument and what they always used for a business tax reduction.

Clark: Moved not to back HB325 but to support SB372 if necessary, seconded by Gaghen. On a voice vote, the motion was approved 8 to 2. Councilmembers Pitman and Cimmino voted 'no'.

- **HB307:** A bill prohibiting the state building codes from requiring mandatory sprinklers in single family residential housing and duplexes. He said it had been broader but had been amended to include only single-family housing and duplexes. It passed the House and was on its way to the Senate. Council had discussed earlier but had not taken a position.

Clark: Moved to support HB307, seconded by Astle.

Ulledalen: Said they still had the option to be able to require sprinklers if they wanted to but they would not be forced to do it, which was key; especially working on issues of trying to maintain affordable housing.

Ms. Volek: Said it was her understanding it was state building code, and the City followed the state and the building codes so if the state did not adopt it, the City did not have an option.

Hanel: Said he agreed with Ulledalen. He said he had several conversations with citizens that the cost aspect for a single family home would be astronomical and it would affect the availability of affordable housing. He said he would support the motion.

On a voice vote, the motion was unanimously approved.

Mr. Bartlett said he would like the Council to think about the following two bills for discussion the following week.

- **HB555:** A bill introduced by Steve Fitzpatrick from Great Falls for non-duplication of recovery for insurance coverage generally prohibiting injured parties from collecting more than once for the same injury. He recommended taking a position but said he could not give Council a recommendation on what their position should be that evening.
- **HB575:** An annexation bill represented by Kris Hansen from Havre that had passed the House. He said he did not have a recommendation on what their position should be that evening but would like to discuss it next week.

Ms. Volek: Said the HB575 was primarily oriented toward counties allowing annexations as opposed to the cities taking the initiative to create annexations. She said there was a great deal of concern about it.

There were no further comments or questions for Mr. Bartlett.

PUBLIC COMMENT on Agenda Item: 1 ONLY. Speaker sign-in required.
(Comments offered here are limited to one (1) minute. Please sign up on the clipboard located at the podium.)

The public comment period was opened. There were no speakers, and the public comment period was closed.

The Council moved to the back court room for Item #2 at 6:15 p.m.

2. Executive Session on Pending Litigation.

Following the Executive Session, the meeting adjourned at 6:35 p.m.

CITY OF BILLINGS

BY _____
Thomas W. Hanel

ATTEST:

BY _____
Cari Martin, City Clerk