

**COMMITTEE OF THE WHOLE
CITY COUNCIL CHAMBERS
140 WEST PINE STREET
MISSOULA MONTANA
MARCH 16, 2011, 3:05 PM**

Members present: Ed Childers, President; Lyn Hellegaard; Bob Jaffe; Marilyn Marler; Renee Mitchell; Pam Walzer; Jason Wiener; Jon Wilkins and Dave Strohmaier (arrived at 3:23)

Members absent: Stacy Rye, Vice President; Dick Haines; Cynthia Wolken

Others present: Bruce Bender, Mark Muir, John Hendrickson, Matt Leach, Keila Szpaller, Tayln Lang, John Masterson, Doug Chyatte

I. Administrative Business

Minutes dated [March 9, 2011](#) were approved as submitted.

II. Public Comment on items not listed on the agenda--None

III. Regular Agenda

A. Administration and Council discuss legislative matters. ([memo](#))—Regular Agenda (Ed Childers) (Referred to committee: 01/24/11) **(HELD IN COMMITTEE)**

Jason Wiener stated he would like to ask Chief Mark Muir about his testimony on HB 161. He asked if he traveled to Helena to testify on any other legislation and if so what were those bills. Mark Muir, Police Chief, stated yes he has testified on two other bills during this session and has attended an interim committee meeting. The other bills he testified on pertained to making it a crime for police officers or federal agents to enforce federal firearm laws and the other one pertains to seizure of weapons.

Mr. Wiener asked if the process to testify in those two cases were the same as testifying to HB 161. Chief Muir stated yes it was the same process.

Mr. Wiener asked the Chief what his process was. Chief Muir stated his process is:

- He takes a look at what the impact is to the police department.
- He makes those impacts noticed to the ALT (Administrative Leadership Team), Mayor Engen and Linda Jordan.
- He also describes what his position is as the Chief of Police.

Mr. Wiener asked if it was presented at ALT on March 8th. Chief Muir stated yes.

Mr. Wiener asked Chief Muir why he did not provide testimony on HB 161 while it was still active in the House Committee. Chief Muir stated he was waiting for HB 68 to make some progress, but at this point HB 161 is the only thing still active that could act as framework for anything that is reasonable. This is the only viable alternative.

Mr. Wiener stated he reviewed Chief Muir's testimony and has some concerns on some of the things he said. If we can't repeal then we should move forward. Basically if we can't repeal this then we should do something else but the way it was presented was the first option here was total repeal. Chief Muir stated he stood by his testimony as it is a matter of record.

Mr. Wiener stated in the Chief's testimony he stated the Medical Marijuana has been a catastrophe on the order of an oil spill. Specifically it was compared to the gulf oil spill. Mr. Wiener asked the Chief if medical marijuana is an environmental disaster that will destroy tens of thousands of livelihoods and untold acres habitat. Chief Muir responded it has a capacity to if it is not brought into check.

Mr. Wiener asked if medical marijuana has the capacity to destroy the livelihood of everyone in Missoula. Chief Muir stated the way it is being regulated today yes it would.

Mr. Wiener asked if the Chief was confident in making that statement for everyone in the city of Missoula.

Mr. Childers interjected that as a city councilman he feels if someone is to represent his position or the position of all the council members then they should have weighed in on it. He asked the chief, if he represented the city's position or as his own position? Chief Muir stated he represented himself as the chief of the Missoula Police Department in support.

Mr. Wiener stated he has a resolution he would like the committee to consider clarifying the city's position. The will of the voters was approved by more than a 3 to 1 margin.

Lyn Hellegaard stated if the council has a beef then they should have a beef with the Mayor rather than the chief. The Mayor authorized the chief to go to Helena. She feels the chief followed the proper channels and the Mayor didn't submit anything to the council.

Bruce Bender stated the sequences of events are important. The initial stance of the administration was to watch this bill because the interest wasn't in the regulation bills. The interest was with the police chief and that is what he represented. When the administration reviewed the bills the intent was to watch this bill. Our focus was on the bill which Representative Sands sponsored but it didn't get out of the house. This was really the last opportunity to emphasize the need for changing the regulations.

Jon Wilkins asked if this bill came before city council where they took a vote. Mr. Childers stated, no, it did not.

Pam Walzer asked if the chief or the city made any positive statements towards Representative Sand's bill to encourage regulation. Chief Muir stated he spoke numerous times with Representative Sands. He had issues with her reform bill and made her aware of them. The idea of dispensaries within the state of Montana needs to be washed out of everyone's minds. He based this off of evidence. This is big business when taken into account of what occurred on Monday when four million dollars were frozen for five individuals. He is not talking about Medical Marijuana but talking about legitimizing criminal enterprise.

Mr. Wiener asked how many pills of Oxycontin do you have to seize in order to get to four million dollars. Chief Muir stated they are eighty dollars a piece.

Mr. Wiener stated it is not a criminal enterprise. It is a medical business but it has a criminal application, just like medical marijuana when it is outside the law. Chief Muir stated when it is being diverted he would agree one hundred percent and he has spoken to many people on the same issue but what is being talked about is the criminal diversion of the medical marijuana.

Mr. Wiener stated he has a resolution removing any doubt on the city stance on the issue. This is only prompted by the testimony on HB 161 that he decided to put in the resolution to remove any doubt. It is abundantly clear the people of the City of Missoula's stand on the medical marijuana, and marijuana generally, in looking at the lowest priority initiative from 2006.

Renee Mitchell stated the beef should be with the people who abuse it and not with the people who actually need it. She has read in the paper about busts and the illegal green cards. The abuse of this is going to make it tough for the legitimate people.

Lyn Hellegaard stated this is a procedural question she feels they can not properly pass this resolution because it was not properly noticed.

Mr. Wilkins agreed with Ms. Hellegaard as to this was not properly noticed. He also stated the voters voted this in so he is against repealing it but there is a lot of abuse.

Mr. Childers stated if the committee of the whole approved in support or in opposition on an issue they write a letter rather than submitting a resolution. The council can approve the resolution with the information Mr. Weiner had submitted and send it off with the letter.

Mr. Weiner stated in his opinion the legislative item was noticed and that this House Bill should be covered under it. In looking back in the legislative deliberations other items appeared on the agenda without a linked resolution.

Mr. Childers asked Mr. Wiener if he sent an email to all council members and could he provide a copy to the audience.

Marilyn Marler said with the procedure they have been talking about the legislative action issues not every bill the committee takes a stance on has been noticed so making a recommendation by the usual way, by voting, should be done. She feels if Mr. Weiner wants the committee to adopt a resolution then he should be able to add it or put it under new business on Monday's agenda.

Ms. Hellegaard stated she thinks Diane Sands is on a subcommittee, since the bill has been stalled in the Senate, to come up with a compromise between this and her bill. Ms. Hellegaard feels the council should continue to watch this bill because she does believe there are people in this state who truly need the medical marijuana but like everybody else this is being horribly abused and they need to address the abuse.

Mr. Childers asked Ms. Hellegaard if she would support something to come out of a subcommittee that would regulate what is going on with medical marijuana. Ms. Hellegaard stated yes.

Mr. Wiener stated if anyone would like to enter some additional language.

Ms. Walzer stated by some chance there would be a compromise within HB 161 that regulates finally the medical marijuana industry then she would be amendable to change her opinion. She supports this resolution as HB161 stands. Her disappointment stands with the legislature who has not embraced that the medical marijuana needs to be regulated, instead of letting people abuse the system.

Mr. Childers stated if the committee approves he will write a letter to include sentiments that have been expressed which they don't want to eliminate something that has been approved by the voters but they support regulation of what is currently going on. A resolution will be drafted with the language Mr. Wiener has provided.

Mr. Wilkins stated he would like to see the Mayor signed the letter too. Mr. Childers stated this is coming from the council and not the Mayor.

Public Comment:

John Masterson asked the committee to act swiftly because the committee could take up the bill any day then it will go to the governor for signature.

Doug Chyatte, Montanans for Responsible Legislation (MRL) an advocacy group based out of Missoula, stated he does support clarifying the city's position on repeal of the Medical Cannabis Act. Over the past year Missoula has enjoyed a period of unprecedented freedom, peace, and prosperity. They have seen downtown revitalized and hundreds of Missoulians go back to work. Beyond this they have seen thousands of the citizens spared the indignity of pharmaceutical side effects, analgesic opiate addictions, and fear and despair until now, the recent attacks on Montana democracy by the federal government, by the county attorney, by a part time legislator from Roundup and most recently our own city chief of police. It is the apex of the inappropriate behavior for the Chief of police, Mark Muir, to use Missoula money, Missoula city resources, and the uniform of the Missoula police department to oppose a concept the citizens overwhelmingly voted to support. It is their opinion any feelings of bigotry on behalf of a public official are best

voiced on their own time, at their own expense, and in their own clothing because of Mr. Muir's unethical behavior and acting as an unauthorized Missoula representative, MRL would like to call for Mr. Muir's immediate resignation. The recent acts of terrorism will not intimidate the cannabis community and he is sure there will be more attempts to discredit them as this continues. To Mr. Muir and the federal government, he says "strike one of us and ten more will raise in their place." This community has had enough. He stated enough of the fear and enough of the hate mongering. He asks the council to listen to facts, listen to their hearts and listen to the constituents.

Tayln Lang stated he loves this city and has lived in Missoula for the last eight years. Montanans in general are fiercely independent. The federal raids on businesses which have operated legally under the law of I-148 have done so according to how it was written. One of the things required for a caregiver is to provide an uninterrupted supply of medical cannabis for their patients. According to federal statutes it classifies it has trafficking and illegal manufacture but under state law those were completely legal.

Dave Strohmaier clarified the committee is considering a resolution and directing the committee chair to write a letter to the legislature.

Ms. Hellegaard stated she would like separate motions because she doesn't think the resolution was properly noticed. If considered together she will vote no on both.

Mr. Jaffe stated he supports what Mr. Wiener put together. The statements Chief Muir made earlier suggested the millions of dollars the businesses generated were illegally gotten and from his understanding that is not the right case. Here are some people making a successful business and we are attacking local businesses. He doesn't see Osco getting the same criticism when dealing with their drugs. He is shocked by some of the statements the Chief said. He thinks it is essential to make a statement to clarify their position on the bill.

Mr. Wilkins stated if there is a resolution and referral put in that there would be many more people in the audience.

Mr. Strohmaier stated for procedurally for clarification, would this go under New Business on the Monday night agenda.

Mr. Childers stated this will either be a New Business item or will be referred and talked about in committee next week if there is a notification problem. The City Clerk will decide if the notification was adequate.

On the motion to adopt a resolution the vote was the following:

Ayes: Strohmaier Wiener, Walzer, Jaffe, Childers, and Marler

Abstain: Wilkins, Hellegaard, and Mitchell

Motion passed.

Mr. Strohmaier stated he would like Point of Order.

Mr. Childers stated the resolution is approved with three abstentions, with the city clerk deciding if it will be under new business or in committee next week.

Ms. Walzer moved to write and send a letter to the legislature. She would like to have the missing council members have a chance to put their name on the letter. The motion was approved with Mitchell abstaining.

Ms. Hellegaard asked to see the letter before it is sent out.

IV. Held in committee

1. Mayor's Update – Ongoing in Committee. (Mayor Engen)

2. Updates from Council representatives on the Health Board, Community Forum, Transportation Policy Coordinating Committee, other boards and commissions as necessary. – (Ongoing in Committee)
3. Joint meeting of the Mayor, City Council and County Commission; a facilitated quarterly OPG review as directed in the [Interlocal Agreement](#) (Agenda)—Ongoing (Mayor Engen)
4. Joint meeting between the Missoula City Council and the Missoula County Public Schools' Board of Trustees ([memo](#)).—Regular Agenda (Dave Strohmaier) (Referred to committee: 09/17/07)
5. Examination of Office Planning and Grants ([memo](#))—Regular Agenda (Lyn Hellegaard) (Referred to committee: 09/08/08)
6. Consider a regular and an emergency ordinance to adjust ward boundaries. ([memo](#))—Regular Agenda (Laval Means) (Referred to committee: 02/28/11)

V. Adjournment

The meeting was adjourned at 3:46 PM

Respectfully submitted,

Nikki Rogers
Deputy City Clerk