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April 17, 2022

***RE: Administrative Appeal, Denial of SIC to Janelle and Dale Yatsko
[Public Hearing Date – April 19, 2022]***

Mayor Kelly and Commissioners:

Please DENY the pending administrative appeal, per the recommendations of your staff. This letter sets forth the basis for my position. My comments are strictly my own, and do not reflect the views of any public body on which I currently serve. However, these comments are informed by my experience with related issues that came before the City Commission during my tenure on that body from 2008 through 2019.

One of the Commission's obligations is to continuously and vigorously uphold the principles of self-governing powers embodied in our City Charter, as well as state laws defining the nature and scope of those powers, adopted in accordance with our Montana Constitution.¹ Ordinance 3054, adopted by the City Commission in 2010, is in keeping with those principles. The ordinance was an appropriate response to an ill-crafted state law on medical marijuana use, adopted by initiative a few years prior to 2010. That law was in the judgment of many, including me, a smokescreen for toleration of illegal activities. Our ordinance was an appropriate response, especially given that federal law did not countenance marijuana possession and use.

The more recent initiative, as modified by the 2021 Legislature, addresses several inadequacies in prior state law. Nevertheless, federal law on the subject remains unchanged. And, current state law neither expressly nor impliedly restricts our City's exercise of self-governing powers to enforce the current ordinance. This is especially true given the 2021 Legislature's repeal of language in the last initiative that attempted to restrict local control of commercial marijuana sales.

With respect to the appellant's argument that Mont. Code Ann. § 7-5-103(2) forbids the current ordinance – that statute, which deals generally with ordinance requirements, is a general procedural statute that ultimately must give way to the more specific and substantive provisions of Title 7, Chapter 1, Part 1, of the Montana Code Annotated, addressing the nature and scope of self-governing powers. The powers and authority of

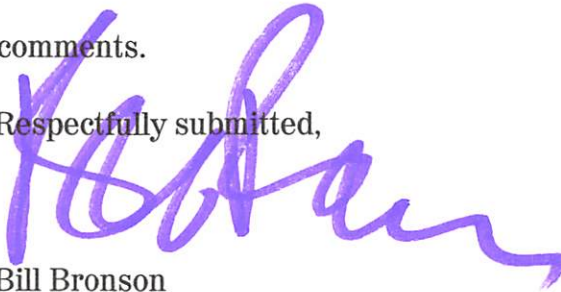
¹ Charter of the City of Great Falls, art. I, sec. 2 (a) and (b); 1972 Mont. Const., art. XI, sec. 6; Title 7, Chapter 1, Part 1, Montana Code Annotated.

a local government unit with self-governing powers shall be liberally construed; every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.² Ordinances like 3054 are not expressly prohibited by state limits on self-governing powers.³

Although denial of the requested SIC is entirely appropriate, staff's additional recommendation under Option 3 in the Agenda Report – that the Commission exercise its authority under the Charter and state law to put the issue of local sales to Great Falls voters – is also entirely appropriate. This issue is perhaps best left to local voters to decide, weighing all the pros and cons, and likely avoiding uncertainties associated with continued litigation.

Thank you for entertaining these comments.

Respectfully submitted,



Bill Bronson

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² Mont. Code Ann. § 7-1-106.

³ Mont. Code Ann. § 7-1-111.