



Gallatin County Legislative Liaison

EXHIBIT 6
DATE 1/25/07
HB 370

January 25, 2007

Madam Chair,
Distinguished Representatives

On behalf of the Gallatin County Commission I want to thank you for your consideration of this important piece of legislation, and wish to express our full support for the passage of HB 370.

The purpose of HB 370 is not to in any way create stricter regulations regarding the enforcement of zoning regulations by Local Governments; rather it is a cleanup bill to make the penalties and procedures for determining a zoning violation equal for all local governments.

As the law currently stands, there are three types of zoning, Part 1 (Citizen Initiated), Part 2 (County Zoning) and Part 3 (Municipal Zoning). However in current law no zoning district has the same enforcement ability. Some are silent, some allow for criminal only, other civil and some allow for both.

Our concern with this bill is to make all the procedures and penalties for enforcing zoning regulations uniform. No matter what location, city or county, zoning enforcement and penalties would be the same. It is our belief that amending current law will help clarify the method and legality of zoning enforcement, add predictability for the local governments and their citizens when faced with zoning violations, and finally ensure flexibility in the enforcement actions across the state.

It is important to note that the language HB 370 has also been included in the version of SB 110, which is a major rewrite of the subdivision and platting act aimed at modernizing existing code and increasing flexibility. The reason for identical language being in two bills is that SB 110 is a consensus bill and the SJ 11 Interim Committee determined that correcting these provisions was an agreed upon change. The stakeholders involved in SJ 11 include Realtors, Montana Building Industry Association, Montana Association of Planners, League of Cities and Towns, Montana Association of Counties, Surveyors, lawyers and private citizens, and while they may not be here today to testify it is our contention that we did reach consensus among these groups that the law needed changing.

There are two caveats to insinuating this bill would achieve consensus. The current language of HB 370 was agreed upon up until our Tuesday hearing on SB 110 when the Realtors and the Missoula City Attorney discovered concerns they felt were pressing.

Those changes include:

1. Addressing the Absolute Liability provisions that are being placed into the law. We have dueling opinions regarding whether or not Absolute Liability should be included in

a criminal zoning violation. We believe this is a correctable issue that should be clarified by Legislative Council, however, it maybe easiest just to remove it from the bill.

2. The Realtors wanted a time limit or cap on the amount of fines that could be imposed under this bill. After a short debate we determined that adding language to clarify that zoning enforcement penalties would only begin after the alleged violator was given official notice of their action. In other words it could not be considered retroactive.

Currently the consensus group is working on mitigating the concerns expressed during the SB 110 hearings. As the language in SB 110 and HB 370 are identical we will be looking to make corrections to both bills within the next week for the committee to consider.

In closing we hope that the committee sees fit to vote a do pass on this minor change to law that will correct an issue that many local governments are already facing and many more will in the future.

Again, thank you for your consideration in this important matter.

Sincerely,

Michael Harris
Legislative Liaison