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Legal Opinion 2016-026

TO: City Council, Mayor John Engen, Dale Bickell, Ginny Merriam, Leigh Griffing, Steve Johnson, Mike Haynes, John Wilson, Kevin Slovarp, Jessica Miller, Doug Harby, Marty Rehbein

CC: Dept. Attorney

FROM: Jim Nugent, City Attorney

DATE December 13, 2016

RE: Either Mayor or eight (8) members of City Council may call a special City Council meeting if they deem it necessary to do so

FACTS:

As a result of several Monday legal holidays and a fifth Monday in January 2017, there are only three (3) regularly scheduled city council meetings on the next seven (7) Mondays, commencing December 19, 2016. There have been several city official inquiries as to whether a special city council meeting could be scheduled during that time period, if it is deemed necessary for some reason, to call a special meeting.

ISSUE:

May either the Mayor or City Council call a special city council meeting, if it is deemed necessary to do so, for some reason?

CONCLUSION:

Yes. Montana state law, City of Missoula self-government charter, and Missoula city council rules provide for the calling of special city council meetings.

LEGAL DISCUSSION:

Special city council meetings may be called pursuant to Montana state law, City of Missoula self-government Charter, and Missoula City Council rules, specifically City Council Rule 2.

(1) Pursuant to subsection 7-5-4102(1)(c) MCA, pertaining to powers of a mayor, a municipal mayor may "call special meetings of the council".

(2) Pursuant to Montana state law section 7-5-4122 MCA entitled “Special meetings of council” it is stated:

7-5-4122. Special meetings of council. When a special meeting of the council is called under 7-5-4102(1)(c), the mayor must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated. *(Emphasis added)*

(3) Pursuant to City of Missoula city charter, ARTICLE II, entitled “THE CITY COUNCIL”, subsection 8(1) of the City of Missoula Charter states:

8. RULES AND OFFICERS. (1) The City Council shall establish rules by which it will carry out its business, including the setting of regular meetings. *The city council may also call special meetings in accordance with its rules.* The City Council may elect from among its members whatever officers are required for the orderly execution of its functions, in addition to the following: *(Emphasis added)*

(4) Pursuant to City of Missoula city charter ARTICLE III, entitled “MAYOR,” section (11) the City of Missoula municipal government charter states:

11. SPECIAL MEETINGS. The Mayor may call a special meeting of the City Council when, in the Mayor’s judgment, circumstances warrant such a meeting. At the time a special meeting of the City Council is called, the Mayor shall state the object of said meeting, and the business of the meeting must be restricted to the stated object.

(5) Pursuant to city council rules, Missoula City Council Rule 2 provides:

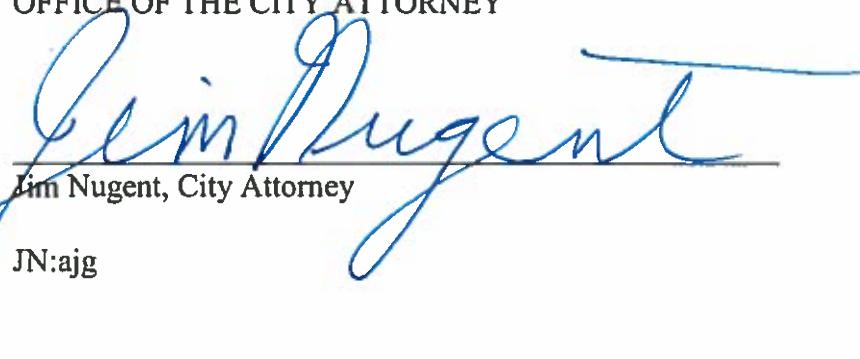
Rule 2, SPECIAL MEETINGS. Special meetings of the Council may be called from time to time, by the Mayor, or by eight Council members, upon 2 days’ written notice thereof being given by the City Clerk to all members of the City Council. The notice shall specify the subject of the special meeting and the meeting shall be limited to that subject. The notice shall also specify the time and place of the meeting.

If either the Mayor or eight (8) members of the City Council calls a special meeting of the City Council, it will be important to be sure to provide at least two (2) days advance notice to the public of the special meeting as well as to specify the time and place of the special meeting as well as state the purpose and/or agenda for the special meeting.

CONCLUSION:

Yes. Montana state law, City of Missoula self-government charter, and Missoula City Council rules provide for the calling of special city council meetings.

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Jim Nugent, City Attorney

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