

OFFICE OF THE CITY ATTORNEY

435 Ryman • Missoula MT 59802
(406) 552-6020 • Fax: (406) 327-2105
attorney@ci.missoula.mt.us

Legal Opinion 2022-018

TO: City Council, Mayor's Office, Leigh Griffing, Ian Ortlieb, Department City Clerk, Department MRA

CC: Department Attorney

FROM: Jim Nugent, City Attorney

DATE : August 29, 2022

RE: A municipal parking commission is a public body corporation created by the city that has the power to control its financial management of all monies and funds.

FACTS:

Multiple city employees have noted this week that at the Monday evening August 22, 2022 Missoula City Council budget adoption meeting for fiscal year 2023, there was some city council interest in the availability of the city using city parking commission monies for city general fund funding purposes.

ISSUE(S):

Pursuant to Montana state law, who controls and orders the expenditure of any and all monies and funds pertaining to city parking commission parking facilities or related properties?

CONCLUSION(S):

Pursuant to section Mont. Code Ann. § 7-14-4624 the city parking commission as a corporate public body created by the city council controls and orders the expenditures of any and all monies and funds pertaining to parking facilities and related properties.

LEGAL DISCUSSION:

Pursuant to Mont. Code Ann. § 7-14-4603 entitled *Creation of Parking Commission Authorized* and Mont. Code Ann. § 7-14- 4604 entitled *Public Nature Of Parking Commission* a parking commission constitutes a public body.

Mont. Code Ann. § 7-14-4602(4) of Montana's municipal parking commission laws defines a parking commission as meaning:

(4) 'Commission' or 'parking commission' shall mean any of the public corporations which may be created by a city and any city which may exercise the powers of a parking commission pursuant to resolution adopted by its legislative body under the provisions of 7-14- 4603 through 7-14-4608.

Pursuant to Mont. Code Ann. § 7-14-4609 the mayor with the approval of the legislative body (city council) appoints a parking commission of not less than five; nor more than seven members.

Pursuant to section Mont. Code Ann. § 7-14-4624 entitled *Powers of Commission Related to Financial Management*; the parking commission shall have the powers "to receive, control and order the expenditure of any and all money and funds pertaining to parking facilities or related properties."

Mont. Code Ann. § 7-14-4624 provides:

7-14-4624. Powers of commission related to financial management. Each parking commission, subject to the limitations imposed by this part, shall have the following powers:

(1) to receive, control, and order the expenditure of any and all money and funds pertaining to parking facilities or related properties, including, without limiting the generality of this provision:

- (a) all revenues derived from operations of the commission;
- (b) all money appropriated or made available by the city pursuant to this section or otherwise;
- (c) the proceeds of all financial aid or assistance by the city, federal, or state governments;
- (d) the proceeds of levied assessments;
- (e) the proceeds of all revenue bonds issued pursuant to this part by the city for parking facilities;

(2) to invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement in property or securities in which cities may legally invest funds subject to their control, but no such investment shall be made in contravention of any covenant or agreement made with the holders of any revenue bonds of the commission theretofore issued and then outstanding

CONCLUSION(S):

Pursuant to Mont. Code Ann. § 7-14-4624 the city parking commission is a corporate public body created by the city council controls and orders the expenditures of any and all monies and funds pertaining to parking facilities and related properties.

OFFICE OF THE CITY ATTORNEY

A handwritten signature in black ink that reads "Jim Nugent". The signature is fluid and cursive, with "Jim" on the top line and "Nugent" on the bottom line.

Jim Nugent, City Attorney

JN: mcs