

OFFICE OF THE CITY ATTORNEY

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

Legal Opinion 2018-025

TO: City Council, Mayor John Engen, Dale Bickell, Marty Rehbein, Kristen Hands, Kelly Elam, Ginny Merriam, Steve Johnson

FROM: Jim Nugent, City Attorney

DATE November 23, 2018

RE: A majority of City Council members is a quorum for the transaction of City Council business

FACTS:

The Missoula City Council has scheduled a special City Council meeting for Friday afternoon November 23, 2018 at 3:00 P. M.

ISSUE:

What is the minimum number of City Council members necessary to be in attendance at a City Council meeting in order for the City Council to be able to transact business?

CONCLUSION:

Pursuant to section 7-5-4121 MCA pertaining to the conducting of municipal City Council business, a majority of the members of the City Council is necessary to create a quorum for the transaction of City Council business.

LEGAL DISCUSSION:

Title 7, chapter 5, part 41 MCA is entitled "CONDUCT OF MUNICIPAL GOVERNMENT". Section 7-5-4121 MCA of this part of Montana municipal government law is entitled "CONDUCT OF COUNCIL BUSINESS". Subsection 7-5-4121(1) MCA of Montana municipal government law provides that at least a majority of the members of the City Council is necessary for the transaction of City Council business.

Subsection 7-5-4121 MCA states:

7-5-4121. CONDUCT OF COUNCIL BUSINESS. (1) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTES A QUORUM FOR THE TRANSACTION OF BUSINESS, but a less number may meet and adjourn to any time stated and may compel the attendance of absent members under such rules and penalties as the council may prescribe. ” (emphasis added)

Requiring a majority of a body’s membership to be present to constitute a quorum is a common requirement. Black’s Law Dictionary, Eighth Edition, page 1284 defines a “quorum” as meaning:

“QUORUM. The minimum number of members (usu. A majority of all the members) who must be present for a deliberative assembly to legally transact business.”

The Missoula City Council consists of twelve (12) members. Therefore, a majority of the Missoula City Council membership is at least seven (7) city council members.

CONCLUSION:

Pursuant to section 7-5-4121 MCA pertaining to the conducting of municipal city council business, a majority of the members of the City Council is necessary to create a quorum for the transaction of City Council business.

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/s/ Jim Nugent

Jim Nugent, City Attorney
JN:jb