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Legal Opinion 2019-017

TO: Mayor John Engen, City Council, Dale Bickell, Leigh Griffing, Scott Paasch, Steve Johnson, Marty Rehbein, Kirsten Hands, Kelly Elam, Department Attorney

FROM: Jim Nugent, City Attorney

CC: Department Attorney

DATE June 26, 2019

RE: A municipal local government is required by Montana state law to fix its tax levy by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values.

FACTS:

As the Mayor and City Council prepare to engage in fiscal year 2020 budget considerations there is municipal official interest in knowing in advance what the state law deadline is for a municipal government to fix its tax levy for fiscal year 2020.

ISSUE(S):

What does Montana state law establish as the deadline by which a municipal taxing authority must fix its tax levy?

CONCLUSION(S):

Pursuant to subsection 7-6-4036(1)(a) MCA a municipal tax levy must be fixed “by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values”.

LEGAL DISCUSSION:

Title 7, chapter 6, part 40 MCA is entitled “LOCAL GOVERNMENT BUDGET ACT”. Section 7-6-4036 MCA is entitled “FIXING TAX LEVY”.

Pursuant to subsection 7-6-4036(1)(a) MCA the governing body of a municipal local government must fix its tax levy “by the later of the first Thursday after the first Tuesday in September or

within 30 calendar days after receiving certified taxable values”. Section 7-6-4036 MCA states in its entirety as follows:

7-6-4036. Fixing tax levy. (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:

(a) by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values;

(b) after the approval and adoption of the final budget; and

(c) at levels that will balance the budgets as provided in **7-6-4034**.

(2) Each levy:

(a) must be made in the manner provided by **15-10-201**; and

(b) is subject to **15-10-420**.

CONCLUSION(S):

Pursuant to subsection 7-6-4036(1)(a) MCA a municipal tax levy must be fixed “by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values”.

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/s/

Jim Nugent, City Attorney

JN:jb