

City Council—Bond Issues—Meetings.

A majority of the City Council is sufficient to pass a resolution and ordinance at an adjourned regular meeting for a refunding bond issue.

D. H. Morgan, Esq.,
City Attorney,
Anaconda, Montana.

January 31, 1929.

My dear Mr. Morgan:

You have requested an opinion of me, and I wish to advise you as follows:

In your statement of facts you state that the meeting of the city council in question was an adjourned regular meeting; that all steps for the passage of the ordinance had been properly followed, with the possible exception that one of your ordinance provisions had not been followed. Said ordinance is as follows:

“No ordinance shall be passed without the consent of a majority of the whole council; and no ordinance shall be passed or a tax assessed or levied except at a regular or adjourned regular meeting of the council, unless two-thirds of the whole council vote in favor thereof, * * * .”

One of your aldermen who voted in favor of the ordinance at a subsequent meeting raised the question that the ordinance so passed required a two-thirds vote, in accordance with the wording of the ordinance above set forth. The council has clearly complied with Section 5052 R.C.M. 1921.

I agree with your opinion that the ordinance in question, having been passed at an adjourned regular meeting, required for its passage only a majority vote of the council and not a two-thirds vote. Such two-thirds vote would have been necessary only in the event that the meeting had not been a regular or adjourned regular meeting.

As to the question of the power of the council to waive its own rules in the passage of ordinances so far as it did not waive the provisions of its charter or of the statutes of the state (see 43 C.J. 531; Ann. Cases 1149d, with note), I do not deem it necessary to pass on the question of conflict between your ordinance and the statute as I cannot see that the two-thirds vote provision mentioned has any application to the facts as stated to me.

Very truly yours,
L. A. FOOT,
Attorney General.

By T. H. MacDonald, Assistant.