

RESOLUTION NO. 4354

A RESOLUTION PURSUANT TO § 2-9-316 AND 7-6-4015 OF THE MONTANA CODE ANNOTATED AUTHORIZING A PERMISSIVE LEVY TO FUND PAYMENT OF JUDGMENT IN THE CIVIL CASE: *BARBARA ANN TODOROFF NICHOLS, JOHN TODOROFF, JR., DWAYNE RUDE, CAMILLE RUDE, RAYMOND CHRISTENSEN, RICHARD HESS, LOLA HESS, DAVID JEWELL, BETTE JEWELL, ROD RAINEY, CAROL RAINEY, JON BASS, REBECCA BASS, JACK NESBIT, JAN NESBIT, and other similarly situated landowners in the Southgate Subdivision area, and (DOES 1-10) V. CITY OF MILES CITY, a Montana Municipal Corporation, and MILES CITY PLANNING BOARD.*

WHEREAS, on August 3, 2015, a “First Amended Petition/Complaint” was filed in the 16th Judicial District Court, Custer County as Cause No. DV 14-129, against the City of Miles City and the Miles City Planning Board by Plaintiffs Barbara Ann Todoroff Nichols, John Todoroff, Jr., Dwayne Rude, Camille Rude, Raymond Christensen, Richard Hess, Lola Hess, David Jewell, Bette Jewell, Rod Rainey, Carol Rainey, Jon Bass, Rebecca Bass, Jack Nesbit, Jan Nesbit, and “Does 1-10” (the “Plaintiffs”) alleging that the City had improperly made zoning and subdivision decisions in regards to real property, designated as Amended Block 5, located in Southgate Meadows Subdivision;

AND WHEREAS, a “Second Amended Petition/Complaint” was filed in said matter on October 21, 2016;

AND WHEREAS, said matter alleged five (5) separate counts against the City regarding said zoning and subdivision decisions, which the City vigorously defended. The City prevailed with the District Court on the claim of violation of 42 U.S.C. § 1983 through partial motion to dismiss and on the claims of violations of state and city subdivision regulations, violation of public participation and right to know relating to said zoning decision, violation of due process, and violations of open meeting laws and right to know through summary judgment rulings by the Court, and the Plaintiffs prevailed on their claims of violation of public participation relating to said subdivision decision and declaratory judgment through summary judgment;

AND WHEREAS, the respective Plaintiffs sought approximately \$670,000 in attorney fees and costs from the City, and the parties filed legal briefs and held two-day evidentiary hearing before the District Court regarding the issue;

AND WHEREAS, on the 17th day of December, 2019, District Judge Michael B. Hayworth issued an “Order as to Attorney Fees and Costs to Plaintiffs” and awarded the Plaintiffs the combined sum of \$201,699.52 in attorney fees and costs;

AND WHEREAS, the Montana Municipal Interlocal Authority has disputed coverage, but has agreed through negotiations to pay \$100,000.00 toward the payment of the amounts awarded by the Court;

AND WHEREAS, the remaining \$101,699.52 due under the judgment is not covered by insurance, and there are not sufficient unappropriated funds in the General Fund for the payment of said judgment amount;

AND WHEREAS, §§2-9-316 and 7-6-4015 MCA permit the City of Miles City to levy a property tax in the amount necessary to pay any unpaid portion of such judgment if general fund monies are insufficient to pay the same;

AND WHEREAS, § 15-10-420(9)(a)(i) MCA exempts judgment levies under §§2-9-316 and 7-6-4015 MCA from the mill levy limitations set forth in § 15-10-420(1) MCA;

AND WHEREAS, § 7-6-4015(2)(b) MCA calls for said amounts to be levied in each of the next 3 years if general fund money is insufficient to pay the same at the judgment interest rate of 7.75% per annum, however, judgments paid within two calendar years do not accrue interest as set forth in § 2-9-317;

AND WHEREAS, the City deems it necessary to levy such property tax for Fiscal Year 2021-2022 in a sufficient amount to pay the remaining \$101,699.52 awarded by the Court;


AND WHEREAS, based upon the value of a mill for the City of Miles City, a mill levy of 10.71 will be required to fund said \$101,699.52 amount during FY 2021-2022;

NOW THEREFORE BE IT RESOLVED by the City Council of Miles City, Montana, as follows:

That a property tax levy of 10.71 mills be imposed, pursuant to §§2-9-316 and 7-6-4015 MCA, for purposes of funding the payment due under the judgment in Fiscal Year 2021-2022.

BE IT FURTHER RESOLVED that a public hearing shall be held on the above levy on the 25th day of August, 2020 at 6:00 p.m. in the City Council Chambers at City Hall, Miles City, Montana. The City Clerk shall cause notice of such hearing to be published in the Miles City Star, in accordance with §7-1-4128 MCA, at least 2 times with at least 6 days separating each publication.

SAID RESOLUTION READ AND PUT UPON ITS FINAL PASSAGE THIS 11TH DAY OF AUGUST, 2020.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY,
MONTANA, AT A DULY CALLED MEETING THIS 25TH DAY OF AUGUST, 2020.**



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**CALCULATING THE TAX INCREASE OF A VOTED LEVY OF 101,700 DOLLARS
FOR THE Southgate Lawsuit**

STEP 1

\$101,700	\$101,700	\$101,700		Specific Dollar Amount to be Levied
				Certified Taxable Value of the taxing jurisdiction - Use the most-recent available
\$9,491,598	\$9,491,598	\$9,491,598		
\$9,492	\$9,492	\$9,492		Revenue Generated per Mill
10.71	10.71	10.71		Approximate Mills required to Generate Specific Dollar Amount

STEP 2

\$50,000	\$100,000	\$200,000		Assessed Market Value of Home
0.0135	0.0135	0.0135		Tax Rate - 15-6-134(3)(a)
\$675	\$1,350	\$2,700		Taxable Value subject to mill levy
10.71	10.71	10.71		Mills to be Levied (From Step 1)
\$7.23	\$14.46	\$28.93		Tax Assessed

15-6-134(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and, subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(c) of this section is **taxed at 1.35%** of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

**CALCULATING THE TAX INCREASE OF A VOTED LEVY OF
MILLS**

For _____

Assessed Market Value	Tax Rate	Taxable Value	Specific Mills	Tax Increase
\$100,000	1.35%	\$1,350		\$14.46
\$200,000	1.35%	\$2,700		\$28.92
\$50,000	1.35%	\$675		\$7.23

Enter the specific number of mills being proposed in the red highlighted cells.

Class 4 - Residential property is taxed at 1.35% beginning in Tax Year 2015 and applies to Fiscal Year 2016 and thereafter levies. [15-34-134(3)(a)]

15-10-321. Limitation on levy and computation of tax -- new taxing jurisdictions. The department of revenue may not be required to levy or compute a tax for any new taxing jurisdiction created or for any change in an existing jurisdiction unless formally notified of its creation or change by January 1 of the year in which the taxes are to be levied.