



CITY OF YANKTON

2018_11_05

COMMISSION MEETING



Mission Statement
*To provide exemplary experiences,
services & spaces that create
opportunities for everyone to learn,
engage and thrive.*

YANKTON BOARD OF CITY COMMISSIONERS

Special City Commission Meeting beginning at Noon
Monday, November 5, 2018
City Hall, 416 Walnut Street, 2nd Floor, Meeting Room #B
Yankton South Dakota

1. **Roll Call**
2. **Public Appearances**
3. **New Business:**

Accepting Petitions and Setting Special Election Date

Consideration of Memorandum #18-229 regarding accepting Referral Petitions of Opt-Out Resolution #18-67 and setting date of December 11, 2018, as the Special Election Date to decide this matter.

Attachment III-1

4. **Other Business**

Other business is a time for City Commissioners to address the commission regarding matters not on the agenda. These items will be deliberated by the governing body and will not be acted upon at this time. Items mentioned may be added to a future City Commission meeting or work session for deliberation or action.

5. **Adjourn the Special City Commission Meeting of November 5, 2018**

Memorandum #18-229

To: City Commission
From: Finance Officer
Date: 11/2/2018
Subject: Memorandum Accepting Referral Petitions of Tax Opt Out Resolution #18-67 and Setting Date of December 11, 2018 for Special Election

Tuesday, October 30, 2018, 5:00 PM, was the deadline for any opponents to turn in referral petitions of the recently adopted Tax Opt Out Resolution #18-67. As of that date and time, the Finance Office had received 38 petitions containing 590 signatures. Upon review of the petitions, 11 signers were identified as duplicate signatures to the petitions for a net signee total of 579. SDCL (South Dakota Codified Law) requires that petitioners are required to have signatures of 5% of the registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year of the election. Patty Hojem, County Auditor had previously established that number as 8,508 times 5% equals 425.4 or 426 signatures required.

SDCL 9-20-6. Time for filing referendum petition. The required number of voters residing in any municipality may file within twenty days after the publication of any ordinance or resolution subject to referendum a petition with the auditor or clerk, requiring the submission of any such ordinance or resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the twentieth day after publication, such petitions shall be filed no later than normal closing hours of the city hall or city auditor's office on said twentieth day.

SDCL 9-20-7. Description in referendum petition of matter covered. If the matter intended to be covered by the referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length.

SDCL 9-20-8. Number of signers required for referendum petition--Data concerning signers. The referendum petition shall be signed by at least five percent of the registered voters in the municipality. The percentage shall be based on the number of registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year of the election. The signer or circulator shall add the signer's residence address, county of voter registration, and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class.

(Note: The Finance office is not tasked with verifying that signers are registered, only that they have completed all six sections of each petition line and are listing a current City of Yankton address as one of the six sections. Legally challenging registration or other aspects of the petitions has to come from an outside group or organization within five days of receiving the requisite number of signees on petitions.)

SDCL 12-1-13. Challenge to petition signatures--Time for filing. Within five business days after a nominating, initiative, or referendum petition, excluding petitions for statewide initiative, referendum, or constitutional initiative petitions, is validated and filed with the person in charge of the election, any interested person who has researched the signatures contained on the petition may submit an affidavit stating that the petition contains deficiencies as to the number of signatures of persons who are eligible to sign the petition. The affidavit shall include an itemized listing of the specific deficiencies in question.

Any challenge to the following items is prohibited under this challenge process:

- (1) Signer does not live at address listed on the petition;*
- (2) Circulator does not live at address listed on the petition;*
- (3) Circulator listed a residence address in South Dakota but is not a South Dakota resident;*
- (4) Circulator did not witness the signers;*
- (5) Signatures or petition sheets not included in the random sample. This subdivision applies only to petitions for statewide candidates, new party formation petitions, or to local jurisdictions that conduct random sampling; and*
- (6) Petition that was originally rejected.*

All challenges by the same person or party in interest shall be included in one affidavit.

The original signed affidavit shall be received by the person in charge of that election by 5:00 p.m. local time on the deadline date. If the affidavit challenges any item that is prohibited by this section, only that line item shall be summarily rejected.

The decision of the secretary of state or the person in charge of the election regarding a challenge may not be challenged a second time with the secretary of state or the person in charge of the election, but may be appealed to the circuit court. Any challenge with the secretary of state may be appealed in Hughes County. An appeal challenging a nominating petition for a primary election, takes precedence over other cases in circuit court. Any party appealing the circuit court order to the Supreme Court shall file a notice of appeal within ten days of the date of the notice of the entry of the circuit court order.

A failure to challenge a petition pursuant to this section, does not deny a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition in circuit court. A challenge to a petition in circuit court may include items prohibited in this section.

The City Commission now has the authority to set the date for the election. By SDCL it can't be less than 30 days from receiving the filed referendum petitions nor more than 50 days.

SDCL 9-20-11. Date of election on referendum petition--No action taken pending election. The governing body shall, upon the presentation of a petition pursuant to § 9-20-6, submit the question to the electors at the next annual municipal election or the next general election, whichever is earlier. Pending the election, the governing body may take no action with respect to the subject matter of the petition that would alter or preempt the effect of the proposed petition. However, the governing body may expedite the date of the election by ordering, within ten days of receiving the petition, a special election to be held on a Tuesday not less than thirty days from the date of the order of the governing body.

SDCL 9-13-31. Special or annual election--Notice. The governing body shall, within ten days of presentation, order and fix a date for holding a special election, to be on a Tuesday not less

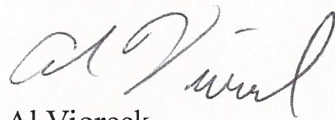
than thirty nor more than fifty days from the date of the order of the governing body. If a petition is filed after December thirty-first before the annual municipal election and within sufficient time to comply with the provisions of § 9-13-14, the question of a successor shall be submitted at that annual election.

The governing body shall have a notice of election published in the same manner as provided in § 9-13-13.

SDCL 9-20-15. Majority vote required for approval of referred measure--Effective date. No referred ordinance or resolution so submitted shall become operative unless approved by a majority of the votes cast for and against the same. If so approved, it shall take effect upon completion of the canvass of the election returns relating thereto.

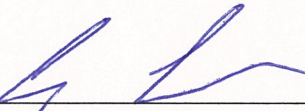
It is recommended that the City Commission set Tuesday, December 11, 2018 as the date for the special election. If an election is postponed for adverse weather conditions it can be rescheduled on a Tuesday one week later (December 18, 2018).

Thank you,



Al Viereck
Finance Officer

I concur with the above recommendation
 I do not concur with the above recommendation



Amy Leon, City Manager

| Yankton City Tax Levy Opt-out Election Timeline | |
|--|---|
| | Date(s) |
| Publish first deadline of voter registration (SDCL 12-4-5.2 and ARSD 05:02:04:04) | publish between the dates of November 5-9, 2018 |
| Publish second deadline of voter registration (SDCL 12-4-5.2 and ARSD 05:02:04:04) | publish between the dates of November 12-16, 2018 |
| Deadline for voter registration 15 days before the election (SDCL 12-4-5) | November 26, 2018 |
| Absentee ballots must be made available no later than 15 days prior to the election (SDCL 13-7-13) | November 26, 2018 |
| Publish the first of two notices of election that need to be published each week for two consecutive weeks. First publication must be at least 10 days before the election. (ARSD 05:02:04:15) | publish between November 26-30, 2018 |
| Publish second of two notices of election that need to be published each week for two consecutive weeks. First publication must be at least 10 days before election. | publish between December 3-7, 2018 |
| Publish facsimile ballot during week prior to election (13-7-8) | week of December 3, 2018 |
| Automatic tabulating systems only. Conduct a public test of the system. Must publish notice 48 hours before test. (12-17B-5 & 5:02:09:01.01) | This has to be done if you use optical scan ballots |
| <i>5:00 pm the day before the election is the deadline for a voter to <u>absentee vote in person</u>.</i> | December 10, 2018 |
| Election Day. Polls open 7:00 am to 7:00 pm. (9-13-1); a voter can request an absentee ballot via authorized messenger up to 3:00pm the day of the election and the ballot has to be returned in time to get it to the polling location. | December 11, 2018 |
| Municipal Board will canvass the election within seven days of the election (SDCL 9-13-24) | no later than December 18, 2018 |
| Issue certificates of election within two days after the result of the election is declared via the canvass. (9-13-5 & 9-13-28; 05:02:15:08 & 05:02:15:09) | |