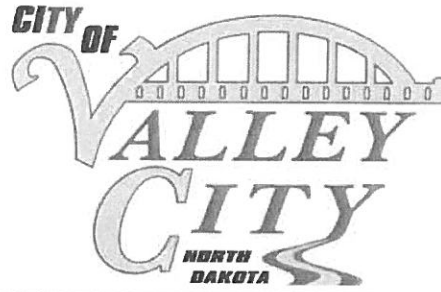


City Hall
254 2nd Ave NE
PO Box 390
Valley City, ND 58072-0390



Phone: 701-845-1700
Fax: 701-845-4588
www.valleycity.us

June 4, 2018

Brian Mindt
749 12th Street NW
Valley City, ND 58072

Lloyd Nelson
370 3rd Street NW
Valley City, ND 58072

Gary Schlagel
902 6th Ave NE
Valley City, ND 58072

Robert Drake
1105 6th St. SE
Valley City, ND 58072

Committee Members:

On May 25, 2018, the Committee for the Petition, comprised of the above individuals, submitted the attached document to the City Auditor's office for review. The undersigned City Auditor responds as follows to your request for approval.

According to the Home Rule Charter of the City of Valley City, Barnes County, North Dakota,

Each petition shall have printed thereon: "Referral of City Ordinance _____; providing for _____"; . . . and shall accurately identify and summarize the true nature of the referral and set forth the text of the ordinance. A petition to refer an ordinance shall be presented to the City Auditor for approval as to form prior to circulation. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the 'Committee for the Petitioners.' Within ten (10) days after receipt of the petition, the City Auditor shall either approve the petition for circulation if it is in proper form and contains the full text of the measure proposed to be referred or if the City Auditor does not approve the petition he or she shall give written notice to the committee for the petitioners of his or her reason for not approving their petition.

After consulting with the City Attorney, I must reject circulation of this petition for the following reasons:

1. You did not properly identify the ordinance that you wish to refer. Our Home Rule Charter requires you to print on your petition the following: "Referral of City Ordinance _____" However, you identified Resolution No. 2145, which is not an ordinance so it cannot be referred under the Home Rule Charter through the referendum process.
2. It is not appropriate to refer the Resolution because it deals with an administrative act.
3. It would be an unlawful delegation of authority for the City to have the citizens of Valley City vote on an administrative act—the administrative authority to award bids is one bestowed upon the City of Valley City by the State and cannot be delegated to the citizens of Valley City without state authority. *See, e.g., N.D. Op. Atty. Gen. 85-22, Jun. 11, 1985; N.D. Op. Atty. Gen. 97-L-153, Sep. 26, 1997.*

4. The protest period for special assessments has passed and none of the Committee members are affected by the special assessments. The appropriate way to dispute this project, for citizens affected by the project, would have been to protest the project during the special assessment protest period.
5. Even if the Home Rule Charter allowed citizens to refer resolutions dealing with administrative matters, the appropriate time to refer this project would have been within thirty days after the district was created. Resolution 2105 created Paving Improvement District No. 115 on September 19, 2017.

Again, in consultation with the City Attorney, I find that the submitted petition must be denied because it does not comply with the requirements of the Home Rule Charter.

Sincerely,

A handwritten signature in cursive script that reads "Avis Richter".

Avis Richter
City Auditor/Finance Director, City of Valley City

REFERENDUM PETITION

RECEIVED
MAY 25 2018
BY: et lcfz
12:42 a

We the undersigned, being qualified electors request Valley City Resolution No. 2145 be placed on the ballot to be voted on by the electret of Valley City. Under the authority of the Home Rule Charter of Valley City Article 4 section 2.

SPONSORING COMMITTEE

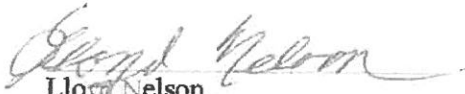
The Committee for the Petition hereby request approval for the Petition.



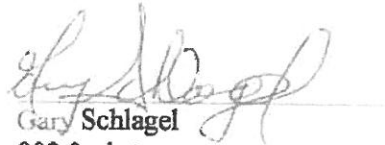
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Valley City North Dakota



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902 3 rd st ne.
Valley City North Dakota

RECEIVED
MAY 25 2018
BY: e 2012
11429

Referral Referendum

Referral of city Resolution No. 2145 providing for a vote of the people of Valley City on Resolution No. 2145 accepting bid and awarding contract for project No. UGP-SU-2-990(055)059 approved by the Valley City Commission, on May 15, 2018, shall be affirmed by the electret of Valley City, by a yes or no vote at the next election or by special election.

Text of Referendum

Resolution No. 2145 has been approved by the Valley City Commission, as citizens of Valley City do you also approve of Resolution No. 2145? Yes ___ No ___

Explanation of a Yes or No vote.

If the citizens of Valley City vote yes on the Referendum the decision of the Valley City Commission stands and the bid and contract for Resolution 2145 will proceed. If the citizens of Valley City vote no on Resolution No.2145 , Resolution No 2145 will be not accepted and authorization for funding will be denied.