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January 13, 2022

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On December 16, 2021, a document entitled "Petition to Change Municipal Government in the Municipality of Sturgis" was filed in my office. The Petition poses the following question:

The form of government for the municipality of Sturgis should be changed from the current form of municipal government (aldermanic with a city manager form of government) to an aldermanic form of government without a city manager.

I requested an opinion of the Sturgis City Attorney as to whether the question posed was a proper subject of referendum. I was advised that a city manager is not a "form of government" within the meaning of South Dakota law but is instead a special power granted to municipal government to employ a city manager.

Prior to 1939, a contract employing a city manager was a proper subject of referendum. However, in 1939 state legislature granted due process rights to city managers and vested the exclusive power to employ and discharge city managers with the municipal governing body. Employment decisions are administrative decisions within the meaning of South Dakota law and are not subject to referendum.

Because the question posed is not subject to referendum, I decline to certify the Petition for Election to Change Municipal Government in the Municipality of Sturgis.

A handwritten signature in black ink that reads "Fay Bueno".

Fay Bueno  
Finance Officer  
City of Sturgis



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