

Temporary restraining order dissolved Deadwood expected to set special election date

By Sara Morgan Black Hills Pioneer
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Courtesy photo

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DEADWOOD — Deadwood city officials will be able to set a special election date for the recall of City Commissioner Blake Joseph after Judge Eric Strawn of the

Fourth Judicial Circuit accepted the city's motion to dissolve the temporary restraining order and deny Joseph's request for a preliminary injunction against City Finance Officer Jessica McKeown at an expedited hearing Thursday.

City officials are expected to schedule a special meeting Monday, where they can now set a special election date.

The hearing, scheduled for 11 a.m., was called to order by Strawn. Shortly after, Joseph entered the courtroom, approximately five minutes late.



After hearing arguments from both sides, Strawn set a “trial” for 9 a.m. Oct. 31, giving Joseph a chance to gather evidence that accusations, made by petitioners of malfeasance and abuse of office are false. Joseph was asked to find similar cases in South Dakota of elected officials losing their position to a recall, resulting in “irreparable harm.”

Sara Frankenstein, an attorney at Gunderson, Palmer, Nelson, and Ashmore, LLP, of Rapid City, is representing the city in the case. Frankenstein said Joseph served the request for temporary restraining order against the city incorrectly by serving McKeown himself, and didn't include a complaint, grounds for relief, citation of legal authority, or a specific number of signatures that would need to be struck from the petition to make it invalid. Frankenstein said she believes the only claim Joseph could have made to deem the petition being invalid is a sheet filed by Chloe Ager where the date is written incorrectly, struck, properly dated, and initialed by the notary. Frankenstein said while strange, she doesn't believe the mistake is sufficient grounds to deny the petition.

The petition for the recall of Joseph was turned into McKeown Sept. 26. McKeown agreed that 170 of the 179 signatures were valid Sept. 30. City commissioners were unable to set an election date Oct. 14 following Joseph's restraining order against McKeown and city officials.

Under South Dakota Codified Law 9-13-30, a petition to recall an elected official of any municipality requires 15 percent of the

registered voters at the time of the last general election. In Deadwood, that number is currently 146.

Under the same law, allowable grounds for recall include “misconduct, malfeasance, nonfeasance, crimes in office, drunkenness, gross incompetency, corruption, theft, oppression, or gross partiality.” Petitioners accuse Joseph of misconduct, crimes in office, oppression and abuse of office, and gross partiality.

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