



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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### MEMORANDUM

TO: Legal and Finance Committee

FROM: Carla Cushman, Assistant City Attorney *CC*

DATE: September 30, 2015

RE: Ordinance No. 6066 An Ordinance to Amend Provisions for City Payment of Debt Acquired by Rural Fire Protection Districts Prior to Annexation by Amending Chapter 3.20 of the Rapid City Municipal Code

When property is annexed into the City, it is removed from the boundaries of the rural fire protection district in which it had been located. Consequently, an annexation creates issues when there is outstanding debt of the rural fire protection district attributable to those properties that are annexed and leave the boundaries of the fire district.

#### State Law

In response to these issues, SDCL 34-31A-35 provides as follows (*emphasis added*):

The boundaries of any rural fire protection district organized under the provisions of this chapter may be changed in the manner prescribed by §§ 34-31A-5 to 34-31A-11, inclusive, but the changes of boundaries of any such district may not impair or affect its organization or its right in or to property; nor may it impair, affect or discharge any contract, obligation, lien, or charge for or upon which it might be liable had such change of boundaries not been made. *Any portion or area of land which was part of a rural fire district, organized under §§ 34-31A-5 to 34-31A-11, inclusive, and which is annexed into a bordering municipality, is liable for any indebtedness incurred while within the boundaries of the fire district. Nothing in this section may preclude a municipality, by ordinance, when*

*annexing land within a rural fire protection district, of assuming a portion or all of the indebtedness on the annexed land which is a result of being in the rural fire protection district.*

So, the property remains liable for the indebtedness, and the rural fire protection districts can continue to collect a levy against those properties for debt that existed when they were in the fire district. Or, in the alternative, a city annexing the property can choose to adopt an ordinance that allows the City to assume a portion or all of the indebtedness attributable to the annexed properties.

Pursuant to SDCL 34-31A-35, Rapid City amended its municipal code to permit such payments to rural fire protection districts in Chapter 3.20. Staff have reached out to other South Dakota cities to determine if any other city or town in South Dakota allows for payments to rural fire protection districts, as contemplated in state law. No such cities have been identified, other than Rapid City. My own search of other city's ordinances did not uncover any other SD city that passed an ordinance (as state law requires) to permit such payments of fire district debts.

### **Rapid City's Current Ordinance**

RCMC Chapter 3.20 was adopted in the mid-1980s and has not been amended in the past 25 years. It provides that fire districts who wish to seek City payment of debts upon annexation shall "prior to incurring the debt, request an amendment to this chapter" that sets forth the terms for payment. *RCMC 3.20.010*. For those debts already incurred, the ordinance stated that the City may authorize payment within the resolution of intent to annex or resolution of annexation. *RCMC 3.20.020*. Three subsequent ordinances passed in the 1980s addressed specific debts of the Whispering Pines, North Haines, and Doty Rural Fire Protection Districts. *RCMC 3.20.030, 3.20.040, 3.20.050*.

### **Proposed City Ordinance No. 6066**

I worked with Finance Officer Pauline Sumption, Fire Chief Maltaverne, and Planning staff Patsy Horton and Sarah Hanzel to draft Ordinance 6066. Ordinance No. 6066 updates the City's provision concerning payment of fire district debts upon annexation by repealing the current RCMC Chapter 3.20 and clarifying the procedures to be used if the City chooses to pay these debts. Specifically, Ordinance No. 6066 provides as follows:

- (1) Rural fire protection districts who wish to seek reimbursement if annexation occurs shall provide annual notice of their capital expenditure debts to the City Finance Officer. *RCMC 3.20.020*.
- (2) When a petition for voluntary annexation is received, or when a resolution of intent to (involuntarily) annex property is prepared, notice will be sent to the rural fire protection district(s) that will be affected. *RCMC 3.20.040*.

- (3) The City may authorize payment to the rural fire protection district for some or all of the debts attributable to the annexed properties within the resolution of annexation or the resolution of intent to annex, or in a separate resolution. *RCMC 3.20.010.D.*
- (4) The indebtedness that can be paid by the City is limited to the debt principal, not interest, in compliance with generally accepted accounting principles. *RCMC 3.20.010.C.*
- (5) The ordinance as drafted would only permit the City to pay for indebtedness related to capital expenditures, defined as real property, buildings and structures, and vehicles that contain tanks or pumps or that are designed or modified to transport injured people. *RCMC 3.20.030.* Capital expenditures would not include fire-fighting equipment or vehicles without tanks or pumps or vehicles that are not used for injured people. *Id.*

Ordinance No. 6066 is designed to put into place a flexible system that allows the Council to determine – generally at the time of annexation – whether or not to pay the debts of the annexed property. The ordinance would permit the Council to balance the varying interests of the City, the property owners, and the fire protection districts in light of the specific circumstances around an annexation. For example, payment of these debts may be more persuasive for an involuntary annexation where the property owner is resisting removal from the district than in a voluntary annexation situation. The ordinance permits Council to decide on a case-by-case basis whether it wishes to use taxpayer money to pay some or all of the debts of the fire district on behalf of annexed properties.

If you have any further questions on this matter, please feel free to give me a call at any time. My number is 394-4140, and my email is [carla.cushman@rcgov.org](mailto:carla.cushman@rcgov.org).