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MEMORANDUM

To: City Council
From: Mayor Sam Kooiker
Date: September 6, 2013
Subject: Item #11 on 9/11/13 Legal & Finance Committee Agenda: Proposed Rail Authority involving Box Elder, Rapid City and Pennington County

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I wanted to share my thoughts with you on this item since I will not be present at the 9/6/2013 Legal and Finance meeting. Ben Snow, Jerry Wright and I will be in Bismarck for a Bakken Conference.

The agreement is in the process of being drafted by City Attorney Joel Landeen along with Jay Alderman (Pennington County) and Rex Hagg (Box Elder). Although this is a potentially powerful economic development tool, here are some of the ideas being explored to address concerns of unintended consequences:

- To compose the board of Elected Officials only to help ensure accountability for the potential taxing authority of the board.
- Regarding the powers of eminent domain, that the Authority be required to get permission of the creating boards or be precluded from exercising eminent domain, since the authority is not being created to do imminent domain.
- That the creators of the Authority have the ability to pull the plug on the Authority and suspend future action, without undoing the actions they have already taken.
- Term limits on the members. (IE: no more than 2 consecutive three year terms)

It appears other Rail Authorities have checks and balances in their charters even though State Law doesn't specifically mention that restrictions are allowed. So I believe we should attempt to address these issues to the greatest degree possible and present an agreement that can debated by all three governing boards involved.

We also have an inquiry in to Yvonne Taylor at the South Dakota Municipal League to find out the history and viability of legislation that ensures the legality of checks and balances being placed on a Rail Authority at the time of its adoption.

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