CITY OF RAPID CITY

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MEMORANDUM

TO: Mayor and City Council

FROM: Joel P. Landeen, City Attorney

DATE: 7/5/12

RE: Update of Rapid City v. Fish Sanitation

The Mayor has requested I update the City Council on the Fish lawsuit. A motion hearing in the case was scheduled to occur Thursday June 28th. The hearing was originally scheduled to deal with the motion to compel which was filed by John Nooney on behalf of the City. The purpose of the motion is to obtain additional billing records the Fish's have not yet provided. Prior to the hearing the Fish's attorneys filed a motion to amend their pleadings and assert claims against the Mayor, Jerry Wright, John Leahy and Pete Ragnone for violating their civil rights pursuant to §1983 of the U.S. Code. These motions are more fully described in the Litigation Update which was previously provided and has been linked with this memo for your convenience. I have also attached the brief in support of the motion to compel which more clearly lays out the records we are seeking and what a small sample of the records we currently possess show.

At the beginning of last week, the Fish's attorneys requested that the hearing be continued and cited professional considerations which may impact their representation. The next day, Patrick Duffy, who represents Cliff Fish, and Jeff Fransen, who represents George Fish, filed formal motions to withdraw claiming a conflict of interest prevents them from continuing their representation. In light of the Defendant's motions, the hearing and motions filed by both parties were continued. There is not a new hearing date yet. The attorneys and Judge are working through the two requests to withdraw and when those have been resolved a new hearing will be scheduled.