

AN ORDINANCE TO CHANGE THE ALLOCATION OF THE REVENUE RAISED BY THE RETAIL OCCUPATIONAL SALES AND SERVICE TAX BY AMENDING SECTION 3.16.060 AND SECTION 3.16.090 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has enacted an ordinance levying a retail occupational sales and providing for the use of the revenue generated therefrom; and

WHEREAS, the Common Council desires to change the allocation of revenues raised from the sales tax.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 3.16.060 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follow:

3.16.060 Use of revenues.

A. For all revenue generated by the tax levied by §§ 3.16.010 and 3.16.050 prior to January 1, 2018, the revenue shall be allocated as follows:

~~A. 1.~~ Eight percent of the revenue generated by the tax levied by §§ 3.16.010 and 3.16.050 shall be deposited in the city's Utility Support Fund, and shall be used for the construction, operation and maintenance of the city's utility facilities and streets.

~~B. 2.~~ Forty-six percent of the revenue generated by the tax levied by §§ 3.16.010 and 3.16.050 shall be deposited in the city's General Fund, and may be used for any lawful purpose.

~~C. 3.~~ Forty-six percent of the revenue generated by the tax levied by §§ 3.16.010 and 3.16.050 shall be deposited in the Rapid City Capital Improvements & Vision Fund, and may be used for the lawful purposes as set out in § 3.16.090 of the Rapid City Municipal Code.

B. For all revenue generated by the tax levied by §§ 3.16.010 and 3.16.050 on January 1, 2018, and at all times thereafter, the revenue shall be allocated as follows:

1. Fifty percent of the revenue generated shall be deposited in the city's General Fund, and may be used for any lawful purpose.

2. Fifty percent of the revenue generated shall be deposited in the Rapid City Capital Improvements & Vision Fund, and may be used for the lawful purposes as set out in § 3.16.090 of the Rapid City Municipal Code.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 3.16.090 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follow:

3.16.090 Rapid City Capital Improvements & Vision Fund.

The revenue generated by §§ 3.16.060A.3. and 3.16.060B.2.C. shall be placed into Rapid City's Capital Improvements & Vision Fund (the "Fund"). There shall be 2 separate accounts within the Fund, the Capital Improvements Account to finance capital improvement projects and the Vision Account to finance buildings, facilities, infrastructure or other capital projects with an emphasis on community enhancement. The revenue ~~generated by~~ deposited in the fund pursuant to § 3.16.060A.3.C. shall generally be allocated evenly between the 2 accounts, provided that in any given month, such allocation need not be even, but to the extent that it is not, the account

which is overfunded shall be entitled to reimbursement from the other account over such time period as the Council shall determine. The revenue deposited in the fund pursuant to § 3.16.060B.2. shall generally be allocated in a ratio of 58% to the Capital Improvements Account and 42% to the Vision Account, provided that in any given month, such allocation need not be exactly according to the ratio, but to the extent that it is not, the account which is overfunded shall be entitled to reimbursement from the other account over such time period as the Council shall determine. The monies in the Capital Improvements Account shall be used for the purposes identified in division A. of this section. The monies in the Vision Account can be used for the purposes identified in division B. of this section. In order for the city to facilitate the financing of projects in the Fund and obtain more favorable rates for financing such projects, the city can pledge the use of the entire revenue generated by the Fund as security for any project financed through the use of the Fund under such terms and conditions that the City Council agrees to.

A. *Capital Improvements Account.* The funds in the Capital Improvements Account shall be used to finance streets, municipal buildings, information technology infrastructure and other capital projects or purchases. The City Council shall approve a 5-year plan for financing projects and purchases out of this account. The City Council shall be authorized to issue revenue bonds to be paid from the Fund in order to finance the projects contained in the plan. In order to facilitate the creation of the 5-year plan there will be a Capital Improvements Committee to review proposed expenditures and make recommendations to the City Council.

1. *Capital Improvements Committee.*

a. The Committee membership shall consist of 1 Alderman from each ward of the city. Committee membership shall be as appointed by the Council leadership. If an Alderman is unable to attend the meeting, the other Alderman from that ward may attend and vote in that Alderman's place. The Chairperson of the Capital improvements Committee and all members thereof shall be voting members and shall each have 1 vote. Three members present shall constitute a quorum of the Committee.

b. The Chairperson and Vice Chairperson of the Committee shall be appointed by the Common Council. The Finance Office shall provide administrative support to the Committee.

c. Capital Improvements Committee meeting shall be scheduled for the third Friday of each month or an alternate date as may be established by the Chairperson. Monthly meetings may be cancelled by the Chairperson if there is no business scheduled to come before the Committee. In any event, the Committee shall meet no less than once per quarter. Additional meetings may be called by the Chairperson at the request of a member of the Committee, the Mayor, or a department director.

d. The Chairperson of the city's Planning Commission shall serve as a non-voting liaison to the Committee.

2. *Procedure for approval of capital improvements projects.* The procedure for approval of capital improvements projects shall be set by policy adopted by the Common Council.

~~a. Prior to the April meeting of the Committee, each department requesting Capital Improvements Account funding shall submit a 5-year plan for proposed capital improvement projects. For needs requested in the next budgeting cycle, the Capital Improvements Committee requests that the following information be provided: estimated costs; documentation of how~~

~~those costs were identified; justification for the requested capital improvement; and the timetable for completion.~~

~~— b. The Capital Improvements Committee shall consider all requests for capital improvements, develop recommendations for the annual capital budget and the 5-year Capital Improvements Plan and present this to the Mayor for inclusion in the budget.~~

~~— c. The finalized capital improvements plan, as recommended by the Capital Improvements Committee, shall be presented to the Common Council for approval.~~

~~— d. No project may be undertaken until such time as the Common Council has approved the capital improvements plan or an amendment to the plan addressing that project.~~

~~— e. The Common Council shall approve the request to advertise for bids and the bid shall be awarded by the Common Council in accordance with all appropriate bid procedures.~~

~~— f. In the case of the expenditure of funds from the Capital Improvement Plan Contingency, the Capital Improvements Committee shall recommend approval of the contingency expenditure. The Common Council shall have final authority for approval of the contingency expenditure and authorization for staff to advertise for bids or enter into negotiations to select a design consultant. The Common Council shall have final authority to award the bid.~~

~~— g. The Capital Improvements Committee has the authority to reprioritize projects within a budgeted line item (e.g., Streets and Drainage, Parks and Recreation, Government Facilities) with Council approval.~~

3. *Reporting procedures.*

a. The city's Finance Office shall provide a financial report at each meeting of the Capital Improvements Committee. Regardless of meeting frequency, the financial report shall be provided at least quarterly to the Committee.

b. The Chairperson of the Capital Improvements Committee shall provide an update to the Common Council following each meeting of the Committee, but in no case less than quarterly.

B. *Vision Account.* The City Council shall by resolution adopt a plan for projects or programs to be funded, in whole or in part, from the Vision Account. No portion of the Vision Account shall be used to fund any project or program not included in the plan. All projects included in the plan shall be located within the city limits of Rapid City or benefit the city as a whole. The City Council may use the Vision Account to finance buildings, facilities, infrastructure or other capital projects, but may not use the Vision Account to finance ongoing maintenance and operational expenses of the various city departments, or of any buildings and/or facilities included in the plan. The City Council shall be authorized to issue revenue bonds to be paid from the Fund in order to finance the projects contained in the plan. The Vision Account may be used to fund the operational expenses of economic development projects or programs.

1. *Procedure for approval of Vision Account projects.*

a. The City Council shall adopt a plan for projects to be funded in whole or in part from the Vision Account. The Council shall have the discretion to determine the length (in years) of each plan period, which shall be set by resolution prior to the solicitation of proposals as provided below. Projects to be included in the plan shall be identified through the process outlined in § 3.16.090B.1.b. of this section. At least annually, the City Council shall review the plan at a public hearing after providing notice thereof. The City Council may add, remove, alter

the scope of, reprioritize projects, or otherwise amend the plan as it deems appropriate. If a private entity, or organization is approved for funding in future years of the plan, such funding shall be subject to this provision until such time as an agreement securing the funds is entered into pursuant to § 3.16.090B.3.c. In the event that revenues allocable to the Fund have been pledged to secure bonds which are expected to remain outstanding during an upcoming plan period, such projects are required to remain in the plan.

b. The process for determining which projects to include in the plan are as follows:

i. The Mayor will direct that city staff identify and bring forward projects consistent with the criteria established in § 3.16.090B.2. The Mayor and the city department directors will prioritize those projects based on factors such as need and cost. The prioritized list of projects shall be presented to the City Council at the same time as the list of projects recommended by the citizen committee.

ii. Prior to the beginning of any plan period, the Mayor shall appoint a citizen committee consisting of a chair person and 8 additional members. The Mayor's appointments are subject to confirmation by the City Council. The committee members shall all be citizens of Rapid City. The purpose of this committee will be to accept and take comments on potential Vision Account projects other than those projects identified by the Mayor and city staff pursuant to § 3.16.090B.1.b.i.. Upon formation of the committee, the city shall publicly solicit invitations to make proposals for projects to be considered in the next plan. No sooner than 30 days from the solicitation of proposals, the committee shall hold a public hearing to take comment on and discuss the proposals. The committee may hold additional public hearings if it deems such additional hearings necessary. The city shall advertise all hearings, but publication of such notice in the official newspaper of the city shall not be necessary. Based on its work, the committee shall prioritize the proposed projects based on the criteria established in § 3.16.090B.2. and make recommendations to the City Council regarding which projects if any should be funded. The recommendations of the committee shall be presented to the City Council for its consideration at the same time as the recommendations in § 3.16.090B.1.b.i.

iii. The process identified in this section shall be the process for the adoption of all subsequent plans for the Vision Account.

2. *Criteria for the selection of projects.* The plan for the Vision Account adopted by the City Council, along with the project recommendations made by staff and/or the citizen committee, shall be based on the goals and action items identified in the city's Comprehensive Plan and other guiding documents. The plan shall be developed in conjunction with the long term plans for the city's other funds and long term budget goals. The purpose of the plan will be to identify those projects and programs that will provide the greatest return on investment in terms of meeting the demand for public infrastructure, facilities and services by systematically managing the selection, scheduling and financing of eligible projects. When the City Council prepares the plan it should assess the needs of the city and establish priorities for the use of the Fund. The City Council is expected to take into consideration all of the funds and projects being undertaken by the city to ensure that the money in the Fund is spent in a way that accomplishes the city's long term goals and priorities.

3. *Additional criteria for Vision Account projects.*

a. If the proposed project is for a permanent building or structure, the applicant proposing the project shall include a scope of work and a clear written statement describing the proposed

project in order for the City Council to evaluate the request. This statement should be accompanied with the applicant's best estimate of probable project design and construction costs along with a timeline showing when probable expenditures will be made. A schedule of various phases of study, planning, design and construction necessary to accomplish the complete project shall be prepared and made available to the City Council.

b. Any application to fund a permanent structure, building, or facility, shall include an estimate of the project's ongoing operation and maintenance costs. Unless otherwise agreed to by the city, the entity proposing said project or program will incur all costs associated with the operations and/or administration of said project or program.

c. If a private organization or entity is approved for funding, they must enter into a contract with the city which will outline the project scope and expectations of the city with relation to payments from the Fund prior to being eligible to receive any monies from the Vision Account. The contract shall include a timeframe by which the project will be completed or by which certain benchmarks will be reached. The contract shall include a provision which allows the city to terminate the agreement and reallocate any funds committed to the project if the timeframes or benchmarks are not met.

CITY OF RAPID CITY

Mayor

Attest

Finance Officer

(seal)