

City of Becker
Planning
Commission

Becker City Hall Council Chambers

12060 Sherburne Avenue

Monday, January 30th, 2023
6:00 PM

Agenda

- 6:00 pm**
1. Call Meeting to Order
 2. Election of Chair and Vice Chair for 2023
2022: Chair - Cobb, Vice - Hendrickson
 3. Approval of Minutes of December 19, 2022
 4. Public Hearing - Rezoning of a 35.42 Acre Parcel Owned by RO-LIZ LLC
 - a. RES PC 23-01
 5. Chapter 11 Edits - T-Town / Commercial Interim Use Permits
 6. Chapter 11 Edits - R-2 Zoning District Lot Width / Density
 7. Other
 - a. Solar Overlay Group Update
 - b. T-Town Parking Update Discussion
 - c. City Emails for Planning Commission Members
 - d. Conflict of Interest
 - e. Associate Planner / Building Official Position Update
 8. AAdjourn

Regarding Public Hearings: Anyone interested in a scheduled public hearing is encouraged to attend and comment at the Public Hearing. If you are unable to attend and wish to comment, please provide written comment to the Community Development Director, Jacob Sanders at P.O. Box 250, Becker, MN 55308 or by e-mail to jsanders@ci.becker.mn.us. Comments must be received by 4:30 p.m. the day of the scheduled Planning Commission meeting. Thank you!

**City of Becker
Planning Commission
Minutes of December 19, 2022**

The Becker Planning Commission met at 6:00 p.m. on December 19, 2022, in Becker City Council Chambers at Becker City Hall located at 12060 Sherburne Avenue, Becker, Minnesota.

MEMBERS PRESENT: MaryJo Cobb, Rick Hendrickson, Mike Doering, Justin Robinson, Amy Stanger

ABSENT: None

OTHERS PRESENT: Jacob Sanders – Community Development Director, Renee Regel - Economic Development Coordinator, Caryn Dunderi - Community Development Administrative Technician, Ray & Tracy Hogrefe – Owners of Charlie’s Sports Bar

Cobb called the meeting to order at 6:02 p.m.

A motion was made by Doering/Hendrickson to adopt the agenda.

AYE: Cobb, Hendrickson, Doering, Stanger

NAY:

Motion Carried.

A motion was made by Hendrickson/Doering to approve the minutes from November 28, 2022

AYE: Cobb, Hendrickson, Doering, Stanger

NAY:

Motion carried.

PUBLIC HEARING – REZONE OF A 10 ACRE PARCEL FOR AVALON HOMES, INC.

Cobb opened the public hearing at 6:04 p.m.

Jacob Sanders presented a proposed CUP for additions and renovations at Becker’s ECFE, primary, and intermediate school buildings. He reminded PC that this public hearing had been open for several months as staff waited for a completed and reviewed traffic study from Becker Public Schools. Hendrickson asked if anyone representing the school was present or if any representatives had submitted comments. Sanders said no one from Becker Public Schools or ICS were present and comments from engineering regarding the traffic study had been sent to ICS and the school’s superintendent. Sanders added the only response received by staff was a confirmation from the superintendent that they had received the comments. Sanders stated that comments from the City Engineer and City Staff were incorporated as conditions of the proposed CUP resolution.

Cobb asked for any further discussion.

Hearing no further discussion, a motion was made by Doering/Stanger to close the public hearing at 6:19 p.m.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion Carried

A motion was made by Doering/Hendrickson to approve PC Resolution 22-20 recommending approval of the expansion of an existing conditional use permit for Becker Public School Campus Additions and Renovations.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion carried.

**PUBLIC HEARING – CONDITIONAL USE PERMIT FOR CHARLIE’S BAR AND GRILL
ADDITION AND OUTDOOR BAR**

Cobb opened the public hearing at 6:21 p.m.

Sanders presented a proposed CUP for an addition and outdoor bar at Charlie’s Bar and Grill. He said after the completion of the project, the venue will have 160 seats total. He recited City code requirements for restaurants and stated that there are currently fifty-seven parking spots, not including street parking, available in the City owned parking lot directly behind Charlie’s to satisfy the required parking. Sanders added that staff is looking for sites in the area that can be used for additional parking to serve future developments in the vicinity. Sanders explained that the CUP recommended conditions would allow for live music until 10:00 p.m. on Sunday through Thursday and until midnight on Friday, Saturday, and designated holidays and Code gives City Council the ability to make such exceptions under a Conditional Use Permit. Tracy Hogrefe, owner of Charlie’s, stated that at this time the plan is to have small, musical ensembles perform during happy hour and dinner time.

Cobb asked for any further discussion.

Hearing no further discussion, a motion was made by Hendrickson/Doering to close the public hearing at 6:39 p.m.

A motion was made by Hendrickson/Doering to approve PC Resolution 22-21 recommending approval of a conditional use permit for an addition, outdoor bar, outdoor eating area, and live outdoor entertainment for Charlie’s Bar and Grill.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion Carried

PUBLIC HEARING – CHAPTER 11 SOLAR ENERGY SYSTEM / FARMS CODE EDITS

Cobb opened the public hearing at 6:41 pm.

Sanders said that it has come to staff’s attention as part of the solar overlay work being done that Code does not define what a solar farms or field is or where it is permitted and not permitted. Staff is proposing adding language to Chapter 11 defining a solar energy farm, distinguishing solar energy farms from accessory solar energy systems, and restricting solar farms and fields to the agricultural zoning district, as well as prohibiting solar as a primary use. Sanders added that proposed language would require an IUP for solar energy farms. Hendrickson asked if the language would cover both AC and DC voltage to which Sanders responded that language could be added to address both; Doering agreed that both current types should be included.

Cobb asked for any further discussion.

Hearing no further discussion, a motion was made by Doering/Hendrickson to close the public hearing at 6:49 p.m.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion Carried

A motion was made by Hendrickson/Robinson to approve PC Resolution 22-22 recommending an ordinance amending Sections 11.02, 11.31, and 11.72 of the City of Becker Land Use Regulations (Zoning Ordinance), as amended to include DC as left up to staff.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion Carried

RIVER OAKS VILLAS HOUSE PLAN APPROVAL

Sanders reminded PC that several years ago, a contractor had requested approval of several house plan changes including a roof pitch and front door placement in the River Oaks Villa neighborhood. He stated that the CUP for River Oaks Villas requires any building plans that do not conform to the established house plans originally approved must be approved of by the Planning Commission. At the time of the request made several years ago, staff recommended not allowing the roof pitch change since the entire block of homes had nearly been all built with similar roof pitches. The change in pitch would not have been out of character with the established homes already built on this side of the street and would violate the conditions of the CUP for River Oaks Villas. Sanders added that a different contractor had recently submitted plans for a new home across the street from the established block. He stated that the CUP for River Oaks Villas requires any changes that do not conform to the established house plans must be approved by the Planning Commission. He said that staff recommends approval of the proposed house since the home is not on the same side of the street as the previous requests were, and therefore would not look out of character next to the other homes. Additionally, houses across the street, to the west and to the south, are two level homes and allowing a two level home here would be a good transition. Sanders added that to be in compliance with the CUP, future homes build adjacent to the proposed home will need to have a similar two-story house style design.

A motion was made by Hendrickson/Doering approving Price Custom Homes house plan with the condition that adjacent lots owned by Adam Price, Inc. within the same subdivision must be developed with similar, two-story house styles.

AYE: Cobb, Hendrickson, Doering, Robinson, Stanger

NAY:

Motion Carried

OTHER

Sanders said staff is looking to overhaul and simplify zoning code making it more effective and readable. He presented a draft of an RFP that will go to Council for approval requesting bids from companies and consultants that specialize in this field of work. Sanders explained that the rewrite would be a multiyear process starting in the spring of 2023 and finishing in 2025. He said the process of replacing zoning and

subdivision code is time consuming, with the consultant handling much of the work, and staff assisting as needed. Hendrickson expressed his support for simplifying code but emphasized the need for the City's best interests to be kept in mind. Sanders agreed and assured PC members Becker's needs would be the priority. He added that staff is looking for public input and engagement during the code rewrite. Consensus was reached to move the RFP to Council for approval. Sanders reminded members that the RFP submittals will be reviewed by staff first then Planning Commission the top candidates would be invited to present their proposals. City Council would need to approve the final contract with the selected consultant.

Sanders and PC discussed the R2 zoning district's density size. Sanders suggested decreasing the density size for R2 and will present new dimensions and language regarding this at the January 2023 meeting.

Sanders brought up the need for additional parking in the T-Town area; he said with the expansion of Charlie's Bar and Grill , potential parking sites need to be identified. Sanders added staff will create maps and graphics for a parking lot discussion at a later date. Discussion regarding potential parking sites followed.

Sanders provided PC with hiring updates; no hires had been made for the Senior Planner position, but an advertisement for an Associate Planner will be posted in early 2023. He added that interviews had taken place for the building official and a job offer was presented to a candidate, but staff has not received an official acceptance at this time.

Motion to adjourn by Doering/Hendrickson
Meeting adjourned at 8:05 p.m.

Submitted by: Caryn Dunderi



January 30th, 2023

Memorandum

TO: Planning Commission

FROM: Jacob Sanders, Community Development Director

SUBJECT: **Rezoning of 35.42 Acre Property**

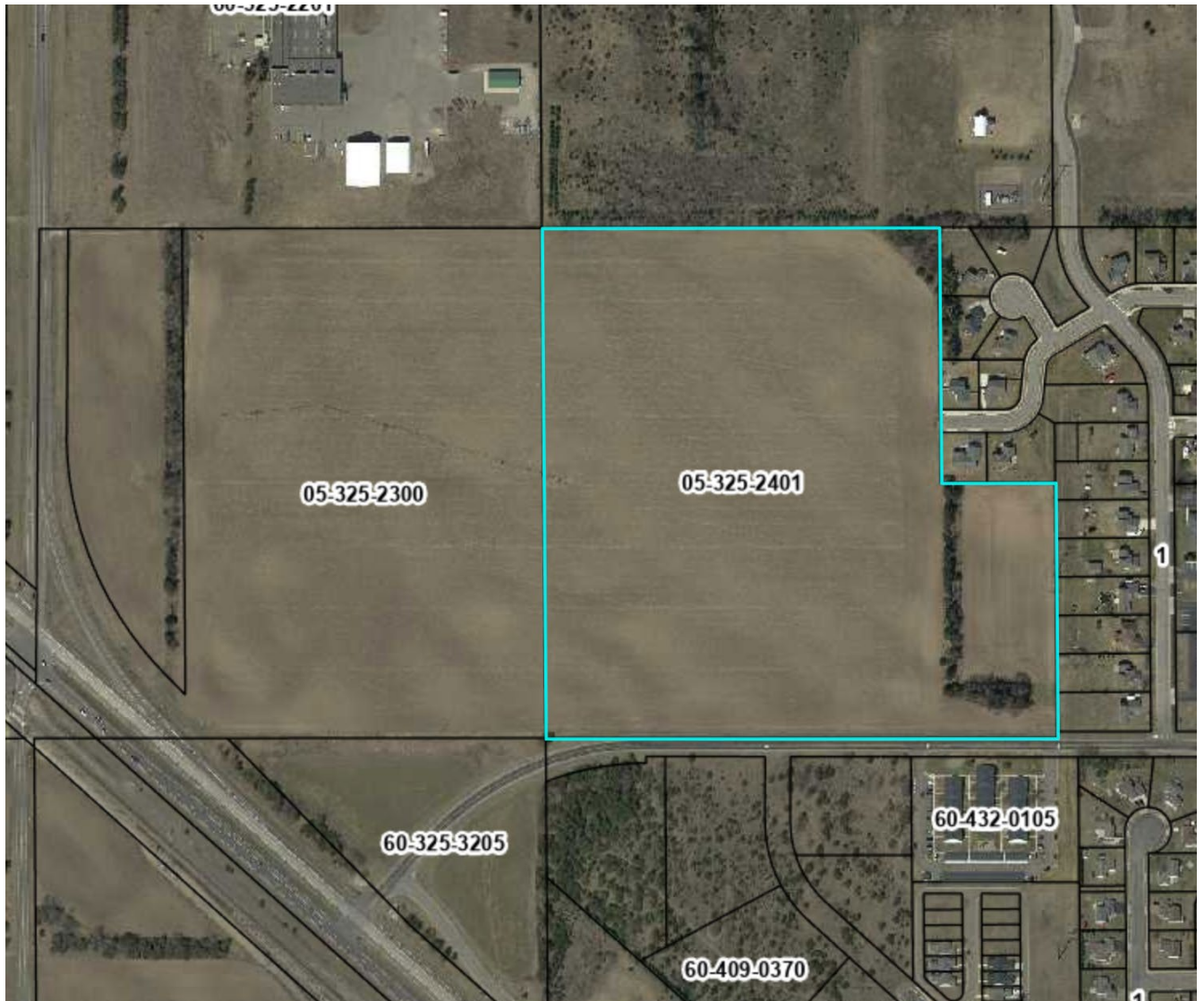
RO-LIZ, LLC, applicant and landowner, recently applied to annex their currently owned 35.42 acre property (PID 05-325-2401) into the City of Becker (Exhibit A). The annexation is now complete, and an order was issued by the State office of Administrative Hearings under order OAH 71-0331-38886.

RO-LIZ, LLC (Owner and Applicant) and John Osterman and Mel Beaudry (Co-applicants) have submitted a complete application to rezone this same parcel from Agricultural (AG) to Limited Multiple Family Residential (R-2). The comprehensive land use designation of this property is medium density residential which aligns with the R-2 zoning district. Additionally, the rezone of this property meets many goals from the City of Becker Comprehensive plan, including, but not limited to, land use, housing, and economic development.

Staff Recommendations/Requests:

Motion and a second approving Resolution PC 23-01, A Resolution Recommending an Ordinance to Add Section 11.12, Subdivision 8 (32) Rezoning Property from Agricultural (AG) to Limited Multiple Family Residential (R-2)

Exhibit A



RESOLUTION PC 23-01

A RESOLUTION RECOMMENDING AN ORDINANCE TO ADD SECTION 11.12, SUBDIVISION 8, (32) REZONING PROPERTY FROM AGRICULTURAL (AG) TO LIMITED MULTIPLE FAMILY RESIDENTIAL (R-2)

WHEREAS, RO-LIZ, LLC. (“Owner and Applicant”) and John Osterman and Mel Beaudry (“Applicants”) have submitted a complete application to have the property (“Property”) legally described below rezoned from Agriculture (AG) to Limited Multiple Family Residential (R-2); and,

WHEREAS, the Property is currently identified as PID 05-325-2401, and legally described as follows:

The SE ¼ of the NW ¼ of Section 25, Township 34 North, Range 29 West, excepting therefrom the east 297.05 feet of the N ½ of said SE ¼ of the NW ¼, and except the road conveyed by Instrument No. 98139, Section 25, Township 34, Range 29, Sherburne County, Minnesota.

WHEREAS, the Property was annexed into the City of Becker under the Office of Administrative Hearings Order OAH 71-0331-38886 and is currently zoned Agricultural (AG); and,

WHEREAS, the currently adopted City of Becker Comprehensive Plan designates the future land use of said property as Medium Density Residential; and,

WHEREAS, the proposed application is to rezone the property to Limited Multiple Family Residential (R-2); and,

WHEREAS, the proposed rezone meets many goals from the City of Becker Comprehensive Plan including, but not limited to, land use, housing, and economic development; and,

WHEREAS, Section 11.12. Subd. 8, item 31 of the Becker Code of Ordinances is proposed to be added to read as follows:

The SE ¼ of the NW ¼ of Section 25, Township 34 North, Range 29 West, excepting therefrom the east 297.05 feet of the N ½ of said SE ¼ of the NW ¼, and except the road conveyed by Instrument No. 98139, Section 25, Township 34, Range 29, Sherburne County, Minnesota.

Shall be zoned Limited Multiple Family Residential (R-2) from Agricultural (AG).

NOW THEREFORE BE IT RESOLVED, that the Becker Planning Commission, based on the above stated findings of fact has recommended to the Becker City Council approval of the request to rezone the above described property from Agricultural (AG) to Limited Multiple Family Residential (AG).

MaryJo Cobb _____

Amy Stanger _____

Rick Hendrickson _____

Mike Doering _____

Justin Robinson _____

Whereupon said resolution was declared duly adopted by the Becker Planning Commission on the 30th day of January 2023.

Attest:

Mary Jo Cobb, Chairperson

Jacob Sanders, Community Development
Director



January 30th, 2023

Memorandum

TO: Planning Commission

FROM: Jacob Sanders, Community Development Director

SUBJECT: **Chapter 11 Edits – T-Town / Commercial Interim Use Permits**

With the recent approval of the conditional use permit for the Charlie’s Bar and Grill Addition and Outdoor Bar, staff discussed outdoor entertainment and other special events. Currently, outside entertainment, outside sales, and special events that occur on a regular basis are allowed under conditional use permits in the T-Town zoning district. Additionally, outdoor commercial sales (under 30 calendar days per year) are considered temporary uses and require a temporary use permit. They are allowed in commercially zoned districts. Any outdoor commercial sales beyond 30 calendar days per year currently requires a conditional use permit. Staff is suggesting changing code to allow outside entertainment, outside sales, and special events via interim use permits, rather than conditional use permits, for the following reasons:

- 1) It would allow conditions of expiration to be added to permits. Sunset provisions and expiration provisions are not permitted to be added to conditional use permits, but they can be added to interim use permits.
- 2) Conditional use permits run with the property in perpetuity. This means regardless of the owner of the property the permit remains valid if conditions are being followed and the permit has not been revoked by the City Council (which can only occur by following the same process used to establish it if conditions are being adhered to).

Staff Recommendations/Requests:

Discussion

(Option A) Motion and a second calling for a public hearing on Chapter 11 edits allowing outdoor entertainment, outside sales (beyond 30 calendar days per year) and special events, occurring on a regular basis, within the T-Town, and allowing outdoor commercial sales (beyond 30 calendar days) under interim use permits rather than a conditional use permits to be held at the February 27, 2023 regular PC meeting.

(Option B) Table for further discussion



January 30th, 2023

Memorandum

TO: Planning Commission

FROM: Jacob Sanders, Community Development Director

SUBJECT: **Chapter 11 Edits – R-2 Zoning District Lot Width / Density**

With the rezoning of the 35.42 acre property owned by RO-LIZ City staff wanted to ensure lot densities and minimum widths for the Limited Multiple Family Residential (R-2) zoning district were accurate. Current zoning code specifies the following minimum widths, densities and dimensions for R-2 zoned properties:

Subd. 6. Lot, Yard, Area and Height Requirements.

<i>Minimum Lot Size</i>	<i>15,400 sq ft</i>
<i>Width</i>	<i>110 ft</i>
<i>Depth</i>	<i>140 ft</i>

Minimum Yard

<i>Front*</i>	<i>30 ft</i>
<i>Side *</i>	<i>15 ft</i>
<i>Rear *</i>	<i>30 ft</i>

**Corner lots have two front yard setback requirements, one for each side facing the street, and shall also have two side yards of 15 feet for the remaining two sides.*

Subd. 7. Site and Building Requirements for Townhome and Patio Home Developments.

- A. Minimum Site size: two (2) acres*
- B. Maximum Density: six (6) U.P Acre*
- C. Maximum Height: two (2) stories*
- D. Minimum open space required: 3000 ft per unit*
- E. MUST BE SERVED BY PUBLIC SEWER AND WATER*

City staff compared the requirements with surrounding municipalities and looked at existing code and found that several items need to be adjusted. Staff is proposing the following changes be made:

- Changing R-2 zoning to include / clarify the following minimum lot area /widths:
 - Single Family Detached / Attached Dwellings
 - Minimum Interior Lot Area: 8,625 square feet
 - Minimum Interior Lot Width: 75 feet
 - Minimum Corner / Butt / Through Lot Width: 10,350 (20% larger than interior lot)
 - Minimum Corner / Butt / Through Lot Width: 90 feet (20% larger than interior lot)
 - Two Family Dwellings
 - Minimum Interior Lot Area: 15,000 square feet
 - Minimum Interior Lot Width: 100 feet
 - Minimum Corner / Butt / Through Lot Area: 18,000 square feet (20% larger than interior lot)
 - Minimum Corner / Butt / Through Lot Width: 120 feet (20% larger than interior lot)
 - Minimum Interior Base Unit Lot Area: 7,500 square feet
 - Minimum Interior Base Unit Lot Width: 50 feet
 - Other Multi-Family Dwellings (including single family cluster developments)
 - Minimum Interior Lot Area: 15,400 square feet
 - Minimum Interior Lot Width: 110 feet
 - Minimum Corner / Butt / Through Lot Area: 18,480 (20% larger than interior lot)
 - Minimum Corner / Butt / Through Lot Width: 132 feet (20% larger than interior lot)
- Adjusting R-2 minimum side yard setback to 10 feet for principal structures (it is currently 15 feet, changing it would match it up with R-1 setbacks). This setback would not apply to single family attached dwellings for the sides sharing a wall.

Staff Recommendations/Requests:

Discussion

(Option A) Motion and a second calling for a public hearing on Chapter 11 edits for clarification and to the R-2 zoning districts permitted structure uses, minimum lot dimensions, setbacks, and related definitions to be held at the February 27, 2023 PC meeting.

(Option B) Table for further discussion

Introduction and Purpose.

Most city officials are well intentioned and want to fulfill the public desire for honest, open, and ethical government. But at times this area can be breached or misunderstood as to cause an ethical dilemma or appearance of one. All city officials wish to have high ethical standards and to act within the bounds of the law. Having a policy regarding conflicts of interest promotes those standards.

The Becker City Council want a uniform policy to give guidance and direction for boards, commissions, committees and council members as it relates to conflicts of interest. The City of Becker wants to remove all conflicts of interest from the decision making process by anyone acting in an official capacity. As conflicts of interest can be both real and perceived this policy deals with both as a means of removing any question as to whether or not a conflict exists.

What is a Conflict of Interest.

The courts have taken situation on a case by case basis. They sometimes take a very narrow view as to what is a conflict and what isn't. See the attached list of specific situation where they or the Attorney General has ruled on these matters. Given the narrow decisions and the sometimes "fine lines" between having a conflict or not, the city deems it important to define conflict of interests on a broader scale in an attempt to alleviate any potential problems.

A conflict of interest occurs when someone has a personal or professional financial interest in a decision, either direct or indirect. A conflict of interest also occurs when there is an **appearance of a conflict** by those outside of the issue looking in with limited knowledge of the specific event or decision. It is important to keep the appearance of impropriety at bay and not central or part of any decision to be made.

Types of Relationships where a Conflict of Interest Exists.

There are essentially three types of relationships where conflicts may occur. These include personal and business, family, and fraternal. These are more fully described below:

Personal and Business: A conflict exists when you as an individual, have a direct stake in the process. Personal also includes when your employer or people you work with have a direct or indirect relationship or in some way may benefit for the issue.

For example, these conflicts may included: a party to a contract; a partner, stockholder, or owner of any firm with whom the City Council makes a contract; being entitled to a commission, bonus, or remuneration from a firm with whom the City council makes a contract (there are exceptions here such as open bidding and others as provided by law).

Family. A conflict exists here when a family member who has an issue before you and the decisions has a direct bearing on a family member. Generally a family member is considered more than the immediate family and carries on to include uncle, aunt, nephew, niece, and cousin. It may extend farther than that in some instances.

Dealing with this area, definitions can be difficult but if a decision maker is faced with the issue they need to determine both the degree of relationship and the impact that the decision makes on a family member.

Fraternal: This is perhaps the most difficult area to deal with as we all have people we know which may make decision making difficult. Certainly you have a conflict of interest if you are making a decision that affects your best friend or best friend's wife or family. You may have a fraternal relationship with someone you have known for many years.

In general, this area of conflict occurs when your relationship with someone affects your decision making. It is difficult to say when you know someone, that it doesn't affect your decision making. There is a difference between the normal individual you know and someone you feel close to. If it carries weight in your decision making it is a conflict of interest.

Specific Statutory Conflicts.

Minnesota Statutes carry specific provisions which declare not only conflicts of interest but also bar activity in some events and memberships in others. The statements below are summaries to the full statutory language of the cited note.

Councilmember. MN Statutes 471.87 to 471.89. Councilmember's have an official conflict of interest and may not have a personal financial interest, either directly or indirectly, in any contract the council makes.

1. A councilmember cannot be a party to a contract.
2. A partner, stockholder, or owner of any firm with whom the council makes a contract (Village of Courtland v. Courtland Electric Co. (1927).
3. Entitled to a commission, bonus, salary, or remuneration from a firm with which the council makes a contract. A.G. Op. 59a-29, April 21, 1967.
4. Contracts with husbands and wives is not specifically dictated by the statutes. It depends on the situation. A.G. Op. 90-c-5, May 25, 1996; A.G. Op. letter December 9, 1976.

There are a number of specific exceptions specified in Minnesota Statute 471.88. One such exception is that of open bidding and another exception is where competitive bidding is not required by law. Each of these requires proper documentation to assure the governing body and the public that it was done in accordance with law. It is important to discuss the issue and determine if an exception is available. Using exceptions may too give the appearance of a conflict which also needs to be considered. In most instances the exceptions are there for a valid reason which makes common sense.

EDA Member Conflict – MN Statutes 469.098 prohibits an EDA member or officer from acquiring any financial interest, direct or indirect, in any project. In addition, it prohibits contract for materials or services where a person would have any financial interest either direct or indirect in connection with any project.

There are some exemptions provided by State Law for certain activities to the above provisions. MN Statute 471.88 provides for these exemptions as stated above. Subdivision 2, specifically, does allow an employee or officer of a financial institution to provide assistance on a project provided a disclosure of that interest is made and recorded into the minutes. However, once disclosed that assistance is being

offered that person shall have a conflict of interest in the project and shall have a conflict of interest in the project and shall be prohibited from discussions and decision making for the project.

Councilmember Conflict – EDA – Councilmembers are the final authority for EDA action in Becker so the prohibition would hold as above for EDA member conflicts. In addition to the statute cited above MN Stat. 471.87 can be interpreted to exclude the councilmember as being a recipient of any contract with the EDA or EDA economic financial assistance.

HRA Conflict – EDA action using HRA Authority – MN statute 469.009 requires that if a conflict which involves an employee or Commissioner (EDA officer) occurs or is about to occur the person involved is required to submit a letter of disclosure to the body. That disclosure shall be read into the minutes of the body at their next meeting.

An employee or Commissioner shall not attempt to influence an employee in any way matter related to the action or decisions in questions, shall not take part in the action or decision and shall not be counted towards a quorum during portions of any meeting in which the action or decision is to be considered.

Official Conflict of Interest Checklist

1. Confer with City Attorney. If there is a doubt get an opinion from our legal representative.
2. Disclose interest.
 - a. Make a disclosure at the earliest stage. Don't participate in discussions leading up to the decision.
 - b. Make oral disclosure to the governing body or board.
 - c. Make a written disclosure.
 - d. Have disclosure part of the written minutes.
3. Don't vote or take any other official action, unless the city attorney gives an opinion that there is not prohibited conflict of interest.
4. Don't influence others.
 - a. Make sure disclosure precedes discussion on the matter.
 - b. Don't participate in discussion, either at the time of the vote or earlier.
 - c. Leave the room when the governing body is discussing the matter.

CITY OF BECKER

ACKNOWLEDGMENT OF RECEIPT OF CONFLICT OF INTEREST POLICY

I acknowledge that I have received and read a copy of the City of Becker Conflict of Interest Policy. I understand that in the event of a potential conflict of interest I will disclose the nature and specifics of the conflict. In addition, I will remove myself from any decision making process that may present a conflict of interest.

Dated this ____ day of _____, 20____.

Printed Name

Signature

Committee/Appointment/Position