



City of North Branch Agenda

Title:	City Council Work Session
Location:	City Council Chambers
Date:	February 19, 2015

Start	End	Time	Topic	Presenter
6:30 PM	6:31 PM	0:01	Pledge of Allegiance	
6:30 PM	7:00 PM	0:30	Initiative Foundation Presentaiton	
6:30 PM	7:00 PM	0:30	2015 Street Projects	Wilson/Williams
7:00 PM	7:30 PM	0:30	20 Year Growth - Zoning Ordinance vs. Comp Plan	Roberts
7:30 PM	8:00 PM	0:30	Code of Conduct & Ethics Policies	
Total		2:01		



City of North Branch ***Memo***

Prepared By:

Bridgitte Konrad

BK

Date:

February 13, 2015

Subject:

Initiative Foundation

Representatives from the Initiative Foundation will be at the meeting to discuss their organization and programs they offer



City of North Branch Staff Report

Prepared By: Diane Hankee and Holly Wilson, City Engineers

Date: February 19, 2015

Subject: 2015 Street Improvement Project

Background Information:

In order to maintain the City's infrastructure it is important to allocate funds to an annual street improvement project. City Staff has met to generate a list of streets for improvement in 2015. This year's project is proposed to be fully funded using State Aid Funds. The 2015 Street Improvement project includes a thin overlay to Ash Street (from County Road 30 to Golden Avenue), Elm Street (from 8th Avenue to 12th Avenue), and Falcon Avenue (from 370th Street to the City limits).

➤ ***Advantages***

A thin overlay will improve the road surface and extend the life of the roadways until a reconstruction project can be programmed.

State Aid funds can be used for the project so the City would not be required to bond for the project.

➤ ***Disadvantages***

The roadways must remain on the City's State Aid system for at least 10 years.

The proposed project does not improve drainage or upgrade city utilities.

Financial/Budget Impacts:

The funding associated with the project includes State Aid Funds.

Requested Action:

Approve the 2015 Street Improvement project.

Staff Recommendation:

Staff is recommending the City Council approve the 2015 Street Improvement project to include Ash Street (from County Road 30 to Golden Avenue), Elm Street (from 8th Avenue to 12th Avenue), and Falcon Avenue (from 370th Street to the City limits).

Voting Requirements:

A simple majority of the Council Members present is required to take action on the matter.

Attachments:

1. Cost Estimate
2. Location Map

Opinion of Probable Cost - North Branch Overlay

Schedule A - 1.5" Overlay (Ash Street from County Rd 30 to Golden Ave)

No.	Mat. No.	Item	Units	Estimated Unit Price	Estimated Quantity	Estimated Cost
1	2021.501	MOBILIZATION	LS	\$1,300.00	1	\$1,300.00
2	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOUR	\$125.00	5	\$625.00
3	2357.502	BITUMINOUS MATERIAL FOR TACK COAT	GALLON	\$3.50	104	\$364.00
4	2360.501	TYPE SP 12.5 WEARING COURSE MIX (2,B)	TON	\$73.00	185	\$13,505.00
5	2563.601	TRAFFIC CONTROL	LUMP SUM	\$7,500.00	1	\$7,500.00
6	2582.502	4" SOLID LINE WHITE - EPOXY	LIN FT	\$1.00	680	\$680.00
7	2582.502	4" SOLID LINE WHITE - PAINT	LIN FT	\$0.75	680	\$510.00
8	2582.503	CROSSWALK MARKING-EPOXY	SQ FT	\$5.00	144	\$720.00
9	2582.503	CROSSWALK MARKING-PAINT	SQ FT	\$2.50	144	\$360.00
Subtotal Estimated Construction Costs						\$25,600.00
5% Contingencies						\$1,300.00
Total Estimated Construction Costs						\$26,900.00
27% Engr., Fiscal, & Admin						\$7,300.00
Total Street Improvements						\$34,200.00

Schedule B - 1.5" Overlay (Elm Street from 8th Ave to 12th Ave)

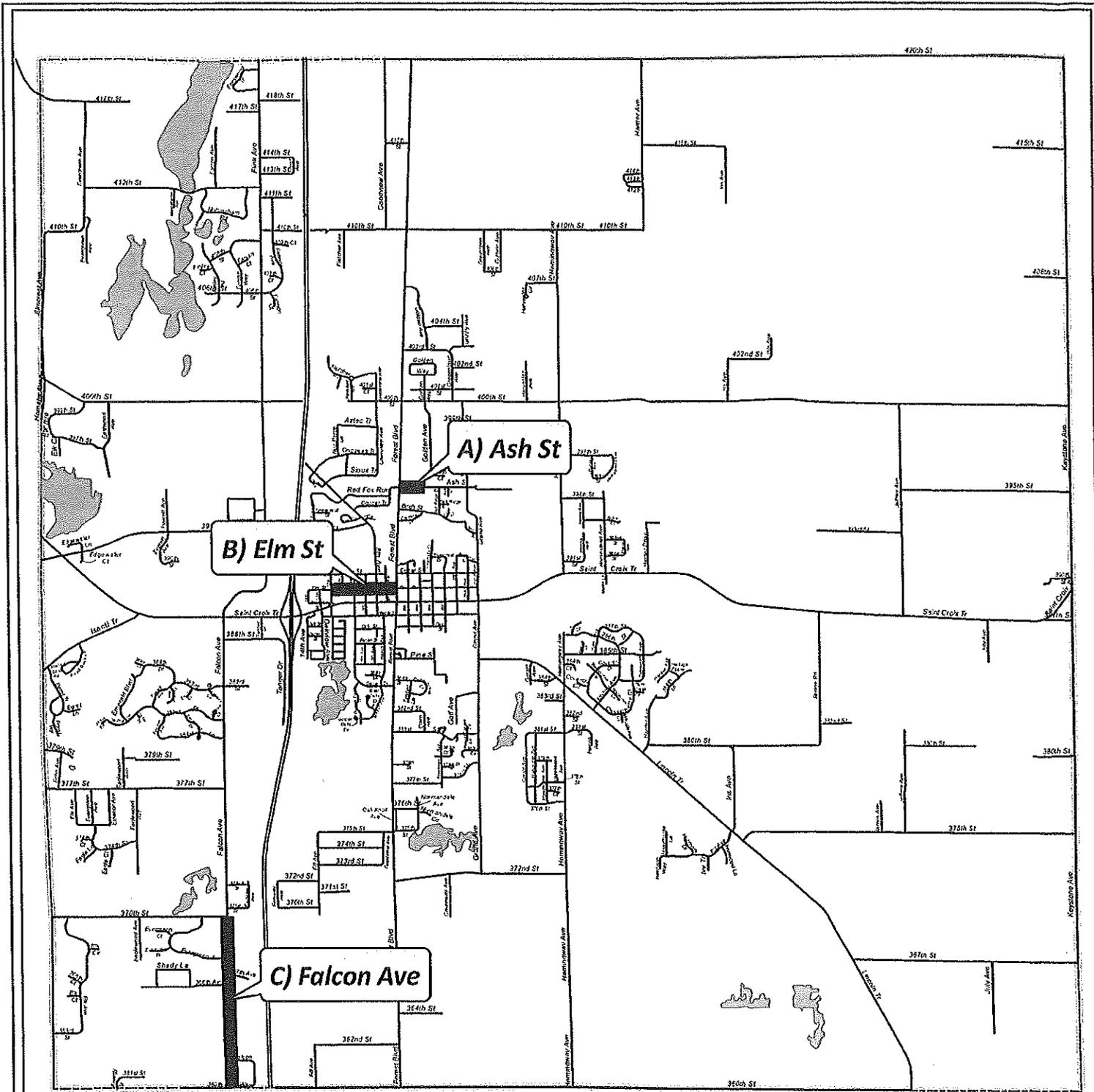
No.	Mat. No.	Item	Units	Estimated Unit Price	Estimated Quantity	Estimated Cost
1	2021.501	MOBILIZATION	LS	\$1,800.00	1	\$1,800.00
2	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOUR	\$125.00	5	\$625.00
3	2357.502	BITUMINOUS MATERIAL FOR TACK COAT	GALLON	\$3.50	200	\$700.00
4	2360.501	TYPE SP 12.5 WEARING COURSE MIX (2,B)	TON	\$73.00	355	\$25,915.00
5	2563.601	TRAFFIC CONTROL	LUMP SUM	\$7,500.00	1	\$7,500.00
Subtotal Estimated Construction Costs						\$36,600.00
5% Contingencies						\$1,900.00
Total Estimated Construction Costs						\$38,500.00
27% Engr., Fiscal, & Admin						\$10,400.00
Total Street Improvements						\$48,900.00

Schedule C - 1.5" Overlay (Falcon Ave from 370th to City Limits)

No.	Mat. No.	Item	Units	Estimated Unit Price	Estimated Quantity	Estimated Cost
1	2021.501	MOBILIZATION	LS	\$5,000.00	1	\$5,000.00
2	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOUR	\$125.00	5	\$625.00
3	2357.502	BITUMINOUS MATERIAL FOR TACK COAT	GALLON	\$3.50	676	\$2,366.00
4	2360.501	TYPE SP 12.5 WEARING COURSE MIX (2,B)	TON	\$73.00	1,203	\$87,819.00
5	2563.601	TRAFFIC CONTROL	LUMP SUM	\$7,500.00	1	\$7,500.00
Subtotal Estimated Construction Costs						\$103,400.00
5% Contingencies						\$5,200.00
Total Estimated Construction Costs						\$108,600.00
27% Engr., Fiscal, & Admin						\$29,400.00
Total Street Improvements						\$138,000.00

SUMMARY

NORTH BRANCH OVERLAY	Total
SCHEDULE A - ASH STREET FROM CTY ROAD 30 TO GOLDEN AVENUE	\$34,200.00
SCHEDULE B - ELM STREET FROM 8TH AVENUE TO 12TH AVENUE	\$48,900.00
SCHEDULE C - FALCOLN AVENUE FROM 370TH TO CITY LIMITS	\$138,000.00
	\$221,100.00



NORTH BRANCH OVERLAY SUMMARY

SCHEDULE	STREET	FROM STREET	TO STREET	ESTIMATED COST
A	ASH ST	CO RD 30	GOLDEN AVE	\$34,200
B	ELM ST	8TH AVE	12TH AVE	\$48,900
C	FALCON AVE	370TH ST	CITY LIMITS	\$138,000

Proposed Streets

 Proposed Overlays

**2015 STREET OVERLAY
IMPROVEMENT PROJECTS**

CITY OF NORTH BRANCH, MN

LOCATION MAP


 Scale: 1:50000

 12-FEB-2015



City of North Branch Staff Report

Prepared By: Shawn Williams, Public Works Director
Date: February 13th, 2015
Subject: Street Preservation/Maintenance Projects

Background Information:

At a fall 2014 council meeting I said I would be bringing ideas forward that would allow us to do a street pavement maintenance project, such as seal coating. The last seal coat project the city did was in 2009, after that the funding was cut from the budget. One of the essential maintenance requirements to achieve the 20 year life cycle of asphalt pavement includes seal coating which protects the surface from oxidation which damages the oils in the pavement creating structure failure and pot holes etc... The goal when it was funded was to accomplish 2.5-3 miles per year to keep up with our seal coat plan. Currently we are approximately 15 miles behind.

I am proposing to put together a seal coat project for this year using the funding I have in the budget for shouldering-\$34,000, \$21,000 from crack sealing, and \$10,000 from gravel. This total is \$65,000 which would allow a small seal coat project to be put together if council approves this idea. The last seal coat project done was in Casselberry Ponds and I would like to finish that section. We will still be crack sealing, and graveling. Shouldering will resume next year with no negative affects to our pavement infrastructure.

I prefer not to fund a project this way, however we are to the point that if a seal coat project is not done, the next step is a pavement overlay which is much more costly which also was cut and is not currently funded in the budget.

If council agrees with this idea, I would proceed to get quotes for the project and bring them back to council for approval with a map showing the location and asking for approval to proceed.

Other Pertinent Information:

- **Advantages**
 - Protects our pavement infrastructure investment at minimal expense.
- **Disadvantages**

Financial/Budget Impacts (If Any):

- **Funding Sources**
 - Funding from the 2015 budget with no negative effects.
- **Long-Term & Short-Term Costs**

Deadline:

A decision at this meeting is preferred, however if more discussion is needed we still have adequate time before the construction season starts.

Requested Action & Staff Recommendation:

Approval of concept as the proposal has no adverse or negative affects to the other maintenance projects we will still be doing. Formal approval will come at a Council meeting after quotes have been obtained.

Voting Requirements:

Attachments:



City of North Branch Staff Report

Prepared By: Ken Roberts, City Planner
Date: February 10, 2015
Subject: **Comprehensive Plan and Comprehensive Sanitary Sewer Plan – Consistency with Rural Residential (RR) Zoning, Density and Public Utilities**

INTRODUCTION

City staff is requesting that City Council provide staff with direction about the use of one-acre lots in the rural residential areas and the related land use designations in the Comprehensive Plan and in the Comprehensive Sanitary Sewer Plan. Staff is requesting this Council direction as there are areas in North Branch where the current zoning and land use designations are not consistent with each other.

BACKGROUND

On May 28, 2013, the City approved Ordinance 199-13. This ordinance amended the standards in the rural residential (RR) zoning district (Section 66-452 of the City Code) by changing the minimum lot size and the minimum lot widths as follows:

The following are yard, area and building size regulations are permitted dwelling units in the RR rural residential district:

- (1) Lot area: a minimum of ~~ten~~ 1.0 acres for property located within the 20 year growth area. A minimum of ~~2.5~~ 1.0 acres of upland for property located outside the 20 year growth area. A lot split or plat that creates a ~~2.5~~ 1.0 acre lot shall include a ~~ghost plat~~ sketch plan for the entire property showing how the property ~~can~~ could be subdivided in the future when ~~municipal utilities become available.~~
- (2) Lot width at front yard setback line: minimum of ~~300~~ 110 feet for property located within the 20 year growth area. A minimum of ~~200~~ 110 feet for property located outside the 20 year growth area.

(Please see the maps of the 20-year growth area on page 8 and on page 32.)

On February 11, 2014, the Planning Commission reviewed and discussed the change in minimum lot sizes for residential development and the inconsistencies with these lot size standards with the language in the Comprehensive Plan. The consensus of the Planning Commission was that the City should have flexibility about the installation of City utilities (sewer and water) in new developments by giving developers the choice about the use of city utilities in new residential developments. (Please see the attached minutes of the February 11, 2014 Planning Commission meeting on page 33).

On May 13 and May 19, 2014, the Planning Commission again discussed amending the Comprehensive Plan and the Comprehensive Sewer Plan to accommodate 1-acre lots in more areas of North Branch. The Commission reached consensus that the City should make the necessary changes to the plans that would allow one-acre lots but also require developers to connect to public utilities if their site is within 500 feet of existing public utilities. (Please see the May 2014 Planning Commission minutes on pages 36 - 43).

On August 18, 2014, the Planning Commission held a public hearing to consider changes to the Comprehensive Plan and to the Comprehensive Sanitary Sewer Plan. The Planning Commission recommended approval of the proposed changes to accommodate 1 acre lots in more areas of the City.

On August 25, 2014, the City Council reviewed possible changes to the Comprehensive Plan and to the Comprehensive Sanitary Sewer Plan. These changes were being proposed to make these plans consistent with the zoning designation that allows 1-acre sized lots in parts of North Branch. After much review, the Council tabled action on the proposed changes and agreed to discuss the matter again during an upcoming work session. (Please see the City Council minutes on pages 46-47.)

On October 16, 2014, the City Council and the Water and Light Commission met in a joint session to review information from WSB about the 20-year growth area. After hearing the presentation by the consulting engineers and discussion by the group, the City Council made no decision about changing the Comprehensive Plan or the zoning code. (Please see the meeting minutes on page 48.)

DISCUSSION/ANALYSIS

Comprehensive Plan

The Comprehensive Plan is a guiding and policy document for the city to use when making land use, transportation, housing and utility decisions. The Plan includes policy statements, goals standards and maps for guiding future decisions in North Branch. The City adopted the most recent version of the Comprehensive Plan in 2009 and this plan (including all policies and maps) is in effect today. I have attached several pages from the Comprehensive Plan (on pages 8 through 23) for your reference. These include the introduction and purpose of the plan and the guiding principles in the plan. Guiding Principle Number One states "An orderly development pattern with sewer and water." As the plan notes, the most important concern was the future character, pattern and growth of North Branch and the way the City will provide both an orderly vision to guide development and provide the necessary infrastructure to serve growth. It is important to consider this guiding principle when reviewing and considering changes to the Comprehensive Plan – including land use designations, transportation elements and utility systems.

The Comprehensive Plan includes 12 separate land uses and a land use plan map. The land uses include agriculture/rural, four different residential categories, commercial, industrial, park/open space and public/semi-public. The land use plan map (on page 31) designates the type of land use that the City expects to eventually occur on every parcel in North Branch. The Plan also has chapters that outline the vision for the City (Chapter 3), background, the natural setting, the future land use plan, park and recreation, transportation, sanitary sewer, water supply, storm water management, natural resource management and implementation.

The Comprehensive Plan also includes a map of the growth areas (those that will have City sanitary sewer and water) for the next 20 years and the ultimate area of suburban growth. (See the growth area map on page 32).

In reviewing the land use designations, their expected development densities and types of development, there are inconsistencies that the City must consider and take action to correct. For example, the LU1 (single-family residential) land use designation calls for a housing density of 2-4 units an acre with city utilities required in all areas. The corresponding zoning districts for the LU1 land use are R1 and R1A (single family) and the RR or AG1 (before or without utilities).

2004 Comprehensive Sanitary Sewer Plan

The City adopted a Comprehensive Sanitary Sewer Plan in January 2004. The City uses this plan as the basis for planning and installing municipal utilities throughout the City. I have included several pages from this plan – including the section about land use and two maps on pages 23 through 29. North Branch also has a Comprehensive Water Plan that has the same service areas as the Sanitary Sewer Plan. The City used these plans, in part, as a basis for the update to the Comprehensive Plan in 2009. This is especially true for the City land use plan and for the City master utility plans. The maps in the 2009 Comprehensive Plan are very similar to the maps in the 2004 Sanitary Sewer plan. As this plan notes, “the number of residential units per gross acre in existing and future developments is important in estimating population and sanitary sewer flows from the potential ultimate service area.” The City uses these estimates for designing the size of the trunk sewer mains and the capacity of the City sanitary sewer treatment plant.

The maps from this plan (on pages 28 and 29) show the ultimate land uses and the 20 year and ultimate (50-year) growth areas that the City expected and have planned for since 2004. These maps show large areas of North Branch eventually having sanitary sewer (and municipal water) when they develop. This includes the areas labeled LU1 and LU2 on the ultimate land use map on page 26 and on the comprehensive land use map on page 30. The land use designations in the 2009 land use plan are consistent with the land use designations from 2004.

Engineering

In 2013, the City Engineer reviewed the Happy Acres proposal and the concept plans for the future development of the area. She noted the following:

“Regarding future phases of the Happy Acres development, the City has planned for public utilities in this area of North Branch. As such, the developer shall include city sewer and water extensions through the property or the applicant will need to request that the City amend their Comprehensive Sewer and Water Plans in compliance with the City Code. If this area is not served by municipal utilities, staff should provide information to the City Council about the impact this would have to utility rates and funding system maintenance long term. The City has planned the utility systems as part of the Comprehensive Planning process to cash flow system maintenance and to manage rates. The concern is that the financial burdens of these systems would fall heavily on existing and future users – specifically commercial and industrial, if city utilities are not extended throughout all the planned service areas.”

As an example of the differences, if the City allows the undeveloped area between 400th Street and 410 Street (about 291 acres) to develop with 1 acre lots instead of suburban style, 12,000 square-foot lots, there would be about 1/3 the number of customers (about 194 fewer housing units) on the municipal sewer and water systems. Having fewer users and customers on these systems will place increased financial burdens on the rest of the existing and future customers to pay for existing facilities and for improvements and repairs to the utility systems. This will mean higher rates for sewer and water for those customers on the municipal systems.

In addition, the 1-acre style of development is not consistent with the current land use designation (LU1) in the Comprehensive Plan that expects 2-4 units per acre with city utilities. To allow the 1-acre lots in this area of North Branch (and in several other parts of the City), the City would need to amend its Comprehensive Land Use Plan and amend its Comprehensive Sanitary Sewer Plan to show the areas of North Branch that the City does not expect to serve with city sewer and water. These changes would be significant for the city – both in the near term and for the long-term planning and development of North Branch.

Zoning

The City has zoned much of the area between 400th Street and 410th Street as RR (rural residential). According to Section 66-447 of the City code, the purpose of the RR zoning district is:

1. To prevent scattered nonfarm uses from developing improperly.
2. To allow suitable areas of the city to be retained and utilized in open space and/or agricultural uses.
3. To promote orderly development and secure economy in government expenditures for public utilities and service.

As noted above, the minimum lot area for properties in the RR zoning district is now 1.0 acres for property located within the 20 year growth area and a minimum of 1.0 acres of upland for property located outside the 20 year growth area. The City cannot expect these size lots to be divided easily nor should the City expect to extend municipal utilities to areas with one acre lots as the expense per property would be cost prohibitive. This one-acre lot standard also is inconsistent with the current land use designation for the area (LU1 (single-family residential)) that calls for a housing density of 2-4 units an acre with city utilities required in all areas.

When needed in the future, there would likely be issues and concerns with the costs of extending public utilities to these areas (when their private sewer systems fail). City staff is aware of high nitrate levels showing up in the water tests of private wells that home owners have completed recently. These higher readings have occurred in the higher-density private system residential areas such as Country View Estates, the Chain Lake area and Ellenderry Hills. If the nitrate levels are too high, the water would not be safe for human consumption. According the Minnesota Pollution Control Agency (MPCA), most nitrates that enters ground water comes from human-derived sources including the land application of animal manure at farms and the application of fertilizers to agricultural crops and urban yards. The MPCA also notes that the over-application of fertilizer, improper manure management practices and improper operation and maintenance of septic systems can contribute significantly to the loading of nitrate to the ground water.

Comprehensive Plan and Sanitary Sewer Plan Amendments

A noted above, the City adopted the Code Amendment in 2013 that allows for new residential developments with the rural residential (RR) zoning to have one acre lots. This new minimum lot size standard is inconsistent with the standards and policies in the Comprehensive Plan. It is a best practice to have standards and policies in the Comprehensive Plan that are consistent with the standards in the Zoning Ordinance. As such, if the City wants to move forward with allowing one acre residential lots in the areas of North Branch with the RR zoning, then the City should revise the Comprehensive Plan to reflect this new standard and policy. Specifically, the City should revise the following parts and pages of the Comprehensive Plan:

Minimum Density: 1 unit 2-units per acre
Maximum Density: 4 units per acre

City Utilities: Optional for sites within the 20 year growth area with RR zoning that are more than 500 feet from existing public utilities. Required in all areas that are within 500 feet of public utilities.

In addition, if the City wants to move forward with the above-listed changes, then to ensure consistency in its plans, the City should amend the Comprehensive Sanitary Sewer Plan as follows:

1. Section 4.3 Potential Ultimate Service Area (on page 8), add the following language:

The City has planned and designed the sanitary sewer and water systems to accommodate growth and development in the 20 year growth areas with public utilities. It is the policy and expectation of the City that development in the 20 year growth areas will occur with public utilities. The City also recognizes that there may be times or locations where the installation of public utilities in the 20 year growth areas may not be practicable or feasible.

North Branch requires new single-family residential development parcels that are within the 20-year growth areas that are within 500 feet of existing City utilities to install and use City sanitary sewer and City water. New development parcels for single-family homes that are within the 20-year growth areas that are more than 500 feet from existing City utilities may be developed without City sanitary sewer and water. The City requires all new commercial, industrial and institutional land uses and developments within the 20-year growth areas that are within 500 feet of existing public utilities to install and use City sanitary sewer and City water.

2. Section 10.2 System Expansion (Orderly Expansion) (on page 28), add the following language:

The City has planned and designed the sanitary sewer and water systems to accommodate growth and development in the 20 year growth areas with public utilities. It is the policy and expectation of the City that development in the 20 year growth areas will occur with public utilities. The City also recognizes that there may be times or locations where the installation of public utilities in the 20 year growth areas may not be practicable or feasible.

North Branch requires new single-family residential development parcels that are within the 20-year growth areas that are within 500 feet of existing City utilities to install and use City sanitary sewer and City water. New development parcels for single-family homes that are within the 20-year growth areas that are more than 500 feet from existing City utilities may be developed without City sanitary sewer and water. The City requires all new commercial, industrial and institutional land uses and developments within the 20-year growth areas that are within 500 feet of existing public utilities to install and use City sanitary sewer and City water.

The City Engineer provided the City additional information about the effects the proposed Comprehensive Plan change would have and her recommendation about the proposal. (Please see the memo from WSB on pages 34 and 35.)

ALTERNATIVES

There are several alternatives that the City Council could consider to resolve this situation. They are:

Requested Action:

The City Council should review the staff report about the inconsistency between the RR zoning district and the Comprehensive Plan and the Comprehensive Sewer Plan and potential effects of allowing lower development densities in the rural residential areas of North Branch.

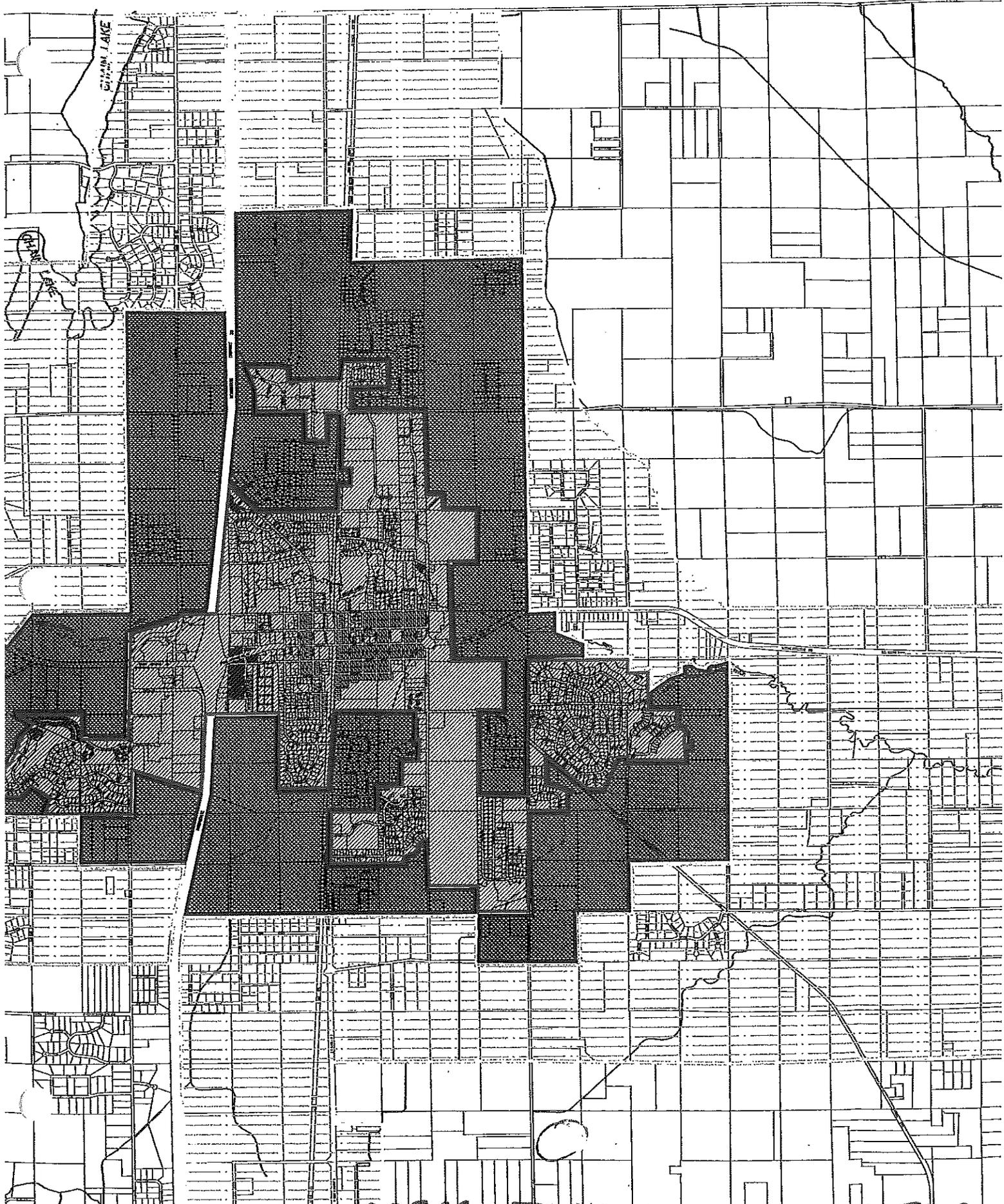
RECOMMENDATION

Staff is recommending that the City Council provide City staff direction about how they want to resolve the inconsistency between the RR zoning district, the Comprehensive Plan and the Comprehensive Sanitary Sewer Plan.

Voting Requirements: State law requires a super-majority vote (4/5 approval) of the City Council to amend the Comprehensive Plan – including the land use plan map and the text of the plan. All other zoning changes and zoning code amendments require a majority vote (3/5 approval).

Attachments

- 1) Assorted Pages from 2009 Comprehensive Plan (pages 8-23)
- 2) Pages 8-11 of 2004 Comprehensive Sanitary Sewer Plan (pages 24-27)
- 3) Ultimate Land Use Map (2004 Comprehensive Sanitary Sewer Plan) (page 28)
- 4) 20 Year and Ultimate Growth Area Map (2004 Comprehensive Sanitary Sewer Plan) (page 29)
- 5) 20 year and Ultimate Land Use Map (page 30)
- 6) Comprehensive Land use Plan Map (page 31)
- 7) Comprehensive Land Use Map (w/Growth Area Boundary) (page 32)
- 8) February 11, 2014 Planning Commission minutes (page 33)
- 9) Memo dated May 8, 2014 from WSB and Associates (pages 34-35)
- 10) May 13 and May 19, 2014 Planning Commission minutes (pages 36-43)
- 11) Resolution 05-14-PLN (pages 44-45)
- 12) August 25, 2014 City Council minutes (pages 46-47)
- 13) October 16, 2014 Council Work Session minutes (page 48)
- 14) October 16, 2014 Power Point Presentation by WSB



GROWTH AREAS - 20 YEAR + ULTIMATE - 2009

CHAPTER 1 - INTRODUCTION AND PURPOSE

1.1 Introduction

Definition of a Comprehensive Plan

Comprehensive Plan means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, including air space and sub surface areas, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. A Comprehensive Plan represents the planning agency's recommendations for the Future development of the community (Minnesota Statutes Annotated, 1983, Section 462.352, Subdivision 5).

This Comprehensive Plan is a statement of what the community of North Branch wants to become. It is a set of goals and policies designed to achieve a community wide "vision" that is based upon a series of community defined "guiding principles." The plan is based on a composition of concepts, patterns and relationships that deal with integrating the social aspects of a community with its physical development. Unlike the zoning ordinance, the comprehensive plan is futuristic in that it guides decisions that have yet to be made. The word "comprehensive" in itself provides meaning to the plan: it deals with the whole community and not just the parts.

1.2 Purpose of the Plan

The reasons for undertaking the planning process are many. They include establishing plans and strategies for housing, transportation, environmental protection, city services, job creation, and public expenditures to name a few. The resulting plan provides guidance for land use decisions. Incorporated municipalities in Minnesota can adopt comprehensive plans for the purpose of establishing policies for future development.

The Comprehensive Plan is a broad based-planning tool that allows the city to evaluate the wants and needs of the whole community with the wants and needs of special interest groups. Using a public participatory process, the plan opens the dialogue about critical issues that affect the future of North Branch. For a growing community like North Branch, looking out into the future to depict what life will be like in 20 years is especially hard and to many, it is simply incomprehensible. But while the community may be changing frequently, it is important to continue to look to the future and plan for growth and change.

The process of developing the Comprehensive Plan engaged elected officials, citizens, and city staff in a dialogue about the future of their community. The result of the dialogue was consensus on how North Branch should look in the future. The Plan documents this consensus and provides guidelines for achieving the goals of the community. It is the official guide for development over the next two decades in North Branch.

2009 COMPREHENSIVE PLAN

CHAPTER 2 – GUIDING PRINCIPLES

As mentioned above, the development of the North Branch Comprehensive Plan began with a solid base of citizen involvement. During phase one of the work program, the City conducted an issues workshop to obtain first-hand information from local citizens. The information from the issues workshop, coupled with the background analysis, formed the base for all subsequent work in the process.

The issues workshop provided important information about the issues, needs, problems and opportunities facing North Branch. More importantly they identified community assets - those attributes that are unique to North Branch and which define the community. Six guiding issues that emerged are listed below.

1. *An orderly development pattern with water and sewer.*
* The most important concern was the future character, pattern and growth of North Branch, and the way the City will provide both an orderly vision to guide development and provide the necessary infrastructure to serve that growth.
2. *A viable downtown business district and corridor east of Interstate 35.*
These areas continue to be a major concern of the community. The ultimate character of the redevelopment of the downtown area (located north and south of Main Street between Eighth Avenue and Sixth Avenue) and the highway Gateway Corridor (east of Interstate 35, north and south of Highway 95), and area was a question and a major opportunity for the community.
3. *Other viable commercial area.*
There needs to be other commercial areas provided outside of the downtown business district and the gateway corridor east of Interstate 35. The commercial area west of Interstate 35 needs to be expanded to complement the North Branch Outlet Center and furniture stores in the area.
4. *Adequate industrial park space.*
There needs to be appropriate settings for business expansion and a desire to increase the local employment base.
5. *A community of neighborhoods.*
As North Branch grows, existing and new distinct neighborhoods will be the building blocks in both the rural and urban areas of the community. The neighborhoods need to be a pedestrian scale; a walking environment and neighborhood gathering spaces will define neighborhoods. Some local retail space and office neighborhood uses should be encouraged that will support pedestrian scaled neighborhoods. These neighborhoods should also provide recreational amenities for the residents residing within them.
6. *Quality Open space and protect the environment from pollutants and degradation.*
This was an agreed upon combination of issues reflecting the need to increase parks and open space, preserve the environment, protect natural habitat, and retain the current rural, open space flavor. Quality open space can be active or passive areas where people can participate in sporting activities or enjoy nature. Quality open space has different meanings to different people. It is the goal of the city to provide open areas for both active and passive uses.
7. *Allow/encourage mixed use development.*
The plan and the Zoning Ordinance should allow and encourage a mixed use development in order to promote a more pedestrian friendly neighborhoods.

CHAPTER 3 - VISION

Twenty years into the future, North Branch will represent a picture of a balanced community, which will be experienced not only by its residents and businesspersons, but also by visitors and people who travel through the community. North Branch's vision is to remain as a municipality that offers a high quality of life that is enhanced by thoughtfully planned and designed development, an integrated multi-mode/transportation network, vigorous businesses, job growth and preservation of treasured natural resources. Achievement of this vision will be the realization of an identity unique to North Branch.

Direction to Achieve Vision Statement

Having grown substantially from the 1990s, North Branch will exhibit a true sense of place. Its image will have changed from that of open farm fields of yesterday and today to the developed areas of tomorrow. Planned development patterns and architectural elements will have defined the identity of North Branch and images that reveal this identity will be repeated throughout the community. North Branch residents have a vision for a community where residents of all ages, incomes and cultures, can live, play, work and relish a true sense of place. It will become a community where art and culture contribute to its identity. Development of a Downtown Center (located north and south of Main Street between 4th and 10th Avenues) will provide the community with a "heart" that is vibrant yet serene. It will serve as a focal point where neighbors and families can come to socialize, reflect on the community, and enjoy a variety of activities.

North Branch should continue to provide for choice in the community, both currently and in the future. A choice to buy into the pride of homeownership or rent and enjoy a maintenance-free lifestyle. A choice in what style of home to live in whether it be a townhouse or apartment near the Downtown or a two-story home. A choice of what price range to buy or rent in whether you are looking for your first home or moving to the next stage of life-cycle housing. A choice to send your children to public or private schools. A choice in how you travel to work in the morning whether you drive, walk, bike or catch a bus or train at the local transit hub.

North Branch has an educational system built around the quality of today's schools and integrated with community activities. The schools should contain a variety of educational alternatives so children will have a choice on how to prepare for their futures. A balanced tax base will help the city and school districts join together to build quality facilities paving the way for educational excellence.

North Branch will continue to be a safe community where children and adults can enjoy a diversity of activities in the comfort and safety of their own community. A broad range of community services will continue to efficiently and effectively maintain the City's infrastructure, protecting investments and serving the community. Trails such as the Sunrise Riverwalk Trail, the Sunrise Prairie Trail and the proposed Grand Avenue Trail as well as other proposed trail networks will enable residents to access a variety of places and activities. These trails will act as a web that ties well planned community parks and open spaces with neighborhoods, shopping areas, schools and regional recreation areas.

North Branch will become a regional "hub" of activities for the surrounding area.

The strength of North Branch will be in its identity as being a balanced community that has integrated open space and greenways as part of the basic infrastructure of the community and has protected its natural features enhancing the values of an urban landscape. In 2030, North Branch will be a community with good shopping, schools, parks, entertainment and jobs: a place where residents and businesses share a common vision and a sense of place.

North Branch 2030 Plan

The plan addressed the seven guiding issues identified in Chapter 2 and included alternative scenarios related to:

- Residential densities and dwelling types.
- Location, type, character and extent of commercial and industrial development.
- Location and design character of access and transportation Systems.
- The location and type of community facilities.
- The protection and preservation of natural resources and historic features such as the Sunrise River and the wildlife management areas.
- Future growth of utility service.

All of the alternatives were based upon several constants that arose from the guiding issues.

- ⊙ The growth of the current population to 18,500 by 2030. This increase represents a demand for an additional 2,750 dwelling units based on a household size of 2.89 persons per household.
- ⊙ Demand for an additional 200 acres of light industrial and office park development in a Commercial/Industrial District.
- ⊙ Demand for an additional 180 acres of retail expansion.
- ⊙ Extensive permanent conservation areas which include wetlands, steep slopes, flood plains and large scale, long term agricultural use of the northeast quarter of North Branch.

The variables that distinguished the alternatives included:

- ⊙ Willingness to expand urban services to accommodate projected growth
- ⊙ Level of park system investment
- ⊙ Neighborhood form and pattern
- ⊙ Automobile or pedestrian movement emphasis

City role and function

- ⊙ Regional shopping area role and function
- ⊙ Road system and connections

The North Branch 2030 Comprehensive Plan includes Figure 1, *Comprehensive Plan Map*. The elements which address the guiding issues are:

1. *An orderly development pattern.*

Water and sewer service extensions to adjacent areas currently served with utilities.

- ⊙ A park and recreation plan consisting of linear parks, trails, wetlands, recreation areas and a golf course.
- ⊙ A balanced transportation system preserving ½ mile and one-mile corridors, providing major arterials, and providing an alternative route north away from the main commercial street (Highway 95) to a new I-35 interchange.

North Branch 2030 at a Glance.

Population 18,500

2,750 New Households since 2006

3,693 Households in 2006

200 Acres New Employment District

180 Acres Retail Expansion

Livable Neighborhoods- Compact, Cost-Efficient Sewered Development

Rural Character Maintained

Quality Open Space System

2. *A downtown business district and strengthening of the commercial corridor east of Interstate 35.*

- ⊙ The downtown area as a mixed-use commercial, retail and residential district. The downtown is the symbolic and spiritual center of the City and should be the location of unique facilities such as City Hall, the Post Office and a transportation hub.
- ⊙ The Gateway Corridor area as a city oriented transitional zone between the Regional Commercial Area and the Downtown.
- ⊙ The Regional area as a mixed-use commercial district serving regional needs.
- ⊙ One central commercial district.

3. *Adequate industrial park space.*

- ⊙ An industrial area expanded at locations adjacent to I-35, north of 400th Street and west of County Road 30.
- ⊙ Office/warehouse activities expanded in the northwest quadrant of I-35 interchange.
- ⊙ A south industrial park near the interchange at County Road 17.

4. *A community of neighborhoods.*

- ⊙ 160 acre, pedestrian scaled neighborhoods.
- ⊙ Central neighborhood parks within one-quarter mile of each home.
- ⊙ Encourage a mix of residential types in each neighborhood.
- ⊙ Connect the neighborhoods to the town pattern of streets and open space.

5. *Quality Open space and protection of the environment from pollution and degradation.*

- ⊙ Active park acquisition for a linear park system.
- ⊙ Addressing current problems with environmentally sensitive wetland and lake areas.
- ⊙ Permanent conservation of unbuildable areas including wetlands and slopes.
- ⊙ Conservation of other unique features, such as ridgelines, steep river terraces, high quality agricultural soils, waterways, and forest stands.

6. *Allow/encourage mixed use development.*

- ⊙ The plan and the Zoning Ordinance should allow and encourage mixed use developments in order to promote more pedestrian friendly neighborhoods.

7. *Allow/encourage mixed use development.*

- ⊙ The plan and the Zoning Ordinance should allow and encourage a mixed use development in order to promote a more pedestrian friendly neighborhoods.

8. *Transportation.*

- ⊙ The plan should encourage mixed use transportation routes.

- Performance standards for specific uses-including outdoor storage, drive-through businesses, gas stations, etc. that may relate to site planning as well as operational issues, such as business hours.

Site planning techniques for transitions will be reviewed and evaluated as the City considers applications for development approvals. The transitions to nearby existing and planned uses are important factors in determining whether or not a development will be compatible with its surroundings. Specific requirements and standards for particularly sensitive uses will be included in the City's zoning regulations and other relevant sections of the City Code.

The land use plan is the basic building block in a community's comprehensive plan. The plan identifies where people will live, where they will shop and where services to support these people are needed. Development anticipated in the plan drives the need for all types of infrastructure, including sewer, water, roads and parks. In addition, the land use plan helps the Planning Commission and City Council make decisions on individual development requests. Perhaps most importantly, the way land is used and the way in which uses are arranged are major contributors to a community's quality of life.

The purpose of the land use plan is to: 1) identify appropriate locations for all types of land use, 2) specify criteria for determining the appropriate location for a specific land use, 3) lay out strategies to ensure that all the various types of uses exists together harmoniously and 4) provide critical background data for infrastructure planning.

6.1 LU1 - Single-Family Residential

LU1 Single -- Family Residential land use is to provide for single-family residential housing in the City of North Branch.

Guidelines and Criteria

Minimum Density:	2 units per acre
Maximum Density:	4 units per acre
City Utilities:	Required in all areas
Corresponding Zoning Districts:	R1 and R1A (Single-family residential) RR or AG1 prior to utilities
Types of Development:	<ul style="list-style-type: none"> ● Single-family detached dwellings ● Boarding (house) home – foster children restricted to serving six (6) or fewer persons ● Day Care Home ● State licensed residential facility serving from one to six mentally or physically disabled persons ● Public parks and playgrounds ● Limited Neighborhood Commercial as a conditional use ie. Convenience grocery (not supermarket type) with or

without motor fuels, day care facilities, barber/beauty shops

Development Location Criteria:

- Ⓞ Churches and schools
- Ⓞ Areas with access to local streets
- Ⓞ Not appropriate adjacent to principal arterial interchanges

Desirable Facilities:

- Ⓞ Neighborhood parks or school parks within ½ mile walking distance of the neighborhood
- Ⓞ Defined trail system that connects the neighborhood to other services and facilities, including parks, schools, churches, and neighborhood shopping areas
- Ⓞ Neighborhood shopping facilities within five minutes driving time or 15 minute walking time from the neighborhood

General Residential Land Use Goals for LU1

The following are the City's goals for residential land use:

1. To provide housing to satisfy the lifecycle needs of North Branch residents.
2. Create a "sense of place", an identity within each residential neighborhood.
3. To protect the natural resources base and preserve green space, while sensibly adapting housing to it.
4. To manage residential growth and development.
5. To maintain the integrity of North Branch's existing housing stock.
6. To maintain neighborhood quality, livability and compatibility.
7. To create connections between our neighborhoods and our environment.

Overall Residential Land Use Policies for LU1

It is the policy of the City to:

1. Scatter affordable housing throughout the community rather than concentrate it in larger projects.
2. Provide opportunities for the preservation of natural resources and public open space by allowing the use of density transfer (within the development), conservation easements, and land trust.
3. Require that places to live honor the desired greenway infrastructure with no loss in density.
4. Require that all urban housing be connected to the public sewer and water systems.

6.2 LU2 - Medium-Density Residential

LU2 Medium – Density Residential identifies areas where the City will promote a variety of housing types including single-family homes on small lots, townhomes and apartments. This district will also provide opportunities for directly related complementary uses such as churches, schools and recreational facilities.

The broad selection of housing types in this area is designed to provide opportunities for people in all stages of the life cycle – for young single and married people, for families, for older people, for people looking to rent housing, for those who choose to buy. LU2 neighborhoods should be located near

Rural Residential Land Use Policies

It is the policy of the City to:

1. Apply rural design principles to rural residential areas.
2. Permit only single-family housing within the rural residential area.
3. Require inspections of private septic systems in accordance with Minnesota Rules Section 7080.
4. Provide for the extension of urban services only when petitioned or if failing systems pose a danger to the health of the public.

Rural Residential Criteria

The following performance criteria shall apply to rural residential areas:

1. Rural design principals are in evidence in the plan.
2. Consideration is given to re-subdivision in the event public utilities are determined to be necessary.
3. The site or sites can support two septic drain fields in accordance with section 7080.
4. Owner/developers agree to on-site septic system inspections in accordance with City requirements.
5. The plan reflects a strong sensitivity to the preservation of natural resources (slopes, wetlands, ponds, drainage way, trees, etc.).
6. There shall be no shared septic systems with these smaller lot sizes.

6.5 AG - Agricultural Residential

North Branch desires to maintain a rural/agricultural density in the area outside the Growth boundary and preserve a lifestyle characterized by active farms, hobby farms and homes on large lots. Maintaining a low level of development will minimize the demand for services associated with suburban-type development and the related costs that can overburden residents on large rural lots. Consequently, in addition to requiring a very low density for residential development, the City will not allow development of churches, schools, shopping areas or industries that are found in the rest of the City. However, in order to preserve appropriate and sufficient parkland for the future, the City may acquire land for parks, trails, or open space.

By maintaining a low density of development, it is also the City's intent to preserve and protect the many natural resources found in this part of North Branch, including lakes, streams, wetlands and woodlands. Maintaining a rural density will help prevent possible pollution of these resources that can result from suburban density development that occurs before the necessary infrastructure is available.

Guidelines and Criteria

Minimum Density:
Maximum density:

None
One dwelling unit per 10 acres

City Utilities:

None

Corresponding Zoning District:

AG2 (Agricultural Preserve)

Types of Development:

- ⊙ Agricultural and related uses
- ⊙ Public parks, recreational areas, wildlife areas and game refuges
- ⊙ Single-family detached dwellings
- ⊙ Boarding (house) home – foster children restricted to serving six (6) or fewer persons
- ⊙ Day Care home
- ⊙ State licensed residential facility serving from one to six mentally or physically disabled persons

Development Location Criteria:

- ⊙ Located where City utilities are not available

6.6 CB – Central Business

The intent of this classification is to provide the framework for development of a vital center serving the entire community, attracting residents for a variety of civic, cultural, entertainment, retail and recreation activities and providing a strong sense of identity for the City of North Branch. This is a unique classification intended to provide for planned, unified development in the Downtown area. Public streetscape elements, such as lighting, landscaping, pedestrian amenities and signage will be used to reinforce and strengthen the identity of the area.

Guidelines and Criteria

Minimum Area:

None

City Utilities:

Required in all areas

Corresponding Zoning District:

CBD (Central Business District)

Types of Development:

- ⊙ Horizontally mixed uses
- ⊙ Vertically mixed uses, including residential over commercial

Development Location Criteria:

- ⊙ Unique location in the community as shown on the Land Use Plan

General Goals for the Downtown

The following are the City's goals for the Downtown area:

1. To create a pedestrian friendly social and business environment that is inviting to residents, businesspersons and visitors.
2. To provide public services in close proximity to one another and centrally located to the community.
3. To create public spaces that invite people to casually interact with one another.
4. To expand upon existing Downtown development and provide a full range of retail and civic services.

CHAPTER 12 - SANITARY SEWER

12.1 Introduction of Chapter

The Comprehensive Sanitary Sewer Plan was prepared as a companion plan to the Comprehensive Land Use Plan. The most recent plan was adopted by the City Council in February 2004. The plan provides an inventory of North Branch's existing trunk sewer system and a guide for the expansion and upgrading of the city's trunk sewer system to accommodate future growth.

The sizing of sanitary sewer facilities is dependent on the hydraulic capacity required for each part of the system. Municipal wastewater is generally a mixture of domestic sewage, commercial and industrial wastes, ground water infiltration and surface water inflow. With proper design and construction, ground water infiltration is reduced to a minor percentage of the total flow and surface water inflow is eliminated, leading to hydraulic discharges that depend predominantly on land use.

12.2 Sanitary Sewer System

The sanitary sewer system must be capable of handling not only the average flows, but also anticipated peak flows. These peak flows are obtained by multiplying average flows by a variable factor. This factor, called the Peak Flow Factor, generally decreases with increasing average flows.

The existing development trunk sanitary sewer system layout for the city of North Branch is presented in the document "Comprehensive Sanitary Sewer Plan". This map shows major district and sub district boundaries, existing and proposed trunk sanitary sewers, lift stations, and force mains. In addition, sizes of all trunk sewers are shown with reference points along each pipe.

The modeling of the sanitary sewer system was based on a variety of parameters, including land use, population density, standard wastewater generation rates, topography and future land use plans. Based on the topography of the undeveloped areas, the sewer sub districts were created and the most cost-effective locations for future trunk line facilities were determined. The location of smaller sewer laterals and service lines are dependent upon future land development plans and cannot be accurately located in a plan of this type.

The proposed alignments shown in the Comprehensive Sanitary Sewer Plan generally follow the natural drainage of the land to minimize the use of lift stations and, consequently, to provide the city with the most economical ultimate design sanitary sewer system. Minor adjustments in the routing and size of the trunk facilities will take place as determined by the specific land use and development conditions at the time of final design. Any such adjustments are expected to deviate minimally from this plan.

The proposed trunk sanitary sewer alignments are preliminary and should be reviewed at the time of final design to ensure conformance with existing and proposed development. In most cases, the alignments closely follow natural drainage ways. Major changes in alignment are not recommended because these could lead to excessive pipe depths and thus increased construction costs.

CHAPTER 13 – WATER SUPPLY

13.1 Introduction of Chapter

The Comprehensive Water Plan was prepared as a companion to the Comprehensive Land Use Plan. The most recent plan was adopted by the City Council in December 2003. The plan provides an inventory of North Branch's existing water system and a guide for the expansion and upgrading of the city's water system to accommodate future growth.

13.2 Water System

The development of a water system capable of supplying and distributing potable water of high quality to all points of demand at acceptable residual pressures requires advance planning. Such a system is dependent upon a strong network of trunk water mains complemented by properly sized and strategically located supply and storage facilities. A comprehensive plan based on the most reliable information presently available is necessary to ensure that adequate facilities are provided during a significant growth period and to allow flexibility for future adjustments.

Without proper planning, haphazard and piece-meal construction can result in either undersized or oversized facilities. Either condition is very costly to a community since a water main that is too large is not fully utilized, while a main that is too small will eventually have to be paralleled or replaced. The purpose of the Comprehensive Water System Plan is to provide the city of North Branch with a comprehensive water supply, storage and distribution plan that will minimize these problems and will establish continuity in the development of an ultimate system by serving as a guide for future expansions and additions.

A municipal water system can be divided into three main categories:

- ① Supply and Treatment Facilities
- ② Storage Facilities
- ③ Distribution System

Supply and Treatment Facilities include all equipment necessary to pump and treat the amounts of water demanded by the system. For North Branch, it is proposed to consider only groundwater supply sources, although this does not preclude the possibility of using surface water supply at some future date, or water from some other outside sources. The supply facilities thus include the wells, pumps, pump house, controls, raw water transmission mains, and all related facilities.

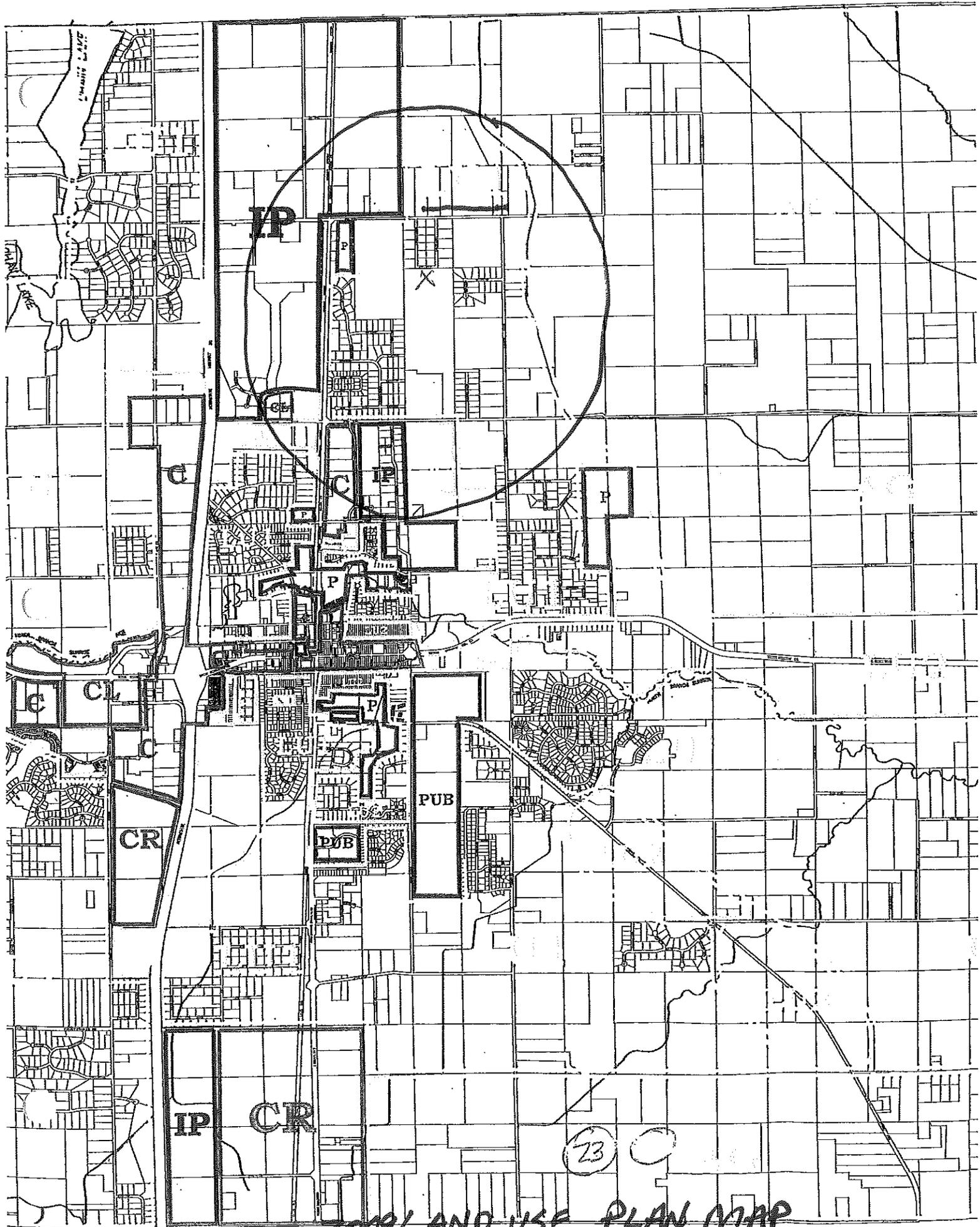
The Storage Facilities are the reservoirs used throughout the system to store water for usage during emergency and peak conditions. Water from storage is fed into the system either by gravity or by pumping through a booster station. Two types of reservoirs feed

water directly into the system by gravity. These are a ground reservoir with the floor resting on the ground and an elevated reservoir with columns supporting the tank. A ground reservoir may also be constructed at an elevation, which requires a booster station to pump the water into the system at the proper pressure.

The Distribution System is made up of the trunk water mains (primarily 12 inches or larger in diameter), lateral water mains (6 to 10 inches in diameter), service pipes, valves, hydrants, and all appurtenances necessary to convey water from the supply sources and reservoirs to the points of demand. Since the lateral water mains are normally routed along residential streets within a development, it is impossible to predict with any degree of accuracy where future laterals will be placed in undeveloped areas. These lines are excluded from consideration in analyzing the distribution system hydraulics.

The phased construction of the North Branch water distribution system has primarily been dependent on development within the city. Where development occurs, water mains are constructed to serve those specific developments. However, development within the city has not been absolutely contiguous and gaps in the distribution system may result. As development continues to grow further away from the supply wells and reservoirs, these gaps can cause problems with insufficient supply and pressures since they prevent "looping" of the distribution system.

Looping of the distribution system provides system reliability in the event of a water main break, but more importantly it provides the large flows required for fighting fires. One of the purposes of this report is to evaluate potential water pressure and supply problems and determine the most feasible solutions.



2009 LAND USE PLAN MAP

4.0 LAND USE

4.1 Land Use Breakdown

Figure 4.1 is a land use map of the City of North Branch. This map was developed by the North Branch Planning Commission and separates North Branch into twelve (12) different land use categories. Land use is an important factor in determining future trunk sewer systems because different land uses generate different wastewater flow rates.

4.2 Developable Areas

The area within the city limits of North Branch is 36 square miles, or 23,040 acres. The existing area with sanitary sewer service is approximately 1,500 acres. There are, therefore, many areas within the city limits that could be developed. Not all of this acreage is considered developable. Areas considered undevelopable include wetlands, lakes, rivers, parks, open space, public areas, semi-public areas. In addition the City has identified areas for future green space as part of the "green corridor" as shown on Figure 4.1.

Each land use section's total acreage was calculated. Existing serviced, developed unserved areas, and undevelopable areas were subtracted to obtain an estimate of developable acreage. This is identified as "Gross" Developable Acreage because it includes roads and common or public areas that would be included in developments. The Gross Developable Acreages by land use categories are shown in Figure 4.2 and summarized in Table 4.1.

4.3 Potential Ultimate Service Area

The potential ultimate service area quantifies gross developable acres in terms of those that are most likely to develop and when development is anticipated. The potential ultimate service area is shown in Figure 4.3 and summarized in Table 4.2. The potential service area is shown for 0 to 20 years, and 20 years and beyond. In addition, residential and non-residential areas are identified.

Growth is projected to occur primarily surrounding the existing serviced areas. The 20-year service area takes into consideration the amount of gross acreage needed to serve the anticipated residential and non-residential growth over the next 20 years. This may vary somewhat depending on exactly how dense the residential developments are, where available land is located, and how fast non-residential development actually occurs. Growth will occur where it is most economically viable, which means typically it will happen in an outward fashion adjacent to areas where existing services are. Some areas or regions may grow at different rates than others. Area that is earmarked as part of the 20-year area may not happen in the next 20 years, while other areas adjacent to the 20-year area may happen before the next 20-years is up. Land availability and cost effectiveness will play an important role in how the growth occurs.

The large agricultural (AG) areas were not considered to be part of the potential ultimate service area because they are generally furthest away from the existing serviced area, and much of the agricultural areas have undevelopable features such as wetlands. In some cases, such as the

larger agricultural area in the northeastern section of North Branch, there are physical features separating the area from existing facilities that may make servicing the area more costly.

4.4 Residential Units per Acre

The number of residential units per gross acre in existing and future developments is important in estimating population and future sanitary sewer flows from the potential ultimate service area. An average of 2.0 residential units per gross acre (including future roads and other common or public areas) will be used in calculating trunk fees for residential properties. This is equivalent to approximately 3.0 residential units per net acre (taking out area for future roads and public areas), which is in line with the City's comprehensive plan and the minimum lot sizes required for single-family residential in the City's zoning requirements. There are some areas that are earmarked for medium and high density development which will average much higher than 2.0 units per gross acre, however, a lot of the single family may average a little less than 2.0 units per acre so on an overall basis 2.0 units per gross acre will be used in the calculation of trunk fees. A majority of the acreage is single-family residential. The recent residential developments within the City, like Casselberry Ponds and Wild Ridge, have averaged less than 2.0 units per gross acre. For the calculation of wastewater flows for each specific area the actual densities for the various residential land use types will be used so that individual trunk lines are sized appropriately.

5.0 GROWTH PROJECTIONS

5.1 Strategic Growth Management

Strategic growth management is a key factor in a community's success as it grows. It is important to promote new commercial and industrial development while also balancing such growth with residential growth. Residential development needs to be guided in terms of amount, type, location and quality. While accommodating growth, it is also essential that environmental quality in North Branch be protected. North Branch's ability to deliver reliable services must be maintained throughout growth and there needs to be an awareness of all services, such as water (distribution system, wells, storage, treatment), sewer (trunk sewer system, wastewater treatment and discharge), storm water, transportation, schools, and other public facilities and services.

5.2 Projected Residential Growth

5.2.1 Population Projection (20-Year)

The historical population is included in Table 5.1. The communities of North Branch and Branch merged in November 1994. Therefore, North Branch data before 1994 have been adjusted to include Branch. The population served has increased 65% in the past five years, or approximately 10.5% per year.

In recent years, North Branch has been growing at a rate of approximately 140 units/year. By far, the majority of this growth is occurring in areas receiving sanitary sewer service. North Branch's growth has been projected using three different scenarios. Projection 1 uses a straight line projection of 140 units/year, this follows the projections found in the wastewater treatment facility plan prepared in 2001. Projection 2 uses straight line growth at a rate of 140 units per year to the year 2011 and then a 2.5% annual increase in housing units after 2011. Projection 3 uses straight line growth at a rate of 140 units per year to the year 2006 and then a 3% annual increase in housing units after 2006.

An average conversion factor of 2.89 people per household was used to convert units/year to people/year. 2.89 people per household is based on population and corresponding number of households data for the City of North Branch. Single-family residential may average more people per household than this, but medium and higher density generally average less than this so as an average this a good number for planning purposes. The resulting annual growth and population served is presented in Table 5.2 for Projections 1, 2 and 3.

The 2023 range of population projections, 12,600 to 14,800 people (serviced population), is comparable to numbers found in the City's Comprehensive Plan.

5.2.2 Population Projection (Ultimate)

The ultimate projected population is based upon the amount of developable land available within the projected ultimate service area for the City of North Branch. In looking at the gross developable residential acreage and applying the appropriate units per gross acre and average people per household the ultimate serviced population for the City of North Branch would be approximately 50,000 to 60,000 people. This will most likely vary depending on actual housing densities. As the City grows and becomes much larger the average housing densities may go up, which would ultimately impact the population. Based upon current growth rates the ultimate population is not likely to happen within the next 40 years. Ultimate "build-out" may not occur for the next 50, 60, or 70 years and beyond. At this point it is only a rough estimate based upon the amount of developable land available and the current projected land uses, but it is important in providing a basis for projecting wastewater flows for sizing the future trunk sewer system.

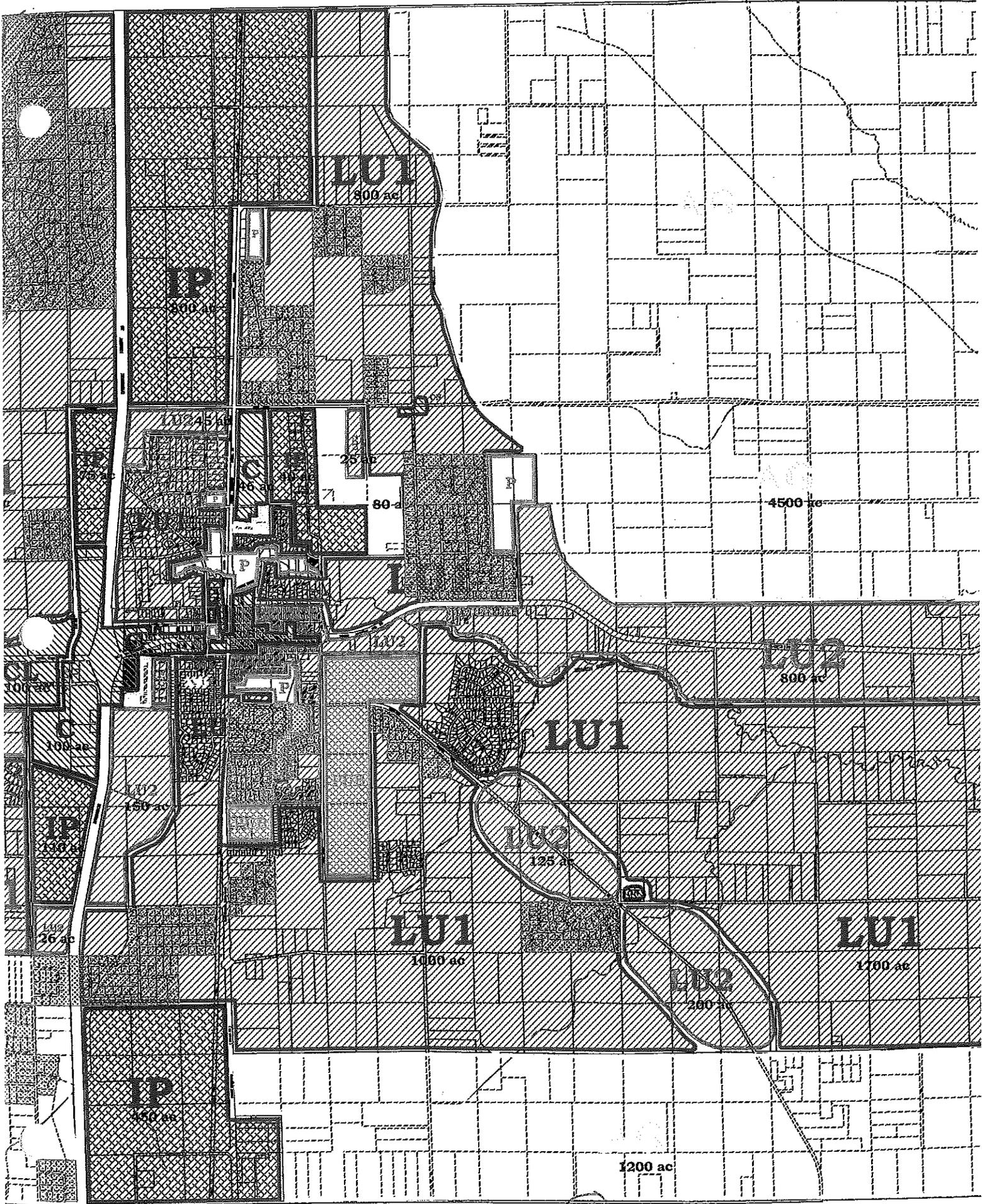
5.3 *Projected Non-Residential Growth*

5.3.1 Non-Residential Projection (20-Year)

Historically, the non-residential portion of North Branch has been mostly commercial development. The majority of the wastewater flow is currently generated from residential. There has not been a lot of industrial growth or large wastewater generators. The land use map (Figure 4.1) that was developed by the North Branch Planning Commission does include some large industrial parks. Industrial properties are currently being developed in the northern portion of the City. The City of North Branch and its economic development authority are working hard to promote more commercial/industrial growth. Based upon the land use map there are approximately 600 acres of non-residential land available for development within the 20-Year growth area. It is anticipated that the non-residential growth will occur in a linear fashion, or approximately 30 acres a year over the next 20 years. This includes all types of anticipated commercial and industrial development. The commercial/industrial growth is important in making the City of North Branch an economically viable place to live as well as helping create a higher quality of life for existing and future residents.

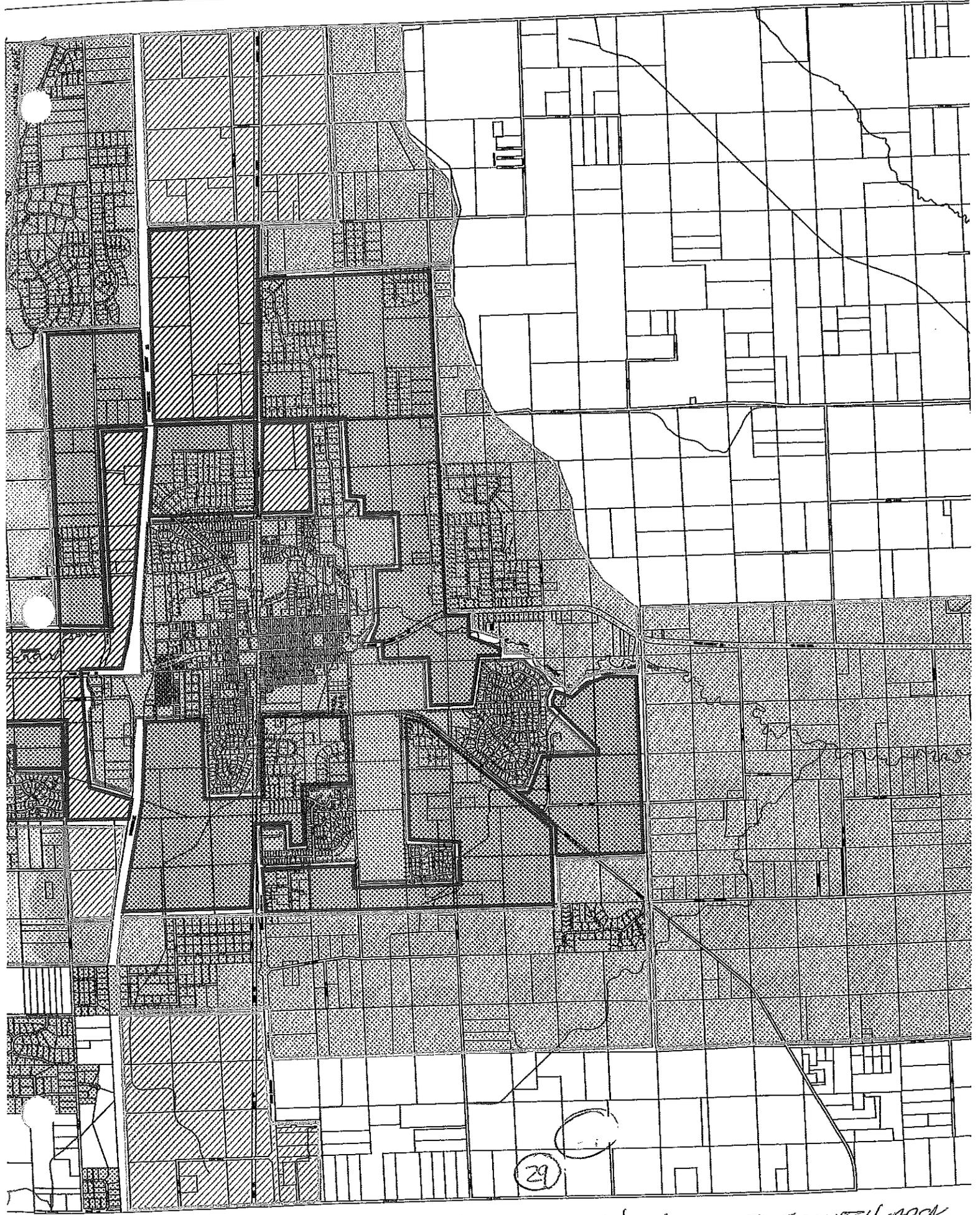
5.3.2 Non-Residential Projection (Ultimate)

Based upon the ultimate service area and projected land uses (Figure 4.3) there are approximately 1,100 acres of developable land outside of the 20-year service area that have been classified as some sort of commercial or industrial development. As the City grows this may vary, but those needs will define themselves as the population base is established in the City of North Branch as well as the surrounding areas. Projecting out non-residential growth to the ultimate "build-out" conditions for the City provides a basis for calculation of wastewater flows and sizing the future trunk sewer system.



2004 COMP SEWER PLAN

ULTIMATE LAND USES



29

2004 COMP. SEWER PLAN - 20 YEAR+ ULTIMATE GROWTH AREAS

CITY OF NORTH BRANCH

6408 ELM ST
NORTH BRANCH, MN 55056
Phone: (651) 674-8113 / Fax: (651) 674-8262
Hours: 8:00 am - 4:30 pm (Monday - Friday)
<http://www.ci.north-branch.mn.us>

Growth Areas (20 Year & Unlimited)

- EXISTING SERVICE
- 0-20 YEAR GROWTH AREA
- 20 + YEAR GROWTH AREA
- NO SERVICE PLANNED

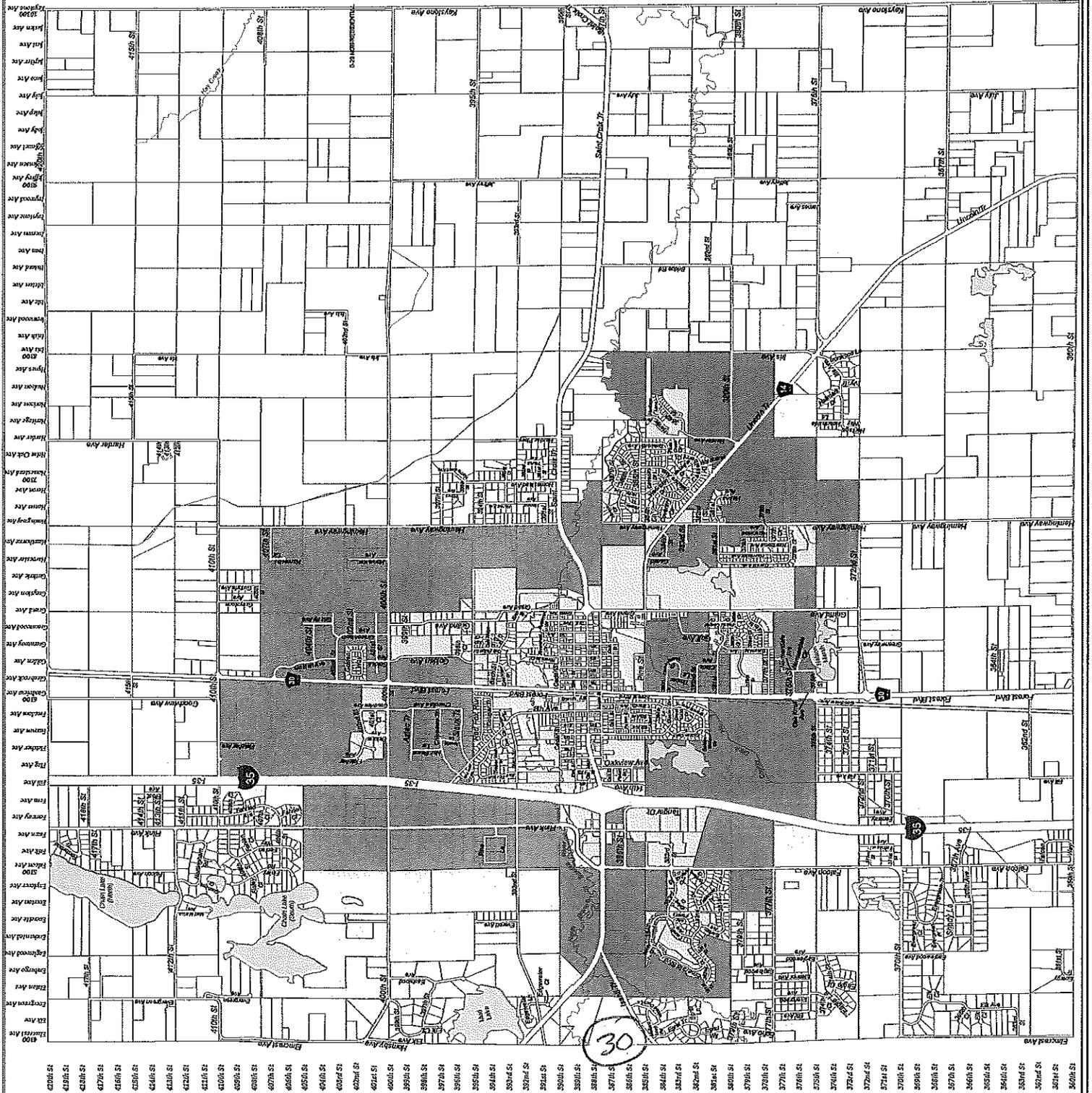


0 1,000 2,000 4,000 6,000 8,000 Feet

Scale: 1:10,000

Disclaimer: The City of North Branch provides this data "as is" without warranty or any representation of accuracy, timeliness or completeness. The user assumes all liability for the use of the data. The City of North Branch does not assume any liability for the accuracy of the data, data and howsoever, either expressed or implied.

Date: 21-JUL-2009

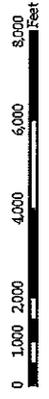


CITY OF NORTH BRANCH

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Hours: 8:00 am - 4:30 pm (Monday - Friday)
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Comprehensive Land Use

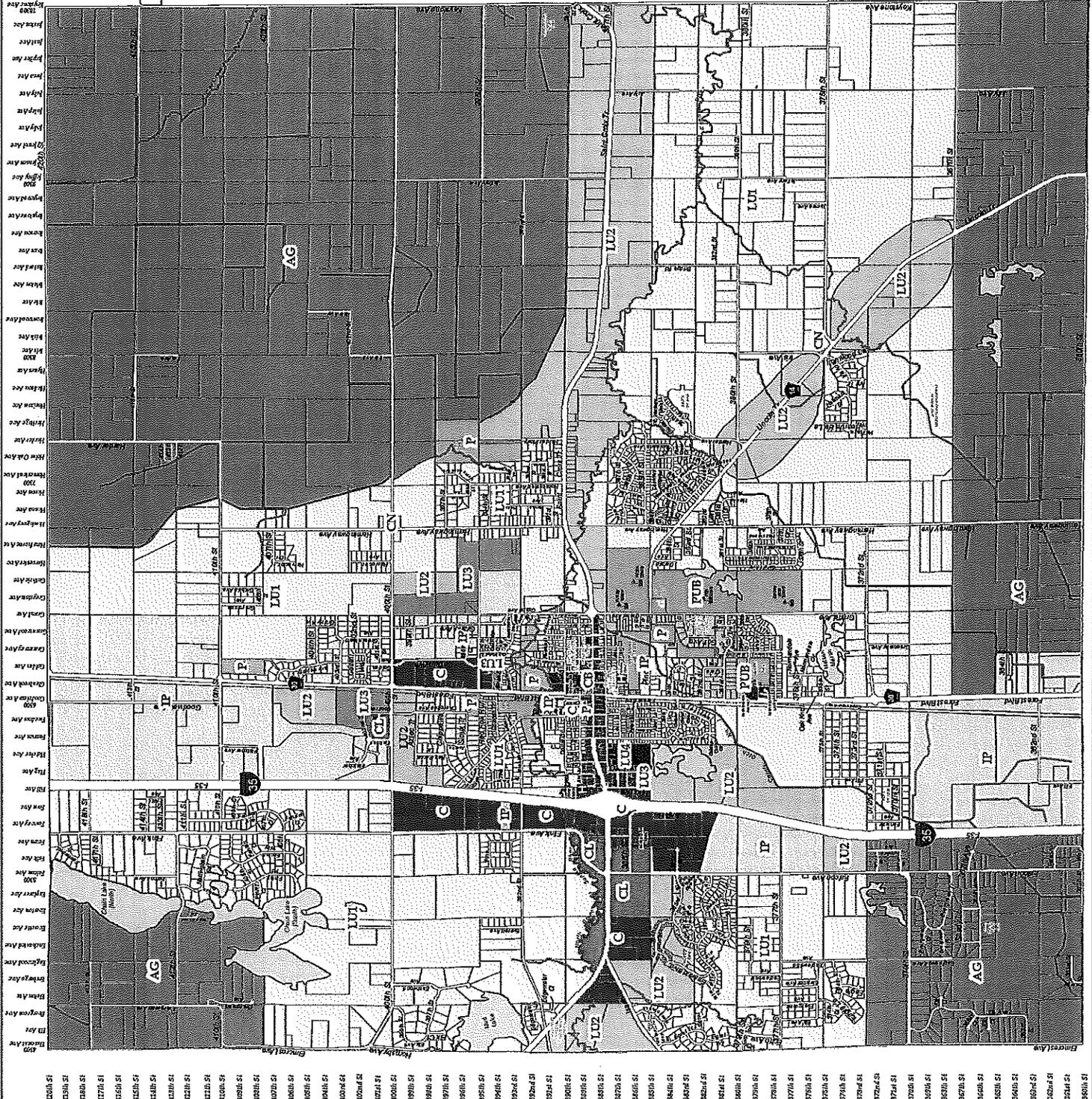
- AG - Agricultural Rural
- C - Commercial
- CB - Central Business
- CL - Commercial Limited
- CN - Commercial Neighborhood
- IP - Industrial Park
- LU1 - Single Family
- LU2 - Medium Density Residential
- LU3 - High Density Residential
- LU4 - Manufactured Housing
- P - Park/Open Space
- PUB - Public/Semi Public



Scale: 1:50,000

Disclaimer: The City of North Branch provides this data "as is" without warranty or liability for presentation of accuracy, timeliness or completeness. The data does not represent a survey. No liability is assumed for the use of the data for any purpose other than that intended or implied.

Date: 20-APR-2009



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CITY OF NORTH BRANCH

6408 ELM ST
NORTH BRANCH, MN 55056
Phone: (651) 674-8113 / Fax: (651) 674-8262
Hours: 8:00 am - 4:30 pm (Monday - Friday)
<http://www.ci.north-branch.mn.us>

Comprehensive Land Use

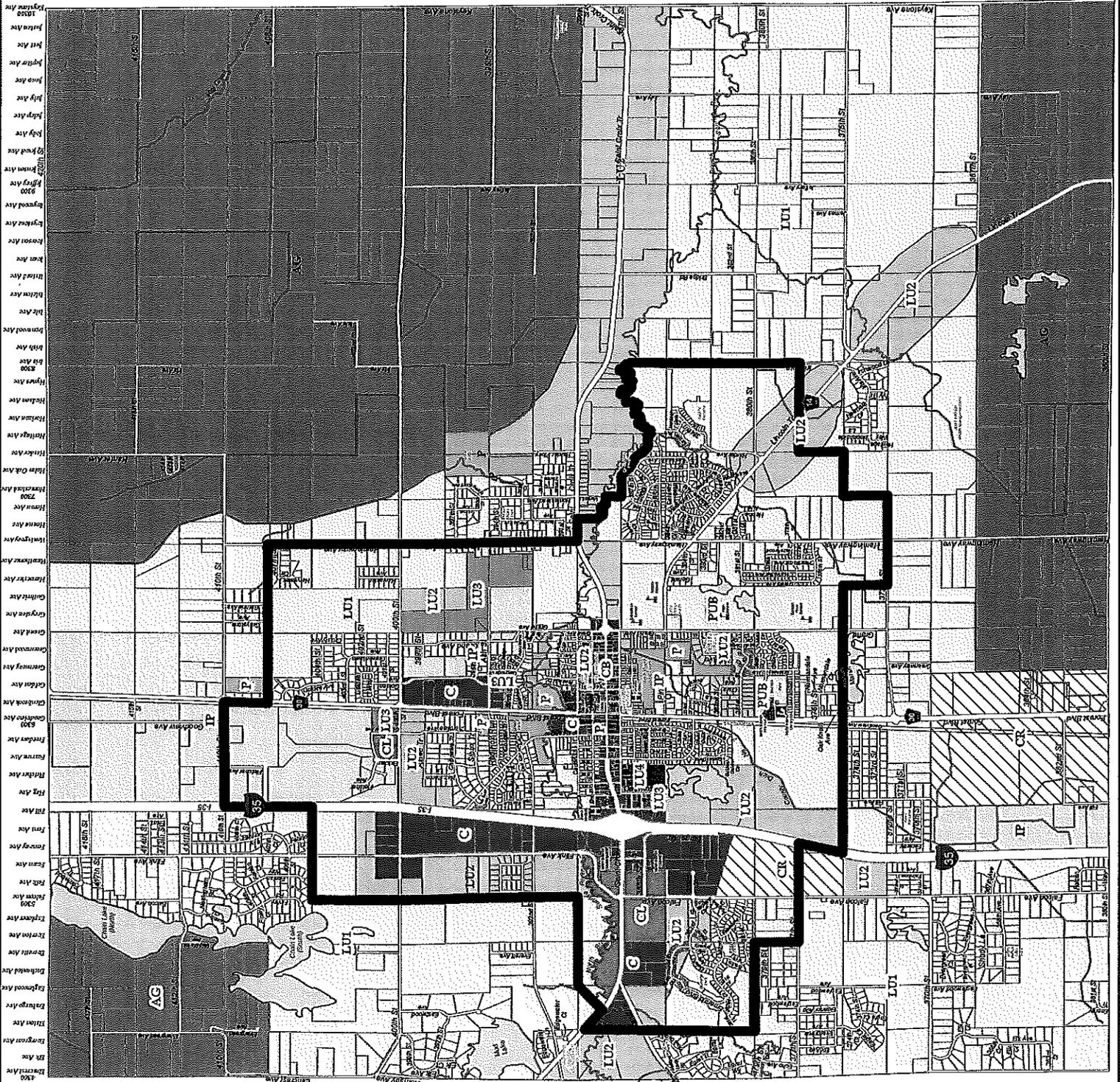
-  20 Year Growth Area Boundary
-  AG - Agricultural Rural
-  C - Commercial
-  CB - Central Business
-  CL - Commercial Limited
-  CR - Commercial Residential
-  IP - Industrial Park
-  LU1 - Single Family
-  LU2 - Medium Density Residential
-  LU3 - High Density Residential
-  LU4 - Manufactured Housing
-  P - Park/Open Space
-  PUB - Public/ Semi Public



Scale: 1:50000

Disclaimer: The City of North Branch provides this data "as is" and does not warrant its accuracy. The data does not represent a survey. No liability is assumed for the accuracy of the data delineated hereon, either expressed or implied.

Date: 05-MAR-2013



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**North Branch Planning Commission
Work Session Minutes
February 11, 2014**

DRAFT

Members Present: Commissioners: John Philipsen (absent), Tom Borchardt, Mark Ramaley (absent), Don Swanson, and John von Lange
Also Present: Planner Roberts; Mayor Lindquist

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Comprehensive Plan and Residential Zoning Standards

Planner Roberts indicated that the Commission has discussed zoning district changes for rural residential before where the minimum lot size was changed to one acre inside and outside the 20 year growth area. Roberts indicated that there are inconsistencies with the Comprehensive Plan and the zoning map in certain areas. Borchardt commented that the cost to run sewer will not be recovered due to the extensive cost and the lack of growth. Borchardt said the City needs to grow and attract people to bigger lots. Borchardt said he has concerns with the language requiring all homes to have a park within a quarter of a mile because with the larger lots that is not necessary. Von Lange commented that he wonders if money is being put away for maintenance to the municipal system. Commission agreed to let developers take the risk and cost for creating infrastructure and not the City. There was consensus of the Commissioners for flexibility and not requiring utilities in the areas discussed.

3. Industrial Zoning Districts

Planner Roberts outlined the proposed Ordinance revisions to the Industrial Zoning Districts. Lindquist said he would like to allow height for buildings for storage. Roberts suggested in the I3 maybe or I2 zones to make sure that happens. Commission agreed to drop the height limit in the I2 and I4 zoning districts for storage buildings. There was consensus to go down to a minimum lot size of 5 acres. Commission went through all the proposed uses in the ordinance. Borchardt commented that Tiller did not need a conditional use permit other than widening of the driveway and height for the buildings. Roberts indicated that Tiller is a transfer facility. Planner Roberts agreed to make the requested changes and schedule the public hearing for the March meeting.

4. Concept Review for Lakes Region EMS

Planner Roberts indicated that Lakes Region EMS is looking to take over the old Topline building and move their headquarters to that building. There are not exterior changes proposed. Von Lange asked why this would need a conditional use permit. Swanson good use for the building and feels it is a fine proposal. No issues with the proposal. This item will be on the next Planning Commission agenda.



Memorandum

To: Ken Roberts, City Planner
From: Diane Hankee, PE City Engineer
Date: May 8, 2014
Re: Infrastructure Implications of Comprehensive Plan Amendment

Request:

Regarding the City's municipal utility systems, we have reviewed the proposed Comprehensive Plan amendment to allow development of 1.0 acre lots on individual septic systems rather than using the available sewer and water infrastructure in the vicinity. This memo addresses the infrastructure and financial implications the City should consider when discussing this change.

Background:

In 2004, the City adopted a Comprehensive Sanitary Sewer Plan and later a Comprehensive Water Plan. The new connection expectations in these plans serve as the basis for the city's financial investment in sewer and water infrastructure, including construction of a wastewater treatment facility, water tower construction, trunk sewer main, and trunk water main. Furthermore, these plans are used to set development fees and city utility rates for existing residents.

The economic downturn in residential and commercial development the past five years has negatively affected the incoming payments of development fees and the expected increase in utility users. Since 2004, 220 new connections have been made and added to the sewer and water system, representing only 22 new connections per year.

The city's annual bond payment to cover sewer related infrastructure projects is currently \$883,965 (2014) and increases to \$1,165,322 per year by 2018. Water infrastructure annual bond costs are \$1,006,916 in 2014, for a total of \$1,890,881 in 2014 and are increasing. Dollars collected from connection charges and utility rates are used to cover this debt payment.

Analysis:

- 1) One acre lots are, (with at least 110 feet of street frontage) in almost all instances, not cost-effective to serve with sewer and water, hence the request to develop with septic systems. A typical cost/lineal foot to extend sewer and water is \$65 to \$80, resulting in cost-prohibitive projects when extending into very low density developments.
- 2) Removing additional acreage guided for sewer and water development, especially such a large amount (291 acres) will increase the financial burden of existing users of sewer and water system, and could result in general fund dollars being needed to cover the debt service. Currently, there are 1,820 users on the systems and without additional users

(customers), the City will need to increase the rates and fees the City charges for sanitary sewer to cover the increase in debt service payments.

- 3) The City currently has moderate supply of lots available that are served by sewer and water infrastructure. Most of the available lots in Lucht's Crossing subdivision and Golden Pines Estates subdivision have recently been purchased and developed. Currently, there are about 90 single-family lots with utilities available city-wide, which represents 2 to 3 years of absorption (at 2013 growth rates). This is considered the right amount of lot supply for the market and suggests that the City will need at least 30 to 40 new sewerred lots per year (given recent growth rates) and more lots with utilities if growth and building accelerates.

Recommendation:

We do not recommend that the City change the comprehensive plan as proposed to allow one acre lots (with well and septic systems) in the areas now shown in the 20 year growth area. This is because of the implications such a change would have to the City's sewer and water infrastructure systems and the impact the change would have on existing users' utility rates. Removing future connections and users that the City is expecting to help fund the existing systems will lead to significant rate increases (as the bond payments increase) and/or the city will need to fund the bonds using general tax dollars (which will ultimately increase the city's tax levy).

**MINUTES OF THE PROCEEDINGS
OF THE PLANNING COMMISSION OF THE CITY OF
NORTH BRANCH IN THE COUNTY OF CHISAGO
AND IN THE STATE OF MINNESOTA**

SPECIAL SESSION

May 13, 2014

CALL TO ORDER: The North Branch Planning Commission met in special session and was called to order at 7:00 p.m.

ROLL CALL: Commissioners present were John Von Lange, Mark Ramaley (absent), Tom Borchardt, Don Swanson and Brian Bellfield. Also present Mayor Lindquist, City Planner Ken Roberts and Brian Bourassa from WSB Engineering.

APPROVAL OF MINUTES: **NONE**

ADDITIONS TO AGENDA: **NONE**

STAFF REPORTS: **NONE**

PUBLIC HEARINGS:

6.1 Comprehensive Plan Amendment – LU1 Designation

Chair Von Lange opened the public hearing. Von Lange noted there was no one present to discuss the matter.

Motion Von Lange, seconded by Swanson, to open the public hearing. All voted AYE. Motion carried.

Motion by Borchardt, seconded by Swanson, to close the public hearing. All voted AYE. Motion carried.

Motion by Borchardt, seconded by Swanson, to table discussion of Comprehensive Plan Amendment to another worksession where the full amendment can be discussed. All voted AYE. Motion carried.

Borchardt explained that since there was no public present he feels the Planning Commission should go through the proposed amendments and be sure it is complete at a worksession. He then asked this be added to the next worksession.

6.2 Interim Use Ordinance – Code Amendment

Motion by Borchartd, seconded by Swanson, to open the public hearing. All voted AYE. Motion carried.

Motion by Borchartd, seconded by Swanson, to close the public hearing. All voted AYE. Motion carried.

Motion by Borchartd, seconded by Swanson, to table any further action until after this is reviewed at another worksession. All voted AYE. Motion carried.

Motion by Borchartd, seconded by Swanson, to direct that neither item goes to Council until such time as the Planning Commission has reviewed them and directed that they go to Council. All voted AYE. Motion carried.

OLD BUSINESS:

NONE

NEW BUSINESS:

NONE

COMMISSIONERS QUESTIONS/COMMENTS:

Borchartd said that he made four motions for four public hearings and there are only two on this Agenda and he is confused as to how that did not make it to public hearing. Planner Roberts indicated that this is what he had time to prepare for tonight's meeting. Borchartd said that does not cut it with him. Borchartd said he asked that there be a worksession at the end of this meeting and that did not happen either. Planner Roberts indicated that he did not understand that direction. Von Lange indicated that these two items are not under item constraints and it is extensive effort being put into this so it is not imperative to rush things through. Planner Roberts indicated that he felt that there was a lot of meeting time put into this. Von Lange said he does have some concerns with the language and would like to further discuss.

Borchartd said that working on just two of the items, the other item was a simple language change so he is not sure why that was hard to work on. Borchartd said that there was language for the comprehensive plan to allow for one-acre lots in the comprehensive plan area. Borchartd said that the packet is off the mark and difficult to understand when the Planning Commission was trying to keep things simple. He is concerned that it seems this Commission is spinning wheels and he feels staff is ignoring the Commissioners. Borchartd said that the residency requirement issue was brought up and the Planning Commission did not send that forward to Council it was to have a hearing with the Planning Commission but it went to Council and he is not happy about that. Von Lange provided a document to the Commission to review. Von Lange read the document, which outlined concerns with Planner Roberts' performance and his concern with the way directives from the Planning Commission are seemingly ignored. Von



Lange asked for a motion and vote of the Commission to ask the Council to take the necessary action to correct the situation.

Motion by Borchardt, seconded by Swanson, to send the letter to the Council and ask them to take necessary action to correct the situation. All voted AYE. Motion carried.

Two of the Commissioners signed the letter and provided it to Mr. Mayor.

Swanson noted he would not be signing the letter tonight.

Planner Roberts explained there is an agenda for next Monday evening with a public hearing on a resident land use application. He then asked what items should be added to that agenda.

Von Lange would like it at a worksession to allow enough time to look at the language. Von Lange said he does not rubber stamp staff material. Roberts asked why the items from tonight could not be added to a regular meeting.

Borchardt said he would like to have a discussion at the worksession since it is informal and does not require motions and seconds.

Commission agreed to have a worksession after the regular meeting next week.

Mayor Lindquist felt there was wasted time by doing this tonight and the City gets charged for the City Engineer time. Do we want an engineer here next time for a public hearing to waste time and money?

Von Lange said he was surprised to see an engineer and he does not think that is necessary. Von Lange said that since the Engineer is here maybe the Commission should let the Engineer provide some input on this matter.

Motion by Borchardt, seconded by Swanson, to hear from the Engineer on Item 6.1. All voted AYE. Motion carried.

Borchardt asked what the issues from the Engineer would be. Brian Bourrassa of WSB appeared before the Commission to discuss the proposed changes with the Commissioners. The Engineer reviewed the memo with the Planning Commission explaining that generally the guidance of staff is that Comprehensive Plans are put together with a big picture view of the system and they are put together in terms of efficiencies to fit together like a big puzzle. Borchardt commented that the whole board thought that the one-acre lots were city wide but the Comprehensive Plan requires sewer and water in some areas. Borchardt would like to amend the Comprehensive Plan to allow the one-acre lots city wide. City Engineer said it is difficult but not impossible to do so. The choice is the city needs to decide to amend the Comprehensive Plan or not and good engineering choice would say that if there is sewer and water available that is

the best recommendation but if not, then well and septic could be allowed. Borchardt would agree to that type of language. City Engineer outlined possible options.

Von Lange said he is concerned about the number of septic systems that the area can handle. Von Lange would like to require establishment that the area can sustain septic systems. Borchardt indicated that requirement is already established. Swanson said he agrees with one-acre lots. Borchardt would like some simple language drafted to amend the Comprehensive Plan to allow what has been discussed. Planner Roberts suggested the Commission review the proposed language on Page 4 in the memo. Borchardt asked that sewer and water only be required on lots that are less than one acre in size. Planner Roberts reviewed his staff report and explained an alternative that the City can require that if the utilities are within a certain distance of the site the City can require that utilities be extended to that site. Swanson thanked the City Engineer for his time and input on this matter. Borchardt said that the only place where there are concerns with septic systems is with collector systems that are shared and those are no longer allowed in North Branch. Lindquist said that sand is a good soil choice to handle septic systems and there are new and upcoming technologies to expand the life of septic systems.

Planner Roberts announced that Commissioner Ramaley had his surgery and is healing and will be up and around soon.

Planner Roberts reviewed a list of recent City Code changes with the Commission. He explained that the City emailed that list of code changes to about 200 businesses that are on an email list that the City and the Chamber of Commerce recently updated.

Planner Roberts noted that Thursday, May 16, 2014 at 6:30 pm. is the rescheduled session with the Council and hydrologic engineers and the Planning Commissioners are invited.

Motion by Swanson, seconded by Borchardt, to adjourn. All Voted AYE. Motion carried.

ADJOURNED: at 8:10 p.m. by Chair Von Lange.

APPROVED

Respectfully submitted,

Planner Roberts

TOSS/jrl

ATTEST

**MINUTES OF THE PROCEEDINGS
OF THE PLANNING COMMISSION OF THE CITY OF
NORTH BRANCH IN THE COUNTY OF CHISAGO
AND IN THE STATE OF MINNESOTA**

REGULAR SESSION

May 19, 2014

CALL TO ORDER: The North Branch Planning Commission met in regular session and was called to order at 7:00 p.m.

ROLL CALL: Commissioners present were John Von Lange, Mark Ramaley (absent), Tom Borchardt, Don Swanson, and Brian Belfield. Also present Mayor Lindquist and City Planner Ken Roberts.

APPROVAL OF MINUTES:

Motion by Swanson, seconded by Borchardt to approve the Minutes of April 8, 2014. All voted AYE. Motion carried.

Motion by Belfield, seconded by Swanson, to approve the Minutes of April 21, 2014.

Borchardt on page 2 correct Brian to Brent.

All voted AYE. Motion carried.

ADDITIONS TO AGENDA:

NONE

STAFF REPORTS:

5.1 City Council Update

Roberts noted there were no planning matters.

5.2 Activity Report

Roberts reviewed building activity report information with the Commission.

PUBLIC HEARINGS:

6.1 Variance Request 41378 Falcon Avenue

Roberts provided an overview of the requested variances for an accessory building in the front yard of their property. The first variance is for putting the proposed structure in the front yard and the second is for a variance to allow the structure 30 feet from the right-of-way from Falcon Avenue. He noted that he is not seeing

how this request meets the requirements for approval because the building could be moved back to meet the 40 foot setback. Roberts indicated it would be challenging to place the structure anywhere else on the property so staff does support allowing the structure in the front yard.

Janet Koskinen of 41502 Flink Avenue and her property runs the length of Falcon. They are not in favor of this variance because there should be ample room. She would not object where it was the only place to put a garage but she cannot see why it can't be 10 feet shorter or moved forward 10 feet. They have had an issue with people moving in and building a structure for something and then they move and the next person comes along and does something else with the property. There is an extra driveway to get big equipment in to put in a septic system but that second driveway still exists and should not. They almost lost the hayfield driveway because there are too many driveways so she is leery of going along with this size of property having that big of a garage.

The applicant, Mr. Holmgren, addressed the Planning Commission and said he is a little confused regarding the pushback because he will not impede the road with this building. He will not be going into the easement. He then said he needs the building in this location and the building this size because he needs the room to make the turn and back his trailer and truck into the building.

Belfield asked if a 30 x 50 building would meet the needs. Borchardt said there is already a building that is only about 15 or 20 feet off the property line. He has no issue with it going in the front based on the conditions on the property.

Swanson indicated he has no issues locating the building in the front yard.

Motion by Borchardt, seconded by Swanson, to approve Resolution XXX, "A RESOLUTION RECOMMENDING APPROVAL OF VARIANCES FOR HOLMGREN TO ALLOW FOR BUILDING TO BE CONSTRUCTED IN FRONT YARD AND VARIANCE FOR 30 FOOT SETBACK FROM STREET." All voted AYE. Motion carried.

Motion by Borchardt, seconded by Belfield to close the public hearing. All voted AYE. Motion carried.

Motion by Borchardt, seconded by Swanson to recess to the worksession.
All voted AYE. Motion carried.

WORKSESSION DISCUSSION

Comprehensive Plan Amendments

Roberts reviewed the proposed amendments to the Comprehensive Plan. Borchardt would be in favor of the 500 feet requirement suggestion that would require developers to connect to public utilities if they are within 500 feet of the project site. Swanson agreed to the 500 feet standard. Borchardt asked if this will clear up the one acre issue. Roberts said that with the changes outlined on Page 4 he believes the issue would be resolved. Belfield would be concerned with forcing someone to hook up to public utilities.



Interim Use Ordinance

Roberts reviewed the full ordinance that he wrote based on discussions at the previous meetings. Commission asked to add grandchildren to the list. Commission agreed to allow for rebuilding of home as suggested. Von Lange asked about what "cause" would be. Roberts indicated that it would be whatever Council would define as cause. Von Lange does not like the vagueness of the word "cause". Von Lange said that he would like to add that a hearing must be provided because that would be fair. Roberts said that he thinks it is covered by other parts of the City Code. Lindquist suggested before passing this the Commission should have the final written version in front of them.

Motion by Borchardt, seconded by Swanson, to adjourn work session and return to regular session.

ADDITIONAL BUSINESS

Motion by Borchardt, seconded by Swanson to add additional business to the agenda. All voted AYE. Motion carried.

Von Lange said that he would like to work with the Planner to standardize the conditional use permit process with standard language based on what the CUP is for. Lindquist said that all CUP's he has been involved with is different because the situations are all vastly difference. He is not sure how you would standardize the language. Borchardt commented that the standard set of requirements is what is being discussed. Borchardt said he is not sure how standard language would be developed but he would be willing to listen to the discussion. Von Lange said he thinks the requirements should be standard for same or similar types of businesses. Borchardt suggested taking a look at other similar CUP's when you have one for review to standardize.

Motion by Borchardt, seconded by Swanson to move the Comprehensive Plan amendments along in the process. All voted AYE. Motion carried.

Motion by Borchardt, seconded by Belfield, to have a regular meeting before the next work session to review the Interim Use Permit revisions. All voted AYE. Motion carried.

Motion by Belfield, seconded by Swanson to adjourn. All voted AYE. Motion carried.

ADJOURNED: at 8:40 p.m. by Chair Von Lange.

APPROVED

ATTEST

Respectfully submitted,

Planner Roberts

TOSS/jrl

STATE OF MINNESOTA

CHISAGO COUNTY

CITY OF NORTH BRANCH

Commissioner Borchardt offered the following resolution and moved its adoption:

RESOLUTION NO. 05-14-PLN

A RESOLUTION RECOMMENDING THAT THE NORTH BRANCH CITY COUNCIL APPROVE CHANGES TO THE COMPREHENSIVE PLAN AND THE COMPREHENSIVE SANITARY SEWER PLAN ABOUT THE MINIMUM LOT SIZE FOR LOTS AND DENSITY IN THE LU1 (Single Family Residential) LAND USE CATEGORY AND DESIGNATION.

WHEREAS, the Planning Commission held a public hearing on May 13, 2014 and on August 18, 2014 to consider amendments to the Comprehensive Plan and to Comprehensive Sanitary Sewer Plan; and

WHEREAS, these amendments would allow residential development in the LU1 (single-family residential) land use category at a density of 1 unit per acre on properties that the City has zoned rural residential (RR) to occur without City sewer and water; and,

WHEREAS, the Planning Commission reviewed the staff report and supporting materials and recommends approval of the proposed Comprehensive Plan and Comprehensive Sanitary Sewer Plan amendments.

NOW THEREFORE, BE IT RESOLVED BY THE NORTH BRANCH MINNESOTA PLANNING COMMISSION:

That the Planning Commission recommends to the City Council that they approve:

1. The Comprehensive Plan amendment to allow one-acre residential lots in in the LU1 (single-family residential) land use category at a density of 1 unit per acre that reads as follows:

Page 28 Section 6.1 LU1 – Single-Family Residential

Minimum Density: 1 unit 2-units per acre

Maximum Density: 4 units per acre

City Utilities: Optional for sites within the 20 year growth area with RR zoning that are more than 500 feet from existing public utilities. Required in all areas that are within 500 feet of public utilities.

2. The following amendments to the Comprehensive Sanitary Sewer Plan:

Section 4.3 Potential Ultimate Service Area (on page 8), add the following language:

The City has planned and designed the sanitary sewer and water systems to accommodate growth and development in the 20 year growth areas with public utilities. It is the policy and expectation of the City that development in the 20 year growth areas will occur with public

utilities. The City also recognizes that there may be times or locations where the installation of public utilities in the 20 year growth areas may not be practicable or feasible.

North Branch requires new single-family residential development parcels that are within the 20-year growth areas that are within 500 feet of existing City utilities to install and use City sanitary sewer and City water. New development parcels for single-family homes that are within the 20-year growth areas that are more than 500 feet from existing City utilities may be developed without City sanitary sewer and water. The City requires all new commercial, industrial and institutional land uses and developments within the 20-year growth areas that are within 500 feet of public utilities to install and use City sanitary sewer and City water.

Section 10.2 System Expansion (Orderly Expansion) (on page 28), add the following language:

The City has planned and designed the sanitary sewer and water systems to accommodate growth and development in the 20 year growth areas with public utilities. It is the policy and expectation of the City that development in the 20 year growth areas will occur with public utilities. The City also recognizes that there may be times or locations where the installation of public utilities in the 20 year growth areas may not be practicable or feasible.

North Branch requires new single-family residential development parcels that are within the 20-year growth areas that are within 500 feet of existing City utilities to install and use City sanitary sewer and City water. New development parcels for single-family homes that are within the 20-year growth areas that are more than 500 feet from existing City utilities may be developed without City sanitary sewer and water. The City requires all new commercial, industrial and institutional land uses and developments within the 20-year growth areas that are within 500 feet of public utilities to install and use City sanitary sewer and City water.

The foregoing motion was duly seconded by Commissioner Swanson and being put to vote members voted: AYE: 5 NAY: 0 ABSENT: 0

JOHN W. VON LANGE	<u>AYE</u>	TOM BORCHARDT	<u>AYE</u>
DON SWANSON	<u>AYE</u>	BRIAN BENFIELD	<u>AYE</u>
MARK RAMALEY	<u>AYE</u>		

Passed and adopted this 18th day of August 2014.

CITY OF NORTH BRANCH

JOHN W. VON LANGE

ATTEST: _____
Ken Roberts - City Planner

Motion by Furman, seconded by Blomquist, to adopt Resolution 061-08-25-14, "A RESOLUTION DENYING A CHANGE TO THE ZONING MAP FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO B2 (LIMITED BUSINESS, FOR PROPERTY AT 6413 OAK STREET AS REQUESTED BY FAMILY PATHWAYS, INC." All voted AYE. Motion carried.

Motion by Furman, seconded by Borchardt, to send this back to Planning and Zoning Commission to review an amendment to the R1 conditional use permit language. All voted AYE. Motion carried.

A3 Driveway Variance Michelson

Planner Roberts reviewed the requested driveway variance. The applicant is requesting a variance to allow a second driveway to access an accessory building in the back yard.

Borchardt asked if this would be a primary driveway or a seasonal driveway. Andy Michelson, the applicant said he would like to have access to his new building. This would not be every day use but would allow them to access their new building without driving through their yard. He also brought up that there are two driveway homes in his immediate area.

Lindquist said that it is crucial to have access and with his line of business he has to access septic and has to drive down through the ditch. He does not feel this sets a precedent because they are in all over the place.

Furman asked which of the criteria for granting the variance was discussed. Roberts stated that the Planning Commission did not specify and specific non-economic hardship for the parcel. Furman stated she could not support the variance.

Motion by Furman, seconded by Blomquist, to adopt Resolution 063-08-25-14, "A RESOLUTION DENYING A VARIANCE FOR THE CONSTRUCTION OF A SECOND DRIVEWAY FOR THE PROPERTY AT 5491 FENIAN COURT." Members voted: Aye – 3, Nay – 2 (Borchardt/Lindquist). Motion carried.

A4 Comp Plan Amendment – 1 Acre Lots

Planner Roberts outlined the proposed change to the comp plan. The change is necessary so the zoning ordinance and comp plan are not contradictory for one acre lots.

Lindquist said that this is the first year plats have come in for a while and those are for one acre lots not water and sewer.

Jensen said that there is an awful lot of land outside of the water and sewer. He then said that allowing people to opt out of City sewer and water is not in the best interest of the City.

Blomquist said she does not think it is in the City's best interest to have someone right next to City services to be able to opt out and then the next property over has to pay more to have his property on sewer and water. Blomquist said that she feels it makes sense to look at the growth patterns that are already there.

Fred Schmidt, 1855 Summit said that their farm has been in the 20 year growth pattern for 45 years. They are fine with high density as proposed but Section 9 is going to be sold and nobody wants it because there is no way to get to Section 16 with City water and sewer. Mr. Schmidt indicated that this property develops with 80 families or 8 but one way or the other they have to do something with this property.

Lindquist said that the 20 year growth plan might be wrong because it's been 45 years for Mr. Schmidt's property.

Konrad noted that changes could be made to the 20 year growth area but there would be consequences. Changes would likely impact sewer and water rates because improvements, some which have already been constructed, were based on the current 20 year growth area. Also the comprehensive sewer and comprehensive water plans would need to be redone.

Blomquist said she wants to strike a balance between city services and well and septic.

Council consensus was to look at possible changes to the 20 year growth area. Konrad suggested a joint meeting with Water and Light. Jensen would like to see a meeting with the infrastructure information for discussion.

Council agreed to a work session with Water & Light sometime in the near future to review where existing utilities are.

Motion by Furman, seconded by Jensen, to refer this matter to a work session after the preliminary budget is set. All voted AYE. Motion carried.

6B ECONOMIC DEVELOPMENT AUTHORITY
B1 Minutes

INFO

6C PARK COMMISSION

47

North Branch City Council

Work Session

Date of Meeting: October 16, 2014
Present: Councilmembers: Ronald Lindquist, Kathy Blomquist, Joyce Borchardt, and Trent Jensen.
Absent: Councilmember Theresa Furman
Also Present: Water & Light Commissioners Hals and Fisk, City Engineer Hankeee, Public Works Director Williams, Planner Roberts, Finance Director Hill, GIS Specialist Sondrol and City Administrator Konrad

I. Call To Order

The meeting was called to order at 6:30 p.m.

II. 20 Year Growth Area

Diane Hankee of WSB provided an overview of the 20 year growth area. Hankee provided background on past plans of the City including the sanitary and water comp plans with lift stations and pipe networks. She noted that changes to the 20 year growth area will necessitate updates to the comprehensive plans and could have an impact on future rates. Hankee noted that an amendment to a Comprehensive Plan usually costs around \$20,000. Hill provided information on debt service. Jensen asked about existing un-serviced areas and sewer contamination of wells and whether all the wells will eventually have to go because of contamination or how that works. Hankee indicated that it does depend upon the size of the lots. They have worked in another community where municipal utilities had to be installed because septic systems were contaminating the homes wells. Jensen asked what the goals are for reviewing the map. Borchardt indicated that the City is getting no development so she wants to go with smaller lots to allow for development to come in. Blomquist does not want to get into a position where there is leapfrogging of properties with Blomquist said she does not think that the future growth of the City is one acre lots with well and septic. Blomquist said that she does not think the push to lower costs for developers is in the best interest of the City for the future. Borchardt indicated the lot choices are a 1/3 acre lot or a 1.0 acre lot and nothing in between. Jensen indicated he is concerned that changing the line on the map means that there is a change to density and he is concerned with how to pay for the system. Council discussed assessments when services are run past properties and potential funding sources to bring down costs for large parcels. Hill indicated that there are deferrals available for large parcels to prevent the large parcel owners from having to pay the assessment until the property is spilt and sold. There was not consensus of the Council to move forward with any changes to the 20 year growth area. Konrad indicated the point of tonight's meeting was to educate the Council on the existing utilities that are installed and review the comprehensive plans and staff would suggest that Council take some time to digest the information provided and then discuss the 20 year growth area again for possible changes in the future.

III. Annual Sidewalk Snow Removal

Williams reviewed the map of sidewalks that public works clears snow on and asked Council whether anything should be added or deleted from their current process. Council did not want to make any changes to the current plan.

IV. Septic Hauler's Waste Acceptance

Williams reported that accepting septage has gone well. The amounts accepted have gone well and he would propose to continue accepting hauled waste. The Council was agreeable to continuing the program.

20 YEAR GROWTH AREA

October 16, 2014

North Branch City Hall



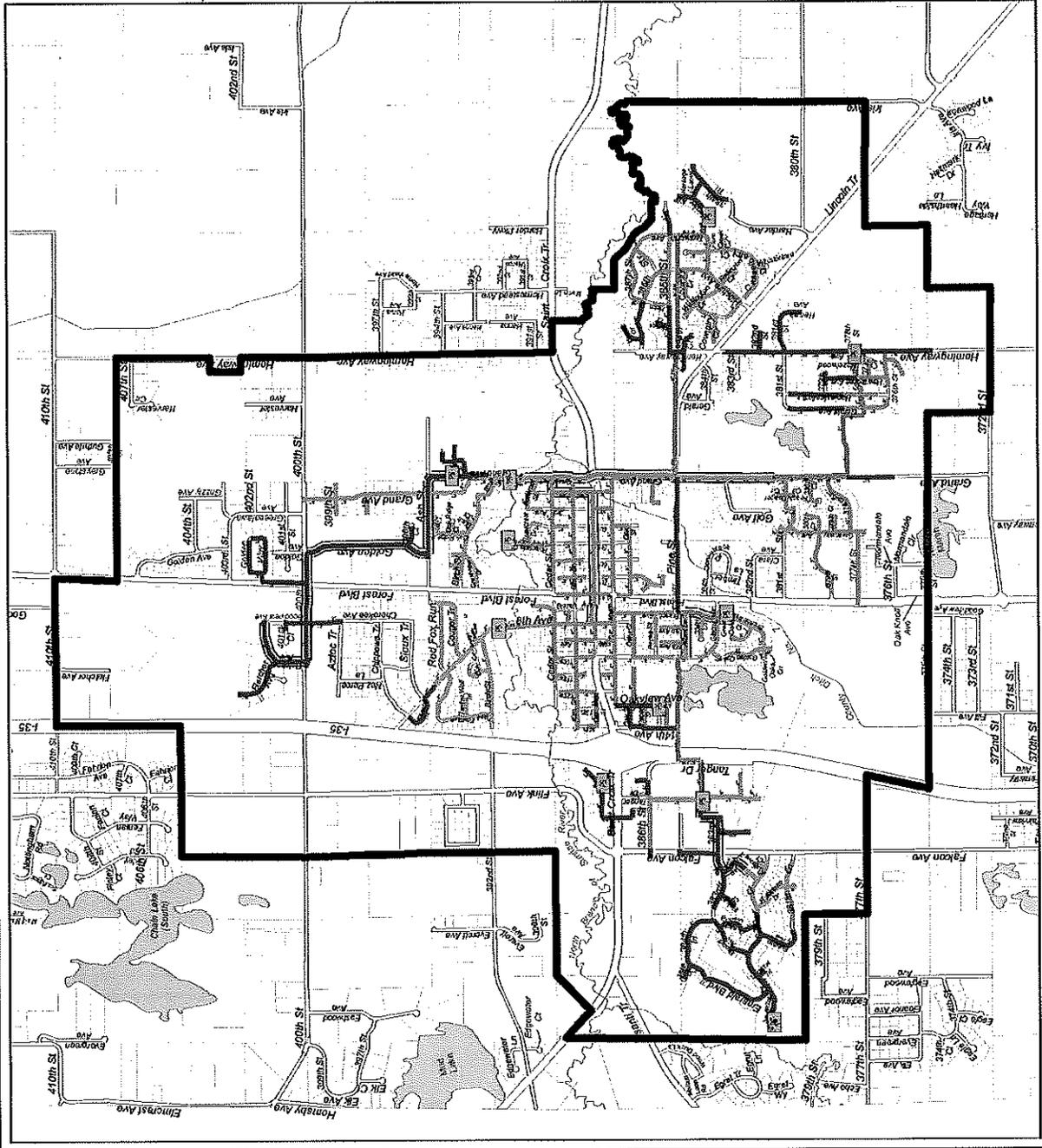
Comprehensive Plan

Effective Planning = Manageable Costs

City of North Branch

Existing Sanitary Sewer System

-  20 Year Growth Area Boundary
-  Gravity Sewer Installed after 2003 (12 miles)
-  Gravity Sewer (2003 Comp Plan)
-  Sanitary Force Main
-  Trunk Sewer
-  Lift Stations



Disclaimer: The data on this map is provided "as is" and does not represent a survey. NO Liability is assumed to accuracy of the data delineated hereon.

DATE: 08-OCT-2014

A. Process

1. Identify Issues
2. Collect Data
 - a) Land Use
 - b) Future Development Needs
3. Prepare Plan
4. Evaluate Alternatives
5. Financing
 1. Rates
 2. Trunk Fees
6. Adopt and Implement Plan

City of North Branch

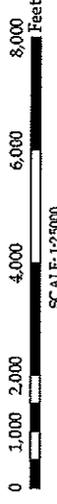
20 Year Growth Area

Sanitary Sewer Distance from Pipe

-  20 Year Growth Area Boundary
-  Sanitary Gravity Main
-  Sanitary Force Main

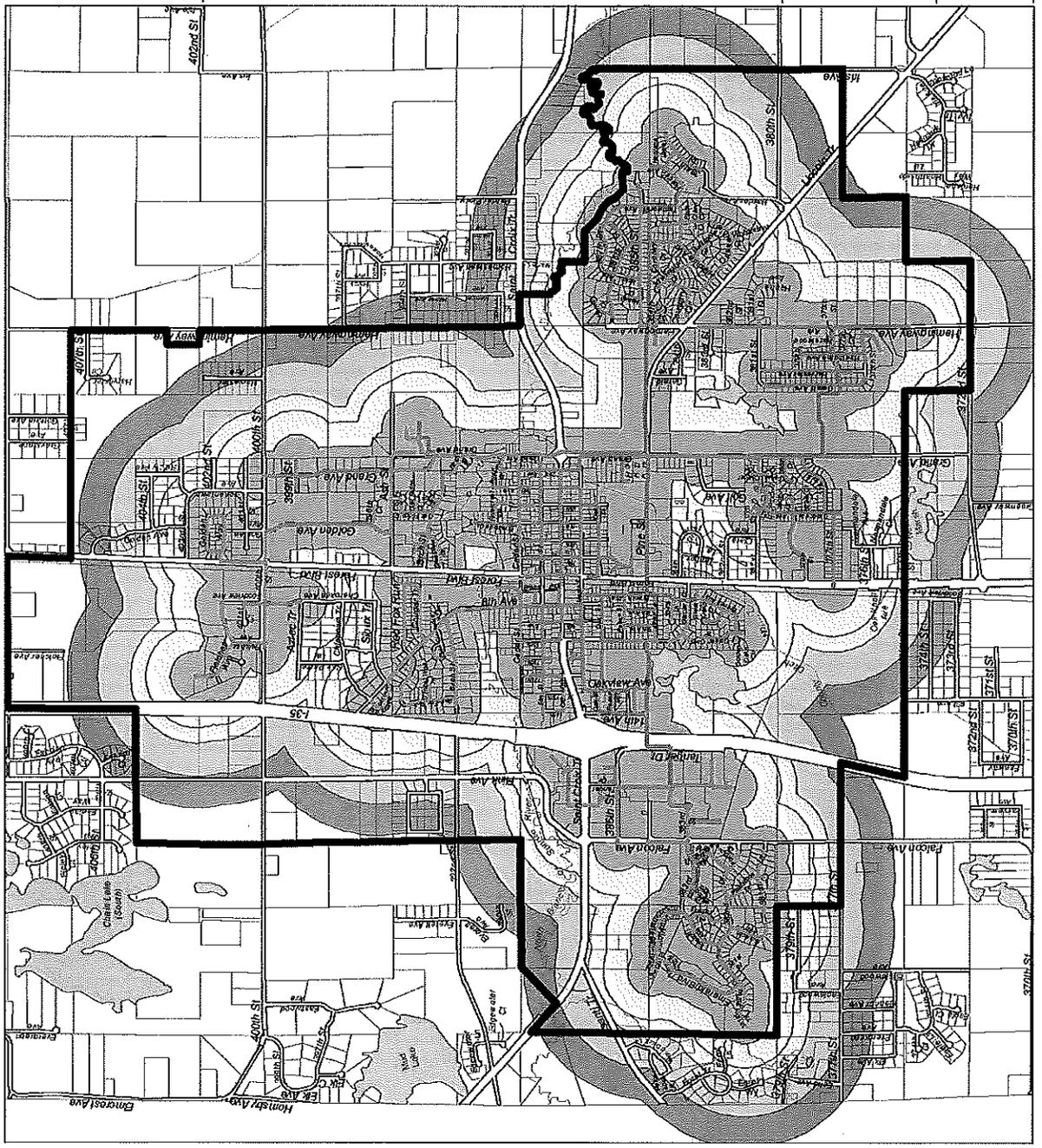
Sanitary Sewer Buffer (Distance from Pipe)

-  500'
-  1,000'
-  1,320'
-  2,000'
-  2,640'



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DATE: 08-OCT-2014



A. Sanitary Comp Plan 2004

- a) Guide for trunk system
 - i. Lift Stations
 - ii. Pipe network built out from WWTF
 - iii. 1999-2004 population served increased by 65%
 - iv. Average 140 homes/year
- b) SAC fee based on system costs
 - i. Development pays to bring pipe
- c) Rates
 - i. Include annual maintenance not long term capital repairs
 - ii. 73% goes to existing debt

A. Wastewater Facility Plan 2002

- a) Same projections as Sanitary Comp Plan

B. Water System Comp Plan 2003

- a) Looping-transport flow b/w source, storage and demand
- b) System pressure and fire flow

C. Water Rate Study 2009

- a) The assumption to increase fees 3% annually did not meet debt and routine & maint. needs
- b) Based on assumed growth
- c) 68.2% goes to existing debt

City of North Branch

20-Year Trunk System Improvement Projects

20-Year Trunk Improvements

1) 2003 Grand Ave. Extension	Completed
2) Hangingway Ave. Trunk Sewer	Completed
3) North Industrial Park Trunk Sewer	Completed
4) Grand Ave. Lift Station No. 1 Upgrade Phase 2	Completed
5) Tanger Commercial Area Trunk Sewer	Completed
6) Oakview L.S. Upgrade	Completed
7) North Industrial Park Phase 2	Completed
8) Wilridge L.S. Extension	Completed
9) Wilridge Trunk Extension	Completed
10) Northwest Area Trunk	Completed
11) Maple Ave. Trunk Sewer	Completed
12) North Industrial Park Phase 1	Completed
13) Tanger Commercial Area Phase 2	Completed
14) South Grand Ave. Trunk Extension	Completed
15) Wilridge Lift Station No. 3 Upgrade	Completed
16) Schmidt Property Trunk Sewer	Completed
17) Anderson Property	Completed
18) Tanger Lift Station No. 7 Upgrade	Completed
19) Grand Ave. Lift Station No. 1 Upgrade Phase 2	Completed
20) North Industrial Park Phase 4	Completed
21) Schmidt Property Trunk Sewer Phase 2	Completed
22) Northwest Area Trunk Sewer Phase 2	Completed
23) Green Acres Area Lift Station No. 3 Upgrade	Completed
24) Lift Station No. 10 Upgrade	Completed
25) Schmidt Property Trunk Sewer Phase 3	Completed
26) Tanger Area Commercial Phase 3	Completed
27) Tanger Area Commercial Phase 4	Completed
28) CSAH 14 Trunk Sewer	Completed
29) Northwest Area Trunk Sewer Phase 3	Completed
30) East CSAH 95 Trunk Sewer	Completed
31) Nelson Property	Completed
32) Schmidt Property Trunk Sewer Phase 4	Completed
33) Schmidt Property Trunk Sewer Phase 5	Completed
34) Lift Station No. 11 Upgrade	Completed

- 20 YEAR GROWTH
- 5 YEARS
- 10 YEARS
- 15 YEARS
- 20 YEARS
- FUTURE TRUNK
- > 20 YEARS
- EXISTING

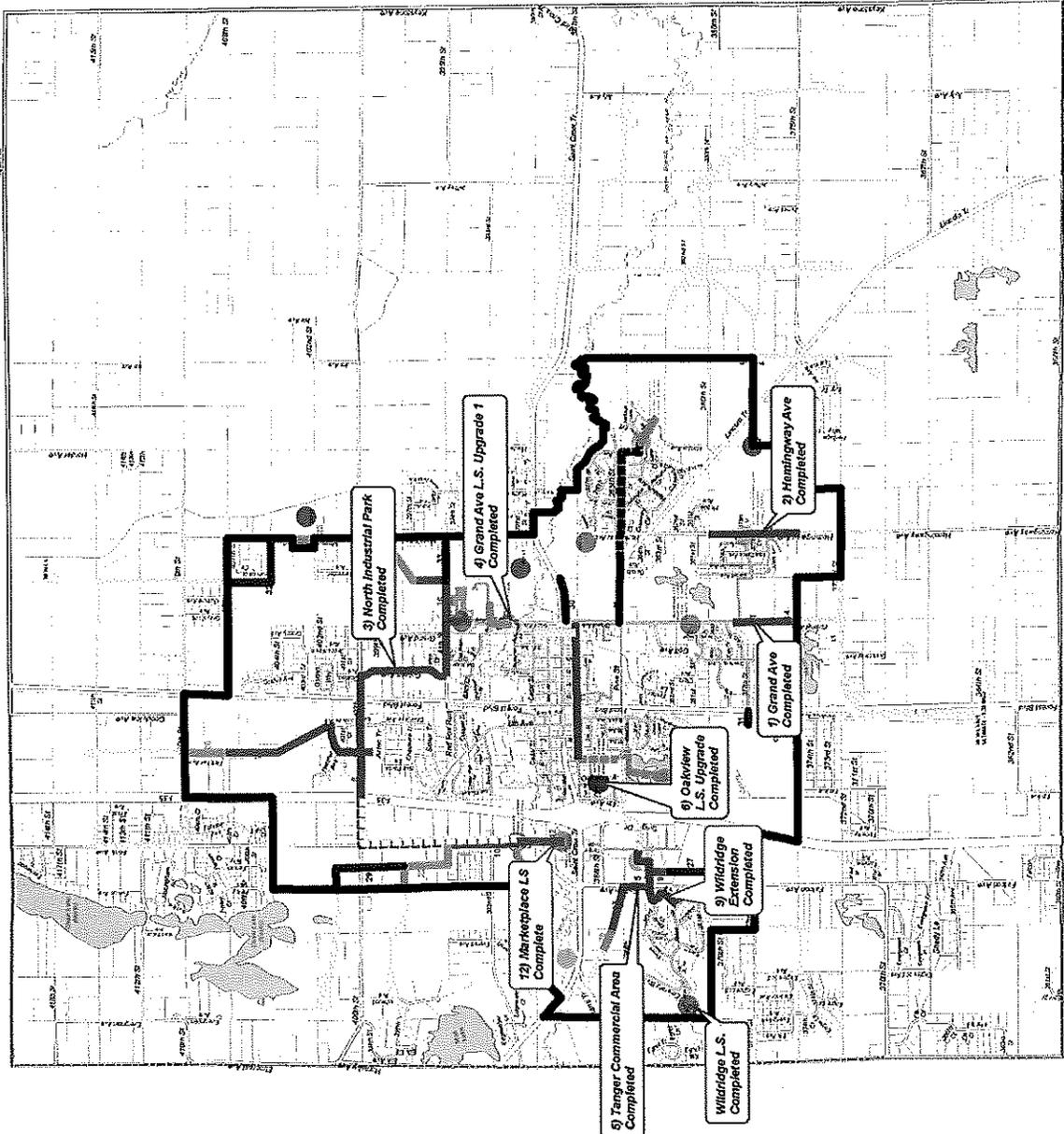


SCALE: 1:25000



DATE: 05-OCT-2014

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A. Municipal Utilities

- a) Provided in areas where eventually drainfields expire and the property's well becomes at risk
- b) Treatment and trunk system
- c) Trunk system paid for by growth
- d) Rates for maintenance
 - a) Annual
 - b) Large capital repairs to lift stations, water towers

B. Well head protection Plan

A. SAC & Trunk

- a) Residential \$900.90 & \$905.80
- b) Non – residential \$900.90 & \$2,716.00
- c) Typ range \$2,000 to \$7,000
- d) SAC is shown at reduced rate 65%

B. Sewer Rates

- a) Base fee \$32.05 & \$9.60/gal after first 3,000gal
- b) Base \$5 to \$50 - Range \$1 to \$3.50/gal

A. WAC & Trunk

- a) Residential \$1,139.36 & \$2,341.50
- b) Non – residential \$900.90 & \$6,341.00
- c) Typ range \$2,000 to \$7,000
- d) WAC is shown at reduced rate 50%

B. Water Rates

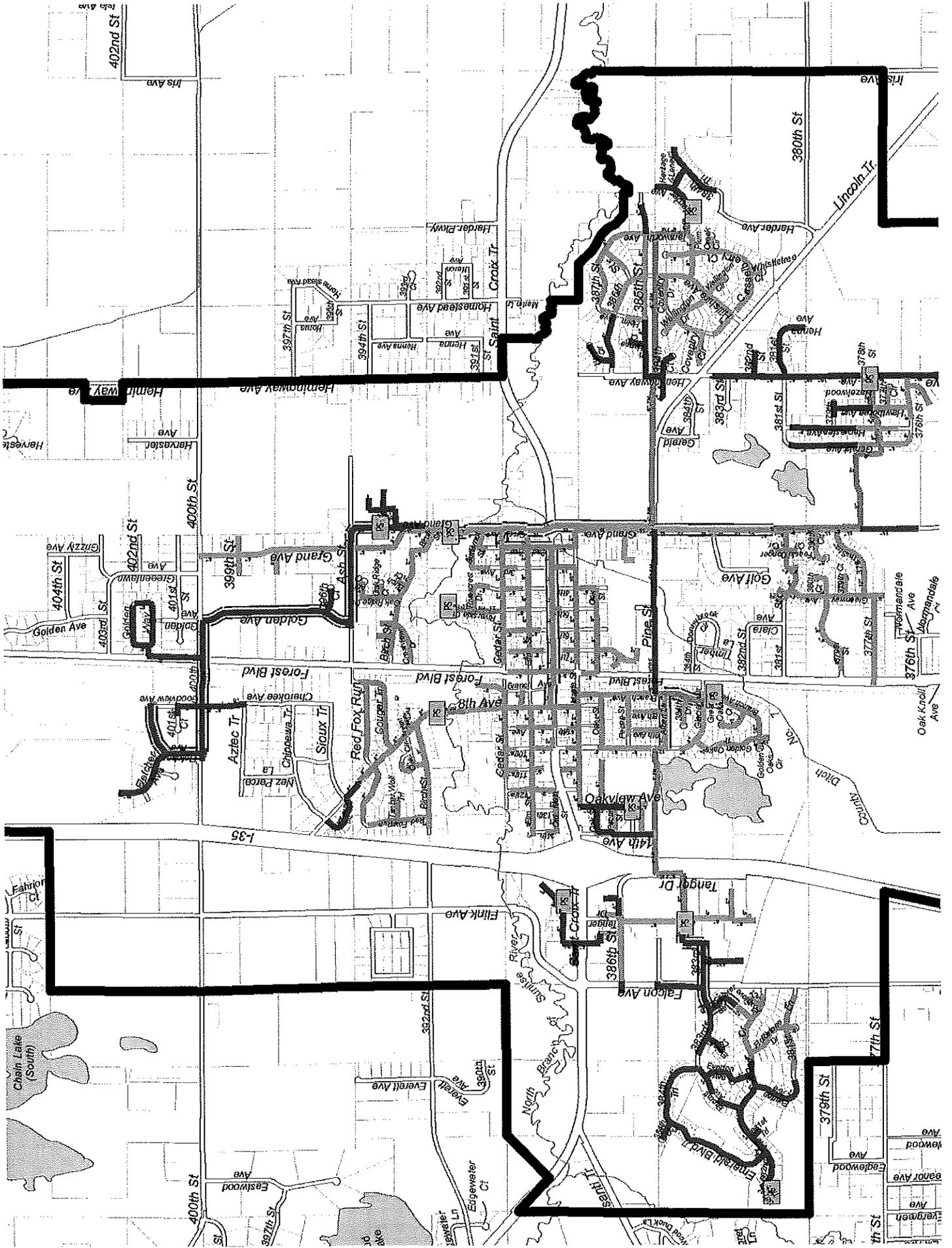
- a) Base fee \$16.71 & \$7.36/gal
- b) Base \$8 to \$50 - Range \$1 to \$3.50/gal

A. Sanitary

- a) 202,760 ft of pipe
- b) 12 Lift Stations
- c) WWTF – 50% capacity (800,000 gal/day)
- d) Since 2003 added 63,360 ft of pipe

60

B. Existing System Value \$45m



101

A. Watermain

- a) 230,210 ft of pipe
- b) 5 Wells
- c) 3 Towers & 1 million gal ground storage
- d) 2 Treatment Plants
- e) Since 2003 added 81,840 of pipe

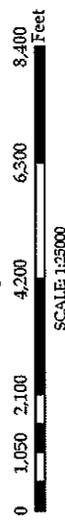
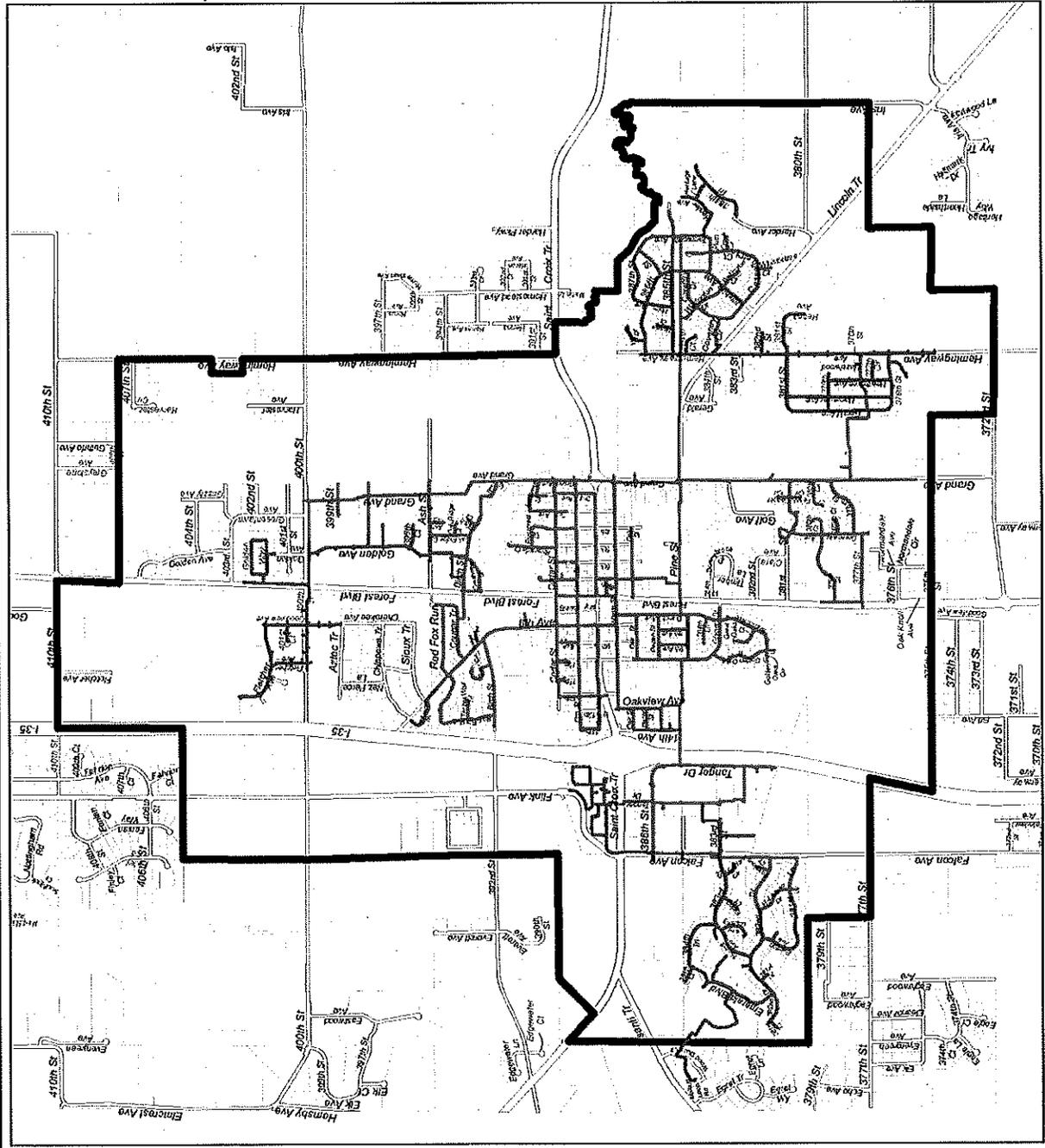
62

B. Existing System Value \$41m

City of North Branch

Existing Water Distribution System

-  20 Year Growth Area Boundary
-  Water Mains Installed after 2003 (15.5 miles)
-  Water Main (2003 Comp Plan)



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DATE: 02-OCT-2004

603

Maintenance Cost Not Currently Covered:

A. Sanitary examples:

- a) Sanitary trunk system and lift station maint. - \$500k to \$1m every 5 to 10 yrs (5 to 7 yrs behind)
- b) Sanitary lining \$60 /ft (assumes coordinated with roadway project/restoration not included)

64

Maintenance Cost Not Currently Covered:

A. Water system examples:

- a) Water tower maint. \$500k to \$900k / tower every 15 yrs
- b) Watermain breaks \$15k to \$25k / break 2 to 3 breaks / yr
- c) Infrastructure replacement \$70 to \$90 / ft (assumes coordination with roadway project/restoration not included)

55

Leapfrogging Development

- A. Property owners want to develop an area not adjacent to existing services.
- B. “leapfrogging” areas that would be logically developed next
- C. Developer responsibility to bring municipal utilities to the site.
- D. Provide service to areas as developing

lde

City of North Branch

Growth Areas 20-Year and Ultimate

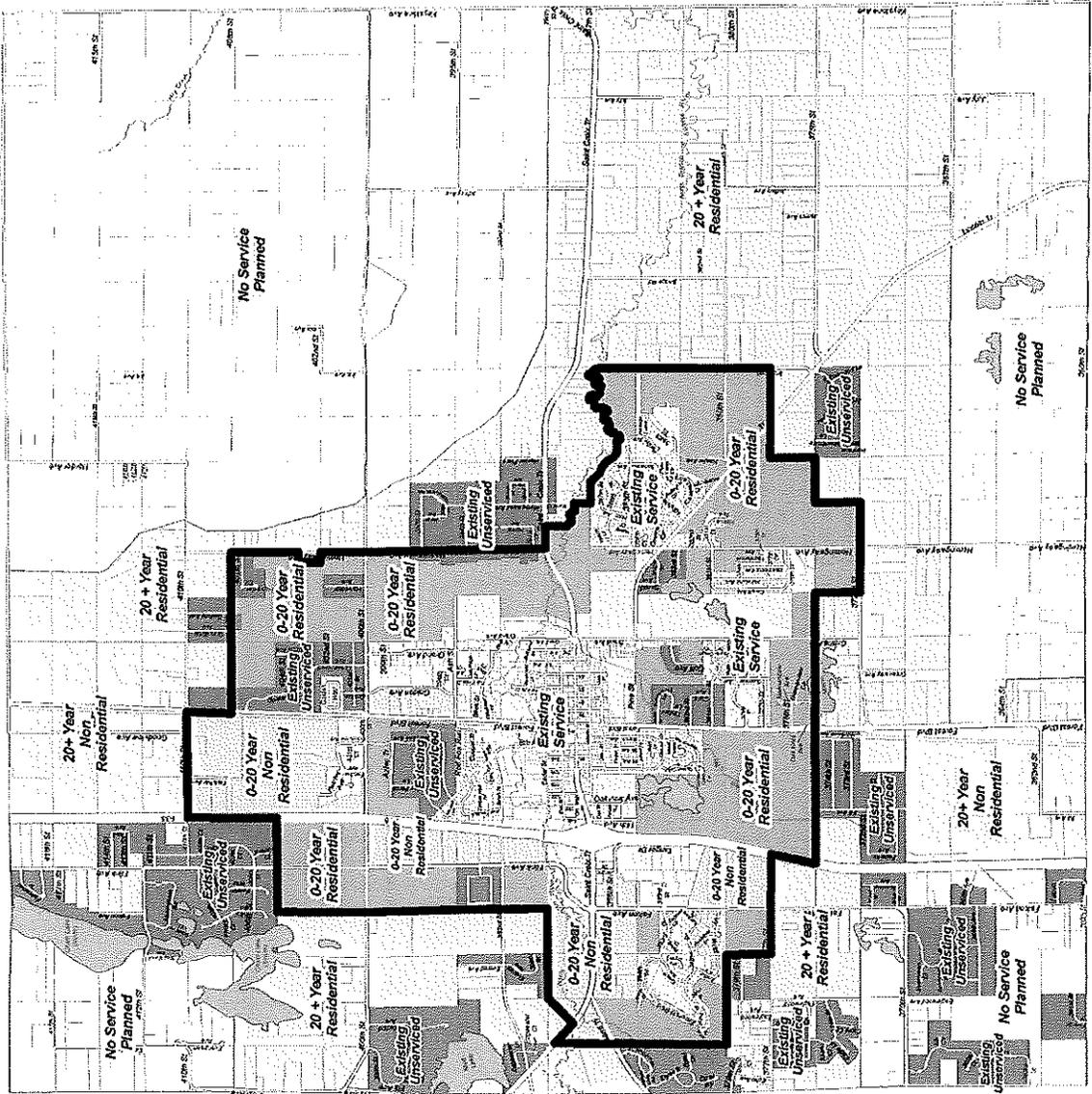
GROWTH AREAS

-  Growth Area Boundary (5,425 acres)
-  Existing Developed Unserviced (450 acres)
-  Existing Service (1,995 acres)
-  0-20 Year Residential (2,610 acres)
-  0-20 Year Non-Residential (820 acres)
-  20+ Year Residential
-  20+ Year Non-Residential
-  No Service Planned

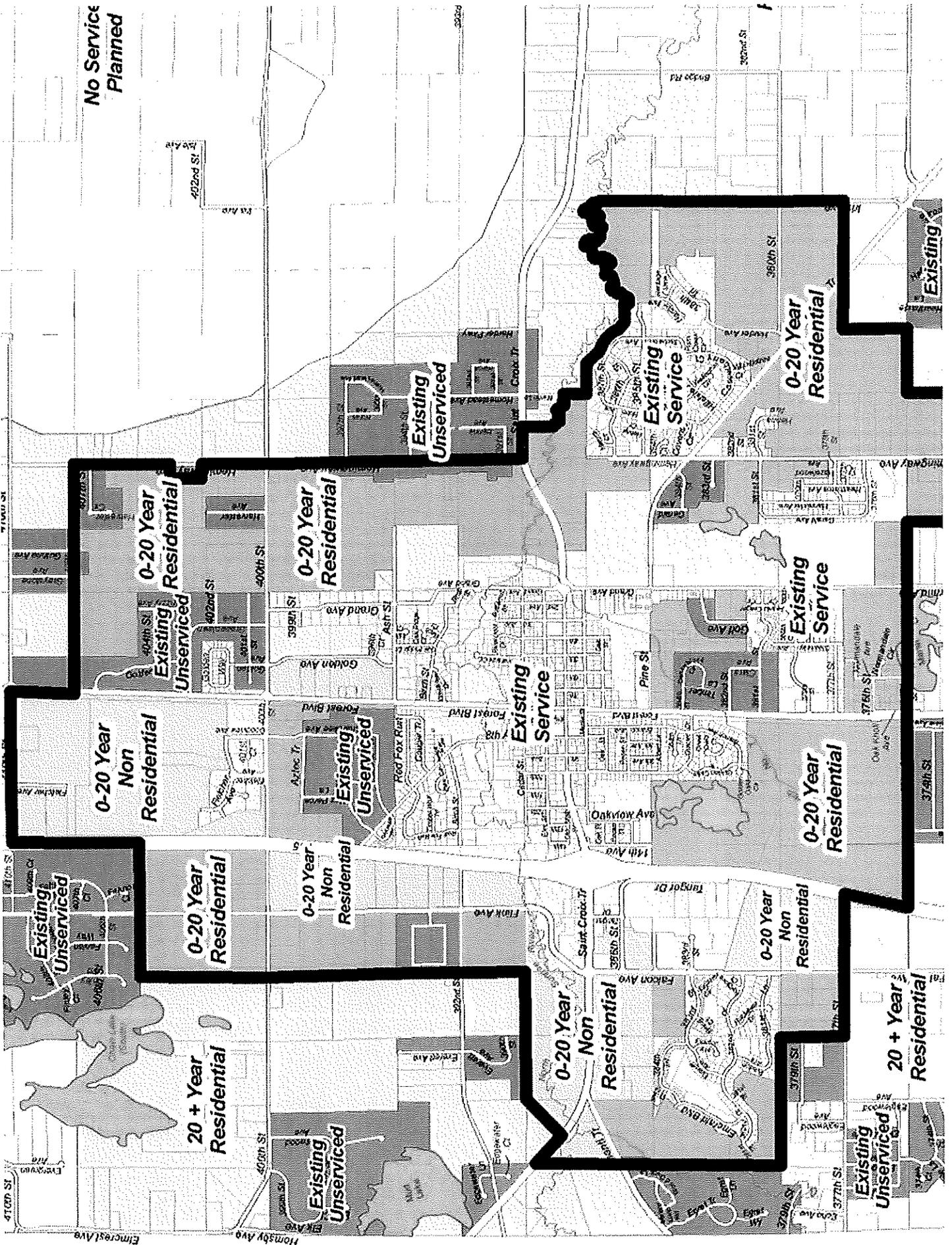


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DATE: 08-07-2014



607



A. Amend Comprehensive Plans:

- a) Re- analyze
 - i. Capacities
 - ii. Lift Stations
 - iii. Water system model
 - iv. Looping
 - v. Financing – RATES

- b) Average cost \$20k to \$30k per plan

A. Utilities System Financing

- a) Existing bonds paid through rates
- b) Should the SAC, WAC & Trunk fee revenue expectation as defined in the loan agreement not meet the bond agreement with PFA or other. Will be required to levy for those funds.
- c) Built for expansion to keep rates reasonable
- d) Not funding large system component maintenance

A. Need 140 connections to run system

- a) 5 to 40 per year for last 5 yrs
- b) Still need to fund maintenance
- c) Minimal available lots with services

B. System built for growth

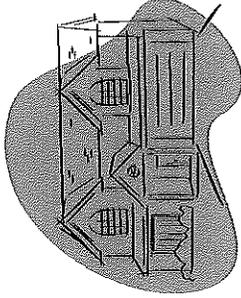
C. Larger customer base less burden on rates

D. Land Use and utility system decisions impact rates.

E. Residential customers ~ 1600

Commercial customers ~ 220

One Acre Parcel Example – Private Sewer and Water



Value: \$200,000

Lot Size: One Acre

Annual City Property Taxes: \$1,154.95

Annual Sewer User Fee: \$0

Annual Water User Fee: \$0

Total Annual Financial Impact to City: \$1,154.95

One Time Fees:

SAC: \$0

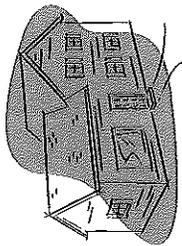
WAC: \$0

Trunk Sewer: \$0

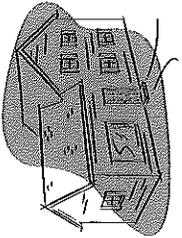
Trunk Water: \$0

Total Financial Impact of One Time Fees: \$0

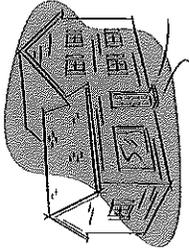
One Acre Example - Municipal Utilities



Value: \$160,000
 Lot Size: 1/3 Acre
 Annual City Property Taxes: \$876.37
 Annual Sewer User Fee: \$730.20
 Annual Water User Fee: \$730.44
 Total Annual Financial Impact to City: \$2,337.01



Value: \$160,000
 Lot Size: 1/3 Acre
 Annual City Property Taxes: \$876.37
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 Annual Water User Fee: \$730.44
 Total Annual Financial Impact to City: \$2,337.01



Value: \$160,000
 Lot Size: 1/3 Acre
 Annual City Property Taxes: \$876.37
 Annual Sewer User Fee: \$730.20
 Annual Water User Fee: \$730.44
 Total Annual Financial Impact to City: \$2,337.01

One Time Fees:
 SAC: \$900.90
 WAC: \$1,139.36
 Trunk Sewer: \$905.80
 Trunk Water: \$2,341.50
 Total Financial Impact of One Time Fees: \$5,287.56

One Time Fees:
 SAC: \$900.90
 WAC: \$1,139.36
 Trunk Sewer: \$905.80
 Trunk Water: \$2,341.50
 Total Financial Impact of One Time Fees: \$5,287.56

One Time Fees:
 SAC: \$900.90
 WAC: \$1,139.36
 Trunk Sewer: \$905.80
 Trunk Water: \$2,341.50
 Total Financial Impact of One Time Fees: \$5,287.56

**Total Impact for All Lots -
Private Sewer and Water**

Annual Fees:

Taxes - \$1,154.95

*** Sewer User - \$0

*** Water User - \$0

*** ANNUAL TOTAL - \$1,154.95

One Time Fees:

SAC - \$0

*** WAC - \$0

*** Trunk Sewer - \$0

*** Trunk Water - \$0

*** ONE TIME TOTAL - \$0

**Total Impact for All Lots -
Municipal Utilities**

Annual Fees:

Taxes - \$2,629.11

*** Sewer User - \$2,190.60

*** Water User - \$2,191.32

*** ANNUAL TOTAL - \$7,011.03

One Time Fees:

SAC - \$2,702.70

*** WAC - \$3,418.08

*** Trunk Sewer - \$2,717.40

*** Trunk Water - \$7,024.50

*** ONE TIME TOTAL -

\$15,862.68



- 75
- A. Property taxes based on 2014 tax assessment.
 - B. Utility fees based on average residential usage of 6,000 gallons per month utilizing the rates in effect as of 9/24/14.
 - C. Connection fees based on 2014 fee schedule.



City of North Branch ***Memo***

Prepared By:

Bridgitte Konrad

Date:

February 13, 2015

Subject:

Code of Conduct and Conflict of Interest Policies

At the February 5 work session the Council decided to draft the policies and then have the City Attorney review the policy drafts.

To assist you as you prepare the drafts, I am including some resource information that may be helpful as you work through drafting the policies.

- Attachment 1 – Draft policies as proposed by the mayor
- Attachment 2 – League of Minnesota Cities Information Memo on Conflict of Interest
- Attachment 3 – Sample policies from other communities
- Attachment 4 – Memos on Ethics Law and Conflict of Interest from the recent League training.

City of North Branch Policies & Procedures Manual

Policy Name: Code of Conduct
Date Approved By Council:

Policy Section: Council 1-6
Date Amended:

Purpose

To establish a code of conduct that council and commission members agree to abide by in carrying out their duties as either elected or appointed officials. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate council expectations, behavior and interactions with each other, city staff, citizens and all other groups encountered as a result of city business, so as to efficiently and effectively develop and carry out the mission, vision, goals and established policies of the city.

Roles/Responsibilities

Meetings – By statute, the mayor presides over meetings of the city council and chairs of commission preside over their particular commission meetings.

Act in the Public Interest – Recognizing that service to our citizens must be our primary concern, council members and commission members shall work for the common good of all the people of the City of North Branch and not for any private or personal interest. Council members and commission members will treat all persons, claims and transactions in a fair and equitable manner.

Preparation – Council members and commission members are expected to be prepared for meetings and work sessions.

Agenda Preparation – The City Administrator or appropriate staff directs preparation of meeting agendas. Items deemed to be inappropriate or outside the realm of the scope of a commission's authority will be removed by the city administrator for all agendas before the final draft. The final agenda for the city council meeting and commission meetings will be sent to the council members and commission members.

Conduct of Members

Open Meeting Law - No member of the city council or commission shall violate the open meeting law.

Conflict of Interest – Council members or commission members will disclose any information that may affect their personal financial interests or of a business which the person is associated including relationships that concern the matter before the council or commission.

Appointments – Only one person from a family can serve the city in either an elected or appointed position.

Gifts – Except as specifically permitted pursuant to Minn. Stat. 471.895, council members and commission members are excluded from accepting any gift of substance

which could be reasonably expected to influence them, their official action or is intended as a reward for the person's official action. Council members and commission members shall be excluded from giving any gift of substance to staff and consultants to maintain a business relationship between the parties.

Staff Direction – The mayor and the city council members direct city staff, contract employees and consultants only through the city administrator as determined by majority vote. At commission meetings, the chair of the commission directs the staff assigned to the commission. At work sessions, the mayor will state the concerns of the council or specific directions provided by council to the staff. The city administrator will request further clarification if he feels it is required so that there is clear understanding of the council's expectations in terms of staff action. At commission work sessions, the chair will state the concerns of the commission in order to provide clear direction.

Respect for Staff Time and Knowledge – If a council member or commission member is utilizing an inordinate amount of staff time, the city administrator is required to bring this to the attention of the mayor for resolution. Council members and commission members will recognize and acknowledge that the city's professional staff has information that is pertinent to the decisions that must be made on behalf of the city.

Interactions – Council members and commission members shall refrain from abusive conduct, personal charges or verbal attacks upon the character of council members, boards, commissions, committees, staff or the public.

Respect for the Process – Council member and commission member duties shall be performed in accordance with the processes and rules of order established by the city council. Any actions that concern policy and procedure shall be the responsibility of the city council. Actions perceived by the council that are taken by a commission outside of the scope of its authority must be immediately brought to the council's attention for resolution and determination if the commission will be directed to continue or terminate the discussion.

Use of Public Resources – Public resources not available to the general public (e.g. city staff time, equipment, supplies or facilities) shall not be used by council members or commission members for private, personal or political reasons.

Advocacy – To the best of their ability, council members and commission members shall speak with one voice in representing the official policies and positions of the city council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the council or the city.

Improper Influence – Council members and commission members shall refrain from using their position to improperly influence such as distributing explicitly political information to city staff, boards, commissions or committees during their deliberations and decisions.



Equal Treatment – None of the council members or commission members shall grant any special consideration or treatment or advantage to any citizen beyond that which is available to every other citizen. Each citizen who has a concern or wishes to have city policies or ordinances enacted or changed will present them first to the city council. The city council will then refer their concerns to the appropriate staff or commission. Council members and commission members will not represent private interests before the council or commission.

Communication

Sharing of Information – It is the responsibility of council members and commission members to publicly share information with all other council members that they have received from sources outside of the public decision-making process, which pertains to a topic under consideration. The new information will be distributed through the city administrator to the council members or through the staff representative for commission members.

Focused Discussions – Council members and commission members shall work to keep discussions and debates focused on the item under discussion.

Request for Information – All council members or commission members shall receive the same information at the same time when ready for distribution by staff or the city.

Citizen Questions – Elected officials shall refer all questions and concerns from citizens to the city administrator or appropriate department director. City staff shall report back to the city council on the resolution of the referral.

Confidential Information – Council members shall respect and preserve the confidentiality of non-public, protected non-public, private and confidential information provided to them concerning matters of the city unless a majority of the city council has authorized the disclosure.

Notice of Attendance – All council members will notify the city administrator as soon as possible if they will be unable to attend a meeting. The city administrator, in turn, will notify the council of a member's absence before the meeting.

Implementation

Council members shall have the primary responsibility to assure that the code of conduct is understood and followed and that the public can have full and complete confidence in the integrity of the North Branch city government.



City of North Branch Policies & Procedures Manual

Policy Name: Conflicts of Interest
Date Approved By Council:

Policy Section: Council 1-7
Date Amended:

CONFLICTS OF INTEREST POLICY

Purpose

The City Council of the City of North Branch confirms its determination and ethical standards among the Mayor and Councilmembers, members of various boards and commissions and employees of the City (Public Officials) are essential to the proper conduct of City affairs. By eliminating conflicts of interest and providing a guide for conduct in City matters, the City Council strives to promote the faith and confidence of the citizens of the City in their government. The following standards of conduct are intended to serve as a guideline for Public Officials in carrying out their responsibilities. This policy is in addition to any statutory requirements, Attorney General Opinions or court rulings, which prescribe allowable actions for Public Officials.

Definition

Public Officials shall be defined as follows: Mayor; City Councilors; Planning Commissioner; Economic Development Authority Commissioners; Parks, Trails and Open Space Commissioners; City Administrator; Finance Director; Public Works Director; Chief of Police; Fire Chief; Liquor Store Manager; Planner; City Attorney; City Engineer; and other employees of the City of North Branch.

Standards of Conduct

1. Public Officials:
 - a. Shall not use their positions to secure special privileges or exemptions for themselves or others to intentionally jeopardize the position of employment of others;
 - b. Shall not engage in, solicit, negotiate for, or promise to accept private employment nor shall they render services for private interest or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties;
 - c. Shall not participate in deliberations in any matter before the Council, board or commission, which affects that Public Official's, Public Official's spouse or minor child's financial interest directly or indirectly or those of a business, profession or occupation with which the Public Official is associated. Whenever such conflict is recognized, the affected Public Official shall disclose in writing such interest prior to any discussion or vote and disqualify themselves from any further involvement pertaining to the issue;
 - d. Shall not act as agent or attorney for another in any matter before the Council or any board or commission or before any court or administrative board in any matter in which the City is a party;
 - e. Shall not directly or indirectly receive, or agree to receive, any compensation, gift or reward or gratuity as inducement to support or



influence any matter or proceedings connected with, or related to, the duties of the office. The following types of gifts are permitted under exceptions to the law:

- i. Lawful campaign contributions
 - ii. Services to assist an official in performance of official duties.
 - iii. Services of insignificant monetary value.
 - iv. A plaque or similar item.
 - v. A trinket or item of insignificant monetary value.
 - vi. Informational material of unexceptional value.
 - vii. Food or beverage given at a reception, meal, or meeting by an organization before whom the recipient makes a speech or answers questions as part of a program (this exception is only available if the location of the reception, meal or meeting is away from the recipient's place of work).
 - viii. Gifts given because of the recipient's membership in a group.
 - ix. Gifts between family members.
- f. Shall not disclose to others or use to further their personal interest confidential information acquired by them in the course of their official duties.
2. Any Public Official who is an officer, director, partner, agent, proprietor or employee of any firm or has a proprietary interest in ten percent (10%) or more in any company, business, enterprise or corporation, partnership, labor union or association doing business with the City shall make known that interest in writing as provided in the disclosure section of this policy.
 3. No Public Official or business entity that the Public Official has a financial interest in excess of ten percent (10%) shall enter into any contract with the City unless otherwise authorized by law.
 4. Public Officials shall disclose to the governing body any relationship to another person or entity in any instance where there is a conflict of interest or could be the appearance of a conflict of interest.
 5. Public Officials shall not have a personal financial interest in any sales, lease or contract that they are authorized to make in their official capacities.
 6. A Public Official shall not hold two positions if the positions' functions are incompatible with one another.

Disclosures

Public Officials, elected or appointed and employees serving as Department Heads or Supervisors, shall, no later than thirty (30) days following election or appointments to office and each year thereafter by February 1, complete the Disclosure Form and return it to the City Administrator. All subsequent applicants for appointment on boards and commissions shall file a completed Disclosure Form together with the application form. Within thirty (30) days after the acquisition or sale of any property, each Public Official shall file as a public record with the City Administrator, a list of all real property in the City owned by such person, that person's spouse, or minor child, or in which the Public Official has a beneficial interest, disclosing each individual item held, and by whom. Homestead shall be excluded from the above disclosure.



Each Public Official shall disclose all positions as officer, director, partner, agent, proprietor or employee of any firm in which such Public Official has a proprietary interest of ten percent (10%) or more in any company, business, enterprise, corporation, partnership, labor union or association doing business with the City, and indicate with respect to each such relationship whether services are gratuitous or for compensation.

Disclosure Form

The disclosure information required by this policy shall set forth on a form which shall be made available by the City Administrator and is part of this policy.

Discipline

Upon a signed written complaint of any person questioning adherence to this policy or on the Council's own volition, the Council shall refer the matter to the City Attorney for investigation and the City Attorney shall report the results of the investigation to the Council within forty-five (45) days thereafter. A copy of such report shall be furnished to the person complained against. Such person may request a hearing on this matter before the Council which request shall be filed with the City Administrator not later than ten (10) days following receipt by such person of the City Attorney's report.

Upon receipt of the City Attorney's report and at the conclusion of any hearing on the matter, the Council by majority vote may dismiss the complaint as having no merit, may adopt a resolution of censure, or with respect to members of board and commission, the Council may remove a member from such board or commission. In the event the complaint is against a member of the Council, such member shall not participate in the Council's deliberations or vote on the issue.

Violations

Any Public Official who violates the Conflict of Interest Law can be found guilty of a gross misdemeanor, be fined up to \$3,000, and imprisoned for up to one year. Any contract that has been made illegally is void.



Disclosure Form

All Public Officials of the City of North Branch are required to complete and file this Disclosure Form with the City Administrator in accordance with the provisions of the Conflicts of Interest Policy.

1. Affiliations with Agencies Doing Business with the City

Identify all positions as officer, director, partner, proprietor or employee of any firm or proprietary interest of ten percent (10%) or more in any company, business, enterprise, corporation, partnership, labor union or association doing business with the City.

<u>Name of Organization</u>	<u>Position Held</u>	<u>Compensation Involved</u>	
_____	_____	Yes _____	No _____
_____	_____	Yes _____	No _____
_____	_____	Yes _____	No _____

2. Real Property Owned in the City of North Branch

Identify any property items owned or being purchased by a Public Official, spouse, or child, or in which the Official has a beneficial interest. The actual value of any item is not required. (***Exclude homestead property.***)

<u>Property Item</u>	<u>Address</u>	<u>PID#</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____



3. **Assets**

Identify all ownership or beneficial interest in any company, business, enterprise, corporation, partnership, labor union or association doing business with the City where such interest exceeds ten percent (10%) of the total ownership.

Name of Organization

_____ Date

_____ Public Official Signature

Please also provide the following:

_____ Current Address and Box Number, if any

_____ Home Phone Number

_____ Work Phone Number

_____ Cell Phone Number, if available

_____ E-mail Address

Received by the City Administrator on _____

_____ Date Received





INFORMATION MEMO

Official Conflict of Interest

Learn responsibilities of city officials to avoid prohibited personal or financial benefits in contracts, which public offices may not be held simultaneously by the same person, need to disclose economic interests, and limits on gifts. Links to a code of conduct and statement of values; contains resolutions for contracting with an interested council member.

RELEVANT LINKS:

I. Ethical responsibilities of local office in Minnesota

Most Minnesotans can run for and hold elected office at the federal, state, or local level. Candidates are not required to pass a civics test, attend mandatory trainings, obtain a particular degree or certification, or otherwise demonstrate their fitness. Nevertheless, election or appointment to public office may impact one's personal and professional life—perhaps quite significantly.

Some of the most important regulations impacting local governments address the ethical responsibilities of public office—laws that can apply to both elected and appointed city officials. Such safeguards exist to:

- Ensure integrity in government.
- Protect the city's and/or the city residents' interests.
- Limit the opportunity for officials to benefit (personally or financially) from public office.

Unfortunately, such regulations are also some of the most misunderstood. City officials—particularly those new to their positions—need to be aware of their responsibilities and the types of prohibited conduct. Various regulations:

- Limit an official's ability to act independently.
- Provide the public access to the decision-making process.
- Prohibit public officials from accepting gifts.
- Prohibit conflicts of interest.
- Prohibit officials from holding incompatible offices.
- Require public officials to disclose conflicts or economic interests when they do arise.

This memo examines the ethical responsibilities of local office in Minnesota.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice regarding your specific situation.

Attachment 2

RELEVANT LINKS:

Minn. Const. art. XII, § 3.

Minn. Stat. § 414.01, subd. 1a(2).

Handbook, Chapter 3.
Handbook, Chapter 4.

Minn. Stat. ch. 412.

Minn. Stat. ch. 410.

While this memo focuses on the general principles behind these various regulations and prohibitions, remember that ethical questions can be difficult to answer. Not all situations fit neatly into current guidelines, so conduct may not clearly be prohibited, but still seems inappropriate. This appearance of impropriety can be very damaging to a councilmember's image (as well as the city's reputation) and may need to be considered.

II. City government in Minnesota

The Minnesota Constitution authorizes the Minnesota Legislature to provide for the "creation, organization, administration, consolidation, division, and dissolution of local government units and their functions, for the change of boundaries thereof, [and] for their elective and appointive officers." The form and function of city government, and the powers, duties and limitations of elected and appointed office, help shape our basic ethical responsibilities.

A. Form and function

Under Minnesota law, cities are public corporations. The Legislature has described cities as the type of government that "most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes." About 82 percent of the people in Minnesota live in cities, even though cities only cover about 4.9 percent of the state's land area. Since cities are where most people live, the basic goal of city government is to provide services. In many parts of the state, cities are the main governmental entities.

Minnesota has two basic types of cities: statutory cities and home rule charter cities. The major difference between the two is the type of enabling legislation under which they are incorporated:

- Statutory cities derive many of their powers from Chapter 412 of the Minnesota statutes.
- Home rule charter cities obtain their powers from a home rule charter.

Statutory and home rule charter cities differ in terms of organization and powers, not because of any classification of population, area, geographical location, or other physical features.

B. City council

The cornerstone of city government in Minnesota is the elected city council. The council fashions the policies that determine a community's present and future well-being. Because people look to their local government for leadership, much of the responsibility for community development falls on the shoulders of city councilmembers.

RELEVANT LINKS:

Handbook, Chapter 6.

Minn. Stat. § 412.191, subd. 2.

Minn. Stat. § 412.191, subd. 4.

Minn. Stat. § 412.111.

Minn. Stat. § 412.201.

Minn. Stat. § 412.241.

Minn. Stat. § 412.111.

Minn. Stat. § 412.221, subd. 32.

Van Cleve v. Wallace, 216 Minn. 500, 13 N.W.2d 467 (1944).

Minn. Stat. § 10A.071, subd. 1(b).

Minn. Stat. § 471.895.

Minn. Stat. § 471.895, subd. 1(d).

The major areas of council authority and responsibility include:

- Judging the qualifications and election of its own members.
- Setting and interpreting rules of procedure.
- Legislating for the city.
- Enforcing city ordinances.
- Appointing administrative personnel.
- Transacting city business.
- Managing city finances.
- Making appointments to boards, commissions, and committees.
- Protecting the welfare of the city and its inhabitants.
- Providing community leadership.

The city council is a continuing body. New members have no effect on the body except to change its membership. This means that all ordinances and resolutions remain in effect until the council alters or rescinds them, or until they expire through their own terms. At any time, the council can change any resolution, ordinance or administrative order whether or not the individuals presently on the council are the same as those serving when the council originally took action.

Councilmembers' statutory duties are to be performed, almost without exception, by the council as a whole. For example, it is the council, and not individual councilmembers, that must supervise administrative officers, formulate policies, and exercise city powers.

III. Gifts

A "gift" is defined as money, property (real or personal), a service, a loan, the forbearance or forgiveness of debt, or a promise of future employment, given and received without the giver receiving something of equal or greater value in return.

A. General prohibition

Elected and appointed "local officials" may not generally receive a gift from any "interested persons."

1. Local officials

A "local official" is any elected or appointed official of a city, or of an agency, authority, or instrumentality of a city. The gift prohibition clearly applies to the members of the city council. However, since the term "local official" is not further defined, it is not known if the law is meant to cover all city employees, or just certain high-level employees (such as city managers or administrators) and other appointed officials.

RELEVANT LINKS:

Minn. Stat. § 471.895, subd. 1(c).

Minn. Stat. § 471.895, subd. 3.

Minn. Stat. § 211A.01, subd. 5.

As so many individuals can be involved in the decision-making process, trying to distinguish between city “employees” and “officials” is quite difficult. As a consequence, the safest course of action is to assume the law applies to all employees, regardless of their title or job responsibilities.

2. Interested persons

An “interested person” is a person or representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

An interested person likely includes anyone who may provide goods or services to a city such as engineers, attorneys, financial advisers, contractors, and salespersons. But, virtually every resident or person doing business in the city could have a direct financial interest in a decision that an official is authorized to make. These may include:

- Property tax levies.
- Special assessments.
- Licenses and permits.
- Land use decisions.

If an individual could have a direct financial interest in a decision or recommendation that a city official would be authorized to make, he or she might be considered an interested person for purposes of the gift law.

B. Exceptions

The following types of gifts are permitted under exceptions to the gift law:

- Lawful campaign contributions.
- Services to assist an official in the performance of official duties. Such services can include (but are not limited to) providing advice, consultation, information, and communication in connection with legislation and services to constituents.
- Services of insignificant monetary value.
- A plaque or similar memento. Such items are permitted when given in recognition of individual services in a field of specialty or to a charitable cause.
- A trinket or memento costing \$5 or less.
- Informational material of unexceptional value.
- Food or beverage given at a reception, meal or meeting. This exception only applies if the recipient is making a speech or answering questions as part of a program that is located away from the recipient’s place of work.

RELEVANT LINKS:

Minn. Stat. § 465.03.
*Kelly v. Campaign Finance
and Public Disclosure
Board*, 679 N.W.2d 178
(Minn. Ct. App. 2004), *rev.
denied* (Minn. July 20,
2004).

Minn. Stat. ch. 10A.
Section VII, *Ethics in
Government Act*.

Minnesota Campaign
Finance and Public
Disclosure Board: Lobbyist
Gift Ban.

Minn. R. 7515.0620.

- Gifts between family members. However, the gift may not be given on behalf of someone who is not a member of the family.
- Gift because of the recipient's membership in a group. The majority of this group's members must not be local officials and an equivalent gift must be given or offered to the other group members.
- Food or beverages given to national or multi-state conference attendees. The majority of dues paid to the organization must be paid from public funds and an equivalent gift must be given or offered to all other attendees.

C. Gifts to cities

The law prohibits gifts to city officials, not to cities themselves. Cities may accept gifts of real or personal property and use them in accordance with the terms prescribed by the donor. A resolution accepting the gift and the donor's terms must receive an affirmative vote of two-thirds of the members of the council. A city may not, however, accept gifts for religious or sectarian purposes.

D. Metro area cities over 50,000

Metropolitan cities with a population over 50,000 are subject to additional regulations. Under the Ethics in Government Act, local officials in these cities are also prohibited from receiving gifts from "lobbyists," though there are similar exceptions that may apply.

The Minnesota Campaign Finance and Public Disclosure Board issues advisory opinions regarding the lobbyist gift ban. These opinions may be relevant to any Minnesota city struggling with the application or implication of a gift ban to a particular situation.

E. Municipal liquor stores

Municipal liquor store employees may not suggest, request, demand, or accept any gratuity, reward, or promise thereof from any representative of a manufacturer or wholesaler of alcoholic beverages. Any manager or employee who violates this provision is guilty of a gross misdemeanor.

IV. Conflicts of interest

There are two broad categories of conflicts of interest that city officials and municipal bodies may encounter: those involving contractual decisions, and those involving non-contractual decisions.

RELEVANT LINKS:

Minn. Stat. § 471.87.

A.G. Op. 470 (June 9, 1967).

A.G. Op. 90-B-5 (Nov. 13, 1969).

A.G. Op. 90e-6 (June 15, 1988).

A.G. Op. 90e-6 (June 15, 1988).

Minn. Stat. § 412.311.
Section IV-A-2, *Exceptions and procedures.*
Singewald v. Minneapolis Gas Co., 274 Minn. 556, 142 N.W.2d 739 (1966).
A.G. Op. 90a-1 (Oct. 7, 1976).

Handbook, Chapter 4.

Minn. Stat. § 471.881.

A. Contracts

1. General prohibition

Public officers are generally prohibited from having a personal financial interest in a sale, lease or contract they are authorized to make in their official capacity. The term “public officer” certainly includes mayors, councilmembers, or other elected officials. It may also include appointed officers and employees who are able to influence the decision-making process.

The attorney general has advised that the conflict of interest law applies to any councilmember “who is authorized to take part in any manner” in the making of the contract. Simply abstaining from voting on the contract is not sufficient. The attorney general reasoned that if the Legislature had only wanted to prohibit interested officers from voting on the contract, it would not have used the word “authorized.”

A literal reading of the statute might suggest that it only applies to city officers who enter into contracts on behalf of the city. However, the attorney general has given the statute a broader interpretation, which could affect more officials than just those who are directly involved in the decision-making process. As a result, it may be wise to take a conservative approach regarding contracts with any city official.

a. Statutory cities

Statutory cities must consider an additional restriction. No member of a statutory city council may have a direct or indirect interest in any contract the council makes (notwithstanding the limited exceptions discussed below). This restriction may affect some contractual situations that are not covered by the general prohibition. For example, even though the actual contract is not made with a councilmember, the fact that he or she has an indirect interest in it could be an issue.

b. Home rule charter cities

Many home rule charters contain provisions that address conflicts of interest in contracts as well. Some charters go beyond the statute to prevent all city officers and employees from having an interest in a city contract, whether or not the individual has a role in the process. Because charter provisions vary from city to city, they are not covered in this memo in any detail. However, the exceptions discussed below apply to all cities, regardless of any other statute or city charter provision to the contrary.

RELEVANT LINKS:

Minn. Stat. § 471.88.

Minn. Stat. § 471.88, subd. 1.

1989 Street Improvement Program v. Denmark Township, 483 N.W.2d 508 (Minn. Ct. App. 1992).

Minn. Stat. § 471.88, subd. 2.

Minn. Stat. ch. 118A.

Minn. Stat. § 471.88, subd. 3.
Minn. Stat. § 331A.04.

2. Exceptions and procedures

There are several important exceptions that apply to all cities. In these circumstances, a city may move forward with the matter if the interested officer discloses his or her interest at the earliest stage and abstains from voting or deliberating on any contract in which he or she has an interest. Generally, an exception may only be used by a city when approved by unanimous vote of the remaining councilmembers. There are also additional requirements for some of the exceptions that are discussed below.

A 1992 decision by the Minnesota Court of Appeals suggests that interested officers should abstain from voting even when not expressly required to do so under the law. In that case, a township was challenged because an improvement project had not received the required four-fifths majority vote of the town board (two members whose properties would be assessed abstained). The court said the two interested board members were correct to abstain since their interests disqualified them from voting. As a result, the remaining three board members' unanimous vote was sufficient.

A city council may enter into the following contracts if the proper procedure is followed, even though the contract may impact the interests of one of its officers.

a. Bank or savings association

The city council may designate a bank or savings association that a city officer has an interest in as an authorized depository for public funds and as a source of borrowing. No restriction applies to the designation of a depository or the deposit of public funds if the funds are protected in accordance with state law.

Procedure:

- The officer discloses his or her interest in the bank or savings association (this should occur when the bank or savings association is first designated or when the official is first elected or appointed, whichever is later). The disclosure is recorded in the meeting minutes and serves as notice of such interest for each successive transaction.
- The interested officer abstains from voting on the matter.
- The council approves the designation by unanimous vote.

b. Official newspaper

The city council may designate as the official newspaper (or publish official matters in) a newspaper in which a city officer has an interest.

RELEVANT LINKS:

LMC information memo,
Newspaper Publication.

However, this exception only applies if the interested officer's newspaper is the only qualified newspaper available.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the designation by unanimous vote.

Minn. Stat. § 471.88, subd. 4.

c. Cooperative association

A city may enter into a contract with a cooperative association of which the city officer is a shareholder or stockholder. This exception does not apply if the interested city officer is an officer or manager of the association.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the designation by unanimous vote.

Minn. Stat. § 471.88, subd. 5.
Minn. Stat. § 471.345.
Minn. Stat. § 412.311.

d. Competitive bidding not required

A city may contract with a city officer when competitive bidding laws is not required. The municipal contracting act generally requires the following types of contracts that are estimated to exceed \$100,000 to be bid:

- Sale, purchase, or rental of supplies, materials, or equipment.
- Construction, alteration, repair, or maintenance of property.

Minn. Stat. § 471.88, subd. 5.
LMC information memo,
*Competitive Bidding
Requirements in Cities.*

This exception appears to apply to contracts that do not have to be competitively bid, such as contracts for professional services or employment. A city may need to seek a legal opinion if it is unsure about whether this exception applies to a particular situation.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the contract by unanimous vote.
- The council passes a resolution setting out the essential facts, such as the nature of the officer's interest and the item or service to be provided, and stating that the contract price is as low as (or lower than) could be found elsewhere.
- Before a claim is paid, the interested officer must file an affidavit with the clerk that contains:
 - The name and office of the interested officer.
 - An itemization of the commodity or services furnished.

Minn. Stat. § 471.89, subd. 2.
Appendix A.

Minn. Stat. § 471.89, subd. 3.
Appendix C.

RELEVANT LINKS:

Minn. Stat. § 471.89, subd. 2.
Minn. Stat. § 365.37.
Minn. Stat. § 415.01.
Appendix B.
Handbook, Chapter 23.

Minn. Stat. § 471.88, subd. 6.

A.G. Op. 358-E-4 (Jan. 19, 1965).
A.G. Op. 90-E (Apr. 17, 1978).

Section V, *Compatibility of offices.*

Minn. Stat. § 471.88, subd. 6a.

Minn. Stat. § 471.88, subd. 7.

- The contract price.
 - The reasonable value.
 - The interest of the officer in the contract.
 - A declaration that the contract price is as low as or lower than could be obtained from other sources.
- In an emergency where the contract cannot be authorized in advance, payment must be authorized by resolution describing the emergency.

e. Volunteer fire department

Cities may contract with a volunteer fire department for the payment of compensation or retirement benefits to its members.

There is some question as to whether this exception applies to both municipal and independently operated fire departments. A literal reading of the statute suggests it applies only to actual contracts. Since cities do not usually contract with a municipal fire department, there is a possibility this exception may only apply to contracts with independent fire departments. However, the attorney general has issued opinions that imply that the exception can apply to both kinds of fire departments.

A councilmember who is interested in serving the city in multiple positions, for example, plowing streets or serving on the volunteer fire department, should also consider whether the functions and responsibilities of those positions are compatible.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the contract by unanimous vote.

f. Volunteer ambulance service

Cities may contract with a volunteer ambulance service for the payment of compensation or retirement benefits to its members. This provision is similar to the volunteer fire department exception.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the contract by unanimous vote.

g. Municipal band

Cities may contract with a municipal band for the payment of compensation to its members.

RELEVANT LINKS:

Minn. Stat. § 471.88, subds. 9, 10.
Section VII-C-2-d, *HRAs*
and *EDAs*.

Minn. Stat. § 471.88, subd. 11.

Minn. Stat. § 471.88, subd. 12.

Minn. Stat. § 471.88, subd. 13.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the contract by unanimous vote.

h. EDAs and port authorities

An economic development authority (EDA), port authority, or seaway port authority may contract with firms engaged in the business of importing, exporting, or general trade that employ one of its commissioners.

Procedure:

- The interested commissioner abstains from voting on the matter.
- The authority approves the contract by unanimous vote.
- The commissioner does not take part in the determination (except to testify) and abstains from any vote that set any rates affecting shippers or users of the terminal facility.

i. Bank loans or trust services

Banks that employ a public housing, port authority, or EDA commissioner may provide loans or trust services to property affected by that authority.

Procedure:

- The commissioner discloses the nature of those loans or trust services of which he or she has personal knowledge.
- The disclosure is recorded in the meeting minutes.
- The interested commissioner abstains from voting on the matter.
- The authority approves the contract by unanimous vote.

**j. Construction materials or services
(cities with a population of 1,000 or less)**

A city with a population of 1,000 or less (according to the last federal census) may contract with one of its officers for construction materials and/or services through a sealed bid process.

Procedure:

- The interested officer abstains from voting on the contract.
- The council approves the contract by unanimous vote.

k. Rent:

Cities may rent space in a public facility to a public officer at a rate equal to that paid by other members of the public.

RELEVANT LINKS:

Minn. Stat. § 471.88, subd. 14.

Minn. Stat. § 471.88, subd. 15.

Minn. Stat. § 471.88, subd. 17.

Procedure:

- The interested officer abstains from voting on the matter.
- The council approves the contract by unanimous vote.

l. Local development organizations

City officers may apply for a loan or grant administered by a local development organization. A “local development organization” is defined to include housing and redevelopment authorities (HRAs), EDAs, community action programs, port authorities, and private consultants.

Procedure:

- The interested officer discloses that he or she has applied for a grant.
- That interest is recorded in the official minutes.
- The interested officer abstains from voting on the matter.
- The local development organization approves the application by unanimous vote.

m. Franchise agreements

When a city enters into a franchise agreement or contract for utility services to the city, a councilmember who is an employee of the utility may continue to serve on the council during the term of the franchise or contract.

Procedure:

- The interested officer abstains from voting on any franchise matters.
- The reason for the interested councilmember’s abstention is recorded in the meeting minutes.
- The council approves the franchise agreement by unanimous vote.

n. State or federal grant programs

Cities may apply for and accept state or federal grants (housing, community, or economic development) which may benefit a public officer.

Procedure:

- The interested officer abstains from voting on matters related to the grant.
- The governing body accepts the grant by unanimous vote.

RELEVANT LINKS:

Minn. Stat. § 471.88, subd. 18.
Community Development Block Grant (CDBG).

Minn. Stat. § 471.88, subd. 19.

A.G. Op. 90a-1 (Apr. 14, 1960).
A.G. Op. 90-E-5 (Aug. 30, 1949).
A.G. Op. 90e-1 (May 12, 1976).
Minn. Stat. § 471.88, subd. 5.

A.G. Op. 90a-1 (May 16, 1952).
A.G. Op. 90b (Aug. 8, 1969).

o. Loans or grants—St. Louis County

A public officer is eligible to participate in a loan or grant program administered by the city with community development block grant funds or federal economic development administration funds. This exception is limited to cities in St. Louis County with a population 5,000 or less.

Procedure:

- The public officer discloses that he or she has applied for the funds.
- The disclosure is recorded within the official meeting meetings.
- The interested officer abstains from voting on the application.
- The governing body approves the application by unanimous vote.

p. HRA officer loan

HRA officers may participate in a loan or grant program administered by the HRA utilizing state or federal funds.

Procedure:

- The public officer discloses that he or she has applied for the funds.
- The disclosure is recorded within the official meeting meetings.
- The public officer must abstain from voting on the application.
- The governing body approves the application by unanimous vote.

3. Application

The statutes apply to all kinds of contracts (formal or informal, written or unwritten) for goods and services. The statute applies not only when the city is the buyer, but also when the city is the seller. The law would appear to prohibit a contract with a public official who has had the opportunity to influence the terms of the contract or the decision of the governing body. Even when a contract is allowed under one of the exceptions (such as for contracts for which bids are not required by law) councils should proceed with caution.

a. Business interests and employment

The attorney general has advised that a councilmember who holds stock in a corporation that contracts with the city has an unlawful interest and that a councilmember who is a subcontractor on a contract has an unlawful interest. The attorney general has also advised that a member of a governing body that receives a percentage of the money earned by a construction company for jobs done under a contract with it has an unlawful interest.

RELEVANT LINKS:

Singewald v. Minneapolis Gas Co., 274 Minn. 556, 142 N.W.2d 739 (1966).
A.G. Op. 90-B-5 (Nov. 13, 1969).

A.G. Op. 90a-1 (Oct. 7, 1976).

A.G. Op. 90e-1 (May 12, 1976).
A.G. Op. 90E-1 (Dec. 6, 1955).

A.G. Op. 90a-1 (Mar. 30, 1961).

A.G. Op.90a-1 (Apr. 15, 1975).

The Minnesota Supreme Court has held that employment by a company the city contracts with may give a councilmember an indirect interest in the contract. On the other hand, the attorney general has advised that if a councilmember is an employee of the contracting firm and his or her salary is not affected by the contract, the council may determine that no personal financial interest exists.

The attorney general has said that factors other than employment may have to be considered to determine whether a prohibited interest is present. The attorney general concluded that a council may contract with the employer if:

- The councilmember has no ownership interest in the firm.
- The councilmember is neither an officer nor a director.
- The councilmember is compensated with a salary or on an hourly wage basis and receives no commissions, bonus or other remuneration.
- The councilmember is not involved in supervising the performance of the contract for the employer and has no other interest in the contract.

The law prohibits making a contract with any public official who has had the opportunity to influence its terms. The attorney general has advised that a former councilmember could not be a subcontractor on a municipal hospital contract if he was a councilmember when the prime contract was awarded.

Questions that are more difficult can arise when a councilmember takes office after a city has entered into a contract. The assumption of office by someone with a personal financial interest in an already existing contract raises concerns about possible conflicts of interest during the performance of the contract.

In one case, the attorney general advised that a councilmember was eligible for office and entitled to commissions on insurance premiums payable by the city on an insurance contract entered into before the person became a councilmember.

In an informal letter opinion, the attorney general said the director of a malting company could assume office as a councilmember even though the city had entered into a 20-year contract with the company to allow it to use the city's sewage disposal plant. The contract also fixed rates for service subject to negotiation of new rates under certain circumstances. The attorney general said the councilmember could continue to serve as long as no new negotiations were required. However, no new agreement could be entered into as long as the interested councilmember held office.

Individuals faced with a possible conflict of interests should seek legal advice.

RELEVANT LINKS:

Minn. Stat. § 471.88, subd. 5.
Minn. Stat. § 471.345.

LMC information memo,
*Competitive Bidding
Requirements in Cities.*

Minn. Stat. § 410.191.
Minn. Stat. § 412.02, subd.
1a.

Section V, *Compatibility of
offices.*
"Compatibility of Offices,"
House Information Brief
(July 2012).

Lewick v. Glazier, 116 Mich.
493, 74 N.W. 717 (1898).
Section IV-B, *Non-
contractual situations.*

Minn. Stat. § 519.05.
Minn. Stat. § 412.311.
A.G. Op. (June 28, 1928).
A.G. Op. 90-C-5 (July 30,
1940).

A.G. Op. 90-b (Apr. 5,
1955).
A.G. Op. (Dec. 9, 1976)
(informal letter opinion).

b. Elected officials and city employment

The League is often asked if an elected city official can also be employed by the city. There is an exception to the conflict of interest law that allows a contract to be made with an interested official if the contract is not required to be competitively bid. This exception appears to permit a city to hire an elected official as an employee, since contracts for professional services and employment are not required to be competitively bid.

However, there are several issues that must be considered to determine whether this is permissible in any specific situation.

(1) Full-time employment

Neither the mayor nor any city councilmember may also be a "full-time, permanent" city employee. Full-time, permanent employment is defined by the city's employment policy.

(2) Part-time employment

For part-time employment, it must be determined if the two positions are incompatible. If the positions are incompatible, an individual may not serve in both positions at the same time.

c. Contracts with family members

The conflict of interest laws do not directly address conflicts that may arise out of family relationships. The courts of other states generally have held that family relationship alone has no disqualifying effect on the making of a contract. There must generally be proof that a councilmember has a financial interest in the contract. Non-contractual situations are similar.

Under existing law, spouses are responsible for each other's necessities. A contract with the councilmember's spouse in a statutory city may violate the law if the councilmember has a direct or indirect interest in it. The attorney general has construed the law broadly to hold such contracts invalid. If the money earned under the contract is used to support the family, the councilmember derives some benefit. In this type of situation, the attorney general has held that there is an indirect interest in the contract.

However, in more recent opinions, the attorney general has taken the position that each case turns on its individual facts. If a spouse who contracts with the city uses the earnings from the contract individually and not to support the family, the contract probably would not be invalid simply because the spouse is a councilmember.

RELEVANT LINKS:

Minn. Stat. § 363A.08, subd. 2.

Minn. Stat. § 363A.08, subd. 2.

Minn. Stat. § 15.054.

Minn. Stat. § 15.054.

A.G. Op. 469a-12 (Aug. 30, 1961). A.G. Op. 90-a-1 (Sept. 28, 1955).

Minn. Stat. § 471.87.
Minn. Stat. § 609.43.

A.G. Op. 90a-1 (Apr. 22, 1971).

City of Chaska v. Hedman, 53 Minn. 525, 55 N.W. 737 (1893). *Currie v. Sch. Dist. No. 26*, 35 Minn. 163, 27 N.W. 922 (1886). *Bjelland v. City of Mankato*, 112 Minn. 24, 127 N.W. 397 (1910).

However, if the facts tend to show otherwise, the legality of the contract may be in doubt. In short, the mere fact of the relationship does not affect the validity of the contract.

While it is easier to find that a councilmember has a personal financial interest in a contract involving his or her spouse, a marital relationship alone may not make the contract invalid.

The Minnesota Human Rights Act prohibits discrimination in employment based upon marital status. Making inquiries into the marital status of employees or applicants for city positions is not recommended.

d. Sale of city property

Officers and employees of the state or its subdivisions are generally prohibited from selling government-owned property to another officer or employee of the state or its subdivisions. This does not apply to the sale of items acquired or produced for sale to the general public in the ordinary course of business. In addition, the law allows government employees and officers to sell public property if the sale is in the normal course of their duties.

Property that is no longer needed for public purposes may be sold to an employee (but not an officer) if the following conditions are met:

- There has been reasonable public notice.
- The property is sold by public auction or sealed bid.
- The employee who buys the property was not directly involved in the auction or sealed response process.
- The employee is the highest responsible bidder.

The attorney general has also concluded that cities may not contract to purchase land from or sell land to their city council members.

4. Violations

A public officer who violates the conflict of interest law is guilty of a gross misdemeanor and can be fined up to \$3,000 and imprisoned up to one year. Any contract made in violation of the conflict of interest law is generally void. Public officers, who knowingly authorize a prohibited contract, even though they do not receive personal benefit from it, may be subject to criminal penalties as well.

When a city enters into a contract that is beyond the city's powers, there will generally be no city liability for the contract. Even when the contract is within the city's powers, any contract made in violation of the unlawful interest statutes is generally void. As a result, such a contract cannot be the basis of a lawsuit.

RELEVANT LINKS:

Stone v. Bevans, 88 Minn. 127, 92 N.W. 520 (1902).
City of Minneapolis v. Canterbury, 122 Minn. 301, 142 N.W. 812 (1913).
Currie v. Sch. Dist. No. 26, 35 Minn. 163, 27 N.W. 922 (1886).
Singewald v. Minneapolis Gas Co., 274 Minn. 556, 142 N.W.2d 739 (1966).

Stone v. Bevans, 88 Minn. 127, 92 N.W. 520 (1902).

Frisch v. City of St. Charles, 167 Minn. 171, 208 N.W. 650 (1926).
Mares v. Janutka, 196 Minn. 87, 264 N.W. 222 (1936).

Nevada Commission on Ethics v. Carrigan, 131 S. Ct. 2343 (2011).

63C Am. Jur. 2d Public Officers § 246.

However, a city may be legally blocked from performing an illegal contract.

If a contract is invalid and does not fall under the cited exceptions, it does not matter that the interested councilmember did not vote or participate in the discussion. Likewise, it does not matter that the interested councilmember's vote was not needed for the council's approval of the contract. It is the conflict of interest that matters. Even if the councilmember acted in good faith and the contract was fair and reasonable, the contract is generally void if it is prohibited by the conflict of interest.

When a prohibited contract is made with an interested councilmember, the councilmember may not recover on the contract. Nor may a councilmember recover value on the basis of an implied contract. If a councilmember has already received payment, restitution to the city can be compelled. For example, if the mayor is paid for services to the city under an illegal contract, a taxpayer could sue to recover the money for the city. It does not matter that the mayor was not present at the meeting at which the agreement for compensation was adopted.

If a councilmember has made an unlawful sale of goods to the city and the goods can be returned, a court will probably order it and prohibit any payment for the goods. This might be ordered when a lot has been purchased from a councilmember and no building has been erected on it, or if supplies, such as lumber, have been bought and not yet used. However, if the goods cannot be returned and if the contract was not beyond the powers of the city and there was no fraud or collusion in the transaction, the court will determine the reasonable value of the property and permit payment on the basis of the value received.

In case of doubt, it is wise to assume a city cannot contract with one of its officers. If the contract is necessary, a legal opinion or court ruling should be secured before proceeding.

B. Non-contractual situations

While the laws discussed previously relate only to contracts with interested officials, courts throughout the country, including the Minnesota Supreme Court, have followed similar principles in non-contractual situations.

Any city official who has personal financial interest in an official non-contractual action is generally disqualified from participating in the action. This is especially true when the matter concerns the member's character, conduct, or right to hold office. Conflicts can also arise when the official's own personal interest is so distinct from the public interest that the member cannot fairly represent the public interest.

RELEVANT LINKS:

Lenz v. Coon Creek Watershed Dist., 278 Minn. 1, 153 N.W.2d 209 (1967).

Gonsalves v. City of Dairy Valley, 71 Cal. Rptr. 255 (Cal. Ct. App. 1968).

Lenz v. Coon Creek Watershed Dist., 278 Minn. 1, 153 N.W.2d 209 (1967).
Township Bd. of Lake Valley Township v. Lewis, 305 Minn. 488, 234 N.W.2d 815 (1975).

In general, when an act of a council is quasi-judicial, no member who has a personal interest may take part. Some would argue that the member's participation makes the decision voidable, even if his or her vote was not necessary. The bias of one councilmember could make a city council's decision arbitrary.

When there is a disqualifying personal interest, the action is not necessarily void. In contrast to the rules regarding conflict of interest in contract situations, the official action may be valid if the required number of non-interested council members approved the action.

1. Disqualifying interest—factors

The Minnesota Supreme Court has utilized several factors when determining whether a disqualifying interests exists:

- The nature of the decision.
- The nature of the financial decision.
- The number of interested officials.
- The need for the interested officials to make the decision.
- Other means available, such as the opportunity for review.

When an administrative body has a duty to act on a matter and is the only entity capable of acting, the fact that members may have had a personal interest in the result may not disqualify them from performing their duties.

A very relevant factor is whether other means are available to ensure city officials will not act arbitrarily or in furtherance of self-interests. In one case, the court took into account the fact that a decision by a board of managers could be appealed to the state water resources board. In another case, the court said that the ability to appeal to the district court would adequately protect owners from any possible prejudice.

2. Common concerns

a. Self-judgment

On the theory that no person should be the judge of his or her own case, courts have generally held that an officer may not participate in proceedings where he or she is the subject. As a result, councilmembers are probably prohibited from judging themselves on an offense in which the majority of the council participated. Likewise, determination of a councilmember's residency may be one such issue from which an interested officer should abstain.

RELEVANT LINKS:

Minn. Stat. § 471.46.
Minn. Stat. § 415.15.
A.G. Op. 471M (Oct. 30,
1986).

Section V, *Compatibility of
offices.*

Minn. Stat. § 415.11.
A.G. Op. 471-K (May 10,
1976).

Minn. Stat. § 412.191, subd.
1.

A.G. Op. (Apr. 14, 1975)
(informal letter opinion).

A.G. Op. (Dec. 9, 1976)
(informal letter opinion).

Minn. Stat. § 363A.08, subd.
2.

A.G. Op. 430 (Apr. 28,
1967).

b. Self-appointment

Generally, city officials may not appoint a councilmember to fill a vacancy in a different elected position, even if he or she resigns from their existing position before the new appointment is made. However, councilmembers may be appointed mayor or clerk, but may not vote on their appointment.

For appointments to non-elective positions, the general rule is that an official has a conflict in terms of self-interest. This conflict disqualifies the official from participating in the decision to appoint him- or herself. Appointing one council member to serve in two positions simultaneously is a question of compatibility of the two offices or positions.

c. Council compensation

State law authorizes a council of any second, third or fourth class city in Minnesota to set its own salary and the salary of the mayor by ordinance. However, increases in salary cannot begin until after the next regular city election. Since every councilmember has a personal interest in his or her compensation, the need for interested officials to make the decision is unavoidable in this situation.

A special situation is involved in setting the clerk's salary in a Standard Plan statutory city. In these cities, the clerk is elected and is thus a voting member of the council. While the other councilmembers may vote on the clerk's compensation without any disqualifying self-interests, it is probably best for the clerk not to vote on his or her own salary.

d. Family connections

In an informal letter opinion, the attorney general has advised that a councilmember was not disqualified from voting on a rezoning because his father owned legal title to the tract in question. The attorney general has also advised that a prohibited interest does not necessarily arise when the spouse of a city employee is elected mayor. The opinion carefully avoids any statement about future action of the council on the existing employment relationship.

The Minnesota Human Rights Act prohibits discrimination in employment based upon marital status. Making inquiries into the marital status of employees or applicants for city positions is not recommended.

e. Business connections

Business interests can also create conflicts—even if there is no personal financial interest under the general law.

RELEVANT LINKS:

A.G. Op. 90e (Aug. 25, 1997).

In one situation, the attorney general advised that a housing authority commissioner had a conflict when—as a foreman—he would aid his employer, a contractor, in making a bid to the housing authority.

In a different opinion, the attorney general found that a mayor or councilmember would not be disqualified from office because he was an employee of a nonprofit corporation that provided public access cable service to the city, but must abstain from participating in any related actions.

f. Land use

Since a city council must deal with land matters within its jurisdiction, it is almost inevitable that such decisions will affect property owned or used by one of its members.

(1) Property ownership

Whether or not property ownership disqualifies a councilmember from participating in a land use decision will depend (to some extent) on the nature of the decision and the numbers of persons or properties affected.

At one extreme is adoption of a new zoning ordinance (or a comprehensive revision of an existing ordinance) that may impact all property in the city. In this situation, the councilmember's interest is not personal and he or she should be able to participate. If this was not allowed, such ordinances might never be adopted.

At the other extreme is the application for a zoning variance or special use permit that only applies to a councilmember's property. Such a specific, personal interest will likely disqualify the member from participating in the proceedings. However, the councilmember should still be able to submit the required application to the city.

Between these two extremes are those proceedings affecting some lots or parcels, one of which a councilmember owns. In such situations, it is a question of fact whether the councilmember should not vote. In such circumstances, the council must decide whether the member should be disqualified—a decision which is subject to review in the courts if challenged. In many situations where the right to vote is questioned, an interested councilmember will refrain from participating in order to avoid the "appearance" of impropriety.

RELEVANT LINKS:

Continental Property Group, Inc. v. City of Minneapolis, No. A10-1072 (Minn. Ct. App. May 3, 2011) (unpublished opinion).

LMC information memo, *Special Assessment Guide*.

Petition of Jacobson, 234 Minn. 296, 48 N.W.2d 441 (1951).

Lenz v. Coon Creek Watershed Dist., 278 Minn. 1, 153 N.W.2d 209 (1967).

A.G. Op. 59a-32 (Sept. 11, 1978).

(2) Bias

Personal bias can also be a concern. In one case, a biased councilmember voting on a land use matter made the council's decision arbitrary. As a result, the court determined that the property buyer's due process rights were violated and returned the matter for a new hearing—one where the biased councilmember would not participate.

(3) Local improvements and special assessments

A councilmember owning land to be benefited by a local improvement is probably not prohibited from petitioning for the improvement, voting to undertake it, or voting to adopt the resulting special assessment. Although one Minnesota decision found an interested county board member's participation on a county ditch proceeding inappropriate, a subsequent case found otherwise. These two cases can also be distinguished on their facts.

The first concerned a proposed county ditch that bypassed a county board member's property. Although the board member participated in preliminary proceedings, he did not attend the final hearing. The court vacated the county board's order establishing the proposed ditch since the preliminary proceedings may have had a substantial effect on later actions taken at the final hearing. The court said the board member should not have participated in any of the proceedings regarding the project.

The court in the second case found there was no disqualifying conflict of interest when four of the five managers of a watershed district owned land that would be benefited by a proposed watershed district improvement project. The court recognized the situation was similar to those where members of a city council assess lands owned by them for local improvements. As a result, the court found this potential conflict of interest did not disqualify the district board members from participating in the improvement proceedings.

It is possible a councilmember's property ownership might result in a more favorable treatment of that property in an assessment project. If that happened, the assessment might be challenged for arbitrariness and set aside—whether or not the councilmember participated in the proceedings.

(4) Zoning

The attorney general has advised that a council is not prevented from rezoning property owned by a councilmember (or property owned by his or her client). However, the councilmember may not participate in those proceedings.

RELEVANT LINKS:

A.G. Op. 471-f (Sept. 13, 1963).

LMC information memo, *Dangerous Properties*.

Webster v. Bd. of County Comm'rs of Washington County, 26 Minn. 220, 2 N.W. 697 (1897).

Section VII-C-2-d, *HRAs and EDAs*.

Rowell v. Bd. of Adjustment of the City of Moorhead, 446 N.W.2d 917 (Minn. Ct. App. 1989), *abrogated on other grounds by Krummenacher v. City of Minnetonka*, 783 N.W.2d 721 (Minn. 2010).

Webster v. Bd. of County Comm'rs of Washington County, 26 Minn. 220, 2 N.W. 697 (1897).

In an earlier opinion, the attorney general said it was a question of fact whether a town board member had a disqualifying interest for having sold land that was the subject of rezoning. However, the attorney general appeared to assume that if the board member had a sufficient interest in the land, the member would be disqualified from voting on the rezoning.

(5) Condemnation

While a councilmember's ownership interest in land subject to condemnation seems to preclude participation in any council actions regarding the property, Minnesota courts have not ruled directly on this question. However, the Minnesota Supreme Court did not disqualify a county board member from participating in condemnation proceedings to establish a highway when the board member owned land adjoining the proposed highway. The court suggested the decision might have been different if the owner had been entitled to damages if the highway had gone through his property.

(6) Renewal and redevelopment

An interest in property subject to urban renewal may be grounds for disqualification. However, when the property is within a larger urban renewal program, but not in the project area subject to the decision, it is arguable the councilmember would not be disqualified from voting. Since there have been no Minnesota cases addressing this issue, councilmembers with these types of interests may wish to abstain from voting or seek an opinion from the city attorney regarding the appropriateness of their participation.

(7) Church affiliation

The Minnesota Court of Appeals held that a zoning board member was not disqualified from voting on a zoning variance requested by that member's church. The court found the nature of the financial interest could not have influenced the voting board member. The person's membership in the church, without evidence of a closer connection, was not a sufficiently direct interest in the outcome to justify setting aside the board's zoning action.

g. Streets

(1) Acquisition

As previously noted, the Minnesota Supreme Court has held that a county board member who owned land adjoining a proposed county highway did not have a disqualifying interest preventing him from voting on the establishment of the highway.

RELEVANT LINKS:

Township Bd. of Lake Valley Township v. Lewis, 305 Minn. 488, 234 N.W.2d 815 (1975).

LMC information memo, *Acquisition and Maintenance of City Streets*.

A.G. Op. 396g-16 (Oct. 15, 1957).
Petition of Jacobson, 234 Minn. 296, 48 N.W.2d 441 (1951).
LMC information memo, *Vacation of City Streets*.

A.G. Op. 218-R (Apr. 29, 1952).

E.T.O., Inc. v. Town of Marion, 375 N.W.2d 815 (Minn. 1985).

Minn. R. 7515.0430, subp. 5.

The board member's interest was similar to that of the rest of the public and differed only in degree. A different decision may have been reached, however, had the highway gone through the commissioner's land.

The Minnesota Supreme Court also refused to disqualify a town board supervisor that asked a landowner to circulate a petition for a road. The court reasoned that the decision to establish a town road is, by its very nature, of interest to all local citizens, including board members who may be in the best position to know the need for a road. The court also stated that the ability of affected property owners to appeal to the district court would adequately protect them from any possible prejudice.

(2) Vacation

It is arguable that a street vacation is not essentially different from the establishment of a street, where abutting owners have been held not to have a disqualifying interest. However, the attorney general advised that a councilmember who had an interest in property abutting a street proposed for vacation could not participate in the vacation proceedings.

h. Licenses and permits

When a councilmember is an applicant for a license or a permit that requires council approval, the member's personal (often financial) interest should prevent his or her participation in the decision-making process.

In some situations, a councilmember may have a possible conflict of interest even if he or she is not the licensee. The attorney general said that a councilmember who was a part-time employee of a licensee could not vote on reducing the liquor license fee if it could be shown that the councilmember was personally interested. For example, if the fee reduction would affect the councilmember's compensation or continued employment, he or she would obviously have a personal financial interest in the decision. However, whether an individual's personal interest is sufficient to disqualify him or her from voting on the decision is a question involving specific facts that must be determined on a case-by-case basis.

In a similar case, the Minnesota Supreme Court held that a town board member who owned property across from a bar was disqualified from voting on the license renewal. The town board member stated his property had been devalued by \$100,000 since the bar opened, and he was elected to the board based largely on his opposition to the bar. The court stated, "A more direct, admitted, financial interest is hard to imagine."

A state rule prohibits a councilmember from voting on a liquor license for a spouse or relative. The rule does not define who is included as a "relative," so cities may need to consult with their city attorney for guidance in specific situations.

RELEVANT LINKS:

Nodes v. City of Hastings,
284 Minn. 552, 170 N.W.2d
92 (1969).

*1989 Street Improvement
Program v. Denmark
Township*, 483 N.W.2d 508
(Minn. Ct. App. 1992).
"Voting Riddles," *Minnesota
Cities* (Apr. 2007, p. 17).

State ex rel. Hilton v. Sword,
157 Minn. 263, 196 N.W.
467 (1923).
Kenney v. Goergen, 36 Minn.
190, 31 N.W. 210 (1886).

*McCutcheon v. City of St.
Paul*, 298 Minn. 443, 216
N.W.2d 137 (1974).

3. Consequences

Actions taken where a councilmember with a disqualifying interest participated may be valid if the result would have been the same without the interested official's vote. For example, the Minnesota Supreme Court considered a decision by a three-member civil service commission to terminate a police officer for failing to pay his financial debts. The court held that it would have been a "better practice" for the commission member who had been a creditor of the officer to have disqualified himself and abstained from voting. However, the court held that the interested commission member's participation in a unanimous decision did not invalidate the commission's decision.

Councilmembers who have a disqualifying interest in a matter are generally excluded when counting the number of councilmembers necessary for a quorum, or for the number necessary to approve an action by a four-fifths vote, such as approving a special assessment.

C. Recommendation

City officials concerned about conflicts of interest in contractual or non-contractual situations should:

- Consult the city attorney.
- Disclose the interest as early as possible (orally and in writing).
- Not attempt to influence others.
- Not participate in any discussions (when possible, leave the room when the governing body is discussing the matter).
- Follow the statutory procedures provided for the contracting exceptions.
- Abstain from voting or taking any other official actions unless the city attorney determines that there is no prohibited conflict of interest.

V. Compatibility of offices

Whether a city official can also serve the city or other government entity in some other capacity is quite complicated. State laws generally do not prevent a person from holding two or more governmental positions. However, without specific statutory authority, government officials cannot hold more than one position if the functions are incompatible or if the jobs create a conflict between two different public interests.

The common law doctrine of incompatibility applies to the functions of two inconsistent offices. However, there is no clear definition of what constitutes an "office" for the purpose of this law. Certainly it would include all elected offices.

RELEVANT LINKS:

"Compatibility of Offices,"
House Information Brief
(July 2012).

5 U.S.C. §§ 7321-7326.
5 C.F.R. § 734.101.

Minn. Stat. § 43A.32.
Minnesota Management &
Budget, 400 Centennial
Building, 658 Cedar Street,
St. Paul, MN 55155; (651)
201-8000.

Minn. Stat. § 410.191.
Minn. Stat. § 412.02, subd.
1a.

Kenney v. Goergen, 36 Minn.
190, 31 N.W. 210 (1886).
State ex rel. Hilton v. Sword,
157 Minn. 263, 196 N.W.
467 (1923).

But, it can also include appointed offices such as city administrators, managers, and police chiefs. Generally, an office has greater responsibility, importance, and independence than mere city employment.

A. Public employment

1. Federal employees

Federal employees are generally prohibited from being candidates in local partisan elections. An election is considered "partisan" if candidates are elected as representing political parties.

2. State employees

State employees generally can run for and hold local elected office as long as there is no conflict with their regular state employment. The commissioner of the department of management and budget will determine whether a conflict exists.

3. City employment

Neither the mayor nor any city councilmember may also be a "full-time, permanent" city employee. Full-time, permanent employment is defined by the city's employment policy.

For "part-time" positions, it must be determined if the elements or responsibilities of the two positions are incompatible with one another. If the two positions are incompatible, an individual may not serve in both positions at the same time.

B. Incompatible offices—elements

Offices are generally incompatible when a specific statute or charter provision:

- States that one person may not hold two or more specific positions.
- Requires that the officer may not take another position.
- Requires that the office devote to the position full-time.

In addition, positions may be determined to be incompatible with one another. This typically occurs when the holder of one position (or the group or board of which the person is a member):

- Hires or appoints the other.
- Sets the salary for the other.
- Performs functions that are inconsistent with the other, for example, a person cannot supervise or evaluate himself or herself.

RELEVANT LINKS:

Minn. Stat. § 410.05, subd. 1.

Minn. Stat. § 469.003, subd. 6.
Minn. Stat. § 469.095, subd. 2.
Minn. Stat. § 481.17.

A.G. Op. 358e-9 (Feb. 10, 1912).
A.G. Op. No. 639 (Mar. 7, 1919).
A.G. Op. 358e-3 (July 29, 1997).
A.G. Op. 90e (Aug. 25, 1997).

Minn. Stat. § 420.03.
Minn. Stat. § 273.061, subd. 1c.

A.G. Op. 358e-1 (Feb. 21, 1947).
A.G. Op. 358e-3 (Mar. 6, 1946).

- Approves the official or fidelity bond of the other.

C. Specific offices

It is important to remember that incompatibility often depends on the nature of the offices and their relationship to one another. So, while offices may have been determined to be incompatible in the past, a different conclusion could be reached based on current relationships or responsibilities. A city official who is considering seeking an additional office should obtain a legal opinion from the city attorney on the compatibility of the two offices.

1. Compatible offices

The following offices are compatible pursuant to state statute:

- City charter commission member and any elective or appointed office other than judicial (however, the city charter may specifically exclude councilmembers from serving on the charter commission).
- City councilmember and HRA commissioner.
- City councilmember and EDA commissioner.
- City attorney and county attorney (in counties with a population under 12,000).

In addition, the attorney general has found the following offices compatible:

- City councilmember and county treasurer.
- City mayor and court administrator.
- City attorney and assistant county attorney.
- City councilmember and officer of nonprofit, public-access cable service provider.

2. Incompatible offices

The following offices are incompatible pursuant to state statute:

- Firefighter's civil service commission member and any other office or employment under the city, the United States, or any of the state's political subdivisions.
- City councilmember and county assessor.

In addition, the attorney general has found the following offices incompatible:

- Mayor and city councilmember.
- Councilmember and city attorney.

RELEVANT LINKS:

A.G. Op. 358e-7 (Mar. 5, 1965).
A.G. Op. 358 (Dec. 18, 1970).
A.G. Op. 358e-9 (Dec. 13, 1939).
A.G. Op. 358f (May 21, 1954).
A.G. Op. 358f (June 30, 1955).
A.G. Op. 358a-1 (Feb. 25, 1958).
A.G. Op. 218-R (Feb. 25, 1946).

A.G. Op. 358-E-4 (Jan. 19, 1965).
Minn. Stat. § 471.88, subd. 6.

A.G. Op. 358-E-9 (Apr. 5, 1971).

A.G. Op. 90-E (Apr. 17, 1978).

Minn. Stat. § 412.152.

Minn. Stat. § 410.33.

- Councilmember and city treasurer.
- City attorney and city treasurer.
- Mayor and school board member.
- Councilmember and school board member.
- Councilmember and school board treasurer.
- City councilmember and county assessor.
- Councilmember and municipal liquor store manager.

3. Fire departments

City officials are often interested in whether a member of the city fire department—perhaps the chief or another officer—can also serve on the city council. It is, unfortunately, not an easy question to answer.

In 1965, the attorney general advised that a councilmember could also be a member of a volunteer city fire department under the exception to the conflict of interest law that permits contracts with a volunteer fire department for payment of compensation or retirement benefits. But in a later opinion, the attorney general advised that the fire chief of a municipal fire department automatically vacated the office of fire chief when he accepted a seat on the city council. This opinion did not mention the exception listed in the conflict of interest law or the 1965 opinion.

In 1978, the attorney general considered the issue again and advised that the exception to the conflict of interest law allows a councilmember to be a member of an independent volunteer fire department when a contract for compensation or retirement benefits is negotiated, as long as the procedural requirements for the exception are followed. The attorney general also explained that the reason for the different results in the two earlier opinions was because the 1965 opinion involved a fire department member who was not an officer and the 1971 opinion involved a fire department member who was the fire chief.

In 1997, the Minnesota Legislature attempted to clarify the issue by allowing one person to hold the position of statutory city mayor and fire chief of an independent, nonprofit firefighting corporation that serves the city. Although the statute is specifically for statutory cities, home rule charter cities may be able to use it if their charters are silent on the matter. Basically, the mayor and fire chief positions are not incompatible as long as:

- The mayor does not appoint the fire chief.
- The mayor does not set the salary or the benefits of the fire chief.
- Neither office performs functions that are inconsistent with the other.

RELEVANT LINKS:

A.G. Op. 358-E (Feb. 18, 1958).
State ex rel. Hilton v. Sword,
157 Minn. 263, 196 N.W.
467 (1923).

"Compatibility of Offices,"
House Information Brief
(July 2012).

- Neither office contracts with the other in their official capacity.
- The mayor does not approve the fidelity bond of the fire chief.

The statute remains unclear on several points, however. It does not address council positions other than the mayor. It also appears to be limited to independent, nonprofit fire departments, so city departments (whether volunteer or salaried) are not addressed. And although it outlines general criteria under which there will not be incompatibilities, there is still some vagueness regarding what functions would be considered inconsistent.

Because each city has a different relationship with its fire department, a city may want to get a legal opinion from its attorney or from the attorney general before allowing a councilmember to serve as a volunteer firefighter with any sort of supervisory powers.

D. Consequence—automatic resignation

An individual generally can run for election to a position that is incompatible with the position the person already holds without resigning from the first position. However, when an official qualifies for a second and incompatible position (by taking an oath and filing a bond, if necessary), he or she automatically resigns from the first position, which then becomes vacant.

Whether two offices are incompatible will depend upon the responsibilities of each of the offices and their relationship. Cities with questions may wish to secure a legal opinion from the city attorney or the attorney general.

VI. Codes of conduct

Ethical expectations can be difficult to convey. In addition, the conflict of interest (or "ethics") laws are scattered throughout many statutes and court cases, making them difficult to find and hard to interpret. As a result, some cities have developed and adopted their own policies on ethics and conflicts of interest. These policies must be consistent with state law and generally take two forms: a values statement expressing core principles for ethical conduct, or a formal code of conduct. Cities may adopt a values statement or a code of conduct or both. However, it is important to note that state law does not require formal adoption of a city ethics policy.

A. LMC Ethics Advisory Panel

The work of the LMC Ethics Advisory Panel resulted in two documents—the Model Statement of Values and the Template Code of Conduct.

RELEVANT LINKS:

LMC's Ethics Advisory
Panel Model Statement of
Values.

LMC's Ethics Advisory
Panel Template Code of
Conduct.

1. Model Statement of Values

The Model Statement of Values is an aspirational document, intended to provide a framework for ethical decision-making. The values it promotes can only be self-enforced, primarily by providing an ethical anchor, raising the quality of discussion and expectations among city officials and those in the community, and by appealing to the conscience of the individual. It would be difficult and likely counterproductive to suggest that such values could be subject to formal review or enforcement action.

Cities may choose to use the Model Statement of Values in a variety of ways, including:

- Providing a copy to all elected officials, advisory commission members, and even city staff members for their reference.
- Using it as the basis for a local workshop or just a discussion to encourage more city and community dialogue about what ethics means in your city.
- Formally adopting it as a statement of the way in which city officials and the community would like to see public business conducted.

2. Template Code of Conduct

The Template Code of Conduct is a law-based document, incorporating very specific standards of behavior that are already written into state statute or that have been handed down by court rulings. The Code of Conduct also offers legal methods for dealing with infractions. By adopting this code at the municipal level, a city council can take self-initiated action to see that these standards are upheld in the community, rather than having to wait on civil litigation initiated by citizens or criminal prosecution by the county attorney.

The Template Code of Conduct should be considered for formal adoption as a city ordinance. The template can locally codify existing and relatively well articulated standards of conduct already required by state law, so enforcement through quasi-judicial review is feasible. When adopting the code, cities need to consider to whom the code applies. Cities also need to formulate a hearing procedure.

This document has been carefully reviewed by LMC legal counsel, and it is recommended that any modifications be considered only after careful review by the city attorney. Cities that choose not to formally adopt the template may still find the document to be a useful and concise reference piece for individual city officials.

RELEVANT LINKS:

International City/County
Management Association's
Code of Ethics (Sept. 2013).

Minn. Stat. ch. 10A.
Minnesota Campaign
Finance and Public
Disclosure Board, 190
Centennial Office Building,
658 Cedar Street, St. Paul,
MN 55155; (651) 539-1180
or (800) 657-3889.

Minn. Stat. § 10A.02.

Minn. Stat. § 10A.02, subd.
12.
Minnesota Campaign
Finance and Public
Disclosure Board, 190
Centennial Office Building,
658 Cedar Street, St. Paul,
MN 55155; (651) 539-1180
or (800) 657-3889.

Minn. Stat. § 10A.01.

Minn. Stat. § 10A.01, subd.
22.

B. Professional rules of conduct

Many professionals have adopted rules of conduct to guide individuals working within those fields. For example, the International City/County Management Association (ICMA) as well as our state's affiliate (MCMA) has adopted a code of ethics that defines a manager's core set of values. These values help define and guide a city manager's ethical obligations to council, other staff, the general public, and the profession itself.

VII. Ethics in Government Act (campaign financing)

In Minnesota, campaign financing is governed by Minnesota Statute chapter 10A, also known as the Ethics in Government Act (Act). The following is a brief overview of some of the major responsibilities of the Act (as well as some related statutes) and how they impact some city officials.

The Act is administered by the Minnesota Campaign Finance and Public Disclosure Board (Board). The Board has four primary responsibilities:

- Campaign finance registration and disclosure.
- Public subsidy administration.
- Lobbyist registration and disclosure.
- Economic interest disclosure by public officials.

Individuals subject to the Act may request an advisory opinion from the Board to guide their compliance with the law. Requests for an opinion (as well as the opinions themselves) are classified as "nonpublic" data, but a "public" version of the opinion is published on the Board's website.

A. Application

All candidates for and holders of state constitutional or legislative offices, as well as other "lobbyists," "principals" and "public officials" are subject to the Act. In addition, while not applicable to all city officials, the Act does apply to "local officials" serving "Metropolitan government units."

1. Local officials

A "local official" is a person who falls into one or both of these categories:

- Holds elected office.

RELEVANT LINKS:

Minn. Stat. § 10A.01, subd.
24.
Minn. Stat. § 473.121, subd.
2.

Minn. Stat. § 10A.01, subd.
21.

Minn. Stat. §§ 10A.03-.05.
“Lobbyist Handbook,”
Minnesota Campaign
Finance and Public
Disclosure Board (Sept.
2013).

Minn. Stat. § 10A.01, subd.
33.

Minn. Stat. § 10A.04, subd.
6.

- Is appointed to a public position in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

2. Metropolitan government units

The Act applies to local officials in “metropolitan government units,” which includes cities with populations over 50,000 in the seven-county metro area.

3. Advocates

The Act contains broad reporting requirements for individuals and associations who try to influence the decision-making process.

a. Lobbyists

A “lobbyist” is an individual who:

- Is paid more than \$3,000 from all sources in any year attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit by communicating (or urging others to communicate) with public officials or local officials.
- Spends more than \$250 (not including travel expenses or membership dues) in any year attempting to influence legislative or administrative action, or the official actions of a metropolitan government unit by communicating (or urging others to communicate) with public officials or local officials.

Lobbyists must register with and report their expenditures to the Board by January 15 and June 15 each year. These reports must include gifts and items valued at \$5 or more given to local officials, state lawmakers, or other public office holders.

b. Principals

A “principal” is an individual or association that spends more than \$500 in any calendar year for a lobbyist or \$50,000 or more in a calendar year to influence legislative action, administrative action, or the official action of metropolitan governmental units. Principals must file spending reports with the Board.

RELEVANT LINKS:

Minn. Stat. § 10A.04.
Minn. Stat. § 10A.01, subd.
21.

Minn. Stat. § 10A.071, subd.
1(b).
Section III, *Gifts*.

Minn. Stat. § 10A.071, subd.
2.

Minn. Stat. § 10A.071, subd.
3.

Minn. Stat. § 10A.01, subd.
11.

c. City advocates

City employees and non-elected city officials who spend more than 50 hours in any month on lobbying activities must also register and submit expense reports with the Board.

B. Gift ban

A “gift” is defined as money, property (real or personal), a service, a loan, the forbearance or forgiveness of debt, or a promise of future employment, given and received without the giver receiving equal or greater value in return.

1. Prohibition

A lobbyist or principal may not give gifts, or request that others give gifts to officials, and officials may not accept gifts from lobbyists or principals.

2. Exceptions

The following types of gifts are permitted under exceptions to the general ban:

- Contributions to a political committee, political fund, principal campaign committee, or party unit.
- Services to assist an official in the performance of official duties. Such services can include advice, consultation, information, and communication in connection with legislation and services to constituents.
- Services of insignificant monetary value.
- A plaque with a resale value of \$5 or less.
- A trinket or memento costing \$5 or less.
- Informational material with a resale value of \$5 or less.
- Food or beverage given at a reception, meal or meeting. This exception applies if the recipient is making a speech or answering questions as part of a program that is located away from the recipient’s place of work. This exception also applies if the recipient is a member or employee of the legislature and an invitation to attend was given to all members of the legislature at least five days before the date of the event.
- Gifts received because of membership in a group. This exception does not apply if the majority of group members are officials. In addition, an equivalent gift must also be offered to the other members of the group.
- Gifts between family members. However, the gift may not be given on behalf of someone who is not a member of the family.

RELEVANT LINKS:

Minn. Stat. § 10A.02, subd. 12.
Minnesota Campaign Finance and Public Disclosure Board, 190 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155; (651) 539-1180 or (800) 657-3889.

Minn. Stat. § 10A.01, subd. 24.
Minnesota Campaign Finance and Public Disclosure Forms.

Minn. Stat. § 10A.09.
Minn. R. ch. 4505.

Minn. Stat. § 10A.09, subd. 1.

Minn. Stat. § 10A.09, subd. 2.
Minnesota Campaign Finance and Public Disclosure Board:
Elected Statement of Economic Interest and Appointed Statement of Economic Interest.

Minn. Stat. § 10A.09, subd. 5.

3. Advisory opinions

The Board issues advisory opinions regarding the lobbyist gift ban. These opinions may be relevant to any Minnesota city struggling with the application or implication of a gift ban to a particular situation.

C. Filings and disclosures

Chapter 10A applies to “metropolitan governmental units” and includes some cities. Only local officials (including candidates for elected office) in the seven county metropolitan area cities with a population over 50,000 must submit the following to the Board.

1. Statements of economic interest

Local officials (including candidates for elected office) in cities within the seven-county metropolitan area with a population over 50,000 must file a statement of economic interest with the Board.

a. Time for filing

An individual must file within one of the following timeframes:

- Within 60 days of accepting employment.
- Within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective office.

b. Notification

The county auditor must notify the Board upon receipt of an affidavit of candidacy or a petition to appear on the ballot from someone required to file a statement of economic interest. Likewise, an official who nominates or employs an individual required to file a statement of economic interest must notify the Board. The county auditor or nominating official must provide:

- The individual’s name.
- The date of the affidavit of candidacy, petition, or nomination.

c. Form

Local officials must report the following information:

- Their name, address, occupation, and principal place of business.

RELEVANT LINKS:

- The name of each associated business (and the nature of that association).
- A listing of all real property interests in the state (excluding homestead).
- Any interests connected to pari-mutuel horse racing in the U.S. or Canada.
- A listing of the principal business or professional activity category of each business where the individual receives more than \$50 in any month as an employee, but only if the individual has a 25% or more ownership interest in the business.
- A listing of each principal business or professional activity category where the individual has received more than \$2,500 in compensation in the past 12 months as an independent contractor. (Note: For a person who is a public official before May 22, 2014, the last two bullet points must be provided in supplementary statements due April 15, 2015.)

Minn. Stat. § 10A.09, subd. 6. Minn. R. 4505.0900.

Local officials must file supplementary statements by April 15 of each year, as well as a final statement when leaving office.

d. Access

Minn. Stat. § 10A.09, subd. 6a.

The local official must file the statement with the city council. If an official position is both a public official and a local official of a metropolitan governmental unit, the official must also file the statement with the Board. Statements of economic interest are classified as public data.

e. Pension plan trustees

Minn. Stat. § 356A.06, subd. 4(c).
Minn. Stat. § 424A.04.

Each member of the governing board of a public pension plan must file a statement of economic interest. This applies to the trustees of a local relief association pension plan and includes ex-officio members, such as the mayor and city clerk. The statement must include:

- The person's principal occupation and place of business.
- Whether or not the person has an ownership of or interest of ten percent or greater in an investment security brokerage business, a real estate sales business, an insurance agency, a bank, a savings and loan, or another financial institution.
- Any relationships or financial arrangements that could give rise to a conflict of interest.

Minn. Stat. § 356A.06, subd. 4.

The statement must be filed annually with the plan's chief administrative officer and be available for public inspection during regular office hours. The statement must also be filed with the Board by January 15 of each year.

RELEVANT LINKS:

Minn. Stat. § 383B.053.

Minn. Stat. § 10A.07.
Minn. Stat. § 10A.01, subd.
22.
Minn. R. ch. 4515.

Minn. Stat. § 10A.07, subd.
1.

Minnesota Campaign
Finance and Public
Disclosure Board: Potential
Conflict of Interest Notice.

Minn. Stat. § 10A.07, subd.
1.

Minn. Stat. § 10A.07, subd.
2.
Minn. R. 4515.0500.

f. Hennepin County

There are additional disclosure requirements for elected officials of cities in Hennepin County with a population of 75,000 or greater.

2. Conflicts of Interest

Local officials (including city employees with authority to make, recommend, or vote on major decisions regarding the expenditure or investment of public funds) must disclose certain information if they will be involved in decisions or take actions that substantially affect their financial interests or those of a business with which they are associated. However, disclosure is not required if the effect on the official is no greater than on others in that business classification, profession, or occupation more generally.

a. Disclosure

When conflicts arise, the interested official or employee must:

- Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest.
- Deliver a copy of the notice to his or her superiors.
 - If the official is an employee, notice should be provided to his or her immediate supervisor.
 - If the official reports directly to the city council, notice should be given to the council.
 - If the official is appointed, notice should go to the chair of that board, commission, or committee. If the chair has the conflict, notice should go to the appointing authority—the city council.
 - If the official is elected, the written statement should go to the presiding officer (typically the mayor).
 - If the potential conflict involves the mayor, notice should be provided to the acting presiding officer.

If a potential conflict arises and there is not time to provide written notice, the official must orally inform his or her supervisor or the city council.

b. Delegation or abstention

The official's supervisor must assign the matter to another employee who does not have a potential conflict of interest. If there is no immediate supervisor (as is the case with the city council), the official must abstain from voting or otherwise influencing the decision-making process.

RELEVANT LINKS:

Minn. Stat. § 10A.07, subd. 2.
Minnesota Campaign Finance and Disclosure Board: Inability to Abstain from Potential Conflict of Interest Form.

Minn. Stat. § 469.009.
Minn. Stat. § 469.098.

"Local Officials in a Metropolitan Government Unit Handbook," Minnesota Campaign Finance and Public Disclosure Board (Feb. 2010).

Minnesota Campaign Finance and Public Disclosure Board, 190 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155; (651) 539-1180 or (800) 657-3889.

c. Inability to abstain

If the city official is not permitted to abstain or cannot abstain, he or she must file a statement describing the potential conflict and the action taken. The official must file this statement with the city council within a week of the action.

d. HRAs and EDAs

Before taking an action or making a decision which could substantially affect the commissioner's (or an employee's) financial interests (or those of an organization with which the commissioner or an employee is associated), commissioners or employees of an HRA or EDA are required to disclose their interests. Individuals face criminal penalties for noncompliance.

D. Violations

Individuals who are subject to the Act can be personally responsible for any sanctions that result from failing to comply with the reporting requirements. Criminal and civil penalties are available for individuals who:

- Knowingly file false information or knowingly omit required information.
- Willfully fail to amend a filed statement.
- Knowingly fail to keep records for four years from the date of filing.

Local officials with questions concerning their responsibilities under the Act should contact their city attorney or Board staff.

VIII. Conclusion

All public officials face ethical challenges during the term of their public service. Reviewing the roles elected and appointed officials play within city government helps councils and staff sort out responsibilities, identify and mitigate conflicts of interests, and generally avoid the appearance of impropriety.

Appendix A: Sample Resolution to Contract with a Council Member

Before using this sample, a city should be familiar with the contents of the League of Minnesota Cities information memo, *Official Conflict of Interest* (October 2014).

When using this form as a template, insert appropriate city-specific language where indicated and remove all explanations provided for your reference.

A city wishing to use this sample should review it with the city attorney to determine whether it is suited to the city's circumstances. Because the sample implicates state and federal law, the city attorney should review any modifications to ensure they conform to current law.

Additional samples are available through the LMC Research and Information Service upon request.

SAMPLE RESOLUTION TO CONTRACT WITH A COUNCILMEMBER

Resolution _____

Whereas, the city of _____ desires to purchase the following (*goods / merchandise / equipment / services*): (*describe in detail*);

And whereas, (*name of interested official*) is the (*office held by interested official*) of the city and will be financially interested in the contract;

And whereas, it is determined that the contract price of \$_____ is as low as, or lower than, the price at which the goods can be obtained elsewhere at this time;

In addition, whereas, the contract is not one that is required to be competitively bid.

Now be it resolved by the city of _____, Minnesota that the city clerk is directed to make the above-mentioned purchase on behalf of the city from (*name of interested officer*) for a price

of \$ _____. It is also resolved that the mayor and city clerk are directed to issue an order-check to pay the claim on the filing of an affidavit of official interest by the interested official as required under Minn. Stat. § 471.89.

This resolution is passed to comply with the provisions of Minn. Stat. §§ 471.87-.89.

Passed by unanimous vote of the city council on (day and date).

Mayor

Clerk

Appendix B: Sample Resolution Ratifying Emergency Contract

Before using this sample, a city should be familiar with the contents of the League of Minnesota Cities information memo, *Official Conflict of Interest* (October 2014).

When using this form as a template, insert appropriate city-specific language where indicated and remove all explanations provided for your reference.

A city wishing to use this sample should review it with the city attorney to determine whether it is suited to the city's circumstances. Because the sample implicates state and federal law, the city attorney should review any modifications to ensure they conform to current law.

Additional samples are available through the LMC Research and Information Service upon request.

SAMPLE RESOLUTION RATIFYING EMERGENCY CONTRACT

Resolution _____

Whereas, the city council of (*city name*) has declared that a special emergency is in effect;

And Whereas, immediate action to respond to the situation is needed in order to protect the health, safety, and welfare of the community;

And Whereas, the immediate purchase of (goods/equipment/supplies) was required to respond to the emergency;

And Whereas, Minn. Stat. §§ 365.37 and 415.01 provide that the emergency contract is not subject to the normal purchasing and competitive-bidding requirements because of the emergency.

And whereas, on (*day and date*), the city of _____ purchased the following (*goods / merchandise / equipment / service*) from (*name of company or person with whom the contract was made*): (*specify the type of goods, merchandise, equipment, or services that were bought*);

And whereas, (*name of interested official*) was the (*office held by interested official*) on this date and was personally interested financially in the contract;

And whereas, the purchase could not be authorized in advance because of the following emergency: (*specify emergency*);

And Whereas, the contract price of \$_____ paid for such goods is as low, or lower than the price at which they could be obtained elsewhere at the time the purchase was made;

And whereas, the contract is not one that is required to be competitively bid.

Now be it resolved by the city of _____, Minnesota that the above-mentioned purchase by the city and the claim of the vendor based on it are confirmed and the mayor and clerk are directed to issue an order-check to pay the claim on the filing of an affidavit of official interest by the interested officer as required under Minn. Stat. § 471.89.

This resolution is passed to comply with the provisions of Minn. Stat. §§ 471.87-.89.

Passed by unanimous vote of the council on (*day and date*).

Mayor

Clerk

Appendix C: Sample Affidavit of Official Interest in Claim

Before using this sample, a city should be familiar with the contents of the League of Minnesota Cities information memo, *Official Conflict of Interest* (October 2014).

When using this form as a template, insert appropriate city-specific language where indicated and remove all explanations provided for your reference.

A city wishing to use this sample should review it with the city attorney to determine whether it is suited to the city's circumstances. Because the sample implicates state and federal law, the city attorney should review any modifications to ensure they conform to current law.

Additional samples are available through the LMC Research and Information Service upon request.

SAMPLE AFFIDAVIT OFFICIAL INTEREST IN CLAIM

STATE OF MINNESOTA)
COUNTY OF _____)

I, (*Name of interested officer*), being duly sworn state the following:

- 1) I am (*office held by interested official*) of the city of _____, Minnesota.
- 2) On (*day and date*), the following (*goods / merchandise / equipment / services*) were furnished by (*name of business or individual with whom the contract was made*) to the city of _____: (*specify the type of goods, merchandise, equipment, or services that were purchased*).
- 3) The contract price for such (*goods / merchandise / equipment / services*) was \$_____ and their reasonable value was \$_____.

4) At the time such (goods / merchandise / equipment / services) were furnished to the city,
I had the following personal financial interest in this contract: (specify the nature of the
personal financial interest)

To the best of my knowledge and belief, the contract price is as low as, or lower than the price at
which the (goods / merchandise / equipment / services) could be obtained from other sources.

I further state that this affidavit constitutes a claim against the city for the contract price, that the
claim is just and correct, and that no part of the claim has been paid.

(signature of interested official)

Subscribed and sworn to before me this _____ day of (month), (year).

(signature of notary)

Template Code of Conduct

___01. Purpose.

The city council of the City of _____ determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of _____, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the city council hopes to promote the faith and confidence of the citizens of _____ in their government and to encourage its citizens to serve on its council and commissions.

___02. Standards of Conduct.

Subd. 1. No member of the city council or a city board or commission may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the city council.
- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the city council has authorized the disclosure.
- i. *Represent private interests before the city council or any city committee, board, commission or agency. (optional)*

Subd. 2. Except as prohibited by the provisions of Minn. Stat Sec. 471.87, there is no violation of subdivision 1 b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the city council under the circumstances described under Minn. Stat. Sec. 471.88, if proper statutory procedures are followed.

Attachment
3

.03. Complaint, Hearing.

Any person may file a written complaint with the city clerk alleging a violation of the standards of conduct in section .02. The complaint must contain supporting facts for the allegation. The city council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the city council determines (1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally-recognized conflict of interest, and (2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay. The city council's determination must be made within 30 days of the filing of the allegation with the city clerk. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the city council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission from office.

Model Statement of Values

Preamble

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of _____ has adopted this Statement of Values to promote and maintain the highest standards of personal and professional conduct in the City's government. All (*select*: elected and appointed officials, City employees, and volunteers) are required to subscribe to this statement, understand how it applies to their specific responsibilities, and practice its (*number*) core values in their work. Because we seek public confidence in the City's services and public trust of its decision-makers, our decisions and our work must meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this statement.

The Values

As a Representative of the City of _____,

1. I serve the public interest.
2. I fulfill the duties and responsibilities of holding public office.
3. I am ethical.
4. I am professional.
5. I am fiscally responsible.
6. I am conscientious.
7. I communicate effectively.
8. I am collaborative.
9. I am forward thinking.
10. I am _____.

Value examples/expressions

1. **I serve the public interest. In practice this value means that:**
 - a. I provide courteous, equitable, and prompt service to everyone.
 - b. I am attuned to, and care about, the needs and issues of citizens, public officials, and city workers.
 - c. I am interested, engaged, and responsive in my interactions with constituents.
 - d. I recognize and support the public's right to know the public's business.

2. **I fulfill the duties and responsibilities of holding public office. In practice this value means that:**
 - a. I observe the highest standards of integrity in my official acts and undertake my responsibilities for the benefit of the greater public good.
 - b. I faithfully discharge the duties of my office regardless of my personal considerations, recognizing that the public interest is my primary concern.
 - c. I uphold the Constitution of the United States and the Constitution of the State of Minnesota and carry out impartially the laws of the nation, state, and municipality and thus foster respect for all government.

- d. I comply with both the letter and the spirit of the laws and policies affecting operations of the City.
- e. I recognize my obligation to implement the adopted goals and objectives of the City in good faith, regardless of my personal views.
- f. I conduct myself in both my official and personal actions in a manner that is above reproach.
- g. I do not use my position to secure for myself or others special privileges or exemptions that are different from those available to the general public.
- h. I understand and abide by the respective roles and responsibilities of elected and appointed officials and city staff and will not undermine them in their work.
- i. I am independent, impartial, and fair in my judgment and actions.

3. I am ethical. In practice this value means that:

- a. I am trustworthy, acting with the utmost integrity and moral courage.
- b. I am truthful, do what I say I will do, and am reliable.
- c. I am accountable for my actions and behavior and accept responsibility for my decisions.
- d. I make impartial decisions, free of influence from unlawful gifts, narrow political interests, and financial and other personal interests that impair my independence of judgment or action.
- e. I am fair, distributing benefits and burdens according to consistent and equitable criteria.
- f. I oppose all forms of harassment and unlawful discrimination.
- g. I extend equal opportunities and due process to all parties in matters under consideration.
- h. I show respect for confidences and confidential information.
- i. I avoid giving the appearance of impropriety and of using my position for personal gain.

4. I am professional. In practice this value means that:

- a. I apply my knowledge and expertise to my assigned activities and to the interpersonal relationships that are part of my job in a consistent, confident, competent, and productive manner.
- b. I approach my job and work-related relationships with a positive attitude, contributing to a supportive, respectful, and non-threatening work environment.
- c. I keep my professional knowledge and skills current and growing.
- d. I am respectful of all city staff, officials, volunteers, and others who participate in the City's government.

5. I am fiscally responsible. In practice this value means that:

- a. I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City, especially its financial stability.
- b. I demonstrate concern for the proper use of City assets (e.g., personnel, time, property, equipment, funds), follow established procedures, and do not use public resources for personal gain.
- c. I make decisions that seek to preserve the financial capacity of the City to provide programs and services for City residents.
- d. I provide full disclosure of any potential financial or other private conflict of interest. I abstain from participating in the discussion and vote on these matters.

- e. I prevent misuse of public funds by establishing, maintaining, and following strong fiscal and management controls.
 - f. I report any misuse of public funds of which I am aware.
- 6. I am conscientious. In practice this value means that:**
- a. I act in an efficient manner, making decisions and recommendations based upon research and facts, taking into consideration short and long term goals.
 - b. I follow through in a responsible way, keeping others informed, and responding in a timely fashion.
 - c. I am respectful of established City processes and guidelines.
 - d. I prioritize my duties so that the work of the City may move forward.
 - e. I prepare for all meetings by reviewing any materials provided ahead of time. When I have materials to contribute, I make sure all others involved have ample time to review these materials prior to the meeting.
- 7. I communicate effectively. In practice this value means that:**
- a. I convey the City's care for and commitment to its citizens.
 - b. I communicate in various ways that I am approachable, open-minded, and willing to participate in dialog.
 - c. I engage in effective two-way communication by listening carefully, asking questions, and responding appropriately which adds value to conversations.
 - d. I do not interfere with the orderly conduct of meetings by interrupting others or making personal comments not germane to the business at hand.
 - e. I follow up on inquiries in a timely manner.
 - f. I encourage and facilitate citizen involvement in policy decision-making.
 - g. I am respectful in disagreements and contribute constructively to discussions on the issue.
- 8. I am collaborative. In practice this value means that:**
- a. I act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding to accomplish common goals.
 - b. I share information with others in a timely manner so that, together, we can make informed decisions.
 - c. I work towards consensus building and gain value from diverse opinions.
 - d. I accomplish the goals and responsibilities of my individual position, while respecting my role as a member of a team.
- 9. I am forward thinking. In practice this value means that:**
- a. I promote intelligent, proactive, and thoughtful innovation in order to advance the City's policy agenda and provide City services while considering the broader regional, state-wide, national, and international implications of the City's decisions and issues.
 - b. I maintain consistent standards, but am also sensitive to the need for compromise, creative problem solving, and making improvements when appropriate.
 - c. I am open to new ideas and processes, adopting them as they conserve resources and provide efficient and effective service.
 - d. I consider the potential long-term consequences and implications of my actions and inactions.

Lino Lakes City Council

CODE OF CONDUCT

Purpose

To establish a code of conduct and associated remedies that council members agree to abide by in carrying out their duties as elected officials. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate council expectations, behavior and interactions with each other, city staff, citizens and all other groups encountered as a result of city business, so as to efficiently and effectively develop and carry out the mission, vision, goals and established policies of the city.

Roles/Responsibilities

Meetings – By ~~Charter~~^{Statute}, the mayor presides over meetings of the city council. Speakers, including council members, do not speak until recognized by the mayor.

Act in the Public Interest – Recognizing that service to our citizens must be our primary concern, council members shall work for the common good of the people of Lino Lakes and not for any private or personal interest. Council members will treat all persons, claims and transactions in a fair and equitable manner.

Preparation – Council members are expected to be prepared for city council meetings and work sessions.

Agenda Preparation – The city administrator directs preparation of draft meeting agendas. The final agenda is determined by the city council prior to the meeting. At the council meeting, agenda items may be added or deleted by council members per procedures established in the city code.

Conduct of Members

Staff Direction – The mayor and city council members direct city staff, contract employees and consultants only through the city administrator, as determined by majority vote. At work sessions, the mayor will state the concerns of the council or specific directions provided by the council to the staff. The city administrator will request further clarification if he feels it is required so that there is a clear understanding of what the council's expectations are in terms of the actions to be taken by staff.

Respect for Staff Time – If a council member is utilizing an inordinate amount of staff time, the city administrator is required to bring this to the attention of the city council for resolution.

Interactions – Council members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the city council, boards, commissions, committees, staff or the public.

Respect for Process – Council member duties shall be performed in accordance with the processes and rules of order established by the city council.

Use of Public Resources – Public resources not available to the general public (e.g., city staff time, equipment, supplies or facilities) shall not be used by council members for private, personal or political purposes.

Advocacy – To the best of their ability, council members shall speak with one voice in representing the official policies and positions of the city council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the council or the city.

Improper Influence – Council members shall refrain from using their position to improperly influence the deliberations or decisions of city staff, boards, commission or committees.

Positive Work Environment – Council members shall support a positive, efficient and effective environment for residents, businesses and city employees.

A **Steward of City Funds** – When the end of a council member's service on the city council has been determined by means of not seeking re-election, resignation, or the results of an election, that council member shall not subject the city to unnecessary travel and/or tuition costs.

Communication

Sharing of Information – It is the responsibility of council members to publicly share information with all other council members that they have received from sources outside of the public decision-making process, which pertains to a topic under consideration. Whenever possible, new information or data obtained by council members, pertinent to a topic being discussed, will be distributed through the city administrator to the city council members. Upon reviewing the “new information” the council may adopt a motion to postpone further consideration of the information until all members have had time to review and interpret this new information.

Focused Discussions – Council members shall work to keep discussions and debates focused on the item under discussion without introducing extraneous or irrelevant information.

Request for Information- All council members shall receive the same information at the same time when deemed ready for distribution by staff. If an elected official requests information in advance of others on the city council, the matter shall be resolved by a majority of the city council.

Coordination with City Staff – City staff should be involved when council members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff appropriately informed.

Citizen Questions – Elected officials should refer questions and concerns from citizens to the city administrator or appropriate department director. City staff should report back to the city council on the resolution of the referral.

Confidential Information – Council members shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the city. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial or private interests.

Notice of Attendance – If any council member has knowledge or reason to believe that there will be a large or emotional attendance at an upcoming council meeting or work session, they have an obligation to inform the city administrator as soon as they become aware of the potential situation.

Implementation

Orientation – This Code of Conduct shall be included in the regular orientations for new city council members. Following each election, the new council shall, by resolution of its elected members, adopt a city council code of conduct.

Compliance and Enforcement – Council members themselves have the primary responsibility to assure that the code of conduct is understood and followed and that the public can continue to have full confidence in the integrity of the Lino Lakes city government.

Remedies

It is the responsibility of the city council to police its members. When inappropriate behaviors are observed, any member of the council can intervene. If inappropriate behavior is observed, the city council will discuss the behavior at a council work session. By direction of the council, it will be determined whether:

- a. A letter is sent to the offending council member stating that they have been found operating outside the established code of conduct, requesting them to correct the behavior identified as inappropriate; or
- b. The council member is formally sanctioned by resolution at a council meeting.

Resolution 06-58 adopting this Code of Conduct was adopted by the Lino Lakes City Council on April 10, 2006.

John Bergeson, Mayor

204. Code of Conduct

204.01 Policy. Section 12.03 of the Lino Lakes City Charter provides that the city council shall adopt a code of conduct for elected, appointed, and hired officials and employees of the city. That code of conduct is to be based upon concepts of professionalism, ethics and will of the people. Further, the proper operation of a democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of conduct for all officials and employees, whether elected, appointed or hired, paid or unpaid. The purpose of this code is to establish certain standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city.

204.02 Covered Officials and Employees. This code of conduct applies to all elected, appointed and hired officials and employees of the city.

204.03 Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and to carry out impartially the laws of the nation, state, and municipality and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach. All officials and employees of the municipality should be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rules of work and performance established as the standard for their positions by appropriate authority.

204.04 Standards of Conduct.

Subdivision 1. Disclosure of Confidential Information. No person covered by this code shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the city, nor shall he or she use such information to advance the financial or other private interests of himself or any other person.

Subd. 2. Gifts. No person covered by this code shall directly or indirectly solicit any gift or accept or receive any gift of substance whether in the form of money, services, loan, travel, entertainment, hospitality, promise or any other form,

under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

Subd. 3. Private Interests. No person covered by this code shall appear on behalf of another's private interest before the council, and a committee, commission or agency of the city, nor shall he or she represent another private interest in any action or proceeding against the interest of the city in which the city is a party.

Subd. 4. Privileges. No person covered by this code shall use his or her position to secure special privileges or exceptions for himself or others.

Subd. 5. City Property. No person covered by this code shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

Subd. 6. Equal Treatment. No person covered by this code shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

From: Ann Kiser [undrwdcit2@prtcl.com]
Sent: Wednesday, December 19, 2007 9:05 AM
To: 'City of Underwood'
Subject: Code of Conduct

Section 29. Ethics/Code of Conduct.

The City of Underwood believes that ethical government operations require that employees and appointed/elected officials be independent, impartial and responsible to the public; that public employment or position not be used for personal gain; and that the public have confidence in the integrity of its government. This policy will establish ethical standards and set forth actions which are incompatible with such standards. This policy is not meant to diminish the ability of employees and appointed/elected officials to participate in ceremonial, representational or informational functions related to their official duties. This policy shall be interpreted in favor of protecting public interests by a full disclosure of conflicts of interest in addition to any statutory requirements, Attorney General Opinions or court rulings stipulating allowable actions for City employees and officials.

Guidelines:

City employees and appointed/elected officials should not:

- have a pecuniary interest in or derive profit from any matter during the discharge of official duties;
- use their position to secure special privileges or exemptions for themselves or others to intentionally jeopardize the position or employment of others;
- exercise or directly influence the recruitment, employment, salary, or performance review of a family member;
- engage in private employment or conduct a private business when such employment or business creates a conflict with or impairs the proper discharge of their official duties;
- use any person, funds or property under their official control, direction or custody for a purpose which is, or would appear to be, for the private benefit of the employee;
- disclose to others or use to further their personal interest confidential information acquired by them in the course of their official duties; (nothing shall prohibit the disclosure or use of information which is a matter of public knowledge or which is available to the public upon request)
- act as agent or attorney for another in any matter before the Council or any Board or Commission or before any court or administrative board in any matter in which the City is a party;
- directly or indirectly receive any compensation, gift, reward or gratuity as an inducement to support or influence any matter or proceeding connected with, or related to, their official duties except those permitted by law; (permitted exceptions include food or beverage given at a reception or meeting; a trinket or item of insignificant monetary value; a plaque or similar item; information or services of insignificant monetary value and lawful campaign contributions)
- accept a gift or gratuity except as allowed by MN Statute 471.895, Sub. 3; (nothing shall prohibit contributions which are reported in accordance with applicable law or which are accepted on behalf of the City)

Honoraria received by employees or officials for programs, workshops or speeches which were prepared or conducted on City time will be turned back to the City.

All original work products generated or obtained by an employee or official on City time shall be the property of the City of Underwood and shall remain so after the person is no longer employed or serving in an official capacity. Examples include, but are not limited to, research, reports, legal briefs, official letters and memoranda.

Disclosure: All employees and elected/appointed officials shall disclose to the City Council any relationship to another person or entity in any instance where there is a conflict of interest or where

there could be the appearance of a conflict of interest. They shall also disclose all positions as officer, director, partner, agent, proprietor or employee of any firm where they have a proprietary interest of ten percent (10%) or more in any company, business, enterprise, corporation, partnership, or association doing business with the City.

Reporting, Investigation and Sanctions: Upon receipt of a signed, written complaint by any person questioning adherence to this policy or on the Council's own volition, the Council shall refer the matter to the City Attorney for investigation and the City Attorney shall report the results of the investigation to the Council within forty-five (45) days thereafter. A copy of the report shall be furnished to the person against whom the complaint is filed, who may request a hearing on the matter before the City Council. Following receipt of the report and any subsequent hearing on the matter, the Council by majority vote may dismiss the complaint, may discipline the employee in accordance with the procedure set out in Section 17 of this Policy, may adopt a resolution of censure or may remove a member from an appointed board or commission. If the complaint is against a member of the City Council, such member shall not participate in the deliberation or vote on the issue.

Section 30. Media Relations. From time to time City employees, appointed or elected officials may be contacted by a member of the media (radio, television or newspaper) to furnish information regarding matters related to City operations or actions. It is important to remember the following issues when responding to media requests:

- You are not required to immediately respond to a media request for information.
- Information released to the media should always be factual, clear and concise.
- Some information is protected by the Data Practices Act.
- The City attorney has been designated as the responsible authority for the Government Data Practices Act.
- The Mayor serves as the official spokesperson for the City.

Section 31. Confidential information.

Official employee personnel files shall be maintained in the City Clerk's Office. Some of the information in an employee's file may be made available to the public upon request within a reasonable time and during regular business hours.

The following data is considered to be public information:

- An employee's name;
- Whether an employee is a veteran;
- Relevant test scores;
- An employee's job history, education and training;
- An employee's work availability;
- An employee's actual gross salary and salary range;
- The value and nature of an employee's fringe benefits;
- An employee's job title and job description;
- An employee's first and last dates of employment with the City;
- The status of any complaints or charges against an employee while employed by the City of Underwood, whether or not they result in disciplinary action;
- The final outcome of any disciplinary action taken against an employee of the City of Underwood, and all the supporting documentation about the case;
- An employee's city and county of residence;
- An employee's badge number, if any;
- An employee's work location and work telephone number;
- Honors and awards received; and
- Data which accounts for an employee's work time.

Other items in an employee's personnel file (such as medical information) are considered private information, and will not be shared with anyone but those members of the City's staff who must use it to file personnel records, or to conduct normal City business. Also, the Federal Equal Employment Opportunity Commission and the Minnesota Department of Human Rights may be authorized by federal or state law to receive private information from an employee's file in order to investigate specific complaints of employment discrimination. Otherwise, no private record will be shared with any outside person or agency without the employee's informed consent or a valid court order. Personnel data may be given to the Bureau of Mediation Services, when it so ordered.

What cannot be discussed:

- Discussing issues with others on the council outside of a council meeting (could appear to be having meeting/discussions outside of the view of the public---basic open meeting law principle);
- Discussing subjects of a closed meeting (loss of confidentiality privilege);
- Discussing employee/management/disciplinary actions under consideration.



City Council & Commissions Code of Conduct And Council Bylaws

Adopted: Oct. 3, 2011 (Special Meeting after regular Council meeting)

January 3, 2012

July 16, 2012



City of Cambridge City Council and Commissions Code of Conduct

Purpose

The mayor and city council of the City of Cambridge determines that a code of conduct for its members, *as well as the members of the various advisory boards and commissions* of the City of Cambridge, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the city council hopes to promote the faith and confidence of the citizens of Cambridge in their government and to encourage its citizens to serve on its council and boards and commissions.

Standards of Conduct

No elected official or a city advisory board or commission member may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that is before the city council or relevant board that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation. If a conflict of interest does exist, the person will remove themselves from the table and sit with the audience until the discussion / action on the item has been concluded.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minnesota Statute §471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the city council or committee.

- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the city council has authorized the disclosure.

Except as prohibited by the provisions of Minnesota Statute Section §471.87, there is no violation of item b. of this section for a matter that comes before the council, board, or commission, if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with an elected official under the circumstances described under Minnesota Statute Section §471.88, if proper statutory procedures are followed.

Complaint, Hearing

Any person may file a written complaint with the city administrator alleging a violation of the aforementioned standards of conduct. The complaint must contain supporting facts for the allegation. The city council may hold a hearing after receiving the written complaint or upon the council's own volition.

A hearing must be held only if the city council determines (1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally-recognized conflict of interest, and (2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay.

The city council's determination must be made within 30 days of the filing of the allegation with the city administrator. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the city council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of a board or commission from office.

Cambridge City Council Bylaws

- I. **AUTHORITY.** City councils are authorized to adopt rules of procedure and provide for order at their meetings pursuant to Minn. Stat. § 412.191.
- II. **PURPOSE.** The purpose of this policy on city council meetings is to set the groundwork for orderly and respectful communications between and among councilmembers, city staff, and citizens to promote the efficient working of the public's business at city council meetings.
- III. **THE OPEN MEETING LAW.** The Minnesota Open Meeting Law, Minn. Stat. Chapter 13D, generally requires that all meetings of public bodies be open to the public.
 - A. This presumption of openness serves three basic purposes:
 1. To prohibit actions from being taken at a secret meeting, where it is impossible for the interested public to become fully informed concerning decisions of public bodies, or to detect improper influences.
 2. To ensure the public's right to be informed.
 3. To afford the public an opportunity to present its views to the public body.
 - B. The city council views providing and encouraging citizen access to city meetings as one of its most important duties. As a result, all council and council committee meetings, including special and adjourned meetings, with the exception of closed meetings, as provided by Minn. Stat. Chapter 13D, shall be open to the public.
 - C. In calculating the number of days for providing notice under the Minnesota Open Meeting Law, the first day that the notice is given is not counted, but the last day is counted. If the last day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, it happens to be a Saturday, Sunday, or legal holiday).
 - D. In keeping with the intent of the Minnesota Open Meeting Law, city councilmembers shall not use any form of electronic communications technology, such as text messaging or e-mail, to communicate with one another or third parties during a public meeting in a manner that is hidden or shielded from the public view.
 - E. Pursuant to Minn. Stat. § 13D.01, subd. 6, at least one copy of the written materials made available to council at or before the meeting shall also be made available for inspection by the public, excluding any non-public data, attorney-client privileged or materials related to agenda items of closed meetings.
- IV. **QUORUM.** A simple majority (three members) of the council shall constitute a quorum for the valid transaction of any scheduled business to come before the council.
- V. **COUNCIL MEETINGS.**
 - A. **Location.** All meetings, including special, recessed, and continued meetings, shall be held in the city council chambers, unless otherwise designated, pursuant to Minn. Stat. § 13D.04, subd. 2.

- B. **Regular meetings.** A schedule of regular meetings shall be kept on file with the City Administrator. All regular City Council meetings held in City Council Chambers must be recorded.
- C. **Special meetings.** A special meeting is a meeting that is held at a time or location different from that of a regular meeting. A special meeting may be called by the mayor or any two city councilmembers by filing a request for the meeting at least three days before the meeting. Days shall be counted as provided in III-C. Notice to the public of special meetings must be given pursuant to Minn. Stat. § 13D.04, subd. 2. All regular City Council meetings held in City Council Chambers must be recorded.
- D. **Emergency meetings.** An emergency meeting may be called by the mayor or any two city councilmembers. An emergency meeting is a special meeting called because of circumstances that, in the judgment of the public body require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city will make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.
- E. **Closed meetings.** The Minnesota Open Meeting Law allows some meetings to be closed to the public for defined purposes. When a meeting is closed, the presiding officer at the council meeting will state the reason for closing the meeting on the record and cite the state statute that permits closure.
- F. **Recessed or continued meetings.** When a meeting is recessed or continued, the presiding officer shall state the time and place for the next meeting to occur pursuant to Minn. Stat. § 13D.04, subd 4. The time and place shall be noted in the minutes. If the time and place is stated and noted in the minutes, no additional notice of the meeting is required. However, if the time and place is not stated, the notice procedures for special meeting shall be required.
- G. **Organizational meetings.** The council will conduct its organizational meeting concurrent with the first regular council meeting in January of each year to:
1. Appoint an acting mayor pursuant to Minn. Stat. § 412.121.
 2. Select an official newspaper pursuant to Minn. Stat. § 412.831.
 3. Select an official depository for city funds. This must be done within 30 days of the start of the city's fiscal year pursuant to Minn. Stat. §§ 427.01-.02; 118A.02, subd 1; 427.09.
 4. Review council's bylaws and make any needed changes.
 5. Assign committee duties to members.
 6. Approve official bonds that have been filed with the clerk.

VI. PRESIDING OFFICER. The mayor shall preside at all meetings of the city council.

- A. **Role of the presiding officer.** The presiding officer shall preserve order, enforce the City Council Rules of Order and Procedure as adopted in VII, and determine, without debate, all questions of procedure and order, subject to the final decision of the council on appeal as provided in VI-D.

The presiding officer shall determine the order in which each member may speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order.

- B. **Adjourning meetings.** If considered necessary, because of grave disorder, the presiding officer may adjourn or continue the meeting to another time or suspend the meeting for a specified time.
- C. **Designation of a sergeant-at-arms.** The presiding officer may request that local law enforcement designate a member to serve as a sergeant-at-arms at city council meetings. The sergeant-at-arms shall carry out all orders or instructions given by the presiding officer for the purpose of maintaining order and decorum at meetings.
- D. **Motions and voting.** The presiding officer may make motions, second motions, speak on any questions, and vote on any matter properly before the council.
- E. **Absences of the presiding officer.** In the absence of the mayor, the acting mayor shall preside. In the absence of both the mayor and the acting mayor, the city administrator shall call the meeting to order. The first order of business shall be to select a presiding officer for the meeting from the members present. The city administrator shall preside until the councilmembers present choose a member to act as presiding officer.
- F. **Appeals of rulings of the presiding officer.** Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
 - 1. **Procedure for appeals.** An appeal is made by motion. No second is need for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other councilmember may participate in the discussion.
 - 2. Once both the maker of the motion and the presiding officer has spoken, the matter must be voted upon by the council as a whole.
 - 3. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.
- G. **Temporary designation of a presiding officer.** The presiding officer may choose to designate a temporary presiding officer before participating in debate on a given matter. In the alternative, the council may by majority vote designate a temporary presiding officer to preside over the debate on a given matter. The presiding officer shall resume presiding as soon as action on the matter is concluded.

VII. DECORUM OF COUNCILMEMBERS.

- A. **Aspirational statement:** All councilmembers shall assist the presiding officer in preserving order and decorum and in providing for the efficient operation of the meeting.

- B. **Aspirational statement:** No councilmember shall engage in conduct which delays or interrupts the proceedings or which hinders honest, respectful discussion and debate.
- C. **Aspirational statement:** City council meetings shall be conducted in a courteous manner that recognizes the validity of differing points of view and promotes the ideal of democratic discussion and debate free of insult, slander, and personal attacks and threats.
- D. To effectuate these aspirational goals, city councilmembers shall conduct themselves at council meetings in a manner consistent with the following:
1. No councilmember shall engage in private conversation or pass private messages while in the chamber in order to not interrupt the proceedings of the council.
 2. No councilmember shall leave his or her seat or make any noise of disturbance while a vote is being taken and until the result of the vote is announced.
 3. No councilmember shall use profane or obscene words or unparliamentary language or use language that threatens harm or violence toward another person during a council meeting.
 4. No councilmember shall speak on any subject other than the subject in debate.
 5. No councilmember shall speak without being recognized by the chair; nor shall any councilmember interrupt the speech of another councilmember.
 6. No councilmember shall disobey the decision of the presiding officer on questions of order or practice or upon the interpretation of the rules of council.
 7. No councilmember shall engage in disorderly conduct that disturbs or disrupts the orderly conduct of any meeting.

VIII. MOTIONS. The purpose of this policy is to foster debate and discussion in an orderly manner, and not to suppress honest discussion with excessive formality. Without rules, confusion and disorderly proceedings would hamper all city action, no matter how well intended. Rules allow city business to be conducted as efficiently as possible, protect minority groups by giving every person a chance to be heard, prevent discussion of multiple topics at once, and allow decisions to be made by majority rule.

- A. **Rights of councilmembers.** All councilmembers are equal and have the same rights to make motions; object to motions in a timely manner; participate in debate; have their votes counted; and speak, when recognized, free of interruption.
- B. **Obligations of councilmembers.** The rights of individual councilmembers cannot be realized unless all councilmembers also recognize their obligations as members of the political body. Councilmembers are obligated to receive the recognition of the chair before speaking, except as otherwise provided by these rules. No one has the right to speak at whim.

Councilmembers are obligated to speak directly on the subject being considered and observe time limits for comment. Finally, councilmembers are obligated to address all remarks to the presiding officer, avoid personal attacks, and refrain from using any insulting or demeaning language or indecent or threatening behavior.

1. *Motions.*

All formal actions of council must be by motion. A councilmember may make only one motion at a time.

2. *Language for making a motion.*

The appropriate language for making a motion shall be substantially similar to "I move to _____."

3. *Procedure for consideration of a motion.*

All motions must be seconded for consideration and discussion. Once a motion has been made, the presiding officer shall restate the motion and (if applicable) open the motion up for debate, provided that the mayor determines that the motion is in order and no objections to the motion have been.

A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, and is not made for the purpose of unduly delaying the proceedings. Debate shall follow the procedures in Rule 5. Once debate has concluded, the presiding officer shall restate the motion and call for a vote on the issue. A motion shall be considered passed if it receives a majority vote of those present at the meeting, unless otherwise required by law.

4. *Objections to a motion.*

- a. Any member of the council may make an objection to a motion if he or she believes the motion is not in order. A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, and is not made for the purpose of unduly delaying the proceedings.
- b. An objection to a motion must be made immediately following the motion and at no other time. The objector does not need to be recognized by the presiding officer in order to voice their objection. The appropriate language for making an objection shall be substantially similar to "I object to the motion as being out of order, and call for a ruling by the presiding officer."
- c. A motion may be objected to as not being made at a proper time if the motion was made by a person not called upon by the presiding officer to speak, or if it does not follow the agreed upon agenda for the meeting.
- d. The presiding officer shall determine whether the motion is in order.
- e. In determining whether the motion is in order, the presiding officer shall let the objector to the motion speak once explaining his or her position. Next, the presiding officer shall let the

maker of the motion speak once to answer the concerns of the objector. Then the presiding officer shall make a formal ruling as to whether the motion was in order.

- f. If the motion is ruled out of order, the motion shall not be considered. If the motion is ruled in order, the presiding officer shall open the motion for debate (if applicable).
- g. The presiding officer's ruling may be appealed as provided in Rule 7.

5. **Debate.** Generally only one motion may be considered at a time in debate. Once a motion has been made, the presiding officer shall restate the motion and open the motion for debate, if the motion is debatable. The presiding officer shall conduct the debate in accordance with the following:

- a. For initial comments, all comments shall be limited to five minutes. For subsequent comments, all comments shall be limited to two minutes.
- b. The maker of the motion shall be permitted to speak first on the issue.
- c. To the extent possible, the debate shall alternate between proponents and opponents of the measure.
- d. Everyone who wishes to speak on the issue must be permitted to speak once, before councilmembers who have already spoken are permitted to speak again.
- e. Councilmembers shall avoid repeating points already made in the debate or other duplicative conduct that may delay the proceedings. Where a point has already been made, councilmembers may affirm agreement or disagreement.
- f. Generally only one motion may be considered at a time in debate. Debate may only be interrupted by a motion to amend the original motion, a motion to take a brief recess, a motion to withdraw the motion by the motion's maker, a motion to divide a complex question, a motion to defer consideration to a later date, a motion to refer an issue to committee, motion for the previous question, a motion to limit debate, or a motion for a call to order. When debate is interrupted by any of these motions, the interrupting motion shall be resolved prior to resuming debate.

6. **Definitions of motions that may interrupt debate (secondary motions).** As explained in #5, only certain motions may interrupt debate on a motion. These are called secondary motions. When a secondary motion is made, the presiding officer must follow the same procedures in #3 to consider the secondary motion.

A secondary motion must be resolved, either by being ruled out of order by the presiding officer or debated and voted upon by the council, before debate on the main motion can resume. Secondary motions may also be made outside of debate, where appropriate. For example, a motion to take a brief recess can be made before, during, or after a debate.

- a. **Motion to amend the original motion.** The maker of the motion does not need to consent to a motion to amend. However, he or she may vote against the amendment or withdraw their motion via a motion to withdraw prior to any amendment being approved. Only two

amendments may be made to an original motion to avoid confusion. The amendments should be voted on in reverse order, with the last amendment being voted upon first. To avoid confusion, complex language should be put in writing. A motion may not be amended so substantially as to essentially reject the original motion, though different language may be proposed so as to entirely substitute for the original language.

The appropriate language for making a motion to amend shall be substantially similar to "I move to amend the motion by inserting between . . . and . . ." or "I move to amend the motion by adding after . . ." or "I move to amend the motion by striking out . . ." or "I move to amend by striking out the motion . . . and substituting the following."

- b. **Motion to take a brief recess** is not a motion to adjourn or continue the meeting to another time or place. Instead, it is a motion to take a brief respite no greater than 20 minutes. If a motion to take a brief recess is granted, the presiding officer may set a time for the meeting to resume. In addition, the presiding officer is authorized to call for a brief recess on his or her own initiative, without a vote, to maintain order in the meeting.

The appropriate language for making a motion to recess shall be substantially similar to "I move to take a brief recess for _____ minutes."

- c. **Motion to withdraw a motion** is not subject to debate, and it can only be made by the motion's maker before a motion is amended.

The appropriate language for making a motion to withdraw shall be substantially similar to "I move to withdraw my motion."

- d. **Motion to divide a complex question** may be used for complex items of business. It allows the council to break larger questions into smaller parts, which are considered separately.

The appropriate language for making a motion to divide a complex question shall be substantially similar to "I move to divide the question into _____ parts. Part 1 shall be _____ . Part 2 shall be _____ ."

- e. **Motion to table or defer consideration to a later date** is not subject to debate. It may be used to defer or delay consideration of a matter.

The appropriate language for making a motion to defer consideration shall be substantially similar to "I move to defer consideration of the main motion/this item until _____ ."

- f. **Motion to refer an issue to committee** is not subject to debate. It may be used to refer an issue to a city committee, such as the park board or planning commission, for their report. The motion should contain an expected receipt day for the report.

The appropriate language for making a motion to refer an issue shall be substantially similar to "I move to refer the main motion/this issue to the _____ committee for its consideration and recommendation. The committee should report back to the council in ____ days/weeks."

- g. **Motion for call of the previous question** is not subject to debate. It may be used only after at least 20 minutes of debate on a single motion or when all members of the council have been permitted to speak at least once on the motion. If approved by the majority, a vote must be taken on the motion under debate immediately.

The appropriate language for making a motion to call the previous question shall be substantially similar to "I move to call the previous question" or "I move for an immediate vote on this issue."

- h. **Motion to limit debate** is not subject to debate. It may be used to establish time limits for debate.

The appropriate language for making a motion to limit debate shall be substantially similar to "I move to limit debate on this issue to __ minutes per person" or "I move to limit council debate on this issue to no more than __ minutes total."

- i. **Motion for a call to order** is not subject to debate. It may be used to signal to the presiding officer that the councilmember feels the proceedings have gotten disorderly.

The appropriate language for making a motion for a call to order shall be substantially similar to "I move for a call to order by the presiding officer."

NOTE: Most secondary motions should not literally interrupt debate. They may not be made in the midst of the comments of a speaker duly recognized by the presiding officer, or silence the speaker's speech. To make a secondary motion, the maker must be called upon and recognized by the presiding officer. There are two exceptions to this rule—a motion for a call of the previous question and a motion for a call to order. These motions may be made at any time—even in a manner that interrupts a speaker. However, these motions should be made only in the rare instance where a meeting has become out of control, strayed from the agenda, or become disorderly.

7. Appealing procedural decisions of the presiding officer.

- a. Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
- b. **Procedure for appeals.** An appeal is made by motion. No second is needed for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other councilmember may participate in the discussion.

- c. Once both the maker of the motion and the presiding officer has spoken, the matter must be voted upon by the council as a whole.
- d. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

8. Other special motions explained.

- a. **Motion to adjourn** is not subject to debate. It may be used to suggest a conclusion to the meeting. The presiding officer may adjourn a meeting on his or her own initiative, without a vote, if necessary to maintain order.

The appropriate language for making a motion to adjourn shall be substantially similar to "I move to adjourn the meeting."

- b. **Motion to go into closed session** may be used to close the meeting pursuant to the Minnesota Open Meeting Law. When the motion is made, the basis for closing the meeting and the applicable law must be stated into the record. The presiding officer may also close the meeting on his or her own initiative, without a council vote, if closing the meeting is mandatory under the law or if directed by the city attorney.

The appropriate language for making a motion to go into closed session shall be substantially similar to "I move to close the meeting in order to consider _____ pursuant to _____ of the Minnesota Open Meeting Law."

- c. **Motion to leave a closed session** may be used to conclude a closed session and return to an open meeting.

The appropriate language for making a motion to leave a closed session shall be substantially similar to "I move to open the meeting."

- d. **Motion to revive consideration of an issue** may be used to request consideration of an issue previously tabled, deferred, or referred to committee at any prior meeting.

The appropriate language for making a motion to revive shall be substantially similar to "I move to revive consideration of _____ previously tabled/deferred/referred to committee."

- e. **Motion to reconsider** may be made only at the **same** meeting where the issue was originally considered and voted upon. It may be made only by a person on the prevailing side of an issue. In the event of a tie vote, those voting against the issue shall be considered the prevailing side.

The appropriate language for making a motion to reconsider shall be substantially similar to "I move to reconsider _____."

- f. **Motion to rescind or repeal** may be made at any meeting following the meeting where the issue was originally considered and voted upon. It may be made by any councilmember, whether or not he or she was on the prevailing side. It may not be made when prevented by law or where substantial reliance on the council's previous decision has occurred (for example, in the area of contracts or hiring/termination of employees).

The appropriate language for making a motion to reconsider shall be substantially similar to "I move to rescind/repeal the council's previous action related to _____ as stated in resolution number _____."

- g. **Motion to prevent reintroduction of an issue for ____ months** is not subject to debate. It may be used to limit discussion of an issue that has been raised and/or moved for reconsideration several previous times.

The appropriate language for making a motion to prevent reintroduction shall be substantially similar to "I move to prevent reintroduction of this issue for _____ months."

- h. **Motion to suspend the rules or to consider a motion informally** should be used sparingly on issues likely to be uncontroversial. Complex motions and resolutions should still be put in writing. This motion may permit informal discussion of an issue (such as a roundtable discussion, brainstorming session, visioning session, etc.) where appropriate.

The appropriate language for making a motion to proceed informally shall be substantially similar to "I move that we suspend the rules and proceed informally in discussing the issue of _____."

9. **Resolutions and ordinances.** Simple motions shall be used only for procedural and meeting matters. Substantive issues, such as the approval or disapproval of street improvement projects and contracts; the censure of councilmembers; zoning issues, and the adoption of city policies, rules, and ordinances shall be by resolution. An exception to this general rule may be made in instances where significant documentation of the council's decision exists, rendering an additional resolution repetitive (for example, where a written contract spells out all the terms that would be listed in the resolution). All resolutions shall be written and numbered in a manner consistent with the city's record keeping policies.

The appropriate language for a motion for the adoption of a resolution shall be substantially similar to "I move to adopt the resolution numbered _____."

10. **Robert's Rules not applicable.** These model rules are designed specifically for Minnesota city councils. Further, these rules were drafted to be an appropriate level of regulation and formality for smaller governing bodies typically seen in Minnesota cities. Robert's Rules of Order is not assumed to apply or to supplement these regulations. Where a situation arises that is not addressed by these rules, the intent of these rules, as expressed in the preamble, should be effectuated by the presiding officer, in consultation with the city attorney.

IX. VOTING.

- A. The votes of the city council will be taken by voice vote. The presiding officer shall announce the results of all votes of the council.
- B. A clear statement of the matter being voted upon and the names of those voting for and against the matter shall be recorded in the official minutes.
- C. Councilmembers may ask for a roll call of the vote by the Mayor on any motion or resolution.
- D. The city administrator may ask for a verification roll call if the vote of a councilmember is not clear on the voice vote.
- E. A majority vote shall be sufficient for all matters before the council, unless otherwise provided by state law.
- F. Whenever a matter is put forward for a vote, every councilmember shall vote, except as follows:
 - 1. A conflict of interest exists under state law;
 - 2. A Councilmember determines that voting on the matter, given his or her individual circumstances, would give rise to an appearance of impropriety that could negatively affect the public trust; or
 - 3. A Councilmember determines that he or she does not have enough information to vote yes or no on a matter. This exception shall only apply if the Councilmember has identified the lacking information and made an attempt to have the matter continued so the information can be developed or obtained.

Whenever a Councilmember abstains from voting, he or she must state on the record the reason(s) for abstaining and the exception(s) on which the abstention is based.

X. PUBLIC COMMENT AT COUNCIL MEETINGS AND AT PUBLIC HEARINGS

- A. **Public participation and comment at council meetings.** City council meetings are the forum for the city council to conduct the city's business. While city council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. As such, members of the public are not allowed to participate in council discussion and debate without a specific invitation and/or formal recognition by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or action that may disrupt the proceedings of council.
- B. **Members of the public shall follow the direction of the presiding officer.** Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues, the presiding officer may ask the member of the public to leave the meeting room.

If the member of the public refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the person through any lawful means. In emergency situations, or where conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the person.

C. **Public comment period.** A limited forum for residents of the City of Cambridge to speak with the council is provided on the agenda for the Council meeting held the third Monday of every month. Public comments during the public comment period are subject to these limitations:

1. Speakers must be recognized by the presiding officer before speaking and are limited to three minutes for comment.
2. When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson.
3. The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to the next regular council meeting or at a continued meeting.
4. Speakers must sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet will be available at the start of the city council meeting.
5. Speakers must direct their remarks toward the presiding officer.
6. Speakers shall not use obscene, profane or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public.
7. Speakers are required to follow the direction of the presiding officer.
8. Speakers who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues the presiding officer may ask the speaker to leave. If the speaker refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the speaker through any lawful means. In emergency situations, or when conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the speaker.
9. Council will generally not respond at the same meeting where an issue is initially raised by a member of the public. Generally the matter will be referred to staff for further research and possible report or action at a future council meeting.

D. A summary of these rules for public comment may be provided in the council meeting room.

XI. PUBLIC HEARINGS. Public hearings are sometimes required by law to allow the public to offer input on city council decisions. When public hearings are required by law, notice shall be provided as required by state statute. Public hearings shall be commenced at the time advertised in any notice required by law.

A. **General procedure for public hearings.** The order of business for all public hearings conducted by council shall be:

1. Opening comments by presiding officer announcing the purpose of the public hearing.
2. Presiding officer opens the public hearing portion of the meeting.
3. Staff presentation (including city administrator, attorney, engineering reports if any).
4. Developer/other presentation (if any).
5. Public comments.
6. Reading of written comments.
7. Presiding officer formally closes the public hearing portion of the meeting.

B. Speakers who wish to address the city council at a public hearing must follow the same rules in Section X Public Hearings. However, the presiding officer may allow additional time for speakers, as required, to comply with applicable state law.

C. Speakers may also provide written comments to the city council before or at the meeting. Written comments may be read aloud by the City Administrator or their designee. Anonymous, unsigned communications will not be read.

D. The presiding officer may continue the hearing, if necessary, following the procedures in Section V Council meetings, subsection F.

XII. PROCEDURE FOR RESOLUTION AND ORDINANCE ADOPTION. All resolutions and ordinances shall be in writing. Unless otherwise provided by law, all ordinances shall be adopted by a majority vote of councilmembers present at the council meeting. Unless otherwise provided by law, ordinances do not require multiple readings, and may be adopted as presented at the first available meeting.

XIII. BOARD, COMMISSION, AND COMMITTEE ASSIGNMENTS. All assignments of councilmembers to serve on city boards, commissions, and committees shall be by a majority vote of councilmembers present at the meeting, unless otherwise provided by law.

XIV. SEATING ASSIGNMENTS. Councilmembers shall occupy the chairs assigned to them by the presiding officer.

XV. SUSPENSION OR AMENDMENT OF THESE RULES. Any or all of these rules may be temporarily suspended by a majority vote of the councilmembers present at the meeting, except as otherwise required by Minnesota law. These rules shall not be repealed or amended except by a majority vote of the whole council after notice has been given at a preceding council meeting.

ETHICS LAW

Minnesota Statute § 471.895. CERTAIN GIFTS BY INTERESTED PERSONS PROHIBITED.

1. DEFINITIONS

- A. "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.
- B. "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.
- The law prohibits gifts to officials but not to cities. (An official can pass a gift to a city). Recent examples include: *Mayor Randy Kelly v. Campaign Finance and Public Disclosure Board*, 679 N.W.2d 789 (Minn.Ct.App. 2004) and *In re Investigation of Belton*, No. 398-96 (Minn. Ethical Practices Bd. Jan. 26, 1996).
 - Does this mean anyone who provides (or may provide) goods or services to a city?
 - Does this mean every resident of a city?
 - Does this mean anyone doing business in a city?
- C. "Local official" means an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city.
- Local official includes all members of the city council, appointed board, commissions and committees.
 - Appointed officials who are authorized to make decisions or recommendations that could impact others financially cannot accept gifts.
 - Inspectors and department heads who may make decisions or recommendations about supplies, services or purchasing property are also included.
 - Some cities interpret the gift law to include all city employees.

2. PROHIBITION

An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person.

Attachment 4

3. EXCEPTIONS

A. The prohibitions do not apply if the gift is:

- (1) a contribution as defined in Section 211A.01, subdivision 5;
- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- (5) a trinket or memento costing \$5 or less;
- (6) informational material of unexceptional value; or
- (7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

B. The prohibitions do not apply if the gift is given:

- (1) because of the recipient's membership in a group, a majority of whose members are not local officials, and an equivalent gift is given to the other members of the group; or
- (2) by an interested person who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.
- (3) by a national or multistate organization of governmental organizations or public officials, if a majority of the dues to the organization are paid from public funds, to attendees at a conference sponsored by that organization, if the gift is food or a beverage given at a reception or meal and an equivalent gift is given or offered to all other attendees.

4. PENALTIES

Under Minnesota Statute § 609.43, if a public official does an act knowing that it is forbidden by law, then the public official may be guilty of a gross misdemeanor.

Under Minnesota Statute § 645.241, if an act is prohibited by statute, and the statute does not otherwise state a penalty, then the doing of such act is a misdemeanor.

5. EXAMPLES OF GIFTS

1. Lemonade and cookie by neighborhood opposition group
2. Picking up lunch tab by city attorney
3. Candy and fruit plate provided to engineering department
4. Free dinner provided by volunteer fire department
5. Travel expenses to view similar development
6. Tickets to sporting event
7. Free meal at chamber of commerce function
8. Cheese and crackers at hockey association reception.

6. **QUESTIONS**

1. Who is an interested person?
2. Is every taxpayer an interested person because the city council sets the tax levy that controls the property taxes?
3. Is the wife of a developer an interested person such that she can no longer give a Christmas gift to her female high school classmate on the council even though they have given gifts to each other for the past 20 years?
4. Can the councilmember attend a free dinner with her husband paid for by the husband's employer during holiday times if the employer is a frequent developer in the city?
5. Can a business in the city offer a special 10% discount to city employees for shopping at the business?

CONFLICTS OF INTEREST

1. WHAT IS A CONFLICT OF INTEREST?

A conflict of interest occurs when an individual has a personal interest in a decision that he or she has the power to make. A prohibited personal interest may be contractual or non-contractual. It includes decisions in which personal involvement, gain, or financial benefit exist for the decision-maker.

2. CONTRACT SITUATIONS:

A.) General Rule #1 - Prohibition Against Personal Financial Interest.

Except as authorized in Minn. Stat. § 471.88, a public officer who is authorized to take part in any manner in making any sale, lease or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.

B.) Common Exceptions To General Rule #1 Allowed By Statute.

- 1.) Designation of bank depository.
- 2.) Only official newspaper in the city.
- 3.) Contract with a cooperative association of which the public officer is a shareholder or stockholder but not an officer or manager.
- 4.) A contract for which competitive bids are not required by law, but only if the contract price is as low as or lower than the price at which the commodity or services could be obtained elsewhere.
- 5.) A contract with a volunteer fire department for the payment of compensation to its members or for the payment of retirement benefits to those members.
- 6.) An officer of a government unit may contract with the unit to provide construction materials or services, or both, by sealed bid process if the unit has a population of 1,000 or less according to the last federal census. The officer may not vote on the question of the contract when it comes before the governing body for consideration.
- 7.) A public officer may rent space in a public facility at a rate commensurate with that paid by other members of the public.

C.) General Rule #2 - Prohibition Against Direct or Indirect Interest.

Except as provided in Minn. Stat. Sections 471.87 to 471.89, no member of a council shall be directly or indirectly interested in any contract made by the council.

D.) Exception to General Rule # 2.

- 1.) No ownership interest in the firm.
- 2.) Not an officer or director.
- 3.) Compensated only on a salary or hourly wage basis and receives no commissions, bonus or other remuneration.
- 4.) Is not involved in supervising the performance of the contract for the employer and has no other interest in the contract.

E.) General Rule #3 - Contracts With Family Prohibition Against Immediate Family Benefit.

If the money earned under the contract is used to support the family so that the councilmember derives some benefit from it, the attorney general has uniformly held that there is an indirect interest on the part of the council member in the contract.

F.) Exceptions to General Rule # 3.

- Adult children living outside the home
- Earnings from contract do not support family

G.) General Rule #4 – Mayor and Council Cannot Be Full-Time Employees of City.

- In a statutory and in a charter city, neither the mayor nor any city council member may be employed by the city. “Employed” refers to full-time permanent employment as defined by the city’s employment policy.

3. NON-CONTRACT SITUATIONS:

A.) General Rule.

Any official who has a personal economic interest that may conflict with public interest in considering an official action generally is disqualified from participating in the action.

B.) How to Determine Whether a Conflict Exists.

- 1.) The nature of the decision being made.

- 2.) The nature of the financial interest.
- 3.) The number of interested officials.
- 4.) The need, if any, for the interested officials to make the decision.
- 5.) Other means available, if any, such as an opportunity for review of the decision.

C.) Common Situations That Pose Conflict Questions.

- Zoning - platting - planning
- Public improvements
- Special assessments
- Licenses
- Church memberships
- Family associations
- Club memberships
- Land purchases
- Regulations
- Vacation of streets
- City comprehensive plan
- Locating highways
- Designations of development districts
- Selection of location for municipal parking lots
- Improvements to the business district where the councilmember owns a business

D.) Need To Maintain an Open Mind.

A councilmember may not engage in an advocacy role or have a "closed mind" when the councilmember has to perform a quasi-judicial function. In *Continental Property Group, Inc. v. City of Minneapolis*, the Minnesota Court of Appeals noted:

“But when deciding CPG’s procedural due-process claim, the district court found that Councilmember Goodman, who took part in making the council’s decision: “took a position in opposition and exhibited a closed mind with regarding to [CPG’s] proposed project prior to hearing [CPG’s] appeal”; “adopted an advocacy role in opposition to [CPG’s] proposed project well before she discharged her quasi-judicial duties”; and “was clearly involved in an effort not only to assist to organize and mobilize neighborhood opposition to the project, but also to sway the opinions of her fellow council members.” The court also noted that “the opinion of the council member in whose ward a project is proposed is given substantial weight” by other members of the council. The court’s findings, which are supported by the record, establish that the city council relied on factors it was not intended or permitted to consider in denying CPG’s applications. We therefore conclude that the city council’s decision was arbitrary and capricious and that the district court erred by upholding it on review under *Minn. Stat. § 462.361, subd. 1.*”

The underlying district court decision also stated:

“The timeline of events and communications further demonstrates that Goodman adopted an advocacy role in opposition to Plaintiff’s proposed project well before she discharged her quasi-judicial duties. She was clearly involved in an effort not only to assist to organize and mobilize neighborhood opposition to the project, but also to sway the opinions of her fellow council members. Such actions were improper and impermissible for someone acting in a quasi-judicial capacity.”