

# MEMORANDUM

To: Ben Martig, City Administrator **VIA EMAIL ONLY**

From: Christopher M. Hood, City Attorney

Date: February 20, 2025

Re: City Council Members Serving on EDA Board of Commissioners

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## **INTRODUCTION**

As requested, this memorandum briefly addresses the legal authority for City of Northfield (“City”) City Council members to serve as Commissioners on the Northfield Economic Development Authority (“EDA”).

## **BACKGROUND**

The EDA was created by the City Council through the adoption of an enabling resolution pursuant to State law. The EDA specifically derives its authority from Minnesota Statutes<sup>1</sup> and the City Council adopted enabling resolution<sup>2</sup>, which created the EDA. The EDA has the powers and duties as provided in or limited by said City Council enabling resolution and Minnesota Statutes. The size of the EDA Commission is set in the City Council enabling resolution subject to State law. The current make-up of the EDA commission is seven members, two of whom are also members of the City Council. The make-up of the EDA Commission, appointment of members, terms, and procedures to fill vacancies and remove members are all as provided in Minnesota Statutes, section 469.095.

## **APPLICABLE LAW**

Minnesota Statutes, Section 469.095, subdivision 2, provides in part that:

Subd. 2. Appointment, terms; vacancies. ...

“(c) Seven-member authority: the commissioners constituting a seven-member authority, **two of whom must be members of the city council**, shall be appointed by the mayor with the approval of the city council. Those initially appointed shall be appointed for terms of one, two, three, four, and five years respectively and two members for six years. Thereafter all commissioners shall be appointed for six-year terms.

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<sup>1</sup> See Minn. Stat. §§ 469.090-469.1081

<sup>2</sup> See City Council Resolution No. 90-187, as amended by Resolution No. 2011-131 and Ordinance No. 850

(d) The enabling resolution may provide that the members of the city council shall serve as the commissioners.

(e) The enabling resolution may provide for the appointment of members of the city council in excess of the number required in paragraphs (a), (b), and (c). ...”

*[emphasis added.]*

## **ANALYSIS**

The above governing State law not only permits members of the City Council to serve on the EDA Commission, but it also mandates participation of at least two sitting City Council members on the EDA Commission. In fact, like planning commissions in the state of Minnesota<sup>3</sup>, the entirety of the EDA Commission could be made up of sitting City Council members in the event that the City Council chose to accordingly amend the above-referenced enabling resolution. The State Legislature has clearly mandated that at least two sitting council members shall serve on seven-member economic development authorities, and the law further clearly permits sitting city council members to populate the entirety of economic development authorities.

Given the foregoing law, participation by Council members on the EDA can neither be a conflict of interest nor incompatible. While there may be the possibility at times that one or more Commission member could under individual personal circumstances experience a conflict of interest, such as for example where a Commission member may have a personal financial interest in a contract coming before the EDA or Council for approval, at all other times a Council member serving on the EDA would not have any restrictions on participation or voting either as a member of the EDA Commission or when acting at a City Council level. In fact such members are expected and have a duty to fully participate in respective discussions of the governing bodies as well as voting. Any such conflicts of interest, which may arise, would be addressed through application of State law<sup>4</sup> and the City’s Code of Ethics<sup>5</sup>.

I hope that the foregoing is helpful in your consideration of this matter. Should you have any questions or require additional information, please do not hesitate to contact me at your convenience. Thank you.

CMH/sc

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<sup>3</sup> See Minn. Stat. § 462.354, subd. 1

<sup>4</sup> See Minn. Stat. §§ 469.098 and 471.87-471.89

<sup>5</sup> See Northfield City Code, Ch. 2, Art. III, Div. 2, Sec. 2-127