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MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: May 29, 2019
RE: Amendment No. 1 to the City's Conflict of Interest Policy - June 4, 2019
Council Meeting; Agenda Item 8(a)

Section 1. Background. At the May 7, 2019 Council meeting, the Council discussed the request by the Mayor to allow the City Forester to perform landscaping services at the Mayor's residence and the related issues pertaining to the Conflict of Interest Policy adopted by the City on February 3, 2009 which prohibits a City consultant from providing services to a Councilmember unless the Council amends the policy or votes to waive the prohibition.

The Council moved to amend the Conflict of Interest Policy so that with respect to consultants of the City contracting with Councilmembers to provide services to a Councilmember, the Council will have the option to approve a specific request by a Councilmember to contract with a consultant if approved by a majority of the entire Council (with the affected Councilmember abstaining from the vote).

The Council, by a vote of 4 (ayes) to 0 (nays) to 1(abstain), moved to approve the request by the Mayor to allow the City Forester to perform tree removal and replacement and site clean-up services at the Mayor's residence.

Attached to this memo is a Resolution Amending Resolution No. 09-05 and Adopting Amendment No. 1 to the Policy with Respect to Conflicts of Interest Concerning City Consultants and Employees. Attached to the resolution is an Amendment No. 1 to the Policy with Respect to Conflicts of Interest Concerning City Consultants and Employees.

Section 2. Council Action. At the June 4, 2019 Council meeting, the Council will consider the attached Resolution Amending Resolution No. 09-05 and Adopting Amendment No. 1 to the Policy with Respect to Conflicts of Interest Concerning City Consultants and Employees.

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 19-_____

**A RESOLUTION AMENDING RESOLUTION NO. 09-05 AND ADOPTING
AMENDMENT NO. 1 TO THE POLICY RELATING TO CONFLICTS OF INTEREST
WITH RESPECT TO CITY CONSULTANTS AND EMPLOYEES**

WHEREAS, the City, by way of Resolution No. 09-05, adopted *A Policy Relating to Conflicts of Interest With Respect to City Consultants and Employees* on February 3, 2009 (“the Conflict of Interest Policy”).

WHEREAS, the Conflict of Interest Policy was adopted to address conflict of interest situations involving City consultants and employees and to place consultants and employees on notice with respect to conflict of interest situations that are to be avoided.

WHEREAS, the City Council wishes to amend the Conflict of Interest Policy so that with respect to consultants of the City contracting with Councilmembers to provide services to a Councilmember, the Council will have the option to approve a specific request by a Councilmember to contract with a consultant if approved by a majority of the entire Council (with the affected Councilmember abstaining from the vote).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNFISH LAKE:

1. That Resolution No. 09-05 is hereby amended by the adoption of the attached Amendment No. 1 To The Policy Relating To Conflicts Of Interest With Respect To City Consultants And Employees.
2. That the attached Amendment No. 1 To The Policy Relating To Conflicts Of Interest With Respect To City Consultants And Employees is hereby approved and adopted.

Passed and duly adopted by the City Council of Sunfish Lake this 4th day of June, 2019.

Dan O’Leary, Mayor

ATTEST:

Catherine Iago, City Clerk

CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA

AMENDMENT NO. 1 TO
THE POLICY RELATING TO CONFLICTS OF INTEREST WITH
RESPECT TO CITY CONSULTANTS AND EMPLOYEES

THIS AMENDMENT NO. 1 TO THE POLICY RELATING TO CONFLICTS OF INTEREST WITH RESPECT TO CITY CONSULTANTS AND EMPLOYEES (Amendment) is hereby made and effective this 4th day of June, 2019 by the City of Sunfish Lake, a Minnesota municipal corporation (hereafter referred to as “City”).

WHEREAS, the City, by way of Resolution No. 09-05, adopted *A Policy Relating to Conflicts of Interest With Respect to City Consultants and Employees* on February 3, 2009 (“the Conflict of Interest Policy”). A copy of the Policy is attached hereto as Exhibit A.

WHEREAS, the Conflict of Interest Policy was adopted to address conflict of interest situations involving City consultants and employees and to place consultants and employees on notice with respect to conflict of interest situations that are to be avoided.

WHEREAS, the City Council wishes to amend the Conflict of Interest Policy so that with respect to consultants of the City contracting with Councilmembers to provide services to a Councilmember, the Council will have the option to approve a specific request by a Councilmember to contract with a consultant if approved by a majority of the entire Council (with the affected Councilmember abstaining from the vote).

NOW, THEREFORE, the City Council of the City of Sunfish Lake states and acknowledges as follows:

Section 1. Amendment to Section 4 of the Conflict of Interest Policy. Section 4 of the Conflict of Interest Policy is hereby amended to read as follows:

Section 4. WORK FOR COUNCILMEMBERS. No employee or consultant of the City shall be an employee of any Sunfish Lake Councilmember. No employee or consultant of the City shall contract with a Councilmember to provide services to the Councilmember; unless such services are approved by a majority of the entire Council without the affected Councilmember voting on the matter.

Section 2. Incorporation of Amendment into Conflict of Interest Policy. This Amendment is hereby incorporated and made a part of the Conflict of Interest Policy.

Section 3. Continuing Effect. The other terms and conditions of the Conflict of Interest Policy remain in full force and effect.

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EXHIBIT A
CONFLICT OF INTEREST POLICY

CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 09-05

A RESOLUTION ADOPTING A POLICY WITH RESPECT TO CONFLICTS OF
INTEREST CONCERNING CITY CONSULTANTS AND EMPLOYEES

WHEREAS, it is appropriate that the City adopt a policy with respect to conflict of interest situations involving City consultants and employees.

WHEREAS, such a policy enhances the respect of the public with respect to the operations of the City.

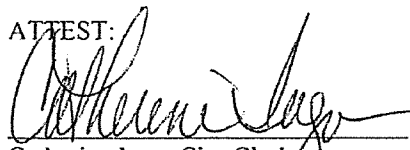
WHEREAS, such a policy places the consultants and employees on notice with respect to conflict of interest situations that are to be avoided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SUNFISH LAKE THAT THE ATTACHED POLICY IS HEREBY ADOPTED.

Passed and duly adopted by the City Council of Sunfish Lake this 3rd day of February, 2009.



Molly Park, Mayor

ATTEST:


Catherine Iago, City Clerk

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

**A POLICY RELATING TO CONFLICTS OF INTEREST WITH
RESPECT TO CITY CONSULTANTS AND EMPLOYEES**

Section 1. PURPOSE AND INTENT. It is important that the City consultants and employees avoid conflict of interest situations that involve City Business. It is also important that the public know and perceive that when consultants and employees are working on a matter involving City Business, the consultants and employees are only working for the City and not for private parties. The purpose of the policy herein is to establish procedures and rules with respect to possible conflicts of interest situations so that such situations can be avoided.

Section 2. CITY BUSINESS. City Business means any of the following:

- a. Any matter that requires a City permit or the approval, agreement, or permission of the City. Such matters include, but are not limited to, site and building plan approvals, plats, lot splits, building permits, and approvals of drainage plans or landscape plans.
- b. Any actions or tasks whereby the City is enforcing its ordinances or the laws of the State of Minnesota. Such matters include, but are not limited to, demands or orders to remove nuisances, noxious weeds or diseased trees.
- c. Any litigation involving the City of Sunfish Lake.

No employee or consultant of the City shall work as an employee of a private non-governmental party on any matter of City Business. No employee or consultant of the City shall contract with a private non-governmental party to provide services with respect to any matter of City Business.

Section 3. GOVERNMENTAL ENTITIES. With respect to governmental entities other than Sunfish Lake, no employee or consultant of the City shall represent, advise, or consult with such other governmental entities with respect to any litigation involving the City of Sunfish Lake where the other governmental entities are adversarial parties.

With respect to other governmental entities, if a consultant or employee has been retained or works for other governmental entities, with respect to any matter which requires a permit from the City of Sunfish Lake or which requires the approval, permission or agreement of the City of Sunfish Lake, then the consultant or employee of the City shall notify the Sunfish lake City Council of such representation.

The Sunfish Lake City Council shall then decide whether the consultant or employee shall continue to represent the City of Sunfish Lake on that particular matter.

Section 4. WORK FOR COUNCILMEMBERS. No employee or consultant of the City shall be an employee of any Sunfish Lake Councilmember. No employee or consultant of the City shall contract with a Councilmember to provide services to the Councilmember.

Section 5. WORK FOR PRIVATE LANDOWNERS ON LAND IN CITY. Subject to the exceptions stated in Section 6 hereof, no employee or consultant of the City shall work for any private landowner with respect to improvements to land or buildings, or repair or maintenance to land or buildings in the City of Sunfish Lake. Such improvements to land or buildings include, but are not limited to landscaping, grading, drainage improvements, construction, maintenance and repair of structures, installation of septic systems, tree trimming, tree planting or removal, planning of site improvements or engineering of site improvements.

Section 6. WORK OF CITY FORESTER. The following is an exception to Section 5.

The City Forester may perform work for a private landowner on land in the City if the following conditions exist:

- a. The work does not result from, relate to, or arise out of a City enforcement action or a complaint that the private landowner is not complying with City ordinances or State law.
- b. The work is not prohibited by Section 2 or by Section 4.
- c. The City Forester did not solicit the work. The private landowner initiated contact with the City Forester and solicited the services to be provided by the City Forester.
- d. Before the work commences, the private landowner executes a written release and acknowledgment whereby the private landowner acknowledges that the entity performing the work is not doing so in a capacity as a City employee or independent contractor; the instrument shall release the City from any claims against the City relating to the work to be performed. The form and content of the release and acknowledgement are subject to the approval of the City Attorney.
- e. On or about June 30th and December 31st of each year, the City Forester shall file with the City Clerk a report for the respective previous six (6) months that shows, for the work performed under this Section, the following information:
 - (i) Name of landowner and address at which work was performed;
 - (ii) General description and nature of work performed;
 - (iii) Dates on which work was performed; and
 - (iv) The signed release and acknowledgement forms referenced above.

Section 7. OTHER ETHICAL CODES. Nothing contained in this policy shall be deemed to limit any of the other ethical codes to which the consultants and employees, by virtue of their profession, may be subject.

Section 8. APPLICABILITY. This policy shall apply to all consultants and employees of the City.

Section 9. SUPERSEDING EFFECT. This policy supersedes the policy adopted by the City in 1991.