



Request for Action

TO: Faribault Economic Development Authority
FROM: Deanna Kuennen, Community & Econ Dev Director
MEETING DATE: February 18, 2021
SUBJECT: Annual Review of EDA Enabling Resolution

BACKGROUND:

Section 469.092, Subdivision 3 of Minnesota Statutes requires the EDA to submit to the City Council a report each year stating whether and how the enabling resolution should be modified. Under the Statute, the City Council has 30 days after receipt of the recommendation to review the enabling resolution, consider the recommendations of the EDA, and make any updates it considers appropriate. Any proposed changes must be made in accordance with the procedural requirements of section 469.093.

Subd. 3. **Report on resolution.** Without limiting the right of the authority to petition the city council at any time, each year, within 60 days of the anniversary date of the first adoption of the enabling resolution, the authority shall submit to the city council a report stating whether and how the enabling resolution should be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the authority, and make any modification it considers appropriate. Modifications must be made in accordance with the procedural requirements of section [469.093](#).

Over the years, the EDA has recommended updates to the enabling resolution to the City Council. These recommendations generally have focused on ensuring that the enabling resolution is consistent with state statutes. Staff and legal counsel have conducted a review of the current language in the Enabling Resolutions again this year, and have identified additional modifications for consideration. These modifications – *clarify City Council terms of office and more accurately reflect when terms for all EDA Commissioners expire*. These proposed changes for consideration will ensure that the EDA Enabling Resolution is consistent with state statutes.

Existing Language

SECTION 2. COMPOSITION OF THE EDA

Section 2.2. Terms. Initial appointees receive terms of 1, 2, 3, 4, 5, and 6 years; thereafter all terms are for six years, except as hereinafter provided. **The City Council may set the term of the commissioners who are members of the City Council to coincide with their term of office as members of the City Council. All terms shall expire at the first City Council meeting of January.** Commissioners may serve no more than a maximum of two (2) consecutive terms (full or partial) and no more than a total of twelve (12) consecutive years. Commissioners may re-apply for additional terms after a one (1) year absence from the EDA.

Proposed Language

SECTION 2. COMPOSITION OF THE EDA

Section 2.2. Terms. Initial appointees receive terms of 1, 2, 3, 4, 5, and 6 years; thereafter all terms are for six years, except as hereinafter provided. **The City Council shall set the term of the commissioners who are members of the City Council to coincide with their term of office as members of the City Council. All terms shall expire at the City Council meeting at which the EDA appointments are made.** Commissioners may serve no more than a maximum of two (2) consecutive terms (full or partial) and no more than a total of twelve (12) consecutive years. Commissioners may re-apply for additional terms after a one (1) year absence from the EDA.

ACTION REQUESTED:

The EDA is asked to consider the proposed changes and make a recommendation to City Council based on their review of the modified language.

Attachments:

- Resolution 2016-239 (Current EDA Enabling Resolution)

**CITY OF FARIBAULT
RESOLUTION 2016-239**

**RESOLUTION AMENDING AND RESTATING THE ENABLING RESOLUTION
ESTABLISHING AN ECONOMIC DEVELOPMENT AUTHORITY
FOR THE CITY OF FARIBAULT, MINNESOTA**

WHEREAS, the City is authorized by Minnesota Statutes, Chapter 469 (the “Act”) and specifically Section 469.091, to establish an Economic Development Authority (hereinafter the “EDA”) to coordinate and administer economic development and redevelopment plans and programs of the City of Faribault; and

WHEREAS, an Economic Development Authority would facilitate and assist economic development in the City of Faribault by directly involving certain groups and agencies in the process; and

WHEREAS, such an Authority will increase the overall efficiency of business recruitment, to the greatest benefit of the entire community; and,

WHEREAS, a public hearing was held for the establishment of an Economic Development Authority pursuant to Minnesota Statutes prior to the adoption of Resolution 86-77, the initial enabling resolution originally adopted May 27, 1986, for the EDA and Resolution 86-77 was amended and restated on January 22, 2008, following a public hearing by Resolution No. 2008-015, and was again amended and restated on June 22, 2010, following a public hearing by Resolution No. 2010-092, and amended and restated again on June 10, 2014, following a public hearing by Resolution No. 2014-097; and was again amended and restated on April 14, 2015 following a public hearing by Resolution No. 2015-067, and

WHEREAS, the City desires to amend the enabling resolution for the EDA, as hereinafter set forth, pursuant to Minnesota Statutes Section 469.093; and

WHEREAS, a public hearing has been held for this amendment to the enabling resolution of the EDA pursuant to Minnesota Statutes Section 469.093.

NOW, THEREFORE, THE CITY OF FARIBAULT RESOLVES:

SECTION 1. APPOINTMENT OF AN ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF FARIBAULT, MINNESOTA

Section 1.1. Economic Development Authority Established. The Economic Development Authority for the City of Faribault, Minnesota (hereinafter the “EDA”) is hereby established. The EDA shall have all the powers, duties and responsibilities set forth in Sections 469.090 to 469.108 of the Act and as said Act may be amended from time to time and all other applicable laws, except as limited by this Resolution.

Section 1.2. Purpose. The appointment of an EDA, pursuant to the provisions, restrictions and regulations contained herein, is intended to provide the City with a board comprised of representatives from both city government and private enterprise, capable of administering business incentives and other economic development measures. The EDA shall be the chief economic development agency for the City, and shall be under the authority of the City Council.

Section 1.3. Definition. An EDA is a public body corporate and politic and a political subdivision of the state with the right to sue and be sued in its own name. An EDA carries out an essential governmental function when it exercises its power, but the EDA is not immune from liability because of this.

Section 1.4. Responsibility. The EDA shall have primary responsibility for commercial and industrial development and redevelopment and the Housing and Redevelopment Authority in and for the City of Faribault shall have primary responsibility for residential development and redevelopment.

SECTION 2. COMPOSITION OF THE EDA

Section 2.1. Composition. The seven commissioners of the EDA shall be selected or appointed as follows:

- a. Two City Council members shall be appointed as commissioners by the City Council.
- b. The City Council may appoint the remaining commissioners to serve at large or from organizations which may have a role in economic development. An appointment could be from such organizations as City Commissions, the Faribault Industrial Corporation, the School District, County, Community Board or Chamber of Commerce.

Section 2.2. Terms. Initial appointees receive terms of 1, 2, 3, 4, 5, 6 and 6 years; thereafter all terms are for six years, except as hereinafter provided. The City Council may set the term of the commissioners who are members of the City Council to coincide with their term of office as members of the City Council. All terms shall expire at the first City Council meeting of January. Commissioners may serve no more than a maximum of two (2) consecutive terms (full or partial) and no more than a total of twelve (12) consecutive years. Commissioners may re-apply for additional terms after a one (1) year absence from the EDA.

Section 2.3. Compensation and Reimbursement. EDA members shall be reimbursed for actual expenses as determined by the City Council.

Section 2.4. Vacancies. A vacancy is created in the membership of the EDA when a City Council member of the EDA ends Council membership. A vacancy for this or another reason must be filled for the balance of the unexpired term, in the manner in which the original appointment was made.

Section 2.5. Conflict of Interest. Except as authorized in Minnesota Statutes Section 471.88, a commissioner, officer, or employee of the EDA must not acquire any financial interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall the person have any financial interest, direct or indirect, in any contract or proposed contract for materials or service to be furnished or used in connection with any project.

Section 2.6. Removal for Cause. An EDA commissioner may be removed by the City Council as provided in Minnesota Statutes Section 469.095, subd. 5.

SECTION 3. TRANSFER OF TAX INCREMENT AUTHORITY

Section 3.1. The City shall transfer the control, authority and operation of its tax increment development plans pursuant to Chapter 462, implemented by Resolutions 85-151, 85-140, 85-22, 85-21, 85-20, 81-168, 81-5, and pursuant to Chapter 472A, implemented by Resolutions 85-141 and 83-58, located within the City, from the governmental agency or subdivision that established the project to the EDA. The City Council requires acceptance of control, authority, and operation of the tax increment development plans by the EDA. The EDA may exercise all of the powers that the governmental unit establishing the project could exercise with respect to the project.

When a project or program is transferred to the EDA, it shall covenant and pledge to perform the terms, conditions, and covenants of the bond indenture or other agreements executed for the security of any bonds issued by the governmental subdivision that initiated the project or program. The EDA may exercise all of the powers necessary to perform the terms, conditions, and covenants of any indenture or other agreements executed for the security of the bonds when the project or program is transferred.

SECTION 4. ORGANIZATIONAL MATTERS

Section 4.1. Staffing. All required EDA staffing will be appointed by the City Administrator from the City of Faribault staff, for purposes of technical assistance, accounting, purchasing supplies, etc., as needed for the operation of the EDA.

Section 4.2. By-Laws. The EDA may adopt by-laws and rules of procedure and shall adopt an official seal.

Section 4.3. Officers. The EDA shall elect a president, a vice president, a treasurer, a secretary, and an assistant treasurer. The EDA shall elect the president, treasurer and secretary annually. A commissioner shall not serve as president and vice president at the same time. The other offices may be held by the same commissioner. The offices of secretary and assistant treasurer need not be held by a commissioner.

Section 4.4. Treasurer. The City of Faribault shall assist the official treasurer for the EDA in performing the statutory duties of the treasurer, with the City handling EDA funds and accounting through the City's financial management system.

Section 4.5. Public Money. EDA money is public money.

Section 4.6. Legal Services. The EDA shall use the services of the City Attorney for its legal needs. The City Attorney is its chief legal advisor.

Section 4.7. City Purchasing. The EDA may use the facilities of the City's purchasing department in connection with construction work and to purchase supplies, equipment or materials.

Section 4.8. Delegation Power. The EDA may delegate to one or more of its agents or employees powers or duties as it may deem proper.

SECTION 5. FINANCIAL MATTERS

Section 5.1. Budget to City. The EDA shall annually submit its budget to the City Council for approval. The budget must include a detailed written estimate of the amount of money that the EDA expects to need from the City to perform its business during the next fiscal year.

Section 5.2. Fiscal Year. The fiscal year for the EDA shall be the same as the City.

Section 5.3. Report to City. Annually, at a time and in a form fixed by the City Council, the EDA shall make a written report to the Council giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with additional matters and recommendations it deems advisable for the economic development of the City.

Section 5.4. Financial Statement. The EDA's financial statement must show all receipts and disbursements, their nature, the money on hand, the purposes to which the money is to be applied, the EDA's credits and assets, and its outstanding liabilities, in a form required for the City's financial statements. The EDA shall examine the statement together with the treasurer's vouchers. If the EDA finds the vouchers are correct, it shall approve them by resolution and enter the resolution into its records.

Section 5.5. Audits. The financial statements of the EDA must be prepared, audited, filed and published or posted in a manner required for the financial statements of the City. The financial statements must permit comparison and reconciliation with the City's accounts and financial reports. The report must be filed with the state auditor by June 30 of each year. The auditor shall review the report and may accept it or, in the public interest, audit the books of the EDA.

SECTION 6. SCHEDULE OF POWERS

Section 6.1. Economic Development Districts. The EDA may establish and define the boundaries of economic development districts at any place and at any time within the City. The EDA must hold a public hearing on the matter, with notice published at least 10 days prior to the

hearing in the official city newspaper. The establishment of an economic development district must be approved by the City Council pursuant to Minnesota Statutes.

Section 6.2. Acquisition of Property. The EDA may acquire by lease, purchase, gift, devise or condemnation proceedings the needed right, title and interest in property to create economic development districts.

Section 6.3. Revolving Loan Fund. The EDA shall have the power to administer the Economic Development Revolving Loan Fund.

Section 6.4. Options. The EDA may sign options to purchase, sell or lease property.

Section 6.5. Eminent Domain. The EDA may use eminent domain under Chapter 117, or under the City Charter to acquire property it is authorized to acquire through condemnation.

Section 6.6. Contracts. The EDA may make contracts for the purposes of economic development within its granted powers. The EDA may arrange with the federal government, any of its agencies, with persons, public corporations, the state, or any of its political subdivisions, commissions or agencies, for separate or joint action, on any matter related to the EDA's powers or doing its duties. The EDA may contract to purchase and sell real and personal property. However, the EDA is not authorized to issue debt without prior Council approval.

Section 6.7. Limited Partner. The EDA may be a limited partner in a partnership whose purpose is consistent with the EDA's purpose.

Section 6.8. Rights and Easements. The EDA may acquire rights or easements for a term of years or perpetually for development of an economic development district.

Section 6.9. Receipt of Public Property. The EDA may accept land, money, or other assistance, whether by gift, loan or otherwise, in any form from the federal or state governments, or any political subdivisions or agencies thereof, to acquire and develop economic development districts.

Section 6.10. Development District Authority. The EDA may sell or lease land held by it for economic development in economic development districts.

Section 6.11. As Agent. The EDA may cooperate or act as an agent for the federal or state government, or a state public body, or an agency or instrumentality of a government or public body, to carry out the EDA's duties, or any other related federal, state or local law in the area of economic development district improvement.

Section 6.12. Studies, Analysis and Research. The EDA may study and analyze economic development needs in the City, and ways to meet those needs.

Section 6.13. Public Relations. To further an authorized purpose, the EDA may: (1) join an official, industrial, commercial or trade association, or other organization concerned with the

purpose; (2) have a reception of officials who may contribute to advancing the City and its economic development; and (3) carry out other public relations activities to promote the City and its economic development.

Section 6.14. Accept Public Land. The EDA may accept conveyances of land from all other public agencies, commissions, or other units of government, if the land can be properly used by the EDA in an economic development district.

Section 6.15. Economic Development. The EDA may carry out the law on economic development districts to develop and improve lands in an economic development district to make it suitable and available for its purposes.

SECTION 7. DEBT ISSUANCE.

Section 7.1. Debt Issuance. The EDA cannot issue debt obligations without the prior approval of the City Council.

Section 7.2. Bonds. General Obligation Bonds, Industrial Development Bonds, Tax Increment Bonds, and Revenue Bonds, whose proceeds are required for EDA approved projects, must be issued by the City Council pursuant to the City of Faribault Charter and applicable Minnesota Statutes.

Section 7.3. Pledge. All bonds issued by the City Council for the debt obligations of the EDA must be secured by the full faith, credit and resources of the City.

Section 7.4. Tax Levy. The tax levy must be certified by the City Council, and must be pledged back to the City.

Section 7.5. As Borrower and Lender. The EDA may borrow for its approved projects from the City; and, from its own proceeds, may make or purchase loans for economic development facilities which it believes requires financing.

SECTION 8. SALE OF PROPERTY

Section 8.1. Power. The EDA may sell and convey property owned by it within the city or an economic development district consistent with the requirements of Minnesota Statutes Section 469.105.

SECTION 9. ADVANCES BY EDA

Section 9.1. Advances by the EDA. The EDA may advance its general fund money or its credit, or both, without interest, for its objectives and purposes.

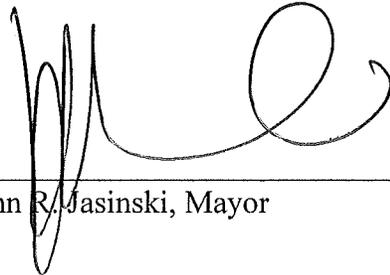
SECTION 10. DATE EFFECTIVE

Section 10.1. Adoption. This resolution shall be adopted upon affirmative vote of the majority of the City Council.

Section 10.2. Effect. This resolution shall be in full force upon its adoption and shall continue until such time as it may be amended or rescinded by the City Council.

Section 10.3. Conflicts. Any conflicts arising out of the conduct and operation of the EDA shall be resolved with reference to Minnesota statutes, and if there arises any conflict between this resolution and Minnesota statutes, Minnesota statutes shall prevail.

Adopted: October 25, 2016.



John R. Jasinski, Mayor

ATTEST:



Brian J. Anderson, City Administrator