

**CITY COUNCIL COMMUNICATION 98-097
MARCH 23, 1998 AGENDA**

SUBJECT:

**REVISION OF SPECIAL ASSESSMENT POLICY
ON NUISANCE ABATEMENT ASSESSMENTS
LEVIED UNDER CHAPTER 364, CODE OF IOWA**

SUBMITTED BY:

**HAROLD SMITH
CITY ENGINEER**

SYNOPSIS –

Staff recommends reducing the allowable payment period for special assessments associated with nuisance abatement levied under Chapter 364, Code of Iowa, from ten annual installments to:

- one installment for administrative cleanup work;
- three installments for tree removal work; and
- five installments for sidewalk and driveway replacement work.

FISCAL IMPACT –

Special assessments will be collected over a reduced period of time so the City will receive revenue more timely for services it rendered.

RECOMMENDATION –

Staff recommends approval of the revised policy discussed in this Council Communication.

BACKGROUND –

ADMINISTRATIVE CLEANUP

Each year the Community Development Department orders a large number of administrative cleanings for properties found in violation of the City's nuisance codes; this work is performed by either the Public Works Department or by a private contractor depending upon the nature of

the cleanup.

Last fall, a new hearing officer process was implemented, as a substitute for filing court actions, which has significantly increased both the speed of the enforcement process and the number of property cleanings.

In previous years, the cost of this work was placed as a special assessment against the violating property in accordance with Chapter 364, Code of Iowa. Section 364.13 Installments states:

If any amount assessed against property under section 364.12 will exceed one hundred dollars, a City may permit the assessment to be paid in up to ten annual installments, in the same manner and with the same interest rates provided for assessments against benefited property under Chapter 384, division IV.

The past assessment policy of the City is to allow for installments over a ten-year period. However, this method of collection was determined to be undesirable as it provided the City with poor cost recovery over the ten-year period, and it had little punitive value to those residents who created the violations.

More recently, under the hearing officer process, a billing procedure has been implemented which ultimately ends up in small claims court for non-payment; this, however, has been found to be extremely staff intensive work and once again forces the City to rely on the court system for recovery of costs in addition to generating more charges for legal and court related expenses.

The Legal Department determined that §364.13 of the Code of Iowa as stated above, contains language which states a City may permit the assessments to be paid in up to ten annual installments. As stated above, the City's assessment policy for assessments levied under Chapter 364 is to allow payment over a ten-year period. Staff researched the 125 assessments levied for administrative clean-ups during calendar year 1997 and found the following:

- One hundred twenty-two properties were assessed a total of \$26,892.66.
- Assessments on said 122 properties ranged from over \$100.00 to under \$520.
- The average assessment was \$220.43 on said 122 properties.
- Three properties were assessed a total of \$4,260.47, with individual assessments of \$1,264.34, \$1,446.58, and \$1,549.59.

If the average assessment of approximately \$220 is paid over the allowed ten-year period, the annual payment is \$22 plus interest on the unpaid principal, which has little punitive value to those residents creating these violations.

Staff recommends the City Council exercise its options under said §364.13 as referenced above, and change its policy regarding administrative cleanups from the current policy of allowing ten annual installments to a new policy allowing only one installment. This new policy would give

the property owner the following options:

- The assessment may be paid in full or in part and without interest within 30 days after first date of publication of the Notice to Property Owners of filing of the schedule of assessments.
- The unpaid assessment shall be payable in one installment and shall bear interest at the rate established by Council, from the date of the acceptance of the schedule; the one installment of each assessment, with interest on the assessment from date of acceptance of the work by the Council, shall become due and payable in July, and shall be paid at the same time and in the same manner as the September semiannual payment of ordinary taxes.

Implementation of said new policy allowing only one installment on the unpaid assessment would have the following benefits to the City:

- More effective and efficient recovery of costs for nuisance abatements.
- Larger assessments would be punitive to the property owner and possibly discourage repeat offenses.
- Satisfy the community's desire to have the cost of this cleanup work borne by those residents who violate property maintenance ordinances.

Staff determined this policy change can be implemented through a change in roll call language and in the special assessment notices which are sent to property owners. The attached roll call and Notice for Schedule No. 1998-34 contain this revised language and allow for only one installment. I recommend the City Council implement this policy change and subsequent roll calls to place future cleanup assessments will be similarly worded.

Staff also examined other types of assessments levied under Chapter 364 as:

Tree Removal
Sidewalk & Driveway Approach Repair

with the following recommendations:

TREE REMOVAL

In 1997, the City Council levied assessments for tree removal against 14 properties with a total assessment of \$10,681. Ten of the assessments were between \$170 and \$550 with an average of \$281.40. The remaining four assessments were in amounts of \$1,280, \$1,731, \$1,854, and \$3,002 with an average of \$1,966.75. Current assessment policy would allow for payment in ten annual installments plus interest on the unpaid principal. Given the \$281.40 average above, the annual payment would be \$28.14 plus interest and the \$1,966.75 average would be \$196.68 plus interest.

The City is in effect financing these assessments by allowing payment over a ten-year period.

Financing for an auto loan, for example, for \$3,000 simply would not be given a ten-year period. Granted, the City is not financing an auto loan, and often low-income citizens have the City do tree removal because they cannot afford the removal cost.

Staff recommends the payment period for tree removal assessments be reduced from ten years to three years. The average assessments stated above of \$281.40 would result in an annual payment of \$93.80 plus interest and the \$1,966.75 average would result in an annual payment of \$655.58 plus interest.

SIDEWALK AND DRIVEWAY APPROACH REPLACEMENT

In 1997, the City Council levied assessments for sidewalk and driveway approach replacement against 214 properties with a total assessment of \$94,513.11. Two hundred and nine of the assessments were between \$50 and \$1,900 with an average of \$365.56. The remaining five assessments were in amounts of \$5,067.82, \$3,010.62, \$5,411, \$2,253, and \$2,367.60 with an average of \$3,622.01. Current assessment policy would allow for payment in ten annual installments plus interest on the unpaid principal. Given the \$365.56 average above, the annual payment would be \$36.56 plus interest and the \$3,622.01 average would be \$362.20 plus interest.

The City is in effect financing these assessments by allowing payment over a ten-year period. Financing for a \$5,000 auto loan, for example, would not be given a ten-year period. At the same time, the City recognizes that low-income citizens have the City do sidewalk and driveway approach replacement because they can not afford the cost.

Staff recommends that the payment period for sidewalk and driveway replacement approach assessments be reduced from ten years to five years. The average assessments stated above of \$365.56 would result in an annual payment of \$73.11 plus interest and the \$3,622.01 average would result in an annual payment of \$724.40 plus interest.