

★ **Roll Call Number**

Agenda Item Number

37

Date September 12, 2011

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Section 122-2, relating to powers and duties of municipal arborist",

which was considered and voted upon under Roll Call No. 11- 1522 of August 29, 2011; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk



**Council
Communication**
Office of the City Manager

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Date:	August 29, 2011
Agenda Item No.	72
Roll Call No.	11-521
Communication No.	<u>11-583</u>
Submitted by:	Richard A. Clark, City Manager

AGENDA HEADING:

Recommendation from the City Manager regarding Municipal Arborist reporting and organizational issues, and amending Chapter 122-2 in regards to reporting.

SYNOPSIS:

Over the past several years, the City has significantly increased its focus on the importance of trees and the urban forest to the community. The City has taken several significant steps including the recent hiring of a credentialed Municipal Arborist who reports to the Public Works Director. This person supervises the Forestry Division of the Public Works Department and will provide the City organization professional guidance on matters concerning the urban forest and trees.

At the July 25, 2011 Council meeting, after a discussion regarding clarifying the reporting and duties of the Municipal Arborist, Council referred the proposed Code change to the Manager for recommendations. A Code change to outline supervisory reporting is not necessary. In fact, and this is true for the organization as a whole, the Code should contain operational detail of reporting, except for the most senior positions. Therefore, staff recommends that Chapter 122-2 be repealed and that the Council waive the second and third readings to remove any conflicts in the Code and the job specifications.

Additionally, it is important as time and opportunity allows, to review the Code related to responsibilities in Parks and Recreation, Public Works and Engineering to update, as appropriate, the responsibilities and assignments. The Code should be reviewed to align the Municipal Arborist as the resident expert on matters concerning trees within the City. This issue of Code setting operational structure is true of a number of positions within the organization and should be reviewed for accuracy.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

The City has made positive strides in the past years to advance the urban forest, for example:

- Increasing budget support for tree plantings;
- Adopting a tree mitigation ordinance;
- Creating landscape guidelines for development;

- Adopting a tree mitigation policy for the City organization, and funding replacement trees for individual projects;
- Adjusting construction specifications; and
- Rewriting the Job Specifications for the Municipal Arborist, and filling the position.

The role of the Municipal Arborist is an important part of the City organization. In addition to the duties of managing the Forestry Division, this position will be called upon to advise other departments on matters concerning urban forest. Advice and consultation on public construction projects, care and protection of existing trees, advice on the placement of new trees and review and advice on private development proposals are a few examples. The position is similar to other positions of special expertise in the City, such as the City Architect, who advises all departments on architectural matters.

At the July 25th, 2011 City Council meeting, Council discussed the Municipal Arborist position and a Municipal Code change to clarify reporting and duties, (Roll Call No. 11-1306) and referred the issue to the City Manager to review Code concerns and recommend appropriate action. The action considered was to amend Section 122-2 so that the Forestry Division in Public Works would be supervised by the Municipal Arborist, who would be responsible to the Public Works Director. The discussion from Council centered on concerns of liability demonstrated by having inconsistencies in reporting for the position.

The job description or class specifications for the Municipal Arborist position was carefully updated prior to the recruitment earlier this year. The specification clearly set the reporting to the Public Works Director, not the Sanitation Division. The specification also set duties, including managing the Forestry Division within the Public Works Department. The City Code, generally speaking, should not set these specifications as a matter of law. This is true of many positions in the City. The Municipal Code contains the overarching organization of the City; the City Manager, City Attorney, City Clerk and Human Rights Director responsibilities; and the different departments and their general responsibilities. Other positions are not specified within the Code, but are left for the City Manager to organize, as needed, to meet the Council's directives and priorities in implementing City Code.

The City Manager has flexibility to reassign or change duties, depending on the needs of the organization, within the City's Civil Service system and by personnel practices and policies. During these challenging budgetary times, it is necessary for the organization to be nimble in order to achieve needed efficiencies in maintaining services and follow through on the Council's directives and priorities. The Municipal Arborist job description or class specification was meticulously updated by the department to meet the City's needs earlier this year, and was approved through the Civil Service Commission.

As noted at the Council meeting, the City Attorney's Office did review the City Code for references related to tree administration. In fact, several areas were identified that should be reviewed and addressed, including responsibilities for cemetery trees, right-of-way trees, park trees and public trees. Over time, overlap and other issues with the City Code can inadvertently occur when a specific change is made to one section; and the other sections that may be affected are not adjusted, leaving possible inconsistencies. There are arguably inconsistencies and overlap within the Code that need to be corrected.

From this analysis by the City Attorney, it is recommended that Council request the City Manager and City Attorney to review and recommend updates to the Code accordingly, especially in regard to responsibilities of the Parks Board, Parks and Recreation Department, Public Works Department and

City Engineer. The City Manager will advise the Council of the alignment of duties within the organization to fulfill the Code requirements and Council priorities in the most efficient and logical manner. The City Manager would work closely with the Parks and Recreation Board, the departments involved, as well as the Municipal Arborist to make adjustments so that responsibilities related to tree care and maintenance are clear, effective, operational, logical and within budgetary constraints.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Section 122-2, relating to powers and duties of municipal arborist.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

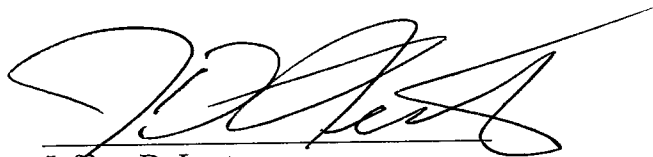
Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by repealing Section 122-2 relating to powers and duties of municipal arborist, as follows:

Sec. 122-2. (Repealed by Ord. No. 15,---). ~~Powers and duties of sanitation administrator.~~

~~_____ The forestry division shall be supervised by the sanitation administrator, who shall be responsible to the public works director for organizing and directing the placement, care and removal of trees in city parks, along city streets and in other public places. The sanitation administrator shall perform all duties required under this chapter and such other tasks as may be assigned by the public works director.~~

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Jeffrey D. Lester
City Attorney