

**MUSCATINE CITY COUNCIL  
IN-DEPTH MEETING  
Thursday, April 11, 2024**

Brad Bark, Mayor

Don Lampe, 1st Ward  
Jeff Osborne, 2nd Ward  
Peggy Gordon, 3rd Ward  
Nadine Brockert, 4th Ward  
John Jindrich, 5th Ward

Angie Lewis, At Large  
Matt Conard, At Large  
Carol Webb, City Administrator  
Cinda Hilger, Admin. Professional  
Brent Hinders, City Attorney

City Council meetings are held at 6:00 pm on the 1st and 3rd Thursday of each month, In-depth sessions on the 2nd Thursday of each month. All meetings are available for review on the City of Muscatine YouTube page.

The public is welcome to attend virtually using the information below.

**Please join my meeting from your computer, tablet or smartphone.**

<https://us06web.zoom.us/j/82551691259?pwd=NERydEJOandvWWNXbDM3UkZxZmE4QT09>

<https://us06web.zoom.us/j/82551691259?pwd=NERydEJOan>

**AGENDA**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **COUNCIL DISCUSSION ITEMS**

- A. Discussion on Sidewalk Cost-share Options

This will be a presentation and discussion on possible sidewalk construction cost-share options

- B. Appointment, Dismissal, and Reporting Structure for Muscatine Fire Chief and Muscatine Police Chief
- C. Discussion on Biogas Utilization from the Water and Resource Recovery Facility

Biogas Utilization at the WRRF

- D. Discussion regarding Title 1-10-2.E (1)(b) - Elected Official Communication with City Department Heads and Employees
- E. Discussion on Right of Way Mowing and Maintenance

5. **MAYOR AND COUNCIL REPORTS**

6. **ADJOURNMENT**



# City of Muscatine

ITEM NUMBER 2024-0145

## IN-DEPTH ITEM - CITY COUNCIL

DATE: 4/11/2024

### STAFF

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Brian Stineman, Public Works Director

### SUBJECT FOR DISCUSSION

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Discussion on Sidewalk Cost-share Options

### EXECUTIVE SUMMARY

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Staff will present information collected from our comparable communities about sidewalk cost-share options. A discussion will be held on how the council would like to proceed with a sidewalk cost-share program.

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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Does the City Council have feedback on the information presented?

How would the Council like to proceed after reviewing the presentation?

### BACKGROUND/DISCUSSION

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At the October 12, 2023 City Council In-depth meeting, Public Works Director Stineman presented an update on the city sidewalk inspection program and asked for direction on how the Council would like to proceed with enforcement of city code regarding sidewalks. There were three follow-up items from that meeting:

1. Council agreed with staff to enforce the city code and require property owners to repair and maintain the existing sidewalk. However, they wanted to explore a cost-share process for construction of new sidewalk.
2. Council was uncertain about how to proceed with the staff recommendation to hold a public hearing and special assessment to share the cost of construction of new sidewalks with abutting property owners and requested this to be a follow-up item at a future meeting.
3. Council agreed to have staff prepare a cost-share program proposal for a future discussion.

The first item, "Explore a cost-share process for construction of new sidewalk", is pretty standard throughout the state of Iowa. All of our comparable cities; Mason City, Marshalltown, Burlington, Clinton, Fort Dodge, Marion, and Ottumwa, have language in their city codes

similar to ours. In general, it states that: "The City Council may, by resolution, order the construction or the installation of permanent sidewalks in front of or along any piece of property abutting upon any street or alley in the same manner as set out for any public improvement pursuant to sections 364.12 and 384.38 of the Code of Iowa." These sections of the Code of Iowa have been attached for reference.

After following all the rules and associated procedures included in these sections of the state code, the Council could, by resolution, determine the amount that they are willing to have the city fund for such construction and the remaining amount would be assessed to the abutting property owners.

The last time the City of Muscatine did an assessment for sidewalk was in 2000 for the Houser Street Sidewalk Extension Project, which installed new sidewalk on both sides of Houser Street between Mulberry and Cedar Streets. The process to follow the state code took twenty weeks to complete. The memorandum and associated twenty-week schedule have been attached for reference.

Staff have developed three options for construction of new (missing) sidewalk

1. The City pays for construction of new sidewalks in areas that are already developed.

- Pro: No administrative burden of special assessments
- Pro: Reduced opposition from public based on no cost assessment
- Pro: Status quo compared to other sidewalk projects recently completed
- Con: Less work can be accomplished annually because funds cannot be leveraged with cost share
- Con: Longer length of time to complete connection of sidewalk sections for walkability goals

2. The City implements special assessments and allocates funds to share with property owners.

- Pro: More work can be accomplished annually because funds can be leveraged with cost share
- Pro: Shorter length of time to complete connection of sidewalk sections for walkability goals
- Con: Likely opposition from property owners due to cost of assessment
- Con: Administrative burden of special assessments

3. The City implements special assessment and has owners pay for all of the sidewalk costs.

- Pro: More work can be accomplished annually because funds don't come from city budget
- Pro: Shorter length of time to complete connection of sidewalk sections for walkability goals
- Pro: Budgeted sidewalk funds can be applied to other sidewalk issues, like ADA ramp compliance, to meet Federal requirements
- Con: Likely the most opposition from property owners due to cost of assessment
- Con: Administrative burden of special assessments

Based on the complexity of navigating through State Code 384, the length of the time period to get through all the required council actions, and the amount of concern expressed by residents on a current proposed project, staff recommends Option 1.

At this time, staff recommend that the city pay for construction of new sidewalks in areas that are already developed and do not fall under Title 11 of City Code.

Funding for new sidewalk could come from the sidewalk program as funded by Road Use Tax, grants, or other sources to be determined later.

#### **ATTACHMENTS**

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1. Code of Iowa 364.12
2. Code of Iowa 384.38
3. Special Assessment for Houser Sidewalk
4. Sidewalk Cost-share 4.11.23 V4

### 364.12 Responsibility for public places.

1. As used in [this section](#), “property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

2. A city shall keep all public grounds, streets, sidewalks, alleys, bridges, culverts, overpasses, underpasses, grade crossing separations and approaches, public ways, squares, and commons open, in repair, and free from nuisance, with the following exceptions:

a. Public ways and grounds may be temporarily closed by resolution. Following notice as provided in [section 362.3](#), public ways and grounds may be vacated by ordinance.

b. The abutting property owner is responsible for the removal of the natural accumulations of snow and ice from the sidewalks within a reasonable amount of time and may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice. If damages are to be awarded under [this section](#) against the abutting property owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant’s actual damages, and the amount of actual damages shall not be determined by speculation, conjecture, or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this paragraph. The city’s general duty under [this subsection](#) does not include a duty to remove natural accumulations of snow or ice from the sidewalks. However, when the city is the abutting property owner it has the specific duty of the abutting property owner set forth in this paragraph.

c. The abutting property owner may be required by ordinance to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

d. A city may serve notice on the abutting property owner, by certified mail to the property owner as shown by the records of the county auditor, requiring the abutting property owner to repair, replace, or reconstruct sidewalks.

e. If the abutting property owner does not perform an action required under [this subsection](#) within a reasonable time, a city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. This power does not relieve the abutting property owner of liability imposed under paragraph “b”.

f. A city has no duty under [this subsection](#) with respect to property that is required by law to be maintained by a railway company.

3. A city may:

a. Require the abatement of a nuisance, public or private, in any reasonable manner.

b. Require the removal of diseased trees or dead wood, except as stated in [subsection 2](#), paragraph “c” of [this section](#).

c. Require the removal, repair, or dismantling of a dangerous building or structure.

d. Require the numbering of buildings.

e. Require connection to public drainage systems from abutting property when necessary for public health or safety.

f. Require connection to public sewer systems from abutting property, and require installation of sanitary toilet facilities and removal of other toilet facilities on such property.

g. Require the cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

h. If the property owner does not perform an action required under [this subsection](#) within a reasonable time after notice, a city may perform the required action and assess the costs against the property for collection in the same manner as a property tax. Notice may be in the form of an ordinance or by certified mail to the property owner as shown by the records of the county auditor, and shall state the time within which action is required. However, in an emergency a city may perform any action which may be required under [this section](#) without prior notice, and assess the costs as provided in [this subsection](#), after notice to the property owner and hearing.

4. In addition to any other remedy provided by law, a city may also seek reimbursement for costs incurred in performing any act authorized by [this section](#) by a civil action for damages against a property owner. However, a city shall not seek reimbursement for costs incurred in performing an act if the same act has not been performed by the city on adjoining city-owned property. For the purposes of [this subsection](#), a county acquiring property for delinquent taxes shall not be considered a property owner.

5. A city may cause, without prior determination and notice, the repair or replacement of public improvements including, but not limited to, sidewalks, water stop boxes, and driveway approaches if the property owner does all of the following:

a. Requests the repair and replacement of the public improvements specified in [this subsection](#) abutting the property owner's property located outside the lot and property lines and inside the curb lines.

b. Waives the requirement of a prior finding by the city council that the condition of the public improvements constitutes a nuisance and the requirement of prior notice.

c. Consents to the repair of the public improvements and the assessment of the cost of the repair to the abutting property.

6. If, in repairing and replacing improvements in the area between the lot or property lines and the curb lines pursuant to [subsection 5](#), it becomes necessary for the city to repair or replace adjacent improvements in the area, the cost of repairing or replacing the adjacent public improvements may be assessed, with consent of the property owner, against the property which the public improvements abut.

7. A city may accumulate individual assessments for the repair and replacement of sidewalks, driveway approaches, water stop boxes, or similar improvements or for the abatement of nuisances, and may periodically certify the assessments to the county treasurer under one or more assessment schedules.

1. [C75, 77, 79, 81, §364.12(1)]

2. [R60, §1097; C73, §467, 527; C97, §753, 757, 780, 781; C24, 27, 31, 35, 39, §5874, 5945, 5950, 5969; C46, 50, §381.1, 389.12, 389.19, 389.38; C54, 58, 62, 66, §368.33, 381.1, 389.12, 389.38; C71, 73, §368.33, 381.1, 381.2, 389.12, 389.38; C75, 77, 79, 81, §364.12(2)]

3. [R60, §1057, 1058, 1070, 1096; C73, §456, 457, 480, 526; C97, §696, 698, 699, 709 – 712; S13, §696, 711, 713-b, 737; C24, 27, 31, 35, 39, §5739, 5751, 5752, 5755, 5759, 5784 – 5786; C46, §368.2, 368.14, 368.15, 368.18, 368.22 – 368.24, 368.44, 368.53 – 368.55; C50, §368.2, 368.14, 368.15, 368.18, 368.22 – 368.24, 368.44, 368.53 – 368.55, 368.62; C54, 58, 62, 66, 71, 73, §368.3, 368.4, 368.9, 368.26, 368.31; C75, 77, 79, 81, §364.12(3)]

[84 Acts, ch 1002, §1](#); [89 Acts, ch 261, §1](#); [95 Acts, ch 58, §1](#)

Referred to in [§364.13](#), [364.13A](#), [384.11](#), [445.1](#)

Nuisances in general, [chapter 657](#)

### **384.38 Certain costs assessed to private property.**

1. A city may assess to private property within the city the cost of construction and repair of public improvements within the city, and main sewers, sewage pumping stations, disposal and treatment plants, waterworks, water mains, extensions, and drainage conduits extending outside the city.

2. Upon petition as provided in [section 384.41, subsection 1](#), a city may assess to private property affected by public improvements within three miles of the city's boundaries the cost of construction and repair of public improvements within that area. The right-of-way of a railway company shall not be assessed unless the company joins as a petitioner for said improvements. In the petition the property owners shall waive the limitation provided in [section 384.62](#) that an assessment shall not exceed twenty-five percent of the value of the lot. The petition shall contain a statement that the owners agree to pay the city an amount equal to five percent of the cost of the improvements, to cover administrative expenses incurred by the city. This amount may be added to the cost of the improvements. Before the council may adopt the resolution of necessity, the preliminary resolution, preliminary plans and specifications, plat, schedule, and estimate of cost must be submitted to, and receive written approval from, the board of supervisors of any county which contains part of the property, and the city development board established in [section 368.9](#).

3. *a.* A city may establish, by ordinance or by resolution adopted as an ordinance after twenty days' notice published in accordance with [section 362.3](#), and a public hearing, one or more districts and schedules of fees for the connection of property to the city sewer or water utility. If the governing body directs that notice be made by mail, the notice shall be as required in [section 384.50](#). Each person whose property will be served by connecting to the city sewer or water utility shall pay a connection fee to the city. The ordinance shall be certified by the city and recorded in the office of the county recorder of the county in which a district is located. The connection fees are due and payable when a utility connection application is filed with the city. A connection fee may include the equitable cost of extending the utility to the properties, including reasonable interest from the date of construction to the date of payment. All fees collected under [this subsection](#) shall be paid to the city treasurer. The moneys collected as fees shall only be used for the purposes of operating the utility, or to pay debt service on obligations issued to finance improvements or extensions to the utility.

*b.* [This subsection](#) shall not apply when a city annexation plan includes annexation of an area adjoining the city and a petition has not been presented as provided in [section 384.41](#) for a city sewer or water utility connection. Until annexation takes place, or the annexation plan is abandoned, the state mandate contained in [section 455B.172, subsections 3, 4, and 5](#), shall not apply unless the individual property owner voluntarily pays the connection fee and requests to be connected to the city sewer or water utility.

[SS15, §840-d, -g; C24, §5985, 5986; C27, 31, 35, §5985, 5986, 6190-a1; C39, §5985, 5986, 6190.01; C46, §391.12, 391.13, 401.1; C50, §391.12, 391.13, 391A.2, 401.1, 420.56; C54, 58, 62, §391.12, 391.13, 391A.2, 401.1; C66, 71, 73, §390A.3, 390A.18, 391.12, 391.13, 391A.2, 401.1; C75, 77, 79, 81, §384.38]

[94 Acts, ch 1073, §1; 96 Acts, ch 1120, §1; 2004 Acts, ch 1086, §65; 2010 Acts, ch 1061, §180](#)

Referred to in [§357E.11A, 358.22, 384.68](#)

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## MEMORANDUM

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**TO:** A . J. JOHNSON  
**FROM:** R. L. CHILDS, CITY ENGINEER  
**SUBJECT:** SPECIAL ASSESSMENT  
CALENDAR OF EVENTS  
**DATE:** MARCH 10, 2000

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The sequence of events prescribed in the Iowa Code as applied to the Houser Street Sidewalk Extension project will consume a 20-week period due to some time elements conflicting with our Council Meeting schedule of two-week intervals.

In order to achieve construction start dovetailed behind MP&W's water main project, it is necessary to initiate the first of the proceedings at the March 16<sup>th</sup> Council Meeting.

Enclosed for the benefit of new council members that have not experienced a special assessment program is a worksheet outlining dates, events, etc.

Also enclosed are the first two Resolutions required and copies of minutes required.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION DESIGNATING  
PROJECT ENGINEER FOR  
PUBLIC IMPROVEMENT**

WHEREAS, Chapter 384 of the Iowa Code provides for cities to follow a prescribed procedure for public improvements where Special Assessments are to be levied to affected property owners; and

WHEREAS, the City Council of the City of Muscatine has determined by receipt of petition and meeting neighbors in the vicinity of Houser Street between Cedar Street and Mulberry Avenue that improvements are in order; and

WHEREAS, Iowa Code 384.42(1) requires the City Council to arrange for engineering services to prepare the plats, schedules, estimates of cost, plans and specifications and to supervise construction of the proposed improvement;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA that the Muscatine City Engineer's office be designated as engineers in connection with the Houser Street Sidewalk Extension Project and be hereafter referred to as the "Project Engineers".

PASSED, APPROVED, AND ADOPTED THIS 16<sup>th</sup> DAY OF MARCH, 2000.

\_\_\_\_\_  
Richard W. O'Brien, Mayor

ATTEST:

\_\_\_\_\_  
A. J. Johnson, City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**PRELIMINARY RESOLUTION ORDERING  
PRELIMINARY PLANS, SPECIFICATIONS,  
PLAT, SCHEDULE AND ESTIMATE**

**WHEREAS**, it is deemed advisable that certain sidewalks in the City be improved in accordance with the provisions of Section 384.42 of the Code of Iowa, 1999, as amended, and the cost thereof to be assessed to the property benefited thereby; and

**WHEREAS**, the City has arranged for engineering services with the City Engineer's Office, in connection with said improvement;

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA** that the following instructions are hereby given:

Section 1. Beginning at the westerly end of existing sidewalks at the intersection of Mulberry Avenue and Houser Street be extended south along both sides of Houser Street to the intersection of Houser Street and Cedar Street after completion of pavement widening and grading following elimination of roadside ditches.

Section 2. That the lots adjacent to the appropriate side(s) of the above-mentioned streets, or right-of-ways thereof, shall be specially benefited by the improvement.

Section 3. That the Engineers are hereby ordered to prepare preliminary plans and specifications, and estimated cost of the work and a plat and a schedule and to file the same with the Clerk and shall include in the estimated cost a default fund item of not to exceed 0% of the amount to be assessed against specially benefited property.

Section 4. That the improvement shall be known as "HOUSER STREET SIDEWALK EXTENSION" and shall be so referred to in all subsequent proceedings.

Section 5. That all resolutions or parts of resolutions in conflict herewith are hereby repealed, to the extent of such conflict.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>th</sup> DAY OF MARCH, 2000.**

\_\_\_\_\_  
**Richard W. O'Brien, Mayor**

**ATTEST:**

\_\_\_\_\_  
**A. J. Johnson, City Clerk**

PROJECT: Houser Street Sidewalk Extension

| DATE                       | EVENT                                                                                                                                         | ACTION<br>REQUIRED<br>BY | OPTIONAL<br>ACTIONS                                                 | OPTIONAL ACTION<br>RECOMMENDED BY |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------------------------------------------------|-----------------------------------|
| <u>March 16</u>            | Minutes of motion to hire engineer.                                                                                                           | 384.42(1)                |                                                                     |                                   |
|                            | Preliminary resolution ordering preliminary plans, specs, plat, schedule and estimate.                                                        | 384.42(2)                | Minutes                                                             | Bonding attorney<br>(B.A.)        |
| <u>April 6</u>             | File plat, schedule and estimate with Clerk.                                                                                                  | 384.48(2c)               |                                                                     |                                   |
|                            | Resolution adopting preliminary plans, specs, plat, schedule and estimate.                                                                    | 384.48                   | Minutes<br>Certify entire transcript.                               | B.A.<br>B.A.                      |
|                            | Minutes introducing Proposed Resolution of Necessity and ordering Clerk to mail and publish Notice of Hearing. <i>by Not. to Prop. Owners</i> | 384.49                   |                                                                     |                                   |
| <u>April 10</u>            | Mail assessment notices by certified mail (no receipt)(not less than 15 days before hearing).                                                 | 384.50                   | Certify mailings                                                    | B.A.                              |
| <i>Apr 18<sup>th</sup></i> | <i>Publish first notice of hearing (not less than 10 days before hearing). Notice to Prop. Owners</i>                                         | 384.50<br>362.3          | Certify that all land affected by the project is City-owned.        | B.A.                              |
| <i>Apr 19<sup>th</sup></i> | <i>Publish second notice of hearing (one week after first notice). Not. to Prop. Owners</i>                                                   | 384.50<br>362.3          | Certify newspaper publications.                                     | B.A.                              |
| <u>May 4</u>               | Public hearing.                                                                                                                               | 384.51                   | Minutes                                                             |                                   |
|                            | Ag property owners file for deferment (at hearing or within 10 days).                                                                         | 384.62                   | Certify deferment requests.                                         |                                   |
|                            | Resolution amending/adopting proposed Resolution of Necessity (requires 75% vote or 100% with remonstrance petition).                         | 384.51                   | Resolution overruling objections (addressed in resolution at left). | B.A.                              |
|                            | Resolution ordering preparation of detailed plans and specs. Notice of (2nd) Hearing. Notice to Bidders and Form of Contract.                 | 384.52                   |                                                                     |                                   |
|                            | Clerk certifies Resolution of Necessity, plat, and schedule and files with County Treasurer.                                                  | 384.51                   |                                                                     |                                   |
| <u>May 18</u>              | Resolution approving detailed plans and specs. Notice of (2nd) Hearing. Notice to Bidders and Form of Contract.                               | 384.102                  |                                                                     |                                   |
| <u>May 24</u>              | Publish and mail Notice to Bidders (20-45 days before bid date).                                                                              | 384.96                   |                                                                     |                                   |
|                            | Publish Notice of (2nd) Hearing (4-20 days before hearing).                                                                                   | 384.102<br>& 362.3       |                                                                     |                                   |
| <u>June 21</u>             | Bid opening.                                                                                                                                  | 384                      |                                                                     |                                   |

|                |                                                                                                                                                                   |                    |                                                                                          |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------------------------------------------------------------------------|
| <u>July 6</u>  | Hearing on plans, specs. Form of Contract and estimated cost.                                                                                                     | 384.102            |                                                                                          |
|                | Resolution finally approving plans, specs. contract, and estimated cost.                                                                                          | 384.102            |                                                                                          |
|                | Resolution awarding contract.                                                                                                                                     | 384.100            | Minutes and certification.                                                               |
|                | Grade ordinance & Engineer's certificate (any time prior to ordering construction).                                                                               |                    | B.A. & vague ref. in 384.39                                                              |
| <u>July 20</u> | Resolution approving contract and bond.                                                                                                                           | 384.100            | Minutes & certification.                                                                 |
| <u>July 28</u> | Preconstruction conference and Notice to Proceed.                                                                                                                 |                    |                                                                                          |
| <u>Aug 7</u>   | Start-up deadline.                                                                                                                                                |                    |                                                                                          |
|                | Completion deadline and final inspection.                                                                                                                         | 384.58(1)          |                                                                                          |
|                | Engineer's Certificate of Completion (memo) (within 15 days of completion).                                                                                       | 384.58(1)          |                                                                                          |
|                | Resolution accepting completed work (within 15 days of filing Certificate of Completion).                                                                         | 384.58(2)          |                                                                                          |
|                | Resolution fixing final assessments.                                                                                                                              | 384.58(3)          |                                                                                          |
|                | Minutes ordering final payment.                                                                                                                                   | 384.58(4)          |                                                                                          |
|                | File final schedule with Clerk (within 30 days of fixing assessments).                                                                                            | 384.59             |                                                                                          |
|                | Resolution amending, adopting, confirming & levying final schedule (within 10 days after filing schedule).                                                        | 384.60             | Minutes introducing & adjourning meeting: Clerk certifies entire transcript.             |
|                | Resolution ordering that the Clerk certify deficiencies to County Treasurer and City Building Administrator (lots later improved may be assessed the deficiency). | 384.63             |                                                                                          |
|                | Clerk certifies final schedule to County Treasurer.                                                                                                               | 384.60(5)          | County Auditor certifies filing of final (Engineer's) schedule.                          |
|                | Publish first notice of final schedule (within 15 days of filing final schedule).                                                                                 | 384.60(5)          | County Treasurer or abstractor certify outstanding tax sale certificates.                |
|                | Mail final assessment notices by certified mail (no receipt)(by the second publication of the notice).                                                            | 384.60(5)          | Co. Treasurer certifies suspension of tax collection against any property.               |
|                | Publish second notice of final schedule (one week after first notice).                                                                                            | 384.60(5)<br>362.3 | Clerk certifies newspaper publications & mailed notices.                                 |
|                |                                                                                                                                                                   |                    | Mayor & Clerk certify appealed assessments (at least 20 days after second publication).  |
|                |                                                                                                                                                                   |                    | Clerk's special assessment statement (at least 30 days after certifying final schedule). |

# Sidewalk Cost-Share Options

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APRIL 11, 2024

BRIAN STINEMAN, PUBLIC WORKS DIRECTOR



# Direction Sought

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How would the council like to proceed after reviewing the presentation?

What is the council's opinion on a cost-share program?



# Agenda

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1. Recap of council's opinion on ordinance enforcement for repairs and installation of new sidewalk
2. Cost Share Program Discussion
3. Questions
4. Discussion on next steps



# Recap of Previous Discussion

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From the October 12, 2023 In-depth Council Meeting:

- Council agreed with staff to enforce the city code and require property owners to repair and maintain the existing sidewalk. However, they want to explore a cost-share process for construction of new sidewalk
- Council was uncertain about how to proceed with the staff recommendation to hold a public hearing and special assessment to share the cost of construction of new sidewalks with abutting property owners.
- Council agreed to have staff prepare a cost-share program proposal for a future discussion.



# All Zones Projected Estimates

| Description     | Zone 1      | Zone 2       | Zone 3       | Zone 4       | Zone 5       | Totals       |
|-----------------|-------------|--------------|--------------|--------------|--------------|--------------|
| No Sidewalk     | 7,850 S.F.  | 377,805 S.F. | 548,670 S.F. | 491,705 S.F. | 663,480 S.F. | 2,089,510 SF |
| Repair Sidewalk | 50,344 S.F. | 28,960 S.F.  | 45,268 S.F.  | 52,196 S.F.  | 55, 836 S.F. | 232,604 S.F. |
| Cost to Add     | \$141,300   | \$6,800,490  | \$9,876,060  | \$8,850,690  | \$11,942,640 | \$37,611,180 |
| Cost to Repair  | \$704,816   | \$405,440    | \$633,752    | \$730,744    | \$781,704    | \$3,256,456  |
|                 |             |              |              |              |              |              |
| Total Work      | 58,194 S.F. | 406,765 S.F. | 593,901 S.F. | 543,901 S.F. | 719,316 S.F. | 2,322,114 SF |
| Total Cost      | \$846,116   | \$7,205,930  | \$10,509,812 | \$9,581,434  | \$12,724,344 | \$40,867,636 |



# New Sidewalk Installation(City Code)

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- City Code, Title 3-1-2 C

**New Sidewalks.** In areas of the City where there are no sidewalks, they shall be installed as follows:

1. **New Construction.** New sidewalks shall be installed in accordance with Title 11 of this Code.
2. **Other Areas.** The City Council shall determine the necessity of installing sidewalks in the areas of the City where none exist after holding a public hearing in accordance with the special assessment provisions of the Code of Iowa.
3. **Cost of Installation.** If, as provided elsewhere in this Code of Ordinances, if it is determined that a sidewalk should be installed, the abutting property owners shall share the cost of installing new sidewalks with the City of Muscatine in accordance with the special assessment rules and regulations for sidewalks as adopted by the City Council. If no such determination is made, abutting property owners may install a sidewalk at their own expense, as long as the sidewalk conforms to the specifications set by the City Engineer and the permit required has been obtained.



# Special Assessment Rules

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Staff could find no council rules or policy for special assessments for sidewalk

Iowa Code 384.37, City Finance, subchapter IV covers special assessments

**384.42 Procedure on public improvement.** To construct or repair a public improvement to be paid for in whole or in part by special assessments, the council shall proceed as follows:

1. Arrange for engineering services to prepare the plats, schedules, estimates of cost, plans, and specifications and to supervise construction of the proposed improvement
2. Adopt a preliminary resolution by the vote of a majority of all the members of the council

There are 12 additional pages of state code that detail the requirements for a special assessment



# Special Assessment Rules

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The last special assessment found for sidewalk was in 2000 for Houser Street Sidewalk Extension

This was a 20 week process following actions required by state code 384

Copy of document in Action Item Summary



# Comparable City's Policies and Code

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## Mason City:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assess per Section 364.12, Code of Iowa

## Marshalltown:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Has description of where new sidewalk is required
- Has deferment policy for special instances where new sidewalk cannot be installed
- Existing sidewalk: if not repaired by property owner, assessed same as property tax



# Comparable City's Policies and Code

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## Burlington:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax
- Outlines sidewalk standards in city code

## Clinton:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax
- May, as fiscal resources are available, allocate funding for repair or construction of new sidewalk to cover whatever proportion of the costs it deems affordable and appropriate in a given fiscal year.
- Outlines sidewalk standards in city code



# Comparable City's Policies and Code

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## Fort Dodge:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax
- Outlines sidewalk standards in city code

## Marion:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax



# Comparable City's Policies and Code

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## Ottumwa:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax
- Outlines sidewalk standards in city code

## Bettendorf:

- New sidewalk: follow Special Assessment rules in Iowa Code 384
- Existing sidewalk: if not repaired by property owner, assessed same as property tax



# Options for New (Missing) Sidewalk Construction

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1. City pays for construction of new sidewalks in areas that are already developed.
  - Pro: No administrative burden of special assessments
  - Pro: Reduced opposition from public based on no cost assessment
  - Pro: Status quo compared to other sidewalk projects recently completed
  - Con: Less work can be accomplished annually because funds cannot be leveraged with cost share
  - Con: Longer length of time to complete connection of sidewalk sections for walkability goals

# Options for New (Missing) Sidewalk Construction

---

2. City implements special assessment and allocates funds to share with property owners.
- Pro: More work can be accomplished annually because funds can be leveraged with cost share
  - Pro: Shorter length of time to complete connection of sidewalk sections for walkability goals
  - Con: Likely opposition from property owners due to cost of assessment
  - Con: Administrative burden of special assessments

# Options for New (Missing) Sidewalk Construction

---

3. City implements special assessment and has owners pay for all of sidewalk costs.
- Pro: More work can be accomplished annually because funds don't come from city budget
  - Pro: Shorter length of time to complete connection of sidewalk sections for walkability goals
  - Pro: Budgeted sidewalk funds can be applied to other sidewalk issues, like ADA ramp compliance, to meet Federal requirements
  - Con: Likely the most opposition from property owners due to cost of assessment
  - Con: Administrative burden of special assessments

# Recommendation from Staff

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Staff recommends Option 1

Staff propose for the city to pay for construction of new (missing) sidewalk in areas that are already developed and do not fall under Title 11 of City Code

Funding for new sidewalk could come from the sidewalk program as funded by Road Use Tax, grants, or other sources to be determined later

Staff feel that recent feedback from the public and council members does not support special assessments and forcing property owners to pay for sidewalk installation



# Direction Sought

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How would the council like to proceed after reviewing the presentation?

What is the council's opinion on a cost-share program?



# Discussion/Questions?

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Brian Stineman

Public Works Director

[bstineman@muscatineiowa.gov](mailto:bstineman@muscatineiowa.gov)

563-263-8933





# City of Muscatine

ITEM NUMBER 2024-0146

## IN-DEPTH ITEM - CITY COUNCIL

DATE: 4/11/2024

### STAFF

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Carol Webb, City Administrator  
Brent Hinders

### SUBJECT FOR DISCUSSION

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Appointment, Dismissal, and Reporting Structure for Muscatine Fire Chief and Muscatine Police Chief

### EXECUTIVE SUMMARY

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At the February 1 City Council regular meeting, City Council directed City staff to provide Council with information for discussion related to the appointment, dismissal, and reporting structure for the Muscatine Fire and Police Chief positions.

Staff reviewed the history of the positions in Muscatine, the current reporting structure, and the structure of peer cities. The Muscatine City Administrator currently oversees the Fire and Police Chief positions and has had that authority since the City Administrator position was created. The authority to appoint and remove both positions has changed over Muscatine's history, starting with the Mayor having authority, then the Mayor subject to approval of the City Council, and then the City Administrator subject to approval of City Council. Both positions report to the City Administrator in all peer cities and the City Administrator has the authority to hire and fire both positions subject to approval of City Council except Burlington, for which the City Administrator has sole authority to do so.

If City Council desires to change the current structure, an amendment to the ordinance will be required.

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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Does the Council have questions about the information presented?

Does the Council desire for an ordinance to be brought forward with amendments to Chapter 1-11 of the City Code?

### BACKGROUND/DISCUSSION

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At the February 1 City Council regular meeting, City Council directed City staff to provide Council with information for discussion related to the appointment, dismissal, and reporting structure for the Muscatine Fire Chief and Muscatine Police Chief. The information provided in this Agenda Item Summary includes:

1. A review of the current reporting structure
2. A review of the history of the reporting structure for the Fire and Police Chiefs in Muscatine
3. The reporting structure of Muscatine's peer cities.
4. The process and options for amending the current reporting structure

## **BACKGROUND**

### **1. Current Authority to Hire, Dismiss, and Oversee the Police Chief and Fire Chief**

Chapter 1-11 of the Muscatine City Code outlines the current appointment, removal, and reporting structure for the Fire Chief and the Police Chief. In summary, the City Administrator currently appoints and removes the Police Chief and Fire Chief subject to approval of City Council. Both positions are subordinate and responsible to the City Administrator. The Code specifically states:

#### 1-11-1 Departments Created

There is hereby established the following City Departments:

- Community Development (Community Development Director)
- Finance (Finance Director-Treasurer)
- Fire (Fire Chief)
- Parks and Recreation (Parks and Recreation Director)
- Police (Police Chief)
- Public Works (Public Works Director)
- Water Pollution Control (Water Pollution Control Director)

#### 1-11-2 Department Heads; Appointment And Removal

The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be subject to the approval of the City Council.

#### 1-11-3 Duties

Department Heads listed in Section 1-11-1 shall be subordinate and responsible to the City Administrator and shall have such duties and functions as from time to time are assigned by the City Administrator.

The current City Code also outlines the powers and duties of the Mayor related to conserving the peace and calling for assistance from the Police Department to quell unrest:

#### 1-7-2 Powers And Duties Of The Mayor

The Mayor shall be the chief executive officer of the City; shall take care that the laws of the State of Iowa and the provisions of this City Code are duly respected, observed, and enforced within the City; shall preside at all council meetings, preserve order and decorum and shall decide all questions of order, subject to an appeal from the Council; shall from time to time give the Council information for its consideration on such measures as may be in the interest of the City; shall be the conservator of the peace and may call for the assistance of the police and, if necessary, any citizen of the City to aid in quelling or preventing any riot or unlawful assembly, or in preventing or restraining any breach of the peace and any such police officer or citizen, when so called upon, who shall refuse to obey the orders of the Mayor shall be deemed guilty of a misdemeanor; shall sign on behalf of the City all contracts between the City and any other party; and shall perform all duties required by the Charter, the provisions of this Code, resolutions of the City Council and all other acts which the good of the City may require.

## **2. History of Reporting Structure in Muscatine**

Several key events have occurred in the City's history related to the appointment, dismissal, and responsibility for the Police Chief and Fire Chief. Those key events are as follows:

- 1968 - The City Administrator position is created and assumes all reporting responsibilities of department heads (including police and fire chiefs). The Mayor continues to have appointment and removal powers of these positions. The City Administrator has had oversight of the Police Chief and Fire Chief from the time the Administrator's position was created to the current day.
- 1988 - The mayor fires the police chief. In response, the City Council considers an ordinance stating that the mayor may appoint and remove the Police Chief and the Fire Chief subject to approval of City Council. The ordinance passed, but the mayor vetoed the measure. The City Council overrode the veto and the ordinance passed. Both positions continue to report to the City Administrator.
- 1993 - The City Council considered an ordinance to provide the City Administrator with appointment and removal powers of the Fire and Police Chief, subject to the approval of City Council. However, the ordinance failed to pass.
- 2016 - The City Council considers an ordinance stating that the City Administrator has the authority to appoint and remove the Police Chief and Fire Chief subject to approval of Council. The ordinance passed, but the mayor vetoed the measure. The City Council overrode the veto and the ordinance passed. Both positions continue to report to the City Administrator.

Ordinances related to the events above are attached.

## **3. Appointment, Dismissal, and Reporting Structure of Public Safety in Muscatine Peer Cities**

The City Manager/Administrator oversees both positions in all peer cities, which include

Burlington, Clinton, Fort Dodge, Marion, Marshalltown, Mason City, and Ottumwa. All cities except Burlington provide the City Manager/Administrator with the authority to appoint and dismiss both positions subject to City Council approval. The Burlington City Manager has the sole authority to appoint and dismiss both positions. The relevant City Codes for peer cities are attached.

#### **4. Process for Amending the Current Reporting Structure**

The process for changing the current reporting structure requires passing amended versions of the ordinances described above.

##### **Option 1: Supervising functions as well as Hiring and Firing**

The provisions concerning the powers of the City Administrator would need to be amended:

##### **1-11-2 Department Heads; Appointment And Removal**

The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be appointed by the Mayor subject to the approval of the City Council.

##### **1-11-3 Duties**

Department Heads listed in Section 1-11-1, other than the Police Chief and Fire Chief, shall be subordinate and responsible to the City Administrator and shall have such duties and functions as from time to time are assigned by the City Administrator. The Police Chief and Fire Chief shall be subordinate and responsible to the Mayor.

The provisions concerning the power of the Mayor would also need amendment:

##### **1-7-2 Powers And Duties Of The Mayor**

The Mayor shall be the chief executive officer of the City; shall take care that the laws of the State of Iowa and the provisions of this City Code are duly respected, observed, and enforced within the City; shall preside at all council meetings, preserve order and decorum and shall decide all questions of order, subject to an appeal from the Council; shall from time to time give the Council information for its consideration on such measures as may be in the interest of the City; shall be the conservator of the peace and may call for the assistance of the police and, if necessary, any citizen of the City to aid in quelling or preventing any riot or unlawful assembly, or in preventing or restraining any breach of the peace and any such police officer or citizen, when so called upon, who shall refuse to obey the orders of the Mayor shall be deemed guilty of a misdemeanor; shall sign on behalf of the City all contracts between the City and any other party; and shall perform all duties required by the Charter, the provisions of this Code, resolutions of the City Council and all other acts which the good of the City may require. The

Mayor shall be responsible for the appointment or removal of the Fire Chief and Police Chief subject to approval of the City Council. The Fire Chief and Police Chief shall be subordinate and responsible to the Mayor.

#### Option 2: Supervising Functions Alone

The provisions concerning the powers of the City Administrator would need to be amended:

##### **1-11-3 Duties**

Department Heads listed in Section 1-11-1, other than the Police Chief and Fire Chief, shall be subordinate and responsible to the City Administrator and shall have such duties and functions as from time to time are assigned by the City Administrator. The Police Chief and Fire Chief shall be subordinate and responsible to the Mayor.

The provisions concerning the power of the Mayor would also need amendment:

##### **1-7-2 Powers And Duties Of The Mayor**

The Mayor shall be the chief executive officer of the City; shall take care that the laws of the State of Iowa and the provisions of this City Code are duly respected, observed, and enforced within the City; shall preside at all council meetings, preserve order and decorum and shall decide all questions of order, subject to an appeal from the Council; shall from time to time give the Council information for its consideration on such measures as may be in the interest of the City; shall be the conservator of the peace and may call for the assistance of the police and, if necessary, any citizen of the City to aid in quelling or preventing any riot or unlawful assembly, or in preventing or restraining any breach of the peace and any such police officer or citizen, when so called upon, who shall refuse to obey the orders of the Mayor shall be deemed guilty of a misdemeanor; shall sign on behalf of the City all contracts between the City and any other party; and shall perform all duties required by the Charter, the provisions of this Code, resolutions of the City Council and all other acts which the good of the City may require. The Fire Chief and Police Chief shall be subordinate and responsible to the Mayor.

#### Option 3: Mayor Supervises and City Council has sole power to hire/fire

The provisions concerning the powers of the City Administrator would need to be amended:

##### **1-11-2 Department Heads; Appointment And Removal**

The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be appointed removed only by the City Council.

##### **1-11-3 Duties**

Department Heads listed in Section 1-11-1, other than the Police Chief and Fire Chief, shall be

subordinate and responsible to the City Administrator and shall have such duties and functions as from time to time are assigned by the City Administrator. The Police Chief and Fire Chief shall be subordinate and responsible to the Mayor.

The provisions concerning the power of the Mayor would also need amendment:

### **1-7-2 Powers And Duties Of The Mayor**

The Mayor shall be the chief executive officer of the City; shall take care that the laws of the State of Iowa and the provisions of this City Code are duly respected, observed, and enforced within the City; shall preside at all council meetings, preserve order and decorum and shall decide all questions of order, subject to an appeal from the Council; shall from time to time give the Council information for its consideration on such measures as may be in the interest of the City; shall be the conservator of the peace and may call for the assistance of the police and, if necessary, any citizen of the City to aid in quelling or preventing any riot or unlawful assembly, or in preventing or restraining any breach of the peace and any such police officer or citizen, when so called upon, who shall refuse to obey the orders of the Mayor shall be deemed guilty of a misdemeanor; shall sign on behalf of the City all contracts between the City and any other party; and shall perform all duties required by the Charter, the provisions of this Code, resolutions of the City Council and all other acts which the good of the City may require. The Fire Chief and Police Chief shall be subordinate and responsible to the Mayor.

The City Council already exercises general authority for the City: “All powers of the City are vested in the Council except as otherwise provided by law or ordinance.” A change to the ordinances governing the City Council is not needed to transfer hiring and firing. Instead, removing the power from the City Administrator automatically transfers it the City Council.

### **ATTACHMENTS**

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1. 66827-0668 - 1968 Ordinance Creating City Administrator
2. 83385-0588 - 1988 adding Council Approval
3. 85245-0893 - 1993 Failed Ordinance
4. 93568-0816 -2016 - Appointment and Removal Powers
5. Fort Dodge, IA city manager duties
6. Fort Dodge, IA Fire Chief Reporting Structure
7. Fort Dodge, IA Police Dept structure
8. Marshalltown reporting structure
9. Mason City appt of police chief
10. Mason City reporting structure fire and police
11. Ottumwa, IA Code Reporting Structure Police Chief

12. Ottumwa, IA reporting structure fire chief
13. Burlington, IA reporting structure
14. City of Marion, IA City Manager Duties
15. City of Marion, IA Fire Chief
16. City of Marion, IA Police Chief
17. Clinton Iowa reporting structure

(Special meeting) Ord passed 1st reading 4-25-68  
(Held until then 16 meeting - 5-2-68)  
(Passed 2nd reading 5-16-68)  
" 3rd " 6-6-68

AN ORDINANCE CREATING THE OFFICE OF  
CITY ADMINISTRATOR OF THE CITY OF  
MUSCATINE, IOWA, PROVIDING FOR APPOINT-  
MENT AND REMOVAL, PRESCRIBING POWERS  
AND DUTIES AND REPEALING ALL ORDINANCES  
IN CONFLICT THEREWITH

Be It Ordained by the City Council of the City of Muscatine, Iowa:

Section 1. Title I, Chapter 12, Section 1 of the City Code of Muscatine, Iowa is hereby repealed, and enacted in lieu thereof is the following, to-wit:

1-12-1. City Administrator - CLERK. The office of the City Administrator is hereby created, which office shall be filled by a majority vote of the City Council. The appointee shall hold office during the pleasure of the City Council, and shall be subject to removal by a majority vote of the City Council. He shall be ex-officio City Clerk.

Section 2. Title I, Chapter 12, Section 5 of the City Code of Muscatine, Iowa is hereby repealed, and enacted in lieu thereof is the following, to-wit:

1-12-5. POWERS AND DUTIES GENERALLY -

(a) The powers and duties of the City Administrator shall include:

1. Enforcement of all City laws and regulations as directed by the Council.
2. Administration of Council policies and directives.
3. Continuous study of the City government operating procedures, organization and facilities and to recommend fiscal and other policies to the Council whenever necessary.
4. Preparation and administration of the City's Annual Operating Budget.
5. Supervision of the City's Administrative policies and procedures, including personnel and purchasing.
6. Keeping the Council informed on the progress of its programs and status of its policies.
7. Coordinating and directing all City services provided through the various departments.
8. Appointment and removal of City employees in accordance with City policies regarding this activity.
9. Study possible joint arrangements with Boards and Commissions such as, but not limited to, Utility and Park, or any other independent Board and make recommendations for such arrangements as are mutually acceptable.

10. Assist the Mayor in any of his duties as requested by him and approved by the Council.

(b) The City Administrator shall be directly responsible to the City Council for the administration of municipal affairs as directed by that body. The Departments and Agencies that currently report directly to the Council shall report and be responsible to the City Administrator. All Departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator and all Council involvement and administration initiated by the Council must be coordinated through the City Administrator.

Section 3. The following sections are hereby enacted and shall be added to Title I, Chapter 12 of the City Code of the City of Muscatine, Iowa;

1-12-6: COMPENSATION. The compensation of the City Administrator shall be such amount as may from time to time be fixed by the Council.

1-12-7: EXCEPTED APPOINTMENT. The City Attorney shall not be considered to be a Department Head, and shall continue to be appointed by, and be directly responsible to the City Council.

1-12-8: DEPUTY CITY CLERK: The City Administrator shall nominate for Council appointment, a Deputy City Clerk to perform the duties of the City Clerk in the administrator's absence and to perform other duties as assigned him.

1-12-9: OTHER DUTIES. The City Administrator shall perform such other duties as may be directed by the City Council.

Section 4. REPEALER - All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. These are: Title I, Chapter 7, Section 4 of the City Code of Muscatine, Iowa.

Section 5. EFFECTIVE DATE. This Ordinance shall be in force and effect upon passage and publication as required by law.

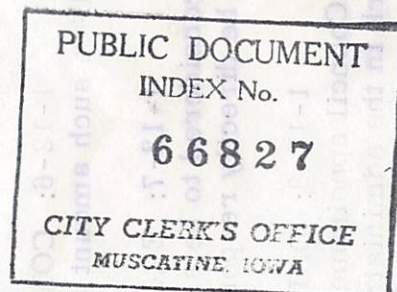
PASSED AND APPROVED this 6<sup>th</sup> day of June, 1968.

ATTEST: Flarence Mason  
City Clerk

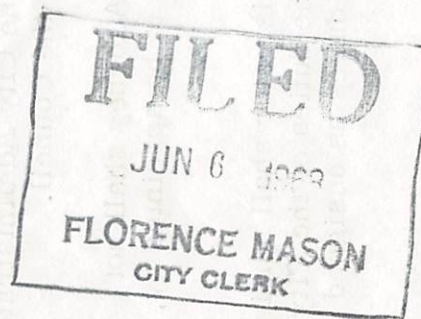
E. S. Burns  
E. S. Burns, Mayor

*Sent to Journal 6-13-68*

*Ord. Creating the office  
of City Administrator*



*page 283, 284.*



RECEIVED

MAY 2 1988

FINANCE DEPT.

ORDINANCE NO. 83385

AN ORDINANCE AMENDING TITLE 1, CHAPTER 9, SECTION 2, TO PROVIDE FOR THE PROCEDURE FOR THE APPOINTMENT OF ALL DEPARTMENT HEADS, INCLUDING THE CHIEF OF THE FIRE DEPARTMENT AND THE POLICE DEPARTMENT.

BE IT ORDAINED by the City Council of the City of Muscatine, Iowa, as follows:

Section 1. Title 1, Chapter 9, Section 2 of the City Code is hereby amended to read as follows:

1-9-2 Department Heads. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Finance Director-Treasurer shall be subject to the approval of the City Council and the appointment and removal of the Fire Chief and Police Chief shall be by the Mayor, subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

Section 2. Any Ordinance or part thereof in conflict or inconsistent with this Ordinance is repealed.

PASSED, APPROVED AND ADOPTED on this 19th day of May, 1988.

Don LeMar, Mayor

ATTEST:

  
Soren Wolff, City Clerk

First Reading February 4, 1988

Second Reading February 18, 1988

Third Reading May 5, 1988

Fourth Reading May 19, 1988

Veto By Mayor May 27, 1988

Veto Overridden By June 2, 1988  
Council

Publication Date June 11, 1988

**Legal notices**

ORDINANCE NO. 83385  
AN ORDINANCE AMENDING  
TITLE 1, CHAPTER 1  
SECTION 2 TO PROVIDE  
FOR THE PROCEDURE  
FOR THE APPOINTMENT  
ALL DEPARTMENT HEADS  
INCLUDING THE CHIEF OF  
THE FIRE DEPARTMENT  
AND THE POLICE  
DEPARTMENT.  
BE IT ORDAINED BY THE  
Council of the City of Muscatine,  
Iowa, as follows:  
Section 1. Title 1, Chapter 1,  
Section 2 of the City Code is  
hereby amended to read as fol-  
lows:

1-2 Department Heads.  
The departments shall be  
headed by a Department  
Head appointed and re-  
moved by the City Adminis-  
trator, except the appoint-  
ment and removal of the  
Fire Chief and Police Chief  
shall be subject to the ap-  
proval of the City Council  
and the appointment and  
removal of the Fire Chief  
and Police Chief shall be by  
the Mayor, subject to the  
approval of the City Coun-  
cil.

All appointments shall be  
made to individuals with suffi-  
cient qualifications to perform  
the general duties of the office  
at a salary in accordance with  
the City's Pay Plan.

Section 2. Any ordinance con-  
flict in conflict or in-  
consistent with this Ordinance  
is repealed.

PASSED, APPROVED AND  
ADOPTED on this 19th day  
of May, 1988.

Don LeMar, Mayor  
Soren Wolff, City Clerk  
First Reading  
February 4, 1988  
Second Reading  
February 18, 1988  
Third Reading May 2, 1988  
Fourth Reading May 19, 1988  
Veto By Mayor May 27, 1988  
Veto Overridden by Council  
June 2, 1988

Molly Carroll, Publisher of the Muscatine Journal,  
a newspaper of general circulation, printed and  
published at Muscatine, in Muscatine County, Iowa,  
being first duly sworn, says that:

City of Muscatine, Ordinance # 83385.....  
.....  
.....  
.....

of which annexed printed slip is a true, correct and  
complete copy, was published in said Muscatine Journal  
once each week for 1.1111111111111111 weeks in succession, the  
first publication having been made there-in on:

June 11th.....1988

the second on.....1988

the third on .....1988

the fourth on.....1988

.....1988

*Molly Carroll*  
Publisher

Subscribed in my presence and sworn to before me by  
the said Molly Carroll this

13th day of June 1988

13.45

*Keith A. Embury*  
Notary Public in and for  
Muscatine County, Iowa

ORDINANCE NO. 83385

AN ORDINANCE AMENDING TITLE 1, CHAPTER 9, SECTION 2, TO PROVIDE FOR THE PROCEDURE FOR THE APPOINTMENT OF ALL DEPARTMENT HEADS, INCLUDING THE CHIEF OF THE FIRE DEPARTMENT AND THE POLICE DEPARTMENT.

BE IT ORDAINED by the City Council of the City of Muscatine, Iowa, as follows:

Section 1. Title 1, Chapter 9, Section 2 of the City Code is hereby amended to read as follows:

1-9-2 Department Heads. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Finance Director-Treasurer shall be subject to the approval of the City Council and the appointment and removal of the Fire Chief and Police Chief shall be by the Mayor, subject to the approval of the City Council.

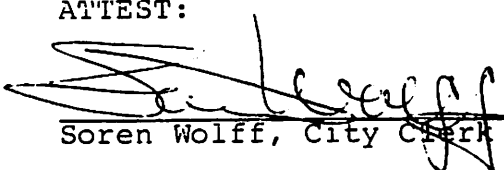
All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

Section 2. Any Ordinance or part thereof in conflict or inconsistent with this Ordinance is repealed.

PASSED, APPROVED AND ADOPTED on this 19th day of May, 1988.

\_\_\_\_\_  
Don LeMar, Mayor

ATTEST:

  
Soren Wolff, City Clerk

First Reading February 4, 1988

Second Reading February 18, 1988

Third Reading May 5, 1988

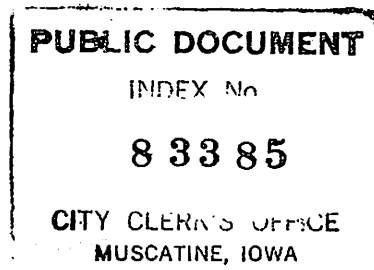
Fourth Reading May 19, 1988

Veto By Mayor May 27, 1988

Veto Overridden By June 2, 1988  
Council

Publication Date \_\_\_\_\_

Ordinance changing appointment and removal of fire and police chief vetoed by Mayor. See minutes of June 2, 1988. Also see Resolution 83391.



ORDINANCE NO. 85245

AN ORDINANCE AMENDING TITLE 1, CHAPTER 9, TO PROVIDE FOR THE APPOINTMENT AND REMOVAL OF THE CHIEF OF THE FIRE DEPARTMENT AND THE POLICE DEPARTMENT BY THE CITY ADMINISTRATOR WITH APPROVAL OF THE COUNCIL.

Be It Enacted by the City Council of the City of Muscatine, Iowa:

SECTION 1. AMENDMENT. Section 1-9-2 Department Heads, of the City Code of Muscatine is repealed and the following adopted in lieu thereof:

1-9-2 Department Heads. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Fire Chief, Police Chief and Finance Director-Treasurer shall be subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 1993, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Administrator

|                |                       |
|----------------|-----------------------|
| First Reading  | <u>July 1, 1993</u>   |
| Second Reading | <u>July 15, 1993</u>  |
| Third Reading  | <u>August 5, 1993</u> |

## TITLE 1 ADMINISTRATIVE

## CHAPTER 9

## CITY DEPARTMENTS

SECTIONS:

- 1-9-1 Departments Created
- 1-9-2 Department Heads
- 1-9-3 Duties
- 1-9-4 Other Departments
- 1-9-5 Creation of New Departments

1-9-1 Departments Created. There is hereby established the following City Departments:

- Community Development (Community Development Director)
- Finance (Finance Director-Treasurer)
- Fire (Fire Chief)
- Parks and Recreation (Parks and Recreation Director)
- Police (Police Chief)
- Public Works (Public Works Director)
- Water Pollution Control (Water Pollution Control Director)

1-9-2 Department Heads. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Finance Director-Treasurer shall be subject to the approval of the City Council and the appointment and removal of the Fire Chief and Police Chief shall be by the Mayor, subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

**ORDINANCE NO. 93568-0816**

**AN ORDINANCE AMENDING APPOINTMENT AND REMOVAL POWERS IN TITLE 1, CHAPTER 11, TITLE 2, CHAPTERS 1, 2, 3, 4, 6, 7, 8, AND 9, TITLE 6, CHAPTER 1; AND ADDING CHAPTERS 11 AND 12 TO TITLE 2**

**BE IT ORDAINED** by the City Council of the City of Muscatine, Iowa, as follows:

**SECTION 1.** Municipal Code Title I, Chapter 11, Section 2 Department Heads; Appointment and Removal is hereby amended as follows:

1-11-2 Department Heads; Appointment and Removal. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

**SECTION 2.** Municipal Code Title 2, Chapter 1, Section 3 Appointment is hereby amended as follows:

2-1-3 Appointment. The members are to be appointed by City Council.

**SECTION 3.** Municipal Code Title 2, Chapter 1, Section 7 Removal-Vacancies is hereby amended as follows:

2-1-7 Removal - Vacancies. The Council may, at any time, remove any member of the Airport Advisory Commission after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise.

**SECTION 4.** Municipal Code Title 2, Chapter 2, Section 5 Appointment is hereby amended as follows:

2-2-5 Appointment. The members are to be appointed by City Council.

**SECTION 5.** Municipal Code Title 2, Chapter 2, Section 6 Term Duration is hereby amended as follows:

2-2-6 Term Duration. The term of office of such members shall commence with their appointment. Commissioners shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April

of the fourth year after such appointment, whose successors shall be appointed for a term of four years. All Commissioners shall remain on the Commission until their successors are appointed.

**SECTION 6.** Municipal Code Title 2, Chapter 2, Section 9 Vacancies is hereby amended as follows:

2-2-9 Vacancies. The City Council shall fill the vacancies occurring in the Commission for the unexpired term of the appointment.

**SECTION 7.** Municipal Code Title 2, Chapter 3, Section 3 Appointment is hereby amended as follows:

2-3-3 Appointment. The members are to be appointed by City Council.

**SECTION 8.** Municipal Code Title 2, Chapter 3, Section 4 Term Duration and Limits is hereby amended as follows:

2-3-4 Term Duration and Limits.

- A. Duration. The Parks and Recreation Advisory Commission shall consist of seven (7) members to be appointed by the City Council. The term of office of such members shall commence with their appointment and shall be for three (3) years, except to fill vacancies provided, however, that appointments to the first Commission shall be three (3) members for one (1) year, three (3) members for two (2) years and one (1) member for three (3) years. Each term shall commence on the first day of July. All members of the Parks and Recreation Advisory Commission shall remain on the Commission until their successors are appointed.
- B. Limits. No individual shall serve more than two (2) full consecutive terms on the Parks and Recreation Advisory Commission.

**SECTION 9.** Municipal Code Title 2, Chapter 3, Section 5 Removal-Vacancies is hereby amended as follows:

2-3-5 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 10.** Municipal Code Title 2, Chapter 4, Section 4 Appointment and Terms is hereby amended as follows:

**2-4-4 Appointment and Terms.** The Commission shall consist of five (5) gender balanced members to be appointed by the City Council. The term of office of such members shall commence with their appointment. Appointments will be staggered, with one member appointed on July 1 of each year over a five-year period. All terms shall be for five (5) years. All members of the Commission shall remain on the Commission until their successors are appointed. No one individual shall serve for more than two (2) full consecutive terms on the Commission.

**SECTION 11.** Municipal Code Title 2, Chapter 4, Section 5 Removal/Vacancies is hereby amended as follows:

**2-4-5 Removal/Vacancies.** The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 12.** Municipal Code Title 2, Chapter 6, Section 3 Appointment is hereby amended as follows:

**2-6-3 Appointment.** The Trustees are to be appointed by the City Council.

**SECTION 13.** Municipal Code Title 2, Chapter 6, Section 6 Removal-Vacancies is hereby amended as follows:

**2-6-6 Removal - Vacancies.** The Council may, at any time, remove any member of the Art Center Board of Trustees after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise. A trustee absent for three (3) consecutive regular meetings of the Board, except in a case of sickness or temporary absence from the City, shall render the office of such absent trustee vacant.

**SECTION 14.** Municipal Code Title 2, Chapter 7, Section 4 Appointment is hereby amended as follows:

**2-7-4 Appointment.** The members are to be appointed by the City Council.

**SECTION 15.** Municipal Code Title 2, Chapter 7, Section 6 Removal-Vacancies is hereby amended as follows:

2-7-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 16.** Municipal Code Title 2, Chapter 8, Section 3 Appointment is hereby amended as follows:

2-8-3 Appointment. The members are to be appointed by the City Council.

**SECTION 17.** Municipal Code Title 2, Chapter 8, Section 6 Removal-Vacancies is hereby amended as follows:

2-8-6 Removal - Vacancies. Members of the Board of Water, Electric and Communications Trustees may be removed in accordance with the Chapter 372.15 of the Iowa Code. The Council shall fill the vacancies occurring on the Board by removal or otherwise.

*(Iowa Code, Section 372.15)*

**SECTION 18.** Municipal Code Title 2, Chapter 9, Section 3 Appointment is hereby amended as follows:

2-9-3 Appointment. The members are to be appointed by the City Council.

**SECTION 19.** Municipal Code Title 2, Chapter 9, Section 6 Removal-Vacancies is hereby amended as follows:

2-9-6 Removal - Vacancies. The Council may, at any time, remove any member of the Zoning Board of Adjustment after showing due cause, and shall fill the vacancies occurring on the Board by removal or otherwise.

**SECTION 20.** Municipal Code Title 6, Chapter 1, Section 6 Peace Officers Appointed is hereby amended as follows:

6-1-6 Peace Officers Appointed. The City Administrator shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select the other members of the Department.

**SECTION 21.** Municipal Code Title 6, Chapter 1, Section 8 Duties of Police Chief is hereby amended as follows:

6-1-8 Duties of Chief of Police. The Police Chief has the following powers and duties subject to the approval of the Council.

(Code of Iowa, Sec. 372.13 [4])

- A. General. Perform all duties required of the Police Chief by law or ordinance.
- B. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
- C. Writs. Execute and return all writs and other processes directed to the Police Chief.
- D. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
- E. (Code of Iowa, Sec. 321.266)
- F. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
- G. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
- H. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
- I. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
- J. Reports. Compile and submit to the City Administrator and Council an annual report as well as such other reports as may be requested by the City Administrator or Council.
- K. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

**SECTION 22.** Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 11, Council Appointments to City Administrative Boards, to the Title as set forth in the attached Exhibit A.

**SECTION 23.** Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 12, Annual Organizational Meeting for Appointments, to the Title as set forth in the attached Exhibit B.

**SECTION 24.** REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 25.** SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 26.** WHEN EFFECTIVE. This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed and approved by the Muscatine City Council of this 18<sup>th</sup> day of August, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**1<sup>st</sup> Reading – July 21, 2016**

Motion by Council Member Natvig, seconded by Council Member Rehwaldt, to approve the first reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, and Spread

NAYS: Councilmembers Bynum and Harvey

ABSENT: None

**2<sup>nd</sup> Reading – August 4, 2016**

Motion by Council Member Fitzgerald, seconded Council Member by Spread, to approve the second reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Harvey, and Spread

NAYS: Councilmember Bynum

ABSENT: None

**3<sup>rd</sup> Reading** – August 18, 2016

Motion by Council Member Fitzgerald, seconded by Council Member Rehwaldt, to approve the third reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Harvey, and Spread

NAYS: None

ABSENT: Councilmember Bynum

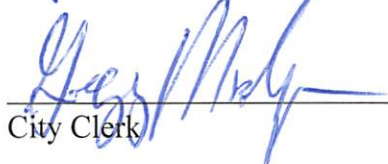
The Mayor declared the Ordinance adopted.

**Veto of Ordinance No. 93568-0816** – September 1, 2016

**Veto of Ordinance No. 93568-0816 Overridden by City Council** – September 1, 2016

I certify that the foregoing was published as Ordinance No. 93568-0816 on the 8<sup>th</sup> day of

September, 2016

  
\_\_\_\_\_  
City Clerk

## **TITLE 2 – Boards and Commissions**

### **CHAPTER 11- Council Appointments to City Administrative Boards**

#### **SECTIONS:**

##### **2-11-1 Scope**

##### **2-11-2 Appointment of Members**

**2-11-1 Scope.** The City Council is represented on a number of boards, commissions, committees, and groups. These include ad hoc committees, policy committees, intergovernmental bodies, and various organizations in the community. Such representation is distinct from formal appointments to Boards and Commissions as provided in Title 2, Chapters 1-10 of this Code of Ordinances. As such, this section is intended to address City representation on these various boards, commissions, committees, and groups, and not representation on Boards and Commissions as set forth in Title 2, Chapters 1-10. For purposes of this Chapter, these boards, commissions, committees, and groups - where the City has a City Representative - will be collectively referred to as City Administrative Boards.

**2-11-2 Appointment of Members.** Except as otherwise specifically provided by state statute or as determined by the by laws of the outside agency, all members of the Administrative Boards shall be appointed and approved by the City Council. The City Clerk shall notify the City Council of the expiration of terms of office of any member of any Administrative Board as provided in section 2-12-1 of this Code. When a vacancy occurs by resignation, death, or other termination of service, the City Clerk shall provide the notice to the City Council as soon as the City Clerk is made aware of the vacancy, and City Council shall fill said vacancy as soon as practicable.

EXHIBIT A

## **TITLE 2 – Boards and Commissions**

### **CHAPTER 12 - Annual Organizational Meeting for Appointments**

2-12-1 City Clerk to Maintain Listing

2-12-2 Organizational Meeting

**2-12-1 Clerk to Maintain Listing.** An alphabetical listing of all Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, shall be compiled and maintained by the City Clerk. Such listing shall include the number and identity of members comprising each Board, Commission, or Committee, as the case may be, and the date each term of office expires. No later than 90 days before the end of each calendar year, the City Clerk shall prepare, from the alphabetical listing of all Boards, Commissions, or Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, a roster of all terms of office expiring within the next calendar year.

**2-12-2 Organizational Meeting.** The City Council shall hold an organizational meeting at the first regular meeting in January wherein the City Council shall review upcoming vacancies on Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11. At the Council's choosing, the Council may elect to continue the Organizational meeting to a later date, or may schedule additional meetings as needed. If the meeting is continued or other meetings are held on an as needed basis, the Council shall refer the list of vacancies to be considered at the later meeting to the Nominating Committee in a timely manner in order that the Committee may prepare a slate of candidate(s) in advance of the full Council's meeting. If the Nominating Committee has already presented a slate of candidates for a particular vacancy, it may affirm its previous slate or may present a new slate for the full Council's consideration. All vacancies shall be filled as provided by the rules governing appointments to the respective Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11.

EXHIBIT B

## **TITLE 2 – Boards and Commissions**

### **CHAPTER 11- Council Appointments to City Administrative Boards**

#### **SECTIONS:**

##### **2-11-1 Scope**

##### **2-11-2 Appointment of Members**

**2-11-1 Scope.** The City Council is represented on a number of boards, commissions, committees, and groups. These include ad hoc committees, policy committees, intergovernmental bodies, and various organizations in the community. Such representation is distinct from formal appointments to Boards and Commissions as provided in Title 2, Chapters 1-10 of this Code of Ordinances. As such, this section is intended to address City representation on these various boards, commissions, committees, and groups, and not representation on Boards and Commissions as set forth in Title 2, Chapters 1-10. For purposes of this Chapter, these boards, commissions, committees, and groups - where the City has a City Representative - will be collectively referred to as City Administrative Boards.

**2-11-2 Appointment of Members.** Except as otherwise specifically provided by state statute or as determined by the by laws of the outside agency, all members of the Administrative Boards shall be appointed and approved by the City Council. The City Clerk shall notify the City Council of the expiration of terms of office of any member of any Administrative Board as provided in section 2-12-1 of this Code. When a vacancy occurs by resignation, death, or other termination of service, the City Clerk shall provide the notice to the City Council as soon as the City Clerk is made aware of the vacancy, and City Council shall fill said vacancy as soon as practicable.

EXHIBIT A

## **TITLE 2 – Boards and Commissions**

### **CHAPTER 12 - Annual Organizational Meeting for Appointments**

2-12-1 City Clerk to Maintain Listing

2-12-2 Organizational Meeting

**2-12-1 Clerk to Maintain Listing.** An alphabetical listing of all Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, shall be compiled and maintained by the City Clerk. Such listing shall include the number and identity of members comprising each Board, Commission, or Committee, as the case may be, and the date each term of office expires. No later than 90 days before the end of each calendar year, the City Clerk shall prepare, from the alphabetical listing of all Boards, Commissions, or Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, a roster of all terms of office expiring within the next calendar year.

**2-12-2 Organizational Meeting.** The City Council shall hold an organizational meeting at the first regular meeting in January wherein the City Council shall review upcoming vacancies on Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11. At the Council's choosing, the Council may elect to continue the Organizational meeting to a later date, or may schedule additional meetings as needed. If the meeting is continued or other meetings are held on an as needed basis, the Council shall refer the list of vacancies to be considered at the later meeting to the Nominating Committee in a timely manner in order that the Committee may prepare a slate of candidate(s) in advance of the full Council's meeting. If the Nominating Committee has already presented a slate of candidates for a particular vacancy, it may affirm its previous slate or may present a new slate for the full Council's consideration. All vacancies shall be filled as provided by the rules governing appointments to the respective Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11.

EXHIBIT B

## PROOF OF PUBLICATION

I, Jeff Lee, being duly sworn, on my oath, say that I am an advertising clerk at the *Muscatine Journal*, a newspaper of general circulation, published in the City of Muscatine, Muscatine County, Iowa; and that the following Notice:

Muscatine City Clerk

Ordinance No. 9368-0816

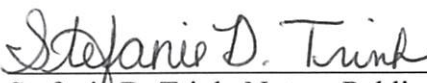
Of which the annexed printed slip is a true, correct and complete copy, was published in said *Muscatine Journal* one time having been made there in on:

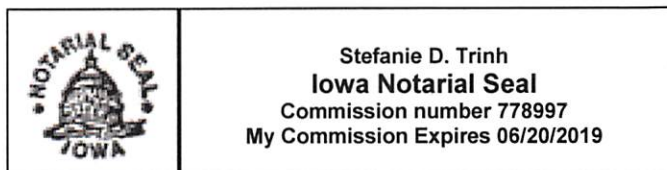
September 8, 2016

  
Jeff Lee

### STATE OF IOWA MUSCATINE COUNTY

8th day of September, 2016

  
Stefanie D. Trinh, Notary Public



**ORDINANCE NO. 93568-0816  
AN ORDINANCE AMENDING  
APPOINTMENT AND REMOVAL  
POWERS IN TITLE 1, CHAPTER 11,  
TITLE 2, CHAPTERS 1, 2, 3, 4, 6, 7, 8,  
AND 9, TITLE 6, CHAPTER 1;  
AND ADDING CHAPTERS  
11 AND 12 TO TITLE 2**

BE IT ORDAINED by the City Council of the City of Muscatine, Iowa, as follows:  
**SECTION 1.** Municipal Code Title 1, Chapter 11, Section 2 Department Heads; Appointment and Removal is hereby amended as follows:  
1-11-2 Department Heads; Appointment and Removal. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

**SECTION 2.** Municipal Code Title 2, Chapter 1, Section 3 Appointment is hereby amended as follows:  
2-1-3 Appointment. The members are to be appointed by City Council.

**SECTION 3.** Municipal Code Title 2, Chapter 1, Section 7 Removal-Vacancies is hereby amended as follows:  
2-1-7 Removal - Vacancies. The Council may, at any time, remove any member of the Airport Advisory Commission after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise.

**SECTION 4.** Municipal Code Title 2, Chapter 2, Section 5 Appointment is hereby amended as follows:  
2-2-5 Appointment. The members are to be appointed by City Council.

**SECTION 5.** Municipal Code Title 2, Chapter 2, Section 6 Term Duration is hereby amended as follows:  
2-2-6 Term Duration. The term of office of such members shall commence with their appointment. Commissioners shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year after such appointment, whose successors shall be appointed for a term of four years. All Commissioners shall remain on the Commission until their successors are appointed.

**SECTION 6.** Municipal Code Title 2, Chapter 2, Section 9 Vacancies is hereby amended as follows:  
2-2-9 Vacancies. The City Council shall fill the vacancies occurring in the Commission for the unexpired term of the appointment.

**SECTION 7.** Municipal Code Title 2, Chapter 3, Section 3 Appointment is hereby amended as follows:  
2-3-3 Appointment. The members are to be appointed by City Council.

**SECTION 8.** Municipal Code Title 2, Chapter 3, Section 4 Term Duration and Limits is hereby amended as follows:  
2-3-4 Term Duration and Limits.

A. Duration. The Parks and Recreation Advisory Commission shall consist of seven (7) members to be appointed by the City Council. The term of office of such members shall commence with their appointment and shall be for three (3) years, except to fill vacancies provided, however, that appointments to the first Commission shall be three (3) members for one (1) year, three (3) members for two (2) years and one (1) member for three (3) years. Each term shall commence on the first day of July. All members of the Parks and Recreation Advisory Commission shall remain on the Commission until their successors are appointed.

**SECTION 9.** Municipal Code Title 2, Chapter 3, Section 5 Removal-Vacancies is hereby amended as follows:  
2-3-5 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 10.** Municipal Code Title 2, Chapter 4, Section 4 Appointment and Terms is hereby amended as follows:  
2-4-4 Appointment and Terms. The Commission shall consist of five (5) gender balanced members to be appointed by the City Council. The term of office of such members shall commence with their appointment. Appointments will be staggered, with one member appointed on July 1 of each year over a five-year period. All terms shall be for five (5) years. All members of the Commission shall remain on the Commission until their successors are appointed. No one individual shall serve for more than two (2) full consecutive terms on the Commission.

**SECTION 11.** Municipal Code Title 2, Chapter 4, Section 5 Removal/Vacancies is hereby amended as follows:  
2-4-5 Removal/Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 12.** Municipal Code Title 2, Chapter 6, Section 3 Appointment is hereby amended as follows:  
2-6-3 Appointment. The Trustees are to be appointed by the City Council.

**SECTION 13.** Municipal Code Title 2, Chapter 6, Section 6 Removal-Vacancies is hereby amended as follows:  
2-6-6 Removal - Vacancies. The Council may, at any time, remove any member of the Art Center Board of Trustees after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise. A trustee absent for three (3) consecutive regular meetings of the Board, except in a case of sickness or temporary absence from the City, shall render the office of such absent trustee vacant.

**SECTION 14.** Municipal Code Title 2, Chapter 7, Section 4 Appointment is hereby amended as follows:  
2-7-4 Appointment. The members are to be appointed by the City Council.

**SECTION 15.** Municipal Code Title 2, Chapter 7, Section 6 Removal-Vacancies is hereby amended as follows:  
2-7-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 16.** Municipal Code Title 2, Chapter 8, Section 3 Appointment is hereby amended as follows:  
2-8-3 Appointment. The members are to be appointed by the City Council.

**SECTION 17.** Municipal Code Title 2, Chapter 8, Section 6 Removal-Vacancies is hereby amended as follows:  
2-8-6 Removal - Vacancies. Members of the Board of Water, Electric and Communications Trustees may be removed in accordance with the Chapter 372-15 of the Iowa Code. The Council shall fill the vacancies occurring on the Board by removal or otherwise.

(Iowa Code, Section 372.15)  
**SECTION 18.** Municipal Code Title 2, Chapter 9, Section 3 Appointment is hereby amended as follows:  
2-9-3 Appointment. The members are to be appointed by the City Council.

B. Limits. No individual shall serve more than two (2) full consecutive terms on the Parks and Recreation Advisory Commission.

**SECTION 9.** Municipal Code Title 2, Chapter 3, Section 5 Removal-Vacancies is hereby amended as follows:  
2-3-5 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 10.** Municipal Code Title 2, Chapter 4, Section 4 Appointment and Terms is hereby amended as follows:  
2-4-4 Appointment and Terms. The Commission shall consist of five (5) gender balanced members to be appointed by the City Council. The term of office of such members shall commence with their appointment. Appointments will be staggered, with one member appointed on July 1 of each year over a five-year period. All terms shall be for five (5) years. All members of the Commission shall remain on the Commission until their successors are appointed. No one individual shall serve for more than two (2) full consecutive terms on the Commission.

**SECTION 11.** Municipal Code Title 2, Chapter 4, Section 5 Removal/Vacancies is hereby amended as follows:  
2-4-5 Removal/Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 12.** Municipal Code Title 2, Chapter 6, Section 3 Appointment is hereby amended as follows:  
2-6-3 Appointment. The Trustees are to be appointed by the City Council.

**SECTION 13.** Municipal Code Title 2, Chapter 6, Section 6 Removal-Vacancies is hereby amended as follows:  
2-6-6 Removal - Vacancies. The Council may, at any time, remove any member of the Art Center Board of Trustees after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise. A trustee absent for three (3) consecutive regular meetings of the Board, except in a case of sickness or temporary absence from the City, shall render the office of such absent trustee vacant.

**SECTION 14.** Municipal Code Title 2, Chapter 7, Section 4 Appointment is hereby amended as follows:  
2-7-4 Appointment. The members are to be appointed by the City Council.

**SECTION 15.** Municipal Code Title 2, Chapter 7, Section 6 Removal-Vacancies is hereby amended as follows:  
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**SECTION 16.** Municipal Code Title 2, Chapter 8, Section 3 Appointment is hereby amended as follows:  
2-8-3 Appointment. The members are to be appointed by the City Council.

**SECTION 17.** Municipal Code Title 2, Chapter 8, Section 6 Removal-Vacancies is hereby amended as follows:  
2-8-6 Removal - Vacancies. Members of the Board of Water, Electric and Communications Trustees may be removed in accordance with the Chapter 372-15 of the Iowa Code. The Council shall fill the vacancies occurring on the Board by removal or otherwise.

(Iowa Code, Section 372.15)  
**SECTION 18.** Municipal Code Title 2, Chapter 9, Section 3 Appointment is hereby amended as follows:  
2-9-3 Appointment. The members are to be appointed by the City Council.

**SECTION 19.** Municipal Code Title 2, Chapter 9, Section 6 Removal-Vacancies is hereby amended as follows:  
2-9-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 20.** Municipal Code Title 2, Chapter 10, Section 3 Appointment is hereby amended as follows:  
2-10-3 Appointment. The members are to be appointed by the City Council.

**SECTION 21.** Municipal Code Title 2, Chapter 10, Section 6 Removal-Vacancies is hereby amended as follows:  
2-10-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 22.** Municipal Code Title 2, Chapter 11, Section 3 Appointment is hereby amended as follows:  
2-11-3 Appointment. The members are to be appointed by the City Council.

**SECTION 23.** Municipal Code Title 2, Chapter 11, Section 6 Removal-Vacancies is hereby amended as follows:  
2-11-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 24.** Municipal Code Title 2, Chapter 12, Section 3 Appointment is hereby amended as follows:  
2-12-3 Appointment. The members are to be appointed by the City Council.

**SECTION 25.** Municipal Code Title 2, Chapter 12, Section 6 Removal-Vacancies is hereby amended as follows:  
2-12-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 26.** Municipal Code Title 2, Chapter 13, Section 3 Appointment is hereby amended as follows:  
2-13-3 Appointment. The members are to be appointed by the City Council.

**SECTION 27.** Municipal Code Title 2, Chapter 13, Section 6 Removal-Vacancies is hereby amended as follows:  
2-13-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 28.** Municipal Code Title 2, Chapter 14, Section 3 Appointment is hereby amended as follows:  
2-14-3 Appointment. The members are to be appointed by the City Council.

**SECTION 29.** Municipal Code Title 2, Chapter 14, Section 6 Removal-Vacancies is hereby amended as follows:  
2-14-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 30.** Municipal Code Title 2, Chapter 15, Section 3 Appointment is hereby amended as follows:  
2-15-3 Appointment. The members are to be appointed by the City Council.

**SECTION 31.** Municipal Code Title 2, Chapter 15, Section 6 Removal-Vacancies is hereby amended as follows:  
2-15-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 32.** Municipal Code Title 2, Chapter 16, Section 3 Appointment is hereby amended as follows:  
2-16-3 Appointment. The members are to be appointed by the City Council.

**SECTION 33.** Municipal Code Title 2, Chapter 16, Section 6 Removal-Vacancies is hereby amended as follows:  
2-16-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 34.** Municipal Code Title 2, Chapter 17, Section 3 Appointment is hereby amended as follows:  
2-17-3 Appointment. The members are to be appointed by the City Council.

**SECTION 35.** Municipal Code Title 2, Chapter 17, Section 6 Removal-Vacancies is hereby amended as follows:  
2-17-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 36.** Municipal Code Title 2, Chapter 18, Section 3 Appointment is hereby amended as follows:  
2-18-3 Appointment. The members are to be appointed by the City Council.

**SECTION 37.** Municipal Code Title 2, Chapter 18, Section 6 Removal-Vacancies is hereby amended as follows:  
2-18-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 38.** Municipal Code Title 2, Chapter 19, Section 3 Appointment is hereby amended as follows:  
2-19-3 Appointment. The members are to be appointed by the City Council.

**SECTION 39.** Municipal Code Title 2, Chapter 19, Section 6 Removal-Vacancies is hereby amended as follows:  
2-19-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

**SECTION 19.** Municipal Code Title 2, Chapter 9, Section 6 Removal-Vacancies is hereby amended as follows:

**2-9-6 Removal - Vacancies.** The Council may, at any time, remove any member of the Zoning Board of Adjustment after showing due cause, and shall fill the vacancies occurring on the Board by removal or otherwise.

**SECTION 20.** Municipal Code Title 6, Chapter 1, Section 6 Peace Officers Appointed is hereby amended as follows:

**6-1-6 Peace Officers Appointed.** The City Administrator shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select the other members of the Department.

**SECTION 21.** Municipal Code Title 6, Chapter 1, Section 8 Duties of Police Chief is hereby amended as follows:

**6-1-8 Duties of Chief of Police.** The Police Chief has the following powers and duties subject to the approval of the Council. (Code of Iowa, Sec. 372.13 (4))

A. General. Perform all duties required of the Police Chief by law or ordinance.

B. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

C. Writs. Execute and return all writs and other processes directed to the Police Chief.

D. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

E. (Code of Iowa, Sec. 321.266)

F. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

G. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

H. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

I. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

J. Reports. Compile and submit to the City Administrator and Council an annual report as well as such other reports as may be requested by the City Administrator or Council.

K. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

**SECTION 22.** Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 11, Council Appointments to City Administrative Boards, to the Title as set forth in the attached Exhibit A.

**SECTION 23.** Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 12, Annual Organizational Meeting for Appointments, to the Title as set forth in the attached Exhibit B.

**SECTION 24. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 25. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 26. WHEN EFFECTIVE.** This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed and approved by the Muscatine City Council of this 18th day of August, 2016.

Diana Broderson  
Mayor

ATTEST:  
Gregg Mandsager  
City Clerk

**1st Reading - July 21, 2016**

Motion by Council Member Natvig, seconded by Council Member Rehwaldt, to approve the first reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, and Spread

NAYS: Councilmembers Bynum and Harvey

ABSENT: None

**2nd Reading - August 4, 2016**

Motion by Council Member Fitzgerald, seconded Council Member by Spread, to approve the second reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Harvey, and Spread

NAYS: Councilmember Bynum

ABSENT: None

**3rd Reading - August 18, 2016**

Motion by Council Member Fitzgerald, seconded by Council Member Rehwaldt, to approve the third reading of Ordinance No. N/A.

AYES: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Harvey, and Spread

NAYS: None

ABSENT: Councilmember Bynum  
The Mayor declared the Ordinance adopted.

**Veto of Ordinance No. 93568-0816 - September 1, 2016**

**Veto of Ordinance No. 93568-0816 Overridden by City Council - September 1, 2016**

I certify that the foregoing was published as Ordinance No. 93568-0816 on the 8th day of September, 2016

Gregg Mandsager  
City Clerk

## **TITLE 2 - Boards and Commissions CHAPTER 11- Council Appointments to City Administrative Boards**

### **SECTIONS:**

#### **2-11-1 Scope**

#### **2-11-2 Appointment of Members**

**2-11-1 Scope.** The City Council is represented on a number of boards, commissions, committees, and groups. These include ad hoc committees, policy committees, intergovernmental bodies, and various organizations in the community. Such representation is distinct from formal appointments to Boards and Commissions as provided in Title 2, Chapters 1-10 of this Code of Ordinances. As such, this section is intended to address City representation on these various boards, commissions, committees, and groups, and not representation on Boards and Commissions as set forth in Title 2, Chapters 1-10. For purposes of this Chapter, these boards, commissions, committees, and groups - where the City has a City Representative - will be collectively referred to as City Administrative Boards.

**2-11-2 Appointment of Members.** Except as otherwise specifically provided by state statute or as determined by the by laws of the outside agency, all members of the Administrative Boards shall be appointed and approved by the City Council. The City Clerk shall notify the City Council of the expiration of terms of office of any member of any Administrative Board as provided in section 2-12-1 of this Code. When a vacancy occurs by resignation, death, or other termination of service, the City Clerk shall provide the notice to the City Council as soon as the City Clerk is made aware of the vacancy, and City Council shall fill said vacancy as soon as practicable.

### **EXHIBIT A**

## **TITLE 2 - Boards and Commissions CHAPTER 12 - Annual Organizational Meeting for Appointments**

### **2-12-1 City Clerk to Maintain Listing**

### **2-12-2 Organizational Meeting**

**2-12-1 Clerk to Maintain Listing.** An alphabetical listing of all Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chap-

ter 10, and City Administrative Boards as defined by Title 2, Chapter 11, shall be compiled and maintained by the City Clerk. Such listing shall include the number and identity of members comprising each Board, Commission, or Committee, as the case may be, and the date each term of office expires. No later than 90 days before the end of each calendar year, the City Clerk shall prepare, from the alphabetical listing of all Boards, Commissions, or Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, a roster of all terms of office expiring within the next calendar year.

**2-12-2 Organizational Meeting.** The City Council shall hold an organizational meeting at the first regular meeting in January wherein the City Council shall review upcoming vacancies on Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11. At the Council's choosing, the Council may elect to continue the Organizational meeting to a later date, or may schedule additional meetings as needed. If the meeting is continued or other meetings are held on an as needed basis, the Council shall refer the list of vacancies to be considered at the later meeting to the Nominating Committee in a timely manner in order that the Committee may prepare a slate of candidate(s) in advance of the full Council's meeting. If the Nominating Committee has already presented a slate of candidates for a particular vacancy, it may affirm its previous slate or may present a new slate for the full Council's consideration. All vacancies shall be filled as provided by the rules governing appointments to the respective Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11.

### **EXHIBIT B**

## ARTICLE IV - CITY MANAGER

Section 4.01- City Manager

- (a) There shall be a City Manager appointed by the City Council. This appointment shall be made solely on the basis of the appointee's related professional experience, formal education, and executive and administrative qualifications. The City Manager may be removed by the City Council in accordance with Section 2.06 (a) of this Charter.

Section 4.02-The City Manager's Duties and Responsibilities:

- (a) The City Manager shall be the chief administrative officer of the city and responsible to the City Council for the administration of all city affairs placed in his/her charge.
- (b) **The City Manager shall:**
1. Supervise enforcement and execution of the city laws, ordinances, resolutions, directives, and approved operational policies of the City Council.
  2. Attend all meetings of the City Council.
  3. Recommend to the City Council and Mayor any measures necessary or expedient for the good government and welfare of the city.
  4. Supervise the official conduct of all officers of the city appointed by the City Manager, and take active control of the police, fire, water, sewer, streets, engineering, planning, parks and recreation, human resources departments of the city, and any other departments of the city that are not under the direct supervision of the Council as stated in this Charter or by the Iowa Code.
  5. **The Manager shall appoint such department heads as may be authorized by the Council subject to their approval and such other administrative officers and employees as may from time to time be authorized by the Council.** The Manager may delegate to administrative officers who are subject to the Manager's direction and supervision, the authority to exercise only that portion of the Manager's appointing and hiring authority which are not herein made subject to the approval of the Council.
  6. **Suspension and removal of appointees shall be consistent with the laws of the state. The Manager shall inform the Council of all such actions. Removal of department heads shall be subject to Council approval.**
  7. Review and make recommendations on employee compensation, subject to civil service provisions, any employment contracts entered into by the City and chapter 35C, except the City Clerk/Finance Director, Deputy City Clerk/Treasurer, and City Attorneys.
  - 8.

Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under the City Manager's supervision, and compel the production of evidence and attendance of witnesses.

9. Supervise the performance of all contracts for work to be done for the city, and make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.
  10. Supervise the construction, improvement, repair, maintenance, and management of all city property, capital improvements, and undertakings of the city, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
  11. Cooperate with all administrative agencies, commissions, and boards.
  12. In concert with the City Clerk/Finance Director, keep the City Council and Mayor fully advised of the financial and other conditions of the city and of its future needs.
  13. Submit with the advice of the Mayor to the City Council and Mayor annually the required budgets.
  14. Conduct the business affairs of the city and cause accurate records to be kept.
  15. Advise the City Council and Mayor on the establishment, annual review, and updating of a 5-year strategic plan.
  16. Perform other duties at the City Council's direction.
  17. Administer oaths of office.
- (c) The City Manager shall not take part in any election for city council members or mayor, other than by casting a vote, and shall not appoint a city council member or mayor to city office or employment, nor shall a council member or mayor accept such appointment.

## 2.52.040 - Fire chief appointment.

The fire chief shall be appointed by the manager, with the approval of the city council, in accordance with the city Charter, personnel ordinance and state civil service law. The fire chief shall be accountable to the manager and subject to his/her supervision and control and shall have the following duties:

- (1) Have general authority and control over all departmental staff and oversee the proper fulfillment of all functions assigned to the department;
- (2) Administer the affairs of the department;
- (3) Prescribe such rules and regulations, as deemed necessary or expedient, for the proper operation of the department and to keep himself/herself informed of all latest administrative practices;
- (4) Take all personnel actions necessary, within the department, consistent with city personnel ordinances, policies, procedures and the state civil service and state law;
- (5) Coordinate all emergency preparedness functions of the department with the functions of city departments, state, federal and county governments, in adjacent political subdivisions;
- (6) Establish procedures for the effective management of the departmental budget, in compliance with city fiscal ordinances and procedures;
- (7) Provide for effective maintenance of all equipment, facilities and utilities assigned for the use of the department.

(Ord. 2045 § 2 (part), 2005; Ord. 1942 § 4, 2000).

## Chapter 2.48 - POLICE DEPARTMENT

## Sections:

*Footnotes:**--- (7) ---**For the statutory provisions regarding police departments, see I.C.A. 368A.17—368A.19; for provisions regarding establishment of police departments, see I.C.A. 368.15.*

## 2.48.010 - Number of police officers.

The police department of the city shall consist of the chief of police (city marshal), captain of police, and such number of detectives, desk sergeants, patrolmen and other officers as the city council may from time to time provide for by ordinance.

(Ord. 485 § 1).

## 2.48.020 - Method of appointment.

All appointments to the police department, except the chief of police and captain of police shall be made by the manager with the approval of the city council from the lists of names certified to the city council by the civil service commissions.

(Ord. 2045 § 2 (part), 2005; Ord. 1587 § 3 (part), 1982; Ord. 485 § 2).

## 2.48.030 - Duties of police officers.

The duties of the members of the police department shall be to preserve peace, enforce the state laws, city ordinances and orders of the city council and department of accounts, finances and public safety and they shall at all times be subject to the rules and regulations made by the superintendent of accounts, finances and public safety and chief of police, regarding their conduct, promotion and classification.

(Ord. 485 § 4).

## 2.48.040 - Special police officers.

- (a) In cases of emergency, the manager and city council shall appoint such number of special police officers as in judgment of the manager and city council are necessary for the proper and efficient enforcement of the ordinances of the city, and the special policemen shall during the time of their appointment have the same authority as the regular police officers.

(b)

The appointment of such special officers shall continue only during the pleasure of the manager and council and shall be terminated at any time upon order of the manager and council.

(Ord. 2045 § 2 (part), 2005; Ord. 457 §§ 1, 2).

#### 2.48.050 - Office and grade of lieutenant created.

There is created in the city police department the office and grade of lieutenant.

(Ord. 989 § 2).

#### 2.48.060 - Vacations and salaries.

(a) The salaries of the officers of the police department are fixed by the council and are on file in the office of the city clerk.

(b) Police patrol officers shall be entitled to the following amount of vacation each year at full salary:

Patrolmen, first year—seven days; second year—ten days; third year—two weeks, after ten years, an additional week of vacation will be granted. This extra week to be taken by the employee at a time agreeable with the chief of the department.

(c) In addition to the above salaries, members of the police department will be paid a longevity pay as determined by the council.

(d) All the above salaries shall be payable semi-monthly.

(Ord. 1131 §§ 1, 2, 5, 6).

## APPOINTIVE OFFICERS

### § 31.030 OFFICERS ENUMERATED.

The following officers shall be appointed by the City Administrator with the approval of the City Council:

- (A) Director of Public Works/City Engineer;
- (B) Fire Chief;
- (C) Police Chief;
- (D) Parks and Recreation Director;
- (E) Human Resources Director;
- (F) City Clerk;
- (G) City Attorney;
- (H) Finance Director/City Treasurer; and
- (I) Housing and Community Development Director.

(2013 Code, § 2-34) (Ord. 14369, passed 1-13-1992; Ord. 14870, passed 3-10-2010)

### § 31.031 TERMS.

Appointment of officers shall be made by the City Administrator with the approval of the City Council; the appointment of officers shall be for an indefinite duration of time. Removal of an appointee from office shall be pursuant to I.C.A. § 372.15.

(2013 Code, § 2-35) (Ord. 14369, passed 1-13-1992; Ord. 14417, passed 3-22-1993)

### § 31.032 DUTIES.

The appointees under this subchapter shall perform such duties as required by law, statute, ordinance, position description and as directed by the City Administrator. The Mayor shall continue to be the chief executive officer of the city, without additional compensation, shall act as the City Administrator when the office is vacant and shall continue his or her other duties as set forth in the state code and this code of ordinances.

(2013 Code, § 2-36) (Ord. 14369, passed 1-13-1992; Ord. 14315, passed 4-9-1990)

**8-2-3: CHIEF OF POLICE:**

As set out in section 400.13, Code of Iowa, the Chief of Police shall be appointed by the City Administrator, subject to the approval of the City Council, and shall hold office thereafter, or until a successor is duly appointed and qualified. The Chief of Police shall be responsible for the discipline, control and efficiency of the department and shall have authority over all members of the department and the assignments thereof. (Ord. 11-11, 9-20-2011)

**1-8C-3: ADMINISTRATION AND DUTIES:**

The City Administrator/City Clerk shall be the Chief Administrative Officer of the City and shall be responsible to the Mayor and City Council for the proper administration of all affairs of the City. All departments of the City, except as otherwise provided by ordinance, shall be responsible to the Administrator/Clerk. The duties of the Administrator/Clerk shall be as follows: (Ord. 97-29, 11-18-1997)

- A. Implement all policy directives promulgated by the Mayor, in his executive capacity, and by the City Council, in its legislative capacity.
- B. Supervise enforcement and execution of the City laws and supervise the City's administrative policies and procedures including personnel and purchasing.
- C. Coordinate and direct all City services provided through the various departments of the City.
- D. Attend all meetings of the Council unless excused by the Mayor.
- E. Keep the Mayor and City Council informed on the progress of City projects, programs and policies. (Ord. 93-28, 9-7-1993)
- F. Recommend to the Council, from time to time, any measures as the Administrator/Clerk shall deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services within the City.
- G. Supervise and direct the official conduct of all officials and those employees of the City whom the Administrator/Clerk has power to appoint and also those department heads or supervisors who report to or through the Office of City Administrator/City Clerk.
- H. Prepare a proposed budget annually in cooperation with appropriate supervisory personnel of the City and all City boards, commissions or other administrative agencies, and submit it to the Council. The Administrator/Clerk shall be responsible for administering the budget as adopted by the Council and ensuring all expenditures are provided for by the budget or such amendments to the budget as may, from time to time, be approved by the Council.
- I. Keep the Mayor and City Council fully apprised of the financial and other conditions of the City and of future needs. The Administrator/Clerk shall prepare and submit a complete report on the finances and administrative activities of the City within thirty (30) days of the end of each fiscal year and shall provide such other reports as the City Council may request. (Ord. 93-28, 9-7-1993; amd. Ord. 97-29, 11-18-1997)
- J. Cooperate with any administrative agency, board or commission of the City and act as technical advisor when applying for grants to enable the Mayor, City Council, boards and commissions to enhance their funding.
- K. Supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements except for those activities subject to the management or control of an administrative board, commission or agency. (Ord. 93-28, 9-7-1993)
- L. Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget and may approve capital and repair expenditures up to ten thousand dollars (\$10,000.00) for operational needs and up to twenty five thousand dollars (\$25,000.00) for emergency needs. The Administrator/Clerk shall negotiate and recommend to the City Council, for its approval, all other contracts for the necessary operation of or maintenance of City services not subject to the bidding requirements of section 26.3, Iowa Code. On all expenditures for public improvements in excess of one hundred thousand dollars (\$100,000.00) let for public bid pursuant to chapter 26, Iowa Code, the Administrator/Clerk shall receive the sealed bids and present them to the Council with a recommendation for awarding the contract. (Ord. 07-26, 10-16-2007; amd. 2017 Code)

M. Conduct or supervise all business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods. (Ord. 93-28, 9-7-1993)

N. Have charge and control of the Police and Fire Departments, except that the Mayor shall take command of the police and govern the City by proclamation upon making a determination that a time of emergency or public danger exists as provided in section 372.14, Iowa Code. The Mayor may, at any time, delegate in writing to the Administrator/Clerk, such emergency powers. (Ord. 93-28, 9-7-1993; amd. Ord. 97-29, 11-18-1997)

O. Perform all other duties as may be required by the direction of the Council. (Ord. 93-28, 9-7-1993)

P. Consolidate or combine offices, positions, departments or units under the Administrator's/Clerk's jurisdiction, with the approval of the City Council. (Ord. 93-28, 9-7-1993; amd. Ord. 97-29, 11-18-1997)

Q. Appoint or employ, classify or reclassify appointed officials, subject to the approval of the City Council and all employees of the City, except for the provisions of the Veteran's Preference Law, chapter 35C and Civil Service Law, chapter 400, and except for provisions of section 372.8, Iowa Code, governing the Office of the City Clerk and such other officials or employees for whom another method of appointment is specifically provided by ordinance or by State law. (Ord. 97-29, 11-18-1997)

R. Have the power to discipline and to discharge summarily any official, appointee or employee the Administrator/Clerk is empowered to appoint or employ subject, however, to the provisions of Civil Service Law, any personnel policy duly adopted by the Council, and subject to the right of hearing provided by section 372.15, Iowa Code.

S. Summarily investigate, or cause to be investigated, the affairs and conduct of any department, agency, officer or employee subject to the supervision of the Administrator/Clerk. (Ord. 93-28, 9-7-1993; amd. Ord. 97-29, 11-18-1997)

T. Assist the City Council and the Planning and Zoning Commission in the carrying out of the Comprehensive Plan for City development and assist all other forms of planning within the City government. (Ord. 93-28, 9-7-1993)

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## Notes

1. See also chapter 10 of this title.

## Chapter 28 - POLICE

*Footnotes:*

--- (1) ---

**State Law reference**— *Iowa Law Enforcement Academy and Council Act, I.C.A. ch. 80B.*

## Sec. 28-1. - Composition of police department.

The police department of the city shall consist of the chief of police, deputy chief of police, lieutenants, sergeants, police officers, and civilian employees.

(Code 1970, § 28-2; Ord. No. 2749, § 1(E), 10-2-1990)

## Sec. 28-2. - Appointments and promotions.

All appointments and promotions to the police department shall be made by the chief of police subject to the approval of the city administrator and city council.

(Code 1970, § 28-3; Ord. No. 2749, § 1(E), 10-2-1990)

## Sec. 28-3. - Police chief executive officer of department; supervision.

The chief of police shall be the chief executive officer of the police department, and shall be appointed by the city administrator subject to the approval of the city council and shall report to the city administrator.

(Code 1970, § 28-5; Ord. No. 2749, § 1(E), 10-2-1990)

## Sec. 2-80. - Other appointments, terms, compensations, promotions.

- (a) The city administrator shall appoint the chief of police subject to the approval of the city council.
- (b) The city administrator may appoint such city officers as the city administrator deems necessary for the effective and efficient operation of the city.
  - (1) The city administrator shall appoint such department heads as the city administrator deems necessary for the effective and efficient operation of the city.
  - (2) The department heads shall appoint such full-time and permanent part-time employees as they deem necessary for the effective and efficient operation of their respective departments, subject to the approval of the city administrator. The department heads shall appoint such part-time seasonal employees as they deem necessary for the effective and efficient operation of their respective departments, subject to the approval of the city administrator.
  - (3) The offices of the finance director and treasurer may be combined with the office of the city administrator by resolution of the city council. The offices of public works director and city engineer may be combined by resolution of the city council, as may be the offices of planning and zoning director and buildings and code enforcement department director. Other department head offices may be combined or re-structured by the city administrator subject to city council approval. The terms and compensation of said offices shall be determined and fixed by resolution of the city council. Said appointments of department heads and city administrator shall continue until terminated.
- (c) The person responsible for the appointment of said officers shall advertise for applicant and select applicants for interview. After the interview, the name of one such applicant shall be submitted to the city administrator for approval. If said nominee is not approved, the person responsible for the appointment shall reinitiate the process or may submit another nominee from the first applicants.
- (d) Members of the city boards and commissions shall be appointed by the mayor subject to the approval of the city council, except as provided by state law. The terms and compensation of said members shall be determined and fixed by the city council as provided by state law.

(Code 1970, § 2-32.1; Ord. No. 2540, § 20, 11-30-1982; Ord. No. 2556, §§ 6, 6.1, 7-26-1983; Ord. No. 2573, § 2, 4-17-1984; Ord. No. 2641, § 1, 6-17-1986; Ord. No. 2657, § 3, 2-17-1987; Ord. No. 2671, § 4, 7-21-1987; Ord. No. 2681, § 2, 1-19-1988; Ord. No. 2749, § 1(A), 10-2-1990; Ord. No. 3078, § 1, 5-19-2015; Ord. No. 3177, § 1, 11-3-2020; Ord. No. 3207, § 2, 8-2-2022)

## 19.02 - POWERS AND DUTIES.

The City Manager is the chief administrative officer of the City.

**State Law reference—** (Code of Iowa, Sec. 372.8)

1. The City Manager shall:
  - A. Supervise enforcement and execution of City laws.
  - B. Attend all meetings of the Council.
  - C. Recommend to the Council any measures as deemed necessary or expedient for the good government and welfare of the City.
  - D. Supervise the official conduct of all officers of the City appointed by the Manager, and take active control of the police, fire and engineering departments of the City.
  - E. Supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.
  - F. Supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements, except property, improvements and undertakings managed by a utility board of trustees.
  - G. Cooperate with any administrative agency or utility board of trustees.
  - H. Be responsible for the cleaning, sprinkling and lighting of streets, alleys and public places and the collection and disposal of waste.
  - I. Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City law.
  - J. Keep the Council fully advised of the financial and other conditions of the City, and of its future needs.
  - K. Prepare and submit to the Council annually the required budgets.
  - L. Conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
  - M. Make to the Council, not later than the tenth day of each month, an itemized financial report in writing showing the receipts and disbursements for the preceding month. Copies of financial reports must be available at the Clerk's office for public distribution.
  - N. Appoint a treasurer subject to the approval of the Council.
  - O.

Determine the final employment status and classification of all employees and fix their compensation, subject to civil service provisions and Chapter 35C of the Code of Iowa, except the City Clerk and City Attorney.

- P. Make all appointments not otherwise provided for.
  - Q. Suspend or discharge summarily any officer, appointee or employee whom the Manager has power to appoint or employ, subject to civil service provisions and Chapter 35C of the Code of Iowa.
  - R. Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under the Manager's supervision, and compel the production of evidence and attendance of witnesses.
  - S. Administer oaths.
  - T. Perform other duties at the Council's direction.
2. The City Manager shall not take part in any election for Council Members, other than by casting a vote, and shall not appoint a Council Member to City office or employment, nor shall any Council Member accept such appointment.

#### 19.03 - APPOINTMENTS.

The City Manager shall appoint the following officials:

1. Police Chief
2. Fire Chief
3. City Treasurer
4. All other personnel as deemed necessary

City of Marion, IA  
Thursday, February 8, 2024

## Chapter 50. Officers and Employees

### Article VI. City Manager

#### § 50-33. Duties.

[Ord. No. 13-07]

The duties of the City Manager are as follows:

- A. Enforcement officer. The City Manager shall see that the laws and ordinances of the City are faithfully enforced and executed.
- B. Council meetings. The City Manager shall, unless excused, attend all meetings of the City Council.
- C. Recommendations. The City Manager shall recommend to the City Council such measures as the City Manager may deem necessary or expedient for the good government and welfare of the City.
- D. Supervision. The City Manager shall have the general supervision and direction of the administration of the City government and may appoint with approval of the Council such administrative assistants as shall be deemed advisable. Administrative assistants to the Manager shall hold office at the Manager's pleasure.
- E. Contracts and purchasing. The City Manager shall supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies, and see that such material and supplies are received and are of the quality and character called for by the contract.
- F. Public improvements and buildings. The City Manager shall supervise and manage all public improvements, works and undertakings of the City, and all public buildings. The City Manager shall have charge of their construction, improvements, repair and maintenance. Nothing herein shall be construed to prevent cooperation between the City Manager and any commission, board of trustees or other body.
- G. Public improvements and maintenance. The City Manager shall have charge of the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for public works or public improvements; the cleaning, sprinkling and lighting of streets, alleys and public places; the collection and disposal of waste; and the preservation of tools, equipment, vehicles and appliances belonging to the City.
- H. Investigations. The City Manager may, without notice, summarily cause the affairs of any department or the conduct of any officer under the City Manager's supervision, or of any employee, to be investigated. The City Manager, or any person appointed by the City Manager to examine or investigate the affairs of any department or the conduct of any officer or employee, shall have power to compel the attendance of witnesses and the production of books and papers or other evidence.
- I. Licenses and permits. The City Manager shall oversee the issuance and revocation of such licenses and permits as are authorized by law or ordinance.

- J. Budget. The City Manager shall prepare and submit to the City Council the annual budget.
- K. Business systems. The City Manager shall, at all times, see that the business affairs of the municipal corporation are transacted by modern and scientific methods and in an efficient and businesslike manner, and that accurate records of all of the business affairs of the City under the City Manager's management are fully and accurately kept.
- L. Approval of public improvement actions. The City Manager, after consultation with the City Engineer or other department heads, may approve installation of streetlights, Iowa Department of Natural Resources sanitary sewer treatment agreements, Iowa Department of Transportation entrance permits, installation of temporary overhead utilities and authorized partial payments on public improvement contracts previously entered into by the City Council, but not final payments. The City Manager shall not be required to approve any of the above matters and shall refer the matters to the City Council at its next regular meeting when in doubt as to compliance with code provisions or in case of policy considerations. Whenever the City Manager approves any item that is provided in this subsection, the City Manager shall report the same to the City Council at its next regular meeting.  
[Amended 3-23-2023 by Ord. No. 23-02]
- M. Rules and regulations. The City Manager, in the exercise of duties, shall have the power to prescribe, promulgate and enforce rules and regulations for the government of the employees of the City, except sworn Police and Fire Department employees. The rules and regulations shall be filed with the Council, which shall have the authority to disapprove the same in whole or in part. The Clerk shall advise the Civil Service Commission of the filing of the rules and regulations.
- N. Additional duties and overlap of powers. The City Manager shall perform such other and further duties as the Council shall direct. The powers and duties of the City Manager, as provided for herein, shall, whenever they conflict with the powers and duties granted herein to any other officers or employees, supersede and have precedence over powers and duties granted to other municipal officers or employees.
- O. Real property; offers to purchase. The City Manager shall, whenever they deem the same to be in the best interests of the City, be empowered to offer to purchase real property on behalf of the City, conditioned upon subsequent City Council approval after acceptance by the seller. If real property is listed for sale in a defined project area and the City Manager believes it likely will be sold to another party if an offer is conditioned upon subsequent City Council approval, the City Manager, with the approval of the Mayor or Mayor Pro Tem, may make an offer to purchase on behalf of the City without the same being conditioned upon subsequent City Council approval after acceptance by the buyer.  
[Amended 8-17-2023 by Ord. No. 23-21]

## § 50-34. Appointments; supervision of other personnel.

- A. Individual appointments. The City Manager shall appoint the following persons:  
[Ord. No. 19-12]
  - (1) Police Chief (subject to Council approval).
  - (2) Fire Chief (subject to Council approval).
  - (3) City Engineer.
  - (4) Public Services Director.
  - (5) Parks Director, subject to consultation with Park Board.

(6) Community Development Director.  
[Amended 3-23-2023 by Ord. No. 23-02]

(7) Acting City Manager. This person shall regularly act as City Manager during absences, incapacity or unavailability of the City Manager, except when the City Manager has designated some other City employee to act as Acting City Manager for a specific occasion of the Manager's absence. The City Manager may also designate an employee to be the Acting City Manager Pro Tem in the event that the designated Acting City Manager is absent, incapacitated or unavailable. If the City Manager is absent, incapacitated or unavailable and no person has been designated as the Acting City Manager or the Acting City Manager Pro Tem, then the Mayor, or Mayor Pro Tem in the absence of the Mayor, shall designate an Acting City Manager.

(8) Zoning Official.  
[Added 3-23-2023 by Ord. No. 23-02]

B. Other personnel.

(1) The City Manager shall have the power to appoint or employ persons to fill all places for which no other mode of appointment is provided.<sup>[1]</sup>

[1] *Editor's Note: Original Subsection 2.B. of the 2000 Code, designating the City Manager to act as the Personnel Manager, which immediately followed this subsection, was repealed 3-23-2023 by Ord. No. 23-02.*

(2) All employees of the Public Services Department are Public Services Board employees. No employee of the Board shall be hired, disciplined or terminated except through action of the Director. An employee of the Public Services Department who believes that the Director has abused their discretion may appeal to the City Manager from a decision of the Director to suspend, demote or terminate the employee. An employee of the Public Services Department who believes that the City Manager has abused their discretion may appeal to the Public Services Board from a decision of the City Manager upholding the decision of the Director to suspend, demote or terminate the employee. Said appeals must be in writing and filed with the City Clerk, within 20 days of the decision appealed. Appeals to the Public Services Board are subject to such rules and regulations as it may promulgate. The decision of the Board is final.

[Ord. No. 04-13; 8-17-2023 by Ord. No. 23-21]

(3) The City Manager shall have authority to make written application for arbitration in labor disputes, as provided in Chapter 20 of the Code of Iowa.

C. Suspension or discharge. The City Manager shall have the power to suspend, demote or discharge summarily any officer, appointee or employee that the City Manager has appointed, subject to the approval of the Council with respect to the Police Chief and Fire Chief.

[Amended 3-23-2023 by Ord. No. 23-02]

D. Supervision of officers and departments. The City Manager shall supervise and direct the official conduct of all officers of the City whom the City Manager has appointed, and shall take responsibility for and control of all City departments.

*City of Marion, IA  
Thursday, February 8, 2024*

## Chapter 24. Departments

### Article III. Fire Department

#### § 24-9. Department appointments.

- A. Fire Chief. The City Manager shall appoint the Fire Chief, subject to Council approval, pursuant to Chapter 400 of the Code of Iowa.
- B. Full-time firefighters. All full-time firefighters shall be appointed by the Fire Chief pursuant to Chapter 400 of the Code of Iowa.
- C. Volunteer firefighters. All volunteer firefighters shall be appointed by the Fire Chief.

*City of Marion, IA  
Thursday, February 8, 2024*

## Chapter 24. Departments

### Article V. Police Department

#### § 24-25. Appointment of Chief and officers.

The City Manager shall appoint the Police Chief, subject to the approval of the Council, and the Police Chief shall select the other members of the Department pursuant to Chapter 400 of the Code of Iowa.

## § 31.073 POWERS AND DUTIES.

The City Administrator is the chief administrative officer of the city, may head one or more departments and is responsible to the Council and Mayor for the proper administration of all affairs of the city. To that end, the City Administrator has the power and is required to do the following:

(A) Supervise enforcement and execution of city laws;

(B) Attend all meeting of the Council and take part in the discussion of all matters coming before the Council. The City Administrator is entitled to notice of all regular and special meetings of the Council;

(C) Recommend to the Council the adoption of measures as deemed necessary or expedient for the health, safety or welfare of the city or for the improvement of administrative services;

(D) Appoint and, when necessary for the good of the service, suspend, remove or discipline all officers of the city except as otherwise provided by law or this code of ordinances and except authorizing the head of a department to appoint, suspend, remove or discipline subordinates in the department. The City Administrator has the power to appoint and remove the following department heads subject to the approval of the Council:

- (1) Clerk;
- (2) Fire Chief;
- (3) Police Chief;
- (4) Parks and Recreation Director;
- (5) Public Works Director;
- (6) Planning/Community Development Director;
- (7) Director of Finance;
- (8) Building and Neighborhood Services;
- (9) City Planner;
- (10) Engineering;
- (11) Human Resources;
- (12) MTA/Transit and Fleet Director; and
- (13) RWRF/Water Pollution Control Director.

(E) Supervise the official conduct of all officers of the city. The City Administrator is responsible to the Council for the performance of all department activities. All department heads, regardless of their method of appointment, are responsible to the City Administrator for the conduct of his or her department;

(F) Direct and coordinate all city services provided through the various departments;

(G) Prepare and submit to the Council for approval the necessary budget and be responsible for its administration after adoption. A preliminary budget review with the Council shall be held prior to November 1 for the next fiscal year. There shall be a budget status update for the new budget presented to the Committee of the Whole semimonthly commencing on or about January 2;

(H) Keep the Mayor and Council fully advised and informed concerning the operation of all aspects of the city government, of the financial condition of the city and of the future needs of the city;

- (I) Conduct the business affairs of the city and cause accurate records to be kept by modern and efficient accounting methods;
- (J) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;
- (K) Supervise the performance of all contracts for work to be done for the city, make all purchases of material and supplies and see that the material and supplies are received and are of the quality and character called for by the contract;
- (L) Supervise the construction, improvement, repair, maintenance and management of all city property, capital improvements and undertakings of the city, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements;
- (M) Cooperate with any administrative agency;
- (N) Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by city laws;
- (O) Recommend to the Council a standard schedule of pay for each appointive office and position in the city service, including minimum, intermediate and maximum rates;
- (P) Employ, reclassify or discipline all employees subject to civil service provisions and of the Iowa Code Chapter 35C;
- (Q) Appoint administrative assistants with the approval of the Council;
- (R) Make all appointments not otherwise provided for;
- (S) Investigate the affairs of the city or any department or division thereof and investigate all complaints in relation to matters concerning the administration of the government of the city;
- (T) Devote his or her entire time to the discharge of all official duties;
- (U) Perform other duties at the Council's direction;
- (V) Administer oaths;
- (W) Be a notary public and may, when required, attest to the signature of the Mayor or Mayor Pro Tem in the absence of the City Clerk.

(1999 Code, § 19.04) (Ord. 2239, passed 6-12-2001; Ord. 2427, passed 9-14-2010; Ord. 2011-2444, passed 4-26-2011; Ord. 2656, passed 9-22-2020)

## **POLICE CHIEF**

### **§ 33.35 POLICE CHIEF; APPOINTED.**

The City Administrator shall appoint the Police Chief, subject to Council approval.

(Iowa Code § 400.13) (1999 Code, § 35.06)

### **§ 33.36 POLICE CHIEF; DUTIES.**

The Police Chief has the following powers and duties.

- (A) *General.* The general administration and control of the Police Department is vested in the Police Chief, who is responsible for the government, efficiency and conduct of the Department. The Police Chief, in the exercise of duties, has the power to prescribe, promulgate and enforce rules and regulations for the conduct and guidance of the members of the Department, which shall, however, not

be inconsistent with this code of ordinances or the laws of the state. It is the duty of the Police Chief to cause public peace to be preserved and to enforce all the laws and ordinances of the city and state.

(B) *Command*. It is the duty of the Police Chief to be in command of all officers appointed for police work and to be responsible for the care, maintenance and use of all vehicles and equipment for the Department. All members of the Police Department shall observe and obey the orders of their superior officers. The Police Chief may peremptorily suspend or discharge any subordinates then under the direction of the Police Chief pursuant to state law.

(C) *Record of arrests*. The Police Chief shall cause to be kept a record of all arrests made by members of the Department.

(D) *Other duties*. The Police Chief shall perform other duties as may be provided by Council resolution and state statute.

(E) *Acting Police Chief*. The Police Chief shall designate an acting Police Chief to perform the duties of the Police Chief when the Police Chief is absent from the city or unable to perform duties.

(Iowa Code § 372.13(4)) (1999 Code, § 35.07)

## FIRE CHIEF

### § 34.35 FIRE CHIEF; APPOINTED.

The Fire Chief shall be appointed by the City Administrator, subject to Council approval.

(1999 Code, § 36.05)

### § 34.36 FIRE CHIEF; DUTIES.

The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including but not limited to the following:

(A) *Enforce laws*. Enforce all ordinances and, when enabled, state laws regulating fire prevention;

(B) *Authority at fires*. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the Department's duties;

(Iowa Code § 102.2)

(C) *Control of scenes*. Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the Fire Department;

(Iowa Code § 102.2)

(D) *Authority to barricade*. When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right-of-way or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting efforts of the Fire Department, to control the scene until any required investigation is complete or to preserve evidence related to the fire or other emergency;

(Iowa Code § 102.3)

(E) *Command*. Be charged with the duty of maintaining the efficiency, discipline and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the Fire Chief;

(F) *Property*. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the Fire Department;

(G) *Notification*. Whenever death, serious bodily injury or property damage in excess of \$200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of \$50 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics and circumstances concerning the fire incidents;

(Iowa Code §§ 100.2, 100.3)

(H) *Right of entry*. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making an investigation or inspection which under law or ordinance may be necessary to be made and is reasonably necessary to protect the public health, safety and welfare;

(Iowa Code § 100.12)

(I) *Recommendation*. Make recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards;

(Iowa Code § 100.13)

(J) *Assist State Fire Marshal*. At the request of the State Fire Marshal, and as provided by law, aid the Marshal in the performance of duties by investigating, preventing and reporting data pertaining to fires;

(Iowa Code § 100.4)

(K) *Records*. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings; and

(L) *Reports*. Compile and submit to the Mayor and Council an annual report of the status and activities of the Department as well as other reports as may be requested by the Mayor or Council.

(Iowa Code § 372.13(4)) (1999 Code, § 36.06)

#### **§ 34.37 FIRE INSPECTOR DESIGNATED.**

The Fire Chief shall appoint and designate the Fire Marshal of the Fire Department as a Fire Inspector. If certified by the Iowa Law Enforcement Academy, the Fire Marshal shall have full powers of arrest to effectuate the primary duty of enforcing this code of ordinances and state statutes relating to fire prevention and arson.

(1999 Code, § 36.07)

#### **§ 34.38 OBEDIENCE TO FIRE CHIEF.**

No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

(1999 Code, § 36.08)



# City of Muscatine

ITEM NUMBER 2024-0147

## IN-DEPTH ITEM - CITY COUNCIL

DATE: 4/11/2024

### STAFF

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Jon Koch, Water Pollution Control Plant Director

### SUBJECT FOR DISCUSSION

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Discussion on Biogas Utilization from the Water and Resource Recovery Facility

### EXECUTIVE SUMMARY

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Discussion on the utilization of biogas created by the anaerobic diesters at the Water and Resource Recovery Facility with a six month exclusivity agreement. Pine Creek has proposed a Letter Of Intent (LOI) that would allow them exclusive rights to verify gas quantity and quality to pursue a gas rights, site lease and easement agreement to collect and process diester gas for injection and sale into the natural gas pipeline. At the end of the six month exclusivity period the City is not obligated to enter into any agreement with Pine Creek but can then request proposals from any vendor for the purpose of generating revenue from the biogas.

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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Does the Council wish to pursue a six month gas rights agreement with Pine Creek, LLC. to determine the viability of a biogas project at the WRRF?

### BACKGROUND/DISCUSSION

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Pine Creek RNG, LLC and the City are proposing entering into a short term gas rights agreement to determine if the gas created by the Water and Resource Recovery Facility (WRRF) is in sufficient quantity and quality for selling. The attached Letter Of Intent (LOI) outlines a six month exclusivity period where Pine Creek will have exclusive rights to assess the viability of a gas project. After this period, the City would send out an RFP for vendors to submit proposals for processing and selling the biogas produced at the facility.

### ATTACHMENTS

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1. Pine Creek Brochure.24
2. PCRNG-LOI-Muscatine WRRF 24 04 11
3. Pine Creek RNG Muscatine PP.240411



**Creating Value in Clean Energy**

## 2023 Company Overview

[pinecreek.com](https://pinecreek.com)



# Pine Creek Renewables Business Overview



## Pine Creek RNG

Formed in 2019 — Develops, builds, owns and operates landfill and digester methane capture plants as well as other commercially viable waste-to-energy infrastructure facilities.

[pinecreekrng.com](http://pinecreekrng.com)



## Lancer Energy

Over 30 years in the automotive and advanced fuel industry, has become a leader in engineering and constructing advanced fuel stations (Electric, CNG/RNG, Hydrogen).

[lancerenergy.com](http://lancerenergy.com)



## Anode Power

Battery technology development and manufacturing for the telecommunications industry.

[anodepower.com](http://anodepower.com)



## Pine Creek Power Systems

Micro Grid design, construction, operations, optimization, and monitoring.

[pinecreekpowersystems.com](http://pinecreekpowersystems.com)



## Continuous Power (Inala)

Serving the global telecommunications industry since 1996 in Energy Service Company (ESCO) hardware, monitoring as a service, and edge compute virtual technician software.

[continuouspower.com](http://continuouspower.com)



# PINE CREEK RNG

- Develops, constructs, owns and operates RNG projects
- Developing projects throughout the US
- Landfill and Industrial AD focus

Based out of St. Petersburg, FL, Pine Creek RNG is a vertically integrated Renewable Natural Gas (“**RNG**”) producer that develops, owns, and operates RNG facilities across the U.S. Industry leading owners of landfills and industrial digester partner with **Pine Creek RNG** to convert sources of raw biogas into low carbon fuels. **Pine Creek RNG’s** executive team is comprised of industry veterans with decades of experience in energy and technology, deep market knowledge, and know-how. Driven by a culture of collaboration and partnership, **Pine Creek RNG** and its people are committed to creating value through positive environmental impact.

# Pine Creek RNG Leadership Team



**Kurt Salloux, Ph.D.**  
Managing Director

Over 30 years of experience in science, engineering, research and development, as well as energy system design and construction with an emphasis on energy storage and chemical systems. Dr. Salloux managed Hughes' lithium-ion battery program tasked with designing high-power batteries for Hughes and later Boeing's next-generation satellite systems.



**Kevin Orchard**  
Vice President Development

Over 10 years of renewable energy experience including project origination, development, and wholesale power sales, corporate and project finance. Participated in origination and development of over \$750M in energy projects. Kevin is a certified Energy Risk Professional by Global Association of Risk Professionals (GARP).



**Mark Hooyer**  
Landfill Senior Principal

25 years of experience in solid waste, air quality, landfill gas, and landfill operations management. Engineering consultant for Kleinfelder, Inc and it's first Director of Corporate Sustainability. He managed Trans-Jordan Cities, a large, multi-city solid waste organization in Salt Lake County, UT. Mark is certified as a Manager of Landfill Operations (MOLO) by the Solid Waste Association of North America (SWANA).



**Donovan Jones**  
Director of Operations & Construction

Designed, managed, installed, and commissioned hundreds of energy projects worldwide including Solar PV generation, Battery Storage, and energy-producing assets. Developed and maintains operation and maintenance protocols for energy systems and microgrids at several locations. Leads the engineering and construction efforts for the renewable natural gas facilities.



**Doug O'Dowd**  
Chief Financial Officer

Over 30 years of experience in finance and accounting working with both public and private companies. Began career with Deloitte in Tampa, FL, working with several companies including Outback Steakhouse, and later working with a variety of other companies ranging in revenue size from \$12 mil to \$325 mil. Most recently, Doug was the CFO with World Product Solutions—a private equity backed skincare and hair care CDMO, after being a CFO for Xcelience: a CDMO in the pharmaceutical space specializing in clinical trial materials.

# Pine Creek RNG Operations Team



**James Lough**  
Business Development

8 years of military service as an Apache helicopter pilot and leader. He led international teams, reshaping European Army aviation through negotiations with NATO. An MIT Sloan MBA, he drives scientific innovations to market, alongside biotech and venture capital involvement. He holds a 2012 B.S. in Economics and Chinese from the US Military Academy.



**Brett Maylett**  
Director, Interconnection  
and Utilities

Over 20 years in energy; pioneered sustainable solutions. He started in hydrogen fuel cell R&D, then excelled in marketing and selling natural gas on interstate pipelines. He managed end-to-end projects in business development, including interconnections and expansions. Holds a Business Communication degree from The University of Utah.



**Jacob Summers**  
Field Project Manager

An avid entrepreneur, he co-founded and advised numerous start-ups. Formerly at Green Hill Recovery and AIM Integrated Medicine, he founded a Philly contracting firm, co-established a Cambodian mango venture, and held private equity roles. Holds a BBA from Villanova, is a CFA Charter holder and resides near Philadelphia.



**Mike Ogburn**  
Operation and Maintenance  
Manager

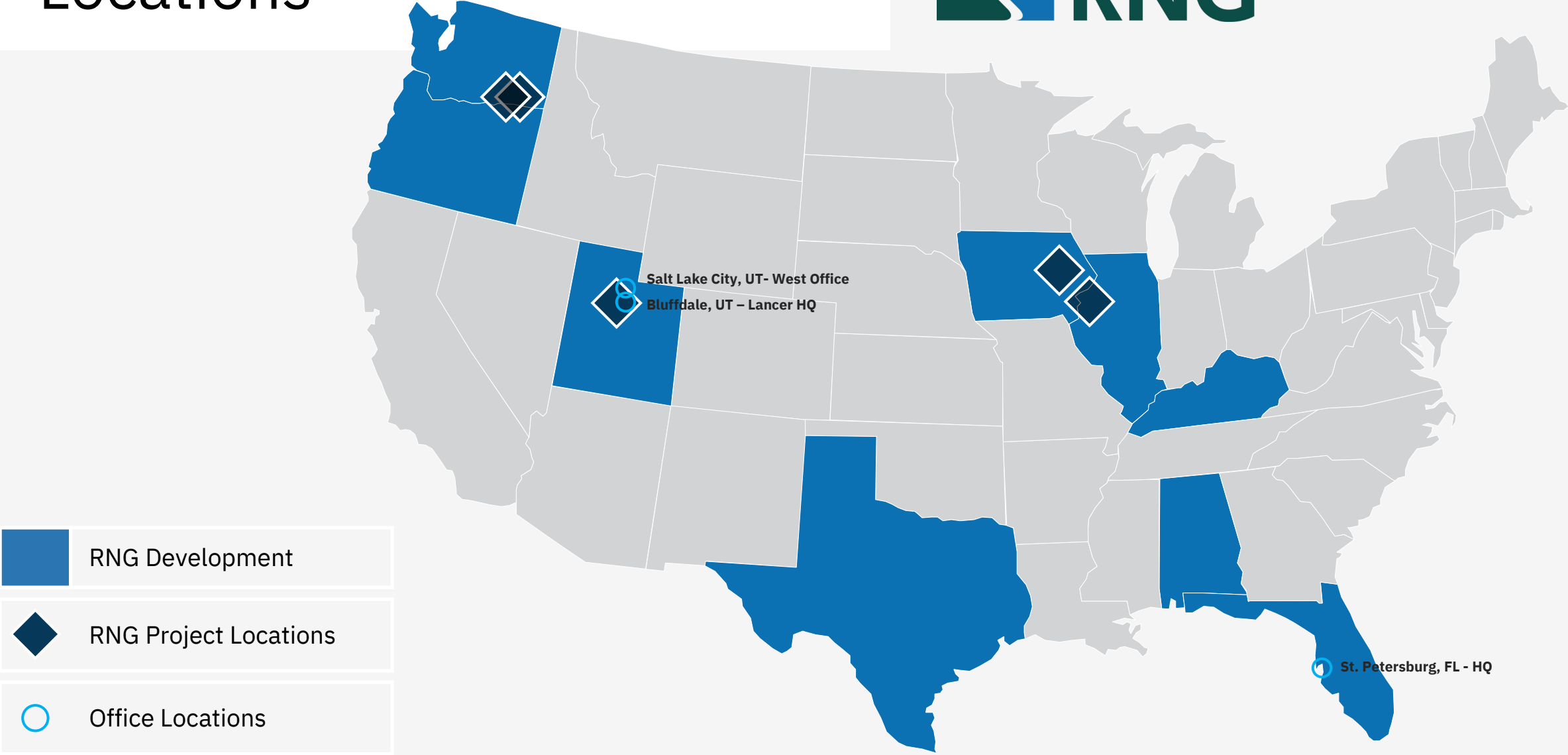
With 30 years in the oil and gas industry, he brings operation and maintenance experience to upgrading plant construction, with a focus on maximizing plant efficiency and uptime. Previously, he operated the Billings Regional Landfill, RNG plant as Operation and Maintenance Manager, which started operation in 2010.



**John Hackney**  
GCCS and Project Technician

With 20+ years as a field and fisheries biologist in the federal government, he's traveled globally, partnering with diverse stakeholders. Led research, training, and monitoring efforts. Transitioned to CQA technician after relocating to the Pacific Northwest.

# Pine Creek RNG Locations



# Muscatine RNG Project

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APRIL 11, 2024

JON KOCH & JAMES LOUGH (PINE CREEK RNG)



# Agenda

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1. Who is Pine Creek and what do they do
2. What is biogas and how do we use it
3. What is in the LOI and what does it do for the City
4. Q/A



# Direction Sought

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Does City Council wish to pursue biogas utilization and

Does the Council wish to sign the LOI with Pine Creek?



# Pine Creek RNG

Private renewable energy company

- Produces RNG from biogas
- Landfills and digester facilities
- Long-term owner/operator
- Significant Iowa experience – 5 sites



# Project Overview

Pine Creek provides 100% of project funding

Pine Creek staffs on-site plant operators

USA manufactured equipment

Pressure swing adsorption (PSA) process

Long-term offtake agreement



# Key Terms

Gas Rights and Site Lease Agreement

20-year initial term plus extension options

Muscatine receives royalty compensation

Pine Creek responsible for own compliance

- Shares all monitoring data



# Background

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- Up to 7 million square cubic feet(scf)/month
- 60% methane or more in the gas
- 87%-97% methane in natural gas
- Injection into the natural gas pipeline in front of the plant
- Sale of gas plus RIN (Renewable Identification Number) credits
- Renewable Natural Gas used in vehicles, credits can come from multiple sources throughout the country



# Background



- MORC project increased gas production from 1 million scf/month to 7 million scf/month
- High Strength Waste Department is combination of MORC solid waste and liquid waste from industrial partners
- Removing 4000 tons of food waste from regional landfills/year
- Study will determine revenue potential



# Next Steps

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1. Next steps are to bring the LOI to Council for formal approval
2. After approval, meet with Pine Creek to begin feasibility study



# Direction Sought

---

Does City Council wish to pursue biogas utilization and

Does the Council wish to sign the LOI with Pine Creek?





# City of Muscatine

ITEM NUMBER 2024-0148

## IN-DEPTH ITEM - CITY COUNCIL

DATE: 4/11/2024

### STAFF

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Carol Webb, City Administrator  
Brent Hinders

### SUBJECT FOR DISCUSSION

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Discussion regarding Title 1-10-2.E (1)(b) - Elected Official Communication with City Department Heads and Employees

### EXECUTIVE SUMMARY

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At the February 1 City Council regular meeting, City Council directed City staff to review City Code Chapter 1-10-2.E (1)(b) regarding elected official communication with City department directors and employees. A review was completed and staff recommends repealing Chapter 1-10-2. E (1)(b) of City Code regarding elected official contact with staff and replacing it with City Council guidelines and policies.

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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Does the Council have questions regarding the information presented?

Does the Council support the staff recommendation?

### BACKGROUND/DISCUSSION

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At the February 1 City Council regular meeting, City Council directed City staff to review City Code Chapter 1-10-2.E (1)(b) regarding elected official communication with City Department Heads and employees.

### BACKGROUND

Since hiring a City Administrator in 1968, the City Code has included a section on Council communication with City staff. Language to this effect was included in the 1968 ordinance adding an administrator:

#### **1968 - Chapter 1-12 of City Code**

*"The City Administrator shall be directly responsible to the Council for the administration of municipal affairs as directed by that body. The departments and agencies that currently report directly to the Council shall report and be responsible to the City Administrator. All*

*departmental activity requiring attention of the Council shall be brought before that body by the City Administrator and all Council involvement and administration initiated by the City Administrator and administration initiated by the Council must be coordinated through the City Administrator."*

The same section in the 1988 City Code reads as follows:

**1988 - Chapter 1-8-4(B) of the City Code**

*"Any member of the City Council shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator, solely through the City Administrator, and Council members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator."*

The current code states the following:

**2024 - Chapter 1-10-2.E (1)(b) of City Code**

*"Any elected official shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council Members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator. Elected officials shall have access to department heads or staff employees for the purpose of open and two-way communications. However, any meetings, issues or concerns raised by department heads, staff or elected officials shall be brought to the attention of the City Administrator."*

**Rationale for policies related to Council/staff Communications**

Such code provisions are a formal approach to clarifying the role of the City Administrator relative to the staff and elected officials. In cities employing a city administrator or manager, it's common to have an ordinance that provides that elected official inquiries and information exchanges with staff are OK, but "directives" are not. Typically, this means that an elected official can share information with staff members and seek facts from them but cannot tell them to take action. A directive or an implication that some form of action is expected violates the spirit of the City's form of government. Communicating with an employee regarding the employee's performance or the performance of other employees, (including the City Administrator) unless such performance involves a reasonable belief that there is unethical or illegal behavior, also violates the spirit of the City's form of government and undermines the authority of the City Administrator. The City has policies, performance evaluation systems, employment contracts, and federal and state laws that govern how employees are evaluated and disciplined that should be respected by all parties.

While some cities discourage all direct contact with staff, my preference is to encourage elected officials and staff to have contact in appropriate ways. Doing so enables clarity in roles while also building solid relationships and respect among all members of the team. The Iowa

League of Cities states the following on effective elected officials in the Municipal Policy Leaders Handbook: *"City staff members are an important part of the team. [Elected Officials] should get to know the staff and what they do. Treat them with respect –they are a valuable asset and can assist you in accomplishing your goals. They can have some valuable historical perspectives and help "fill in the gaps" for a new council member."* Communication encouraged includes department ride-alongs, showing interest and support for staff and the work they do, and casual communications with staff on family, department activities, etc., which can help build good relationships between staff and elected officials.

### **Recommendation**

Codification of elected official/staff communications has not, in recent years, been an effective tool to clarify expectations regarding communication. Rather, it has seemed to only invite mistrust among all parties. Another approach is to provide clear communication guidelines and policies to both elected officials and City staff regarding appropriate communications, rather than codifying those guidelines. When all parties follow the guidelines and policies established, respect and trust can be built among both staff and elected officials, which supports an efficient and effective government for our citizens.

It is the City Administrator's recommendation that guidelines and policies be utilized to provide clear expectations regarding appropriate communications and that the City Code section addressing this issue be repealed. Clear expectations and the willingness of the City Administrator, staff, and elected officials to follow them will best serve the citizens of Muscatine.

### **ATTACHMENTS**

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1. 66827-0668 - 1968 Ordinance Creating City Administrator
2. 2019-0279 Title 1, Chapter 10 Section 2 City Officers and Employees
3. 1988 City Code - Title 1 Chapter 8

*(Special meeting) Ord passed 1st reading 4-25-68*  
*(Held until Mon 16 meeting - 5-2-68)*  
*(Passed 2nd reading 5-16-68)*  
*" 3rd " 6-6-68"*

AN ORDINANCE CREATING THE OFFICE OF  
CITY ADMINISTRATOR OF THE CITY OF  
MUSCATINE, IOWA, PROVIDING FOR APPOINT-  
MENT AND REMOVAL, PRESCRIBING POWERS  
AND DUTIES AND REPEALING ALL ORDINANCES  
IN CONFLICT THEREWITH

Be It Ordained by the City Council of the City of Muscatine, Iowa:

Section 1. Title I, Chapter 12, Section 1 of the City Code of Muscatine, Iowa is hereby repealed, and enacted in lieu thereof is the following, to-wit:

1-12-1. City Administrator - CLERK. The office of the City Administrator is hereby created, which office shall be filled by a majority vote of the City Council. The appointee shall hold office during the pleasure of the City Council, and shall be subject to removal by a majority vote of the City Council. He shall be ex-officio City Clerk.

Section 2. Title I, Chapter 12, Section 5 of the City Code of Muscatine, Iowa is hereby repealed, and enacted in lieu thereof is the following, to-wit:

1-12-5. POWERS AND DUTIES GENERALLY -

(a) The powers and duties of the City Administrator shall include:

1. Enforcement of all City laws and regulations as directed by the Council.
2. Administration of Council policies and directives.
3. Continuous study of the City government operating procedures, organization and facilities and to recommend fiscal and other policies to the Council whenever necessary.
4. Preparation and administration of the City's Annual Operating Budget.
5. Supervision of the City's Administrative policies and procedures, including personnel and purchasing.
6. Keeping the Council informed on the progress of its programs and status of its policies.
7. Coordinating and directing all City services provided through the various departments.
8. Appointment and removal of City employees in accordance with City policies regarding this activity.
9. Study possible joint arrangements with Boards and Commissions such as, but not limited to, Utility and Park, or any other independent Board and make recommendations for such arrangements as are mutually acceptable.

10. Assist the Mayor in any of his duties as requested by him and approved by the Council.

(b) The City Administrator shall be directly responsible to the City Council for the administration of municipal affairs as directed by that body. The Departments and Agencies that currently report directly to the Council shall report and be responsible to the City Administrator. All Departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator and all Council involvement and administration initiated by the Council must be coordinated through the City Administrator.

Section 3. The following sections are hereby enacted and shall be added to Title I, Chapter 12 of the City Code of the City of Muscatine, Iowa;

1-12-6: COMPENSATION. The compensation of the City Administrator shall be such amount as may from time to time be fixed by the Council.

1-12-7: EXCEPTED APPOINTMENT. The City Attorney shall not be considered to be a Department Head, and shall continue to be appointed by, and be directly responsible to the City Council.

1-12-8: DEPUTY CITY CLERK: The City Administrator shall nominate for Council appointment, a Deputy City Clerk to perform the duties of the City Clerk in the administrator's absence and to perform other duties as assigned him.

1-12-9: OTHER DUTIES. The City Administrator shall perform such other duties as may be directed by the City Council.

Section 4. REPEALER - All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. These are: Title I, Chapter 7, Section 4 of the City Code of Muscatine, Iowa.

Section 5. EFFECTIVE DATE. This Ordinance shall be in force and effect upon passage and publication as required by law.

PASSED AND APPROVED this 6<sup>th</sup> day of June, 1968.

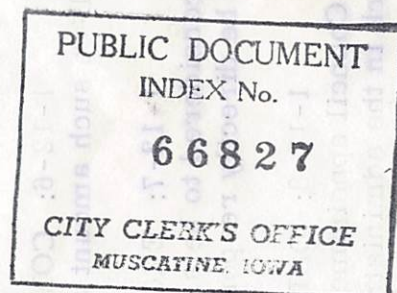
ATTEST:

Flarence Mason  
City Clerk

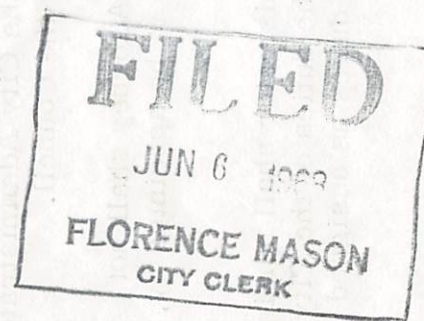
E. S. Burns  
E. S. Burns, Mayor

*Sent to journal 6-13-68*

*Ord. Creating the office  
of City Administrator*



*page 283, 284.*



**ORDINANCE NO. 2019-0279**

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 10, SECTION 2(E)(1)(b) OF  
THE CITY CODE, CITY OFFICERS AND EMPLOYEES**

**BE It Enacted by the City Council of the City of Muscatine, Iowa:**

Section 1.

Title 1-10-2(E)(1)(b), which currently provides as follows:

Any elected official shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council Members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator.

Is amended to provide as follows:

Title 1-10-2(E)(1)(b), is amended to provide as follows:

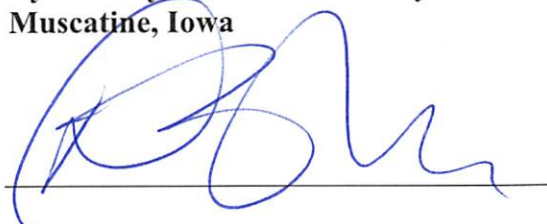
Any elected official shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council Members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator. Elected officials shall have access to department heads or staff employees for the purpose of open and two-way communications; however, any meetings, issues or concerns raised by department heads, staff or elected officials shall be brought to the attention of the City Administrator.

Section 2. All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

**PASSED, APPROVED AND ADOPTED** this 3rd day of October, 2019.

**By the City Council of the City of  
Muscatine, Iowa**



**Diana L. Broderson, Mayor**



Attest:

  
Gregg Mandsager  
City Clerk

First Reading: September 5, 2019

Second Reading: September 19, 2019

Third Reading: October 3, 2019

Publication: October 10, 2019

## MEMORANDUM

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Date: 2019.09.29

To: Mayor Broderson and Muscatine City Council

From: Gregg Mandsager, City Administrator

Re: City Code Change Title 1-10-2(E)(1)(b)

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I would ask that you take all of the following items into account before making such a sweeping change to the City Code. The following summary is taken from the noted attachments, additional sources, and are my personal and professional opinions.

Additionally, please see the following attachments:

2019.08.12 (2019.08.15 City Council Agenda) Brick Gentry Memo Re: Role of City Council Members

2019.08.13 (2019.08.15 City Council Agenda) Staff Memo

2019.09.05 City handbook additions (2)

Proposed City Code Amendment

**For the following reasons, I recommend that the City Code not be changed or amended.** I firmly believe there are better routes to achieve the stated goals of some council members and the primary method to do so would be to make better use of the City Council's In-Depth sessions. By doing so, the entire City Council is able to participate in the discussion and the public is able to witness the discussion.

### **Mandsager Summary and Comments**

#### **See Brick Gentry memo dated 2019.08.12 Role of City Council Members - Key Points**

- "The City Council's members, therefore, must act as (a) body to serve the public, and not individually to address concerns of the residents or matters related to City employees."
- "Muscatine's Code of Ethics states "All complaints or concerns about city employees shall be transmitted through the City Administrator..."
- "To avoid potential violations of open meetings laws, elected officials should refrain from the appearance of conducting any business outside the open meetings."
- "...addressing employees one-on-one, the elected officials could lose legislative immunity (and insurance coverage for any litigation). Typically, when an elected

official member acts in their official capacity, he or she has absolute immunity and is covered by the City's insurance policy. But, according to the United States Supreme Court, that immunity can be lost when the official takes actions outside the scope of their duties."

- Attorney's recommendation\_- "In summary, based on the City Code and Code of Ethics, elected officials should refrain from dealing with individual city employees and report any potential issues to the appropriate Department Head/City Administrator." With this change, the City Council is acting against the advice of counsel.

#### **Staff Memorandum dated 2019.08.13**

- Please review this memo prepared by staff members. To be clear, this memo was written by staff and was not written by me. This memo was called a "criticizing letter" and staff was essentially called liars as it was said that "...staff didn't write it". I believe staff's issues and concerns should be given significant weight when considering a change to this code section.
- While some of the language has changed in the proposed City Code amendment since the staff memo was written, the signees agree that the points in the letter are still valid and they do not recommend changing the current City Code language.

#### **Code Change to Title 1-10-2(E)(1)(b)**

Again, please note that the following comments are taken from the noted attachments, additional sources and are my personal and professional opinions and recommendation.

#### **Key Arguments Against Adopting the Proposed Change:**

- The City Council is required to act as a body at the table and cannot act individually.
- The public's business should be conducted in public (open meetings) and should refrain from even the appearance of conducting business outside of an open meeting,
- The council may be acting outside the scope of council's duties (operational v. policy).
- The Council may be violating or perhaps obfuscating the clear chain of command.
- The proposed code change simply reverses the process and I believe that it will only create more problems and confusion making it harder to fix or correct issues of concern later.
- I do not believe that by adopting this change, that the City Council would be acting in a transparent manner.
- I think that while this topic is behind us (Mayor's previous loss of access to staff other than directly through the City Administrator. This action was taken for valid reasons as determined by the former City Council, City Attorney and City Administrator.), I personally believe that it is one of the main reasons this change is being brought forth. I will not be addressing this topic further in public session other

than what is noted above, but I did consult the City Attorney on what I may or may not state).

### **Additional Arguments Against Adopting the Proposed Change:**

- Disruptive to staff and operations.
- Meetings must be at the department's schedule and may not interrupt work.
- City Council members and staff receive the best information when you have the whole story (versus one side).
- Will the information be consistent and available to all?
- Union issues (see handbook changes),
- Staff complaints or issues should be going immediately to a Supervisor, Department Head, Human Resources or the City Administrator.
- Undermining supervisors and department heads.
- Some staff may inappropriately lobby the City Council following a supervisor's decision. Staff doesn't get everything they asked for and while most accept this and may see the big picture, they may not have all of the information to have an informed discussion on their piece of the overall department. So, how do you determine biased information? Department Heads, Human Resources and the City Administrator are closer to the overall issues and personnel matters and have a better or more wholistic picture.
- Regardless of Council's stated intent not to give orders, staff will have trouble differentiating when something is an order or not. Simply being asked to help or do something to assist the public or a council member, or to conduct work will create confusion. This requires direction from their supervisor.
- This code amendment has the potential to further erode the lack of trust and criticizing tone that has arisen/grown as of late between some council members and staff. As I noted earlier, I would encourage Council to consider some team building exercises with staff to improve council/staff relations. I would encourage us all to review the Council's ethics policy and specifically the decorum piece for public meetings.

### **Mandsager Contract**

Lastly, I personally and in my position as City Administrator, need to point out the following potential ramifications of adopting the City Code changes:

#### **Breach of Contract:**

- Changing the City Code has the potential to allow the City Administrator to declare a breach of contract for substantially changing the City Administrator's role, powers, duties, authority, and responsibilities of the employee's position that substantially changes the form of government. For a potential breach of contract claim, the City Administrator could argue that the new code language reversing the process by which information is transmitted and allowing Council members to contact employees

directly (i.e. the employee comes to the City Administrator last, not first) substantially changes the City Administrator's role, powers, duties, authority, and responsibilities.

### **Consequences - Immunity and Insurance**

- Council has the potential to lose immunity and insurance coverage when acting outside the scope of council's duties.
- This, in my opinion, was glossed over at the previous discussions (See 2019.08.12 (2019.08.15 City Council Agenda) Brick Gentry Memo Re: Role of City Council Members).

### **Conflict of Interest**

The following needs to be noted for your information and consideration when making a decision on this code change or other topics before the City Council.

As noted on the Iowa League's website and according to the Iowa Supreme Court, "...the basic premise and purpose of all conflict of interest requirements, is "to avoid subjecting public officials to the difficult and often insoluble task of deciding between their duty to the public and their own private interest or advantage."

According to the Iowa Municipal Policy Leader's Handbook, "...a conflict of interest exists when a mayor or council member has a personal or pecuniary (that is, a reasonable likelihood or expectation of financial gain or loss to the member or another person with whom the member is associated) interest in a measure under consideration". A personal interest is defined by the Iowa League as a personal interest or advantage that conflicts with a public duty). See: <https://www.iowaleague.org/members/Pages/ConflictofInterest.aspx>.

If a Council member has a conflict of interest, the conflict is for the council member to declare. However, if that member fails to divulge a conflict or one is discovered at a later date, the vote becomes void if the vote of the officer was decisive to passage of the measure.

When determining if one has a conflict, the Iowa Ethics Board recommends the following in summary:

- That the member has no access or contact with the person or issue creating the conflict,
- When possible, try to avoid the problem/conflict or even the appearance of a problem/conflict, and
- When looking to determine if there is a potential conflict of interest, the following are good questions to ask oneself:
  - Who is your master?
  - Do you have a conflict?
  - Is it best for the City, your buddy, or your employer?

## MEMORANDUM

**FROM:** Brooke Van Vliet  
**TO:** Matthew Brick  
**DATE:** August 12, 2019  
**SUBJECT:** Role of City Council Members

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Currently, Muscatine City Code Section 1-10-2-b states that “[a]ny elected official shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council Members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator.” This section is being considered for revision to allow the elected officials access to department heads or staff employees to discuss work issues but not to give the employees work-related orders. The purpose of this memo is highlight potential issues for the elected officials if the Code section is changed.

As stated in Muscatine’s City Council’s Ethics Policy, Section 1.001 and 1.003, the Role of the City Council is to adopt legislation or policy in the best interest of the public. Individual council members have very limited authority outside of these actions which are narrowly defined by certain exceptions. The City Council’s members, therefore, must act as body to serve the public, and not individually to address concerns of the residents or matters related to City employees. If a resident or employee has a grievance related to a city employee or department, the elected official does not have authority to take action outside the scope of their role on the City Council as a body. This is not an uncommon situation because, as the leaders of the City, people often will first raise their

concerns with the elected officials individually. However, due to the fact that their role is limited and based on the Code of Ethics, the individual elected officials should direct that resident to the appropriate person to handle such matter (*i.e.*, Department Heads and/or the City Administrator). Specifically, the City of Muscatine's Code of Ethics states "All complaints or concerns about city employees shall be transmitted through the City Administrator who shall be charged with investigating those complaints. Any complaints about city employees should be made in writing, signed and dated. (See Subsection 2).

Chapter 11 of the City of Muscatine's Rules of City Council state "meetings conducted by the City Council shall be held in accordance with the Iowa Open Meetings Law (Iowa Code Chapter 28A). The principle behind holding open meetings is that government officials should conduct the public's business in public. This principle is rooted in the idea that "government is and should be the servant of the people." Open meeting laws facilitate that service by "promoting the free flow of information so that news media may report events accurately rather than relying on potentially biased or inaccurate leaks." The purpose of the law is to allow the public to become more involved in the decision-making process and affords them a better understanding of the nuances of modern government. *See, e.g.*, Michael A. Lawrence, *Finding Shade from the "Government in the Sunshine Act": A Proposal to Permit Private Informal Background Discussions at the United States International Trade Commission*, 45 CATH. U. L. REV. 1, 9–10 (1995). To avoid potential violations of open meetings laws, elected officials should refrain from the appearance of conducting any business outside the open meetings.

In addition, the City's Code of Ethics states that no council member, board member, officer or employee, directly or indirectly or by others on his/her behalf or his/her request or suggestion, shall: represent any private party before the public body on which the official sits or over which the official has appointment or budgetary powers or grant or influence the granting of any special consideration, advantage or favor, to any person, group, firm or corporation, beyond that which is the general practice to grant or make available to the public at-large (See Code of Ethics Section 4 in

part). Specifically, the Code of Ethics states that “[a]ccepting a position as a public official and or employee carries with it the acceptance of trust that the official or employee will work to further the *public interest*. City Council Members shall work for the common good of the people of Muscatine, Iowa, and not for the private person or personal interest.”

The City’s Code of Ethics is similar to and in line with the general common law principles of the fiduciary duties all board members owe to their organization. A “fiduciary duty” is a duty to act for someone else’s benefit, while subordinating one’s personal interests to that of the other person. It is the highest standard of duty implied by law. Iowa statutory and common law demands that councilpersons exhibit complete loyalty to the public and seek to avoid subjecting a councilperson to the difficult and often insoluble task of deciding between public duty and private advantage. See *Wilson v. Iowa City*, 164 N.W.2d 813 (Iowa 1969). Their duty under the principles of equity is to serve their cities honestly, faithfully, and without negligence. Council members, like a corporation’s officers and directors occupy fiduciary relation to the citizens they serve, and hence their acts must be closely scrutinized by the courts and must be in utmost good faith and fair.

One of the reasons for the language of the existing City Code and Code of Ethics is that, in addressing employees one-on-one, the elected officials could lose legislative immunity (and insurance coverage for any litigation). Typically, when an elected official member acts in their official capacity, he or she has absolute immunity and is covered by the City’s insurance policy. But, according to the United States Supreme Court, that immunity can be lost when the official takes actions outside the scope of their duties. See *Bogan v. Scott-Harris*, 523 U.S. 44, 54 (1998) (council members only have immunity from civil rights liability for all actions taken “in the sphere of legitimate legislative activity”).

Even actions taken collectively by the full council can lack immunity if the actions relate to specific citizens/employees instead of furthering general city policy. Some states have gone so far as to view unsanctioned acts by council members outside of their official duties involving employees as

an invasion of the employee's privacy. For example, in California, a city council member was subject to censure by the council and a lawsuit for removing documents from a city employee's personnel file and revealing them to the press. Employees can thus argue that improper review and/or disclosure of employment information can result in personal liability for invasion of privacy. See *Braun v. City of Taft*, 154 Cal. App. 3d 332, 338-40, 347-48 (1984); see also *Hill v. National Collegiate Athletic Assn.*, 7 Cal. 4th 1, 35-38 (1994).

In summary, based on the City Code and Code of Ethics, elected officials should refrain from dealing with individual city employees and report any potential issues to the appropriate Department Head/City Administrator. If the City Code and Code of Ethics are revised to allow such individual contact, the elected officials should still make sure not to act unilaterally but instead act as part of the full council—and act pursuant to the requisite formalities that will ensure legislative immunity applies to the elected officials actions. If city residents object to the conduct of particular employees (or employees object to issues within the City), the Council can respond by asking the City Manager to investigate and take appropriate action regarding the objections. See *A City Council Member's Role With Respect to Individual City Employees - Western City Magazine* (March 2007).

**August 13, 2019**

**To: Members of City Council**

**This letter is being written independently by the letter signers based on our concerns for the proposed change in the City Code which would allow for individual City Council members to have “unfettered access” to any employee of the City. We also have concerns with some of the items brought up by individual Council members during the discussion at the meeting.**

**City Staff:**

**The current City Department Directors and the City Administrator are all professionals in their respective fields. Most have at least 4-year degrees, many have master’s degrees, and all have decades of experience either in their current positions in the City organization, previous positions with the City, or experience in other communities. They manage millions of dollars in funds in their operating budgets as well as numerous capital improvements in the community. These operations and projects are done even given budget constraints and related staffing levels of the City. All Department Directors and the City Administrator take pride in what they do and what is accomplished with the goal of making the community a better place to live for its residents now and into the future.**

**City Department Director responsibilities include seeing the “big picture” for their departments as well as for the City as a whole. However, due to the relatively small size of the City organization, current Department Directors interact regularly with many of their staff members and understand the roles each of them play in the organization. As department heads, we value the role of the City Administrator so it is clear who we report to, and that we can do our jobs free of political influences and so we do not need to deal with seven Council members individually that may all have different perspectives on City issues. Staff understands that City Council is the decision-making body for the City; however, it takes a majority of Council for any action and getting majority decisions should be done publicly in open sessions of City Council meetings.**

**Some of the Staff Concerns with Council City Code Change Proposal:**

- 1. In recent months, it appears that some members of City Council are questioning the integrity of staff members, the reliability or lack of trust in the information presented by departments for Council consideration, and whether staff may have “hidden agendas”. Department heads, with their relevant staff members involved in each project/proposal, review and discuss recommendations included on Council agendas. There is further discussion at the City staff meeting held prior to each regular Council meeting to get additional input prior to the item being considered on the Council agenda. Many of the agenda items have already been included in the budget or 5-Year Capital Improvement Plan approved by City Council. We believe that City Council is being given honest and reliable information by the current department heads and city staff.**
- 2. Each department has their own chain of command, organizational structure, standard operating procedures, policies, and/or internal controls to follow. If each of the 7 Council members (both current and any future Councils if the City Code would be changed) would want to meet with individual staff members during the work day, it would be disruptive to that department, could**

lead to undermining of supervisors and department heads, could lead to employees trying to personally advance by undermining their chain of command, and would likely detract from ongoing work and services provided by that department. Individual workers may not be aware of the reasons for department procedures or recommendations while their supervisors and department heads would be in better positions to provide better overall responses to questions. Deliberately excluding supervisors, department heads, or the City Administrator, that all would be more knowledgeable, from discussions with individual employees may not be in the best interest of either the City Council or staff. Department staff sharing information with only specific individual City Council members would also detract from the full City Council being able to act as a group to make informed decisions.

3. Individual Council members, it appears, want “unbiased opinions” of employees and that employees “would be afraid for their jobs” if they say what they think. Again, it appears that some Council members believe they are getting biased information and that Council members are unaware that employees frequently provide feedback to their supervisors or department heads and they are frequently asked for their input. This is done within the current organizational structure. Council presumptions that appear to be based on former employers of individual Council members should not be assumed to be the case for the City. The presumptions that employees would be “afraid for their jobs” also does not take into consideration that many employees are part of union groups and/or are covered under Civil Service provisions which give them added job protection.
4. Many employees appreciate a structured environment, knowing who they report to, what is expected of them, and also knowing that they can talk to HR if they have any issues they can’t resolve other ways. The presumption that employees would welcome speaking to individual City Council members during their work hours, may in fact not be the case, and likely would make many feel awkward and uncomfortable.
5. Individual Council members wanting to talk individually with employees without their supervisor, department head, or City Administrator being present, makes us question the motivation. Although it was stated this was not a “witch hunt”, it gives the appearance of being one. We believe that this would not be a transparent process with both other department staff as well as with other Council members. Council members should each receive information that they can use to make informed decisions as a group. Having individual Council members gathering information separately, based on conversations with individual employees that may not have the knowledge level of their department management staff, is not a transparent process.
6. The specific Code section proposed to be changed currently states (underline added):  
“Any elected official shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council Members shall not give orders to any such Department Heads or employees either publicly or privately.”

It appears to us that several City Council members are making an extremely literal interpretation of the City Code indicating that they think they can’t even speak to employees with normal “small talk” or even in passing. Common sense has been used in the past and should be used going forward. This extremely literal interpretation (or misinterpretation) should not be an excuse to go to the other extreme and have “unfettered access” to any and all employees by each of the 7 Council members.

7. The current system has served the City well for over 50 years during 5 or more City Administrators and dozens of different City Councils.

8. Council plays a significant role in the City organization under the current Code. That same Code delegates the "day to day operations" of the City to the City Administrator. Individual City Council members meeting with individual employees is getting involved in "day to day operations" of the City. While Council may be more comfortable trying to have a direct operational role in the City operations, that should not be the role of Council.

Summary:

We strongly value the current structure of the City and the role of the City Administrator for the efficient operation of the City. This structure has resulted in little turnover in key positions with the City and has resulted in tremendous improvements in the community. Opening the door to individual Council members "dealing with" individual employees would have the potential of causing disruption and detracting staff from their department missions and operations and detract from services provided by those departments.

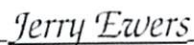
Key department heads understand that City services need to be prioritized within budget constraints and it is the role of the City Administrator to present a balanced budget to the City Council each year – which means departments do not get everything they request, but do get the essential items to continue to provide the existing service levels to the community. The current City staff and Administrator work well as a team under the organizational structure that has been in place. This has resulted in little turnover in key positions with the City. Also, turnover is generally low and retention high in most positions in the City which demonstrates job satisfaction with the current organizational structure.

Many of the current City Council members have not had to deal with the extremely tight budgets that the City has had in the past, but during those extremely tight budgets, services need to be prioritized between essential services and those that serve only small portions of the community. Having individual department heads or employees going around the established process to "lobby" for their own operations does not serve the City as a whole or its residents.

Again, we believe that the proposed City Code change is not needed and may even do more harm than good for the community and the services the City provides to its residents.



Nancy A. Lueck, Finance Director



Jerry Ewers, Fire Chief



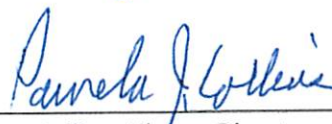
Brian Stineman, Public Works Director



Brett Talkington, Police Chief



Stephanie Romagnoli, Human Resources Manager



Pam Collins, Library Director

## **MEMORANDUM**

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**September 4, 2019**

**TO: Gregg Mandsager, City Administrator**  
**FROM: Stephanie Romagnoli, HR Manager**  
**SUBJECT: Policy Changes – Employee Handbook**

On the agenda for City Council's consideration this week are suggested changes to the employee handbook. Should the Council decide to proceed with the Code change being proposed related to their contact with staff, these policies are being recommended to provide guidance to employees about what is expected of them.

- 1) An addition to the union section of the employee handbook ensuring clarity that City Council members may not engage with union members (and vice versa) related to any items of negotiation. This is being recommended to stay in compliance with Chapter 20 of the Iowa Code.
- 2) The intent of the Non-retaliation policy is to provide employees from protection from retaliation should employees choose to speak or not to speak with Council members. Employees are free to make a choice about discussions with City Council members. This policy also provides guidance for reporting avenues if they believe retaliation has occurred.

At this time, Council may choose to adopt these additions to the employee handbook.

If there are any questions or additional information related to these policies required, please let me know.

### Union Policy Addition

"Pursuant to Iowa Code Chapter 20, the City Attorney is the designated representative for union negotiation matters. As such, it is a violation of Iowa law for any employee to negotiate or attempt to negotiate directly about union matters with any elected official."

### Retaliation Policy Addition

"It is important to foster an environment that makes employees unafraid to speak—or to choose not to speak—about City-related issues. Employees who choose either to share or not share information with elected officials or citizens—including to report misconduct or suspected violation shall be protected from retaliation.

As such, if an employee is approached by an elected official and/or citizen, and the employee feels uncomfortable with the interaction—the employee shall take his/her concerns to the City HR Manager or the City Administrator. In the event the concerns involve the City HR Manager and the City Administrator, then the employee shall to take his/her concerns to the City Attorney."

**\*\*\* Proof of Publication \*\*\***

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street  
MUSCATINE, IA 52761

ORDER NUMBER 53577

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.



ORDINANCE NO. 2019-0278  
AN ORDINANCE AMENDING TITLE 1,  
CHAPTER 10, SECTION 2(E)(1)(b) OF  
THE CITY CODE, CITY OFFICERS AND  
EMPLOYEES  
BE It Enacted by the City Council of the  
City of Muscatine, Iowa:  
Section 1.  
Title 1-10-2(E)(1)(b), which currently pro-  
vides as follows:  
Any elected official shall deal with City  
Department Heads and employees, who  
are subject to the direction and supervi-  
sion of the City Administrator solely,  
through the City Administrator, and  
Council Members shall not give orders to  
any such Department Heads or employ-  
ees either publicly or privately. All  
departmental activity requiring the atten-  
tion of the Council shall be brought before  
that body by the City Administrator. Is  
amended to provide as follows:  
Title 1-10-2(E)(1)(b), is amended to provide  
as follows:  
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sion of the City Administrator solely,  
through the City Administrator, and  
Council Members shall not give orders to  
any such Department Heads or employ-  
ees either publicly or privately. All  
departmental activity requiring the atten-  
tion of the Council shall be brought before  
that body by the City Administrator.  
Elected officials shall have access to  
department heads or staff employees for  
the purpose of open and two-way  
communications; however, any meetings,  
issues or concerns raised by department  
heads, staff or elected officials shall be  
brought to the attention of the City  
Administrator.  
Section 2. All ordinances of parts of  
ordinances in conflict with the provisions  
of this ordinance are hereby repealed.  
Section 3. This ordinance shall be in  
effect from and after the passage and  
approval and publication of this ordinance,  
as provided by law PASSED, AP-  
PROVED AND ADOPTED this 3rd day of  
October, 2019.  
By the City Council of the City of  
Muscatine, Iowa  
Diana L. Broderson, Mayor  
Attest:  
Gregg Mandsager  
City Clerk  
First Reading: September 5, 2019  
Second Reading: September 19, 2019  
Third Reading: October 3, 2019

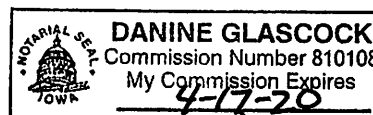
Section: Notices & Legals  
Category: 2635 Legal Ordinance  
PUBLISHED ON: 10/10/2019

TOTAL AD COST: 24.45  
FILED ON: 10/10/2019

Subscribed and sworn to before me by said affiant this 10 day of  
October 2019.



Notary Public in and for Scott County, Iowa



## TITLE 1 ADMINISTRATIVE

## CHAPTER 8

## CITY ADMINISTRATOR

SECTIONS:

- 1-8-1 City Administrator; Clerk
- 1-8-2 Record of Appointments on Boards
- 1-8-3 Issuance of Licenses
- 1-8-4 Powers and Duties Generally
- 1-8-5 Compensation
- 1-8-6 Excepted Appointment
- 1-8-7 Deputy City Clerk
- 1-8-8 Other Duties

1-8-1 City Administrator; Clerk. The office of the City Administrator is hereby created, which office shall be filled by a majority vote of the Council. The appointee shall hold office during the pleasure of the Council, and shall be subject to removal by a majority vote of the Council. He or she shall also be the City Clerk.

1-8-2 Record of Appointments on Boards. It shall be the duty of the Clerk to keep a record of all appointments to all City Advisory Commissions and Boards. Such record must show the name, the period of the appointment, the date of its commencement and ending, by whom appointed, and the name of the board to which the appointment is made.

1-8-3 Issuance of Licenses. Except as otherwise provided, any person desiring a license for any purpose from the City shall pay the requisite license fee to the Clerk, who shall thereupon issue the proper license.

1-8-4 Powers and Duties Generally.

(A) The powers and duties of the City Administrator shall include:

1. Enforcement of all City laws and regulations as directed by the Council.
2. Administration of Council policies and directives.

3. Continuous study of the City government's operating procedures, organization, and facilities and to recommend fiscal and other policies to the Council whenever necessary.
  4. Preparation and administration of the City's annual operating budget.
  5. Supervision of the City's administrative policies and procedures, including personnel and purchasing.
  6. Keeping the Council informed on the progress of its programs and the status of its policies.
  7. Coordinating and directing all City services provided through the various departments.
  8. Appointment and removal of City employees in accordance with City policies regarding this activity.
  9. Study possible joint arrangements with City boards such as, but not limited to, Power and Water or any other independent board and make recommendations for such arrangements as are mutually acceptable.
  10. Assist the Mayor in any of his or her duties, as requested by him or her and approved by the Council.
- (B) Any members of the City Council shall deal with City Department Heads and employees, who are subject to the direction and supervision of the City Administrator solely, through the City Administrator, and Council members shall not give orders to any such Department Heads or employees either publicly or privately. All departmental activity requiring the attention of the Council shall be brought before that body by the City Administrator.

1-8-5 Compensation. The compensation of the City Administrator shall be such amount as from time to time shall be fixed by the Council.

1-8-6 Excepted Appointment. The City Administrator shall not be considered to be a Department Head and shall continue to be appointed by the Council.

1-8-7 Deputy City Clerk. The City Administrator shall nominate, for Council appointment, a Deputy City Clerk to perform the duties of the City Clerk in the Administrator's absence and to perform other duties as assigned to him or her.

1-8-8

1-8-8

1-8-8 Other Duties. The City Administrator shall perform such other duties as may be directed by the Council.



# City of Muscatine

ITEM NUMBER 2024-0149

## IN-DEPTH ITEM - CITY COUNCIL

DATE: 4/11/2024

### STAFF

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Melissa Baker, Parks Supervisor  
Richard Klimes, Parks and Recreation Director  
Andrew Fangman, Assistant Community Development Director

### SUBJECT FOR DISCUSSION

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Discussion on Right of Way Mowing and Maintenance

### EXECUTIVE SUMMARY

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Presentation from Community Development and Parks and Recreation Regarding Right of Way Mowing and Maintenance Practices and City Code Requirements

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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Staff are proposing to follow city code and require adjacent property owners to maintain right of way unless it is determined that there is a benefit to the city for the city to provide the maintenance.

Does council agree with this proposal?

### BACKGROUND/DISCUSSION

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On February 27, 2024, staff from Public Works, Parks and Recreation, and Community Development met with the City Administrator to discuss the City's roles and responsibilities regarding right of way mowing and maintenance.

The amount of non-city owned right of way maintained by city staff has grown over the years for various reasons. We feel that we are no longer able to provide the adequate level of service that these areas require and unless it shall be determined to be in the best interest of the city, we propose to follow city code and require the adjacent property owners to maintain the right of way.

City Code Title 16 *Rental Housing and Property Maintenance* states:

#### [16-8-4 Required Trimming Of Weeds And Turf Grasses](#)

It shall be the duty of the owner to keep below eight inches (8") all weeds and turf grasses on

their property and on all adjacent right of way.

#### **16-8-8 Adjacent Right Of Way**

- A. No vegetation shall overhang, encroach, or otherwise obstruct any portion of a public street, alley, or sidewalk, except for tree branches that are:
  - 1. At least ten feet (10') above the surface of a public sidewalk.
  - 2. At least fourteen feet (14') above the surface of a public street or alley.
  - 3. Not obstructing the light from any street lamp.
- B. All trees located within the public right of way shall be maintained, planted, and removed in accordance with Section 16-8-7 of City Code.

List of Properties to no longer be maintained by the City:

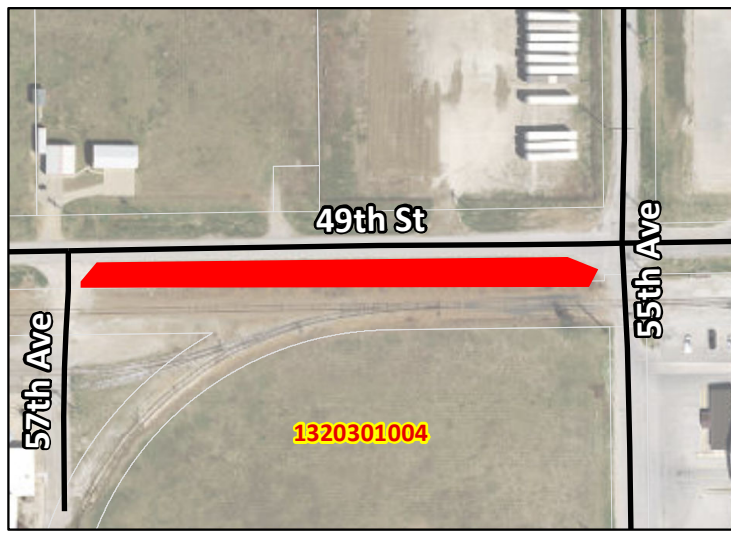
0835331015 (Along Chestnut)  
0930304005, 0930304004, 0930304003 (Same Owner)  
0930304012  
0836102009  
1320301004  
1309200021

List of Private properties currently maintained by the City deemed in the best interest of the City to continue maintaining:

Spring St. from 10th to 8th  
8th St. from Spring St. to Oak St.  
East side of Broadway from 2nd St. to Mississippi Dr.  
Mississippi Dr. From Contrary Brewery to Broadway St.  
Fletcher Ave Hill (Miller Hill) Both Sides  
5th St hill from mad creek bridge to top of hill  
West 2nd St. from Locust to dead end

#### **ATTACHMENTS**

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- 1. No Longer Mowed Row



### Legend

- Right of Way to No Longer be Maintained by City
- Parcel Lines

Date Source: Muscatine Area Geographic Information Consortium, City of Muscatine  
 Prepared by: Andrew Fangman,  
 Assistant Community Development Director  
 Date: April 9, 2024

