

**CITY COUNCIL
COMMUNICATION:**

ITEM _____

02-242

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

AGENDA:

MAY 6, 2002

SUBJECT:

ORDINANCE
CHANGES AND
INCREASED BUS
BENCH LICENSE
AND PERMIT FEES

SYNOPSIS -

Approval of an ordinance change to Section 102-618, License Fees for Encroachments Under, Upon or in Public Property, that would increase the fee for issuing public bench licenses and permits. This change would increase the permit fee for bus benches from \$15 to \$25 initially, and then increase in \$25 annual increments to \$100 by April 1, 2005. The portion of the permit fees above the increase to \$30 is proposed to be paid to the Metropolitan Transit Authority (MTA). Annual license fees for bus bench companies would increase from \$270 per year to \$300 per year.

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

FISCAL IMPACT -

Based on an estimate of existing benches, the expected increase in bus bench license and permit revenue to the City is approximately \$4,150. With Council approval in the annual Operating Budget, the additional revenue that would be paid to MTA for the future amounts over the annual fee of \$30, is estimated to be \$5,460 in 2003, \$12,285 in 2004, \$19,110 in 2005, and annually thereafter.

SUBMITTED BY:

JEB E. BREWER, P.E.
CITY ENGINEER

RECOMMENDATION -

Approval.

BACKGROUND -

Fees for bus benches and other areaway permits have not changed since 1975. Currently, bus bench permits include a flat fee of \$15 per bench per year. It is recommended that this fee be increased substantially to \$100 per bench per year. Most areaway permits are non-revenue generating for the owner, and are needed to accommodate an older building that is built right to the property line, so that steps, window awnings or air conditioners, signs, coal chutes, etc., project over or under the City right-of-way. Bus benches,

however, are placed exclusively for the purpose of generating advertising revenue for the bench company. They do provide a necessary amenity for transit riders, and are allowed to be placed in the right-of-way under permit where they would not otherwise be allowed by zoning ordinances.

Because of the revenue generated for the bench company by the permitted use of City property, the fees should be substantially increased to a level that is significantly higher than for other areaway permit fees. In order to provide a reasonable transition period for the bench companies and their advertising customers, it is proposed to implement the fee increase over a period of several years. The initial increase from \$15 to \$25 would occur immediately upon approval of the ordinance, and would apply to the renewal fees for this year. The annual fee would increase by \$25 each year until it reached \$100 per bench per year, effective April 1, 2005.

The reason that cities allow bus benches with advertising is to encourage and enhance transit usage. Therefore, it is proposed that the City provide part of the additional revenue generated by the permit fee increase to the MTA. The City would keep the revenue from a doubling of the bench permit fee from \$15 to \$30, along with all other areaway permit fees, for use in the General Fund. The revenue generated from the bus bench permit fees only, in excess of \$30 per bench, would be paid to the MTA on an annual basis.

In addition to individual bench permits, an annual bus bench license is required for each company installing bus benches in the City street right-of-way. The current fee of \$270 per year was last increased in 1991, and is recommended to be increased to \$300 per year.

Currently, there are two bus bench companies that obtain annual bus bench licenses and permits. These companies are Signature Communications (Frank Hayer, President, 3378 Raccoon Ridge, Adel, Iowa 50003) with 33 benches and Tran-Sit Bench Company (Jan Johnson, President, 765 Foster Drive, Des Moines, Iowa 50312) with 240 benches. The companies are responsible for installation and maintenance of the benches and have been notified of the proposed ordinance change that would increase their permit fees.

A new bus bench company, Bench Ads, L.L.C. (Scott E. Thomas, President, 1412 - 41st Street, Des Moines, Iowa 50311), has applied for a new annual bus bench license and permits to install and maintain a total of 453 new bus benches in Des Moines. They have also been notified of the proposed fee increase.

Because of the substantial number of proposed new bus benches, staff proposed substantial changes in the ordinance that better define the standards for construction, placement, and maintenance of bus benches. The changes also expand the ability of adjacent property owners to object to the location of a bus bench, and add designated neighborhoods as being able to review and object to a bus bench. In developing the recommended ordinance changes, staff met with and provided review copies of the changes to the Plan and Zoning Commission, Des Moines Neighbors, and the MTA.

At the January 28, 2002 meeting, Council Members raised a number of issues and concerns regarding bus benches and, by Roll Call No. 02-263, referred the matter back to the City Manager for further study. On February 18, 2002, by Roll Call No. 02-509, the Council approved the following City Manager recommendations regarding bus benches:

1. Limit the number of benches to the number currently licensed. This would include 33 benches for Signature Communications of Adel, Iowa, and 240 benches for Tran-Sit Bench Company of Des Moines.
2. To add a bench, the location must be requested by the MTA and approved by the City Council after giving notice and an opportunity to comment to all property owners within 250 feet of the proposed location, and to the designated Neighborhood Association, if any, for the area.
3. If an existing bench is removed, it would not be allowed to be replaced or relocated unless the same approvals are obtained as for adding a new bench.

These recommendations have been added to the proposed ordinance, along with clarification of the distinction between the company license to install benches and the permit for individual bench locations. Based on these Council-approved recommendations, Bench Ads, L.L.C., has notified the City in writing that they have formally withdrawn their request for a bus bench license and permits, and are in the process of reformulating a strategy that will fit within the proposed ordinance.

On the Council agenda is a roll call for first reading of the ordinance changes, including the increase in the permit fee and annual license fee. Upon final reading of the ordinance changes, Traffic and Transportation Division staff will present a roll call for the Council to approve the annual renewals for the two existing bus bench companies.
