

★ **Roll Call Number**

Agenda Item Number
36

Date May 5, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,094 passed June 3, 2002 by amending paragraph (e) of Section 2-201 thereof, relating to the powers and duties of the city manager to execute real estate documents on behalf of the city",

which was considered and voted upon for the first time under Roll Call No. 08- 604 of April 7, 2008, and considered and voted upon for the second time under Roll Call No. 08- 691 of April 21, 2008, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

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

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

MOTION CARRIED APPROVED

 Mayor

 City Clerk



**Council
Communication**
Office of the City Manager

Date	April 7, 2008	36
Agenda Item No.	51	
Roll Call No.	08-	607 08-1021
Communication No.	08-199	
Submitted by:	Jeb E. Brewer, P.E., City Engineer	

AGENDA HEADING:

An ordinance to amend the Municipal Code of the City of Des Moines, Iowa, relating to the powers and duties of the City Manager.

SYNOPSIS:

Approval to amend the Municipal Code of the City of Des Moines, Iowa, relating to the powers and duties of the City Manager. Section 2-201 (formerly Section 2-32) of the Municipal Code of the City of Des Moines addresses the powers and duties of the City Manager, including the authority of the City Manager or his or her designee to execute right of entry agreements, access agreements, and certain types of easements.

This amendment will allow the City Manager or his or her designee to process temporary property interests in the form of short-term leases of City property, which leases will generate revenue for the City, require tenants to maintain the property in good repair, and allow for early termination if the leased property becomes necessary for municipal purposes during the lease term. All initial and renewal lease agreements with a term of three years or more, such as the recently approved lease of the former Science Center property, will still require City Council approval. This amendment will also allow the City Manager or his or her designee to process routine property interests that are conveyed at no cost, as a condition of plat of surveys, site plans or other development proposals. Acquisition of property for public improvement projects, urban renewal or any other project will still require City Council approval.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

Section 2-201 (formerly Section 2-32) of the Municipal Code of the City of Des Moines addresses the powers and duties of the City Manager, including the authority of the City Manager or his or her designee to execute right of entry agreements, access agreements, and certain types of easements.

Recent changes to this ordinance were made on February 3, 1997, by Roll Call No. 97-402; June 23, 1997, by Roll Call No. 97-2230; and most recently on June 3, 2002, by Roll Call No. 02-1417. These previous amendments authorized the City Manager to include among his or her powers and duties the following: (1) Execute access and right-of-entry agreements, for and on behalf of the City, granting others access to specified City property for the purpose of conducting surveys, soil testing, or the like; (2) Execute access, temporary easements for construction and temporary backslope and property adjustment easements, and right-of-entry agreements, for and on behalf of the City; (3) Execute real

estate documents releasing tenant's interests or involving temporary property interests, including maintain vacancy agreements and rental agreements, that are in support of construction or public improvements projects; and (4) Make application and execute licenses, easements, or agreements for grants to the City of crossing rights on railroad right-of-way, pursuant to Iowa Code requirements, for and on behalf of the City, to secure access for City personnel or City contractors or consultants to private and other public property, provided that the compensation paid by the City for such access does not exceed \$10,000 and is subject to review and approval of the Legal Department.

The currently proposed amendment to Code Section 2-201 authorizes the City Manager or his or her designee to execute the following real estate documents in addition to the previously approved powers and duties: (1) Documents involving initial and renewal lease agreements for terms of less than three years for the lease of city-owned property that is not needed for municipal purposes during the lease term, and (2) Acceptance of any deed, easement, covenant or other interest in the real estate conveyed to the city, at no cost, as a condition of receiving the city approval of any plat of survey, site plan or other development proposal.

The first revision will allow the City Manager or his or her designee to process temporary property interests in the form of short-term leases of City property, which leases will generate revenue for the City, require tenants to maintain the property in good repair, and allow for early termination if the leased property becomes necessary for municipal purposes during the lease term. All initial and renewal lease agreements with a term of three years or more, such as the recently approved lease of the former Science Center property, will still require City Council approval. This will allow for greater efficiencies in processing these types of short-term temporary property interests, resulting in improved service to the public, and will provide for an opportunity to generate more potential income as leases can be approved faster.

The second revision will allow the City Manager or his or her designee to process routine property interests that are conveyed at no cost, as a condition of plat of surveys, site plans, or other development proposals such as new subdivision requirements. Acquisition of property for public improvement projects, urban renewal or any other project will still require City Council approval. The proposed change will allow for greater efficiencies in processing these types of property interests resulting in improved service to the public and developers would be able to start work on their projects faster.

PREVIOUS COUNCIL ACTION(S):

Date: June 3, 2002

Roll Call Number: 02-1417

Action: Amending Chapter 2 of the Municipal Code relating to the powers and duties of the City Manager regarding execution of certain real estate documents, (amended to add section (f)). Moved by Hensley that this ordinance do now pass, #14,094. Motion Carried 7-0.

Date: June 23, 1997

Roll Call Number: 97-2230

Action: Amending Chapter 2 of the Municipal Code regarding duties of the City Manager, to execute temporary easements and temporary backslope and property adjustment easements, to secure access to private property or property owned by governmental entities-- compensation not to exceed \$1,000. Moved by Flagg that this ordinance do now pass, #13,500. Motion Carried 6-1.

Date: February 3, 1997

Roll Call Number: 97-402

Action: Amending Chapter 2 of the Municipal Code regarding powers and duties of the City Manager - right of entry and access agreements. Moved by Vlassis that this ordinance do now pass, #13,423. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.

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ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,094 passed June 3, 2002 by amending paragraph (e) of Section 2-201 thereof, relating to the powers and duties of the city manager to execute real estate documents on behalf of the city.

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

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,094 passed June 3, 2002 is hereby amended by amending paragraph (e) of Section 2-201 relating to the powers and duties of the city manager to execute real estate documents on behalf of the city, as follows:

Sec. 2-201. Powers and duties.

(e) The city manager or his or her designee may, in his or her discretion, execute the following types of real estate documents, for and on behalf of the city, provided that such documents have been reviewed and approved by the legal department:

- (1) Documents releasing tenant's interests, or involving other temporary property interests, including maintain vacancy agreements and rental agreements, ~~for and on behalf of the city,~~ in support of the construction, demolition, repair or replacement of public improvements, provided that the compensation paid by the city under such real estate documents ~~for such releases of interest~~ does not exceed \$10,000.00; and ~~provided that such documents shall be subject to review and approval by the legal department.~~
- (2) Documents involving initial and renewal lease agreements for terms of less than three (3) years for the lease of city-owned property that is not needed for municipal purposes during the lease term; and
- (3) Acceptance of any deed, easement, covenant, or other interest in real estate conveyed to the city

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at no cost, as a condition of receiving city approval of any plat of survey, site plan or other development proposal.

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

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

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