

★ Roll Call Number

Agenda Item Number

Ex 1

Date July 23, 2012

Request from Council Member Skip Moore, to discuss gender balance on City Boards and Commissions.

Moved by \_\_\_\_\_ to

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

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

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

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

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

Ex 1

**CITY ATTORNEY**

Jeffrey D. Lester

**DEPUTY CITY ATTORNEYS**

Mark Godwin  
Lawrence R. McDowell  
Kathleen Vanderpool

**ASSISTANT CITY ATTORNEYS**

Angela T. Althoff  
Roger K. Brown  
Ann M. DiDonato  
David A. Ferree  
Glenna K. Frank  
Gary D. Goudelock, Jr.

Michael F. Kelley  
Vicky L. Long Hill  
Steven C. Lussier  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Philip



June 14, 2012

**HONORABLE MAYOR AND MEMBERS  
OF THE DES MOINES CITY COUNCIL**

RE: Gender Balance on City Boards and Commissions

As a part of Roll Call No. 12-0653 of April 23<sup>rd</sup>, the City Council referred to the City Manager and the City Attorney for review and recommendation a proposal to establish a Council policy that all City boards and commissions be gender balanced. In 2009, Iowa Code Section 69.16A was amended to require that all boards and commissions of a City that are established by the Iowa Code be gender balanced. The gender balance requirement for such boards and commissions established by the Iowa Code became effective January 1, 2012.

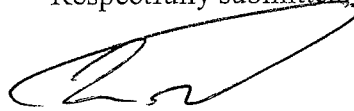
Under its home rule powers, the City of Des Moines may establish administrative and advisory boards and commissions in addition to those established by the Iowa Code to assist in performing its governmental functions (City granted home rule power and authority, not inconsistent with State laws, to determine its local affairs and government, Iowa Constitution Article III, Section 38A; City may, except as expressly limited by the Iowa Constitution and if not inconsistent with State laws, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or its residents, Iowa Code Section 364.1). It follows that under its home rule powers, the City of Des Moines can establish qualifications for membership on all its administrative and advisory boards and commissions.

Courts will generally invalidate classifications or quotas based upon race or national origin which are subject to strict scrutiny under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. However, classifications based upon gender are subject to lower "middle-tier" scrutiny wherein the government must show that the classification is substantially related to an important state interest. The requirement that membership on all City boards and commissions be gender balanced appears to have a substantial relationship to the City's interests in obtaining service from citizens that will represent the general population (Des Moines 2010 census – 51.1% female and 48.9% male).

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Since all members of City administrative and advisory boards and commissions are appointed and approved by the City Council, an effective gender balance requirement could be imposed either by a policy adopted under Council resolution or by enactment of a City ordinance. As an alternative to imposition of a gender balance requirement, the City could develop a program to promote and encourage applicants from an under-represented gender to serve on City boards and commissions.

Respectfully submitted,



Lawrence R. McDowell  
Deputy City Attorney

cc: Richard Clark, City Manager  
Jeff Lester, City Attorney