

★ **Roll Call Number**

Agenda Item Number

34

October 22, 2012

Date

Request from Don Burgmaier, 1101 21st Street, to speak regarding an adverse decision made by the Administrative Hearing Officer on September 19, 2012.

Moved by _____ to

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

FK 10-22-12

★ Roll Call Number

12-1582

October 8, 2012

Date

Agenda Item Number

42

34

Request from Don Burgmaier, 1101 21st Street, to speak regarding an adverse decision made by the Administrative Hearing Officer on September 19, 2012.

Moved by Hensley to continue to the October 22, 2012 Council Meeting.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin 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.

Diane Rauh City Clerk

REGISTRATION FORM TO SPEAK AT CITY COUNCIL MEETING

12-1582 42
34

To: The Honorable Mayor
and
Members of the City Council
City of Des Moines, Iowa
c/o City Clerk

FILED
2012 SEP 20 PM 2:55
CITY CLERK
DES MOINES, IOWA

I/We Don Burgmaier
(Please Print)

hereby request permission to speak at the Des Moines City Council
meeting of Monday 24th Oct 8, 2012, regarding
a traffic^{adverse} decision made by an administrative
officer on September 19, 2012

I need this expedited because I had 10 days to appeal
I would like to speak at the Monday 24th meeting

Name: Don Burgmaier
(Signature)

Address: 1102 21st Street, Dms 50311

Daytime Phone: 515-276-3956

PROCEDURAL RULES OF DES MOINES CITY COUNCIL:

Part III. Agenda

Rule 16. Citizen Agenda Requests. Any citizen may request the right to have an item placed on the Agenda (including a request to speak) by filing such request in writing with the City Clerk prior to noon on the Wednesday preceding the Council meeting.

Part V. Citizen Participation

Rule 27. Citizen's Right to Address Council. Persons other than Council Members shall be permitted to address the Council only upon specific Agenda Items.

9/24/12
Delivered to City Clerk *AKI*
at the City Council *AKI*
34

Citation Number: 0180160700
Administrative Hearing: Officer Cassandra Webster

Mayor Cownie and council persons:

My name is Don Burgmaier 1102 21st Street.

A camera cited me for a traffic offense. I had an administrative hearing last Wednesday.

A police officer's presence may not be helpful in certain situations. It is clear that an officer's experience and training can supply an essential element for onsite observation and assessment of an event.

The camera is incapable of determining the full impact of an event. The camera on the eastbound MLK exit did identify my vehicle, measured the speed and displayed a red traffic light while my vehicle crossed the white line.

The video recording clearly showed that there was no southbound traffic on MLK so that entry onto the south bound lane could not have posed a hazard. This, obviously, by itself, does not erase a violation of the city ordinance set forth to enhance safety at the intersection. It certainly does not give the city any reason to believe that the driver's action showed disregard for safety rules of the road.

The camera has no ability to reason. The camera has no concept of an emergency. The camera cannot relate in any way to the motorist and the information that he must process while driving. The camera cannot reconcile what could cause a motorist to execute a maneuver which otherwise would constitute an ordinance violation. An officer at the scene could have spoken to me and determine whether I should suffer the consequences of a knowing and deliberate violation.

The facts show:

1. A police officer appeared at the hearing to determine, based solely on evidence gathered by the camera, that a violation had been committed.
2. The only human observer at the scene, Don Burgmaier, appeared before the hearing officer to testify. He explained the reasoning which, if observed by a real officer, should have eliminated the need for the city to make a significant demand for money.
3. I was the only human observer at the scene. I posed two questions for the officer present at a hearing. The questions were answered by the hearing officer, not the accusing officer which is a violation of due process.
4. It was determined that no officer observed the violation at the scene.
5. I explained that:
 - a) My car died as I approached the traffic light in the eastbound exit ramp of I-235 at MLK.
 - b) I testified that I determined that it would cause a serious safety hazard at rush hour if I was not able to travel to a safe stopping place.

- c) I testified that I assessed the MLK southbound traffic conditions and seeing no vehicles, decided to roll across the white line to a safe spot off the traveled portion of MLK.
6. The hearing officer determined that the violation could not be set aside because I did not supply a statement from a mechanic regarding the malfunction and repair of the car.
 7. The camera and the Des Moines Police officer was not able to grasp the presence of a traffic safety hazard, if I had left my car on the exit ramp. I admit crossing the white line on a red light. I committed the violation as a reasonable necessity of avoiding a greater hazard. Would it have been better if I had parked my car on the exit ramp, disregard safety to comply with city ordinance?
 8. The city council should not enforce any ordinance in which reason is ignored. No council person should be ashamed to set aside the decision of a camera. The camera's demand for money would not enhance the concept of traffic safety. I drove carefully, reasoned accurately and observed safety rules with substantial diligence. This should not be rewarded with a severe penalty.
 9. I ask the council to set aside the poor observation and reasoning of a brain in a metal box.
 10. I ask the council to erase the citation of violation.

I also want to say: I disagree with re-stripping of Hubbell Avenue and other streets.

Thanks

Don Burgmaier
September 24, 2012

12-1582 #42
34

City Hall 400 Robert D. Ray Drive
City Hall 2nd Floor Council Chambers at
City Clerk's Office, 283-4209

I requested a time to speak to the City Council and was given a date of October 8, 2012. I have a conflict on that date.

I need a new time at the next scheduled Council meeting.

Thank you
Don Burgmaier
Don Burgmaier
1102 21st Street
Des Moines, Iowa 5011
October 4, 2012

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2012 OCT 4 PM 4:30
CITY CLERK
DES MOINES, IA

2012 OCT 4 PM 4:30

FILED