

★ Roll Call Number
09-2040

Agenda Item Number
45

Date November 9, 2009

**PUBLIC HEARING UPON APPLICATION OF MICHAEL G. MARKS
D/B/A MARKS LIMOUSINE SERVICE, DES MOINES, IOWA,
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE A LIMOUSINE SERVICE IN THE CITY OF DES MOINES**

WHEREAS, Section 126-62 of the Municipal Code of the City of Des Moines, Iowa, forbids the operation of a limousine as defined under the limousine subchapter of the municipal code (Article III of Chapter 126) as a vehicle for hire upon the streets of Des Moines without obtaining a certificate of public convenience and necessity; and

WHEREAS, Michael G. Marks, seeking doing business as Marks Limousine Service, 2433 SE 14th Street, Des Moines, Iowa, has filed an application requesting permission of the City Council to operate a limousine service in the City of Des Moines, with a total of one vehicle; and

WHEREAS, pursuant to Section 126-64 on October 26, 2009, by Roll Call No. 09-1919, the City Council has fixed this date as the time and place for a public hearing on the matter of the application; and

WHEREAS, Section 126-65(a) provides if this Council finds at the conclusion of such public hearing that limousine, or further limousine, service in the City of Des Moines, or between any point or points in the City and elsewhere, is required by the public convenience and necessity and the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of the subchapter, then the Council shall direct the City Traffic Engineer to issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance; otherwise the section provides the application shall be denied; and

WHEREAS, Section 126-65(b) provides that in making the findings of subsection (a) of said section, this Council shall take into consideration the number of limousines already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

That the hearing is hereby closed and the application is granted or denied, as the case may be, as set out in the next paragraph.

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Alternative One: That the application for a certificate of public convenience and necessity to operate a limousine service be approved and hereby granted and the City Traffic Engineer is directed to issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance, it being the finding of this City Council of the City of Des Moines that such service is required by the public convenience and necessity and that the applicant, Michael G. Marks, doing business as Marks Limousine Service, is fit, willing, and able to perform such public transportation and to conform to the provisions of the subchapter;

or

Alternative Two: That the application for a certificate of public convenience and necessity to operate a limousine service be hereby denied as specified below upon the specific grounds and facts set forth below.

Denial based on the following specific grounds enumerated in Section 126-63 of the Municipal Code:

Number of Limousines already in operation under the subchapter.

Adequacy of existing transportation to meet the public need.

Probable detrimental effect of increased service on local traffic conditions.

Character, experience, responsibility of the applicant.

Likelihood operation will be conducted in conformity with subchapter.

Other (specify): _____

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BE IT FURTHER RESOLVED that upon adoption of Alternative One (to grant the certificate), the City Traffic Engineer is hereby directed to issue a certificate to Michael G. Marks doing business as Marks Limousine Service, stating the name and address of the applicant, the number of vehicles authorized under said certificate, as set out in the application, and the date of issuance.

(Council Communication Number 09-780 Attached)

MOVED BY Hensley to adopt.

APPROVED AS TO FORM:

K. Massier
 Katharine Ramsay Massier
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN				✓
MAHAFFEY	✓			
MEYER	✓			
VLISSIS	✓			
TOTAL	6			1

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