

★ Roll Call Number

10-1080

Agenda Item Number

52A

Date June 28, 2010

RESOLUTION CLOSING PUBLIC HEARING AND DENYING
APPLICATION OF PAWN AMERICA IOWA, LLC,
FOR PARTIAL RELIEF FROM TEMPORARY MORATORIUM

WHEREAS, on May 17, 2010, by Roll Call No. 10-773, the City Council approved a temporary moratorium which provides in relevant part as follows:

2. No new delayed deposit services business or pawn business shall be established and no existing such business shall be relocated within the City of Des Moines. The City Staff shall not issue any permit for any use or development which is prohibited by this section.
3. This moratorium shall take effect immediately upon adoption of this resolution and shall expire on November 9, 2010, unless repealed or extended by further action of the City Council

WHEREAS, on May 17, 2010, by Roll Call No. 10-773, it was duly resolved by the City Council that the application of Pawn America Iowa, LLC (hereinafter "Pawn America), for relief from the moratorium as applied to its proposals to establish pawn businesses at 4620 SE 14th Street and at 5730 Merle Hay Road/3709 Douglas Avenue, be set down for hearing on June 14, 2010, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, on June 14, 2010, by Roll Call No. 10-956, the City Council continued the said hearing to June 28, 2010, at 5:00 p.m.; and,

WHEREAS, all persons interested in the application, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the application for relief from the moratorium are hereby sustained, and the hearing is closed.
2. The City Council hereby makes the following findings:
 - a) CM Investments, LLC, allegedly an affiliate of Pawn America, has entered into an agreement for the purchase of the subject property that allows it to unilaterally terminate the purchase agreement prior to July 20, 2010, and receive a full refund of its earnest money deposit.
 - b) The cost of the Commitments for Title Insurance were born by the property owner, not Pawn America or its affiliate, and can be largely recovered by the seller upon any future sale of the property to another buyer.

(continued)

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- c) The surveys, property assessments, environmental assessments, and market study obtained by Pawn America represent preliminary action that, in the absence of the issuance of a building permit or the commencement of any construction upon the properties, does not give Pawn America a vested right in its proposed redevelopment of the properties.
 - d) Pawn America has not sought or obtained a State of Iowa Delayed Deposit Services License to provide payday lending services in the City of Des Moines.
 - e) Pawn America has not demonstrated that the temporary moratorium is imposing an undue hardship upon it.
3. The application of Pawn America Iowa, LLC, for relief from the moratorium to permit the establishment of a pawn business at 4620 SE 14th Street and at 5730 Merle Hay Road/3709 Douglas Avenue, is hereby denied.
4. The City Clerk is hereby authorized and directed to make a full refund of the application fees paid by Pawn America for the Pawn Brokers Licenses issued by the City.

(Council Communication No. 10- 715)

MOVED by _____ to adopt and deny the application for relief from the moratorium.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney
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| 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