

★ Roll Call Number

10-1081

Agenda Item Number

52 B

Date June 28, 2010

Alternate Resolution

RESOLUTION CLOSING PUBLIC HEARING AND **APPROVING**
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moratorium shall take effect immediately upon adoption of this resolution and shall expire on November 9, 2010, unless repealed or extended by further action of the City Council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 overruled, and the hearing is closed.
2. The City Council hereby makes the following findings:
 - a) Pawn America, and its affiliate, CM Investments, LLC, have invested significant amounts of time, resources and money into acquiring and financing the two properties at 4620 SE 14th Street and at 5730 Merle Hay Road/3709 Douglas Avenue for use as a payday lender.
 - b) Pawn America attended a Pre-Application Conference with the City Staff regarding the two properties and was correctly informed that the two properties are zoned "C-2" and

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that the use of the property as a pawn business conforms with the applicable zoning requirements.

- c) Pawn America obtained a Pawn Broker License for each property from the City Clerk's Office on April 19, 2010, and such licenses were properly issued under the applicable regulations.
 - d) The moratorium is causing Pawn America an undue hardship under the unique circumstances of this case.
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 granted. This approval shall be limited to the operation of a pawn business, and does not authorize the operation of a deferred deposit services business upon either property.

(Council Communication No. 10- **415**)

MOVED by _____ to adopt and approve 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