

★ Roll Call Number  
13-0074

Agenda Item Number  
53

Date January 14, 2013

**REVIEW OF APPLICATION BY EXECUTIVE EXPRESS TO INCREASE THE NUMBER OF LIMOUSINES OPERATED UNDER THEIR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A LIMOUSINE SERVICE IN THE CITY OF DES MOINES FROM THREE (3) LIMOUSINES TO FIVE (5) LIMOUSINES**

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 IV 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, Executive Express, 3358 Southway Drive, St. Cloud, Minnesota, has filed an application requesting permission of the City Council to increase the number of limousines operated under their Certificate of Public Convenience and Necessity to Operate a Limousine Service in the City of Des Moines from three (3) to five (5) limousines; and

WHEREAS, pursuant to Section 126-64 on December 17, 2012, by Roll Call No. 12-1929, 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 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(a) provides that in making the findings of subsection (b) 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;

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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.

Alternative One: That the application to increase the number of limousines operated under their certificate of public convenience and necessity from three (3) to five (5) limousines 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, Executive Express, is fit, willing, and able to perform such public transportation and to conform to the provisions of the subchapter, all as shown by the evidence brought forth at the public hearing;

or

Alternative Two: That the application by Executive Express to increase the number of limousines operated under their certificate of public convenience and necessity from three (3) to five (5) limousines be hereby denied it being the finding of this City Council of the City of Des Moines that such service is not required by the public convenience and necessity, and/or that the applicant is unfit to perform such public transportation and unable to conform to the provisions of the subchapter, all as shown by the evidence brought forth at the public hearing.

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BE IT FURTHER RESOLVED that upon adoption of Alternative One (to grant the request to increase the number of limousines from three (3) to five (5) limousines, the City Traffic Engineer is hereby directed to issue a certificate to Executive Express 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 13-012 Attached)

MOVED BY Hensley to adopt.

APPROVED AS TO FORM:

Steve C. Lussier  
Steve Lussier  
Assistant City Attorney

*JEB*

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

MOTION CARRIED

APPROVED

Y. 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