

★ Roll Call Number

15-1103

Agenda Item Number

6

Date July 8, 2015

COMMITTING ALL FUNDS RECEIVED FROM UNCLAIMED OR DECLINED REFUNDS TO PAYING DOWN BOND DEBT

WHEREAS, the City of Des Moines has already paid the judgment in *Kragnes v. City of Des Moines* by bonds issued for that purpose by Roll Call No. 13-1975 of December 23, 2013 ("Judgment Bonds") and has received a Court ordered full satisfaction of judgment; and

WHEREAS, to pay the Judgment Bonds, an additional 2.5% Franchise Fee was authorized by the Iowa Legislature and a temporary increase to the electric energy and gas Franchise Fee by such amount was overwhelmingly approved at referendum by 85% of the voters of the City, with such additional 2.5% Franchise Fee used exclusively for payment and redemption of the Judgment Bonds and only being valid for the lesser of seven years from adoption or until the Judgment Bonds have been paid in full, whereupon such additional 2.5% Franchise Fee will be permanently retired by operation of law; and

WHEREAS, Rust Consulting has indicated that in its experience a certain percentage of class members will likely not file claims and the notice to the class members includes the opportunity to decline any refund to which a class member might otherwise be entitled; and

WHEREAS, the Court has discretion under the law to award unclaimed or declined refunds to the City of Des Moines, and the Council irrevocably pledges to use any such funds from unclaimed or declined refunds solely and exclusively to payment and redemption of the Judgment Bonds as the terms of the Judgment Bonds allow.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that any funds received by the City from the common fund balance shall be utilized solely and exclusively to the payment and redemption of the Judgment Bonds and to retire the additional 2.5% Franchise Fee at the earliest possible date.

MOVED by Coleman to adopt.

FORM APPROVED:

[Signature of Jeffrey D. Lester]

Jeffrey D. Lester
City Attorney

Sponsor: Mayor Frank Cownie

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

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

[Signature of T. M. Franklin Cownie]

[Signature of Diane Rauh]