



Roll Call Number

15.2190

Agenda Item Number

Extra Item 1

Date December 21, 2015

A RESOLUTION WAIVING PRIVILEGE LIMITED TO THE WRITTEN DECEMBER 2, 2015 LEGAL OPINION TO COUNCIL MEMBER HENSLEY AND DIRECTING THE CITY CLERK TO PROVIDE COPIES TO THE MEDIA AND THE PUBLIC UPON REQUEST

WHEREAS, in accordance with Iowa Code Section 364.3(1) a City Council can only act corporately by the passage of a motion, resolution, amendment, or an ordinance and individual council members may not so act; and

WHEREAS, an opinion related to a potential conflict was requested of the Legal Department by Council Member Hensley and such opinion was provided on December 2, 2015, after review by outside counsel; and

WHEREAS, such opinion is clearly protected by attorney-client privilege and is treated subject to attorney client privilege protections pursuant to Horsfield Materials, Inc. v. City of Dyersville, 834 N.W.2d 444 (2013), and that privilege can only be waived corporately by the City Council and the City Council has determined to waive such privilege only with respect to the written opinion to Council Member Hensley from the Legal Department dated December 2, 2015.

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

That the City Council hereby waives its attorney-client privilege limited to the written opinion to Council Member Hensley on December 2, 2015 by the Legal Department and the City Clerk is hereby directed to make copies of such opinion available to the media or the public without charge upon request.

BE IT FURTHER RESOLVED that any and all other attorney-client privileges are not waived and all opinions and documents subject to such privilege are maintained and held confidential.

Moved by Hensley to adopt, and also include the legal opinion issued to Council Member Coleman on November 9, 2015.

Approved as to form:

Handwritten signature of Jeffrey D. Lester, City Attorney

SPONSOR: Council Member Hensley

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.

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL (7 yeas).

MOTION CARRIED APPROVED

Handwritten signature of Mayor T. M. Franklin

Handwritten signature of Diane Rauh, City Clerk