



**Roll Call Number**

**Agenda Item Number**

44

**Date** May 19, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,154 passed October 21, 2002, and Ordinance No. 14,450 passed May 23, 2005 by adding a new paragraph (j) to Section 134-1296, to provide standards for public franchise utility cabinets and communication systems located within a front yard",

which was considered and voted upon under Roll Call No. 08- 818 of May 5, 2008; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

**(Council Communication No. 08-309)**

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VCLASSIS				
<b>TOTAL</b>				
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

F/A.  
5/19  
44  
43

★ Roll Call Number  
08-817

Agenda Item Number  
43

Date May 5, 2008

WHEREAS, on April 21, 2008 by Roll Call No. 08-668 it was duly resolved by the City Council that the City Plan and Zoning Commission's recommendation for approval of amendments to Municipal Code of the City of Des Moines Section 134-1296 to provide standards for public utility cabinets located within a front yard, be set down for hearing on May 5, 2008 at 5:00 p.m. in the Council Chambers, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of the hearing was published in the Des Moines Register as provided by law on April 24, 2008; and


WHEREAS, in accordance with the notice, those interested in the proposal amendments, for and against, have been given the 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 for the City of Des Moines, Iowa:

That upon consideration of the facts, statements of interested persons and arguments of Council, the objections to the proposed amendments to Section 134-1296 of the Municipal Code are hereby overruled, and the hearing is closed.

Moved by Meyer to refer to the City Manager to work with Qwest on three amendments to the ordinance regarding:

- APPROVED AS TO FORM: 1) Cabinet Height  
2) Placement at the curb  
3) Common color

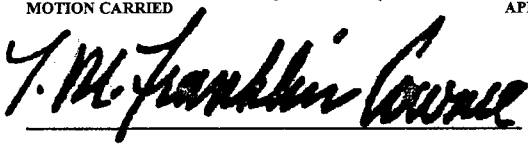
  
Michael F. Kelley  
Assistant City Attorney

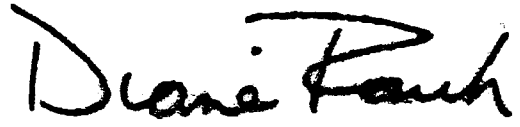
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY				✓
KIERNAN	✓			
MAHAFFEY		✓		
MEYER	✓			
VLISSIS	✓			
TOTAL	5	1		1

**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.

  
T. M. Franklin  
Mayor

  
Diane Rauh  
City Clerk

May 7, 2008

The Honorable Frank Cownie  
The Honorable Members of the Des Moines City Council  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309

Re: Code Amendments concerning size and location of public franchise utility cabinets.

Mr. Mayor and Members of the Council:

The purpose of this letter is to express the Des Moines Plan and Zoning Commission's heightened concerns related to the proposed changes to the P&Z recommendations as delineated in Council Communication 08-267.

The Commission and its Regulation and Ordinances (R&O) Committee are committed to encouraging business growth in the city. We are eager to assist corporate citizens like Qwest to be competitive and to deliver the highest quality services to the businesses and residences in Des Moines. At the same time, we are all dedicated to preservation of scenic corridors in our city by reducing the level of visual intrusions in the public right of ways and in our residential neighborhoods.

We are also concerned that just as overhead utility lines have become an eyesore over time, other utility cabinets and hardware placed for the convenience of the utility but in full public view will become that same eyesore, and because Des Moines has older utility installations than it's newer suburban neighbors will be yet again considered second class in the eyes of some.

The Commission and the R&O Committee spent many hours negotiating in good faith with the Qwest representatives. We believe the R&O Committee's recommendations are based on agreements reached between the representatives from Qwest Communications and the R&O Committee. We believe further that the Qwest representatives agreed to the Commission's final recommendations during our committee meetings and during their testimony before the Commission.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 - 1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

We are disappointed that the utility's representatives have petitioned the City Council to amend our recommendations to allow nearly six-foot high cabinets to be installed in the public right-of-way as a matter of "right" and to expand the cabinet pad to twelve linear feet.

The utility's representatives assured us that there would be very few locations where the larger cabinets were needed. They agreed with our finding that relief could be granted by the Board of Adjustment in those few cases.

We do not believe that there is a compelling argument for amending our recommendations. The recommendations of the P&Z are sound and the council should adopt them as presented. The Council should not allow any public utility to install the larger cabinets without the oversight and approval of the Board of Adjustment.

Respectfully Submitted,

Dann Flaherty, Chair