

★ **Roll Call Number**

Agenda Item Number

35

.....
Date November 6, 2006

**PUBLIC HEARING ON VEHICLES
 IMPOUND OF JOSEPH JOYCE**

WHEREAS, Joseph Joyce, 4610 Wakonda Parkway, filed an appeal of his vehicle's impoundment for illegal parking and the Des Moines Hearing Officer denied said appeal; and

WHEREAS, Mr. Joyce requested an opportunity to address the City Council on the matter of his appeal; and

WHEREAS, Mr. Joyce has been provided with the opportunity to address the City Council on the matter of his appeal; NOW THEREFORE,

BE IT RESOLVED (Choose one of the two alternatives):

_____ Alternative One: That the order of the hearing officer be upheld.

MOVED BY _____ TO UPHOLD DECISION

_____ Alternative Two: That the order of the hearing officer be reversed and a Certificate of No Probable Cause be issued to Mr. Joyce.

MOVED BY _____ TO REVERSE DECISION

FORM APPROVED:

K. Massier
 Katharine Massier
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLASSIS				
TOTAL				
MOTION CARRIED	APPROVED			

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.

_____ Mayor

_____ City Clerk

EXHIBITS FOR VEHICLE IMPOUND

- | | |
|-------------------------|--|
| <u>EXHIBIT 1</u> | Mr. Joyce's Appeal |
| <u>EXHIBIT 2</u> | Hearing Officer's Decision |
| <u>EXHIBIT 3</u> | Administrative Hearing Officer's Notes |
| <u>EXHIBIT 4</u> | Request for Hearing, Invoices, Police Report and Citation |

October 23, 2006

Joseph Joyce
4610 Wakonda Parkway
Des Moines, IA 50315

Re: Appeal of Vehicle Impound

Dear Mr. Joyce:

This letter is to acknowledge receipt of your letter of October 20, 2006, requesting an appeal before the City Council regarding the Hearing Officer's decision in reference to your vehicle impound.

Your hearing has been scheduled for the City Council agenda on November 6, 2006 at 4:30 p.m. Due to a malfunction of the recording apparatus, there is no transcript available for this hearing. In lieu of a transcript, enclosed is a copy of Administrative Hearing Officer Ducey's hearing notes. Both her notes and the information you provided will be considered at that time. A copy of the resolution with the decision by the Council will be forwarded to you after the meeting.

If you have any questions regarding this matter, please contact this office.

Sincerely,



Diane Rauh
City Clerk

DR:kh

cc: Hearing Officer
Assistant City Attorney
Su Donovan
Chief McCarthy



DIANE RAUH
CITY CLERK
CITY HALL-2ND FLOOR
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1891
(515) 283-4209
FAX (515) 237-1645
www.dmgov.org

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ALL-AMERICAN CITY
1949, 1976, 1981,
2003

10/20/06

I Joseph B Joyce, appeal
the ruling of October 19, 2006, by
Hearing Officer Ducey after
Administrative Hearing - 12 vehicle
impound. The reason for my
appeal is that the ordinance
states that the burden of proof
is on the City. The City presented
no proof against my detailed
testimony that the meter was
not hooded when I parked there.

Joseph B Joyce
4610 W. Ahonda Pl
Des Moines, IA 50315

285-1937

FILED

2006 OCT 20 PM 2: 22

CITY CLERK
DES MOINES, IOWA

October 19, 2006

Joseph Joyce
4610 Wakonda Parkway
Des Moines IA 50315

Re: Administrative Hearing – Vehicle Impound

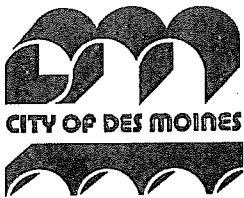
Dear Mr. Joyce:

In response to your written appeal, the City of Des Moines convened an Administrative Hearing on October 16, 2006 at 9:00 a.m. regarding a motor vehicle impound (Impound Tag Number 263205). Pursuant to Section 114-485.16 of the Municipal Code, you were given an opportunity to be heard at that time.

The issue before the Hearing Officer was the removal and impoundment of an illegally parked vehicle. Section 114-485.11 of the Municipal Code states, "...[that] the police department...may remove and impound vehicles or cause vehicles to be removed and impounded when the vehicles are stopped or parked in violation of this chapter or other city ordinances and, in so doing, may employ such means as are reasonably necessary.

Meter Checker Ellie Reser said on September 22, 2006, she received a call at approximately 2:50 p.m. from Ned Chiodo of the City Traffic Department. Ms. Reser stated Mr. Chiodo told her to issue a ticket and impound a vehicle parked at meter LL58. This meter had a red bag over it and was covered from August 17, 2006 through September 30, 2006.

Joseph Joyce said he works at the Polk County Administration Building and said some days during that period the meter was hooded and other days it was not. Mr. Joyce said on September 22, 2006, the meter was not bagged at the time he parked there. Mr. Joyce said he parked there at approximately 1:00 p.m. and there was two hours remaining on the meter. Mr. Joyce said he added additional coins so the meter would not run out until 5:00 p.m., when he got off work. Mr. Joyce said when he returned to where he had parked his car, the car was gone and he originally thought it had been stolen. Upon further investigation, it was determined his vehicle had been impounded.



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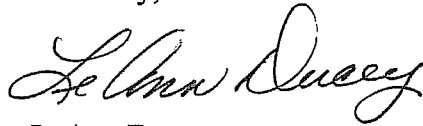
ALL-AMERICAN CITY
1949, 1976, 1981,
2003

Joseph Joyce
October 19, 2006
Page Two

After reviewing the information provided, I find probable cause was proven for the impound. You have the right to appeal the ruling to the City Council by filing an appeal with the City Clerk's Office within seven (7) days of receipt of the ruling. Your appeal must include the reason upon which you are basing your appeal. You are also responsible for payment of ticket #320050807, which you received at the time your vehicle was impounded.

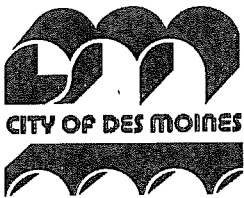
If you have questions regarding an appeal, please call the City Clerk's Office at 283-4209.

Sincerely,



LeAnn Ducey
Hearing Officer

Cc: Diane Rauh, City Clerk
SuAnn Donovan, Legal
Police Chief McCarthy



DIANE RAUH
CITY CLERK
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ADMINISTRATIVE HEARING NOTES

EXHIBIT

3

October 16, 2006
9:00 a.m.

Joseph Joyce
4610 Wakonda Parkway
Des Moines IA 50315

RE: Vehicle Impound
Impound #263205 Ticket #320050807

Meter Checker Ellie Reser testified that on September 22, 2006 at approximately 2:50 p.m. she received a call from Ned Chiodo of the Traffic Department. Mr. Chiodo told Ms. Reser to check meter LL58 in the parking lot of the old Public Library and to issue a ticket and impound the vehicle parked there because this meter had a red bag on it. I asked Ms. Reser if there were other red-bagged meters in this lot and Ms. Reser said this was the only red-bagged meter in the area.

Joseph Joyce testified that he works at the Polk County Administration Building and sometimes parks in this parking lot. Mr. Joyce said that he had noticed that some days this meter had a red hood on it and other days it did not. Mr. Joyce said he pulled into the lot about 1:05 and noticed the meter was not bagged. Mr. Joyce said there was about 2 hours remaining on the meter so he added coins to bring the time left until 5:00, when he got off work. Mr. Joyce said he got to the parking lot about 5:05 and could not find his car. He said he thought it had been stolen, but later found out it had been impounded.

I told Mr. Joyce I needed to review the information provided before making a ruling and would send a written ruling through the mailed when I had made my decision.

City of Des Moines
Request for Administrative Hearing
(File in the City Clerk's Office within 10 days of the vehicle impoundment)

Please print or type.

I hereby request an administrative hearing pursuant to §27-485.15 of the Municipal Code of the City of Des Moines.

My vehicle was impounded on 9/22/06, case number and/or tag number 06-38923 263205.

Reason for appeal: I parked my car at 1:05 PM at meter L258. There were 2 hours on meter, and I put in coins to take the meter to 5 PM. When I came to the car at about 5 PM, the meter was hooded and my car was gone. Eventually, I learned that the car was impounded.

FILED
206 SEP 25 AM 11:49
CITY CLERK
DES MOINES, IOWA

I understand that my failure to attend my scheduled hearing will be deemed a waiver of my rights to such a hearing.

Date 9/25/06

Daytime Telephone 286 3330

Signature Joseph B Joyce

Print Name Joseph B Joyce

Address 4610 Wakonda Pkwy

City/State/ZIP Des Moines, IA 50315

Attach to this form a copy of the Customer's Invoice for the towing charge. You may also provide copies of maps, drawings, or photographs which support your case.

Caution: Any statement made on this form may constitute an admission on your part.

Return the top two copies of this form to the City Clerk's Office, 400 East First Street, Des Moines, IA 50309
Retain the third copy for your files. If you have questions, call 283-4209.

October 6, 2006

Joseph Joyce
4610 Wakonda Parkway
Des Moines, IA 50315

Re: Administrative Hearing-Vehicle Impound-

The City of Des Moines has received timely notice of your request for an administrative hearing. Accordingly, a hearing has been set for **Monday, October 16, 2006**, in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive**, at **9:00 A.M.** at which time you will be provided an opportunity to present evidence.

Parking is available on the streets surrounding City Hall--you will need change to pay the parking meters. Please alert the City Clerk's Office when you arrive.

Pursuant to Section 114-485.16 of the Municipal Code, (copy enclosed), you will be given an opportunity to be heard at the hearing.

If you have questions in this regard, please call.

Sincerely,



Diane Rauh
City Clerk

DR/kh

Enclosure

cc: Hearing Officer
SuAnn Donovan, Legal Assistant
Assistant City Attorney
Staff Notification
File



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CITY OF DES MOINES

Office of City Clerk

To: Officer Baker
Police Traffic

Date: October 6, 2006

From: City Clerk's Office

RE: Vehicle Impound

Joseph Joyce, 4610 Wakonda Parkway, Des Moines, IA has requested an impound hearing which has been scheduled for **Monday, October 16, 2006** in the Council Chambers, second floor of City Hall, 400 Robert D. Ray Drive at **9:00 A.M.**

Please inform **ID NO. 7428 (E. Reser)** of the time, date and location of the hearing. I have attached a copy of the Vehicle Impound Recovery Reports for hearing preparation. **If the Police Officer is not available, please contact Karen at X1389 to make other arrangements.**

Thank you for your assistance.



Diane Rauh
City Clerk

2006 SEP 22 PM 8:51

VEHICLE IMPOUND / RECOVERY REPORT
DES MOINES, IOWA POLICE DEPARTMENT

1. OWNERS NAME (LAST, FIRST, MIDDLE) JOYCE JOSEPH		2. CASE NUMBER 06-38923	
10. BEAT 216	17. PROPERTY SHEET NONE	3. OWNERS ADDRESS 4610 WAKONDA	4. RES. PHONE
16. METHOD OF THEFT-JUMP WIRE, TOWED N/A		18. KEYS LEFT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	5. IMP. TAG NO. 263205
20. RESULTING DAMAGE OR STRIPPING NONE		6. WHERE FOUND? 2ND & WALNUT LOT	
21. GENERAL CONDITION POOR		7. DATE / TIME FOUND 22 SEP 2006 / 14:50	
22. MISSING ACCESSORIES? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> EXPLAIN IN NARRATIVE		8. WHY HELD? ILL. PARKING <input type="checkbox"/> ASSN DET. <input type="checkbox"/> ASSN TRAFFIC <input type="checkbox"/> STOLEN CAR <input type="checkbox"/>	
23. ARRESTS OR OFFENSES (1) SPECIAL PERMIT		9. VEH. COLOR WHT	
(2)		10. LICENSE NO. STATE / YR ND 56 IA / 07	
(ARREST / SUMMONS #) 320050807		11. VEHICLE IDENTIFICATION NUMBER 2G1WL52M0W9272909	
24. IDENT NOTIFIED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		12. TOWED TO OIC	
25. CID NOTIFIED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		13. TOW DRIVER / OWNER SIGNATURE X SPANIKY	
14. CRIME OR OFFENSE ILL. PARKING		15. CLASSIFICATION	
26. WITNESS		RESIDENCE ADDRESS	
		CITY	
		RES. PHONE	
		BUS. PHONE	

27. NARRATIVE: (1) CONTINUATION OF ABOVE ITEM NUMBERS INCLUDING ADDITIONAL INFORMATION AND WITNESSES.
(2) BRIEF DESCRIPTION OF INCIDENT INCLUDING COMPLAINT IF AVAILABLE

21 PRIOR TO IMPOUND THE VEHICLE HAD NUMEROUS SCRATCHES AND DINGS ON THE DOORS, FENDERS AND BUMPERS

27 ISSUED THE CITATION LISTED ABOVE AND IMPOUNDED IT PER THE REQUEST OF NED CHIODO

28. REPORTING OFFICER E. RESER		IDENT NO. 7420	CONTINUE NARRATIVE ON BACK	
SECOND OFFICER		IDENT NO.	DISPATCH	
29. SUPERVISOR APPROVING		REVIEWER <i>[Signature]</i>	32. RADIO BROADCAST BY DISPATCHER #	33. DATE
30. INVESTIGATION STATUS <input type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED		34. OPERATOR	34. TIME	
31. CLEARANCE CLASSIFICATION <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> EXCEPT CLEARED		35. CANCEL <input type="checkbox"/>	DATE / TIME	
36. UNIT REFERRED TO: CAF		IOWA <input type="checkbox"/>	NCIC <input type="checkbox"/>	

Owen Crist

223116

AUTO BODY SERVICE INC.

1221 KEO

515-244-2171

DES MOINES, IA. 50309

Towing - Wreck Rebuilding - Frames and Axles - Painting

CASE NO.	38923	TAG NO.	263205	DATE	9/22/2006
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CHARGED TO **PAID**

ADDRESS

OWNER SEP 22 2006

ADDRESS OWEN CRIST AUTO BODY SERVICE INC

VIN #		LIC #	N.D.56
-------	--	-------	--------

MAKE OF CAR	Chev	YEAR	98	MODEL	Lumina
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COLOR	White	MILEAGE	3:15	AM/PM	PM
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IMPOUND	PROPERTY IN OFFICE	KEY ON BOARD		
		NO KEY		
	2nd Walnut		45	-
	Unlock RTR Trans		20	-
	To S. Lot			
	STORAGE		9	00
			174	00
			4	44
DRIVER #10		TOTAL CHARGE	178	44


CUSTOMERS INVOICE

CITATION INFORMATION

Printed By: Ismain

Print Date: 10/05/2006

Citation Information

Number: 320050807	Issue Date: 09/22/2006	Issue Time: 14:53	
Decal:	Type:	Agency Code: DM	
Officer ID: 7428	Officer Name: RESER, ELLIE		
ID:	Meter: LL 58	Chalk Time: :	Route:
Mark Block:	Street:	Suffix:	Direction:
	2ND & WALNUT		
Comment 1:	Amount Due: \$15.00		
Comment 2:	Date Entered: 09/25/2006		
Comment 3:	Comment 4:		

User Defined Flag

Violation

76 - SPECIAL PKG PERMIT

User Defined

DOT VIN:	
Aux2:	
Aux3:	
Aux4:	
Aux5:	

Vehicle Information

License Plate: ND56	State: IA	Type:	Lic. Year:	Major Color: WHI	Minor Color:
Body Style: 4D	Model Year:	VIN:	Make: CHEV	Model:	

Finance Activity

Code	Debit	Paid	Action Date	Paid Type	Receipt#	Void
76	\$15.00		09/22/2006			

Status Activity

Active	Date	Code	Description

Related People

Name	TitleStart	TitleEnd
Joyce, Joseph Benedict,		