



Roll Call Number

20-0953

Agenda Item Number

64

Date June 8, 2020

**RESOLUTION CLOSING PUBLIC HEARING ON ORDINANCE AMENDING THE ELECTRIC ENERGY AND GAS FRANCHISES GRANTED TO MIDAMERICAN ENERGY COMPANY REPEALING THE TEMPORARY INCREASE TO FRANCHISE FEE USED SOLELY TOWARD PAYMENT OF THE KRAGNES V CITY OF DES MOINES JUDGMENT**

WHEREAS, pursuant to Ordinance No. 14,341, the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of electric energy and pursuant to Ordinance No. 14,342 the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of gas; and

WHEREAS, Ordinance No. 15,244 passed by the City Council on December 9, 2013 and approved at a special City election held on March 4, 2014 amended said franchises by enacting a new Section 6A to temporarily increase the franchise fee to be used solely toward payment of the *Kragnes v. City of Des Moines* judgment; and

WHEREAS, the City Manager has determined that the judgment bonds issued to pay the *Kragnes v City of Des Moines* judgment will be paid and redeemed by the temporary increase to the franchise fee and repeal of such temporary increase is appropriate; and

WHEREAS, on May 18, 2020 by Roll Call No. 20-0823, it was duly resolved by the City Council that, in accordance with Section 364.2(4)(a) of the Iowa Code, an amendment to said electric energy and gas franchises repealing the temporary increase to the franchise fee used solely toward payment of the *Kragnes v. City of Des Moines* judgment be set for public hearing on June 8, 2020, at 5:00 p.m., in the 2<sup>nd</sup> Floor MSC Board Room, Richard A. Clark Municipal Services Center; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on June 2, 2020, as provided by law, setting forth the time and place for hearing on the proposed amendment to the electric energy and gas franchises granted to MidAmerican Energy Company; and

WHEREAS, in accordance with the notice those interested in the proposed amendment to the electric energy and gas franchises granted to MidAmerican Energy Company, both for and against, have been given the opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, the Legal Department has prepared an ordinance amending the electric energy and gas franchises granted to MidAmerican Energy Company repealing the temporary



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increase in the franchise fee used solely toward payment of the Kragnes v. City of Des Moines judgment which ordinance has been available for public review and inspection upon request made to the City Clerk.

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

- 1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed ordinance amending the electric energy and gas franchises granted to MidAmerican Energy Company repealing the temporary increase in the franchise fee used solely toward payment of the Kragnes v. City of Des Moines judgment are hereby overruled, and the hearing is closed.
2. It is hereby determined that it would be in the best interests of the City of Des Moines and its residents to amend the electric energy and gas franchises granted to MidAmerican Energy Company to repeal the temporary increase in the franchise fee.
3. In accordance with Section 364.2(4)(b) of the Iowa Code, the City Council shall dispense with an election to approve of the proposed ordinance amending the electric energy and gas franchises granted to MidAmerican Energy Company unless a valid petition requesting submission of the proposed ordinance to the voters is accepted for timely filing with the City of Des Moines.
4. Upon final passage by the City Council and publication of the proposed ordinance amending the electric energy and gas franchises granted to MidAmerican Energy Company, the Mayor shall promptly notify the State of Iowa Director of Revenue of such action. (Council Communication No. 20-260)

MOVED by Gatto to adopt and to approve amending the electric energy and gas franchises granted to MidAmerican Energy Company, subject to final passage of the ordinance.

APPROVED AS TO FORM:

/s/ Lawrence R. McDowell, Deputy City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

CERTIFICATE

I, P. Kay Cmelik, 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

Handwritten signature of J. M. Franklin Cownie, Mayor

Handwritten signature of P. Kay Cmelik, City Clerk

City Clerk