

Date April 26, 2010

HEARING ON APPEAL FROM ORDER TO EVACUATE
THE CENTRAL PLACE LEVY AREA

WHEREAS, the Central Place Levy along the west bank of the Des Moines River between University and 2nd Avenues failed during the floods of 1993 allowing the Central Place Business Park to flood causing extensive damage to private and public property; and,

WHEREAS, the Central Place Levy does not comply with the current Army Corps of Engineering Standards and is in danger of failing in the event of high river flows; and,

WHEREAS, on October 12, 2009, by Roll Call No. 09-1834, the City Council gave authorization to proceed with the necessary right-of-way and easements for the reconstruction of the levy within the area described above; and,

WHEREAS, the execution of a Project Partnership Agreement with the Army Corps of Engineers for the construction of the levy has recently been delayed until June of 2010 and the City is now expected to be required to give possession of the Central Place levy area to the Army Corps of Engineers in July of 2010; and,

WHEREAS, the City Engineer has ordered that the levy area between University Avenue and 2nd Avenue be evacuated, and cleared of all encampments and private property by May 1, 2010, in preparation for the levy work, and notice of that order in the form attached hereto as Exhibit "A" was posted at the entrances into the area and distributed to those individuals found to be camping in the area; and,

WHEREAS, David Costello has filed an appeal from the evacuation order, attached hereto as Exhibit "B".

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

1. The hearing on the appeal by David Costello is hereby closed.
2. The City Council hereby makes the following findings:
 - A. Any delay in reconstructing the levy within this area increases the risk of flooding of the Central Place Business District and the resulting risk to life and property within the area.
 - B. Notice of the need to evacuate the levy area described above, and ample time to evacuate the area has been posted at entrances into the area and given to the persons camping in the area.

(continued)

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C. The City staff have confirmed that the following shelters in the City of Des Moines have recently had space available to serve any persons formerly camping in the levy area described above:

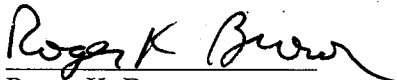
Central Iowa Shelter and Services (locally known as Churches United),
205 15th Street (accepts both men and women)

Bethel Mission, 1310 6th Avenue (accepts men only)

3. The order to evacuate the levy area described above is hereby approved and sustained. All persons camping upon the City owned lands along the west bank of the Des Moines River between University and 2nd Avenues are hereby ordered to leave and to remove all their property from such lands before May 1, 2010.

MOVED by _____ to adopt.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GRIESS | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| MOORE | | | | |
| 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