

**CITY OF NORTHGLENN  
CITY COUNCIL MINUTES  
May 31, 2011**

**CALL TO ORDER**

Mayor Downing called a special meeting of the Northglenn City Council to order on Thursday, May 31, 2011 at 6:00 p.m. in the City Hall Council Chambers, 11701 Community Center Drive, Northglenn.

**ROLL CALL**

Present were: Mayor Downing, Mayor Pro Tem Clyne, Council members Brown, Baker, Carrico, Dodge, and Wieneke.

**ABSENT**

Council members Snetzinger and Paiz.

Note:

Council member Paiz arrived at 6:03 p.m.

**STAFF PRESENT**

City Manager Simmons, City Attorney Hoffmann, and City Clerk Small.

**PLEDGE OF  
ALLEGIANCE**

The Pledge of Allegiance was given.

**PUBLIC HEARING:**

Removal of Northglenn  
Urban Renewal Authority  
(NURA) Commissioner  
McCoy

Mayor Downing opened the quasi-judicial hearing regarding the removal of Northglenn Urban Renewal Authority (NURA) Commissioner Bob McCoy pursuant to C.R.S. § 31-25-104(4) and read the procedures to be used for the hearing pursuant to 3-7-10 of the Northglenn Municipal Code.

Mr. Tyler Martinez, Counsel for Mr. McCoy, stated two objections to the conduct of the hearing: 1) the absence of public comment based on Northglenn Municipal Code Sections 3-7-2, 3-7-3, and 3-3-3; and 2) the absence of subpoena power based on C.R.S. § 24-4-105(4) and § 24-4-105(5) and Northglenn Municipal Code Section 3-7-7(b).

City Attorney Hoffmann stated the Municipal Code includes language regarding persons entitled to be heard during the proceeding and noted the hearing is framed by the Urban Renewal Act, specifically C.R.S. § 31-25-104(4), which does not provide a mechanism for public participation. City Attorney Hoffmann recommended that public participation is neither compelled nor contemplated for the removal of Mr. McCoy based on whether the charges against him are founded or not. City Attorney Hoffmann stated the City of Northglenn, as a home rule municipality, is not

necessarily subject to the Administrative Procedures Act referred to by Mr. Martinez in the objection regarding subpoena power. City Attorney Hoffmann further stated the Municipal Code provides no mechanism for authorizing the issuance of subpoenas in this particular case and the Urban Renewal Act does not address the issuance of subpoenas.

Mayor Downing admitted the memorandum dated April 28, 2011, with attachments, which included the memorandum dated April 13, 2011 from the NURA Board to Mayor Downing, into the record of the proceedings. Mayor Downing also admitted the written notice dated May 10, 2011 providing Mr. McCoy notice of the hearing into the record.

All witnesses intending to provide testimony were placed under oath by the City Clerk.

Ms. Pat McCune, NURA Commissioner, was called to testify. Ms. McCune provided testimony regarding the recommendation to remove Mr. McCoy from the NURA Board and Mr. McCoy's conduct as a member of NURA.

Mr. Martinez objected to Ms. McCune's testimony based on hearsay.

City Attorney Hoffmann stated this is an administrative proceeding and, under the Flower Stop case (*Industrial Claims Appeals Office v. Flower Stop Marketing Corp.*, 782 P.2d 13 (Colo. 1989)), if Council finds that hearsay evidence is reliable, it may be considered.

Ms. McCune provided testimony about the incident regarding Mr. McCoy contacting the City of Arvada about the employment of Mr. Ryan Stachelski, former Economic Development Manager, and stated she was not aware that Mr. McCoy was authorized to do so. Ms. McCune stated her recommendation to remove Mr. McCoy from the NURA Board was not based on policy disagreements and stated she feels Mr. McCoy's conduct impedes the Board's progress.

Mr. Martinez cross-examined Ms. McCune. Ms. McCune answered questions regarding her length of service on the NURA Board, the Board's activities, and her knowledge of the phone call between Mr. McCoy and the City of Arvada regarding Mr. Stachelski. Ms. McCune answered questions about members of NURA expressing their opinions and whether Mr. McCoy's conduct during meetings was a form of bullying or a style of communication.

Mr. Wayne Dodge, NURA Commissioner, was called to testify. Mr. Dodge provided testimony the recommendation to remove Mr.

McCoy from the NURA Board and Mr. McCoy's conduct. Mr. Dodge spoke about his knowledge of the phone call between Mr. McCoy and the City of Arvada and the conversation between Mr. Stachelski and himself about the incident. Mr. Dodge provided testimony about his concerns relating to the phone call and the general conduct of Mr. McCoy.

Mr. Dodge was cross-examined by Mr. Martinez. Mr. Dodge answered questions regarding Mr. McCoy's style of communicating during NURA meetings and how NURA meetings are conducted. Mr. Dodge also provided testimony about his conversation with Ms. Hazel Hartbarger, Arvada Economic Development Association Director, regarding the phone call between Mr. McCoy and Ms. Hartbarger.

Mr. Martinez objected to Mr. Dodge's testimony based on hearsay.

City Attorney Hoffmann noted Mr. Martinez elicited the response from Mr. Dodge with a direct question about what Ms. Hartbarger had said and suggested the objection was improper. City Attorney Hoffmann reiterated that under the Flower Stop case, Council may determine the reliability of hearsay evidence and the evidence is admissible if Council determines the hearsay to be credible and reliable.

Mr. Martinez stated his objection was based on Mr. Dodge's statement of what Ms. Hartbarger thought.

Mr. Dodge answered questions from Council regarding his contact with Ms. Hartbarger and the NURA Chairman's conduct of meetings.

Ms. Rosie Garner, NURA Advisor, was called to testify. Ms. Garner provided testimony about her knowledge of the Board's recommendation to remove Mr. McCoy and Mr. McCoy's conduct as a Commissioner. Ms. Garner spoke about her interaction with Mr. McCoy while working on the Bylaws Subcommittee and how she feels Mr. McCoy's actions affect the progress of the Board. Ms. Garner provided testimony about her knowledge of the phone call between Mr. McCoy and Ms. Hartbarger, her conversation with Mr. Stachelski about the incident, and Mr. McCoy not being authorized by the Board to make the phone call. Ms. Garner stated her recommendation to remove Mr. McCoy was a result of the behavior and inefficiency of Mr. McCoy and was not due to policy disagreements.

Ms. Garner was cross-examined by Mr. Martinez. Ms. Garner answered questions about the length of NURA meetings and the

amount of time needed to consider agenda items. Mr. Martinez questioned Ms. Garner about NURA's accomplishments, the reasons Mr. Gene Andrist, former NURA Financial Advisor, had resigned from his position, and the amount of funds paid to the financial advisors.

Ms. Kathleen Kelly, Special Counsel for NURA, objected to the manner in which Ms. Garner was being questioned. Ms. Kelly stated Mr. Martinez was becoming argumentative toward the witness and stated Ms. Garner's prior testimony did not open the door to the line of questioning or the manner in which she was being questioned.

Mr. Martinez stated he feels the questions are relevant based on Ms. Garner's prior testimony about her reasons for recommending the removal of Mr. McCoy and Mr. McCoy's questioning of the City Manager.

Mr. Martinez questioned Ms. Garner about the job title stated in the email message from Mr. McCoy regarding Mr. Stachelski's employment with the City of Arvada.

Ms. Garner answered questions from Council about the NURA Bylaws project, Mr. Stachelski's employment, and Ms. Garner's knowledge regarding Mr. Stachelski's position with the City of Arvada.

Mr. Raymond Lynch, NURA Commissioner, was called to testify. Mr. Lynch provided testimony about the recommendation to remove Mr. McCoy from the NURA Board and Mr. McCoy's conduct.

Mr. Martinez objected to Mr. Lynch's testimony based on hearsay.

Mr. Lynch provided testimony about an incident during a NURA meeting regarding the election of officers and stated Mr. McCoy's conduct was disruptive. Mr. Lynch read an email dated January 27, 2011 from Mr. McCoy regarding Mr. Stachelski's employment with the City of Arvada and stated Mr. McCoy was not authorized by the NURA Board to contact the City of Arvada. Mr. Lynch spoke about Mr. McCoy's general conduct and stated the recommendation to remove Mr. McCoy was not due to policy disagreements.

Mr. Lynch was cross examined by Mr. Martinez. Mr. Martinez asked Mr. Lynch about his prior employment and service in the military. Mr. Martinez asked Mr. Lynch to identify where Mr. McCoy had spoken on behalf of NURA in the transcript of the Planning Commission meeting.

Mr. Martinez read a portion of the transcript of the Planning Commission meeting.

Ms. Kelly objected and stated counsel for Mr. McCoy is not testifying.

Mr. Martinez questioned Mr. Lynch about statements Mr. McCoy made at the Planning Commission meeting and the NURA Bylaws project.

Mr. Jerry Gavette, NURA Chairman, was called to testify. Mr. Gavette provided testimony about the recommendation to remove Mr. McCoy from the Board and Mr. McCoy's conduct. Mr. Gavette provided testimony about Mr. McCoy contacting the City of Arvada and stated he does not believe the Board can be productive with Mr. McCoy as a member.

Mr. Gavette was cross examined by Mr. Martinez. Mr. Gavette answered questions about allowing open discussion during NURA meetings, Mr. McCoy's practice of being recognized by the Chairman before speaking during meetings, and the Board's consideration of hiring Mr. Stachelski as the NURA Executive Director. Mr. Martinez questioned Mr. Gavette about how Mr. McCoy's style of speaking creates inefficiencies.

Mr. Gavette answered questions from Council about time limits for NURA meetings, if Board members feel stifled by Mr. McCoy's behaviors, and whether the Board had expressed these concerns directly to Mr. McCoy prior to the issuance of the memorandum recommending removal. Mr. Gavette answered questions about the number of times he has had to stop Mr. McCoy from speaking and if he was cooperative in the situations.

Mr. Lynch came forward and provided testimony regarding his conversations with Mr. McCoy about his conduct. Mr. Lynch answered questions from Council about the meetings held with individual Board members and the relaying of information. Mr. Lynch stated he had asked Mr. McCoy to resign from the Board a couple of times after concerns about Mr. McCoy's conduct had been expressed by members.

Mayor Downing stated she had no other witnesses to call and stated a brief recess would be taken.

Recess

The City Council meeting recessed at 7:19 p.m.

Reconvene

The City Council meeting reconvened at 7:29 p.m.

Mr. Martinez called Ms. Joan Baker to testify. Ms. Baker stated she served as the Northglenn City Clerk for 18 years before retiring from the profession and served as the City's legal secretary for 5 years prior to then. Ms. Baker provided testimony about the Certified Municipal Clerk designation.

Mr. Martinez offered Ms. Baker as an expert witness in the area of Council procedure.

Ms. Baker provided testimony about members of a board speaking as individuals and members of the Council leaving the dais to speak as citizens. Ms. Baker stated, in her opinion, Mr. McCoy did nothing wrong when he spoke to the Planning Commission because he qualified it by stating he was not speaking as a member of NURA.

An inquiry was made about whether Ms. Baker was placed under oath. It was confirmed that Ms. Baker was placed under oath with the other witnesses.

Mr. Martinez called Mr. Bob McCoy, NURA Commissioner, to testify. Mr. McCoy provided testimony about his residency in the City of Northglenn, his previous service on the Northglenn Water and Sanitation Board and the City Council, his participation in local government, and his appointment to the NURA Board. Mr. McCoy spoke about his reasons for serving on the NURA Board and provided testimony about his participation at the October 5, 2010 Planning Commission meeting. Mr. McCoy stated he identified that he was speaking as a citizen and not as a member of the NURA Board, and stated Commissioner Tim Long did the same. Mr. McCoy provided testimony about speaking to the City Council at the February 24, 2011 meeting regarding an item that had been acted on at the NURA meeting the night before, the intergovernmental agreement (IGA) between the City and NURA, and his knowledge of any requirements for communications between the City and NURA. Mr. McCoy provided testimony about the NURA Bylaws project and his participation on the Board.

A portion of the audio recording containing discussion on the Bylaws project at the December 8, 2010 NURA meeting was played. Mr. Martinez entered a transcript of a portion of the audio recording and the audio recording from the December 8, 2010 NURA meeting into the record.

Mr. McCoy provided testimony about the Bylaws project, his actions regarding the election of NURA officers at the January 12, 2011 meeting, and the reasons he made the phone call to Ms. Hartbarger

regarding Mr. Stachelski's employment. Mr. McCoy provided details about the phone conversation between himself and Ms. Hartbarger and spoke about his interactions with Mr. Stachelski.

Mr. McCoy answered questions from Council about his knowledge of Mr. Stachelski's employment with the City of Arvada and the timing of the phone call made to Ms. Hartbarger. Mr. McCoy stated he did not do anything to knowingly or intentionally jeopardize Mr. Stachelski's employment with the City of Arvada. Council asked questions of Mr. McCoy regarding his application of leadership skills, when the issue of his behavior was communicated to him by the NURA members, and the outcome of the discussion regarding the Board's desire that he resign. Mr. McCoy stated he had apologized if his actions had been offensive and stated he has never made personal attacks against any of the Board members. Mr. McCoy answered questions from Council about why he felt contacting the City of Arvada was appropriate, Mr. Long's participation in the Planning Commission meeting, and his testimony about Ms. Garner encouraging him to attend the Planning Commission meeting. Mr. McCoy answered questions about his testimony regarding a note passed during a NURA meeting and Mr. Stachelski's reaction toward Mr. McCoy.

Mr. Martinez stated he was unable to compel Ms. Hartbarger to attend the hearing due to the lack of subpoena power, and entered an affidavit from Ms. Hartbarger regarding the phone call she received from Mr. McCoy into the record.

Mr. Martinez stated he had no other witnesses to call.

It was the consensus of Council to deliberate the matter in open session. Mayor Downing opened deliberation on the matter.

There was discussion about Mr. McCoy's conduct as a NURA member and the incident regarding Mr. McCoy contacting the City of Arvada about Mr. Stachelski's employment. There was discussion about the timing of the phone call made to Ms. Hartbarger, how Mr. McCoy's actions affected Mr. Stachelski and urban renewal efforts, and Mr. McCoy's service to the City. Members of Council spoke about Council and NURA working together and the importance of the Board being productive and efficient. Council members expressed concern about decisions made by Mr. McCoy and the NURA Board, how the matter was handled by NURA, and the cancellation of NURA meetings while the matter was pending. There was further discussion about Mr. McCoy's actions and whether the NURA Board could be effective with Mr. McCoy as a member.

**RESOLUTIONS:**

CR-56 – Determination  
to Remove NURA  
Commissioner McCoy

**MOTION TO PASS**

Mayor Downing **MOVED** and it was **SECONDED** by Council member Brown to approve CR-56.

**MOTION PASSED**

There was no discussion and the motion **PASSED**.  
**IN FAVOR** - Downing, Brown, Clyne, Carrico, Dodge.  
**OPPOSED** - Paiz, Baker, Wieneke.  
**ABSENT** - Snetzinger.

**ADJOURNMENT**

The City Council meeting adjourned at 9:06 p.m.

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JOHANNA SMALL, CMC  
City Clerk

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JOYCE DOWNING  
Mayor