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Memorandum

From: Mayor Joyce Downing

To: City Council

Re: Communication by Mayor to City Council – Agenda Item 15.A.
Notice of Charges for Removal of Bob McCoy as NURA Commissioner

Date: April 28, 2011

Please let this Memorandum serve as notification to you of my intent to seek removal of Northglenn Urban Renewal Authority (“NURA”) Commissioner Bob McCoy pursuant to C.R.S. § 31-25-104(4).

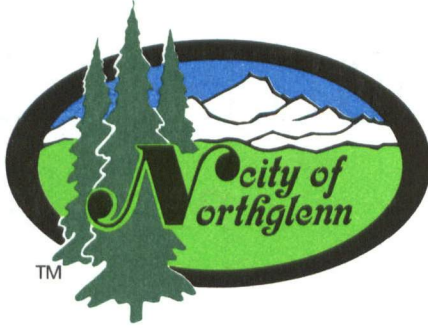
By Memorandum dated April 13, 2011, and received by me on April 14, 2011 (the “Removal Memorandum”), NURA requested that Commissioner McCoy be removed from NURA for inefficiency and misconduct in office. It is my understanding that the NURA Board voted 5-1 to approve the Removal Memorandum, with only Commissioner McCoy voting against the motion.

It is my obligation as Mayor to consider whether to bring charges to remove a NURA Commissioner from office for “inefficiency or neglect of duty or misconduct in office” pursuant to C.R.S. § 31-25-104(4). I believe the Removal Memorandum attached to this document contains more than adequate grounds for removal based on the language in C.R.S. § 31-25-104(4).

Therefore, please consider this memorandum and the attached Removal Memorandum from NURA, with attachments, to be the charges upon which I will seek your consent to the removal of Commissioner McCoy from NURA. The provisions of the applicable statute require that a NURA commissioner may only be removed by the mayor, with the consent of the governing body, “after the commissioner has been given a copy of the charges made by the mayor against him and has had an opportunity to be heard in person or by counsel before the governing body.”

Accordingly, following tonight’s meeting, I will ask that the City Manager, in conjunction with the City Clerk’s Office, provide to Commissioner McCoy this Memorandum pursuant to Section 3-7-4 of the Northglenn Municipal Code. This document constitutes my decision to seek Commissioner McCoy’s removal based on the Removal Memorandum. I will also ask that this Memorandum be provided to the NURA Board so that NURA is aware that I have determined to seek Commissioner McCoy’s removal based on the Removal Memorandum.

Finally, I will ask the City Manager and the City Clerk’s Office to set the matter for the regular City Council meeting of June 9, 2011, to allow adequate opportunity for Commissioner McCoy to prepare for the hearing to allow him to exercise his right to be heard regarding these charges against him pursuant to C.R.S. § 31-25-104(4). The hearing date should be communicated both to Commissioner McCoy and the NURA Board in accordance with Section 3-7-4 of the Northglenn Municipal Code.



Northglenn Urban Renewal Authority
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MEMORANDUM

RECEIVED

APR 14 2011

City of Northglenn
City Clerk's Office

8:47am *J. Smith*

TO: Joyce Downing, Mayor City of Northglenn

FROM: Northglenn Urban Renewal Authority ("NURA")

DATE: April 13, 2011

SUBJECT: Request to Remove NURA Member

At a meeting held on April 13, 2011, the Northglenn Urban Renewal Authority ("NURA") voted to request the Mayor remove Member Bob McCoy for inefficiency and misconduct in office.

The City Council formed NURA for the purpose of implementing the City's goals for urban renewal. In these challenging economic times, people and companies with money to invest in communities will seek those cities that appear stable. Therefore, it is extremely important to the health and future success of our City that elected and appointed officials work together cooperatively to advance the City's interests. Unfortunately, the level of discord created by Member McCoy makes it nearly impossible for NURA to function.

Instead of acting as one member of an appointed board, with one vote, Member McCoy often strikes out on his own to advance his personal agenda while misrepresenting NURA. He appeared at a Planning Commission meeting on October 5, 2010 to argue in favor of an application for which City staff recommended denial and accused City staff of not properly advising NURA of a dispute. He represented to the Planning Commission that if NURA had been properly advised by City staff the outcome before NURA may have been different. Although not formally representing NURA at this hearing, Member McCoy stated he was "a member and active participant in the NURA proceedings" and his statements at this meeting referred to NURA and NURA's potential involvement. NURA never authorized Member McCoy to speak to the Planning Commission on its behalf, and his conduct both reflects poorly on NURA and threatens the process established by the City Council for fair and efficient consideration of land use applications.

Also, upon learning that the City's Economic Development Director, Ryan Stachelski, was leaving to take a job with the City of Arvada, Member McCoy contacted Mr. Stachelski's new

employer. By Member McCoy's own account, he introduced himself as a NURA member and asked for details about Mr. Stachelski's new job and why he was leaving NURA. Even disregarding the substance of the call, the fact that Member McCoy made the call at all was misconduct and an abuse of his position as an appointed officer of this City. Member McCoy was not authorized by NURA to contact this person and in doing so Member McCoy could have jeopardized Mr. Stachelski's new job and exposed NURA, the City and himself to liability.

Member McCoy wastes time arguing his own position rather than acknowledging the will of the majority of NURA, which makes it very difficult for NURA to accomplish anything. As an example, when NURA members recently elected a new Chairman, Member McCoy insisted NURA's bylaws required the vote be taken by secret written ballot. The majority of members and NURA's attorney disagreed, but Member McCoy would not let it go. Instead, he brought the meeting to a halt and spent time on the Clerk's computer trying to access the bylaws. Once he finally located the bylaws, it was confirmed that a secret written ballot was not required and we were able to finally continue with the meeting.

Member McCoy stifles progress. When an appointed subcommittee of NURA was working on revisions to its bylaws, he was insistent that he wanted several alternate members appointed, even though Colorado law specifies the number of members. NURA's attorney also gave the subcommittee in writing his legal opinion that alternates were not allowed under the statutes. Nonetheless, for four meetings Member McCoy was stuck on this notion, wasting untold hours of meeting time refusing to recognize the majority will. Member McCoy is the main stumbling block to NURA's success. If he is able to complicate NURA's efficient accomplishment of the simple task of updating its bylaws, how will NURA be able to handle a significant development application?

As recognized in Section IX of the Intergovernmental Cooperation Agreement between NURA and the City, communication is a priority for efficiently accomplishing our mutual goals. NURA and the City have agreed that certain people, specifically identified in the Agreement, are to coordinate the exchange of information. In spite of this, Member McCoy appeared before the City Council on February 24, 2011 to chastise the City Council generally, and one Councilmember and the City Manager specifically, for not considering a NURA Resolution that had been adopted only the night before. The relationship between the City Council and NURA has been strained at times, and Member McCoy's behavior is very disruptive to cultivating a good relationship between these bodies. Again, NURA did not authorize Member McCoy to speak to Council for any reason at a public meeting.

Both Councilman's Resolution No. CR-103 and NURA's Resolution No. N/10-08 adopting the Cooperation Agreement recite as follows "WHEREAS, to further the goals of both [the City and NURA], and to facilitate the effectiveness of urban renewal activities within the City, the Parties desire to modify the terms of the previous cooperation agreements to update the Parties' obligations to cooperate and coordinate efforts." The City and NURA's ability to cooperate and coordinate efforts is the key to success for the City, but Member McCoy consistently jeopardizes our mutual efforts.

The entire NURA membership, with the obvious exception of Member McCoy, is concerned about Member McCoy's inability to function as part of the group and the effect it is having, and will continue to have, on NURA's economic development objectives. NURA understands the relief we request of you, Mayor, is drastic; however, we believe that if Member McCoy's inefficiency and misconduct are left unchecked, he will continue to paralyze NURA's functionality and sour NURA's relationships with the City Council, Planning Commission, City staff, and other communities.

Additionally, the behaviors and image of NURA as a decision-making body in the Northglenn community is at risk, and under scrutiny by citizens and the media. Several NURA members have attempted to discuss these concerns with Member McCoy, but without success. Member McCoy has made it clear he will continue to do what he wants without regard to the parameters of his role as one member on an appointed body or the effect his actions have on the efficient functioning of NURA.

Thank you for your consideration.

Exhibit A: Transcript of October 5, 2010 Planning Commission Meeting

Exhibit B: Transcript of February 24, 2011 City Council Meeting

 Jerry D. Yarette, CHAIRMAN
 U. Chanin

Planning Commission section from the official minutes.....meeting date October 5, 2010

Nothing was noted in the official minutes of the October 5, 2010 Planning Commission meeting.

Verbatim from the Planning Commission meeting on October 5, 2010

Bob McCoy.....Good Evening Commissioners my name is Bob McCoy pardon me, I speak in favor of the applicant. I want to introduce myself first and tell you who I am and then who I am not. I live in Ward IV....I moved here in '73, have been active in City politics in various fashions since 1980...I was once a City Council member, I have been on several boards since then and I understand your process, I understand some things about the ordinance. I've even read the Zoning Ordinance once.....I do not pretend to be an expert....um....absolutely not....um....trying to disagree with the legalities of the situation...but I do want to raise some questions for you....I've been appointed by the City Council as an Advisor to the Northglenn Urban Renewal Authority. I am not.....I am emphatically not speaking for the Authority or am I speaking for City Council. I am speaking for myself. I do not know the applicants.....never met the applicant.... I do not speak for Northglenn Youth, although I happen to know Mrs. Kettelkamp...I want to commend you for being Commissioners....I appreciate citizen involvement. I have a great deal of respect for what it takes to sit there and try to un-sort some of these knots...I firmly believe that good government depends upon citizen involvement and I'm well aware that frequently enough there are disputes, conflicts, differences of opinions and just because we disagree does not mean that the other side is a bad person or somehow is not competent. I would be surprised if Mr. Hayes took a position that's different than what he has taken and I respect Jim very much and I am glad he is an employee.....I do emphatically disagree with some of the points he has raised and I want to address those....It is proper to review a plan and make changes, that's what this is all about. This is a legislative process.....the plan that was approved recently the Comprehensive Plan, was approved based on what we knew, what you all knew, what the Council knew and what the citizens knew of it at the time....I'm here to tell you that I, as a member and active participant in the NURA proceedings had no knowledge of this application or of this dispute...Had I been informed in a timely fashion by Mr. Hayes or the city staff I can represent to you that this would have been a major point of contention in passing that document....it would not have gone supported by myself and by the people that I know on NURA...I cannot speak for NURA, but I will tell you that this was never brought to our attention and that is a major concern....why is this important this is after all a minor application right?....no....it's a major application. It is a test for you, the city council, for the people in this city who are trying to promote economic development...this is a test because it will signify whether or not people who have said their primary focus is on economic development are telling us the truth or not....plain and simply. If economic development is as important as I believe it to be and as City Council has said that it is then this becomes a major question...Why is it important? Because developers all over the area are watching this process. If we cannot successfully amend the Comprehensive Plan when it needs to be amended and when there is good economic development reason for it...if we can't do that we have got a serious problem....Northglenn is in economic distress....I am not going to tell you that the city is going bankrupt this year next year or five years from now, but I will tell you that in years past we use

to have an ending balance of 100% of the amount of money it took to operate the city for one year....in the last ten years it has been steadily reduced....City Council made a policy decision not too many years ago that it could go down to 25%. In previous years it has declined from approximately 18% to 12%, to less than 10% last year, less than 5%...this year I don't know where it's going to be. I don't remember the number, but I'll tell you that it's mighty close to not very much...\$100,000, \$200,000 I don't know...but what does that mean to you....the parks and rec. people. To the city it means that the quality of life of this community will decline.... that's a certainty...that's a fact of life... we must bring economic reality into this discussion. We must...it's not optional...we must promote economic development...I am the originator of the program "Build a Generation" in Northglenn... I believe in doing things for the kids for future generations...I am an advocate of maintaining a good parks and rec. system....but folks this is not sensible....this property as you've heard has been vacant since the beginning of Northglenn....there is not plan one in this city to develop that property if there was a plan there isn't dollar one to fund it....there won't be dollar one for the next many, many years...how many years? You tell me but it won't be this year...it won't be next year...and it won't be in the next five years....if ever...if we had the money to do it...would this be the top priority?...No...preserving the Rec. center might be...doing a lot of other things might be, but this isn't going to be a top priority in my life time...so let's use some common sense....The circumstances in Northglenn have changed dramatically since this was originally proposed as open space...I don't want to quibble about the zoning although I think there's strong evidence to show that this was not properly zoned as open space....I don't have the records and I can't contest it but I would certainly want to see proof that the zoning as open space was actually carried out properly and legally....I don't think it was....but it certainly is a significant question worthy of an investigation...so when Mr. Hayes says that this application is not in compliance with some of the provisions that he said those were representative of statement of facts. Those are opinion folks....what is proper for the City is to survive...economic development depends on having the tax income to keep the city moving...I can tell you from my own personal knowledge that this particular application process has been reserved by developers and it is crucial that they understand that the City is paying attention to economic development issues....pure and simple....to think that this does not have an impact on the city is nonsense....it has a major impact on our economic development prospects....the fact that it was not brought to our attention is very troubling to me and we will be pursuing that issue....in summary, I hope that you will approve the application in spite of the staff's recommendation against it. I know if I were on your side of the bench I would be saying...geez....city staff says deny it...that's pretty powerful recommendation, but I also know from experience that there are times when the city staff simply gets it wrong....I can understand Mr. Hayes' position as a city employee and a planner...sure....it makes sense from that prospective....but look across to the other side of the issue....think about the economic impact that is critically important to the city...this does not diminish the prospects for parks and rec. It enhances it...because without money there won't be a parks and rec. department...how much money...were short handed...I'm telling you...it's a real question about what gets cut next....use some common sense economics....if you don't approve this not only do you not gain the new revenue...you lose the revenue from the applicant...he's told you...he has to have this or move....that makes it even tougher....denial of this application will have multiple adverse effects on the city including parks and rec., including Northglenn youth...approval of this application will have multiple positive effects and simply amending the plan does not solve the questions of how about compatibility, appearances,

EXHIBIT A

architectural considerations, the sidewalk easement...those things can all be solved...you as a quasi judicial board are gonna have the opportunity to hear that applicant again from that perspective.....if you approve this...if you don't approve it....you won't hear from it again...it will be brought up no doubt at council but you'll have a second bit of this apple if you will....thank you...

Section from the official City Council minutes....meeting date February 24, 2011

Mr. Bob McCoy, Ward IV, inquired about items that could be addressed and stated he wished to speak about action taken at the NURA meeting last night related to City Council. Mr. McCoy expressed concern about communication between Council and NURA

Verbatim from the City Council meeting on February 24, 2011

Bob McCoy.....My problem is that you have lacked...pardon me you have not been informed of some activity at NURA that I am wishing to inquire about. I'd expected there to be a report from the NURA/ Council Liaison or the City Manager on a passed Resolution last night asking for your consideration, and it's not here and my question is why?

Council member Snetzinger.....Because it happened last night and we need more notice to post something new to the agenda that is not an emergency item.

Bob McCoy.....we don't need notice posted on the agenda to bring a communication to the city council, that is an absolute absurdity and you wonder why there is not communication with NURA...well there was communication from NURA to offer a proposal to the City Council for consideration, all you have to do is say that there was a Resolution and it will be brought forward and this is the subject. I'm not asking for details but the point is that you lost one NURA member last night and you're about to lose some more. You are dealing with... you are speaking with fork tongue. The truth will come out soon enough.