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**CITY OF LYNNWOOD**

**RESOLUTION NO. 2010 - \_\_\_\_\_**

A RESOLUTION OF THE CITY OF LYNNWOOD,  
WASHINGTON, RESPONDING TO FINDINGS FROM AN  
INDEPENDENT INVESTIGATION

WHEREAS: The City Council was notified on April 12, 2010, of an employee complaint regarding the conduct of the Mayor;

WHEREAS: The City Council, after consultation with the Human Resources Director and the City Attorney deemed it necessary to conduct a full and independent investigation of the complaint.

WHEREAS: The City Council hired an outside law firm and independent investigator to complete the investigation.

After the completion of an independent investigation, the City Council has evaluated the findings of the investigator, which have also been made available to the public, and has identified the following concerns as matters appropriate for council action:

1. The Council learned the City's hiring and promotional process and the goal of an impartial evaluation of the applicants has been compromised on occasion. This occurred when the Mayor's direct contact or communication with applicants, before or during the application process, or he has indicated to the applicant that a decision on their application had already been made while the hiring process was incomplete. These communications undermine the objectivity and neutrality of the hiring and promotional process, as well as negatively impact employee morale on issues relating to his or her eligibility for promotion.

2. The investigative report indicates some employees are fearful that participation in the investigation could lead to deterioration of their current working relationships with the Mayor, or generalized fears of retaliation. The City Council wishes to address this concern to ameliorate a working environment which is negatively impacted by such fears.

3. Furthermore, the report indicates Mayor Gough interfered with the investigative process, conducted his own parallel investigation and attempted to contact witnesses while the investigation was underway. Had a City employee engaged in such conduct, this would typically result in a finding of misconduct sufficient to lead to serious discipline or employee termination. By statute, the

1 Council has no authority to terminate the Mayor as an elected official. Thus, the  
2 Council has taken the following action.

3  
4 4. The report also discussed discourteous treatment of City employees and other  
5 conduct which is not conducive to a productive work environment. The Council does  
6 not condone such conduct and concludes such treatment of City employees does not  
7 foster professionalism, respect or trust which are vital elements of a positive working  
8 environment

9 WHEREAS, In an effort to improve adherence to City of Lynnwood hiring and  
10 promotional procedures, improve employee morale and insure fairness and neutrality in  
11 employment decisions impacting employees who are not covered by a union contract or Civil  
12 Service Rules, and who have a direct reporting relationship with the Mayor, or positions over  
13 which the Mayor may issue employment or hiring directives, now, therefore:

14 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DOES  
15 HEREBY RESOLVE AS FOLLOWS:

16 CENSURE OF MAYOR

17 1. That Mayor Gough shall be officially censured for the conduct described above. The  
18 censure is described more specifically below:

19  
20 a. Because a number of employees have expressed deep concerns about their ability  
21 to continue working directly under the Mayor's supervision once the investigative  
22 findings are released, we wish to remind the Mayor he is prohibited from retaliating  
23 against any City employee who participated in the investigative process under both  
24 State law and City policy.

25  
26 b. Further, based on the Mayor's conduct in attempting to undermine the integrity of  
27 the investigation, he allowed his own personal interests to take precedent over the  
28 City's best interests. We believe the Mayor's conduct violates his oath of office to  
29 faithfully carry out the duties with which he was charged.

30  
31 c. The Mayor's conduct in advising candidates their applications would not be fairly  
32 and impartially considered as part of a hiring or promotional process also violates  
33 City policies and procedures and undermines the fair and objective process adopted  
34 by the City. Such conduct is clearly not in the City's best interest and we believe it  
35 violates the Mayors oath to faithfully carry out his duties, as guided by current City  
36 polices and procedures.

37  
38 d. Based on the concerns of employees about the work environment, and the conduct  
39 which has undermined City policies, and the Mayor's interference in an ongoing  
40 investigation, and conduct that the Council believes is not consistent with his oath of  
41 office, the City Council believes it is in the City's best interest if Mayor Gough  
42 resigned. Having no ability to require him to do so however, the following  
43 procedural steps are needed to ensure that City policies and procedures are followed

1 in the future and that the employee concerns regarding relation are reduced or  
2 addressed.

3  
4 e. Concerns about the Mayor's lack of professionalism has prompted the Council to  
5 consider adopting a Code of Conduct, applicable to all employees, elected officials,  
6 volunteers, contract service providers. The Council will evaluate a change to the  
7 City's current personnel policies and will take separate steps to adopt a new Code of  
8 Conduct policy.

9  
10 f. If the Mayor refuses to resign, the Council directs and strongly recommends that  
11 Mayor Gough attend both anger management and sensitivity training, offered  
12 through the City's EAP programs, to assist him in improving his communication  
13 style and demeanor when working with City employees. At least 5 separate sessions  
14 are recommended.

15  
16 FURTHER THE COUNCIL HEREBY ADOPTS THE FOLLOWING RESOLUTION TO  
17 SUPPLEMENT CURRENT EMPLOYMENT POLICIES AND PRACTICES:

18  
19 2. Applicable for all non-represented supervisory or management employees, including  
20 all Department heads and those employees with a direct reporting relationship to the Mayor, or may  
21 be hired to a position which directly reports to the Mayor, the following procedure will take effect  
22 immediately.

23  
24 a. All hiring, promotional, employee discipline, layoff, job re-assignment or change  
25 in job duties currently assigned to the employees listed above, must first be presented  
26 to the Council as part of a review process, before any final decision, or  
27 communication of that decision is provided to the employee/applicant. As to the  
28 hiring process, this includes any communications which in any way indicate a  
29 personnel decision for the employees listed above has been made, and will preclude  
30 any communication to the applicant or employee of an assessment of that individuals  
31 qualifications for a particular position, or similar communication, until a review of  
32 the Council is complete and an agreement is reached on whether the Mayor's  
33 decision is likely to be confirmed by the Council.

34  
35 b. While the Council has not removed or modified the Mayor's decision making  
36 authority, this process will ensure the hiring, promotional, employee discipline,  
37 layoff, job re-assignment or change in job duties is based on sound business reasons,  
38 which are objectively supportable, rather than a retaliatory reason. Such a review of  
39 the Council will also ensure the City's polices and procedures for hiring, promotions,  
40 or employee discipline (if any) are followed.

41  
42 c. As to employees who do not have a direct reporting relationship to the Mayor, the  
43 Mayor shall not take any disciplinary action against those employees, or instruct  
44 others to initiate discipline against an employee, unless the procedures outlined  
45 above are followed. If a Department Director has been asked by the Mayor to  
46 proceed with a disciplinary action, layoff, job re-assignment, or similar action, they  
47 shall directly notify the Council of the request by asking for an executive session to

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discuss the Mayor’s request. The Mayor will also be notified and will be provided with the opportunity to inform the Council as to the basis for the recommendation.

d. All Council meetings convened to discuss personnel matters under this Resolution shall be held as an executive session pursuant to RCW 42.30.110 (g) and (h) or other applicable grounds identified in the statute.

e. Any decisions as to a hiring, promotional, employee discipline, promotional decisions, employee discipline, lay off, job re-assignment or change in job duties, which are not provided to the Council for review prior to being carried out or communicated with an employee or applicant, as set forth in this Resolution, will be deemed null and void as ultra vires and beyond the scope of the Mayor’s authority.

The Council hopes the Resolution enacted above will restore employee and public faith in the fairness and openness of our municipal government, will foster a better work environment for many City employees and will allow the City to return to essential business matters that better our community for everyone.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Ted Hikel, Council President

\_\_\_\_\_  
Stephanie Wright, Council Vice President

\_\_\_\_\_  
Kimberly Cole, Council Member

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Mark Smith, Council Member

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Kerri Lonergan, Council Member

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Loren Simmonds, Council Member

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Jim Smith, Council Member

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Pat Dugan, Interim Finance Director

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FILED WITH ADMINISTRATIVE SERVICES: \_\_\_\_\_

PASSED BY THE CITY COUNCIL: \_\_\_\_\_

RESOLUTION NUMBER: \_\_\_\_\_