City of Fraser

CENTENNIAL COMMUNITY

CITY MANAGER
D. Wayne O'Neal

CITY CLERK
Kelly Ann Dolland

MAYOR
Joseph Nichols
COUNCIL
Mayor Pro Tem Michael Carnagie
Acting Mayor Matt Hemelberg
Patrice M. Schornak
Yvette Foster
Kathy Blanke
Michael Lesich

FRASER CITY COUNCIL – SPECIAL MEETING
MONDAY – SEPTEMBER 18TH, 2017 – 6:00 PM

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

5. NEW BUSINESS

   a. Hearing on Removal from Office of Mayor Joseph Nichols and/or Acting Mayor Matthew Hemelberg per the City of Fraser Charter, Section 5.2
   b. Discussion and/or action to Remove from Elective City Office Mayor Joseph Nichols and/or Acting Mayor Matthew Hemelberg per the City of Fraser Charter, Section 5.2

6. CITIZEN PARTICIPATION ON AGENDA ITEMS

7. ADJOURNMENT

(Posted Thursday, September 14th, 2017 3:00pm)

THE CITY OF FRASER WILL PROVIDE NECESSARY REASONABLE AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WITH DISABILITIES AT THE MEETING UPON FOUR DAYS NOTICE TO: RANDY WARUNEK, BUILDING DEPARTMENT (586) 293-3100 EXT 154 ~ IT IS THE POLICY OF THE CITY OF FRASER THAT NO PERSON, ON THE BASIS OF RACE, CREED, COLOR, RELIGION, NATIONAL ORIGIN, OR ANCESTRY, AGE, SEX, MARITAL STATUS, OR DISABILITY SHALL BE DISCRIMINATED AGAINST, EXCLUDED FROM PARTICIPATION, DENIED THE BENEFITS OF, OR OTHERWISE SUBJECTED TO DISCRIMINATION IN ANY PROGRAM OR ACTIVITY FOR WHICH IT IS RESPONSIBLE.

STATE OF MICHIGAN

SIXTEENTH JUDICIAL CIRCUIT COURT

IN RE: JOSEPH NICHOLS and
MATTHEW HEMELBERG,

Plaintiffs.

_____/

Case No. 2017-0053-AS

OPINION AND ORDER

This matter is before the Court on plaintiffs' petition for a preliminary injunction pursuant to MCR 3.310(A).

I. Background

Plaintiffs are Joseph Nichols (Nichols), the Fraser Mayor, and Matthew Hemelberg (Hemelberg), a member of Fraser's City Counsel. D. Wayne O'Neal (O'Neal), as the new Interim City Manager, attended a City Council meeting on January 3, 2017, at the conclusion of which he purportedly observed inappropriate behavior by Nichols and Hemelberg. More specifically, he allegedly saw Nichols give the Finance Director, Mary Jaganjac (Jaganjac), a bear hug and kiss her on the lips and saw Hemelberg massage the shoulders of the Director of the Fraser Library, Lorena McDowell (McDowell). O'Neal subsequently met with Jaganjac and McDowell about Nichols's and Hemelberg's conduct, after which he contacted Thomas L. Fleury (Fleury) for the purpose of conducting an independent investigation.

Fleury issued a report on June 8, 2017. His report indicated that he interviewed O'Neal, Jaganjac, McDowell, and 5 other female employees. However, Nichols and Hemelberg obtained counsel and declined to be interviewed. The report stated that the individuals who were interviewed were credible witnesses and did not have an ulterior motive for participating in the investigation. Further, the report at 13-14 reflected that:

> The statements of the witnesses support the finding that Mayor Nichols and Councilman Hemelberg engaged in verbal and physical conduct of a sexual nature. Both men's physical conduct in the form of hugs, kisses, touching, shoulder and back massages all constitute physical conduct of a sexual nature. The verbal conduct consisted of language of a sexual nature.
>
> The conduct described above was also pervasive. It occurred on numerous occasions to different employees…
>
> The behavior was also unwelcome by the employees…the employees endured the behavior because of fear of retaliation. At no time did the employees encourage or participate voluntarily in such behavior…
>
> It is also my finding that the verbal and physical conduct of a sexual nature substantially interfered with the employees' employment and created an intimidating, hostile or offensive environment.

The recommendation at 14-16 stated that:

> …it is my recommendation that the City take prompt remedial action.
>
> The facts in this case are unique in that the complaints regarding sexual harassment in the workplace were made against elected officials of the City and not City of Fraser employees. Therefore, the typical "remedial actions" taken by an employer, such as: disciplinary action up to and including termination…are not applicable in this case. If Mayor Nichols and Councilman Hemelberg were employees in managerial positions within the City of Fraser, it would be my recommendation that their employment be terminated. Because of their high-ranking positions and the fact that they had substantial power over the individuals making the complaints, their behavior clearly demonstrates an abuse of their power, which adversely affected the employees' ability to perform their work…
>
> Furthermore, the potential for retaliation is extreme under these circumstances…
>
> During this investigation, Mayor Nichols has already exhibited retaliatory behavior toward Ms. Jaganjac. After she complained to him regarding his behavior, there is evidence that his attitude toward her changed drastically and his statements to her appear to be negative and abusive…
>
> If Mayor Nichols and Councilman Hemelberg remain in their positions, it is my recommendation that the following occur:
>
> 1. They should be admonished that their behavior is totally unacceptable

and creates a hostile environment for the City employees. They should be advised that their behavior exposed the City to potential liability for sexual harassment claims.

2. They should be advised that their behavior constitutes an embarrassment to the City Council and reflects poorly on the reputation of the City as a whole. This could potentially have an impact upon individuals and corporations considering locating in the City of Fraser.

3. They should be advised that professional boundaries must be drawn between councilpersons and their activities in City Hall. Councilpersons' appearances at City Hall should be for professional reasons, and they should not engage in any social contact with City employees. In order for City employees to effectively perform their job duties, they should not be exposed to councilpersons taking up their time with any type of social banter.

4. They should be advised that they cannot in any way retaliate against any witnesses who participated in the investigation.

Any other action taken by the City Council against Mayor Nichols or Councilman Hemelberg is controlled by the provisions of the City Charter and the rules and procedures adopted by the City of Fraser for City Council…

If any claims are made that the investigation was somehow politically motivated and therefore not legitimate, it must be noted that, once the verbal and physical conduct of Mayor Nichols and Councilman Hemelberg became known to the acting City Manager, the City was mandated by law to conduct a thorough investigation. Failure to conduct such an investigation could be considered a violation of the federal and state laws regarding sexual harassment in the workplace and therefore expose the City to substantial financial liability. There is no evidence to suggest that the complaints and subsequent investigation were in any way motivated by current political activity.

In O'Neal's June 20, 2017 memo to the Mayor and Council, O'Neal indicated that the Council passed a motion on June 12, 2017 barring Council members from having any verbal, written, or electronic communication with City employees and that if such communication is necessary to a Council member's duties on the Council, that member should notify O'Neal to make the necessary contact with the employee.

The Council retained the services of Robert S. Huth, Jr. (Huth) to act as Special Counsel.

Plaintiffs filed a petition for an *ex parte* temporary restraining order (TRO), as well as a request for an order to show cause as to why a preliminary injunction should not be issued. However, Huth, acting on behalf of the City of Fraser and the Council, appeared at Court with plaintiffs' counsel on September 8, 2017 and had a dialogue with the Court. Huth also filed a response to plaintiffs' petition and appeared at the September 13, 2017 hearing. As a result, a TRO was never issued. Instead, the Court will address plaintiffs' request for preliminary injunctive relief in this decision.

It is plaintiffs' position that the September 18, 2017 hearing before the Council should be enjoined because the Council lacks authority to conduct it. However, the City and the Council contend that the Council has authority to hold the subject hearing pursuant to the City Charter.

II. Standard of Review

Generally, an injunction is an equitable remedy, not an independent cause of action. *Terlecki v Stewart,* 278 Mich App 644, 663; 754 NW2d 899 (2008). Thus, a plaintiff must allege some wrongful conduct on the part of the defendant for which the requested injunction is an appropriate remedy. *Id.*

In determining whether a preliminary injunction should be granted or denied under MCR 3.310(A), the Court should consider the following factors: "(1) the likelihood that the party seeking the injunction will prevail on the merits; (2) the danger that the party seeking the injunction will suffer irreparable injury if the injunction is not issued; (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief; and (4) the harm to the public interest if the injunction is issued." *Campau v McMath*, 185 Mich App 724, 728-729; 463 NW2d 186 (1990). "Other considerations surrounding the issuance of a preliminary injunction are whether it will preserve the status quo so

that a final hearing can be held without either party having been injured and whether it will grant one of the parties final relief prior to a hearing on the merits." *Id.* at 729. The trial court's ruling on a request for a preliminary injunction is a matter of discretion. *Id.* The party seeking the injunction has the burden of establishing that the relief should be granted. MCR 3.310(A)(4).

III. Analysis

With respect to the first factor under *Campau*, there is a reasonable likelihood that Nichols and Hemelberg will not prevail on the merits as to their claim for superintending control. Generally, the filing of a complaint for superintending control is an original action that is designed to order a lower court or tribunal to perform a legal duty. MCR 3.302(A); *Shepherd Montessori Center Milan v Ann Arbor Twp,* 259 Mich App 315, 346-347; 675 NW2d 271 (2003). At the outset, the matter is not ripe for review since no action has yet been taken and there is no record to review. *Dunlap v City of Southfield*, 54 Mich App 398, 403; 221 NW2d 237 (1974). In any event, the Council does not have a clear legal duty to cancel the September 18, 2017 hearing. To the contrary, the hearing falls within the scope of Sections 5.2 and 6.9 of the City Charter.

Section 5.2 of the City Charter provides that:

> Any elective city office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:
>
> * * *
>
> (c) If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;
>
> * * *
>
> (f) If the officer is removed from office by the Council in accordance with the provisions hereinafter set forth.

Section 5.2 further provides that:

> Removals of officers by the Council shall be made for either of the following reasons: **(1) for any reason specified by statute for removal of city officers by the governor, (2) for misconduct in office under the provisions of this charter.** Such removals by the Council shall be made only after hearing of

> which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal. [emphasis added]

Additionally, Section 6.9 of the City Charter provides that:

> The Council or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters in which the municipality has an interest. The Council, for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

The Court is not convinced by Nichols's and Hemelberg's argument that Huth failed to give them notice of the charges against them. In his August 15, 2017 letter to their attorneys, Huth indicated that the allegations were sufficiently set forth in a previous letter. Nevertheless, Huth plainly stated in the August 15, 2017 letter that the charges were brought on the ground of misconduct pursuant to Section 5.2 of the City Charter.[1]

The Court is mindful of Nichols's and Hemelberg's contention that the Council cannot remove them from office on the ground of sexual harassment because the City Charter does not specifically state that sexual harassment constitutes misconduct. They point to various other

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[1] Section 5.2 also provides that an officer may be removed "for any reason specified by statute for removal of city officers by the governor." *See* MCL 168.327, which provides that:

> The governor shall remove all city officers chosen by the electors of a city or any ward or voting district of a city, when the governor is satisfied from sufficient evidence submitted to the governor that the officer has been guilty of official misconduct, wilful neglect of duty, extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it appears by a certified copy of the judgment of a court of record of this state that a city officer, after the officer's election or appointment, has been convicted of a felony...

provisions which address specific types of misconduct, such as Section 5.9, which provides that an officer engages in misconduct if he/she allows the City to enter into a contract in which he/she has a financial interest without disclosing such interest. However, it does not matter whether sexual harassment is specifically mentioned. As Huth's August 15, 2017 pointed out, this jurisdiction has long held that "[t]he misconduct which will warrant the removal of an officer must be such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it is necessary to separate the character of the man from the character of the office. The misconduct charged and established must be something which plaintiff did, or did not do, in his official capacity." *Wilson v Council of City of Highland Park*, 284 Mich 96, 98; 278 NW 778 (1938). It should be left to the Council to decide whether Nichols and Hemelberg engaged in misconduct in their official capacity. The Court therefore finds that Nichols's and Hemelberg's position lacks merit.

Contrary to Nichols's and Hemelberg's assertion, the Court is satisfied that they were given sufficient notice of the procedure and witnesses. Huth's August 9, 2017 letter to their attorneys stated that:

> At that hearing, your clients may be represented by you or another attorney of their choosing. They will be permitted the right to cross-examine witnesses, call witnesses, present their testimony, refrain from testifying, and present any other evidence deemed appropriate to their response to these charges.

Moreover, at the September 13, 2017 hearing before this Court, Huth identified all of the witnesses that he plans to call.

The Court is not persuaded by Nichols's and Hemelberg's argument that O'Neal did not have the authority to hire Fleury prior to June 12, 2017 since the Council did not vote to retain Fleury until such date. Presumably, they are arguing that Fleury's report is therefore invalid. Fleury's June 8, 2017 report indicates that O'Neal contacted Fleury on May 1, 2017. According

to Section 2-18 of the Code, "[t]he city manager shall be the chief administrative officer of the city." Pursuant to Section 2-18(4), the city manager "shall see that all laws, provisions of the Charter, and acts of the council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed." Nichols and Hemelberg submitted an agenda for the Council's June 12, 2017 meeting which stated:

> 5. INVESTIGATION REGARDING EMPLOYEES' SEXUAL HARASSMENT COMPLAINTS
>
> a. Request Council to retain the services of Mr. Thomas L. Fleury

However, the above language is vague. It is unknown whether subsection a. refers to additional services Fleury may be undertaking for the City, or to the report Fleury already completed, as Nichols and Hemelberg suggest. They failed to attach a copy of the minutes. Due to the lack of clarity, this language fails to show that O'Neal did not have the authority to hire Fleury to conduct an investigation and draft the subject report.

Finally, the Court is not persuaded by Nichols's and Hemelberg's argument that the members of the Council are biased against them. At the September 13, 2017 hearing before this Court, Huth indicated that their attorneys will be given an opportunity to *voir dire* the Council members.

As to the second factor under *Campau*, which goes to irreparable injury, the mere apprehension of a future injury or damage cannot be the basis for injunctive relief. *Pontiac Fire Fighters Union Local 376 v City of Pontiac*, 482 Mich 1, 9; 753 NW2d 595 (2008). Since Nichols and Hemelberg have not yet been removed from office, they merely have an apprehension of a possible future injury.

Turning to the third factor under *Campau,* the Court opines that the City would be more harmed by an injunction than Nichols and Hemelberg would be harmed by the absence of an injunction. The absence of an injunction could mean that Nichols and Hemelberg would be removed from office. However, at this time, their removal is merely speculative. Further, if they are removed from office, their removals would be grounded on their own misconduct. On the other hand, if an injunction is granted, the Council would be deprived of the ability to carry out its duties in accordance with Sections 5.2 and 6.9 of the City Charter.

As to the fourth factor under *Campau*, the Court is convinced that the public interest would be harmed if the September 18, 2017 hearing is enjoined. The Court finds that "the public interest lies in promoting confidence in the integrity of local government." *Overstreet v Lexington-Fayette Urban County Gov't*, 305 F 3d 566, 579 (6th Cir 2002). A cancellation of the September 18, 2017 hearing would likely result in the reduction of confidence in the City and a lack of transparency regarding the conduct of elected officials.

While an injunction would maintain the status quo while this action for superintending control is pending, an injunction would essentially give Nichols and Hemelberg the relief they are seeking in their complaint, which is to bar the Council from conducting the removal hearing.

After carefully balancing the above considerations under *Campau*, the Court declines to grant plaintiffs' request for preliminary injunctive relief. Plaintiffs failed to show that the Council engaged in any wrongful conduct for which a preliminary injunction is an appropriate remedy. *Terlecki*, 278 Mich App at 663.

IV. Conclusion

For the foregoing reasons,

Plaintiffs' motion for a preliminary injunction is DENIED pursuant to MCR 3.310(A).

This case remains open.

IT IS SO ORDERED.

RICHARD L. CARETTI
Circuit Court Judge

September 14, 2017

cc: Donald J. Gasiorek, Attorney for Plaintiff
Robert S. Huth, Jr., Attorney for the City of Fraser and
the City Council of the City of Fraser

INVESTIGATION REGARDING EMPLOYEES' SEXUAL HARASSMENT COMPLAINTS

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INVESTIGATION REGARDING EMPLOYEES' SEXUAL HARASSMENT COMPLAINTS

Introduction

On May 1, 2017, I was contacted by Mr. Wayne O'Neal, Interim City Manager for the City of Fraser, who advised me that he had spoken with employees of the City who had complained about the behavior of Joseph Nichols and Matt Hemelberg. Mr. O'Neal further indicated that he had personally observed certain behavior which he considered inappropriate. Mr. O'Neal confirmed that the behavior consisted of inappropriate touching and verbal communications of a sexual nature. Mr. O'Neal stated that he requested that the employees put their complaints in writing, but had not received any written complaints.

I advised Mr. O'Neal that, pursuant to state and federal statutes that address sexual harassment in the workplace, an employer has an obligation to provide a work environment free from any form of sexual harassment. It was my assessment that the verbal complaints he received did constitute a complaint of sexual harassment. I further advised Mr. O'Neal that, pursuant to the state and federal statutes, once an employer has become aware of sexual harassment complaints, or should have been aware of sexual harassment in the workplace, it is their legal obligation to conduct an investigation to determine whether or not the complaints of sexual harassment are valid and, if so, to take remedial action to eliminate said sexual harassment. Failure to conduct an investigation would expose the City to liability with regard to any complaint of sexual harassment.

I advised Mr. O'Neal that the investigation can be conducted internally or by an independent investigator. The investigation can be conducted internally if the employer has qualified staff who are able to conduct an unbiased, objective investigation. Generally, investigations of this type are conducted by human resources administrators who are trained in the field of labor and employment law. To avoid any perception of bias, it must also be determined whether or not the internal investigator has any relationship with the person complained of or the complainant which would place the investigator in conflict. If a conflict is established, that person would be ineligible to conduct the investigation.

Mr. O'Neal advised me that the City does not have a human resources administrator capable of conducting a sexual harassment investigation. He further advised me that, because he reports to the City Council (including Mayor Nichols and Councilman Hemelberg), he would be in conflict and ineligible to conduct the investigation.

Mr. O'Neal then requested that I conduct an investigation regarding the complaints. He did not limit the investigation in any way, and confirmed that I would have complete independence as to how the investigation was conducted. He requested that, at the end of my investigation, I prepare a report and make recommendations to the City. I confirmed with Mr. O'Neal that I did not have a personal or professional relationship with either of the individuals complained of nor the individuals making the complaints. I further confirmed that, at this point, the law firm of Keller Thoma, PC, did not have a professional relationship with the City.

Interviews

All individuals interviewed were advised that; 1) Neither I nor Keller Thoma previously represented the City of Fraser; 2) I had no personal or professional involvement with Mr. Nichols or Mr. Hemelberg; 3) I was asked to conduct an independent investigation by the Interim City Manager, Mr. Wayne O'Neal, who had not placed any restrictions on me regarding the investigation; 4) I did not have any authority to make any decisions and would prepare a report with my findings and make recommendations to the City; 5) the interviewee could have any person or a union representative present during the interview; and 6) my report and recommendations would be submitted to the Interim City Manager, who would maintain control and custody of the report.

Although the interviews were conducted in a question and answer format, all witnesses were given the opportunity to provide any information they desired. Witnesses were also permitted to submit any written documentation or exhibits that they felt would assist in the investigation.

Interview Summaries

Interim City Manager Wayne O'Neal

Mr. O'Neal was appointed Interim City Manager on January 3, 2017. Subsequent to his appointment, he attended a City Council meeting. At the end of the meeting, when the City employees who were participating in the meeting were talking to the councilpersons, he observed some behavior which he considered totally inappropriate. Specifically, he observed Councilman Matt Hemelberg massaging the shoulders of Lorena McDowell. He also observed Mayor Joe Nichols give the Finance Director, Mary Jaganjac, what he described as a "bear hug" and kiss her on the lips. Mr. O'Neal indicated that the hug was substantially more than a polite, social hug that one might observe between close business associates. He believed that the physical contact he observed was totally inappropriate. He did not know the individuals personally at that time and did not know what social relationship they might have. Despite any personal relationship, it was his initial assessment that the behavior was unprofessional and constituted inappropriate touching.

Approximately two weeks later, Mr. O'Neal discussed with Ms. Jaganjac his observation of what occurred at the January 3, 2017, Council meeting. Ms. Jaganjac responded, "He makes me feel uncomfortable." She did not elaborate, nor did Mr. O'Neal question her further. He did advise her that, if she felt uncomfortable, she should communicate that to him and tell him to stop. Mr. O'Neal was new in the job and believed that he needed to move cautiously with regard to the situation.

On January 20, 2017, he again discussed what happened with Ms. Jaganjac and she confirmed that she was uncomfortable with Mayor Nichols behavior. He reaffirmed that she should communicate to him that she was uncomfortable and that she wanted him to stop the behavior.

Through February and early March, when he inquired of Ms. Jaganjac if she had spoken with Mayor Nichols, she replied that she "was going to." In early March, she did advise Mr. O'Neal that she had spoken with the mayor and told him that his behavior made her uncomfortable and

that it was not right, and that people were going to "think she is doing something wrong." She indicated that the mayor responded that he didn't care and "let them talk."

By the end of March, after he felt more settled in his position, Mr. O'Neal spoke with Ms. McDowell. She too indicated that she did not feel comfortable with Mr. Hemelberg and Mayor Nichols' actions toward her.

As Mr. O'Neal obtained additional information regarding Mayor Nichols and Mr. Hemelberg's behavior, he scheduled meetings with both Ms. Jaganjac and Ms. McDowell. Ms. Jaganjac advised that on numerous occasions Mayor Nichols gave her a "hug" in which he would embrace her closely with his body against hers. At one time, she felt his hand go down her back and below her waist. He also made comments about her dress and how he liked watching her "leave." Ms. McDowell also gave examples of the mayor inappropriately hugging her and kissing her hand.

Ms. Jaganjac further indicated that the mayor had invited her to his house for a barbecue/swim party. It got to the point where she was trying to avoid him at all times. She used her staff to attempt to obstruct him from entering the office.

These meetings in April were witnessed by Michele Kwiatkowski. He felt that not only did he need a witness, but also to have a woman present to make the individuals more comfortable in his presence.

Mr. O'Neal documented his conversations with the employees starting in January 2017. His handwritten notes are attached as Exhibit 1.

Mary Jaganjac

I met with Ms. Jaganjac on May 8, 2017, at City Hall. I advised her that I was retained by the Interim City Manager to conduct an investigation with regard to conduct within the workplace that could establish sexual harassment. I further advised her that the investigation was being conducted because, once the City is aware of or should have been aware of conduct that could be construed as sexual harassment, it has a requirement to conduct an investigation and take prompt remedial action. I further advised her that her participation was totally voluntary. She was advised that, if she wished to have a witness present, that was permissible. Ms. Jaganjac rejected having a witness and understood that her participation was voluntary.

Ms. Jaganjac was extremely cautious and concerned about her participation in the investigation. She believed that any statement she might make would be used against her by Mayor Nichols. She indicated that she did not want any publicity and would have preferred that this had not occurred. I advised her that her statements could not be "off the record" and that what she shared with me would be placed in a report and submitted to the Interim City Manager. She then agreed to participate in the investigation.

Ms. Jaganjac advised me that she is a graduate of Michigan State University with a degree in International Relations. She has an MBA from Walsh College and is presently the City's Finance Director.

Ms. Jaganjac went on to describe what she considered a toxic, hostile environment at the City of Fraser. She described Mayor Nichols as a "bully" and that he is "extremely hard to stand up to." She believes that she has been used as a "pawn" between the various council members. She indicated that there appears to be a 4-3 split in the Council. For a time, it was her belief that she was viewed favorably by Mayor Nichols and two councilpersons, which pitted her against the four remaining councilpersons.

She described her job as Finance Director and Treasurer for the City. She indicated that this is an extremely responsible position which requires her to account for all monetary transactions within the City. She has to manage the City's bank accounts and pay all the bills. She has a staff of two full-time employees and one part-time employee. She indicated that she reports directly to the City Manager as the Finance Director and reports to the City Council as the City Treasurer. She indicated that when she started work approximately one year ago, the financial condition of the City was precarious and not organized. She indicated that she spent a substantial period of time trying to "clean it up."

With regard to Mayor Nichols, she stated that after she started working at the City, his unprofessional behavior began almost immediately. He "got too close too fast." She stated that he hugged her often. The hugs started off being soft, rather innocuous hugs, but soon turned into hugs that offended her. He held her and gripped her against his body. She stated that he would "hold me to his gut."

Despite being totally uncomfortable with this physical behavior, she was afraid to say anything because of his power. She believed that his actions toward her were giving people the wrong impression regarding their relationship. She believed he was trying to "show off," but she felt he was making her look unprofessional. She indicated that, over time, the hugs got worse.

Ms. Jaganjac further advised me that Mayor Nichols makes unprofessional and sexually-oriented statements toward her. She believed that he looked at her in a sexual way. When she was contemplating leaving her position with the City and accepting another position, he specifically stated, "I hate to see you go, but I like watching you leave." She believed this was a sexual innuendo and it made her uncomfortable. When I inquired why she did not complaint about his behavior, she specifically responded: "How do you deal with that? I was afraid!"

Ms. Jaganjac indicated that she "inherited a mess" and felt very good about how she cleaned it up. She has taken "ownership" in the Finance Department and now she is risking losing it all.

Ms. Jaganjac described another incident while attending a Council meeting. She excused herself to use the bathroom and, when she was returning to the Council chambers, he "caught me off guard" and gave me a hug and kissed me on the cheek. She claimed that she was uncomfortable, but again did not say anything. She was concerned that people were observing his actions and getting the wrong impression. He exceedingly complimented her and called her "amazing," which she believed portrayed favoritism on his part that was not professional.

Ms. Jaganjac stated that, when Mr. O'Neal started as Interim City Manager in January 2017, he approached her after he observed one of the hugs at a Council meeting. She indicated that he

expressed his concern and she told him that she and the mayor did not have "that type of relationship." When she told him that she was uncomfortable, Mr. O'Neal advised her to tell the mayor that he had to stop his behavior. Subsequently, when the mayor again tried to hug her, she extended her hand and indicated that a hand shake would be the proper exchange between them. She then told him "You can't hug me. People will talk and make assumptions." She felt that telling him in this manner would not upset him. The mayor responded, "I don't care, let them talk. So what, who are they?" She responded that she did not want anyone to talk about them and that his behavior was unprofessional, and that it was not okay. She indicated it was her belief that he "seemed to get it."

Soon thereafter, she felt the mayor began to retaliate against her standing up to him. She stated that his demeanor toward her changed. Although he stopped hugging her, he started speaking to her in a condescending way. She feels that he has become degrading toward her and tries to embarrass her at Council meetings. His behavior was so obvious that, after leaving a Council meeting one evening, one of the residents stopped her and asked, "Is Joe mad at you?"

Ms. Jaganjac stated that, prior to speaking to the mayor, he also spent considerable time in her office, which made her feel uncomfortable. She started to change her behavior in the office to avoid him. She considered "dodging him" essential to her well-being. She had Tanya, one of her clerks, actually close the door to make it look like she was not there. One day, in order to avoid him, she actually picked up her coat and just bolted.

Ms. Jaganjac stated that his flirting made her uncomfortable and now believes that, since she did not say anything, it progressed. She further felt that she was "all alone" in her complaints against the mayor and this was another reason she never said anything. She understood that the right thing to do would be to tell him to stop, but she did not want to escalate the issue.

When I inquired as to what reason the mayor would have to be in City Hall, she indicated that, although he was not engaged in the daily operations of finance, he acted like he had free reign to walk in and talk about any issues she was working on. She stated that, in addition to the mayor spending an inordinate amount of time in her office, he also brought his son Zachary into the office, who acted like a "mini mayor." She indicated that, although Zachary is mentally disabled, he is an "adult with sexual issues." He replicated his father's actions and gave her hugs. She was uncomfortable with Zachary, but felt she had to "deal with it."

During my interview with Ms. Jaganjac, she provided me with a four-page document dated May 5, 2017, which she indicated summarized her complaint against the mayor (see Exhibit 2). When I inquired as to the first sentence, in which she states she was "directed" by Mr. O'Neal to "recap my recent experiences with Mayor Joe Nichols . . .," I advised her that Mr. O'Neal told me that, after his conversations with her, he asked if she was willing to participate in the investigation and submit her experiences in writing. It was my understanding that she had not been "directed" to do this. She confirmed that Mr. O'Neal's statement was accurate.

I reviewed the written document with Ms. Jaganjac and she confirmed that everything she had written she believed was true and accurate. She emphasized that, after Mr. O'Neal told her she should address the issue, she felt relieved because she realized that the mayor's behavior toward

her had gotten totally out of hand. She also emphasized that she absolutely believed that his behavior toward her had drastically changed since confronting him about his behavior and she now believes that it was in retaliation for confronting him. She again quoted her written document and indicated that she now has to "endure the wrath of Joe" during Council meetings. She is very fearful that her participation in the investigation will result in additional retaliation.

Leah Brown

I met with Ms. Brown and gave her the same introduction that I gave to Ms. Jaganjac. Ms. Brown is a clerk who works behind the counter in the Building Department. She started her employment with the City in June 2015. She reports directly to Randy Warunek, who is a building official. Ms. Brown indicated that she has a Bachelor of Science degree in Psychology from Central Michigan University.

Ms. Brown indicated that, for the most part, people are polite and she likes her job. She is 25 years old and is married to Brant.

Ms. Brown advised me that she has no personal relationship with the mayor. She further indicated that, at her level, she has no professional reason to speak with him. Despite this, the mayor and Councilman Hemelberg often are in City Hall and stop by her counter to speak with her. She indicated that, "for the most part," their conversations are casual and she has no complaints. Despite this, at times their conversations with her are totally unprofessional and of a sexual nature. Mayor Nichols has also looked at her inappropriately. In February/March 2017, she had worn leggings to work. She was leaving for lunch and, as she walked out of the office, the mayor gazed at her in a sexual manner and stated, "Not everyone can wear leggings, but you can." She further advised me that the mayor at one time told her that he was at an event sitting at a table when two women approached him. The mayor stated that both women were wearing leggings, and he told Ms. Brown, "She had leggings on and her camel toe was in my face." Although she believed his statement was rather "creepy," he thought he was just being "funny."

Ms. Brown also commented on the behavior of Mayor Nichols' son, Zachary. She confirmed that he is mentally challenged and that his behavior toward her can be sexual. He gives her hugs and makes inappropriate sexual comments. She indicated that he replicates his father and at one time told her, "What's shaking, baby. Come sit on my lap." She indicated that she reprimanded Zachary and told him, "No, we don't talk that way." She indicated that she is uncomfortable with Zachary's behavior and indicated that the mayor leaves him in her care for extended periods of time.

Ms. Brown also indicated that, on Valentine's Day, the mayor visited City Hall and handed out boxes of chocolates to the staff. She indicated that this was a little bit weird because it was not "employee appreciation day," but rather a romantic holiday and she was not accustomed to receiving chocolates from her boss. Despite this, when Zachary handed her the box of chocolates, he gave her a hug. She walked away and was heard to say, "I am so sick of this." She clarified with me that her statement was not about Zachary's hug but rather about another co-worker with whom she was having a disagreement. She indicated that wanted me to know this because she wanted to make certain her statement was not misconstrued.

Ms. Brown also recounted an incident that occurred sometime in the spring of 2016. She was working on a fee schedule after hours, and the mayor and Councilman Hemelberg appeared at her counter. In a joking manner, the two of them started to discuss an event they had attended over the weekend. At that time, they brought out their smart phones and started showing her pictures of "half naked ladies." They appeared to be strippers who were scantily clad. The mayor and Councilman Hemelberg were laughing while looking at the pictures and showing them to her. Ms. Brown indicated that this was totally unprofessional behavior and they should never have done this. She stated that she did not say anything.

Ms. Brown also advised that, in the summer of 2016, Councilman Hemelberg came behind the counter to talk to her boss, Randy. While working, she had to bend over to write something and Councilman Hemelberg stated, "Nice view over there." Ms. Brown indicated that this was clearly a sexual statement regarding her body. She believed he was leering at her in a sexual way. When I inquired why she did not complain to him about his inappropriate behavior, she indicated, "We are just girls in the office and they can do it."

Ms. Brown then indicated that Councilman Hemelberg's actions toward her were again unprofessional in late February/early March 2017. While sitting at her desk, Councilman Hemelberg approached her from behind and started to rub her shoulders with his hands. She was absolutely uncomfortable with his behavior. She indicated that a man touching you like that is upsetting and made her extremely uncomfortable.

When I asked her how the behavior of Mayor Nichols and Councilman Hemelberg affects her, she indicated that she "does not want to be alone with them." She indicated that because her desk is "front and center," she can stay there because she never has to be alone with them. In addition to talking with her, they also spend time talking with Jennifer, a co-worker. She believes that Jennifer is good friends with Councilman Hemelberg and she has never complained to Ms. Brown about their behavior.

Ms. Brown related another incident that occurred recently while she was shopping at Meijer. She was going through the "scan line" and heard the mayor shout, "Hey, pretty baby." She stated that she believed he was giving her a "cat call." When she next saw the mayor at City Hall, he joked about it.

It was Ms. Brown's assessment that the mayor's behavior is stupid and unprofessional, and that he needs to "filter" his behavior.

Michele Kwiatkowski

Ms. Kwiatkowski advised me that she has worked for the City of Fraser for 24 years. She is the Systems Administrator and reports directly to the City Manager. She advised me that she has numerous contacts with the City Council and believes that Mayor Nichols, Councilman Hemelberg and Councilwoman Yvette Foster have created a hostile, toxic environment for her. She advised me that the three do not consider her loyal to them and are therefore trying to make life difficult so she will either leave or they can fire her. She indicated that they challenge her on her vacation time, sick time, pay, etc. She advised me that, because of the negative relationship she has with

Mayor Nichols and Councilman Hemelberg, they have very little contact with her. She advised me that at no time did she ever consider their behavior toward her a form of sexual harassment, but just "harassment."

She believes that Councilman Hemelberg was accused of having the City repair his parking lot in Roseville, and her husband was involved in the investigation. She also believes that Councilwoman Foster had legal challenges regarding her towing company, Foster's Towing, which resulted in the City cancelling its contract. She believes that, for these reasons, "they" are retaliating against her.

With regard to other employees complaining of sexual harassment in the workplace, Ms. Kwiatkowski advised me that there were more rumors regarding Ms. Jaganjac and the mayor because of the outward displays of affection exhibited by the mayor toward Ms. Jaganjac. She also heard that Ms. Jaganjac was "swimming" at the mayor's house. When she asked Ms. Jaganjac about the rumors, Ms. Jaganjac responded that she keeps telling him "no" and that she will tell him to stop.

After she and Mr. O'Neal observed the mayor give Ms. Jaganjac a "bear hug" and kiss her on the lips at the City Council meeting in January 2017, she again approached Ms. Jaganjac and asked how things were going and if she was okay. Ms. Jaganjac responded, "No. I need to get out of here. The mayor won't leave me alone." She indicated that the mayor will "corner her," which results in her having to run out of the office to dodge him. Ms. Kwiatkowski indicated that they all observed this behavior.

Ms. Kwiatkowski also indicated that, after Mr. O'Neal learned that Ms. Jaganjac believed the mayor's behavior was inappropriate, he had a meeting with her. He asked Ms. Kwiatkowski to act as a witness. She attended the meeting and indicated that Ms. Jaganjac divulged many instances of inappropriate behavior. She related the time in her office when he was hugging her and his hands went lower toward her "ass." Ms. Jaganjac also related an incident when her legs were folded and he rubbed his hand on her leg while saying how nice she looked. Ms. Jaganjac also stated that at one time the mayor invited her over for a "swim party."

Ms. Kwiatkowski advised me that sometime in February, after Valentine's Day, she spoke with Leah Brown. Ms. Brown told her that Mayor Nichols and Councilman Hemelberg bother her. She stated Councilman Hemelberg stares at her with what she considers a leer. He sits at Jennifer's desk for long periods. Ms. Brown advised Ms. Kwiatkowski that she is afraid to be alone whenever the mayor or Councilman Hemelberg come to the office. Since that time, whenever the mayor or Councilman Hemelberg appear, she sends a text message to Ms. Kwiatkowski indicating that they are in the office, with the understanding that Ms. Kwiatkowski will protect her.

When I inquired about the meeting that Mr. O'Neal had with Ms. Jaganjac, Ms. Kwiatkowski indicated she believes that Ms. Jaganjac was relieved when she was finally able to talk about the behavior. It was like a "burden off her chest."

Kelly Dolland

Ms. Dolland advised me that she is the City Clerk and has worked for the City of Fraser for a number of years. She previously had Leah Brown's job as a clerk in the Building Department.

Ms. Dolland advised me that Mayor Nichols and Councilman Hemelberg basically leave her alone. She stated that she is of an age where they are not interested in her because, "They wouldn't hit on their mom." Despite not approaching her personally, she has heard them engaged in conversations with Jennifer, where they speak using vulgar sexual terms. She has heard them make statements such as, "I'd like to bag that one" (referring to a woman) or "I'd like to screw that one." Councilman Hemelberg has also made statements such as "Joe's not getting anything at the bar." She has also heard them state to each other that they would like to "fuck Jamie."

Ms. Dolland believes that Mayor Nichols and Councilman Hemelberg are bullies and will retaliate when they become aware of the sexual harassment investigation. She stated that they like to play "mind games" and will intimidate people whenever they can. She gave an example of a councilwoman recently hired. Her husband was a mayor years ago and had some "history" with a waitress. At the beginning of a Council meeting, the mayor purposely stated to this councilwoman that he had seen "an old family friend" and named the waitress. She indicated that the councilwoman was visibly upset by this rude behavior. She believes that the message the mayor is sending is that, if you are "against me," I will retaliate. She stated that they use vulgar sexual terms and use the words "tits," "ass," "boobs," "screw," etc. She indicated that most of the time, she just walks away.

In other attempts to intimidate, the mayor has made sexually explicit comments to residents. At a Council meeting, a resident made a statement that the mayor did not agree with. After the Council meeting, in the hallway in front of numerous witnesses, he told the resident that, the night before, he "had her mom's mouth on his balls." In other attempts to intimidate, the mayor said to another councilwoman, "You have daddy issues – can't keep a man because of your daddy issues."

When I inquired about the mayor's presence in City Hall, Ms. Dolland advised me that he hangs out there and people just scatter when he comes. She indicated that at one time the mayor's son Zachary had his father's key fob and he went through her desk.

Ms. Dolland advised me that it is her assessment that the behavior of Mayor Nichols and Councilman Hemelberg is abusive and totally inappropriate. She indicated that this behavior should not be acceptable in City Hall.

Robin Oman

Ms. Oman advised me that she is a part-time employee and has held her position for the last seven years. I presented the same introduction to Ms. Oman as I did to the other witnesses. She indicated that, "As I told Wayne, I like to mind my own business." She confirmed that Jennifer, Mayor Nichols and Councilman Hemelberg hang out a lot at the counter. They "joke, talk, chat and laugh," and sometimes "get loud." She gives them a look, implying "That's enough" when they get loud. She indicated that she does not listen to their conversations, does not want to get involved

in the conversations and does not know what they talk about. She did confirm that she never saw another mayor "hanging out" like they do.

Ms. Oman also confirmed that the mayor leaves his son Zachary for long periods of time. She did not have any comment regarding his behavior.

Ms. Oman indicated that they never make any statements to her. When I inquired if she ever heard any statements they made about other women, etc., she indicated that they "just get loud" and "I don't pay attention."

Debra Kopp

Ms. Kopp advised me that she started as a contract employee on September 20, 2016. She works two days per week. She reports to Ms. Jaganjac, the Finance Director.

She advised me that no one at the City has ever touched her or said anything to her that she considers inappropriate. The mayor compliments her on how she looks, but she accepts this as a compliment and was not embarrassed. She confirmed that he talks with other employees and can get loud, but she does not know what he is saying.

When I asked Ms. Kopp to be more specific about how he compliments her, she indicated that he has referenced her blond hair and blue eyes, and has stated that she has no Italian in her. She emphasized that she does not feel the mayor is "hitting on me." She indicated, though, that he is never in her office alone.

Lorena McDowell

After my introduction, Ms. McDowell appeared extremely nervous and hesitant to talk. She indicated that she is the Director of the Fraser Library, and it is essential for her to work closely with the City Council. She indicated she believed that, in order for her to succeed, she would need the support of the City Council, and she was afraid that her participation in the investigation would somehow impact the library's programs. She indicated that, although she was concerned about Mayor Nichols' and Councilman Hemelberg's behavior and thought it was inappropriate, for a long time she felt that she would just have to deal with it in order to secure the needed support for the library. When I discussed with her that the law prohibits retaliation for complaining or participating in an investigation regarding sexual harassment, she indicated that that might be what the law says, but that is probably not what would happen in reality. She appeared to be extremely dedicated to having the library succeed and was hesitant to say anything that might jeopardize that success.

Despite her concerns, she indicated that she realized it was necessary to come forward and participate in the investigation, and was willing to discuss her concerns with me. She advised me that, overall, the behavior of Mayor Nichols is "creepy" in the way he gives people hugs and the things he says. She indicated that when his wife is present, he changes his behavior and can act very professional.

She advised me that Mayor Nichols' and Councilman Hemelberg's behavior can be upsetting even when it does not involve anything of a sexual nature. She related an incident during a City Council meeting during the budget process. At that time, the funding for the library was being cut and there were complaints from the audience. At that time, Mayor Nichols and Councilman Hemelberg made a public statement that all the money they were receiving for attending that Council meeting would be donated to the library. Rather than subsequently write a check for the donation, they counted out cash at the meeting and gave it to her. She believed this was extremely unprofessional and made it look like it was a bribe to get more funding for the library's budget. She believed it was politically motivated and made her feel extremely awkward. Accepting cash from the two of them made it look like she had a relationship with them that did not exist.

Ms. McDowell specifically advised me that she never heard Mayor Nichols or Councilman Hemelberg use vulgar terms or tell sexual jokes. Despite this, she indicated that at various times they both treated her in a sexual manner that was offensive and unacceptable. She stated that at one time the mayor and Councilwoman Foster visited the library. She had never met the mayor, and when they were introduced, he appeared surprised by her appearance. She indicated that he looked her up and down, and it was clear that he was assessing her appearance. When she offered her hand for a hand shake, he took her hand in both of his hands and brought it to his face as though to kiss her hand. She at this time cannot swear that he actually kissed it. Subsequently, as they were walking away, she heard Mayor Nichols say to Councilwoman Foster something about her looks, and vaguely heard something to the effect of "how good looking she is."

She related another incident with Mayor Nichols. She stated that during the budget process in 2016 she stopped to get gas at the Speedway in Fraser. As she was pumping the gas, she heard her name called out by the mayor. She realized that he had seen her pumping gas and pulled his truck over, parked it and approached her. When he came up to her, he gave her a close hug that was "too long and too close." She felt incredibly uncomfortable but did not know what to say. At that time, the mayor made statements about how supportive he was of the library and was going to encourage a positive vote on the millage. He then went into a conversation about how, if his plan worked, it could result in her becoming a full-time director with a substantial pay increase. She believed that the mayor was "coming on to her," and the implication was clear that if she got along and did what he wanted, both she and the library would benefit. She indicated that she stated to the prior City Manager, "Can you believe he would do this?" She specifically stated that this is "not okay." She also spoke with her husband, who was on business in Vietnam. He was extremely upset, and she told him that if something happens to her, she wanted him to "know what happened."

As we discussed these incidents, Ms. McDowell told me that she is extremely concerned that, once this becomes public, the mayor is going to retaliate against her and the library. She indicated that she really did not want to be involved and would not have involved herself had she not been approached.

Ms. McDowell also handed me a written statement dated May 6, 2017 (see Exhibit 3). She indicated that she was not sure she would give me this document, but realized that it was the right thing to do and felt that it expressed her feelings the best way she could. She then related an incident that occurred in January 2017 when she was at a Council meeting. At that time, Councilman Hemelberg came up behind her and started massaging her shoulders. She indicated

that she never welcomed this behavior and it made her feel very uncomfortable. She said that he was very close and she could actually feel his upper body on her back.

Ms. McDowell reviewed the written exhibit with me and confirmed that everything in it was true and expressed her feelings about Mayor Nichols and Councilman Hemelberg.

Ms. McDowell continued to emphasize that, during the entire time she has been Director of the Library, although she found the behavior uncomfortable and unprofessional, she would rather deal with it by ignoring it and not jeopardize the library's position within the community.

Mary Jaganjac #2

I met with Ms. Jaganjac again because things were related to me that she had told other people but she did not share with me. She confirmed that Mayor Nichols had commented and complimented her about the way she dressed. He was particularly complimentary about a red dress that she wore. She also confirmed that one time when she was wearing a dress, he put his hand on her leg and said how nice she looked. She indicated that she moved away from him so that he could not physically touch her.

When I inquired about attending a swimming party at the mayor's house, she advised me that the mayor talked to many people about a barbecue/swim party that he has at his house every summer. The mayor mentioned to her that she should come by and join them for the party. Subsequent to this invitation, Kelly said to her, "People are talking about you going to the mayor's pool party." Ms. Jaganjac indicated that this was the first warning she had that the mayor had not recognized appropriate boundaries with her.

Ms. Jaganjac further advised me that, at the Council meeting on May 18, 2017, the mayor continued to retaliate against her with the way he treated her. When she was attempting to answer one of his questions, the mayor would not allow Mr. O'Neal to assist her in her answer, and the mayor publicly stated, "Mary is looking for you to help." She believed this was disparaging and insulting. She also related that, after the meeting, when a letter from the staff was submitted to the mayor regarding the staff's appreciation of Mr. O'Neal and wanting him to be retained as city manager, the mayor stated, "It's garbage" and threw it into the wastebasket.

Mayor Joe Nichols

At my request, on May 17, 2017, Mayor Nichols was provided an e-mail correspondence from Mr. O'Neal regarding the investigation and establishing times and places to meet with me to respond to the allegations (see Exhibit 4). I received no communication from Mayor Nichols until May 26, 2017, at which time he forwarded an e-mail to me indicating that he was securing counsel and would "put them in touch with you (see Exhibit 5).

Councilman Matt Hemelberg

At my request, on May 17, 2017, Councilman Hemelberg was provided an e-mail correspondence from Mr. O'Neal regarding the investigation and establishing times and places to meet with me to

respond to the allegations (see Exhibit 6). Councilman Hemelberg telephoned me and, at that time, I advised him that I was willing to meet with him on the assigned days and confirmed that he could have anyone he wished present at the interview. I further advised him that the interview could take place at any location he chose. I subsequently received an e-mail from Councilman Hemelberg stating that he had secured counsel and would not appear for an interview (see Exhibit 7).

Findings

Sexual harassment is specifically defined in Title VII of the Civil Rights Act of 1964, which is closely followed by the Michigan statute and law. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when: (1) submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment; (2) submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting the individual's employment; or (3) such conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive environment. The verbal or physical behavior must be of a sexual nature, pervasive and unwelcome. The sexual harassment laws further prohibit any retaliation by an employer against a person who has made a complaint alleging sexual harassment or any person who has participated in a sexual harassment investigation.

It is my assessment that the witnesses who testified in this investigation regarding the behavior of Mayor Joe Nichols and Councilman Matt Hemelberg were credible witnesses. The women who specifically made the allegations regarding Mayor Nichols and Councilman Hemelberg, Mary Jaganjac, Leah Brown, Kelly Dolland and Lorena McDowell, did not have any ulterior motive for participating in the investigation. None of these employees faced any disciplinary action or had any reason to retaliate against Mayor Nichols and Councilman Hemelberg. To the contrary, as they advised me, it was their assessment that their participation in the investigation could only hurt them, and that they feared retaliation and harsh treatment by Mayor Nichols and Councilman Hemelberg. They would have preferred to not participate in the investigation, but felt that the behavior had to be stopped and that their coming forward at this time was the right thing to do.

The statements of the witnesses support the finding that Mayor Nichols and Councilman Hemelberg engaged in verbal and physical conduct of a sexual nature. Both men's physical conduct in the form of hugs, kisses, touching, shoulder and back massages all constitute physical conduct of a sexual nature. The verbal conduct consisted of language of a sexual nature.

The conduct described above was also pervasive. It occurred on numerous occasions to different employees.

The behavior was also unwelcome by the employees. Although the employees (with the exception of Ms. Jaganjac) never specifically complained or told Mayor Nichols and Councilman Hemelberg to stop the behavior, the employees endured the behavior because of fear of retaliation. At no time did the employees encourage or participate voluntarily in such behavior. Therefore, it is my finding that the verbal and physical conduct was totally unwelcome.

It is also my finding that the verbal and physical conduct of a sexual nature substantially interfered with the employees' employment and created an intimidating, hostile or offensive environment. The employees had to engage in tactics to avoid contact with Mayor Nichols and Councilman Hemelberg. Ms. Jaganjac would actually leave her place of employment to avoid any contact with the mayor. Ms. Brown would text Ms. Kwiatkowski whenever the mayor appeared so that she would have some type of "protection."

There does not appear to be any direct evidence that the behavior of Mayor Nichols and Councilman Hemelberg was to obtain sexual favors. There is evidence to imply that the actions and statements of Mayor Nichols was an attempt by him to let the individuals know that, if they did not continue to participate in this type of behavior, they would suffer some type of retaliation in terms of their employment and/or programs. The employees were left with the sense that, if they did not respond favorably to the verbal and physical sexual conduct, they could suffer retaliation in the terms and conditions of their employment. Therefore, the conduct of Mayor Nichols did create a basis for a *quid pro quo* sexual harassment claim. In the future, if Mayor Nichols made a decision that was construed to be an adverse employment action toward Ms. Jaganjac, Ms. Brown or Ms. McDowell, they would be in a position to claim that the adverse employment action was made as a result of their rejection of the mayor's advances. Because of this potential, Mayor Nichols has abrogated his authority and can no longer effectively make decisions regarding those employees. His actions have totally compromised his position as mayor.

Although we are not in a position to determine how Mayor Nichols and Councilman Hemelberg might respond to the allegations, based on my professional experience, because of the pervasiveness of the activities and the number of witnesses, it will be extremely difficult for Mayor Nichols and Councilman Hemelberg to deny the verbal and physical conduct complained of. If they respond that the verbal and physical conduct was merely part of their attempt to engender collegiality with the employees and was done in a joking manner, merely consisting of bantering back of forth between them and the female employees, this excuse is not acceptable. The behavior as described was totally inappropriate and unacceptable in the workplace, and diminished the professionalism of employees of the City. In their positions as high-ranking City officials, it is their obligation to set an example of professional behavior for all employees of the City. Not only does this include them refraining from any sexual joking or banter, it would also require them to maintain an atmosphere where this type of behavior is not permitted. To the contrary, Mayor Nichols' and Councilman Hemelberg's participation actually encouraged such unprofessional behavior in the workplace. Their behavior strongly contributed to the diminution of the professionalism and morale at the City.

Recommendation

Once an employer learns or should have known of complaints of sexual harassment, it is incumbent upon the employer to conduct a thorough investigation and take prompt remedial action. Since it is my finding that the behavior of Mayor Nichols and Councilman Hemelberg created a hostile environment and potentially created a *quid pro quo* sexual harassment situation, it is my recommendation that the City take prompt remedial action.

The facts in this case are unique in that the complaints regarding sexual harassment in the workplace were made against elected officials of the City and not City of Fraser employees. Therefore, the typical "remedial actions" taken by an employer, such as: disciplinary action up to and including termination, mandatory sexual harassment training, or implementation of procedures whereby those accused of sexual harassment are not permitted to impose discipline on complaining employees, are not applicable in this case. If Mayor Nichols and Councilman Hemelberg were employees in managerial positions within the City of Fraser, it would be my recommendation that their employment be terminated. Because of their high-ranking positions and the fact that they had substantial power over the individuals making the complaints, their behavior clearly demonstrates an abuse of their power, which adversely affected the employees' ability to perform their work. High-ranking employees who exhibit this behavior create a culture and atmosphere that is toxic. This results in serious morale problems that eventually results in lack of performance and employees leaving their employment. This in turn results in a decline in whatever business the employer is conducting.

Furthermore, the potential for retaliation is extreme under these circumstances. Employees in high-ranking positions with substantial authority over the employee's terms and conditions of employment will constantly be exposed to allegations of retaliation. Whenever a decision is made in the future regarding the complaining employee regarding performance, promotion, salary or bonus, the high-ranking employee's motivation can always be attributed to "retaliation" for the complaints made against them. The high-ranking employees are therefore impotent in exercising their managerial duties.

During this investigation, Mayor Nichols has already exhibited retaliatory behavior toward Ms. Jaganjac. After she complained to him regarding his behavior, there is evidence that his attitude toward her changed drastically and his statements to her appear to be negative and abusive. Mayor Nichols has also exhibited this behavior toward residents and councilpersons with whom he disagrees. It appears that he does not hesitate to retaliate against these individuals with negative and demeaning statements. Therefore, the risk of retaliatory behavior toward the employees, either in terms of their employment conditions or their various programs, is extremely high.

If Mayor Nichols and Councilman Hemelberg remain in their positions, it is my recommendation that the following occur:

1. They should be admonished that their behavior is totally unacceptable and creates a hostile environment for the City employees. They should be advised that their behavior exposed the City to potential liability for sexual harassment claims.

2. They should be advised that their behavior constitutes an embarrassment to the City Council and reflects poorly on the reputation of the City as a whole. This could potentially have an impact upon individuals and corporations considering locating in the City of Fraser.

3. They should be advised that professional boundaries must be drawn between councilpersons and their activities in City Hall. Councilpersons' appearances at City Hall should be for professional reasons, and they should not engage in any social contact with

City employees. In order for City employees to effectively perform their job duties, they should not be exposed to councilpersons taking up their time with any type of social banter.

4. They should be advised that they cannot in any way retaliate against any witness who participated in the investigation.

Any other action taken by the City Council against Mayor Nichols or Councilman Hemelberg is controlled by the provisions of the City Charter and the rules and procedures adopted by the City of Fraser for City Council. I have not made any interpretation of these provisions and rules, and it is up to the City Council to determine whether they are applicable in this situation. It is my recommendation that the findings of fact submitted in this investigation report be applied to those Charter provisions and rules and, at that time, the City Council can make its determination.

If any claims are made that the investigation was somehow politically motivated and therefore not legitimate, it must be noted that, once the verbal and physical conduct of Mayor Nichols and Councilman Hemelberg became known to the acting City Manager, the City was mandated by law to conduct a thorough investigation. Failure to conduct such an investigation could be considered a violation of the federal and state laws regarding sexual harassment in the workplace and therefore expose the City to substantial financial liability. There is no evidence to suggest that the complaints and subsequent investigation were in any way motivated by current political activity.

Respectfully submitted,

By: _____

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Meeting w/ Mary Jagajor
" " Loreda McDowel

Jan 13TH Discussed Mayor Huggins
Ther @ 1-3-17 Council Meeting.

Jan 20TH Discussed again inappropriate
Huggins. Mary said "She is
uncomfortable w/ his behavior.
I told Mary she Has to say
Something to him to "Stop".

Feb 13TH Asked Mary if she
talked to Mayor and she
said she is going to.

Early March, Mary told me
she talked to ~~[illegible]~~ Mayor
and told him to Stop
that it was not Right and
people are going to think
she is doing Something
Wrong. Mayor didn't
care and said let them
talk.

Late March Early April it was brought to my attention that something more Happened between Mayor & Mary.

I also began to talk with Lorena McDonnell about Matt Hemelberg and Mayor's actions. She was incompatible w/ Mayor and Matt.

I talked with Mary about additional actions by Mayor and also Lorena. I discussed Conversation w/ Meschelle K had with Mary.

April 24th Met w/ Lorena and others in G. Kahiliz office and discussed Mayor Hemelberg Lorena to write up Statement

April 26th Met w/ Mary J and others in G. Kahiliz

office about Mayor's Conduct.
May had already started
a Written Report and
will Complete and turn in.
May 1st talked w/ Jack Dolan
I Contacted outside investigat
on 27th to Conduct investigat
of Sexual Harassment.

talked w/ Mayor 5-2 and
asked her to Complete
report. told her independent
investigation will Complete
review. May Pleased.

talked w/ Loren a McDonnell
5-2 and asked her to Complete
report. told her independent
investigation will Complete
review. OK.

KNOWN BY THE COMPANIES WE KEEP

NICKEL & SAPH, INC.

INSURANCE SINCE 1929

Mary 4-26-17

Uncomfortable

Inappropriate, you don't do this
His the Mayor

Past 10 Months

Unappropriate about Conversation
alot of Complements - look good in that dress

different types of Wine - Battle of Wine

"I Hate to see you go But I like seeing
you leave"!! felt Uncomfortable

tanya Come into my office.

talked the Mayor about the hugs &
he said let them talk. I Care

Its unparlant to me
Pool Party Bar B"Q" should Come over

Rick Haberman - Finance Girl Unappropriate
w/her.

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NICKEL & SAPH, INC.
INSURANCE SINCE 1929

KNOWN BY THE COMPANIES WE KEEP

Michell [redacted] 4-24-17

talking about Bills - "The Mayor had done something & she didn't know what to do about it"
"He came in my office and he was rubbing on her and he grabbed me"
"And he grab your ass?"
I have been after her to put in writing

Sent a TXT to Mary last Council Meeting telling her to put it in writing

"She said she was going to put it in writing tuesday" when she came in she said she had to do taxes.

More Power than I do
Joe Nichols

Kissed hand Pulled her
Closer @ library

Hemmering Body
2-3 times
full Body
Mary, Christina
were at the
$100 each.

Speedway - Tue @ lunch
Bear Hug - 30 seconds Hand behind head
~~[illegible]~~ saw me and Bolted in
Making [illegible]

44 MACOMB PLACE MT. CLEMENS, MI 48043 P: 586.463.4573 F: 586.463.3135
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May 5, 2017

I have been directed by the Interim City Manager Wayne O'Neal to recap my recent experiences with Mayor Joe Nichols.

The second week of January in 2017 I realized other people had noticed a small problem I was having with the mayor. It started out as a question from the Interim City Manager, Wayne O'Neal, who on his second week on the job brought to my attention the inappropriate behavior of our Mayor Joe Nichols. I was told that people were gossiping about the two of us.

I confided in Wayne and told him that the Mayor's hugs made me feel uncomfortable. He advised me to talk to the mayor and tell him. About a week later I did, and the Mayor was surprised, yet said he understood and respected my decision.

I never understood why the Mayor seemed to like me so much from the start. But he spoke kindly to me and was a supporter of mine. I felt the other 4 council members were against me because the mayor and his team of two supported me. It always made me feel awful at the Council meetings. The split board who carried their own agenda above the City's and one team didn't like you just because the other did. When I talked about finances the other 4 would give me a hard time if the three were in support. It had clearly nothing to do with the topic. Just an opposition factor.

I closed out fiscal year 2015 and 2016 and did a lot of productive work at the City of Fraser and am unsure why the work I have done doesn't deserve at least a modicum of respect from every council member.

I do not remember all the details of my interactions with the Mayor. What I can remember is the Mayor would come in and talk to me. Ask questions, general questions about the City. I don't recall when exactly he started giving me hugs but I didn't say anything. He seemed very intimidating and I did not want to offend him. However, things progressed and the hugs became just a little too much. But how could I address this now after I allowed him to hug me initially? I dare not make an enemy especially after I had seen how he talked to and treated other people he did not like. There was even a time when he leaned over and gave me a kiss on the cheek. I was very surprised and taken aback. I couldn't even react. All I can remember is that he was kind to me, even at the Council meetings. I ignored it and kept my distance the best I could while I continued working on my projects.

Eventually he would stop by in my office to talk to me after getting his mail from Kelly's office. He would comment on how nice or good I looked. How the dress I wore fits me nicely. It was not comfortable to hear so many compliments so I tried to change the topic to that of a professional one and about the City. It was not pleasant to hear him compliment me. It was

embarrassing and uncomfortable. Over the summer and late in the fall I realized he would like to stop by and chat and I started feeling the need to avoid him. He would say all these nice complimentary things and all I wanted to do was my job and that's it. But how do you tell someone like him to stop without the wrath that comes along with making him upset? So I decided to dodge him. One day he came in and was talking to Kelly and it was late, I grabbed my things as fast as I could and walked out the door saying goodnight to him and Kelly as they were talking. Other times I would call Tanya in my office and told her to shut the door and then pretend we were talking about work. Also, sometime his son Zack would come and try to flirt me with me and tell me he liked me. I made sure to tell Zack that I am busy and I can't talk right now or I would sit and work and ignore him while he sat in my office chair. I was afraid to tell him to leave because that's the Mayor's son and I dare not cause him any grief.

When I could not dodge the Mayor I was curious and pleasant towards him. That is my manner and how could I be rude? I always referred to him as the Mayor. One day he stopped by close to Christmas I think he gave me a bottle of wine to try. I did accept it because he said he gave one to other employees as well.

When I was offered a position at another community he said he is in support of my wage increase and he thinks I deserve more. I told him I am just asking for what was offered to me and that I have a lot of work that needs to be done here. He said I would hate to see you go but I like watching you leave and smiled. I remember he said this phrase once to me before as I was walking during the break of one of the council meetings. I did not like it. And the way he said it and looked at me as I was walking was too much and it did not feel good. So I shrugged it off. I only have to deal with this guy once a month I thought.

I could never tell Rich about the Mayor. He was too busy and battling his own issues at work. I did not blame him because Council was brutal to him. No one should have to work under the conditions we are working on during these Council meetings. Every time I am up there explaining something I feel like I am being crucified when all I am doing is my job by informing them. So when Wayne opened up an opportunity I didn't even think, I just blurted out that the Mayor made me feel uncomfortable. I took his advice immediately and the first chance I got about a week later when I saw the Mayor I talked to him. I thought he was in agreement until...

At the February 2017 council meeting the Mayor made me feel very uncomfortable and harassed with his attacking questions. I didn't think anything of it until it hit me that it all might have to do with me telling him to back off and stop touching, kissing, and hugging me because his behavior made me feel uncomfortable and it was inappropriate. A retaliation of some sort? I also told him that people were starting to talk and get a perception of something that is not true. He said "I don't care". I responded with "well I do". I have worked hard to be where I am

at and I am a professional young educated woman who is hard working. That is how I would like others to see me as well.

For some time people come up to me and asked about the Mayor and commented on how he treats me and wondered what was going on. These questions came from the Clerk, Staff and the Interim City Manager. I shrugged it off and said that's just him. Even though his actions were uncomfortable I thought I could just endure it briefly and that would be that. However, I could no longer ignore that this is completely inappropriate and unprofessional behavior on his part and I was not doing anything about it. Others were noticing this and commenting on it and I could no longer ignore the seriousness of this matter and how far it has gone. Not only was it uncomfortable for me personally but it made me upset that he would put me in this predicament. It was not until my conversation with the Interim City Manager that I had to address this issue. I was actually glad he said something because at this point I felt like things were getting out of hand and I did not know how to address the Mayor's behavior towards me.

I remember another day he came in to the office and was talking to Kelly towards the end of the day. I was so glad she was talking to him that I quickly put on my jacket and walked out before he could stop by my office to chat.

After Wayne gave me the confidence to talk to the Mayor, I took my first opportunity about a week later when the Mayor walked in my office and I had a conversation with him. He reached in to give me a hug and I extended my hand instead. He said what is this? I told him that he can no longer hug me. This is the professional greeting (the handshake) and I would like to keep it that way. He was surprised. I explained to him that people are talking and getting the wrong idea and that I was also uncomfortable. He said I don't care what they say. I told him that I do. He said whatever I will respect your wishes. I thanked him. It seemed like that went very well and I was relieved that he took it so well. I was surprised that about a week later he stepped into my office and said I am sorry I did mean to make you feel uncomfortable. You know I think highly of you.

I was initially relieved until I realized that his behavior towards me has drastically changed once I asked him to refrain from hugging me. Now there seems to be an element in his speech that is degrading and condescending during the Council meetings. I even had one of the residents ask me if Joe was mad at me in the parking lot after March's meeting. I was so surprised. I continued to close my office door during his visits and to my relief, he has not made it a point to stop by.

The reason he came to see me in January was to tell me he is going to remove Abraham & Gaffney Engagement Letter from the agenda. I asked why? He said he needed me to talk to them and keep the price the same. I told him I will try and explained to him that that's a

difficult request due to new GASB etc. but I will try. Leslie was there and she also explained to him about the costs and the fact that we are still transitioning processes and bringing new auditors in who do not understand the progression of the accounting changes will cause a lot of work, etc. It seemed that he understood the importance of our Auditors and I told him it is in the best interest of the City to at least keep them for one more year. He agreed. Well I could only get them to extend the same price for one year. At February's meeting the Mayor was completely condescending when addressing this topic. He was not in support of Abraham and Gaffney. I was completely blown away after he told me in the office he would support my recommendation.

A lot has happened over the Mayor's tenure at the City of Fraser but I am trying to recollect as many things as possible. Yes, his behavior was inappropriate, yes I addressed it with him, and yes he stopped. However, I was right in my initial thoughts on this as I now have to endure the "wrath of Joe" during Council meetings. This is a lose-lose situation in my eyes. I was instructed to file this affidavit and am very uncomfortable as I would prefer to not escalate this situation.

Mary

5/6/2017

Incident Reports from Lorena McDowell

January 3, 2017

Councilman Hemelberg came up very close, right behind me and started massaging my shoulders after the meeting confirming Wayne O'Neal as interim City Manager was adjourned. This touching was so unexpected that at first I did not even know who was touching me. This touching was unasked for and made me feel very apprehensive. He was quite close (I could feel his upper body on my back) and I felt very uneasy, but I didn't know what to do or how to handle the situation, since it was in public and he is an authority figure with at least some power over my job. Because of this, I decided to ignore it as best I could and change the situation as soon as possible. There were many people in the room when this happened, included Wayne O'Neal and Mary Jaganjac.

This situation also worried me, not just because of the inappropriateness of the contact, but because of public perception and what it might mean for my job and the respect that people give me as the Director of the Fraser Library. What exactly might the other people in the room be thinking is happening? Especially after the very public displays of Hemelberg and Nichols handing me money and checks for donations to the library during City Council meetings in May and June of 2016, during the budget process. This was all unasked for and felt beyond my control. I felt that it was politically motivated, and it left me in an awkward position, putting money into my purse during a city council meeting.

February 2016 (not sure of the exact date, although it was most likely 16,17, 22 or 24) -

The first incident over the course of several months with Mayor Nichols occurred during February of 2016. Mayor Nichols and Councilwoman Foster asked to visit the library for a tour, staff introductions and some discussion. Upon arriving at the Library, Nichols and Foster went to the Circulation desk and asked for the Director. I happened to be standing nearby and when I heard the request, I spoke up that I was the Director and began to walk closer to them to better introduce myself. Nichols looked at me and I could tell that he was surprised by my appearance and age and that I was generally not what he was expecting. He quite obviously looked me up and down in the way people do when they are assessing attractiveness. I reached out my hand to shake hands with the Mayor, but instead of doing a business handshake, he pulled my hand close, folded it into both his hands and brought up towards his face. I found this unsettling and inappropriate, but I proceeded with the tour of the library, introducing both he and Yvette to the library staff who were present at the time (unfortunately I don't remember who all was there that day, aside from Fransie Crouch). I remember thinking "this guy thinks he is God's gift to women" and telling this story to many people afterwards, including Suburban Library Cooperative staff, other SLC Directors, some staff members and family and friends, looking for their impressions and advice.

While this was unsettling, it was just a lead up to later moments that made me uncomfortable and made me increasingly worry about public perception, such as the previously mentioned monetary donations as well as the Mayor's insistence on making a special point of releasing me (and usually only me) early from City Council budget meetings because I had a child. This was even though I made a specific point of the fact that other department heads also have children, some of them younger than mine.

The most disturbing of all these items took place somewhere in, I believe, May of 2016 (during the budget season). I was on my lunch break and I stopped at the Speedway at the corner of Utica and 14 Mile to fill my car up with gas. Just as I was starting to put the pump in my car, I heard a voice from behind me call out my name. I turned around and saw Mayor Nichols coming towards me. He had been driving down the road and saw me at the gas station. He pulled into the station in his business/company truck/van (at least I believe that it is his) to speak with me. I was very surprised and taken aback when he came up to me and hugged me close for what seemed too long (really any hug in this case is inappropriate). This was incredibly uncomfortable and again I didn't know what to do in this situation and chose not to make a scene. He then began speaking to me about the library budget, how he supposedly wanted to cut hours both to streamline the library and to push people to vote for a millage. He wanted me to encourage people to go along with the plan (and I think he hoped I could stop the negative reaction from the public towards his desire to make deep cuts into the library). He also implied/suggested that if this plan worked and I helped with it, I would be made full-time and make between 70-80,000 a year, like many of the other library Directors in the area. It seemed almost like a carrot offer conversation - do what I want and you will get this, etc. He then left the gas station. I felt that the whole situation was uncomfortable and inappropriate both on a personal level and on a political level.

Lorena McDowell

Mr. Joe Nichols
Mayor
Municipal Building
City of Fraser, MI 48026

May 17, 2017

This is to advise you that the City has received complaints from some of its employees regarding conduct which could constitute sexual harassment. Both state and federal law strictly prohibit sexual harassment in the workplace. Therefore, once the City received notice of the complaints, it had a legal obligation to institute an investigation to determine the validity of the complaints. It was my assessment that, since the City does not have a full-time human resources administrator with expertise in this area, the investigation be outsourced to an independent investigator without any ties to the City. Therefore, Mr. Thomas Fleury, an attorney with expertise in this area, was retained by the City to investigate the complaints.

At this time, Mr. Fleury has advised me that he would like to meet with you to present you with the evidence received in the investigation to date and allow you the opportunity to respond. Mr. Fleury has advised me that he is available to conduct the interviews at Fraser City Hall on the following dates: May 22, 2017 at 1:30 PM; May 23, 2017 at 1:30 PM; or May 24, 2017 at 1:30 PM. Additionally, Mr. Fleury has requested that I advise you that your participation is voluntary and, if you decide to be interviewed, it is permissible for you to have a witness at the interview if you so desire.

Mr. Fleury has also requested that I advise you that retaliation against an employee who makes a complaint of sexual harassment or participates in a sexual harassment investigation is legally prohibited. Therefore, during the pendency of the investigation, if and when you learn of those individuals who either complained or participated in the investigation, any contact with said individuals should be strictly professional and not include any statements or comments regarding the investigation.

Mr. Fleury has asked that you contact him at 313.965.0857 or e-mail him at tlf@kellerthoma.com to make arrangements for your interview. Additionally, any questions you may have regarding the investigation may be directed to Mr. Fleury.

Mr. Fleury has also requested that, in order to maintain the integrity of the investigation, I make no comments to you or anyone else regarding the investigation. Therefore, it is my request that you not direct any inquiries regarding the investigation to me.

Respectfully,

D. Wayne O'Neal
Interim City Manager

Thomas L. Fleury

From: Joe Nichols <mayorjoecityoffraser@gmail.com>
Sent: Friday, May 26, 2017 12:22 PM
To: Thomas L. Fleury
Subject: Complaint

Good afternoon Mr. Fleury,

I am in receipt of the complaint you have been assigned to investigate. At the current time I am in process of securing council, and upon such time as council has been selected, I will put them in touch with you. Have a good day.

Respectfully,

Joe Nichols
Mayor City of Fraser
33000 Garfield Rd.
Fraser, MI 48026
(248)431-2062
mayorjoecityoffraser@gmail.com

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Mr. Matt Hemelberg
Councilman
Municipal Building
City of Fraser, MI 48026

May 17, 2017

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Respectfully,

D. Wayne O'Neal
Interim City Manager

Thomas L. Fleury

From: Thomas L. Fleury
Sent: Thursday, May 18, 2017 5:24 PM
To: Lisa M. MacMillan
Subject: FW: Accusations file

Print/file

From: Matt Hemelberg [mailto:matthcityoffraser@gmail.com]
Sent: Thursday, May 18, 2017 2:13 PM
To: Thomas L. Fleury <tlf@kellerthoma.com>
Subject: RE: Accusations file

I will sleak to my lawyer. As of now I am going to proceed with legal representation and not meet with anyone until otherwise directed. If you feel charges need to be filed then we will move on accordingly. Thank you and have a great day.

Matt Hemelberg
Acting Mayor
City of Fraser
(586) 214-8921

On May 18, 2017 11:37 AM, "Thomas L. Fleury" <tlf@kellerthoma.com> wrote:

The complaints the City received which resulted in the investigation were verbal. They consisted of inappropriate touching and verbal communication of a sexual nature.

From: Matt Hemelberg [mailto:matthcityoffraser@gmail.com]
Sent: Thursday, May 18, 2017 10:57 AM
To: Thomas L. Fleury <tlf@kellerthoma.com>
Subject: Accusations file

Mr Fleury,

Could you please send me a copy of the complaint filed against me for sexual harassment? I would like a copy so I can present it to my lawyer. I believe in my better judgement that retaining legal council for this matter is in my best interest seeing I have no idea what this could be a result of. I will have my legal council review the complaint and recommend how I/we should move forward with this. Thanks for your time. Please email all documents pertaining to this so we can review and not walk into a meeting blind. I appreciate your transparency in this matter. Thank you.

Matt Hemelberg
Acting Mayor
City of Fraser
(586) 214-8921