

Confidential



**Investigation Report
Planning and Zoning Department
June 13, 2016**

Background

Donna Arwood is an Administrative Specialist with the City of Austin Planning and Zoning Department (PAZ). Ms. Arwood came to the Human Resources office and reported concerns to John Beasley, Human Resources Manager for PAZ and Development Services Department (DSD) and Christina Willingham, Business Process Consultant, Senior, DSD, on Friday, April 15, 2016. She detailed an incident that occurred earlier that morning between Matthew Lewis, Assistant Director for PAZ, and her. This incident left her crying and scared to return to her work station. These actions upset Ms. Arwood to the point that she came to the Human Resources office. Ms. Arwood reported that Mr. Lewis came out of his office, yelling at her and shaking his finger at her. She reported that he yelled he was tired of getting anonymous complaints made on him. She believed that because she had previously reported Mr. Lewis to Human Resources, he was trying to move her to a different part of the department. Ms. Arwood stated she believed Mr. Lewis was retaliating against her because she called him a "bully" in the past. Also, Ms. Arwood believed that Mr. Lewis doesn't want to work with her because of her age and he doesn't like women of an older age. Christina Willingham and John Beasley were assigned to investigate.

Allegations

- Mr. Lewis yelled at Ms. Arwood and followed her to her cubicle which made her feel upset, intimidated, and emotionally threatened.
- Mr. Lewis retaliated against Ms. Arwood by reassigning her to a new work location after she had previously and currently reported his conduct to the department Human Resources office.
- Mr. Lewis discussed with staff the he had received information that another anonymous allegation had been made about him.
- Mr. Lewis retaliated against his staff when he directed that a mandatory staff meeting be held on Monday, April 18, 2016, where he intended to change staff work schedules in response to receiving an anonymous allegation.
- Mr. Lewis discriminated against Ms. Arwood because she was an older woman.

Complainant

Donna Arwood, Administrative Specialist, PAZ

Respondent

Matthew Lewis, Assistant Director, PAZ

Investigator(s)

Christina Willingham, Business Process Consultant, Senior, PAZ

John Beasley, Human Resources Manager, DSD

Purpose of the Investigation

The investigation will determine if there is factual evidence to support the Complainant's allegations and to determine if City of Austin personnel policies have been violated.

Description of the Investigation Process***Persons Interviewed:***

Donna Arwood, Administrative Specialist, PAZ

Mark Walters, Planner Principal, PAZ

Julie Jakubek, Customer Service Representative, DSD

Irene Nemitsas, Public Information Specialist, DSD

Connie Campa, Financial Manager, PAZ

Stevie Greathouse, Planner Principal, PAZ

Katie Mulholland, Planner III, PAZ

Matthew Dugan, Development Services Process Coordinator, PAZ

Jim Robertson, Development Services Manager, PAZ

Ming-ru Chu, Planner III, PAZ

Margaret Valenti, Planner Senior, PAZ

Matthew Lewis, Assistant Director, PAZ

Greg Guernsey, Director, PAZ

Key Documents and Evidence Reviewed Included:

- City Personnel Policies, Non-Civil Service, Revised February, 2014.
- Departmental Grievance
- Witness testimony
- Email communications
- Written witness summary

Relevant City of Austin Personnel Policies

I. CONDITIONS OF WORK

A. DISCRIMINATION, HARASSMENT AND SEXUAL HARASSMENT

1. Discrimination

As an Equal Opportunity (EEO) employer, the City will conduct its staffing activities, selection, promotion, demotion, transfer, training and separation, in accordance with established federal, state and local EEO laws and regulations as they affect the City. The City of Austin will employ positive business and personnel practices designed to ensure equal employment opportunity.

The City of Austin will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, gender identity, age, religion, veteran status, disability, or sexual orientation. In addition, the City will not discriminate in employment decisions on the basis of an individual's AIDS, AIDS Related Complex, or HIV status; nor will the City discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk.

Every manager and supervisor is expected to implement this policy through uniform and consistent employment practices. Management is also responsible for maintaining a professional working environment free of intimidation, sexual harassment, racial harassment, other forms of harassment and discriminatory conduct.

2. Harassment

The City is committed to promoting a work environment that is free of harassment. Harassment is abusive, obscene or threatening conduct or communication that is intended to harass, annoy, alarm, torment, embarrass or injure another. Employees who engage in such conduct while on duty or on City premises will be subject to immediate discipline. While on duty or on City premises, employees shall not use obscene or abusive language or offensive gestures in their communication with coworkers or members of the public; employees shall not by oral, written, electronic or other means of communication threaten or intimidate coworkers or members of the public; employees shall not physically endanger, intimidate or injure coworkers or members of the public. Such conduct will not be tolerated.

B. EMPLOYEE CONDUCT

"Employees while on duty are at all times individually responsible for conducting themselves in a professional and ethical manner and for treating coworkers and members of the public

with respect and dignity. The intent of this policy is to make a clear statement that unprofessional and abusive behavior will not be tolerated in the workplace.

In addition to the provisions in these policies, employees are responsible for complying with any other federal and state laws or regulations or local ordinances governing their conduct. This includes, but is not limited to, the City Charter, City Code sections 2-3-62 through -66 (*Standards of Conduct, Prohibition on Conflict of Interest, Disclosure of Conflict of Interest, Substantial Interest of Relative and Misuse of Official Information*)."

S. REPORTING FRAUD OR OTHER ILLEGAL ACTS

Any City employee who has reason to believe that there may have been an instance of fraud, or other illegal act in connection with a City program, function or activity shall report it immediately to their supervisor or manager or to their Department Director, the City Manager's Office or the City Auditor as soon as possible.

Reports will be investigated as expeditiously as possible in accordance with procedures issued by the Director of Human Resources. Where investigation confirms that fraud or another illegal act has occurred, appropriate corrective action will be taken. Employees who commit fraud or other illegal acts will be subject to disciplinary action up to and including immediate termination, and will not be eligible for rehire.

Employees who report incidents of fraud or illegality or who assist in an investigation shall be protected from retaliation of any sort. However, any employee who assists in an investigation but who is found to have participated in the illegal act or fraud being investigated remains subject to discipline. In addition, if it is determined that a report was not made in good faith, or that an employee intentionally provided false information regarding an allegation, disciplinary action may be taken.

Any employee who believes that he or she has experienced retaliation for making a report or assisting in an investigation shall report this as soon as possible to the Department Director, Director of Human Resources, or to the appropriate Assistant City Manager.

Relevant Administrative Bulletin(s)

Retaliation

The City is committed to maintaining an environment in which an employee is free to raise a question or concern involving the terms and conditions of the employee's employment.

The City prohibits retaliation against an employee, who has, in good faith, filed a complaint about a law, policy, practice or procedure, or has otherwise participated in good faith in an investigation, proceeding or hearing.

In addition, the City prohibits retaliation against employees for engaging in any activity or availing themselves of any benefit authorized under the personnel policies, such as filing a workers' compensation claim, requesting family and medical leave or requesting military leave.

Any employee who engages in retaliation is subject to disciplinary action up to and including immediate termination.

Fraud, Waste and Abuse Reporting Investigation and Prevention

Confidentiality

A. Internal Confidentiality.

1. In order to protect the reputation of an innocent person, to avoid liability, and to protect the possibility of recovery, activities associated with ongoing investigations may only be discussed with:
 - a. a City officer, employee or agent with a need to know, or who is participating in or advising the investigation;
 - b. a person participating in the investigation; a person who is questioned or asked to provide information in furtherance of the investigation; and
 - c. a representative of a law enforcement agency or regulatory body with jurisdiction over the matter being investigated.
2. A City employee who is aware of an investigation shall act to:
 - a. ensure that the investigation is not compromised or prejudiced; and
 - b. ensure that the City's rights are not compromised.

Summary of Allegations, Findings of Fact and Conclusions

Allegation 1:

Mr. Lewis yelled at Ms. Arwood and followed her to her cubicle which made her feel upset, intimidated, and emotionally threatened.

Findings of Fact:

- Ms. Arwood came to the Human Resources Manager's office on April 15, 2016, requesting to speak with the Human Resources Manager.
- Ms. Arwood was visibly upset and crying when stating her concerns regarding an incident with Mr. Lewis earlier in the morning of April 15, 2016.
- Ms. Arwood stated that she arrived in the office at approximately 8:45am that morning.
- Ms. Arwood stated that she went to the light switch to turn the lights on.
- Ms. Arwood stated that Mr. Walters walked out of Mr. Lewis's office at that time.
- Ms. Arwood stated that Mr. Lewis came out of the office right behind Mr. Walters.

- Ms. Arwood stated that Mr. Lewis said, "Good morning, Donna. You got here at 8:45, so you will work until 5:45."
- Ms. Arwood stated that Mr. Lewis's voice was raised.
- Ms. Arwood reported that Mr. Lewis stated, "Your world is gonna be rocked. Everybody's world is gonna be rocked."
- Ms. Arwood stated that Mr. Lewis was pacing the floor, rubbing his head, and making fists with his hands.
- Ms. Arwood stated that Mr. Lewis said he was tired of getting anonymous complaints about him.
- Ms. Arwood stated that she said to Mr. Lewis that she did not make the complaint because her complaints were never made anonymously.
- Ms. Arwood stated that Mr. Lewis said to her, "You called me a bully in your last complaint in February, and I'm furious about that."
- Ms. Arwood reported that Mr. Lewis put his finger within inches of her face and shook his finger.
- Ms. Arwood reported that Mr. Lewis said he was going to make everyone clock in and out and keep calendars of their time and that he was going to sit in his office every day and monitor what everyone does.
- Ms. Arwood reported that Mr. Lewis said, "Your world, and everyone else's world is going to be rocked. And you'll probably all wish that you never worked here."
- Ms. Arwood reported that she walked away from him to go to her cubicle.
- Ms. Arwood reported that Mr. Lewis followed her to her cubicle and asked her to schedule a mandatory staff meeting for Monday morning at 8:00am.
- Ms. Arwood reported that it took her three attempts to get the meeting scheduled because she kept making mistakes as her hands were shaking so badly that she couldn't keep her attention focused on scheduling the meeting.
- Mr. Walters stated that he walked into Mr. Lewis's office around 8:30am.
- Mr. Walters stated that Mr. Lewis appeared frustrated during his discussion with Mr. Walters.
- Mr. Walters stated that Mr. Lewis's voice was also elevated at this time between 8:30am to 8:45am.
- Mr. Walters stated that he felt uncomfortable and was leaving Mr. Lewis's office when Mr. Walters saw Ms. Arwood in the main work area.
- Mr. Walters stated he did hear the word, "bully" while witnessing a conversation between Mr. Lewis and Ms. Arwood.
- Mr. Walters stated he did hear a statement about a piece of paper but not sure what was said.
- Mr. Walters stated he heard Ms. Arwood state, "I'm not calling you a bully."
- Mr. Walters stated that he felt uncomfortable and decided to leave the area and go back to his office.

- Mr. Walters stated that when Mr. Lewis gets excited he does elevate his voice and talks faster and does move his hands.
- Mr. Walters stated that he could tell from observation that Mr. Lewis and Ms. Arwood were “rehashing” something between them.
- Mr. Walters stated that he was only there for about 30 seconds.
- Mr. Walters stated that when he saw the “acceleration” he ceased being there.
- Mr. Walters stated that Mr. Lewis came by Mr. Walters’s office and apologized for his, “outburst.”
- Ms. Campa stated she arrived at the work area where Mr. Lewis and Ms. Arwood work for a scheduled meeting around 9:00am.
- Ms. Campa reported that Ms. Arwood appeared, “frazzled.”
- Ms. Campa reported that she knew Ms. Arwood has had, “issues” with Mr. Lewis before.
- Ms. Campa said that she advised Ms. Arwood to document and report the incident to Human Resources.
- Ms. Jakubek reported that she sits in an office that shares a wall with Mr. Lewis’s office.
- Ms. Jakubek reported that she heard Mr. Lewis’s voice through the wall on Friday morning around 8:30am.
- Ms. Jakubek reported that she heard Mr. Lewis’s voice move to away from his office and heard him addressing Ms. Arwood.
- Ms. Jakubek reported that Mr. Lewis’s voice was “kind of loud.”
- Ms. Jakubek reported hearing Mr. Lewis saying something to Ms. Arwood about her coming in.
- Ms. Jakubek reported hearing Mr. Lewis comment on Ms. Arwood’s arrival time and telling Ms. Arwood she would be leaving at this time.
- Ms. Jakubek reported hearing Mr. Lewis tell Ms. Arwood that he wanted a meeting for Monday in the morning.
- Ms. Jakubek reported that Mr. Lewis’s voice was raised and that it was loud enough to get her attention.
- Ms. Jakubek reported that she may have heard the word, “bully.”
- Ms. Nemitsas reported that she shares a work space with Ms. Jakubek.
- Ms. Nemitsas reported that she heard Mr. Lewis speaking in a loud, upset voice. She reported hearing his voice raised prior to Ms. Arwood coming in to the work area and after Mrs. Arwood arrived.
- Ms. Nemitsas reported she heard Ms. Arwood’s voice.
- Ms. Nemitsas reported she heard Mr. Lewis say, “I’m not a bully.” And another statement about people having to work their hours.
- Ms. Nemitsas reported hearing Ms. Arwood’s voice in a “very quiet response” to Mr. Lewis.

- Ms. Nemitsas said she could hear Ms. Arwood walking to what Ms. Nemitsas thought was Ms. Arwood's cube.
- When asked what his interaction was with Ms. Arwood on the morning of April 15, 2016, Mr. Lewis replied, "The last time I asked her to man the Design Commission meeting, she filed a 10 plus page complaint where she called me a bully."
- Mr. Lewis reported that he told Ms. Arwood that there would be some changes in the work environment and Mr. Lewis said, "I know you think I'm a bully now, but after this you're really going to think I'm a bully because I'm going to actually shift the work culture where everyone is going to be held accountable and would you please set up a meeting for me Monday morning?"
- Mr. Lewis reported he asked Ms. Arwood if she was going to stay to 5:45pm.
- Mr. Lewis reported that his voice was straight forward when speaking to Ms. Arwood.
- Mr. Lewis stated that he did not recall shaking his finger at anyone and that is not something he would do.

Conclusion:

Evidence shows that while Mr. Lewis is in his rights and responsibilities to address what he perceives to be shortcomings or deficiencies in staff performance, the manner and circumstances in which he did were not consistent with City expectations. The tone of voice Mr. Lewis used was loud enough that it made Ms. Arwood and other employees uncomfortable. Evidence also shows that Mr. Lewis's manner in speaking with Ms. Arwood was unprofessional and disrespectful. His conduct was perceived by Ms. Arwood as threatening and embarrassing, caused Ms. Arwood to be alarmed, and had an immediate intimidating impact on Ms. Arwood. This is a violation of City policy on Employee Conduct.

Allegation 2:

Mr. Lewis retaliated against Ms. Arwood by reassigning her to a new work location after she previously and currently reported his conduct to the department Human Resources office.

Findings of Fact:

- Ms. Arwood currently works as an Administrative Specialist and provides direct administrative support to Mr. Lewis.
- Ms. Arwood reported that Mr. Lewis was going to "flip out on me" because she, again, came to Human Resources on April 15, 2016 to raise concerns about behavior toward her.
- Ms. Arwood stated that that she was so scared of Mr. Lewis that she didn't think she could work where she was.
- In an email dated February 12, 2016, 10:52am, Ms. Arwood sent an email to Mr. Lewis and copied Mr. Beasley explaining her concerns about doing committee work for the Planning Commission. In this email Ms. Arwood explained that she had, "vision problems that make it very uncomfortable for me to be driving at night."

- In an email dated February 12, 2016, 11:33am, Mr. Lewis stated to Ms. Arwood, "To simply inform me that you're not going to accept responsibility for an assignment is not an acceptable response." Mr. Lewis also addressed Mr. Beasley at the end of the email where Mr. Beasley was copied and said, "John-I'm not sure why you're copied on the email but if you would like to join us, you're welcome to do so."
- In the email message to Mr. Lewis dated February 15, 2016, Ms. Arwood stated to Mr. Lewis that she felt his response to her explanation about doing committee work was, "a threat....a threat that I didn't deserve."
- In an email message to Mr. Lewis dated February 15, 2016, Ms. Arwood summarized several concerns regarding the working conditions, the volume of her workload and the City of Austin processes she was required to follow and was frustrated in being able to communicate this to Mr. Lewis. She also included Human Resources in her email communication. In this email, she discussed lack of standard operating procedures, lack of clear direction for her workload priorities, and she also explained her frustration with working with him on securing travel arrangements and the purchasing procedures. She expressed her concern that Mr. Lewis did not understand that she was bound to follow the City's processes for purchasing and he was upset with her for discussing this. Also in this email, Ms. Arwood stated that she overheard Mr. Lewis yell to another manager about Ms. Arwood, "What the hell does she do anyway." Ms. Arwood reported that this was hurtful to her.
- In the email message to Mr. Lewis dated February 15, 2016, Ms. Arwood stated to Mr. Lewis, "you are rarely in the office to even know what your staff does every day."
- In the email message to Mr. Lewis dated February 15, 2016, Ms. Arwood stated to Mr. Lewis, "So, I spend a good portion of my work day, wondering when you're going to blow. And accuse me of not doing the job that you want me to do. I've seen you blow before. I've witnessed the raising of voice. The talking over of people when they're trying to talk to you. Sometimes, honestly, you're kind of a bully when you think people aren't on the same page as you. I don't think you purposely mean to be a bully at all; I don't think you even realize you're doing it, but you certainly come across as a sort of bully a lot of times."
- In the email message to Mr. Lewis dated February 15, 2016, Ms. Arwood stated to Mr. Lewis, "I don't feel my job is secure."
- Mr. Lewis approached Ms. Arwood on March 18, 2016 around 10:00am to and asked her if he could discuss an upcoming meeting later in the morning with Mr. Beasley. She reported being uncomfortable with the discussion she had with Mr. Lewis because it was just the two of them.
- Ms. Arwood and Mr. Lewis met with Mr. Beasley on March 18, 2016 at 11:00am to discuss the concerns Ms. Arwood had raised in February.
- On March 18, 2016, Ms. Arwood sent an email to Mr. Beasley after the meeting that morning with Mr. Lewis, Mr. Beasley and her where she stated, "I didn't bring up things that made me uncomfortable." She also stated, "I thought that bringing those feelings up in the meeting with Matt would just add unnecessary fuel to the fire and put him on the spot. Matt was already very upset that I had involved HR in the first place. But, I am

documenting what happened in our 10:00 meeting this morning. Because I feel somewhat threatened by some of his remarks.” Ms. Arwood reported that Mr. Lewis said to her was how much her letter to him on February 12, 2016 upset him and that all of his previous “admin people” loved him. Ms. Arwood stated that Mr. Lewis remarked to her that her letter made him feel like he needed to, “start making you accountable for every hour that you work.” He also remarked the he should, “keep you on a leash.” Ms. Arwood reported that that comment was the very reason that she felt unprotected and unsafe in her job and why she had requested Human Resources to be present when they met.

- Ms. Greathouse reported that Mr. Lewis said to her that every time he asked Ms. Arwood to do something, she filed a complaint against him.
- Ms. Greathouse reported that Mr. Lewis said that he would be reassigning Ms. Arwood to Mr. Robertson, and taking the vacant administrative position as his direct report.
- Mr. Dugan reported that Mr. Lewis told him in a meeting that Ms. Arwood was an example of why he was going to change the work environment. He reported that Mr. Lewis told him about Ms. Arwood’s arrival time on Friday, April 15, 2016 and that Mr. Lewis had directed her to stay until 5:45pm.
- Mr. Robertson reported that Mr. Lewis told him on Friday, April, 15, 2016, that he was going to switch administrative assistants between the Comprehensive Planning Division and the Urban Design Division. Mr. Robertson reported that Ms. Arwood is the Administrative Specialist for the Comprehensive Planning Division.
- Mr. Robertson reported that there is a vacant administrative position with the Urban Design Division and that the position was offered to an employee in another department who has accepted the job offer.
- Mr. Robertson reported that Mr. Lewis utilized Ms. Arwood for administrative work.
- Mr. Robertson reported that he was “not happy with the idea but accepted it as within his prerogative as an Assistant Director.”
- Mr. Robertson reported that Mr. Lewis said that he (Mr. Lewis) and Ms. Arwood had gotten to a point of discomfort where they did not seem to be able to work with each other.
- Mr. Robertson stated that Mr. Lewis said that Ms. Arwood resisted and even complained about him assigning work responsibilities to her.
- Mr. Robertson reported that he believed that Mr. Lewis felt the best course of action would be to reduce the degree to which the two of them worked with each other.
- The candidate selected for this administrative position was notified of the change in duties on April 15, 2016.
- After hearing of the changes, the candidate asked in an email that since she would now be supporting an executive did this mean she was being offered a promotional opportunity instead of the previous duties that were described in her interview.
- Ms. Arwood stated that when she came in to the office to do some work on Saturday, April 16, 2016, she noticed a meeting set up on Mr. Lewis’s calendar regarding the new hire for Urban Design and the language, “changes in position responsibilities.”

- Ms. Arwood stated that she believes a change in her position, “is nothing more than another retaliation effort against me.”
- Ms. Arwood stated that Mr. Lewis does display himself to her as an emotional threat, so much so that she is afraid to come to work.
- Ms. Arwood stated that she never knows what will set him off toward her or other staff members.
- Ms. Arwood stated that she, “be allowed to work in a non-threatening, non-hostile atmosphere.”

Conclusion:

Evidence indicates Mr. Lewis made retaliatory actions against Ms. Arwood. Ms. Arwood filed several complaints with the Human Resources division regarding Mr. Lewis’s conduct toward her. Ms. Arwood and Mr. Lewis met together with Human Resources regarding her complaints. Mr. Lewis chose to move Ms. Arwood to another division and to a manager, which would result in her no longer providing direct executive support. This change could be reasonably perceived as a diminishment of duties. This move was not discussed with Ms. Arwood; and, this move was not done with consensus from the manager. Neither the department director nor Human Resources were consulted with by Mr. Lewis prior to his decision and action. This move was discussed with the candidate selected for the new position. Evidence indicates that the decision for this move was motivated by Mr. Lewis being angry with Ms. Arwood for filing complaints against him. The planned move of Ms. Arwood, while technically under the discretion of Mr. Lewis, represents exceptionally poor judgement and was not based on a planned, mutually agreed upon, decision and was made and directed on April 15, 2016, following an incident which occurred earlier that day between Mr. Lewis and Ms. Arwood.

Allegation 3:

Mr. Lewis discussed with staff that he had received information that another anonymous allegation had been made about him.

Findings of Fact:

- Mr. Walters reported that when he was in Mr. Lewis’s office on the morning of April 15, 2016, Mr. Lewis said to Mr. Walters that another anonymous complaint had been filed.
- Mr. Dugan reported that Mr. Lewis told him in a meeting on April 15, 2016, that he had received an anonymous complaint the previous week about the way he dressed. Mr. Dugan reported that Mr. Lewis stated that he thought Ryan Robinson had made the complaint.
- Mr. Dugan reported that Mr. Lewis had discussed in a previous informal meeting in the staff breakroom that he had five or six complaints made against him. Mr. Dugan reported that Mr. Lewis’s voice was so loud, that someone from IT came over and closed the door.

- Ms. Greathouse reported that Mr. Lewis said to her that every time he asked Ms. Arwood to do something, she filed a complaint against him and that Ms. Arwood had filed numerous HR complaints on him.
- Mr. Lewis reported he told Mr. Walters he had another anonymous complaint made against him.
- When asked about his frustration with the complaints, Mr. Lewis reported he was frustrated when speaking because he's working as fast as he could and these slowdowns aren't helpful.
- Mr. Lewis reported that he had no idea what the complaint was about.
- Mr. Lewis reported that he received a message on his voicemail from the Human Resources Department regarding wanting to meet with him about a complaint that had been filed.
- Mr. Lewis reported that he did discuss receiving an anonymous complaint against him with Mr. Dugan and Mr. Robertson.
- When asked if he talked with Mr. Robertson and Mr. Dugan about receiving a complaint about how he dressed, Mr. Lewis reported that he had talked to a few people about that and mentioned Greg Guernsey, Jennifer Todd, Jim Robertson and Matt Dugan.
- When asked if he talked with anyone about whom he thought had made the complaint about his dress, Mr. Lewis stated that he did not know who made the complaint.
- Mr. Lewis confirmed he did speak with Ms. Greathouse about receiving an anonymous complaint.
- Ms. Mulholland stated that she heard Mr. Lewis discuss his conversation with Mr. Guernsey about Mr. Lewis not wanting to hear about complaints. She reported that this made her feel uncomfortable about bringing issues up and that she felt insecure in her position, as she is not vested, yet, in the City.

Conclusion:

Evidence indicates that Mr. Lewis breached the City's administrative bulletin on Fraud, Waste, and Abuse Reporting, Investigation and Prevention regarding confidentiality when he spoke to several staff members on multiple occasions regarding complaints that had been made against him. Evidence also indicates that Mr. Lewis stated the name of a staff member who he believed made one of the complaints. This discussion had a disturbing and chilling effect on staff who heard his statements and reported their own concerns about providing information during an investigation.

Allegation 4:

Mr. Lewis retaliated against his staff when he directed that a mandatory staff meeting be held on Monday, April 18, 2016, where he intended to change staff work schedules in response to receiving an anonymous allegation.

Findings of Fact:

- Mr. Walters reported that when he was in Mr. Lewis's office on the morning of April 15, 2016, Mr. Lewis said to Mr. Walters that another anonymous complaint had been filed.
- Mr. Walters reported that Mr. Lewis's voice was elevated and he appeared frustrated.
- Mr. Walters reported that when he was in Mr. Lewis's office on the morning of April 15, 2016, Mr. Lewis said to Mr. Walters that he needed to adjust the culture at work and hold people accountable and be more rigorous in holding people accountable.
- Mr. Walters reported Mr. Lewis said to him, "I'm going to be the worst boss you ever had." Mr. Walters stated that this comment struck him as a weird over reaction to an anonymous complaint. Mr. Walters said this comment made him feel uncomfortable.
- Mr. Walters reported that "people, who make decisions or decide a course of action when upset, do so badly."
- Mr. Walters reported that Mr. Lewis said he was, "going to be cracking down" and making people sign in and out.
- Mr. Walters reported that there is an, "inability to do what we're hired to do." He said that he keeps his head down and does what's on his SSPR.
- Mr. Walters said, "I like Matt. It's hard to work for him."
- Mr. Walters reported that because Mr. Lewis knows Mr. Walters was a witness to the incident between Mr. Lewis and Ms. Arwood, that Mr. Lewis would hold that against Mr. Walters.
- Mr. Walters said, "If this is what this is, then I'm not surprised that it happened." When asked, what he meant, Mr. Walters said, "retaliation."
- Mr. Walters reported that he was going to be applying for a vacant division manager position that Mr. Lewis would be the hiring manager for, and that he worries that because of him coming to the investigatory interview, Mr. Lewis will not consider him.
- Ms. Jakubek reported hearing Mr. Lewis state on the morning of April 15, 2016 that Mr. Lewis said he would be watching what employees do.
- Ms. Jakubek reported hearing Mr. Lewis make a statement about employee work ethic.
- Ms. Jakubek reported hearing Mr. Lewis telling Ms. Arwood that he wanted a meeting for Monday morning.
- Ms. Jakubek reported the volume of his voice was elevated, loud enough that it got her attention.
- Ms. Nemitsas reported that Mr. Lewis was upset and had a raised voice on April 15, 2016.

- Ms. Nemitsas reported that Mr. Lewis said that he was “tired of this, this is getting fixed right now. We’re going to have a mandatory meeting.”
- Ms. Nemitsas said that she heard Mr. Lewis say that, “big changes were coming. I’m tired of this.”
- Ms. Nemitsas reported that she heard Mr. Lewis saying something about people not working their hours.
- Ms. Arwood reported that Mr. Lewis told her on April 15, 2016 to schedule a mandatory staff meeting for Monday, April 18, 2016 at 8:00am.
- Ms. Arwood reported that Mr. Lewis said he was going to start making everyone clock in and out and keep calendars of their time.
- Ms. Arwood stated that Mr. Lewis said, “Your world, and everyone else’s world is going to be rocked. And you’ll probably wish you never worked here.”
- Ms. Greathouse reported that while she was out of the office at an appointment, she received an email message from Mr. Lewis that said, “Good Morning, Everyone, I wanted to make sure everyone received the mandatory staff meeting request for Monday morning. If you are unable to attend please email, text, call or see me prior to the meeting. I will be outlining a new format for our office environment. Please come prepared to take notes so that you can leave the meeting with a clear understanding of expectations.”
- Ms. Greathouse reported that when Mr. Lewis arrived in back to the office, he came to Ms. Greathouse and asked if he could speak with her in his office.
- Ms. Greathouse reported that Mr. Lewis said to Ms. Greathouse that he had been receiving numerous HR complaints from within the workgroup.
- Ms. Greathouse reported that Mr. Lewis would be stepping down from his role on the CodeNEXT team and letting Jim provide more of the leadership on the project so that he could focus on the organization as a whole.
- Ms. Greathouse reported that Mr. Lewis told her that he was no longer going to tolerate the department culture, and that he would be cracking down on the flexible work environment by requiring everyone to work 8:00am to 5:00pm and requiring everyone to identify milestones and work with their managers to meet deadlines, and that if folks were not able to meet deadlines they would be written up.
- When asked what she thought was meant by his term, “culture,” Ms. Greathouse said she believed it meant, “culture of filing complaints.”
- Ms. Greathouse reported that Mr. Lewis indicated that he didn’t want to do it this way, but he felt no choice but to “crack down on” the staff.
- Ms. Greathouse stated she felt this statement was directed at her as if he thought she was the complainant.
- Ms. Greathouse stated that she said to him that she liked structure and accountability and would do whatever was needed to work with her staff to ensure they were meeting the requirements.

- Ms. Greathouse stated that she asked Mr. Lewis if she could give him some feedback and she told him, “if I were you, I would be cautious, because having the meeting and changing the accountability structures to be more rigid in response to complaints seemed like something that could be perceived as workplace retaliation.” She said she also told him to work with the HR manager to ensure that what he was doing was appropriate and allowable under HR rules and employment.
- Ms. Greathouse came to the Human Resources office and reported her discussion with Mr. Lewis to the Human Resources staff.
- Ms. Greathouse stated that she was taken aback by his statements because she said that from her management studies what he said to her was, “textbook retaliation.”
- Ms. Mulholland stated that she arrived for a scheduled meeting at Mr. Lewis’s office at 9:00am. The meeting attendees included Ms. Mulholland, Mr. Dugan, Mr. Robertson, and Ms. Campo. Mr. Dugan and Mr. Robertson were seated with Mr. Lewis in Mr. Lewis’s office. Mr. Lewis asked Ms. Mulholland to close the door and to wait outside for a few minutes.
- Ms. Mulholland reported that she received an email for a mandatory meeting for Monday morning, April 18, 2016. She reported she had questions about the email and what it meant.
- Ms. Mulholland reported that the short notice of the meeting caused her concern. She reported that the request that staff take notes and that people were to text or email if they could not attend caused her anxiety. She reported that she couldn’t sleep all weekend and had bad dreams about it.
- Ms. Mulholland reported that there were already regularly scheduled staff meetings and that this meeting notice with the word, “mandatory” sounded serious in nature.
- Ms. Mulholland reported that Mr. Lewis does not send out meeting requests and that it is difficult to contact or meet with him, and he doesn’t read his emails.
- Ms. Mulholland reported that she was concerned for her coworkers because some of them do not work on Fridays and do not have Outlook emails on their phones. She was worried that they would miss the meeting and get in trouble for that.
- Ms. Mulholland reported that employees are encouraged to flex their schedules and manage their hours. She has always had a fairly flexible schedule and is responsible for her work schedule. She reported the staff is encouraged not to work over 40 hours.
- Ms. Mulholland stated she was also concerned because Mr. Lewis is rarely in the office on Monday and that a Monday morning meeting was strange.
- Ms. Mulholland stated, “I have anxiety and fear of retaliation and it is nerve racking.” She reported that her classification is lower and that she is not vested, yet, and that there are a “lot of people who could pull weight.”
- Mr. Dugan reported that he went to Mr. Lewis’s office for a 9:00am meeting. He reported Mr. Robertson was also in attendance with Mr. Lewis.
- Mr. Dugan reported that Ms. Mulholland arrived, but Mr. Lewis asked her to close the door and wait outside.

- Mr. Dugan reported that Mr. Lewis said that he had received another anonymous complaint and that he had had it and things were going to change.
- Mr. Dugan reported that Mr. Lewis said that it seemed that, "people want me to be a task master, I don't want to, but people want that."
- Mr. Dugan reported that Mr. Lewis said that he was going to have people check in when they come in.
- Mr. Dugan reported he believed this was in reference to a complaint that Mr. Lewis was never in the office or available.
- Mr. Dugan reported that Mr. Lewis stated that he was going to monitor work and make sure people were working their eight hours.
- Mr. Dugan reported that Mr. Lewis said he didn't want to change, didn't want to do this, but felt he had to. He reported Mr. Lewis stated he was, "disappointed with this place and the people."
- Mr. Dugan reported that Mr. Lewis's voice was elevated and frustrated.
- Mr. Dugan reported that Mr. Lewis stated that things were going to be different and that there were going to be big changes.
- Mr. Dugan reported that Mr. Lewis told him and Mr. Robertson that he had scheduled a mandatory Monday meeting with staff. Mr. Dugan stated that scheduling this meeting was odd and that it seemed reactionary and aimed at whoever made the complaint.
- Mr. Dugan reported that he felt uncomfortable discussing this topic at a time when there was another meeting that was supposed to be happening with Mr. Lewis.
- Mr. Dugan reported he was concerned Mr. Lewis will read what Mr. Dugan said in the investigatory report about Mr. Lewis and he will keep Mr. Dugan from being considered for a promotional position.
- Mr. Robertson reported that he had a meeting with Mr. Lewis at 9:00am on April 15, 2016.
- Mr. Robertson reported that Mr. Lewis told him that he had scheduled a mandatory meeting on Monday, April 18, 2016. Mr. Robertson reported that he asked Mr. Lewis to send him information regarding the specifics of the meeting.
- Mr. Robertson reported that Mr. Lewis said he was upset by the perception of people being unproductive and not focused.
- Mr. Robertson reported Mr. Lewis was upset.
- Mr. Robertson reported that Mr. Lewis said he was going to spend his time getting things on proper footing, ensuring service delivery and productivity.
- Mr. Robertson reported that Mr. Lewis stated he wanted to be sure people were putting in a day's work.
- Ms. Chu reported that she received the invitation for a mandatory meeting on April 15, 2016. She reported that she was concerned because the tone of their email was, "harsh" and not read language like this before. She reported it was unusual to have a meeting scheduled like that and with that language.

- Ms. Chu reported that the invitation also appeared to be unusual because she had never seen Mr. Lewis in the office at 8:00am.
- Ms. Chu reported that she asked to be interviewed because she said that she has a cubicle right outside of his office and has heard him on more than one occasion in his office with his door closed, yelling. She said this behavior is bad for morale. She said she doesn't know what's going to happen in the office and that she believed that if she did not come to the Human Resources office that she was, "effectively condoning poor and unprofessional behavior." She also stated that doesn't want to have to work in that environment.
- Ms. Valenti reported that she believed Mr. Lewis's outbursts were getting worse and creating a hostile work environment and that staff were anxious and that she was anxious. She reported that she was not physically scared, but she was scared for her job.
- Ms. Valenti reported that she felt that all through 2015, Mr. Lewis had targeted her and had made attempts to do away with the work she did. She felt that this was an attempt to take her job. She said she had to tell Mr. Lewis that the activities of her job were, "codified" and therefore; required to be done. She said that it wasn't until he was in a Council meeting that he understood that her activities were in the code and required.
- Ms. Valenti reported that she decided to schedule her work habits in a way to avoid contact with Mr. Lewis.
- Ms. Valenti reported that she decided in 2016, when she found it unavoidable to be out of the office when Mr. Lewis was present, that she would use her personal leave time, so as not to be in the office the same time as Mr. Lewis was.
- When asked if he said he was tired of the way people behaved, Mr. Lewis stated potentially and then, no, that he did not recall that.
- When asked if he said he needed to hold people accountable, Mr. Lewis stated that he was referring to the office environment that he works in with people who need to be held accountable.
- When asked if he said he was going to crack down on attendance, Mr. Lewis stated that he said time management and that maybe he said attendance. He reported he does not believe there is an attendance issue.
- When asked if he said he was going to have people sign in and sign out, Mr. Lewis replied that he did not and that people do that now by signing in on the board.
- When asked if he said, "I'm going to be the worst boss you've ever seen." Mr. Lewis stated, "No, absolutely not."
- When asked if he said worlds are about to be rocked, Mr. Lewis stated that he was going to "Change our work culture, have a dramatically different work environment."
- Mr. Lewis acknowledged that he scheduled a mandatory staff meeting and asked Ms. Arwood to arrange the meeting.
- When asked if he said big changes were coming, Mr. Lewis stated, "This is something I've been working on with Jim Robertson and Tonya Swartzendruber and Jennifer Todd and John Beasley. I wanted to reorganize the way we work. I'm ready to roll out a brand

new plan. I am going to pick projects, drop some because of bandwidth, that was the purpose of the meeting.” Mr. Lewis reported he had been working on this for some time.

- Mr. Beasley reported that he was not and has not been working on changes for the work group assigned to Mr. Lewis and was not aware of this plan.
- Mr. Lewis reported that he did hold regularly scheduled meetings and that Ms. Arwood kept track meeting acceptance through the Outlook system.
- When asked how this meeting differed from other staff meetings, Mr. Lewis reported that the Monday morning meeting was to share an update and have a dialog with the team.
- When asked about the consequences for not attending the Monday morning meeting, Mr. Lewis reported that he had required staff meetings to be mandatory two to three months ago due to poor attendance.
- Mr. Lewis stated he wanted people to have clear expectations and understanding about what was going to be discussed.
- When asked if he said he was going to be a task master, Mr. Lewis reported that he did not recall that.
- When asked if he said he had received an anonymous complaint that he was never in the office and he was not available when people needed him, Mr. Lewis stated that he had not said that. He stated he was not aware of that complaint.
- When asked if he said that if he had to be in the office for 8 hours, then staff were going to be in the office for 8 hours, Mr. Lewis stated, “We are going to work a normal, scheduled shift.”
- When asked if he said that he was disappointed with the place and the people, Mr. Lewis stated he didn’t say that.
- When asked if he said that things were going to be different, he acknowledged that he did.
- Mr. Lewis reported that he did have a brief meeting with Mr. Walters about office culture. Mr. Lewis reported that he had been working to restructure the way staff worked.
- Mr. Lewis reported that he told Mr. Walters, “we need to make people’s time match projects to map out accountability and project management.”
- Mr. Lewis reported that he did not ask Ms. Mulholland to wait outside, but Mr. Robertson may have.
- Mr. Lewis stated that he did talk with Mr. Dugan and Mr. Robertson about the mandatory meeting on Monday, April 18, 2016, and that he was going to talk about the roll out of the new plan.
- When asked if he said that he had had it, Mr. Lewis stated he did not recall that.
- Mr. Lewis acknowledged he said to Mr. Dugan and Mr. Robertson that things were going to change.
- When asked if he said that if people want me to be a taskmaster, then I will become a taskmaster, he said that he didn’t remember using that terminology at all. Mr. Lewis reported he could function as an operational manger.

- When asked if he told Mr. Robertson and Mr. Dugan that he was now going to require staff to check in and check out when they come in to the office, Mr. Lewis replied he did not.
- When asked if he told Mr. Robertson and Mr. Dugan that since the complaint is that he was not in the office, he was going to make sure staff were in the office and that staff is in the office for eight hours, Mr. Lewis replied no, but he did remember talking about being in the office more to handle human resources issues and finance issues.
- When asked if he discussed Mr. Arwood and her arrival time with Mr. Robertson and Mr. Dugan, Mr. Lewis reported that he didn't recall "recapping" that with them.
- When asked if he said to Mr. Robertson and Mr. Dugan that he was disappointed with this place and these people, Mr. Lewis said, "I am frustrated." He said that he had a great team of people.
- When asked if he talked with Mr. Robertson and Mr. Dugan about receiving a complaint about how he dressed, Mr. Lewis reported that he had talked to a few people about that and mentioned Greg Guernsey, Jennifer Todd, Jim Robertson and Matt Dugan.
- When asked if he talked with anyone about whom he thought had made the complaint, Mr. Lewis stated that he did not know who made the complaint.
- Mr. Lewis confirmed that he did meet with Ms. Greathouse on Friday, April 15, 2016.
- Mr. Lewis confirmed that he did discuss scheduling a mandatory staff meeting on Monday, April 18, 2016.
- Mr. Lewis did not acknowledge that Ms. Greathouse said that his actions may be perceived as retaliation. Mr. Lewis stated that she did say that to have this meeting might be perceived "that way." She didn't say it that way as in using the word retaliation.
- When asked if he could see how his statement and subsequent actions that day could be perceived as retaliation, Mr. Lewis reported that the "plan" was not retaliation. He reported that he had been working on it for weeks.
- When asked if he had told Ms. Greathouse that every time he asked Ms. Arwood to do something, she filed a complaint against him, Mr. Lewis acknowledged he said that the two times he asked Ms. Arwood to do something, she filed a complaint against him. He also states he didn't recall this conversation with Ms. Greathouse.
- Mr. Lewis acknowledged that he told Ms. Greathouse that he was reassigning Ms. Arwood to report to Mr. Robertson and to the Urban Design group.
- Mr. Lewis reported that Ms. Arwood has a personality conflict with him and that he wanted her to be happy in her role and this would give her the opportunity to do that.
- When asked if he said to Ms. Greathouse that he was stepping down from his role, Mr. Lewis said that he did not say stepping down but that he was shifting some responsibilities to Mr. Robertson.
- When asked if he said to Ms. Greathouse that he was no longer going to tolerate the department culture, Mr. Lewis stated that he said he would be looking at hours. Mr. Lewis said, "I don't say 'cracking down.'" Mr. Lewis said that he would reexamine staff hours and shifting work accordingly.

- Mr. Lewis responded that he did not use the term, written up. Mr. Lewis said he would identify milestones and everyone would be held accountable. Mr. Lewis reported that there were Human Resources procedures that go along with that.
- Mr. Lewis reported that he didn't want to have to do the HR and financial part of the job, but there were gaps in the department to address.
- When asked if he told Mr. Robertson that he had discomfort with Ms. Arwood and was not able to work with her, Mr. Lewis reported he did not say that. Mr. Lewis stated, "I still can work with her. Jim and I had a conversation when I informed him I would be shifting her over to him. She doesn't like working with me."
- When asked if the reason he believed that Ms. Arwood didn't like him was because she filed a complaint against him, Mr. Lewis stated he didn't know if she didn't like working with him.
- Mr. Lewis reported, "The issue is that every time I ask her to do something, she complains about it. The opportunity to work with Mr. Robertson may be a better fit."
- Mr. Lewis acknowledged that her assignment would be to Urban Design.
- Mr. Lewis acknowledged that he did not talk to Ms. Arwood about moving her to the Urban Design group.
- Mr. Lewis reported that he spoke with Mr. Robertson on Friday, April 15, 2016 about moving Ms. Arwood to the Urban Design group.
- Mr. Lewis reported that Ms. Arwood had resisted wanting to do work with the Urban Design group, that Mr. Robertson had brought that up to him, and that she did not want to work with the Design Commission.
- Mr. Lewis acknowledged that he did have a meeting set up through Tonya Schwartezdruber to go over the revised work duties of new candidate being assigned to Mr. Lewis and doing work related to Comprehensive Planning.
- When asked if he said to Ms. Arwood, that because of her complaints he was going to keep her on a leash, Mr. Lewis replied "no."
- When asked if he met with Mr. Guernsey and told him never to bring up another complaint to him, Mr. Lewis said he told Mr. Guernsey. "I don't want to hear anonymous complaints if they're not filed through a system, I don't think they should be taken serious. I think that's detrimental. I want to know the nature of the anonymous complaint. Not something that's hearsay."
- Mr. Lewis stated, "The fact I got an anonymous complaint that I ride my skateboard to work and take the train. That's not helpful. That's one of the anonymous complaints he told me about. Someone went to Sue Edwards and said that I dressed inappropriately and they didn't like that I rode a skateboard and took transit to work. That's exactly what I was referring to. How I move about the City should be of no concern."
- When asked if he had spoken to any staff about this complaint, Mr. Lewis said, "I don't think I had a chance to talk to anyone to talk about that complaint to anyone." Then he followed up with, "I did mention that to Jennifer Todd and Jim Robertson. Guernsey informed me of that a couple of weeks ago."

- Mr. Lewis said, “I said I got a complaint that I go around the City on a skateboard which I think is absolutely ludicrous, that I take transit and I ride a skateboard. I’m frustrated by that.”

Conclusion:

Evidence indicates that Mr. Lewis did schedule a mandatory Monday meeting with less than 24 hour business day notification. This action was unusual in its short timing and in the language that was used. Witness statements indicate that Mr. Lewis scheduled this meeting as a result of a complaint that was made against him. Witness statements also indicate that the actions he planned on taking with the staff regarding their work schedules appeared retaliatory in nature and were not because of operational needs. Evidence shows that there was retaliatory intent and toward staff. There is also evidence that the mandatory meeting scheduled by Mr. Lewis was unprofessional and threatening in its language, causing employees to feel intimidated and afraid for their positions. The totality of feedback and evidence regarding the manner in which the meeting was scheduled violates the City personal policy employee conduct.

Allegation 5:

Mr. Lewis discriminated against Ms. Arwood because she was an older woman.

Findings of Fact:

- Ms. Arwood stated that Mr. Lewis is ageist and doesn’t like older women.
- Ms. Valenti reported that she asked to be interviewed because she said she was concerned for her coworkers. She reported that she believed Mr. Lewis was ageist and that she had watched while other coworkers, older women, had left the department and the City because of his actions toward them. She reported that Mr. Lewis sees her, because of her age, as irrelevant.
- Ms. Valenti reported that Mr. Lewis told her that she was like his aunt, and this caused her concern because she was unsure of the meaning.

Conclusion:

The evidence provided does not indicate discriminatory actions or intentions on the part of Mr. Lewis based on age or gender. Reported concerns do not rise to the level of a policy violation.

Summary Conclusions:

The five allegations against Mr. Lewis, taken individually, indicate violations of employee conduct, and when considered as a whole show violations of the City’s Harassment Policy, Retaliation Policy, and the Fraud, Waste Abuse Reporting and Investigation and Prevention Administrative Bulletin. Mr. Lewis’s conduct toward Ms. Arwood demonstrated a pattern of harassment and intimidation which caused Ms. Arwood to become alarmed, fearful and physically ill. Ms. Arwood made numerous attempts to address Mr. Lewis regarding his behavior through a variety of methods, and despite written communications, meetings between

Mr. Lewis and Ms. Arwood, as well as formal discussions through the department Human Resources office, Mr. Lewis continued in his aggressive and unprofessional behavior. Additionally, as a result of the complaints Ms. Arwood had made against him, and directly after an incident on the morning of April 15, 2016, Mr. Lewis communicated his intentions to reassign Ms. Arwood to a position with a reasonably perceived diminishment of responsibilities.

Additionally, the actions by Mr. Lewis to hold a mandatory meeting on Monday, April 18, 2016, directly after discussing that he heard he had another anonymous complaint made against him are retaliatory and caused employees to be worried and concerned about the security of their employment. Evidence indicates that the circumstances surrounding this meeting, the language used in the notice, and the timing of its announcement were such that it caused alarm by employees who received the notice, as employees had not experienced meetings prior to April 15, 2016 being scheduled and announced in such a manner. Mr. Lewis stated that he scheduled the meeting because he was executing division-wide changes that he had been planning with other members of the management team. Evidence gathered from employees, including management, indicated that they were unaware of any planned changes being made for the workgroup, and unaware of any roll out meeting prior to Mr. Lewis scheduling the Monday meeting.

Mr. Lewis also discussed with several subordinate employees that allegations had been made against him. Mr. Lewis's discussion of these allegations could affect the outcome of an investigation, if employees feel they do not have the ability to raise concerns in a way that affords them confidentiality or that knowledge a respondent may have regarding an investigation could cause a retaliatory effect. Employees who were interviewed expressed these concerns, specifically as it related to Mr. Lewis being the respondent. This was a violation of the Fraud, Waste and Abuse Reporting Investigation and Prevention Administrative Bulletin as it relates to Confidentiality.