



September 3, 2020

Amber L. Slayton  
City Attorney  
City of North Port, Florida  
4970 City Hall Blvd.  
North Port, Florida 34286

Re: Investigation of City Manager

Dear Ms. Slayton:

I am enclosing the Report of the Independent Investigation of the City Manager. Due to the significant time restraints imposed by the September 4 deadline, I was unable to provide a detailed explanation of the conclusions outlined in Section VI of the Report. Please let me know if the Commission would like me to prepare an Addendum to the Report that provides further detail and support.

Thank you for the opportunity to serve the City of North Port.

Sincerely,

Vicki L. Sproat

Enclosure



**INVESTIGATION REPORT:**  
**City Manager**  
**North Port, Florida**  
**September 3, 2020**

# **INVESTIGATION REPORT:**

## **City Manager**

### **North Port, Florida**

#### **I. Engagement and Scope of Investigation.**

In July 2020, the City of North Port, Florida (“City”), by and through the City Attorney, retained the undersigned (“Investigator”) to conduct an outside, independent investigation into allegations concerning the City Manager, Peter Lear (“Lear”).<sup>1</sup> The investigation was undertaken pursuant to the Human Resources Investigation Policy for Charter Positions. The policy was adopted in July 2019 by City Resolution No. 2019-R-07 to establish a procedure for investigating allegations and complaints that a charter officer engaged in unlawful discrimination, harassment or other violation of law or city policy, rule or standard of conduct.

The Investigator was asked to make findings of fact (i.e. determine whether disputed events more likely than not occurred), and then determine whether the facts established violations of Lear’s Employment Agreement and City policies, procedures and applicable codes of conduct. The Investigator focused primarily on events that occurred during the time period January 1, 2020 through present (“relevant time”).

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<sup>1</sup> The City Attorney contacted the Investigator on July 7, 2020 to discuss engaging Sproat Workplace Investigations. The engagement was formalized in an engagement letter signed by the City Attorney on July 12, 2020. The scope of the engagement was clarified in an email from the City Attorney on July 29, 2020.

## **II. The Complaint**

On July 7, 2020, Recreation Supervisor, Jonathan Wheatley (Wheatley”) met with representatives of Human Resources to make a complaint about the City Manager having an intimate, personal relationship with Nicole Galehouse, the Planning Manager in the Neighborhood Development Services Department (“NDS”). Among other things, Wheatley alleged that the City Manager breached his employment contract, engaged in acts of moral turpitude and behavior that caused the City disrepute, misused City property and violated the ICMA Code of Conduct.

The City Attorney and the Human Resources Director conferred and determined that an investigation of the complaint was necessary. On July 7, 2020, the City Attorney and the Human Resources Director met with Lear to inform him that the City intended to begin an investigation of the complaint. The City Attorney also told City Commissioners about the Complaint and the decision to proceed with an outside investigation of the Complaint.

Lear’s annual performance evaluation was on the agenda for the July 14, 2020 Commission meeting. The Commission deferred action on Lear’s performance evaluation. Instead the Commission voted to immediately place Lear on paid administrative leave pending the outcome of the investigation. The Commission also voted to appoint Assistant City Manager Jason Yarborough (“Yarborough”) as the Acting City Manager. On July 15, 2020, The City also placed Galehouse and Wheatley on paid administrative leave pending the conclusion of the investigation.



### **III. Investigation Plan and Process**

#### **A. Workplan**

The Investigator developed her investigative workplan independently without direction or interference from any City employee. The City cooperated with the Investigator by providing her with timely access to requested records and by facilitating interviews. The Investigator consulted with the City Attorney on the scope of the investigation; however, the Investigator independently determined the content of the Investigation Report.

From the outset of the engagement, the Investigator understood that the City wanted the investigation completed as quickly as possible. However, the City did not impose a deadline for the Investigator to submit the Investigation Report, nor did the Investigator provide the City with a proposed date for completion of the Report. On August 17, 2020, the Commission voted that the Investigation Report needed to be submitted to the Commission by September 4, 2020. At the time of the August 17, 2020 vote, the Investigator had interviewed nineteen witnesses and was in the process of scheduling thirteen additional interviews, including the interview of the City Manager. When the deadline was imposed, the Investigator was still in the process of reviewing hundreds of pages of documents that had been provided to her in connection with the investigation. At the time of the Commission vote, the Investigator expected to have additional time, up to at least September 18, 2020, to complete the interviews, analyze the evidence, and prepare a thorough and comprehensive report.

The Investigator exercised due diligence to meet the City's September 4, 2020 deadline for submission of the Report. However, as noted several places in the Report,

the Investigator was unable to conclude all planned areas of inquiry. The Investigator believes the September 4, 2020 deadline imposed by the Commission unreasonably interfered with the Investigator's engagement to complete a thorough independent outside investigation of all issues and to prepare a comprehensive report that fully explained the Investigator's conclusions.

## **B. Interviews<sup>2</sup>**

The Investigator was unable to conduct in person interviews during the COVID pandemic. After consultation with the City Attorney's office, the Investigator decided to proceed with remote interviews using the Zoom platform. Witnesses reported to a conference room in City Hall for their scheduled interviews. All interviews were recorded.

The Investigator reminded employees that City policy requires employees to fully cooperate in the investigation by answering the Investigator's questions fully and honestly.<sup>3</sup> The Investigator also informed witnesses that City policy prohibits retaliation against employees for reporting misconduct or assisting in the investigation of complaints. Witnesses were instructed to keep the matters discussed in the investigation confidential during the pendency of the investigation.

The Investigator interviewed the following current City employees:

<b>Name:</b>	<b>Position:</b>	<b>Interview Date:</b>
Michael Baute	Captain, Police Department	8/21/2020
Julia Bellia	Public Works Director	8/19/2020
Cari Branco	Assistant City Manager	8/14/2020
Janet Carrillo	Social Services Manager	8/6/2020
Alison Christie	Senior Planner	8/4/2020
Anna Duffey	Senior Executive Assistant	8/12/2020

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<sup>2</sup> Witnesses are referred to by their last name in the Investigation Report.

<sup>3</sup> Witness interviews are sometimes referred to as their "testimony" in the Report even though the witnesses were not formally placed under oath.

Everett Farrell	Senior Planner	8/17/2020
Kim Ferrell	Finance Director	8/11/2020
Nicole Galehouse	Planning Manager	7/31/2020
Madison Heid	Communication Outreach Coordinator	8/10/2020
Michelle Holt	Development Tech I	8/11/2020
Deborah Hope	Human Resources	8/12/2020
Tommy Lasprogato	Building Division Manager	8/15/2020
Peter Lear	City Manager	8/24 & 8/25/2020
Rhea Lopes	Planner	8/12/2020
Christine McDade	Human Resources Director	8/19/2020
Kory Merchant	Network Administrator	8/26/2020
Frank Miles	Neighborhood Development Services Director	8/21/2020
Sandy Pfundheller	Parks & Recreation Director	8/19/2020
Kevin Raducci	Code Enforcement Manager	8/10/2020
Katrina Romano	Administrative Manager	8/14/2020
Thomas Sacharski	Planner	8/12/2020
Chuck Speake	Operations & Maintenance Manager	8/26 & 8/27/2020
Amber Slayton	City Attorney	8/20/2020
Heather Taylor	City Clerk	8/26/2020
Joshua Taylor	Communications Manager/PIO	8/10/2020
Pamela "Mel" Thomas	Economic Development Program Manager	8/5 & 8/20/2020
Anthony Warren	Building Official	8/11/2020
Jonathan Wheatley	Recreation Supervisor	7/31/2020
Sherry Willette-Grondin	Zoning Coordinator <sup>4</sup>	8/4 & 8/10/2020
Tricia Wisner	Assistant Director of Parks & Recreation	8/20/2020
Jason Yarborough	Assistant City Manager <sup>5</sup>	8/14/2020

Lear was interviewed for eight hours over a period of two days. The Investigator asked Lear questions about relevant events which occurred both before and after July 7, 2020, the date Lear was notified of the investigation. The Investigator gave Lear an opportunity to raise objections and to state his position on all matters under investigation.

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<sup>4</sup> Sherry Willette-Grondin is currently serving as the Acting Planning Manager.

<sup>5</sup> Yarborough is currently serving as the Acting City Manager.

### **C. Documents.**

The Investigator was provided or given access to documents during the investigation. The primary documents considered in this investigation are listed below:

1. Organizational Charts;
2. Personnel files;
3. Job descriptions;
4. Slayton letter to Lear dated July 10, 2020;
5. Slayton letter to Lear dated July 15, 2020;
6. Calendars – Lear and Galehouse;
7. Cell phone records;
8. Texts;
9. E-mails;
10. Work orders;
11. Badge access reports;
12. Contemporaneous notes of relevant events prepared by witnesses;
13. Floor plans;
14. Videos;
15. Memos and other documents related to the planned reorganization of the NDS Department;
16. Plans and drawings for remodel of third floor of City Hall;
17. Document from Michele Norton; and
18. Membership and pass swipe records – Morgan Center Fitness Center.

### **D. Contracts, Statutes, Ordinances, Policies, Procedures and Codes.**

The following policies and procedures were considered relevant to this investigation:

1. City Resolution No. 2019-R.07;
2. City Manager Employment Agreement;
3. Fla. St. 443.036(29);
4. Fla. St. 112.313;
5. City Personnel Policy Manual;
6. City Mobile Device Policy;
7. ICMA Code of Ethics; and
8. City Charter.

## **IV. Introduction**

### **A. Description of relevant organizational structures**

#### **1.City Hall**

City Hall is a three-story building located at 4970 City Hall Boulevard. The first floor is occupied by the Planning Division Suite and the Building Division Suite. The second floor is home to the Human Resources Department, City Clerk, and the City Commission. The third floor has separate suites for the City Manager's Office, City Attorney's Office, Finance Department, IT, and Parks & Recreation Department/Economic Development <sup>6</sup> There are three ways to enter City Hall. There is a front door for the public to enter that can be locked with a key when City hall is closed to the public. There are two badge access doors for employees. Both doors are monitored by cameras. The side door on the west opens to the parking lot between City Hall and the Police Department. The other entrance is in the back of City Hall.

#### **2. City Manager's Office**

The City Manager and the two Assistant City Managers have separate offices in the City Manager's Office Suite. ("CMO Suite") Other staff located in the CMO Suite include the Communications Manager/Public Information Officer and a staff member, a grant writer and two administrative assistants. There are three conference rooms in the CMO suite including one that is attached to the City Manager's office. The CMO Suite can be accessed by key, by employee badge access, or by being buzzed in by administrative staff.

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<sup>6</sup> Six employees of the Parks & Recreation Department share a suite with Economic Development.

### **3. Neighborhood Development Services Department (“NDS”)**

Miles became the Director of the NDS Department in September 2018. His direct reports include Planning Manager Galehouse, Administrative Services Manager Romano, Inspections Division Manager Lasprogato, Code Enforcement Manager Raducci<sup>7</sup>, the Building Official<sup>8</sup>, Economic Development Manager Thomas and Social Services Manager Carrillo.

The Planning Division has an office suite on the southwest corner of the first floor of City Hall. Most of the inspection, code enforcement and building staff in NDS are housed in the Building Division Suite also located on the first floor of City Hall. Miles’ office is located in the Building Division. The Economic Development Division shares an office suite with the Parks & Recreation Department on the third floor of City Hall.<sup>9</sup> The Social Services Division is housed in a building that is located several miles from City Hall, a suite of offices it shares with other community relief agencies.<sup>10</sup>

### **4. Planning Division**

Galehouse became the Planning Manager in January 2019. Galehouse oversees the zoning coordinator, two senior planners, four planners, two development technicians, three zoning staff members, two plan reviewers, one inspector and an environmental technician. There are two doors into the Planning Division Suite. There is a counter in the front entry of the Planning Division Suite that has a controlled access door that requires

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<sup>7</sup> Raducci replaced Carol Kozabo who retired in 2020

<sup>8</sup> Anthony Warren resigned as Building Official in August 2020.

<sup>9</sup> Lear assigned Miles responsibility for Economic Development in July 2019.

<sup>10</sup> Lear assigned Miles responsibility for Social Services in October 2019.



badge access. There is also a rear door to the Planning Division that opens to a hallway that leads to the exterior of City Hall. The rear planning door is also badge access.

## **B. Background on pertinent employees**

### **1. City Manager- Peter Lear**

Lear started working for the City as the Accounting Manager in May 2008. Lear became the Finance Director in 2011. In July 2017, the Commission appointed Lear to the City Manager position. Lear is a Charter officer whose general duties and responsibilities are specified in the City Charter, the City Code of Ordinances, Florida State statutes and the City Manager Employment Agreement ("Employment Agreement") that was executed in July 2017. Lear has received favorable annual performance evaluations since he became City Manager. Lear does not have a record of any disciplinary action at the City.

Lear holds a CPA license. He is a member of the several professional accounting organizations including the FICPA, AICPA and FGFOA. Lear has a Chartered Global Management Accountant designation. He is a member of the International City and County Manager's Association ("ICMA"), the Florida City and County Manager's Association ("FCCMA"). The City pays Lear's dues and subscriptions for membership in the ICMA and FCCMA. The Employment Agreement requires Lear to obtain ICMA Credentialed Manager (ICMA-CM) certification no later than July 2021. Lear has not yet obtained his ICMA-CM certification.

Lear is a fifty-year-old married man. Lear told the Investigator that he and his wife began the process of separating in May 2020. Lear moved out of the marital home on June 1 or June 2, 2020. Lear has a thirty-two-year-old and an eighteen-year-old daughter.

## **2. Planning Manager – Nicole Galehouse**

Galehouse was hired by the City as a planner in April 2016. Galehouse applied for and became the Planning Manager in January 2019. Galehouse has a master's degree in Urban and Regional Planning. Galehouse is certified by the American Institute of Certified Planners ("AICP"). Galehouse has received favorable annual performance evaluations during her employment at the City. Galehouse does not have a record of any disciplinary action.

Galehouse is single, but she resides with Wheatley who is employed by the City as a Recreation Supervisor. Galehouse and Wheatley have been in a relationship for over eight years. They were engaged in November 2019. Together they have a five-year-old son and a two-year-old daughter. Galehouse also has a thirteen-year-old daughter from a previous relationship who resides with them.

## **C. City's response to COVID.**

The City followed the CDC's guidelines on COVID. In mid-March 2020, the City implemented organizational changes that resulted in many employees working remotely. Many City facilities were closed. Lear made the decision to "empty out" City Hall in mid-March. Lear had ongoing discussions with the Assistant City Managers, the City

Attorney's Office, and the Directors to discuss logistics. Department directors made most of the decisions as to who would continue to physically report to work in City Hall.

Phase I Return to Work protocols were implemented for certain identified employees on April 3, 2020. During Phase I, employees entering City Hall were screened prior to entering the building. On May 25, 2020, the City implemented Phase II of the return-to-work protocol which eliminated mandatory screening at City Hall. Most City Hall employees came back to work when Phase III of the Return to Work Plan was implemented on June 15, 2020. On July 13, 2020, the City rolled back to Phase II protocols which allow for remote work in some departments.

Most of the staff who worked in the City Clerk's Office, City Attorney's Office, Finance Department, IT Department, and the Parks & Recreation/ Economic Development suite worked remotely until Phase III was implemented. Most of the staff in the City Managers' Office also worked remotely from mid-March until June 15, 2020. Lear and Yarborough were the only employees in the City Manager's Suite who came to their offices on a daily basis during this time period.

Miles said that the Building Division Suite operated with a rotating skeletal crew from mid-March through June 15, 2020. Miles personally came in to work at City Hall about half the time. Galehouse was the only employee that regularly worked in the Planning Division Suite from mid-March through Phase I. The senior planning staff returned to City Hall after implementation of Phase II. Most of the rest of the Planning Division returned when Phase III was implemented on June 15, 2020.

Commission began holding virtual meetings in late March. The Commission resumed meeting in Commission chambers on June 16, 2020.

## **V. Summary of Evidence and Factual Findings**

Part V is a summary of the evidence organized by topic. The events that pertain to each topic are presented in a sequential manner where possible. Many of the facts are undisputed. To the extent that matters are disputed, the Investigator made findings of fact using a preponderance of the evidence standard. In making findings of fact, the Investigator considered documentary evidence and witness testimony. In making credibility determinations, the Investigator considered factors such as: whether a witness' testimony was corroborated by other evidence; whether the testimony was plausible and reasonable under the circumstances; whether the witness had the means and opportunity to know the facts about which he/she testified and whether the witness made contradictory or inconsistent statements. In making credibility determinations the Investigator also considered witnesses' history, possible bias and motive to lie.

### **A. Relationship between Lear and Galehouse**

It is undisputed that Lear and Galehouse had a consensual intimate and romantic relationship while Lear was employed as City Manager and Galehouse was employed as Planning Manager. Lear and Galehouse both told the Investigator that their personal relationship started to develop in March after Lear learned that Galehouse and several other NDS managers were having difficulties working with Miles. Galehouse and Lear gave different accounts of how and when the issues between Galehouse and Miles came to Lear's attention.

By way of background, H.R. records indicate in October 2019 several female employees in NDS went to H.R. to complain about Miles' leadership and management

style. They felt that Miles treated female staff less favorably than male staff. H.R. decided to conduct a 360 survey on Miles' leadership skills. The survey was distributed to NDS employees in December 2019. The anonymous survey revealed that some NDS staff thought Miles was too much of a micromanager and that he had a dictatorial leadership style. However, the survey results did not support the allegation that Miles treated male subordinates more favorably than female subordinates.

Hope met with Miles on December 17, 2019 and January 10, 2020 to review the results of the survey and to discuss ways that Miles could increase staff morale and create a more trusting work environment. Yarborough also met with Miles in their weekly one-on-one meetings during which they discussed ways Miles could build his management skills. After Miles received management training and coaching, Hope followed up with Galehouse and other NDS employees who said that they saw improvement in Miles' leadership. Lear told the Investigator that he did not know that NDS staff had gone to H.R. with complaints about Miles. However, Hope said she told Lear about the complaint, the survey and the improvement in Department morale after Miles received coaching.

Galehouse told the Investigator that she continued to have issues with Miles' management in March. This time she decided that she would address her concerns to the City Manager, not H.R. Galehouse paid an unannounced visit to Lear's office the day after Miles sent Galehouse a negative text message during her presentation in a contentious Commission meeting.<sup>11</sup> Galehouse said she told Lear she was having increasing problems with Miles' management despite Miles having been coached by H.R. and Yarborough. Galehouse told Lear that other NDS managers shared her concerns.

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<sup>11</sup> The Investigator believes that the most likely date of the Commission meeting was March 24, 2020.

Lear said he first learned that some NDS employees had issues with Miles through a meeting with Vice Mayor Luke in February or March 2020. In the meeting, Luke told Lear that four NDS managers, including Galehouse, were looking for other jobs because they did not like working for Miles. Lear said he asked Yarborough to look into the issue because the City could not afford to lose four valuable employees. Lear was not satisfied that Yarborough had taken appropriate follow up action.

Regardless of how and when Lear learned that Galehouse and some other NDS employees had issues with Miles, it is undisputed that Lear took it upon himself to investigate and address the issue in March without seeking input from Yarborough, Miles or anyone in the Human Resources Department. Lear met with Galehouse and he encouraged Galehouse to share/report her concerns about Miles directly to him. Lear said he also reached out to Thomas, Willette-Grondin and Carrillo who also told him they had issues with Miles' management style. Lear did not tell H.R., Yarborough or Miles that there was a continuing issue with Miles, let alone that he was going to handle it.

Lear and Galehouse began to meet privately in Lear's office. Not only did they discuss Galehouse's issues with Miles' management style; they also discussed personal matters. They told each other they were having problems with their partners. Lear told Galehouse that he was in the process of separating from his wife.

They also began calling and texting each other using their City-issued cell phones. The Investigator reviewed records of texts between their City-issued cell phones for the time period January 1, 2020 through July 14, 2020. The records show that Galehouse and Lear communicated frequently beginning in mid-February. Some of the texts were exchanged after regular business hours and included GIFs, memes and photos. Some of



the texts appeared familiar and friendly, but they did not clearly demonstrate a violation of the City Mobile Device Policy. The records show that their communications over City-issued cell phones dropped off dramatically in early March. Some of the last texts they exchanged were about an employee who was injured in a motorcycle accident. According to Lear it was around this time that he and Galehouse exchanged personal cell phone numbers.

Galehouse and Lear acknowledged that they began to use their personal cell phones to communicate about personal matters. Lear said the frequency of the texts increased as they became friends and then intimate partners. The messages progressed to daily, then many times a day, mostly in the evening. Galehouse said that after business hours they used their personal cell phones to text about "everything and anything". Lear and Galehouse told the Investigator said they deleted their text communications on an ongoing basis. Both denied using their personal cell phones to conduct City business.

The Investigator asked Lear and Galehouse when they began having sexual relations. Galehouse said they began having sex in April. She said the sexual relationship Lear said they began having sex in early June after he separated from his wife. They both said they usually had sex over the lunch hour at the residence that Lear was renting. Lear and Galehouse stated that they never had sex on City property. The Investigator did not discover any evidence to directly contradict that assertion. However, the evidence clearly showed that Lear and Galehouse engaged in inappropriate personal interactions on City property.

Galehouse was given badge access to the City Manager Suite on April 28. Lear said he asked H.R. to give Galehouse badge access during COVID. McDade said H.R. is often involved in activating badge access, but H.R. was not involved in giving Galehouse badge access to the City Manager Suite. Merchant said Lear called him to request that Galehouse be given badge access. Merchant checked a User Activity Detail and Transaction log to determine that he enabled badge access for Galehouse on April 28 at 12:40 PM after receiving a phone call from Lear at 12:38 PM. Only 34 employees have badge access to the City Manager's Suite. The badge holders include Commissioners, the City Attorney, directors and staff who work in the suite. Several witnesses said it was unusual for an employee in Galehouse's position to have badge access to the City Manager Suite.

The records show that Galehouse used her badge to enter the City Manager's suite on a daily basis, sometimes several times during the day. The records show that Lear also used his badge to enter the Planning Division suite through the back door on a daily basis, often multiple times per day beginning on March 18.

Some staff who worked in City Hall during COVID noticed that Lear and Galehouse appeared to have a personal relationship. Yarborough said Galehouse was frequently in Lear's office. He could often hear them laughing. Sometimes they met behind closed doors. Yarborough saw Lear and Galehouse leave the parking lot in Lear's car on numerous occasions. Sometime in late May or early June, Yarborough decided to ask Lear directly if he was in a relationship with Galehouse. Yarborough said he wanted to give Lear a heads up that people were saying that it looked like Lear and Galehouse had

more than a friendship, and it could have negative consequences. Lear assured Yarborough that he and Galehouse were just friends.

Miles said he began noticing that Galehouse was not responding to Miles' communications or producing the reports he requested. Miles told Yarborough that he was having trouble managing Galehouse. Yarborough told Miles to tread carefully and be less involved in Galehouse's supervision because Galehouse appeared to have a personal relationship with the City Manager. Miles heeded Yarborough's advice because he was concerned that if he tried to address the issues directly with Galehouse he would get called out by the City Manager or H.R. In March Miles began taking contemporaneous notes of his observations. Miles noted an incident when he needed to talk to Galehouse about the shutdown of City Hall. Miles entered the Planning suite through the rear door. He heard laughing and found Lear in Galehouse's office laughing. They seemed surprised to see him.

Lasprogato observed an unusual interaction between Lear and Galehouse in the mailroom on the first floor. Lasprogato said that when he opened the door to enter the mail room, he saw Lear backed up in the corner. Galehouse was in front of him. They appeared to be less than a foot apart. They seemed surprised to see Lasprogato, and they quickly separated. Lasprogato was uncomfortable. He quickly grabbed his mail and left the mailroom. The Investigator asked Lear about the mail room incident. Lear described it as one of those situations when you feel more guilty than you should. He said he and Galehouse were not doing anything inappropriate, but it may have appeared that way.

Several witnesses said they observed Lear and Galehouse acting unprofessionally in a May 26 Commission meeting. Lear, Galehouse and Christie attended the meeting by Zoom from Lear's conference room. Yarborough participated in the meeting by video connection from his office. Most of the six-hour meeting involved the controversial proposal to build a 7-11 convenience store. The video of the Commission meeting shows Lear and Galehouse laughing. They appear to be texting and talking with each other during crucial parts of the quasi-judicial proceeding. In a May 27 meeting, several directors told Lear that his demeanor in the May 26 Commission meeting appeared unprofessional. Lear told the Investigator that he understood why someone watching the video might think he came off as unprofessional because he was eating and joking around.

Branco returned to City Hall the week of June 8 after having worked remotely for over two months. She noticed that Galehouse was in Lear's office so much it seemed like she was a co-worker in their suite. Branco also described her attendance at a meeting in Lear's office on June 19, which he scheduled to discuss an upcoming workshop. Lear appeared very distracted. Branco asked him if he wanted to cancel the meeting. Lear said he was waiting for Galehouse to bring him something. Later, Galehouse interrupted their meeting to hand Lear what Branco now knows was Galehouse's sketch for the third-floor remodel. Galehouse and Lear started laughing like they had a private joke. Branco said she and Lear never finished their discussion on the upcoming workshop.

Lear and Galehouse told the Investigator they mutually decided to "end" their relationship on June 22 so Galehouse could decide what she wanted to do. Lear said he encouraged Galehouse to work on her relationship with Wheatley for the sake of her

family. Although Galehouse and Lear told the Investigator that their romantic relationship ended on June 22, 2020, the evidence shows that they have continued to meet regularly and communicate about personal matters even after being placed on administrative leave.

#### **B. Plan to reorganize NDS**

When Lear and Galehouse began to meet in private to discuss the issues Galehouse was having with Miles, Lear started thinking about ways to restructure NDS so that the Planning Division would not have to report to Miles. Lear came up with the idea of splitting the NDS Department into two separate departments. Under the new plan, Miles would continue to serve as a director supervising the Building Officer, the Administrative Services Manager, the Inspections Manager and the Code Enforcement Manager. The Planning Division, Social Services Division and Economic Development would become a new department and have a new director. The new department would also include an environmental technician, the arborists, and an archaeologist (a new position that had not yet been approved).

Lear thought that the reorganization of NDS and the creation of a new department would serve multiple objectives. It would solve issues for those employees (including Galehouse) who were unhappy with Miles' management style because they would no longer have to report to him. It would allow Miles to focus on the building functions where he already spent most of his time. It would also be a step toward ultimately growing a group or division that would focus on natural resources as an integral part of the planning process.

Galehouse thought the reorganization plan would be advantageous for the Planning Division and for her. The new structure would allow Planning to develop a closer working relationship with Economic Development. It would likely increase the number of employees under Galehouse's supervision. Galehouse would have more freedom. She would no longer have to report to Miles. The new structure would provide a better structure for Galehouse's career progression.

Witnesses had different opinions on whether Lear's plan to reorganize the NDS Department was in the City's best interest. The Investigator did not address this topic because it was not within the scope of the issues she was retained to investigate. However, the Investigator did make factual finding and reach conclusions as to whether Lear violated any ethical guidelines or violated any City policies in making decisions and in implementing the reorganization plan.

The evidence showed that Lear and Galehouse began working closely and quickly to develop the plan to reorganize NDS so that Lear could present the plan to the Commission at the budget workshop on June 17. It is undisputed that Lear and Galehouse did not seek input from Yarborough, Miles or anyone else before coming up with the plan. In fact, Lear and Galehouse did not disclose the plan to anyone until right before the June 17 budget workshop when Lear hoped to sell the plan to the Commission.

Lear first told Yarborough about his plan to reorganize NDS in early June. Lear told Yarborough he decided to split NDS into two departments because it was too big. Lear said his plan was to create a new department and install a new director over Planning, Economic Development and Social Services this fiscal year. Lear told Yarborough that he hoped to hire Michele Norton, the City's former Planning Manager as



the new director. Lear told Yarborough not to tell Miles. Yarborough did not tell Miles about his conversation with Lear, although he did warn Miles that big changes were coming.

Yarborough was surprised to hear about the reorganization plan. Yarborough thought Lear would have sought his input before making such a big decision about a department Yarborough supervised. Yarborough also did not understand Lear's stated rationale for the reorganization. There are other City Departments that have diverse functions and have many more employees than NDS.

Lear told Branco about the plan the week before the budget hearing. He asked her to alert Ferrell because the plan would require Ferrell to make quick changes to the budget. Around the same time Lear told McDade about his reorganization plan because he needed her to find out how much it would cost to fund the new director position. Lear told McDade to keep the proposal under wraps.

Lear told Miles that he planned to split NDS in a meeting with Yarborough on June 10, 2020. Lear told Miles he would continue to run Buildings, Inspections and Code Enforcement, but he was splitting NDS because the department was too big. Lear said he did not have any issues with Miles' performance, and Miles' salary would not be cut.

Lear presented his proposal to reorganize the NDS Department to the Commission at the June 17 budget workshop. Lear explained that he wanted to split the department because it was too big. He told the Commission that the reorganization would not have any financial impact. Lear did not tell the Commission that the reorganization plan would result in the physical relocation of divisions or departments in City Hall. The Commission unanimously gave their consent for Lear to proceed with the reorganization plan.

After the June budget workshop, Lear told Branco that he needed her to work with McDade and Ferrell to accomplish the following items before the July budget meeting: work with Galehouse in creating a job description for the new director position; budget the position; work with Galehouse in creating a new organizational chart; change budget and payroll allocation for Miles and any other staff that will be moving to the new department; and change the temporary reporting structure to reflect that Planning would be reporting directly to him.

Yarborough and Miles did not know of the immediate change in the reporting structure until they received Lear's June 22 email announcing that the new department, which he tentatively named the Office of Community & Environmental Planning, would report directly to him. Lear said he hoped to hire a new director before the end of the fiscal year. However, in the meantime and effective immediately, the divisions moving to the new department would begin reporting directly to him, although they could continue to use NDS administrative resources for items such as procurement, time and attendance, payroll and agenda support. On June 24, Lear gave Galehouse the authority to sign development orders.

Lear and Galehouse also developed a plan to move the Planning Division to the third floor and the Parks & Recreation Department to the first floor. Walls would be removed so that Planning and Economic Development would have its own suite. The new suite would also absorb the conference room that is used by the Finance Department. Their plan involved an extensive renovation of the third-floor suite that the Planning Department would occupy. Lear asked Galehouse to create plans for

remodeling the new suite. Lear did not consult with the assistant city managers or directors before making the decision to physically relocate departments and divisions.

Bellia first learned that Lear planned to relocate and remodel City Hall offices on June 17 when Lear called her into his office. Lear explained the plan. He told Bellia that Galehouse was preparing a schematic of the new third-floor suite, and that Galehouse would need to meet with Speake to go over the plans. Lear also e-mailed Speake about the changes. Lear said he had given Bellia drawings for work that needed to be done to the third floor for the new department. The e-mail instructed Speake to work with Galehouse on the remodel project.

Speake reviewed the drawings that Galehouse prepared. He noted that the drawings involved extensive and complex design changes. They would need to remove 12 walls and install 15 new ones. Speake said that the network and electric would have to be moved. Beam boards, baseboards and carpeting would probably have to be replaced. They would need to reroute HVAC, change the ductwork and look into the fire suppression system. Galehouse's drawings called for an all-glass conference room to be built in the middle of the space. Speake said that glass walls presented a special design challenge because it is difficult to run network and power down a glass wall in a way that is aesthetically pleasing.

Speake spoke with Galehouse at the July 2 commission meeting. Speake told Galehouse that her proposed plan posed significant challenges. He asked about her budget. Galehouse said she had \$100,000 in the budget, but she could get more. Speake told the Investigator that he does not believe that the changes Galehouse

requested could be done for under \$100,000; typically, a remodel of this size would be identified as a project in the budget.

Galehouse added also new features to her remodeling plan. She told Speake she wanted to put doors out to the balcony. Speake told Galehouse he was not sure that could be done. It would involve punching a hole in the wall and breaking the seal of the building. The City would need to hire a structural engineer to see if it would even be possible to create a usable balcony.

Branco did not know about the relocation and remodeling plans until June 19 when Galehouse walked into Lear's one-on-one meeting with Branco to provide him with her schematic of the new third-floor suite. Lear asked Branco to inform Pfundheller that her department would be moving to the first floor.

It was not until June 19 that Miles learned that the reorganization would involve the physical relocation of offices. Miles was surprised. He thought the plan to move the Planning Division to the third floor was inconsistent with the City's strategic plan to create an efficient customer service experience by creating a "one stop shop" on the first floor of City Hall. The City had already budgeted for a consultant to assess the layout of the first floor to optimize traffic flow with the goal of meeting that objective in the strategic plan.

Galehouse wanted the new suite to have an open and modern look that would inspire staff to work more creatively. Galehouse wanted to shop for furniture for the suite. She and Lear decided that they would invite Thomas, Christie, Willette-Grondin and Carrillo to go with them to look for furniture at the IKEA store<sup>12</sup> in Tampa. Lear sent Bellia an e-mail asking if she had a City vehicle that could accommodate up to six passengers

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<sup>12</sup> The City does not have a contract with IKEA.

that he could use on June 26. Bellia told him that she had a pool van available. Bellia asked Lear where he was going, and he related that he was going to look at furniture in Tampa. Lear picked up the van at Public Works at 8:00 AM on the morning of June 26. He then went to City Hall and picked up the others to head to Tampa.

While in Tampa, Lear, Galehouse, Christie, Thomas, Willette-Grondin and Carrillo looked at furniture, took pictures, and obtained prices of pieces they were interested in buying. They did not actually purchase any furniture. After lunch they returned to North Port. Lear dropped Christie, Thomas and Willette-Grondin off at City Hall.<sup>13</sup> Video shows that Lear and Galehouse returned the van to the Public Works at 5:30 PM. Lear and Galehouse left Public Works in Lear's car.

Lear did not tell Yarborough or Branco that he was going to look at furniture; neither did he tell them he would be out of the office on June 26. His calendar indicated that he would be in the office on June 26, and that he would attending parties for two employees who were retiring.

Lear and Galehouse continued to push forward with the reorganization plans, even after Wheatley learned of their affair on June 28. On June 29, Lear held a meeting to discuss the status of the reorganization. On July 1, Galehouse prepared a memorandum on changes to the Planning Division. Attached to the memorandum was a new organizational chart for the Planning Division and a "set of job descriptions that have been revised to reflect accurate work assignments, separation from the Building Division and assumption of new tasks that were previously not in the division, as well as a new

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<sup>13</sup> Carrillo drove back and forth to Tampa in her own car.

structure that allows for career progression.” On July 1, Lear sent an e-mail to Michele Norton attaching the job description for the new director position.

### **C. Discovery and disclosure of the relationship**

On Sunday, June 28, 2020, Wheatley learned that Galehouse and the City Manager had a sexual relationship. Wheatley looked at Galehouse’s phone and saw that Galehouse and Lear were texting each other frequently on personal topics. Wheatley confronted Galehouse who admitted that she and Lear had a consensual sexual relationship. Galehouse told Wheatley that her relationship with Lear gradually grew from a strictly business, to being friends, and eventually to romance. Wheatley said Galehouse told him that the sexual relationship began in March or April. She told Wheatley that they had recently agreed to end the relationship. Wheatley told Galehouse that he expected her to have nothing further to do with Lear. Wheatley was admittedly angry. He punched a wall and injured his hand. Wheatley asked Galehouse to leave the house. Wheatley said he was going to confront Lear the following day.

Galehouse texted Christie to tell her that she and Wheatley had had a fight. Galehouse asked if she could stay with Christie. Galehouse stayed overnight at Christie’s apartment in Sarasota from Sunday June 28 until the evening of Thursday, July 2 when she returned home. Christie said she did not know that Galehouse and Lear had a sexual relationship until Galehouse told her on the evening of June 28.

On June 28 Galehouse sent an email to Miles saying she was not feeling well and would not be at work on June 29. Galehouse said she copied Lear on the e-mail



hoping to send him a red flag. Galehouse said she did not call Lear to tell him that Wheatley knew about the affair because she had promised Wheatley that she would cease communications.

On Monday, June 29, Wheatley parked his van in the side lot of City Hall to wait for Lear. Video footage shows Lear parking his Mustang at 8 AM.

Lear described his version of their encounter in the side parking lot. Wheatley approached Lear as he got out of his car. Wheatley asked Lear to take a walk. On the walk, Wheatley told Lear to “be a man and admit it.” Lear did not know that Wheatley knew about the affair, so he did not initially admit it. Wheatley told him that it had taken him a long time to get engaged to Galehouse and that Lear had ruined their relationship. Lear ultimately acknowledged the affair. Lear told Wheatley that Galehouse ended the affair, and he was hopeful that she and Wheatley could work through their issues and do what was best for their family. Lear told Wheatley that he would do what he could to help Wheatley. Wheatley told him to stay away from Galehouse. Lear said he would still need to interact with Galehouse in the workplace. Lear recalled that Wheatley expressed concerns that either he or Galehouse could be fired to which Lear responded that he could not fire them because it would violate the City’s retaliation policy. Lear said he tried to keep his distance from Wheatley. Lear said that Wheatley vacillated between being tearful and angry.

Wheatley described his version of the same encounter in the following way. Wheatley said that Lear appeared very casual when Wheatley came up to him in the parking lot. They took a walk. Wheatley said he was furious that Lear did not have the moral compass to admit to the affair. Wheatley said he used some vulgar words, and Lear

finally admitted to the affair. Wheatley asked Lear how he could ruin his life and his family's lives. Lear's response was that he did not mean to ruin anything. Lear told Wheatley to tell him what he needed, and Lear would make it happen. Wheatley told Lear he did not want anything from Lear, except for him to stay away from Galehouse. Wheatley told Lear he did not know what he was going to do about the situation. Wheatley told the Investigator that they kept their distance from one another. Wheatley walked away from Lear, got back in his van, and drove to his workplace at Morgan Center.

Galehouse told the Investigator that Lear texted her on the morning of June 29 to tell her about the encounter. He texted her several times during the day to see if she was alright. Christie said that Lear also stopped by her office on June 29 to tell her about the encounter and to inquire about Galehouse's well-being.

Branco witnessed part of the interaction between Lear and Wheatley on the morning of June 29. Branco told the Investigator that she was parking her car in the side lot about 8 AM when she saw Wheatley pass in front or behind her vehicle. Branco said Wheatley was walking very fast and that he seemed upset. She looked in her rearview mirror and saw Wheatley approach Lear as he was getting out of his car. She could not hear what they were saying, but it appeared that they were having a heated argument. As Branco began unloading her car, she saw Lear and Wheatley walking on the path behind the police department. Wheatley was gesturing and pointing to City Hall. Lear appeared to be listening.

Branco entered City Hall by the side door. She went to IT because she needed to pick up a laptop. When she got to the City Manager's suite, she saw Lear running out of his office. Branco knew something was wrong. She told Yarborough and Miles what she

observed. Later that morning Branco also told Pfundheller what she had seen in the parking lot that morning.

Pfundheller called Wisner to ask if Wheatley was at work and if he seemed to be okay. Wisner told her that Wheatley had just been in her office that morning, and he was definitely not okay. Wisner said that Wheatley came to her office that morning and shut the door. Wheatley was crying and shaking. Wheatley told Wisner he did not think that he had a future at the city. Wheatley's hand was cut and swollen like he had punched something. Wheatley would not tell Wisner what was wrong. Wisner recommended that Wheatley talk to EAP and contact H.R. Wheatley said he was not ready to go to H.R. Wisner asked if he wanted to go home. Wheatley said going home would make things worse. Wisner told Wheatley she would do what she could to support him.

Pfundheller was concerned about Wheatley's wellbeing considering Branco's description of the encounter in the parking lot and Wisner's description of Wheatley's state of mind. Pfundheller called Lear on the afternoon of June 29 to tell him that Wheatley came to work with an injured hand. Pfundheller innocently asked Lear whether they should be worried about Wheatley. Lear responded, "Why? Is he going to hit me?" Pfundheller thought Lear's response was strange but she did not follow up.

Galehouse returned to work on June 30. As described in Section V B of the report, Lear and Galehouse continued to implement plans to reorganize NDS and to move the Planning Division staff to the third floor. Lear did not tell other staff about his June 29 encounter with Wheatley. However, that week Lear began telling some staff including McDade, Yarborough, Branco and Duffey that he was having marital problems and had moved out of the marital home.

During the rest of the week of June 29, Wheatley continued to report to work at the Morgan Center in a very disturbed state. On June 30, Wheatley and Wisner talked about whether Wheatley was up to the task of running the July 4 fireworks event. Wheatley had been the lead on the City's Fourth of July special events for several years and took pride in running the signature event. Wheatley reluctantly agreed to turn the lead position over to another employee. Wheatley knew he was too distraught to run the event, but he wanted to continue to be involved in planning it. Wheatley continued to talk to Wisner. He acknowledged he was having problems at home but did not provide any details.

Wisner told Pfundheller that she had concerns about Wheatley's mental state. Pfundheller reported those concerns to Hope; they discussed whether they should encourage Wheatley to take some time off or even put him on administrative leave.

The Commission had a 1:00 PM meeting on July 2. Wisner told the Investigator that Yarborough approached her in the hall before the meeting. He asked her if she knew what was going on with Wheatley. Wisner was surprised by Yarborough's inquiry. Wisner told him that Wheatley had been coming to work very upset. Yarborough told Wisner that he did not blame Wheatley for being upset because the City manager was having an affair with his fiancée. Wisner was shocked. During the Commission meeting, Wisner told Pfundheller about her conversation with Yarborough. After the Commission meeting, Yarborough talked to Wisner privately in room 224. Yarborough told Wisner that he thought Wheatley should go to H.R. and consult EAP.

Wheatley texted Galehouse when she was in the July 2 Commission meeting to ask her to come home. Galehouse texted Lear to tell him she was leaving early, and did, in fact, go home.

Friday July 3 was a City holiday. Wheatley did not work. Wheatley told the Investigator that he and Galehouse spent time together and had some serious discussions. Wheatley told Galehouse he was going to take some time off after the July 4 event.

The City planned a drive-in firework show for July 4. Citizens parked in designated City parking lots to watch the fireworks. Wheatley reported to work early on July 4 to oversee preparations for the event. When Wheatley entered the Morgan Center around 3:00 PM, he was shocked to see Lear in the lobby talking to Wisner. Wisner described Wheatley's nonverbal reaction to seeing Lear in the lobby. Wisner said Wheatley raised his hands as if to say what are you doing here.

Lear asked Wheatley how he was doing, Wheatley turned away and walked out of the building. In Wheatley's opinion there was no compelling reason for Lear to be at the Morgan Center other than to provoke Wheatley. Wheatley told the Investigator that Lear never comes to the City's July 4 celebrations.

Around 3:30 PM Wheatley returned to Morgan Center and entered the conference room where the ICS was meeting. Wheatley saw Lear standing against the wall in the conference room. Wheatley approached Lear and asked him if he could talk to him in private. Wheatley and Lear left the ICS conference room and went into a small room down the hall that is used for arts and crafts. Video footage shows them walking down the hall to the arts and crafts room at 3:42 PM and leaving the room at 4:17 PM.

Wheatley and Lear gave similar descriptions of what occurred in the room. Wheatley was shaking. He was livid. At some point Lear told Wheatley that he was getting too close. They started circling the table, but they never had physical contact. Wheatley told Lear that he had no business being at the Morgan Center, and that by showing up, Lear was trying to provoke Wheatley to make poor decisions that could affect Wheatley's job. Lear told Wheatley that he came to the Morgan Center because Pfundheller invited him to come. Wheatley told Lear that he knew Lear was still communicating with Galehouse; again, demanded that Lear leave Galehouse alone. Wheatley also addressed the impropriety of Lear's actions. Wheatley told Lear there was nothing stopping him (Wheatley) from reporting Lear's conduct to H.R. or to the Commissioners. Lear told Wheatley not to tell him how to do his job. Wheatley told Lear to leave Morgan Center immediately and not to contact Galehouse again. Video footage shows Wheatley and Lear both leaving Morgan Center at 4:20 PM.

When Wheatley left the Morgan Center, he resumed his duties facilitating the fireworks event. Wheatley took a break when the fireworks started. Wisner saw Wheatley in the north parking lot. She and Wheatley had a private conversation in a golf cart while the fireworks were underway. Wheatley asked Wisner what she knew. Wisner said she heard a rumor that Galehouse was having an affair with the City Manager. Wheatley said that the rumor was true. Wheatley told Wisner about his encounter with Lear on June 29 and about the encounter earlier that evening at Morgan Center. Wheatley told Wisner that he thought Lear had abused his position of power to take advantage of Galehouse. He also expressed concerns that he (Wheatley) was going to lose his job. Wisner encouraged Wheatley to take his concerns to H.R. Wheatley said he wasn't ready to take



that step. He had concerns that if he did, news of the affair would become public. After talking to Wisner, Wheatley phoned Galehouse. He told her about his encounter with Lear and his conversation with Wisner.

Lear told the Investigator he went directly to City Hall after the encounter at the Morgan Center. Badge access records confirm that Lear entered the City Manager's suite at 4:58 PM. Lear told the Investigator that he saw Galehouse's car enter the City Hall parking lot around 8:00 PM. He assumed she was going to the Planning suite. Lear said he did not recall going to the Planning Division Suite any time on the evening of July 4. However, badge access records indicate that Lear entered the Planning rear door at 9:01 PM.

Lear told the Investigator that he left City Hall around 9:00 PM to watch the fireworks with Deputy Police Chief Morales. He said they watched the fireworks from Morales' car, and then Lear went to his office in City Hall to retrieve his laptop. Badge records do not show that Lear used his badge to reenter the City Manager's Suite after 9:00 PM, but they do show that Lear entered the side employee entrance of City Hall at 9:27 PM. Lear said after he picked up his computer, he saw Galehouse's oldest daughter and son in the hallway outside of the Planning division suite. Lear said he acknowledged their presence and then left the building. Lear told the Investigator that he did not see or talk to Galehouse on July 4. He said his only communications with Galehouse on July 4 was an exchange of business emails. Lear told the Investigator that he did not tell anyone about his July 4 encounter with Wheatley until Monday, July 6, 2020.

Galehouse said she brought her three children to City Hall to watch the fireworks. Galehouse said they arrived at City Hall around 8:00 PM and went straight to the Planning



Department where they ate ice cream and played a game. She said she did not see anyone else in the Planning Suite. Badge access records confirm that Galehouse entered the rear door of the Planning Suite at 7:49 PM. Galehouse said she and her children then went to the third floor of City Hall where she used her badge to enter the Parks & Recreation/Economic Development Suite where she and her children watched the fireworks. Galehouse said she did not see anyone on the third floor. Badge access records do not show that Galehouse's badge was used to enter the Parks & Recreation/Economic Development suite. Galehouse said she and her kids went home after the fireworks were over. Badge records indicate that Galehouse entered the rear door of the Planning Division Suite at 9:29 PM.

Galehouse said she saw Lear's car leaving as she and the children were leaving City Hall after the fireworks. At first Galehouse told the Investigator that her only communications with Lear on July 4 was by e-mail about business. Galehouse said she did not talk to Lear about the July 4 confrontation until the following week. However, later in the interview Galehouse said she probably did talk with Lear about the confrontation at Morgan Center because she knew before July 6 that Lear was concerned that Wheatley was going to tell people about the affair. Lear told Galehouse he wanted to get ahead of the news and mitigate damage.

The Investigator does not find Lear's statement that he and Galehouse did not discuss his July 4 interaction with Wheatley until Monday July 6 to be credible. Galehouse and Lear's descriptions of their activities on the evening of July 4 are inconsistent with badge access records. The Investigator believes the more likely scenario is that Lear and Galehouse saw each other face-to-face some time while they were both in City Hall on

the night of July 4, 2020, and that they probably talked about what he would do now that Wheatley had threatened he would contact H.R. or the Commissioners.

On July 4 Wisner told Pfundheller about her conversation with Wheatley. On Sunday, July 5, 2020, Wisner called Hope to tell her she wanted meet with her on Monday to discuss a very sensitive issue.

On July 6 Lear went straight to McDade's office. He told McDade he wanted to make her aware that he had moved out of the marital home. He told her that he and Galehouse had an affair, but that it was over. Lear also told McDade that Wheatley knew about the affair and that there had two encounters. Lear told McDade that he planned to tell Slayton and the Commissioners.

Around the same time that Lear was meeting with McDade, Pfundheller was meeting with Hope. Pfundheller told Hope that Wheatley continued to display erratic behavior at work. Pfundheller told Hope about the confrontation between Lear and Wheatley on July 4, and that she thought they should consider placing Wheatley on leave for his own good and the protection of others.

Later that morning McDade and Hope had a meeting. They discussed whether Wheatley should be encouraged to take leave and the fact that H.R. generally consults the City Manager before placing an employee on paid administrative leave.

There was a Commission workshop scheduled to begin at 9:00 AM on July 6. Lear called Yarborough into his office before the Commission meeting and related that he had not been entirely truthful in their prior conversation when he said that he and Galehouse were just friends. Lear admitted to Yarborough that he and Galehouse had an intimate relationship, but the relationship was over. In their July 6 conversation, Lear also told

Yarborough that Wheatley had discovered their relationship and had confronted Lear - once in the parking lot and again at Morgan Center on July 4. Yarborough advised Lear to get "out in front of this" and tell his bosses, the Commissioners.

The minutes of the July 2 Commission workshop reflect that Lear and Galehouse were both in attendance. Galehouse presented on the topic of the City's plans to acquire Myakkahatchee Creek Tier 1 and 2. The meeting was adjourned at 9:30 AM.

Lear sat with Slayton during the Commission workshop. Slayton had received a text or call from Lear the night before stating he wanted to meet with her, so Slayton suggested that Lear come to her office in the afternoon. He met with her at 1:30 PM. According to Slayton, Lear opened the meeting by telling her that he and his wife had separated. Lear said he did not think it was likely that they would reconcile especially after his wife heard what he did. Slayton asked Lear if he was seeing someone else. Lear said that he had seen another woman, and that the woman and her fiancée both worked for the City. Slayton told the Investigator that Lear wanted her to guess the identity of the employees. Lear went on to tell Slayton that he was sharing this information with her because Wheatley confronted Lear on July 4 and threatened to tell the Commission. Lear said he did not think he had violated any City rules. Lear said he already discussed the matter with his sister who is an attorney. His sister had reviewed his employment agreement and thought he was okay. Slayton did not give Lear any direction or offer any advice.

Lear also told Duffey, Heid, Josh Taylor and the Police Chief about the situation in private meetings on July 6. Lear told the Investigator that he also wanted to address the matter with each of the Commissioners on July 6 so he could get ahead of the

situation. He decided to call the Commissioners in alphabetical order. Lear was able to reach Commissioners Carusone, Emrich, and Hanks on July 6. Lear said he told each of the Commissioners the same story. He disclosed that he had engaged in a consensual sexual relationship with a City employee who was also in a relationship with another City employee. Lear did not identify the employees by name. Lear told the three Commissioners that he did not think he had violated his employment agreement or any City policy. Lear told the Investigator that he thought the three Commissioners agreed with him that it was a personal matter, not a City issue.

On the afternoon of July 6 Lear also went to Pfundheller's office to tell her about his relationship with Galehouse. Lear apologized to Pfundheller for any negative effect the affair might have on her department. Lear told Pfundheller about his encounter with Wheatley on July 4 and said he should have done a better job of avoiding Wheatley at the Freedom Fest. He also told Pfundheller that after leaving the Morgan Center, he ran into Deputy Chief Morales and Galehouse at City Hall. Lear told Pfundheller several times that he did not think he violated any policy. He said that he already told three Commissioners about what happened and that they still supported him. Pfundheller told the Investigator that it seemed to her that Lear was trying to brush the situation off as if it was no big deal.

After meeting with Pfundheller, Lear went to the Morgan Center to talk to Wisner. Lear asked Wisner to go for a walk, and while doing so, he told her about the affair. He said he and Galehouse ended the affair before Wheatley found out about it. Lear told Wisner that he thought Galehouse and Wheatley needed to figure out what they wanted to do with their marriage. During the conversation Lear asked Wisner whether there were

cameras on the first floor of Morgan Center. Lear told her not to look at any footage of Wheatley chasing him around the table and coming at him. Lear alluded to the fact that Wheatley had been suffering from anger issues for a long time. According to Wisner, Lear said that he wanted the City to help Wheatley get through his problems. Lear suggested that the City should consider giving Wheatley some paid time off. Lear told Wisner he had already talked to three Commissioners, and that they all thought everything was going to be okay; they just needed to take care of Wheatley. Lear said they needed to fix Wheatley's hurt feelings so he would no longer spread false information about the affair. Wisner said her conversation with Lear lasted about fifteen minutes.

Wisner said Wheatley called her after she met with Lear. Apparently, someone at the Morgan Center gave Wheatley a heads-up that Lear was meeting with Wisner. Wisner told Wheatley that that Lear told her and others, including Pfundheller, H.R. and the Commissioners about the situation. Wheatley was furious that Lear was telling everyone. Wheatley told the Investigator that he felt like Lear was trying to cover his butt by painting a picture that he confessed so Commission would be lenient on him. In turn, Lear said he did not want to hurt Galehouse or her family. He felt like Lear was forcing his hand to go to H.R. to make a complaint.

Lear had a regularly scheduled meeting with Slayton at 4:00 PM. During the meeting Lear told Slayton that he had already discussed the situation with three Commissioners. Later that day Slayton and McDade met. They discussed how the situation was likely going to trigger the Human Resources Investigation Policy for Charter positions.

Wheatley called McDade on her cell phone while she was driving home on July 6. Wheatley was yelling and screaming. He wanted to know what H.R. was going to do about the situation. McDade tried to defuse the situation. She told Wheatley that H.R. took his concerns seriously. Wheatley finally agreed that he would call McDade in the morning to schedule an appointment to make a formal complaint. McDade told the Investigator that Wheatley's phone call raised workplace safety concerns. McDade called Slayton, Pfundheller and Lear to advise them of her concerns for everyone's physical safety.

Wheatley told the Investigator that he was so upset on the night of July 6 that he called Wisner to ask whether he could come to her house to talk to her. Wheatley felt he had no other place to turn. Wisner was concerned about blurring boundaries, but she invited Wheatley to come over. Wisner said she and her husband sat on their front porch while Wheatley paced. He was very upset. Wheatly said Lear had shown no respect for his relationship with Galehouse, and he was afraid he was going to lose his family and his job.

Wheatley received a call from Galehouse while Wheatley was at Wisner's house. Galehouse told him that their youngest daughter had fallen and fractured her arm. Galehouse said the break was bad and that she was going to be transported by ambulance to All Children's Hospital in St. Petersburg. After the call, Wheatley left Wisner's house to drive to St. Petersburg. Galehouse rode in the ambulance with her two-year-old daughter. Galehouse told the Investigator that on the way to the hospital she called Lear because she was upset with the way Wheatley reacted to her phone call. Galehouse said she just needed somebody to talk to. On July 6 at 9:41 PM Galehouse sent an e-mail to Miles on which she copied Lear. The e-mail stated that she was at the

hospital with her daughter. She said she would not be coming to work the next day and might be out the whole next week.

The hospital did not keep the two-year-old overnight. Wheatley drove the three of them home. During the drive, Wheatley told Galehouse that he was going to H.R. on July 7 to file a complaint. He also told her that after he talked to H.R., he was going to take the oldest daughter and their son with him to Gainesville to visit his family.

#### **D. Complaint**

Wheatley showed up in the H.R. office unannounced around 11:00 AM on July 7. McDade and Hope met with him in the H.R. conference room. Wheatley apologized to McDade for his behavior on the phone the night before. Wheatley wanted to know what he could do. McDade explained that if he wanted, McDade would take his complaint, then an investigation would follow. Wheatley said there would be no need for an investigation if Lear simply resigned. McDade told Wheatley it did not work that way. She told Wheatley that he needed to let the investigation process play out. She assured him that the City would use an independent investigator to ensure that the process was fair.

Wheatley verbally described his complaint to McDade and Hope. Wheatley told them Lear's conduct, and he laid out his allegations against him. Wheatley said Lear violated his employment agreement. Wheatley also alleged that Lear engaged in conduct involving moral turpitude and caused the City to be held in disrepute. Wheatley claimed Lear violated the ICMA Code of Conduct and its guidelines, citing to specific language that addresses personal relationships in the workplace. Wheatley claimed that



Lear engaged in unethical conduct. Lear violated City policies. Lear had abused his power and misused City property.

In the meeting Wheatley also told McDade and Hope about his encounter with Lear on July 4. Wheatley thought Lear came to the Morgan Center to purposely agitate Wheatley. Wheatley wanted to know if the City had video of the July 4 events.

McDade and Hope had concerns that Wheatley could become hostile in the workplace. McDade suggested Wheatley consider taking time off work to evaluate the situation and get EAP counseling.

The meeting in the H.R. conference room lasted 30 to 45 minutes. Before Wheatley left, McDade again reviewed the next steps. She said she would report Wheatley's complaint to the City Attorney. McDade assured Wheatley that he was participating in a process that was lawful and that it would be a violation of City policy for anyone to retaliate against him. Wheatley left the building quietly.

After the meeting, McDade informed Lear that Wheatley left the building after making a complaint. The Police Chief who was stationed in McDade's office as security came to Lear's office to make sure he was okay. The Police Chief told Lear he heard McDade and Wheatley in the conference room but that neither one raised their voices.

Wheatley went home after his meeting in H.R. He told Galehouse that he complained to H.R. Wheatley told Galehouse that he was disappointed that the City was going to conduct an investigation. He thought that Lear should just resign. Galehouse said Wheatley was naïve and that was why she tried to discourage him from making a complaint with H.R. in the first place. Wheatley took the oldest daughter and their son and left for Gainesville.

Later that day McDade and Hope called Wheatley. They told him he was being given one week paid administrative leave. McDade hoped Wheatley would consider the leave as an opportunity to take care of himself and to pursue counseling. Wheatley said he was going to visit his family in Gainesville.

#### **E. Decision to investigate**

After Wheatley left H.R. on July 7, McDade met with Slayton. They discussed Wheatley's complaint. McDade and Slayton decided the complaint would need to be investigated pursuant to the Human Resources Investigation Policy for Charter Officers. They also decided to authorize an outside investigation of the complaint by independent counsel. Slayton contacted the Investigator at Sproat Workplace Investigations to ask whether she would be able to conduct the investigation.

#### **F. Notification of investigation**

On July 7 Slayton and McDade met with Lear in his office. They told Lear about the complaint and their decision to have it investigated by independent, outside counsel. They outlined the allegations in Wheatley's complaint. Lear told them he did not think he had done anything wrong. Lear said he had reviewed his employment agreement and confirmed that he was not bound by the ICMA Code of Conduct because he had not completed the credentialing process.

Slayton told Lear that the City Attorney's Office, not H.R., would assume the lead in directing the investigation. She told him that all questions about the investigation should come through her office. Slayton told the Investigator that she informed Lear that he

should not communicate with anyone concerning the facts underling the investigation, including employees and Commissioners. Lear told the Investigator that he did not recall Slayton telling him to not to communicate with H.R.

Slayton told Lear not to destroy any records. She asked Lear to authorize two of his direct reports, Assistant Manager Branco and City Clerk Heather Taylor to cooperate with the City Attorney's Office by gathering documents for the investigation. Slayton said she did not have the authority as City Attorney to give directions to the City Manager's direct reports. Lear said he understood her admonitions and agreed to cooperate. Slayton also told Lear that they would do their best to keep the investigation confidential, but that the City needed to be prepared to provide a statement to the media if necessary.

At the end of the July 7 meeting Slayton asked Lear if he was going to take voluntary administrative leave during the investigation. According to Slayton, Lear told her that he did not think that a leave of absence was necessary. Slayton asked Lear if he would at least consider distancing himself from Planning division during the investigation. Lear he would consider her request but stated that Planning reported directly to him on certain items. Lear told the Investigator he did not recall any conversations with Slayton about a voluntary leave of absence.

Slayton said Joshua Taylor came to her office after Lear left. Taylor said Lear asked him to give Slayton whatever she requested. Slayton asked Taylor to start drafting a statement for the media. Taylor asked Slayton whether the media release could include a statement that this was a private matter between two consenting adults. Slayton said that the consenting adult language would not be appropriate because the investigation was underway. Slayton reminded Taylor that both she and Taylor represented the City,

not the individual, so the statement should not be issued from the perspective of the person under investigation. Lear acknowledged telling Taylor that he (Lear) wanted the official statement to include a comment that their relationship was consensual.

#### **G. Slayton notifies Commissioners of the complaint and the investigation**

The Human Resources Investigation Policy for Charter Positions calls for the City Attorney to notify the Commission of a pending investigation and its cause. Slayton fulfilled that requirement. She called all the Commissioners between July 8 and July 10. Slayton said she told each Commissioner the same thing. Slayton told Commissioners that an employee made a complaint against the City Manager stemming from his sexual relationship with the complaining party's partner who was also a City employee. Slayton did not reveal the names of the two employees, but she did describe the nature of the complaint. Slayton told Commissioners that she was providing the information to them pursuant to the policy so they could determine what action, if any, they would take as the supervisors of the City Manager. Slayton also told Commissioners that an outside attorney been contacted to lead the investigation. She explained that the outside investigator would review documents, interview witnesses, and then submit a report. Slayton told the Commissioners that she did not know when the report would be completed.

#### **H. Post notification discussion of complaint**

Lear continued to discuss matters related to the complaint with other people after the July 7 meeting with Slayton.

Lear had communications with Galehouse about personal matters after he was officially notified that he was under investigation. Galehouse told the Investigator that she and Lear spoke while Wheatley was in Gainesville. Galehouse said she felt comfortable communicating with Lear because Wheatley said it was okay for her to talk to Lear to get closure on the relationship. Galehouse told the Investigator that she still had a strong emotional connection to Lear even though their sexual relationship had ended. Galehouse said that a future relationship with Lear was not 100% off the table if things did not work out with Wheatley. Galehouse said that most of her communications with Lear during the period July 7 to July 10 were by text. However, Galehouse and Lear both acknowledged that they met in a gas station parking lot on July 10. They sat in the car and discussed the e-mail and its possible source. (See Section V I).

Branco told the Investigator that Lear contacted her after he was notified of the investigation. Lear addressed each of the allegations in Wheatley's complaint and told Branco he was confident that he had not violated his employment agreement, any City policy or any applicable code of ethics. Lear told Branco that the outside investigation was a waste of money. Lear did not think that an internal investigation would create a conflict of interest. Lear told Branco that Wheatley made what should have been a private matter public by bringing the complaint. Branco told the Investigator that the conversation with Lear made her very uncomfortable. Branco felt like she was being gaslighted.

McDade said Lear came to her office on July 7 or 8 after he had been notified of the investigation. McDade got the impression that Lear was continuing to communicate with Galehouse because he was aware that Wheatley was in Gainesville and was planning to come home that weekend. McDade said Lear talked to her about each of

Wheatley's allegations. He said he had talked to an attorney who said she did not think Lear violated any City policies or breached his employment agreement. McDade told the Investigator that she felt uncomfortable about the conversation because Lear had been specifically instructed to talk to the City Attorney, not H.R. McDade felt like Lear was trying to get a sense of what McDade thought about the situation and the investigation. Lear acknowledged to the Investigator that he talked to McDade after he was notified about the investigation, but he did not think his communications were improper.

The City Clerk Heather Taylor said Lear talked to her after he was notified about the investigation in the context of a conversation about a public records request. Lear told her that he would probably be the next focus of a public records request. Taylor jokingly asked him what he had done wrong. Lear told Taylor that he and another grown adult had a little fun after Lear separated from his wife. Lear said he talked to Taylor in the presence of the IT manager when Lear was asking him to assist City Attorney in retrieving texts and e-mails for the investigation. At the time Lear did not know that the City Clerk was charged with maintaining phone and e-mail records.

#### **I. Anonymous email to Commissioners.**

An anonymous e-mail was sent to the Commissioners on July 10 at 2:11 PM. The subject line was "Bad Leadership". The e-mail stated in somewhat inflammatory terms that during the pandemic, Lear had a sexual relationship with a subordinate City employee who was in a longstanding and ongoing relationship with another City employee. The e-mail identified Galehouse by name and position. Duffey called Lear at home after she read the e-mail. Duffey forwarded the email to Lear at 2:19 PM. Lear

forwarded the e-mail to Galehouse at 2:35 PM. Lear told the Investigator that he thought Galehouse had a right to see the e-mail because it mentioned her by name.

Lear asked someone in the Police Department to see if they could find out who sent the e-mail. Captain Michael Baute said the Police Chief asked him to go to the City Manager's Suite on July 10 to look at the e-mail on Duffey's computer. Baute has extensive background in computer forensics; he examined the e-mail and the computer settings. He concluded that the sender used a VPN service known as guerilla mail to block the sender's identity. Baute called Lear to inform him of his findings. Lear also called IT Director Merchant to see if he could determine whether the e-mail came from an address at City Hall. Lear said he discussed the e-mail with several Commissioners. He told them he thought he knew who sent the e-mail, but he could not prove it.

Slayton and Lear had a phone conference at 4:00 PM. Lear wanted to talk about the e-mail. He asked Slayton if she would instruct the City Clerk not to release the e-mail. Slayton told Lear his request was improper. She asked him if he had used any City resources to try to determine who sent the e-mail. Lear assured Slayton that he had not used City resources. Slayton said her office would research whether the e-mail was covered by a statutory exemption to the public records law. During the conversation, Slayton admonished Lear for discussing the complaint and the investigation with his direct reports. Slayton told Lear she would be sending him a letter reminding him of his responsibilities during the investigation. Slayton authored a letter and e-mailed it to Lear.

Slayton's July 10 letter told Lear not to discuss the matters of the investigation with any person except the investigator. Slayton's letter also referred to the City policy prohibiting retaliation against employees who participate in investigations. The letter



stated that City policy defined retaliation to include any interference, coercion, restraint, or reprisal against an employee in response to a complaint or in response to the investigation participation.

As noted above, Lear and Galehouse met at a gas station on the evening of July 10 where they sat in a car and discussed the anonymous e-mail. Lear told Galehouse that he thought the e-mail to the Commissioners was sent from a Gainesville address. He suspected that Wheatley or someone in his family sent the e-mail to Commissioners.

Galehouse told Wheatley about the anonymous e-mail and Lear's suspicion that the e-mail originated from a Gainesville address. Wheatley said he did not send the e-mail, and that the e-mail went against everything he wanted to happen. Wheatley told Galehouse that he interrogated his family, and they denied having anything to do with the email. Wheatley told the Investigator that he thinks Lear told Galehouse that he suspected the e-mail came from a Gainesville address because he was trying to drive Galehouse and Wheatley even further apart.

#### **J. Commissioner update**

Slayton received a phone call from Yarborough in the afternoon on Sunday, July 12. Yarborough told Slayton that he had grave concerns about the integrity of the investigation and potential intimidation of witnesses, whether intentional or not. Yarborough said that Lear told him the specific allegations of the complaint and how he intended to defend against them. Yarborough heard Lear had similar discussions with other directors. Yarborough heard Lear discussed the complaint with three Commissioners who agreed with Lear. Yarborough said staff was worried about giving

interviews and possible retaliation. They were concerned Lear could affect their careers if he retained his position as City Manager.

Slayton decided she would reach out individually to each Commissioners to update them on events that occurred since she first told them about the investigation. Slayton was able to talk to each Commissioners on July 13. Slayton said she did not discuss the underlying facts of the investigation. She simply informed them that she received reports that Lear was not distancing himself from the reporting structure during the investigation. Slayton wanted to convey the information to the Commissioners in advance of their July 14 meeting.

On July 13 Lear sent an e-mail to Commissioners informing them he had removed all divisions/departments from reporting to him directly in an effort to make all of his staff more comfortable during the next few weeks while the investigation was ongoing. He stated that as a temporary measure, Police and Communications would report to Yarborough and Fire would report to Branco.

#### **K. Lear placed on Administrative Leave**

A review of Lear's City Manager's annual performance evaluation was on the July 14 Commission agenda. When the agenda item was reached, Lear announced that he would not accept a pay increase. Lear asked for Commission approval to take a one-week vacation to settle a personal matter. He said he would then return to oversee the July 21 – 22 budget workshops pending the outcome of an investigation. The Commission decide to table the review of the City Manager's performance. Commissioner Hanks made a motion to place Lear on paid administrative leave during the pendency of the

investigation. The motion carried by a three to two vote. The Commission voted to appoint Yarborough as the Acting City Manager. Lear surrendered his City Hall access badge and City issued cell phone. His work e-mail was deactivated.

On July 15 Slayton wrote a letter to Lear confirming the Commission's decision to place him on paid administrative leave effective July 14. The letter said Lear was not authorized to conduct or participate in any City business while on leave. The letter reiterated Slayton's previous directives concerning confidentiality and retaliation during the course of the investigation.

#### **L. Galehouse and Wheatley placed on administrative leave**

On July 15, the City placed Galehouse and Wheatley on paid administrative leave pending the conclusion of the investigation. Hope sent them e-mails explaining that the leave would allow the city to review all the allegations and conduct a fair factfinding investigation. The email reminded them of the City's non retaliation policy. It instructed them not to talk to anyone about the investigation during the leave in order to maintain the integrity of the investigation. Galehouse and Wheatley surrendered their keys and badges as instructed.

#### **M. Lear's post leave communications and interactions**

Lear has conducted or participated in some City business after being placed on leave. Lear was scheduled to have a breakfast meeting with Michele Norton July 15. He met her for breakfast even though he had been placed on leave the night before. During the breakfast meeting Norton gave Lear a piece of paper on which she had written some of the terms and conditions under which she would consider taking the position as director

of the new department. Lear gave a copy of the Norton's notes to the Investigator as proof that he intended to hire Norton, not Galehouse, as director of the new department. Galehouse said she also met with Norton in August. Norton told Galehouse that she would be willing to share her texts with the Investigator.

Some staff told the Human Resources Department and the City Attorney's Office that Lear had communicated with them, or that they had seen Lear on City property after was placed on leave on July 14.

Lear sent a text to Duffey on July 15 asking her if she thought it would make people uncomfortable if he came to Trivia night.<sup>14</sup> Lear also texted Duffey on July 16 to ask her if she could send information on a non-work related matter to his personal calendar. Duffey told Lear that she did not think she was supposed to communicate with him while he was on leave.

Employees saw Lear jogging or walking around City Hall in his workout clothes<sup>15</sup> on numerous occasions. Lear was jogging around City Hall on July 22 around the time of a Commission meeting. Video footage shows Lear parking his car in the side parking lot of City Hall at 4:41 PM. Two employees reportedly saw Lear talking to Commissioner Hanks by the road leading to City Hall right before Commissioner Hanks entered the building for the 5:00 PM meeting. Video footage shows Lear jogging on the sidewalk beside City Hall around 5:00 PM as employees were leaving the building. Bellia said Lear approached her in the side parking lot of City Hall as she was leaving the July 22 Commission meeting. According to Bellia, Lear said he watched the budget meetings that morning. Lear also commented on Bellia being the last one out of the Commission

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<sup>14</sup> Duffey is on a trivia team with Duffey and Heid. They meet weekly.

<sup>15</sup> Lear was observed wearing a Superman shirt on the days he was seen jogging.

meeting “as always.” Lear also made a comment to Bellia that he felt bad for Galehouse stating she doesn’t deserve what is happening. Bellia was uncomfortable talking to Lear. Bellia told Lear she needed to get home. Bellia got in her car and left the parking lot. Video footage shows that their conversation occurred around 6:30 PM. The video shows Lear’s car leaving the parking lot within minutes of Bellia leaving.

Employees also reported seeing Lear having lunch with Commissioner Emrich on July 28 and talking with Commissioner Hanks on City property during a break in the July 28 Commission meeting.

On August 3 at 8:30 AM Lear came into the fitness facility in Morgan Center with his youngest daughter to work out. Lear’s daughter swiped her membership badge to enter. Lear also swiped his badge, but it registered inactive. Records show that Lear’s membership at the Morgan Center expired in September 2018. Morgan Center staff apparently reported that they felt uncomfortable that Lear was in the fitness center, so no one confronted him about the expired badge. Lear acknowledged that he worked out at Morgan Center. Lear claims his membership is current.

There is also video showing Lear talking to Christie and Willette-Grondin in the side parking lot as they left City Hall around 5:00 PM on August 7

In his interview Lear acknowledged that he has been running and exercising on City property while on leave. He said he sometimes talks to employees, but he never talks to them about the investigation or the underlying facts of the investigation. Lear admits that he walked and jogged around City Hall for more than two hours on the evening of July 22. He said it was purely coincidental that he was there around the time of the Commission meeting, that he ran into Commissioner Hanks before the meeting, that he

ran into Commissioner Emrich during a break, and that he saw Bellia as she was leaving the meeting. Lear also said he has communicated with some Police Department employees while on leave, but they did not discuss anything pertinent to the investigation.

In his interview, Lear also acknowledged that he has had lunch with Commissioners Carusone, Emrich and Hanks during his leave. Lear said they asked him if he knew when the investigation report was going to be finished, but they did not discuss the investigation. Lear also ran into Mayor McDowell when he was voting. Lear does not think his personal communications with Commissioners should lead anyone to question the integrity of the investigation.

Lear also acknowledged that he has had communications with Galehouse while on leave. They have texted one another. They had lunch together in August. He explained they are two friends who got together to see if the other was okay. Lear said they did not discuss the investigation or their relationship.

Lear told the Investigator he did not understand why his innocent communications with employees and his presence on City property during leave would make anyone feel uncomfortable or intimidated.

Because of the September 4 report deadline, the Investigator did not have time to question all of the individuals who reportedly saw Lear or interacted with Lear after July 14. The investigator is, therefore, unable to make specific findings about the substance and nature of Lear's communications and interactions with City employees and with specific Commissioners other than to note that the post leave communications and interactions have occurred.

## **VI. Conclusions**

### **A. There is sufficient evidence to conclude Lear violated the ICMA Code of Ethics.**

Lear takes the position that the ICMA Code of Ethics does not apply to his employment as City Manager. Lear argues his employment agreement does not specifically state that he is required to follow the ICMA Code of Ethics. He points out that Section 12 is the only place in the employment agreement that references the ICMA. Section 12 of the employment agreement addresses the City Manager's professional development. Section 12 states the City shall pay Lear's reasonable and necessary dues for membership in associations essential for Lear's continued professional development as a City Manager, including the ICMA.

Section 12 also states that Lear agrees to obtain ICMA Credentialed Manager (ICMA-CM) certification by July 2012. Lear argues because he is not yet contractually obligated to obtain, and has not yet obtained his ICMA Credentialed Membership Certification, that he is not required to follow the Code of Ethics.

The Investigator finds that the ICMA Code of Ethics is applicable to Lear's employment as City Manager. The ICMA Code of Ethics expressly states that the code and its guidelines govern the conduct of "every member of ICMA". It does not state that the Code applies only to credentialed members or that it only applies if expressly stated in a member's employment agreement. When Lear became a member of the ICMA he took an oath to uphold the Code of Conduct.



The greater weight of the evidence demonstrated that Lear violated Tenet 3 of the ICMA Code of Ethics (rev June 2020). Tenet 3 requires members to "[d]emonstrate by word and action the highest standards of ethical conduct and integrity in all professional and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public." There are two relevant guidelines under Tenet 3 which state:

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization.

Conduct Unbecoming. Members should treat people fairly, with dignity and respect and should not engage in, or condone bullying behavior, harassment, sexual harassment or discrimination on the basis of race, religion, national origin, age, disability, gender identity, or sexual orientation.

It is undisputed that had Lear had a personal, romantic and sexual relationship with Galehouse while he was City Manager and she was under his chain of command.

The greater weight of the evidence also demonstrated that Lear violated Tenet 12 which provides that "[p]ublic office is a public trust. A member shall not leverage his or her position for personal gain or benefit." The following guideline under Tenet 12 is relevant to the investigation.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization.

Lear's personal and romantic relationship with Galehouse began sometime in 2020 and certainly no later than May. That relationship created the appearance of a conflict of interest and an actual conflict of interest. Lear did not disclose that relationship to the City until July 6, after Wheatley threatened to contact the Commissioners and file a complaint with H.R.

**B. There is sufficient evidence to conclude Lear engaged in misconduct as defined in FS 443.036(9)**

Section 7 of the Employment Agreement addresses when the City Manager can be removed for "good cause". One of the stated grounds for "good cause" is the City Manager's misconduct as defined in FS 443.036(29). The referenced statutory section addresses misconduct "irrespective of whether the conduct occurs at the workplace or during working hours" and includes "conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee".

The Investigator finds that Lear deliberately chose to enter into a personal and romantic relationship with a subordinate that was clearly not in the best interests of the City. (See Section V.A.) While that relationship was ongoing, Lear made significant and far reaching management decisions that resulted in preferential treatment of Galehouse (See Section V.B.). After Lear was informed of the allegations of the complaint and the City's decision to investigate the complaint under the Human Resources Policy for Charter Positions, Lear deliberately disregarded the City Attorney's instruction not to engage in communications about the complaint or the facts underlying the investigation

with anyone, including employees and Commissioners (See Sections V.F., V.H, V.I. and V.M.) . When Lear discussed the complaint with employees and Commissioners, he threatened the integrity of the investigation and led some staff to fear that they could be subject to retaliation.

By virtue of his position as City Manager, Lear has greater obligations and responsibilities and is held to a higher standard of behavior than other City employees. The Investigator finds that Lear's actions violated the reasonable standards of behavior, which the City expects of its City Manager.

**C. There is sufficient evidence to conclude that Lear violated City policies.**

Section 7(b)(i) of the Employment Agreement also includes in its definition of "good cause" any violation of the City's Personnel Policy or any City policy, rule or regulation, which would subject any City employee or public officer to termination or removal from office.

Lear takes the position that he did not violate City policies because his conduct is not prohibited by City Policy 3.7. The Investigator agrees that Policy 3.7 does not apply to the conduct under investigation because Galehouse does not meet the policy definition of "relative." However, Lear is subject to the following personnel policies which the Investigator concludes were violated:

**1. City Policy 2.2 Ethics**

Policy 2.12 states that the City is committed to conducting its business fairly, impartially, in an ethical and proper manner, in compliance with all laws and regulations, and with integrity underlying all relationships, including those with employees. The Policy

further states that the highest standards of ethical business conduct are required of City employees in performance of their responsibilities and that violation of Policy 2.2 can be sufficient grounds to terminate an employee or remove him from office.

The Investigator finds that Lear did not act with impartiality or show integrity in his relationships with employees. (See Section V.A., V.B., V.C., V.H., V.I, and V.M.)

## **2. Policy 2.11 D. Non-Discrimination and Harassment Free Workplace**

Policy 2.11.D. prohibits discrimination against employees. The policy definition of discrimination includes unequal treatment of employees with respect to hiring, promotion, compensation, discipline, termination, and all other terms and conditions of employment based on the employee's sex. A finding that an employee engaged in sexual harassment can be grounds for termination or removal from office.

Policy 2.11.D also prohibits retaliation against any employee who submits discrimination or harassment concerns in good faith, or who participates in good faith in the investigation of complaint of harassment or discrimination. Retaliation is defined as any interference, coercion, restraint or reprisal against an employee in response to the employee's complaint, or in response to the employee's investigation participation. Slayton reminded Lear of the anti-retaliation policy several times during the course of the investigation including in writing in her July 10 letter. Policy 2.11.D states retaliation will result in discipline of the retaliator, up to and including termination.

The Investigator finds that Lear engaged in prohibited acts of retaliation when he engaged in conduct that threatened to interfere with the investigation process. (See Section V.C., V.H, V.I and Section V.M).

**D. The Investigator is unable to determine whether Lear committed an act which involves moral turpitude, or which causes the City disrepute.**

Section 7(b)(iii) of the Employment Agreement includes in its definition of “good cause” “any commission of any act which involves moral turpitude, or which causes the City disrepute”. The Employment Agreement does not define “moral turpitude”. However, moral turpitude is often used to describe a quality of dishonesty or other immorality that is determined by a Court to be present in the commission of a criminal offense or an act or behavior that gravely violates the sentiment or accepted standard of the community. The Investigator is not a Court, nor is the Investigator in a position to know whether Lear’s actions violate, let alone, gravely violate the sentiment or accepted standard of the community.

The Employment Agreement does not define “disrepute”. Generally, disrepute refers to damage to reputation. The Investigator does not know whether the City’s reputation has or will be damaged by Lear’s actions.

This Investigation Report was respectfully submitted by the undersigned on this 3<sup>rd</sup> day of September 2020.

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