



CONFIDENTIAL PERSONNEL COMMUNICATION

October 25, 2013

Dear Councilman Vargas,

This letter is to confirm our conversation on October 15, 2013 regarding the outcome of [REDACTED] complaint that you subjected her to sexual harassment.

As we discussed, the outside investigator confirmed the factual allegation that you touched/rubbed the shoulder and arm of [REDACTED] and that you made personal inquiries about the age, relationship status and ethnicity of [REDACTED]. However, the City has determined that this behavior does not rise to the level of sexual harassment or a violation of the City's sexual harassment policy. Notwithstanding this determination, you have been counseled to stop this behavior and to take extra precaution in your interactions with City staff to ensure they cannot misinterpret your behavior. You are also reminded that you are not to engage in any behavior which can be perceived as or is retaliatory towards [REDACTED]. The City now considers this matter to be closed.

If you have any additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Goodson", with a large circular flourish above the name.

Michael Goodson
City Manager

INVESTIGATIVE SUMMARY

I. Brief Synopsis of the Complaints

City of Hawthorne [REDACTED] complained to Human Resources about interaction and physical touching that she encountered in working with two elected officials.

II. Summary of the Investigator's Findings

Allegation 1. That Mr. Juarez "highfived" the hands of [REDACTED] and slapped her face [REDACTED]

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct did occur. At the reopening of the Ralph's store, on May 10, 2013, [REDACTED] Mr. Juarez about the event. [REDACTED] Mr. Juarez "high fived"¹ [REDACTED] hand in such as way as to cause her discomfort. Mr. Juarez also tapped/slapped [REDACTED] check during this horseplay.

Allegation 2. That Mr. Vargas touched the shoulder and arm of [REDACTED] regarding a City matter.

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct did occur. At the reopening of the Ralph's store, on May 13, 2013, Mr. Vargas laughed and joked around with [REDACTED]. In laughing and joking, [REDACTED] touched the shoulder and arm of [REDACTED].

Allegation 3. That Mr. Vargas made personal inquiries about the age, relationship status and ethnicity of City employee [REDACTED].

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct did occur. At a community event that predated the Ralph's reopening by a few months, Mr. Vargas asked [REDACTED] personal information about [REDACTED]

¹ The "high five" is a celebratory hand gesture that occurs when two people simultaneously raise one hand, about head-high, and push, slide, or slap the flat of their palm against the flat palm of the other person. The gesture is often preceded verbally by a phrase like "Give me five" or "High five."
http://en.wikipedia.org/wiki/High_five

██████████, including questions about her marital status and her ethnic background.

III. The City's Response to the Complaints

Upon receipt of ██████████ complaints, the City of Hawthorne ("City") engaged Donna R. Evans to conduct a neutral fact-finding investigation. Ms. Evans ("Investigator") was given access to all requested documents and witnesses. Ms. Evans' contact for the investigation was ██████████. ██████████ staff coordinated witness interviews and provided the Investigator with requested documents.

IV. Methodology

The Investigator interviewed the following individuals: ██████████ Daniel Juarez, ██████████ and Alex Vargas. These interviews took place between May 30, 2013 and August 1, 2013. Conclusions and factual findings based upon the witness interviews are integrated into the body of this report under **XI. Factual Findings and Conclusions** and **XII. Analysis of Allegations**.

The Investigator obtained, created and considered the documents identified in Section **V. Documents Reviewed**, set forth below.

The findings of this Investigative Report do not reach questions of law as to whether the alleged misconduct supports a violation of applicable laws, but instead addresses whether certain specified conduct occurred. The evidentiary standard used by the Investigator in reaching conclusions and findings in this report is that of a preponderance of the evidence, that is, it is more likely than not that the conduct occurred.

V. Documents Reviewed

Exhibit Number	Brief Description of the Document	Date
Exhibit 1	City of Hawthorne Harassment, Discrimination & Retaliation Policy; Workplace violence Policy	11.20.2008
Exhibit 2	Summary of Interview of ██████████	Investigator created
Exhibit 3	Transcript of Interview with ██████████	5.30.2013
Exhibit 4	Summary of Interview of Daniel Juarez	Investigator created
Exhibit 5	Transcript of Interview with Daniel Juarez	7.18.2013

Exhibit 6	Summary of Interview of [REDACTED]	Investigator created
Exhibit 7	Transcript of Interview with [REDACTED]	5.28.2013
Exhibit 8	Summary of Interview of [REDACTED]	Investigator created
Exhibit 9	Transcript of Interview with [REDACTED]	5.29.2013
Exhibit 10	Summary of Interview of Alex Vargas	Investigator created
Exhibit 11	Transcript of Interview with Alex Vargas	8.01.2013

VI. Table of Witnesses

Witness	Job Title	Brief Statement of Witnesses' Relevance
[REDACTED]	[REDACTED]	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] stated that Councilman Alex Vargas and Mayor Daniel Juarez are more free-style and casual about [REDACTED] than other elected officials. At the Ralph's reopening, they were particularly casual and free-style.</p> <p>At the Ralph's reopening, [REDACTED] stated that Mr. Vargas struggled to find the words to describe what he wanted to say. Mr. Vargas was flustered and [REDACTED] because he was not satisfied with the words he used or the responses he gave [REDACTED].</p> <p>[REDACTED] Mr. Vargas was overcome with laughter [REDACTED].</p> <p>Mr. Vargas's laughter was such that he put his hand on [REDACTED] shoulder. Mr. Vargas then put his head to the back of his hand and sort of leaned on [REDACTED] as Mr. Vargas laughed about</p>

the many mistakes he made [REDACTED].

[REDACTED] was not particularly comfortable about Mr. Vargas's actions but did not feel that he could back away or say anything. He said that the City Council Members are not his friends and that he might allow a friend to touch him in this way, but not a City Council Member. He said the City Council Members are on a higher level and should maintain distance in their behavior.

At this same event, [REDACTED] Mayor Juarez.

Mr. Juarez [REDACTED]

back from Mr. Juarez, he playfully talked back and forth to [REDACTED] about "high fives." [REDACTED] stated that Mr. Juarez was saying things like, "high five" or "low five." At some point, while making a rhyme, Mr. Juarez's right hand lightly slapped [REDACTED] left cheek.

[REDACTED] reaction to this event was one of, "Oh, wow." He wondered why Mayor Juarez touched/slapped [REDACTED] on the face. [REDACTED] stated that the Mayor clearly was playing around and was oblivious to the fact that [REDACTED] appeared offended and troubled by what happened.

[REDACTED] said that [REDACTED] reaction was to physically step back from Mr. Juarez. [REDACTED] stated that her reaction suggested, "Did that really happen?"

[REDACTED] mentioned that several months before the Ralph's incident, he was at another City event with Mr. Vargas. Mr. Vargas asked [REDACTED] about [REDACTED] name, how long she had worked for the City and what she was doing. [REDACTED] indicated he was okay answering those questions asked by Councilman Vargas.

[REDACTED] stated that he became uncomfortable when Mr. Vargas's questions continued to ask

		<p>about [REDACTED] marital status and her racial background. [REDACTED] responded to the questions, [REDACTED].</p> <p>[REDACTED] felt that these questions by Councilman Vargas were inappropriate as they went beyond the usual friendly, work-related questions. [REDACTED] told [REDACTED] that Mr. Vargas asked these questions.</p>
<p>Daniel Juarez</p>	<p>City Mayor</p>	<p>Mr. Juarez is the Mayor of the City of Hawthorne.</p> <p>Mr. Juarez recalled that he attended the opening of the Ralph's store on 118th Street. He believed he appeared there about 2:30 p.m. for the ribbon cutting ceremony.</p> <p>Mr. Juarez went to the Ralph's opening after the luncheon. The event had not officially started before his arrival.</p> <p>Mr. Juarez recalled that [REDACTED] was at the opening, but he cannot recall specifically which individuals were present.</p> <p>[REDACTED]</p> <p>Mr. Juarez said that he has not played with the [REDACTED] in this manner since the City Manager called him to discuss the incident that is the subject of this investigation.</p> <p>Mr. Juarez had no recollection of the [REDACTED] at the [REDACTED] holding out a hand and asking for [REDACTED] back from him. He reiterated that nothing about [REDACTED] stands out in his mind.</p>

		<p>Mr. Juarez had no recollection of doing any sort of "high five, low five" type of thing with anybody at the event. He is not sure he even does that sort of thing.</p> <p>Mr. Juarez had no recollection of tapping or putting his hands or fingers on [REDACTED] cheek.</p> <p>Mr. Juarez recalled attending the Taste of Hawthorne event. He did not, however, have any recollection of [REDACTED] at that event.</p> <p>Mr. Juarez stated that he has behaved differently toward [REDACTED] since the City Manager spoke with him. He said that he "absolutely" treats [REDACTED] differently. He now stands five feet away from them when they approach him.</p> <p>Mr. Juarez has not avoided any [REDACTED] that has approached him [REDACTED] since he spoke with the City Manager.</p> <p>Mr. Juarez said that has not avoided [REDACTED] or been more difficult with one since he spoke with the City Manager.</p> <p>Mr. Juarez said that he does not know [REDACTED] names. He said [REDACTED] are very good.</p>
[REDACTED]	[REDACTED]	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] complained to [REDACTED] about an incident that made her feel</p>

		<p>uncomfortable. [REDACTED] ultimately reported the matter to [REDACTED].</p> <p>[REDACTED] stated that she was assigned to the May 10, 2013 grand re-opening of the Ralph's grocery store on Hawthorne Boulevard on May 10, 2013. The start-time for the event was postponed to 3:00 p.m. from its original morning start time due to conflicting events.</p> <p>[REDACTED] reported to the Ralph's event at 3:00 p.m. Members of the City Council and the Mayor, Danny Juarez, were present for the ribbon cutting ceremony.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] Mr. Vargas leaned on [REDACTED] and laughed. As he stood behind and to the right of [REDACTED], he rubbed her shoulder and put his hand on her upper arm for a few seconds.</p> <p>[REDACTED]</p> <p>[REDACTED], Mr. Juarez started "high fiving" [REDACTED] and slapped her hand. [REDACTED] says the slap to the hand did not hurt.</p> <p>In the course of this [REDACTED] Mr. Juarez also gave [REDACTED] a slap to the right side of her face, on the cheek area. The slap to her face did not hurt. [REDACTED] was shocked at this behavior and stated that it was not appropriate.</p> <p>[REDACTED] stated that she was [REDACTED] on the Recognition Event [REDACTED]. During this event, [REDACTED] noted that Council Member Vargas kept smiling at her. After the event was over, [REDACTED] told [REDACTED] that Mr. Vargas asked [REDACTED] questions about [REDACTED], including her age, where she lived, and her relationship status.</p>
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		<p>After she reported these incidents to [REDACTED] he told her that Mr. Vargas and Mr. Juarez were advised to keep their interactions [REDACTED] short.</p> <p>[REDACTED] stated that at the "Taste of Hawthorne" event on May 19, 2013, Mr. Vargas and Mr. Juarez did not chat with her as they had in the past. She stated they completely avoided her. [REDACTED]</p> <p>[REDACTED] did not think that the actions of Mr. Vargas or Mr. Juarez were sexual in nature. She did not think that their behavior was based upon her national origin, religion, race or sexual orientation.</p>
[REDACTED]	[REDACTED]	<p>[REDACTED]</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> • [REDACTED] was not a witness to the events that are the subject of this investigation and instead discussed issues that will be the subject of a separate investigation.
Alex Vargas	City Councilman	<p>Mr. Vargas is completing his first term on the City Council and is up for reelection in November.</p> <p>Mr. Vargas recalled the opening of the Ralph's store.</p> <p>Mr. Vargas recalled that there was [REDACTED] [REDACTED] at the opening. He recalled that there was a [REDACTED] and a [REDACTED]</p>

██████████.

Mr. Vargas stated that he probably ██████████ at the Ralph's store, but cannot recall anything that he said. He did not recall struggling for words or laughing about what he said ██████████. He had no recollection of laughing at himself or making fun of how he was handling ██████████.

Mr. Vargas did not recall laughing so hard ██████████ that he placed his hand on ██████████ shoulder and put his head to his hand and laughed at himself.

Mr. Vargas did not recall anything particular about any interaction he had with ██████████ that day. He did not recall that he found anything particularly funny about the event, but stated that the changes to the Ralph's store did not appear significant.

Mr. Vargas stated that he had no recollection of putting his hands on or touching the ██████████ in anyway.

Mr. Vargas had no recollection of rubbing shoulders, putting his hand on anyone's shoulder or squeezing any shoulder a couple of times.

He had no recollection of doing anything at the Ralph's opening that might have made ██████████ uncomfortable.

Mr. Vargas did not recall any conversation with ██████████ where he made inquiries about ██████████.

Mr. Vargas stated that he thought he might recall a conversation with one of ██████████ about ██████████ he saw for the first time. His brother is single, and Mr. Vargas was looking for someone to connect his brother to. He said that he generally makes that kind of inquiry on behalf of his brother. He does not recall what ██████████ response was to his inquiries.

		<p>Mr. Vargas recalled an event at the Moose Lodge a couple of months before the Ralph's opening. He did not recall any conversation with [REDACTED] at that event. He did not recall asking [REDACTED] about the ethnicity of [REDACTED].</p> <p>Mr. Vargas knew by the time he attended the Taste of Hawthorne event that [REDACTED] had raised concerns about his interaction with them.</p> <p>Mr. Vargas stated that he did not interact with [REDACTED] differently at the Taste of Hawthorne event than he had with them in the past.</p> <p>Mr. Vargas stated that his interaction with everyone, including staff and employees, is the same. It is part of his job to create camaraderie with residents and employees.</p>
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VII. Timeline of Relevant Events and Dates

Date	Event
"Several months before..." May 10, 2013	[REDACTED] reported that Mr. Vargas asked him personal questions about [REDACTED], including her ethnic origin, her relationship status and where she lived.
May 10, 2013	[REDACTED] reported that the incident took place on May 10, 2013. While at the grand re-opening of the Ralphs' grocery store on Hawthorne Boulevard, Mr. Juarez "high-fived," slapped the hands of [REDACTED] and slapped her on the face. At this same event, Mr. Vargas rubbed [REDACTED] shoulder and put his hand on her upper arm.
Between 5.09.2013 and 5.19.2013	[REDACTED] advised [REDACTED] that Mr. Vargas and Mr. Juarez were asked to keep their interaction with [REDACTED] short.
5.19.2013	[REDACTED] stated that at the "Taste of Hawthorne" event Mr. Vargas and Mr. Juarez did not chat with her as they had in the past.

initiate an investigation in compliance with the procedures set forth at Section IV, Paragraph 3, of the City's "Harassment, Discrimination & Retaliation Policy."

IX. Factual Overview and Summary

A. City Council Structure and Officials

The City of Hawthorne's City Council is comprised of elected Councilmembers and an elected Mayor. The Mayor serves a two-year term while the Councilmembers serve four-year terms. The Council elects the Mayor Pro-Tem.

Daniel Juarez is the current elected Mayor [REDACTED]; and Alex Vargas is an elected member of the City Council.

B. [REDACTED]

[REDACTED]

C. Early 2013 Incident

A few months before May 2013, [REDACTED] event at the Moose Lodge. Councilperson Vargas attended that event. During the event, Mr. Vargas asked [REDACTED] several questions about [REDACTED]. Mr. Vargas initially asked about [REDACTED] name, her age and how long she had worked [REDACTED]. The

questions then became more personal, and Mr. Vargas asked [REDACTED] whether [REDACTED] was single and about her racial background.

[REDACTED] stated he answered the questions, and upon reflection, thought he should not have answered the questions. [REDACTED] had never before seen anything inappropriate between Mr. Vargas and [REDACTED]. [REDACTED] told [REDACTED] about Mr. Vargas' questions. Subsequently, [REDACTED] told [REDACTED] there were times when she believed that Mr. Vargas was getting beyond friendly.

[REDACTED] stated that prior to this event, Mr. Vargas had already asked her, "do you live in town, you know, questions about me..." [REDACTED] stated that Mr. Vargas kept looking at her while she was at that event and that she felt an "awkward vibe." [REDACTED] stated these events made her uncomfortable and that the Councilmembers should not be asking these things about her.

D. Ralph's Reopening

On May 10, 2013, the Ralph's grocery store located at the corner of 118th Street and Hawthorne Blvd., held a grand reopening. City officials, including Mayor Juarez and Councilman Vargas attended the ribbon cutting ceremonies. [REDACTED]

During the event, [REDACTED] She stated he liked to joke around a lot and he chuckled when she asked him what he thought of the changes to the Ralph's store. When Mr. Vargas said he really saw no changes, she told him to, "cut it out." [REDACTED] Mr. Vargas continued to laugh at what he said and the situation. He leaned on [REDACTED] back as he continued to laugh. [REDACTED] rested his forearm on [REDACTED] shoulder/back and put his head to his hand. Mr. Vargas then put his head to the arm he had resting on [REDACTED] back.

[REDACTED] did not understand what was so funny, and then Mr. Vargas then, "kind of touched my arm, sort of like rubbed my -- my shoulder like, oh, he thought it was funny, like -- like also kind of put his hand on me." She described the touch as a "quick like rub" that lasted just a few seconds. [REDACTED] stepped back and away from Mr. Vargas in an effort to keep the situation professional.

During the event, [REDACTED] Mr. Juarez had a practice of [REDACTED]

[REDACTED] back. Mr. Juarez began "high fiving" and "low fiving" her. Mr. Juarez spoke to [REDACTED] in Spanish and may have rhymed something to her about the "high fiving." While doing this, Mr. Juarez "high fived" [REDACTED] and it hurt her hand. He also tapped/slapped her cheek as part of the "high fiving."

██████████ was surprised by Mr. Juarez's actions. She stated that if a friend had given her the "whole little slap in the face, I'll probably give them a little punch in the stomach or a little slap back." In this situation, however, she knows "not to cross the line and not react to that."

E. Taste of Hawthorne

On May 19, 2013, the "Taste of Hawthorne" event occurred. ██████████

██████████ stated that Mr. Vargas saw her at this event and "went completely the other way, avoided us completely, and so did the Mayor." Although not directly stated, ██████████

Mr. Vargas stated he received a letter that advised him of the investigation and to "act normal basically." He understood he was to be normal, relaxed and not to bring attention to "this." Mr. Vargas stated he acted normally at the Taste of Hawthorne event and did not avoid or ignore ██████████. He stated he was too busy organizing the event to even think about the issues discussed in this investigation.

Mr. Juarez stated that now when ██████████ approaches him he stands (or sits) five feet away ██████████. He has not avoided ██████████. There were two situations recently ██████████, but that was because he was late to the events. He stated that the City Manager talked to him about the incident at the Ralph's store and that since that time he does not play with ██████████ like he used to.

X. Credibility Assessment

The Investigator considered a variety of factors in assessing the credibility of the witnesses in this investigation. Among the factors considered were demeanor, inherent plausibility, motive to falsify, cooperation and past record.

Generally, the Investigator found ██████████ Mr. Vargas and Mr. Juarez credible. ██████████ was not a witness to the events that are the subject of this investigation and she was guarded about non-related events. ██████████ offered no evidence or information that was of assistance in or related to the findings in this investigation.

Generally, the stories of the witnesses do not vary or conflict in any material way. ██████████ told consistent stories about what transpired at the Ralph's

reopening and at the Moose Lodge some months before. There was no reason discovered during the investigation that suggested that either witness had incentive or motive to be dishonest in their interviews. [REDACTED] seeks no redress because of the incidents other than a request that the Councilmembers behave in a professional manner [REDACTED].

Mr. Juarez did not remember the "high five" routine, but he volunteered that he was playful [REDACTED]. [REDACTED] stated that the "high fiving" and the slaps occurred as she pressed Mr. Juarez [REDACTED]. The teasing and horseplay might easily have escalated and included a playful slap/tap on the cheek. The Investigator did not find Mr. Jaurez's disavowal of doing "high fives" credible.

Mr. Vargas did not remember the events at the Ralph's reopening, and did not deny they happened. His memories of the events at the Moose Lodge were in conflict, but he ultimately stated he recalled an incident where he sought information about [REDACTED] because he intended to fix her up with his bother. The Investigator did not make a factual determination related to Mr. Vargas' stated intent, given he admitted he made the inquiries that concerned [REDACTED].

XI. Factual Findings and Analysis of Allegations

The evidence gathered by the Investigator supports the following factual findings:

- That in 2013, the City of Hawthorne had polices that prohibited harassment, discrimination, retaliation and workplace violence;
- [REDACTED]
- [REDACTED]
- That Daniel Juarez was the elected Mayor of the City of Hawthorne in 2013;
- That Alex Vargas was an elected City Councilman for the City of Hawthorne in 2013;
- [REDACTED]
- That several months before May 10, 2013, Mr. Vargas attended a City event [REDACTED];
- While at that event, Mr. Vargas asked [REDACTED] personal questions about [REDACTED], including her relationships status and ethnic background;

- [REDACTED]
- Mr. Vargas attended the reopening of the Ralph's store [REDACTED];
- During [REDACTED], Mr. Vargas laughed and joked about the reopening [REDACTED];
- Mr. Vargas touched the back of [REDACTED], and leaned on him, as he laughed about the situation [REDACTED];
- Mr. Vargas touched the shoulder and upper arm of [REDACTED] as he laughed with her and [REDACTED];
- [REDACTED] did not invite nor welcome Mr. Vargas' touch;
- Both [REDACTED] felt that the conduct of Mr. Vargas was inappropriate and should not happen
- Mr. Juarez attended the reopening of the Ralph's store [REDACTED];
- Mr. Juarez played with [REDACTED];
- In playing around with [REDACTED]. Mr. Juarez slapped [REDACTED] hands while saying something similar to "high-five" and "low-five;"
- In playing around with [REDACTED] and high-fiving her, Mr. Juarez also slapped/tapped [REDACTED] check with the fingers of his right hand;
- [REDACTED] did not invite nor welcome Mr. Juarez' touch;
- Both [REDACTED] felt that the conduct of Mr. Juarez was inappropriate and should not happen; and
- Based upon his discussion with the City Manager about the incident, Mr. Juarez now behaves differently towards [REDACTED] and maintains a greater physical distance between himself and [REDACTED].

XII. Analysis of Allegations

Based upon the evidence gathered during this investigation and the factual findings set forth above, the Investigator finds and concludes as follows:

A. Allegation 1

Allegation 1. That Mr. Juarez "high fived" the hands of [REDACTED] and slapped her face [REDACTED].

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct did occur. On May 10, 2013, at the reopening of the Ralph's store on 118th Street and Hawthorne Blvd. [REDACTED]

[REDACTED] Mr. Juarez "high-fived" [REDACTED] hand in such as way as to cause her discomfort. Mr. Juarez also tapped/slapped [REDACTED] check during this horseplay.

Analysis of the Evidence:

a) Evidence that Supports the Allegation

[REDACTED] timely reported the incident to her supervisors [REDACTED]. Her recitation of the event is factual, non-sensationalized and straightforward. [REDACTED] recollection of the event followed the facts as recited by [REDACTED].

Mr. Juarez volunteered he often horseplays with [REDACTED] in a manner consistent with that described by [REDACTED]. He often asks for [REDACTED].

b) Evidence that Refutes the Allegation

Mr. Juarez did not recall that he ever acted toward [REDACTED] in the manner described by [REDACTED]. He did not recall playing [REDACTED] "high-fiving" or touching [REDACTED] check.

c) Analysis

The greater weight of the evidence supports the complaint made by [REDACTED]. The Investigator found that Mr. Juarez was joking and horseplaying around with [REDACTED] and did not intend to harm, hurt or injure her.

B. Allegation 2

Allegation 2. That Mr. Vargas touched the shoulder and arm of [REDACTED].

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct did occur. At the reopening of the Ralph's store, on May 10, 2013, Mr. Vargas laughed and joked with [REDACTED]. In laughing and joking, Mr. Vargas touched the upper arm/shoulder of [REDACTED].

Analysis of the Evidence

a) Evidence that Supports the Allegation

[REDACTED] timely reported the incident to her supervisors and [REDACTED]. Her recitation of the event is factual, non-sensationalized and straightforward. [REDACTED] stated that Mr. Vargas was laughing and cracking up over [REDACTED]. He stated that Mr. Vargas was so overcome with laughter that he leaned on and physically touched [REDACTED]. Mr. Vargas confirmed comments related by [REDACTED] that he did not see many changes in the Ralph's store at the time of the reopening.

Although he denied that he would touch [REDACTED] in the manner described, Mr. Vargas also stated he did not have a memory of the [REDACTED].

b) Evidence that Refutes the Allegation

Mr. Vargas said he had no memory of anything related to [REDACTED]. He stated he had no recollection of rubbing any [REDACTED] shoulder or touching a [REDACTED] arm. [REDACTED] did not see any contact between Mr. Vargas and [REDACTED].

c) Analysis

The greater weight of the evidence supports the complaint made by [REDACTED]. The Investigator found that Mr. Vargas was joking around and laughing with [REDACTED]. [REDACTED] reported conduct and contact by Mr. Vargas consistent with the complaint made by [REDACTED] – a quick rub of her upper arm/shoulder.

C. Allegation 3

Allegation 3. That Mr. Vargas made personal inquiries about the age, relationship status and ethnicity of City employee [REDACTED].

Finding: Sustained – the Investigation established that it is more likely than not that the allegation is true. The preponderance of the evidence is that the complained of conduct occurred. At a community event that predated the Ralph's reopening by a few months, Mr. Vargas asked [REDACTED] personal information about [REDACTED], including questions about her marital status and her ethnic background.

Analysis of the Evidence

a) Evidence that Supports the Allegation

[REDACTED] reported that Mr. Vargas made personal inquiries about [REDACTED] relationship status and her ethnicity. [REDACTED] reported that [REDACTED] told her about Mr. Vargas' inquiries shortly after they were made. Mr. Vargas stated he may have made an inquiry for the sake of his brother as he was looking for someone to connect to his brother.

b) Evidence that Refutes the Allegation

There is no evidence that refutes the allegation.

c) Analysis

The greater weight of the evidence supports the complaint made by [REDACTED]. The Investigator found that Mr. Vargas asked [REDACTED] personal and non-work related questions about [REDACTED]. Among other questions, Mr. Vargas inquired about [REDACTED] relationship status and her ethnic origin. [REDACTED] reluctantly answered the question, in part, because of Mr. Vargas' position with the City. [REDACTED] was troubled by the inquiry and felt that it is inappropriate and not professional.

XIII. Final Comments

[REDACTED] stated that what she wanted in the future was for things to not be awkward between the City Councilmembers and [REDACTED]. She wants the Councilmembers to be professional [REDACTED]. She wants to be able to talk to them and for them to recognize that they are not [REDACTED] buddies. She is also troubled by jokes made by Mr. Vargas about Mayor [REDACTED].

Juarez

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