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3475 Lenox Road, NE  
Suite 400  
Atlanta, GA 30326  
Phone (770) 698-9556  
Fax (770) 698-9729

## MEMORANDUM

To: File #COB0010.001 (Human Resources)

From: Thompson Kurrie, Jr.

Date: June 12, 2015

Re: Investigation Report—J. Max Davis Aerosol Spraying Incident

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The following are my findings regarding the incident that took place on February 23, 2015 where Mayor, J. Max Davis, sprayed an aerosol can of Lysol disinfectant in the vicinity of the person of [REDACTED] (“Employee 1”) while in the office of [REDACTED] (“Employee 2”).

The persons interviewed were Employee 1, Employee 2, City Manager, Marie Garrett and the Mayor and the Human Resources Director, Richard Stone.

### Findings of Facts

- The Mayor entered the office of Employee 2 at a time Employee 1 was speaking with Employee 2.
- Employee 1 was standing at the front of Employee 2’s desk in front of Employee 2 who was seated.
  - The Mayor stood to the left of Employee 1.
  - The Mayor took a can of Lysol located in the office of Employee 2 and sprayed it into the air twice.
    - One spray was aimed by the Mayor in front of his face and the other behind Employee 2.
    - The spray may or may not have hit the person of Employee 1 on the buttocks. Employee 2 said the spray was directed toward the buttocks of Employee 1. Employee 1 said the aerosol was sprayed behind her starting at neck high. The Mayor admits spraying the aerosol behind the person of Employee 1 at the wall and denies aiming the spray at or near the buttocks of Employee 1.
  - Employee 1 and Employee 2 reported the incident to the City Manager and the Human Resources Director. The City Manager documented the discussions she had with Employee 1 and Employee 2 on March 18, 2015 in an email to the Human

Resources Director. The relevant content of the email regarding the discussion of the incident by the City Manager is:

As a matter of additional information, it was reported to me that by [REDACTED] and confirmed by [REDACTED] that the Mayor on Feb. 23, 2015 (could have been 2/24/15. I will confirm the date) that in [REDACTED] office where [REDACTED] was present, was sprayed with Lysol by the Mayor and directed at [REDACTED] buttocks. [REDACTED] told me she was very upset about this behavior. As I understand it was unsolicited behavior. It left [REDACTED] very uncomfortable. I asked [REDACTED] what she did when this occurred and she told me that she asked the Mayor what he was doing. [REDACTED] and [REDACTED] both said that he paused and then as if he realized what he did said he was only joking. I was not present during this event and I am reporting only what was told to me. I have since reported it to Councilman John Park on March 6, 2015 and again to our city attorney Tom Kurrie on March 17. This is unacceptable behavior and I believe that the Mayor took a liberty and crossed the line doing something that I consider to be sexual harassment.

- The Mayor admitted to Employee 1 and Employee 2 that his behavior was innocent and unintended and apologized to them for his action.

### **Conclusions**

- The spraying of the Lysol by the Mayor in the presence of Employee 1 and Employee 2 was not invited by either employee.
- The spraying of the Lysol by the Mayor, if on the person of Employee 1, was unintentional.
- In my opinion, the spraying of the Lysol by the Mayor did not violate Chapter 2, Article XI of the Code of Ordinances of the City of Brookhaven—Code of Ethics, including the charter, any ordinance or policy of the City of Brookhaven nor any law of the State of Georgia.