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LITIGATION ASSISTANT
Patricia V. Gehler

December 9, 2021

The Honorable Ralph Ramirez
Waukesha County Circuit Court
515 W. Moreland Blvd.
Waukesha, WI 53188

RE: Waukesha County Case No. 21GF605
Petition for a Writ of Attachment of the Person

Dear Judge Ramirez:

I am the City Attorney for the City of Madison and am writing on behalf of Mayor Satya Rhodes-Conway with respect to the above referenced matter. It has come to our attention that Attorney Michael Gableman, acting in his capacity as Special Counsel to the Wisconsin Assembly Committee on Campaigns and Elections, has filed a pleading with this Court which seeks a Writ of Attachment against Mayor Rhodes-Conway in order to compel her testimony, under penalty of being taken into custody and confined to the Waukesha County Jail. Neither Mayor Rhodes-Conway nor any official authorized to receive service of process for the City or its employees has received any service of this pleading from Attorney Gableman. We learned about it only through the media. Unfortunately, this has been typical of our experience communicating with Attorney Gableman and his office.

I have now had a chance to review a copy of the purported "Petition for a Writ of Attachment of the Person", which is apparently based on a Subpoena Duces Tecum issued on October 6, 2021. Not only does this Petition completely lack legal merit, it is based upon a gross mischaracterization of the facts. It is also, quite frankly, unprofessional, an abuse of process, and a bad-faith effort to publicly harass local officials with no legal basis.

I have had an opportunity to review the letter provided to this Court on December 2, 2021 by Attorney Jeffrey Mandell on behalf of the City of Green Bay. I wish to join on

behalf of Mayor Rhodes-Conway in the legal arguments that Attorney Mandell has made. Along with Attorney Mandell, I note that some of the legal issues involved in this matter are squarely before the Dane County Circuit Court in *Wis. Elections Comm'n, et al. v. Wis. Assembly, et al.*, No. 2021CV2552 (Dane Cnty. Cir. Ct.). It is particularly troubling that, in the 94 pages that Attorney Gableman submitted in support of the requested writs in this case, he made no mention of that pending matter which is fully briefed and scheduled for a hearing on December 23, 2021. For the reasons described below, it is also troubling that he initiated a civil matter for the sole purpose of asking this Court to issue a Writ of Attachment of Mayor Rhodes-Conway, apparently with no intent to communicate about this action with the Mayor or the Mayor's counsel.

I do not intend to repeat the legal arguments outlined by Attorney Mandell, but it is important that the Court is aware of pertinent facts with respect to the City of Madison's contacts and communications with Attorney Gableman and his staff as they relate to the pending dispute concerning the validity of, and the means of complying with, the subpoena involving Mayor Rhodes-Conway. These facts demonstrate that the Mayor and the City have at all times acted reasonably and it is the Attorney Gableman's conduct which has not been reasonable. For weeks the Mayor has been publicly stating that she is willing to testify before Attorney Gableman in public and before the legislative committee he represents, and Attorney Gableman has not responded to that offer in any way.

The Mayor was served with a Subpoena Duces Tecum on October 6, 2021 commanding her to appear in person on October 22, 2021 at the office of the Special Counsel to give evidence and testimony related to the November 2020 General Election. Included with the Subpoena was an extensive list of documents pertaining to the election which the Special Counsel requested the Mayor produce. A similar list of requested documents was included in a Subpoena Duces Tecum issued to the Madison City Clerk on October 1, 2021 as well as a Subpoena For Deposition issued on October 6, 2021 to the City requesting the attendance of the person most knowledgeable in regard to the November 2020 General Election. The Subpoena For Deposition also included a list of Topics of Testimony, which was not included with either Subpoena Duces Tecum that was issued to Mayor Rhodes-Conway or City Clerk Maribeth Witzel-Behl.

After I left one telephone message and sent two email messages to the Special Counsel's Office, I received a telephone call from Attorney Andrew Kloster on behalf of Attorney Gableman. Attorney Kloster stated that, for the time being, the Special Counsel was only requesting from the City documents that it had provided in response to separate public records requests related to the 2020 General Election, and that no witnesses would be required to appear in response to the subpoenas issued to the City's Mayor, Clerk or person most knowledgeable about the election. I received a confirmation email from Attorney Kloster on October 8, 2021 specifically stating that "If and when we have follow-up questions or specific production requests pursuant to the subpoena, we are confident in your assurances that your office will continue to be as cooperative as you have already agreed to be."

The following day, I received a telephone call from Attorney Gableman to clarify our understanding regarding the City's obligations under the subpoenas. Attorney Gableman clarified that he viewed the Subpoena Duces Tecum issued to the Mayor as being necessary only for purposes of the producing records, in contrast to the Subpoena For Testimony issued to the person most knowledgeable who he may wish to interview at some point. Attorney Gableman specifically stated that he was reserving the right to request the presence of the Mayor or other City officials, but that currently he was not requiring attendance at depositions provided that the City produced documents as agreed to with Attorney Kloster, although he might do so in the future.

On October 14, 2021, the City provided voluminous records to the Special Counsel as we had agreed. In a transmittal letter, I confirmed the City's understanding that Mayor Rhodes-Conway was not required to appear for a deposition on October 22, 2021, and that we would wait to hear as to whether Attorney Gableman wished to schedule a deposition for the person most knowledgeable. The letter stated that the City was willing to cooperate if we received more specific requests from the Special Counsel, and also that the City would need more details about the location and forum of any deposition as well as specific topics that he wished to explore.

As noted in Attorney Mandell's correspondence, Attorney Gableman publicly stated that all of the municipalities targeted by his investigation had voluntarily complied with his subpoenas. At that point, the parties shared an understanding that, while Attorney Gableman could renew or add to requests for testimony or documents, the Special Counsel's office was focused on reviewing tens of thousands of documents submitted by the municipalities and City officials were not obligated to appear for a deposition until further notice.

On October 21, 2021, I received the email from Attorney Gableman which is included in the Petition in this matter, and which is attached. The email solely addressed the deposition issued to the person most knowledgeable. In the case of the City of Madison, the person most knowledgeable is the City Clerk. The email stated that Attorney Gableman was continuing the return date for that individual to November 15, 2021. The email did not address the subpoena issued to Mayor Rhodes-Conway.

On November 2, 2021, I emailed a letter to Attorney Gableman, which is also attached, outlining the City's position regarding the subpoena to the person most knowledgeable about the election. As to that subpoena, my letter confirmed that the continuance date of November 15, 2021 was intended to give both parties additional time to reach an understanding of the scope and nature of the topics to be addressed in the deposition. I noted the new and pending litigation in Dane County Circuit Court which was likely to resolve legal issues regarding subpoenas issued to the City of Madison. My letter to Attorney Gableman concluded:

Under these circumstances, and because we have received no further request from you, I am reiterating our understanding that no official from

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the City of Madison is required to appear on November 15, 2021 unless we are provided with a more specific scope of inquiry and reach an agreement on other details such as the format and length of any deposition. Please contact me if you have any questions regarding this correspondence.

While other municipalities targeted by the Special Counsel received responses to similar letters, the City of Madison has received no communication from Attorney Gableman since sending this letter on November 2, 2021. The City has not even received the Petition for Writ of Attachment from the Special Counsel. This is the sum of the "negotiations with the City attorney" referenced in the Special Counsel's Petition.

I provide this factual summary to illustrate two obvious points. First, Mayor Rhodes-Conway and the City of Madison have attempted to engage in professional and open communication with Attorney Gableman, which has not been reciprocated. The Mayor remains willing to testify in public before the legislative committee which issued the subpoena to discuss the conduct of the election in Madison, all of which is public information. Attorney Gableman has not offered any specific time, forum or format for a deposition.

Second, the only specific communication regarding a possible continuance date related to the subpoena issued to the person most knowledgeable in regard to the November 2020 General Election, not to Mayor Rhodes-Conway. Contrary to Attorney Gableman's sworn statement in the Petition, the Special Counsel did not even postpone the original deposition date of Mayor Rhodes-Conway to November 15, 2021, for which he now requests a Writ of Attachment for her supposed failure to appear. Given these facts, this action is frivolous and the absurdity of the Special Counsel's assertion regarding the Mayor's compliance with the subpoena is stunning.

Despite the Attorney Gableman's failure to serve the Petition on Mayor Rhodes-Conway even to this day, I plan to appear on behalf of the Mayor at tomorrow's scheduling conference, reserving all jurisdictional objections. Mayor Rhodes-Conway joins in the request made by Mayor Genrich to dismiss the Special Counsel's Petition for a Writ of Attachment, to stay this action until conclusion of the litigation in *Wis. Elections Comm'n et al. v. Wis. Assembly, et al.*, or to establish a briefing schedule in this matter.

Thank you for your attention to this information.

Sincerely,



Michael R. Haas
City Attorney

cc: Counsel of Record

From: [Coms](#)
To: [Haas, Michael R](#)
Subject: Subpoena of Parties
Date: Thursday, October 21, 2021 11:32:20 AM

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Mr. Haas,

We have been trying to work with you in order to schedule the deposition of the person most knowledgeable as described in the Wisconsin State Assembly's subpoena of October 4, 2021 as well as to coordinate your client's compliance with the Assembly's subpoena duces tecum of that same date.

This office is currently reviewing the documents produced by the City of Madison last Friday, October 15.

In order to provide our office more time to review materials produced last week, as well as to give both parties additional time to reach an understanding of the scope and nature of the topics to be addressed in the deposition, we are continuing the return date from Friday, October 22, 2021 to Monday, November 15, 2021 at 9:30 a.m.

Thank you,
Mike Gableman
Office of the Special Counsel
Tel. (262) 202-8722



Office of the City Attorney

Michael R. Haas, City Attorney

Patricia A. Lauten, Deputy City Attorney

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LITIGATION ASSISTANT
Patricia V. Gehler

November 2, 2021

The Honorable Michael Gableman
Special Counsel
Wisconsin State Assembly Committee on Elections and Campaigns
200 South Executive Drive, Suite 101
Brookfield, WI 53005

Dear Special Counsel Gableman:

I am writing with regard to the return date of the deposition subpoena which your office issued for the person most knowledgeable in regard to the 2020 General Election that is employed by the City of Madison. The subpoena originally scheduled the deposition for October 22, 2021. On October 21, 2021, I received your email correspondence continuing the return date to November 15, 2021. Your email, as well as my previous telephone conversation with Carol of your office, indicated that the continuance date would give both parties additional time to reach an understanding of the scope and nature of the topics to be addressed in the deposition.

The requested continuance date is two weeks away and separate court action has been initiated since we received your correspondence. That may or may not affect the enforcement of a similar subpoena in your proceedings as well as the format of any deposition. As you know, the Court is not scheduled to rule in that matter until later in December at the earliest, and that litigation is likely to also govern the issues we have raised regarding our subpoena.

Under these circumstances, and because we have received no further request from you, I am reiterating our understanding that no official from the City of Madison is required to appear on November 15, 2021 unless we are provided with a more specific scope of inquiry and reach an agreement on other details such as the format and length

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of any deposition. Please contact me if you have any questions regarding this correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Michael Haas".

Michael Haas
City Attorney

cc: Mayor Satya Rhodes-Conway
City Clerk Maribeth Witzel-Behl