

## MEMORANDUM

**To: Common Council**  
**From: Vanessa R. Chavez, City Attorney**  
**Date: April 20, 2021**  
**Re: 2020 Elections**

---

The 2020 Election season was one like no other, due in no small part to the COVID-19 pandemic. Following the failures the City experienced in April 2020, the City committed to taking all actions necessary to ensure that the voting experience improved for the Green Bay electorate moving forward. As a result, the August and November elections were the primary focus of the entire City, resulting in an “all-hands on deck” approach to carrying out the elections.

Unfortunately, the election has been the center of extensive misinformation and unfounded allegations. The purpose of this memorandum is to provide an overview of the various actions and activities of the City of Green Bay with respect to the 2020 Election season, as well as address the specific allegations which have been made casting doubt on the integrity of the election.

### **Preliminary Information**

To create a thorough accounting of events, I spoke directly with the following people regarding their recollection of events:

City of Green Bay employees Jaime Fuge, Celestine Jeffreys, Diana Ellenbecker, Pam Manley, Amaad Rivera-Wagner, Lindsay Mather, Mike Hronek, Shelby Edelbeck, Cindy Tappy, Nancy Clifford, Becky DeWitt, Melanie Skalmoski, Jason Leick, Kevin Kempf, Phil Scanlan, and Brad Biller. In addition, I exchanged e-mails with Chris Pirlot, Laura Schley, Scott Nelson, Wendy Townsend, Stephanie Hummel, and Donna Rosenthal. I also e-mailed all remaining City employees who worked at Central Count to give them an opportunity to share their recollections.

Externally, I spoke with Tracy Hillesheim and Kristine Hall of the Hyatt/KI Convention Center (“KICC”), and Trent Jameson with the KICC’s A/V contractor Encore (formerly PSAV). I also spoke with Meagan Wolfe, Nathan Judnic, and Richard Rydecki from the Wisconsin Elections Commission (“WEC”). In addition, I spoke with Michael Spitzer-Rubenstein and Hillary Hall of the National Vote at Home Institute.

I received no response to my inquiries from former employees Kris Teske or Kim Wayte. I asked Sandy Juno if she would be willing to speak with me regarding her concerns about the election, to which she stated she had no comments. At the County Clerk’s Office, I reached out to Justin Schmit but was informed by Corporation Counsel, David Hemery, that he advised the County Clerk’s Office to only provide information regarding recent local elections in response to public records requests. In addition, I reached out to both David Hemery and Chad Weininger as they accompanied Ms. Juno to Central Count on November 3<sup>rd</sup>, but both declined to speak with me.

## **Challenges During the 2020 Election Season**

There is no dispute that the Wisconsin statutes vest authority for administration of the election in the municipal clerk. Accordingly, during her tenure, Kris Teske was primarily vested with authority over the election. However, once the pandemic reached Wisconsin, the landscape changed and more people were required to navigate the ever-changing circumstances. In the weeks leading up to the April 2020 election, then-Clerk Teske, Mayor Genrich, then-Chief of Staff Jeffreys, and City Attorney Chavez met daily to discuss changes in staffing levels, available polling locations, outstanding absentee ballot requests, as well as the status of legal challenges pending before the courts. The result of the April 2020 election was clean and uniform with the City's prior practices. However, the hardships on the community proved substantial. As a result of these failures, the City of Green Bay Common Council was interested in ensuring City staff were well placed to be able to adapt to changing circumstances, and the administration of the elections remained a topic of discussion for the remainder of the election season.

At the April 21, 2020 Common Council meeting, then-Clerk Teske provided a lengthy verbal report on the April 2020 election at the request of the Council. Numerous frustrations were voiced, the need to do better in the future was stated, the need to procure adequate resources for the remaining 2020 elections was discussed, and the Council committed to supporting the Clerk's Office through the 2020 election season. The 2020 elections were again addressed at the May 5, 2020 Council meeting. Importantly, at that time, the Council created an ad hoc elections committee with members to include two (2) alders, the Clerk, the Mayor or designee, and city residents, with a total make up of no more than nine (9) members. The item passed unanimously with no discussion. Also on the agenda was a request for the Wisconsin Elections Commission to investigate the administration of the election and conduct of officials for April 7, 2020. The item was received and placed on file, but as part of the discussion, the Council stated the newly formed ad hoc elections committee was to address and correct what went wrong moving forward, and there was discussion of the benefit of hiring a consultant with outside expertise to help the City improve its internal processes. Also up for consideration at that meeting was the appointment of City Officials, including the City Clerk. Kris Teske was reappointed to the position on a vote of 11-1.

The Clerk's Office immediately set out to prepare for the August 2020 primary and November 2020 general election under ever-changing circumstances. In the days, weeks, and months leading up to November 3, the national media kept its attention focused on the upcoming election. The traditional amount of attention paid to a presidential election was amplified in 2020 for a number of reasons. The country was still in the midst of the COVID-19 pandemic, which raised concerns as to the health and safety of voters and poll workers alike at in-person voting locations. Such concerns contributed to increased requests for absentee ballots, which in turn resulted in political figures repeatedly making public claims that increased absentee and mail-in voting would lead to widespread voter fraud. Added to these concerns were risks of foreign interference with the election, as well as concerns about voter intimidation and other physical safety risks at polling locations.

The cumulative total of these threats, and the news media attention paid to them, created an atmosphere of concern, not only over the safety and security of the election, but also over the

legitimacy of the entire election process. These concerns were further amplified by lawsuits that had already been filed—such as Wisconsin Voters’ Alliance v. City of Racine, in which the City of Green Bay was being sued for receipt and use of CTCL grant funds—and threats from other special interest groups and political figures of future litigation following the November 3, 2020 election. There is no dispute that tensions were running high in the months leading up to the November 2020 election. In order to address and alleviate as many of these issues as possible, the City sought to be as proactive as possible in planning for the August and November elections. Action was taken at every level to ensure the November general election was safe for all involved, including as late as October 20, 2020 when the City Council approved the prohibition of weapons at polling locations by a vote of 8-4.

### **Acceptance of the CTCL Election Grant**

At the July 9, 2020 Ad Hoc Election Committee meeting, then-Chief of Staff Jeffreys reported on the Wisconsin Safe Voting Plan, which formed the basis for the CTCL grant award. A breakdown of the grant application and award was provided, including a discussion of anticipated expenditures and the grant mentors, who were expected to provide technical assistance to the City. During the discussion, it was stated that the purpose of the grant was to administer a safe election. The grant would be used for voter outreach to encourage people to register ahead of the election, as well as provide them information on how to vote absentee, early in-person, and in-person. The number of absentee ballots anticipated was at all times a focal concern of the Clerk’s Office.

The Ad Hoc Elections Committee unanimously supported the grant. No concerns were raised about the acceptance or proposed use of the grant funds; instead the concerns expressed centered around the potential for problems to still arise despite the influx of cash. For example, although the DS450 high speed tabulator was clearly viewed as a necessary purchase, the Clerk’s Office noted that placing it into operation for the first time during a major election was risky given that the machine did have a history of reported glitches. Similarly, electronic poll books were identified as a need, but the Clerk’s Office indicated they would still be printing poll books as well in case there were any technical difficulties or voters refused to sign electronically. There were similarly no concerns raised about the grant mentors who would be available to the City—Clerk Teske simply asked for verification that they would be working with her as the leader. The CTCL grant funds were viewed as much needed funds to purchase equipment to administer *all* elections, which would otherwise be out-of-reach for the City.

On July 21, 2020, the Council took up for consideration the report of the Ad Hoc Elections Committee and unanimously approved acceptance of the CTCL grant. Casey Hicks of the Wisconsin Conservation Voters spoke in favor of the City’s acceptance of the grant at the Council meeting, including the proposed uses of the grant funds. At the time, the only concern raised pertained to whether the City was obligated to commit funds for future years by accepting the grant. It was confirmed that the grant funds did not require future commitments from the City, and Council required that staff notify Council in the event any clawback provisions were included. In addition, it was confirmed for the Council that CTCL was a 501(c)(3) non-profit. The grant was so well-received that there was even a question about whether CTCL would be able to assist the City at polling locations given the on-going shortage of poll workers.

At the Special Meeting on September 24, 2020, the Council unanimously approved acceptance of the second CTCL grant for the purpose of purchasing specific equipment. Discussion centered around any changes to the City's circumstances since the original grant was accepted, as well as protocols for notifying the Council of any changes in intended use of the funds from what was listed in the original documents presented to Council. The Council also approved the "Presidential Election Voter Outreach Campaign" contract at that meeting. With regard to that item, concerns were raised that the funds would be used in an inequitable fashion. However, after hearing from the Mayor and staff, Council approved the expenditure on a vote of 9-3.

### **Use of CTCL Grant Funds**

The CTCL grant provided much needed funding for the City to respond to the pandemic during a highly contested presidential election cycle. There was no way for the City to react to the changes brought on by the pandemic without the infusion of funding. Notably, prior to the pandemic, absentee ballots requested were generally under 3,000, whereas for the August 2020 primary, the requests exceeded 10,000, and for the November general election, the number was approximately 33,000.

The grant funds were used for a variety of purposes in order to expand access to absentee voting as well as to safeguard the health and safety of voters and poll workers alike. Portions of the money went toward educating the public about absentee voting and early voting opportunities, including the creation and mailing of postcards containing election information to voters. Other funds were used to purchase supplies to keep people safe, such as hand sanitizer, disposable gloves, cleaning and disinfecting products, etc. A significant amount of the grant funds went toward payroll costs, allowing the City to hire additional employees and poll workers both in advance of the election and on Election Day to ensure voting occurred safely and efficiently.

Other funds were used to purchase equipment to assist with counting the uncharacteristically large number of absentee ballots in 2020. Equipment included secure drop boxes accompanied by security cameras, ballot scanners, and ballot openers. Still more funds went toward purchasing the supplies necessary to send out the increased number of absentee ballots requested, including election envelopes, envelope glue, and other supplies. As the Clerk's Office had already exceeded its 2020 election budget after the April 2020 election, the funds paid for the costs of running elections the remainder of the year.

### **Ad Hoc Elections Committee**

The Ad Hoc Elections Committee first met on May 14, 2020. During its first meeting, the Committee identified in person and absentee voting as the most important issues which needed to be addressed. After much discussion, the Committee chose to plan for worst-case scenario conditions. Many ideas were brought forward at the initial meeting, but the ultimate decision was to bring back additional information to the Committee so that it could decide what action was necessary based on the information available, such as updated availability of polling locations and poll workers. At that time, then-Clerk Teske indicated she was willing to gather all of the information requested and work with them as needed, but indicated that the proposed activities

were not different from anything the Clerk's Office normally does, with the exception of asking for more money.

At its meeting on May 21, 2020, the Committee created sub-committees and began identifying the types and number of polling places needed for the election. At the meeting, the Committee decided to include the City's Risk Manager in evaluating potential polling locations for ADA accessibility, and identified the types of PPE needed for both the August and November election. On May 28, 2020, the Committee discussed costs of advertising for poll workers, geo fencing, equipment needed for the election (including PPE), and the DS450 High Speed Digital Scanner, and major items that were touched upon were the procurement of additional poll workers, ensuring that all deadlines were met, and advising the Clerk to order needed envelopes despite cost overruns.

The Committees meetings were fairly routine during June. On June 4, 2020, the Committee recommended to the Finance Committee that a ballot folder and opener be purchased, decided to maintain City Hall as the single location for in person early voting, and directed that poll workers be required to wear a mask and be provided gloves to use during the election. On June 11, 2020, the Committee elected to forego drive-through voting for both the August and November elections, and recommended to the Finance Committee to approve 2 to 4 ballot drop boxes for placement throughout the City. On June 18, 2020, the high schools were eliminated as possible polling locations, and instead, the Sears Building was approved as an option. The need for poll workers and PPE continued to be a point of discussion. Drop boxes were discussed again because the Finance Committee recommended approval of two (2) boxes based on funding limitations, but additional considerations were also discussed at Finance Committee.

By the July 9, 2020 meeting, the August 2020 primary election was underway as absentee ballots were first mailed out on June 25, 2020, and the focus of the Committee shifted to gauging the effectiveness of the City's efforts. At that time, the Clerk's Office advised the Committee that a full mail bin of absentee ballots was arriving daily, 100-200 absentee ballot requests were being received daily, and many ballots received required curing because they were missing signatures and/or addresses. Poll worker numbers continued to fluctuate, but the Clerk's Office was on target to obtain at least the base requirement of 220 poll workers, though it was striving to hire 250 poll workers, and set its goal at 380 poll workers. Polling locations were again discussed, with 17 locations confirmed, including the Sears building hosting 11 wards.

The CTCL grant was first discussed at the July 9, 2020 meeting as well. Then-Chief of Staff Jeffreys notified the Committee of the proposed Wisconsin Safe Voting Plan and the grant award from the CTCL, including the anticipated expenditures and the grant mentors being provided to the City. During the discussion, grant mentors were identified as people who could provide technical assistance to the City, and that they would work with staff, including Clerk Teske as the leader. Clerk Teske made clear her expectation that the City would continue to follow Wisconsin law and inquired about whether the grant mentors would be versed in Wisconsin law. Then-Chief of Staff Jeffreys stated that no matter who was assisting the City, the mentor's role would be advisory and that Clerk staff and the City's legal department would be involved in decisions, though whether the person was familiar with Wisconsin law would be something to remain cognizant of whenever recommendations were being made by the grant mentors.

Also clear during the discussions was that despite the grant funds, time was the biggest challenge with regard to adequately preparing given the delays with obtaining equipment, etc. Based on backlogs, it was unclear whether the City would be able to obtain the DS450 high-speed tabulator or electronic poll books in time for the elections, even with the infusion of funds. Additional equipment needs were also discussed which were not originally identified in the grant application, as was using grant funds to pay for drive-through voting during early in-person absentee voting. This was an item that was brought forward by then-Chief of Staff Jeffreys and which was not opposed by then-Clerk Teske, but did generate discussion by the Committee members themselves given that the Committee had voted against drive-through voting at the meeting on June 11th.

On July 23, 2020, polling locations and poll workers were again discussed. The Committee decided not to use any polling locations for the August primary unless that location was also available for the November election. As of that date, only 186 poll workers were confirmed through the City, but an additional 100 were to be provided by the WEC. With that, then-Clerk Teske confirmed that the City would have adequate poll workers for the August election. Then-Chief of Staff Jeffreys also brought up the possibility of adding early in-person absentee voting locations, but notified the Committee that Law Department review and consultation with the WEC was still required. Finally, the Clerk advised that there were already over 13,000 absentee ballots requested for the August election, which was the most in City history. Then-Clerk Teske also stated she was very concerned about the media attention and that the City would not be able to timely finish counting ballots; the Committee attempted to reassure the Clerk that the expectation from the City was that the City would do its best and that counting “would get done when it gets done.” The Committee chose not to meet again until after the August election given that matters were progressing appropriately.

On August 13, 2020, much of the meeting focused on observations from the August election, with the Committee discussing what worked well and where there was room for improvement. The Clerk reported that over 11,000 absentee ballots were returned. Issues that came up on Election Day were discussed, including whether any polling locations needed to change for the November election and items that could be corrected or anticipated for November. Many of the issues raised by people at the polling locations were determined in large part to be out-of-reach for the Clerk’s Office without additional people to complete the tasks. Additionally, several complaints were attributable to the fact that so many chief inspectors and workers were new to the process.

With respect to processing applications for poll workers and assigning schedules, then-Clerk Teske informed the Committee that the task proved cumbersome and requested this be reassigned to HR rather than handled within the Clerk’s Office, which request was well-received. CTCL was also identified as an option to help manage poll workers. Grant activities were reported on during the meeting. This was the first meeting when it was clear that the Chief of Staff and Clerk were working on items independently, as the Clerk requested to be kept informed on activities, though no concerns were raised about the activities that were being undertaken. Then-Clerk Teske also noted concerns with the amount of work that was generated by the addition of new processes into the election, specifically, the amount of time needed to process absentee ballots that are received on Election Day and the time drop boxes would be closed.

## **Turning Point with the Ad Hoc Committee**

The report of the Ad Hoc Election Committee from August 13, 2020 was referred back to Committee by the Common Council for clarification on what items discussed, if any, were recommended for implementation. Accordingly, at the meeting on August 27, 2020, the Committee discussed in detail which of the issues raised at the August 13 meeting were going to be implemented for the November election. This was the first meeting where it appeared contention existed between the desires of the Committee and the Clerk's Office. The biggest issue was the request for additional training for poll workers by the Clerk's Office. Both the Committee and the Mayor (through then-Chief of Staff Jeffreys) expressed desire for a recorded training session to be made available to poll workers given the number of questions that were raised by first-time poll workers. The Clerk's Office felt that the available training through the WEC and the City's election manual were satisfactory. The Clerk's Office indicated that although additional training sounded like a good idea, doing so would be much more difficult and time consuming than anticipated by the Committee and the Mayor, and that time was running out. The issue was referred to staff, though later in the meeting, then-Clerk Teske offered to do a taped training wherein she would read out of the manual that was already sent to poll workers.

It was also very clear during that meeting that the Clerk's Office was overwhelmed and overstressed with the level of work required during 2020, as employees were routinely working well beyond their scheduled work hours just to keep up with their obligations, and with no end in sight. Then-Clerk Teske indicated that there was no way to complete all of the additional tasks requested by the Committee unless additional staff were added to the Clerk's Office. More importantly, it could not be *new* staff who were added, but rather people already trained and familiar with the Clerk's processes. Then-Clerk Teske really felt that the only possible solution was for the current City employees in other departments and who were already trained by the Clerk's Office, to be able to provide more assistance to the Clerk. However, then-Clerk Teske stated that other departmental employees were only able to step away from their regular job duties within their own departments when their workloads allowed.

She stated that although volunteers and City staff from other departments were helpful, there is no required commitment from them as there would be with a temporary or seasonal employee. Accordingly, adding new people meant training them at the point in the election season when they really did not have time to do so, and with no commitment that they would be available for the duration. Although the Voter Navigators would be hired soon, the timing of when they would be hired was an issue for the Clerk's Office because they would be on-boarding during a very busy period. Training *anyone* new was viewed by the Clerk's Office as an impediment to getting work completed. Hiring a designated trainer was proposed, but rejected because there was no one seasoned enough to fill that position. The dilemma was that the Clerk's Office was already in crunch time, so any time spent training was time taken away from their work on the election. Then-Clerk Teske also stated that all duties that could be delegated without additional training were already delegated and being handled.

Adding to the issue was that then-Clerk Teske was only willing to accept assistance from people she felt comfortable with, so even though there were a number of offers for assistance, she was reluctant to accept volunteers.

The final meeting of the Ad Hoc Election Committee was held on September 10, 2020, because the Committee felt the subcommittees were properly situated to help address remaining issues pertaining to the November election. Pollworker recruitment was discussed, and it was reported that 307 people had committed to working the election. The desired number was 380, and the goal was set as 420, plus any additional help supplied by the WEC. Sixteen (16) polling locations would be used for the election. Grant activities were again reported to the Committee, and it was reported that a second grant was being sought for an additional \$500,000.00 to purchase additional election equipment. No one from the Clerk's Office attended this meeting.

### **Assistance from Other City Employees**

Because of the increase in the amount of work that needed to be completed to run the election, Senior Staff coordinated to allow employees in their departments to provide assistance to the Clerk's Office through the election season. This resulted in numerous City employees providing assistance to the Clerk's Office, whether by providing direct elections support, or, during the busiest times, by assuming responsibilities normally handled by the Clerk's Office.

Nevertheless, the Clerk's Office was overwhelmed with the volume of work required to navigate the election during the pandemic, and the Clerk's Office struggled to keep up with existing responsibilities. The Clerk's Office also continued to convey that the requests for additional work, such as trainings, were not realistic given the time and staffing constraints they were working under. The burden on the Clerk's Office was no small hurdle to overcome, and it was abundantly clear that the changes that needed to be implemented could not be done under existing conditions with only existing Clerk's staff. As a result, Celestine Jeffreys voluntarily assumed many of the responsibilities for implementing the Ad Hoc Election Committee's requests.

Unfortunately, communication began breaking down between the then-Clerk and the then-Chief of Staff, with the two focusing on different items with very little collaboration. From the records, it is clear that the Clerk's Office focused on administering the election, and the Chief of Staff began working on implementing the requests of the Ad Hoc Election Committee. However, the two were working in silos, with the Chief of Staff not involved in the election administration, and the Clerk having little involvement in implementing the directives of the Committee. The communication breakdowns also began expanding to the departments as a whole, with the two departments not coordinating efforts. This resulted in duplicate work at times, last-minute actions, and much frustration for everyone. In fact, after the voter navigators were hired, it was not clear who would provide training to them, or even where they would be stationed at City Hall.

Despite the difficulty the two departments had communicating, the Law Department has identified no improper action in our review. Instead, our review suggests the Clerk's Office focused on processing ballots, and the Mayor's Office provided assistance by way of procuring equipment and materials, and implementing the recommendations of the Ad Hoc Elections Committee.

Although then-Clerk Teske had been on intermittent leave in September and October, on October 23, 2020, Kris Teske took a continuous leave of absence. As a result, then-Deputy Clerk Kim Wayte assumed the duties of Clerk in Kris Teske's absence, per Wis. Stat. § 62.09(11)(i), and



Council was notified to that effect. The Clerk's Office was already overwhelmed before becoming short-staffed. Accordingly, as the supervisor for the Clerk's Office, Director Diana Ellenbecker and Treasurer Pam Manley also took on a large amount of responsibilities in assisting then-Deputy Clerk Wayte. This included verifying those matters required in order to make moving Central Count to the KICC possible, and ensuring notice was timely given. On October 28, 2020, the general public was notified of the decision to move Central Count to the KICC.

### **Election Advisors**

As a recipient of the CTCL funds, the City was allowed, but not required, to receive advisory services from persons knowledgeable in various areas of election administration. There were several people who were made available to the City, not only from CTCL but also other groups which provided services which could be helpful. Among these were Dayna Causby from the Elections Group, Mr. Spitzer-Rubenstein and Sarah Lynn Flynn from the National Vote at Home Institute, Whitney May from the Center for Tech and Civic Life, Erika Reinhardt from U.S. Digital Response, Liz Howard at the Brennan Center, and Ashish Sinha from the Center for Secure and Modern Elections, to name just a few. Most of these consultants provided assistance exclusively remotely. Dayna Cosby and Michael Spitzer-Rubenstein were originally providing assistance remotely, but were also made available to provide assistance on-site to assist with setting up Central Count in a way that was safe and efficient for the Clerk's staff and observers, and to assist with election tasks that the City chose to assign. On-site assistance by Ms. Causby was ultimately declined, and instead Michael Spitzer-Rubenstein solely filled this role.

There has been much question about the National Vote at Home Institute ("NVAHI") and how it operated. Per NVAHI, it is a national, nonpartisan organization under section 501(c)(3) of the Internal Revenue Code. The Institute's mission is to promote the education and implementation of secure mail ballot systems and pro-voter policies around the country. As part of this mission, the Institute partners with other organizations and nonprofits to work with election officials in optimizing their administration processes and governing laws for both mail ballot and in-person voting methods, as well as to work with legislators from both parties to enact pro-voter policies. The Institute is active in this work in over 40 states and localities around the country, regardless of size and political affiliation. The organization's advisors include former and current election officials from both parties.

In speaking with Hillary Hall of NVAHI, she indicated that the organization had been engaged with Wisconsin since late spring of 2020, offering best practice assistance to any municipality that was interested. The services provided by NVAHI aligned with the mission of CTCL, and as a result, the two organizations partnered with each other such that CTCL and NVAHI were providing complementary rather than competing services to municipalities. Accordingly, as the surge in absentee voting was a major concern for the City, CTCL connected the City with NVAHI. The City was under no contract with NVAHI, exchanged no funds with the group, nor was it obligated to utilize NVAHI's services. NVAHI operated a fellowship program, wherein the Leadership Now Project connected business school graduates with NVAHI. Ms. Hall indicated that the organization partnered with the Leadership Now Project because NVAHI was looking for fellows with business skills who could put those to use during the election season on behalf of NVAHI.

Mr. Spitzer-Rubenstein was a recent MBA graduate when he accepted the Fellowship with NVAHI after signing up with the Leadership Now Project. During the election cycle, he was the Wisconsin State Lead, and was providing best practice support across the state, under the direction of NVAHI's senior staff. He indicated that as the state lead, he reached out to the fifty most populous cities, including reaching out to Kris Teske on behalf of the City of Green Bay. Upon his initial inquiry, he indicated then-Clerk Kris Teske declined his offer to connect. Instead, it was only later that he was connected to then-Chief of Staff Jeffreys by CTCL. He began assisting the City remotely in mid-August, and then on-site in mid-October. At the time, he was also providing best practice support to Milwaukee, Racine, Kenosha, Wauwatosa, and West Allis.

His role after coming to Green Bay was to make recommendations to staff on the logistics, set up, and operations of election operations. However, Mr. Spitzer-Rubenstein had no decision-making authority. For example, Mr. Spitzer-Rubenstein recommended changes to the City's Central Count training manual. After making recommendations and adding graphics, the manual was presented to Clerk's staff members Kim Wayte and Jaime Fuge for their review and revision, to which revisions were made. He also reached out to the Clerk's Office to determine whether any assistance was needed for the ballot curing process. However, the Clerk's Office specifically declined this assistance, and *Mr. Spitzer-Rubenstein never assisted with any matters involving actual ballots*. Furthermore, in speaking with Hillary Hall, she clarified that the NVAHI's practice is not to actually conduct any of those activities, and instead, Mr. Spitzer-Rubenstein's role, had the offer been accepted, would have been to connect the City with local groups who could provide this assistance.

One of the main tasks Mr. Rubenstein undertook for the City was to make recommendations on the layout of early in-person absentee voting, which started on October 20, 2020 and was resulting in people standing in line for hours. On October 21, 2020, the Mayor's Office made arrangements for Mr. Spitzer-Rubenstein to observe the layout of early in-person absentee voting and make recommendations for improvements. Then-Clerk Teske was hesitant to have Mr. Spitzer-Rubenstein on-site and was very clear that he was only to observe; he would have no access to any of the Clerk's operations, which Mr. Spitzer-Rubenstein adhered to. Accordingly, on October 22, 2020, Mr. Spitzer-Rubenstein observed the layout and flow of voting, and recommended changes such as increasing the number and location of voting stations and adding a person at all three doors to ensure no ballots left the building. Then-Clerk Teske was hesitant to accept any of the recommendations from Mr. Spitzer-Rubenstein, advocating that the current set up was the best way for staff to conduct the election, based on her experience. Nevertheless, her hesitations were overruled by the Mayor's Office in favor of improving the public's experience, and the recommendations regarding the layout were ultimately implemented to see if they would improve the process.

During my discussion with staff, it was noted that the changes to the early in-person absentee voting process were a drastic improvement over what the City had in place initially. The initial set up caused at least one employee to fear for her own health and safety, as she felt completely exposed because the hallway was overcrowded all day. After the recommendations were implemented, people were no longer bunching up, and the process flowed much more smoothly, thereby relieving her safety concerns. Voting times also improved.

Staff confirmed that all of the consultants they interacted with were merely advisory. The consultants were knowledgeable about their fields of expertise, which proved helpful to numerous City staff during the election. The consultants were the first to alert the City to the fact that the DS450 would not perform at the optimum speed, which allowed the City to plan for additional machines at Central Count as well as plan for more shifts with more poll workers. The consultants helped staff figure out security measures for the ballot drop boxes. They made recommendations on the floor plan for Central Count. They drafted documents the City could use such as the chain of custody log and a work schedule template. They provided advice on what information might be of most interest to the public on Election Day as staff were preparing talking points for media briefings. In addition, the revisions to the Central Count training manual improved clarity and ease of understanding.

### **Central Count Preparations**

For the August 2020 election, Central Count was held in the first floor hallway of City Hall. To reduce the risk of COVID-19 exposure, City Hall employees worked Central Count. Tables were set up through-out the first floor at designated intervals, and vote tabulators were assigned to specific wards to help reduce the amount of back and forth movement of employees. Despite all of the best practices, the hallway was still quite full and social distancing proved difficult. Nevertheless, the August 2020 election went well and no significant issues arose at that time.

As preparations were underway for the November general election, then-Clerk Teske intended to once again utilize City Hall for Central Count. Due to the size of the election, there was no way to host all of Central Count in the first floor hallway, so the plan was to spread Central Count over the first and fourth floors using approximately 50 City employees for a single, extended shift. Among the rationales expressed at that time was that an alternate location would require the ballots to be moved, which introduced an opportunity for errors into the process. It also meant the Clerk's Office would no longer be available on-site to provide assistance, as Clerk operations could not be easily moved in their entirety, and the vote tabulator would need to be recalibrated.

After listening to much feedback, including receiving a joint letter from the Democratic Party of Wisconsin and Republican Party of Wisconsin, the decision was made to move Central Count to the KICC. On October 22, 2020, the Mayor gave a directive for staff to determine whether Central Count could be moved to an alternate location given the short timeline that remained. Notably, then-Clerk Teske strongly opposed moving Central Count to a different location. Nevertheless, staff immediately set about determining what steps needed to be taken, including confirming the DS450 could be recalibrated, notice could be timely posted, and consulting with the WEC ahead of the move per statute. After Clerk Teske went on leave, Director Diana Ellenbecker and Treasurer Pam Manley took on a large amount of responsibilities in assisting then-Deputy Clerk Wayte. This included verifying those matters required in order to make the move to the KICC possible, and ensuring notice was timely given. On October 28, 2020, the general public was notified of the decision to move Central Count to the KICC.

In the week leading up to Election Day, a lot of work went into making the move to the KICC. Then-Chief of Staff Jeffreys started the ball rolling by contacting Tracy Hillesheim with the Hyatt

to determine whether the KICC was available for use. Then-Chief of Staff Jeffreys toured the facility to confirm it would be sufficient for the City's purposes. Michael Spitzer-Rubenstein toured the facility along with Celestine Jeffreys in order to provide suggestions on how to most efficiently set up the room on Election Day. At that time, the City's needs with regard to spacing, security, time frame, access, and equipment were also discussed. Mr. Spitzer-Rubenstein was also staying at the Hyatt, which is attached to the KICC, so volunteered to act as a liaison between the City and KICC staff. As a result, Mr. Spitzer-Rubenstein was initially listed as the on-site contact for the City. In speaking with Tracy Hillesheim and Kristine Hall from the Hyatt, the role of an on-site contact would be to answer KICC staff's questions about number of workers in the room, the timing of people arriving, letting them know if they needed additional tables or chairs, whether the temperature in the room was adequate, etc. Mr. Spitzer-Rubenstein was also listed as the contact to pick up keys for the City. However, Mr. Spitzer-Rubenstein never actually served in this role. Despite being listed as a point of contact in the booking sheet, KICC staff do not recall having much contact with Mr. Spitzer-Rubenstein after that initial meeting. Instead, Celestine Jeffreys acted as the primary point of contact with the KICC during preparations.

Then-Chief of Staff Jeffreys signed the booking sheet with the KICC, and Director Ellenbecker signed the actual agreement the next day. Then-Chief of Staff Jeffreys indicated that she did not thoroughly review the document when it was sent to her for signature on October 27, 2020 because time was short. Accordingly, she signed the booking as-is and without noticing that Michael Spitzer-Rubenstein was still listed as the point of contact. Nevertheless, then-Chief of Staff Jeffreys picked up the keys from the KICC, not Mr. Spitzer-Rubenstein. She then transferred the keys to Director Ellenbecker. Director Ellenbecker independently confirmed that she received the keys directly from Celestine Jeffreys. Both Director Ellenbecker and then-Chief of Staff Jeffreys confirmed that neither gave a key to Mr. Spitzer-Rubenstein. Furthermore, both City staff and Hyatt staff confirmed that these keys were to a small room off the grand ballroom, which is frequently used as either registration or coat check by convention guests. The City used the room as storage for the locked tabulator machines and the supplies that had been moved over to the KICC ahead of the election.

Mr. Spitzer-Rubenstein also relayed the City's need for internet access to Trent Jameson with the KICC's A/V contractor Encore (formerly PSAV). The City required three Wi-Fi networks—one for poll workers, one for the livestream, and one for everyone else. For the livestream, the City required a separate network with extra bandwidth because the livestream would consist of four (4) video feeds to cover the full Central Count operations. Mr. Spitzer-Rubenstein conveyed the City's need to Mr. Jameson. It is not clear why the term "sensitive machines" was written down with regard to the third network, but Mr. Jameson confirmed that was a term he used as he believed at the time that the network would be used for the voting machines. Nevertheless, the actual use of that network was for the livestream, and no internet access was used by any election tabulators. In addition, unlike the password protected networks for the two main access points, the larger bandwidth network would simply be hidden with no password protection. By the network being hidden, it simply meant it would not show up in the list of available networks when searching for Wi-Fi access points, and instead, the network name (or SSID) would have to be manually entered in order to find it and connect. This allowed the livestream devices to access the internet without concern that any other devices would connect and pull bandwidth away. Mr. Spitzer-Rubenstein

was provided with the Wi-Fi passwords for the other two networks, and notified the City after he confirmed while he was on-site that he had no trouble connecting to either one.

To make the move to KICC happen, adequate staff needed to be lined up, roles needed to be assigned, moving the ballots had to be coordinated, the WEC had to be consulted with, parking for poll workers had to be acquired, the live stream had to be set up, the schedule for transferring ballots from City Hall to KICC had to be established, the Chief Inspector had to be selected, extra DS200s had to be factored into the ballot processing, security needed to be established, notice to poll workers had to be provided, equipment had to be moved to the KICC, and confirmation that the City would continue to have adequate poll workers was an on-going struggle. Meetings were happening daily to gauge progress. It was a lot of work, but everyone involved was committed to making the move successful. Mr. Spitzer-Rubenstein continued to provide best practices recommendations and assistance to the City as an advisor. His time was spent reviewing the space, the available equipment, the proposed layout, the number of ballots to be processed from each ward, the number of poll workers, and making recommendations on how to set up the room for maximum efficiency. This included how to arrange the tables, where power cables needed to be placed, etc. Given the amount of work that needed to be done to move Central Count to the KICC, Mr. Spitzer-Rubenstein's recommendations and assistance were very helpful. However, Mr. Spitzer-Rubenstein never had authority to act on behalf of the City nor did he take any action without the clear directive of City staff.

Among the equipment the City moved to Central Count was a printer. Although there was no anticipated need for the printer, staff chose to have a printer available on-site in an effort to be overly prepared. This is the printer that Mr. Spitzer-Rubenstein was sitting next to at Central Count. Upon entering Central Count, Director Ellenbecker and Mr. Spitzer-Rubenstein both placed their personal effects at that table because it was out-of-the-way, though only Mr. Spitzer-Rubenstein returned to that spot during the day. However, no one has any recollection of the printer being used at any point during the day.

The Deputy Clerk traditionally acted as the Chief Inspector for Central Count within the City of Green Bay. However, because then-Deputy Clerk Wayte was now the acting Clerk in Kris Teske's absence, Administrative Clerk II Jaime Fuge was asked to fill this role. Her only request was that Director Ellenbecker and Treasurer Manley provide her with assistance as needed on Election Day given the magnitude of the operation, and both Director Ellenbecker and Treasurer Manley had worked as Central Count poll workers in the past. Director Ellenbecker and Treasurer Manley agreed to help Chief Inspector Fuge in whatever capacity she needed on that day.

### **Conduct of Central Count on Election Day**

On Election Day, four (4) City employees from the Department of Public Works punched into work at 5:30am in order to move ballots from City Hall to the KICC. They used two (2) box vans and one (1) pick-up truck. They met then-Deputy Clerk Wayte and Director Ellenbecker at City Hall at 6:00am to load the ballots. One ballot box was used per ward, and each box was sealed and labeled. Director Ellenbecker observed the ballot boxes as they were loaded and signed a chain of custody log confirming that all of the ballot boxes were accounted for at that time. The ballots were then immediately driven to the KICC where they were unloaded by the DPW

employees and moved to the grand ballroom where Central Count was being held. City Attorney Chavez was at the KICC waiting for the trucks to arrive and confirmed that each ballot box arrived sealed and labeled. Upon arriving at KICC, Director Ellenbecker delivered the chain of custody log to City Attorney Chavez and assisted in overseeing the check-in of ballot boxes. City Attorney Chavez signed the chain of custody log confirming that all of the ballot boxes were accounted for at that time.

Jaime Fuge was the Chief Inspector for Central Count. As Chief Inspector, she handled all matters pertaining to ballots and administration of the election. All staff clearly understood that Chief Inspector Fuge was in charge and had ultimate authority at Central Count. Numerous City staff worked as poll workers at Central Count. Poll workers were assigned so that a City employee was paired with a member of the public, and trusted City employees and seasoned workers were assigned to key jobs. For instance, the Director of Public Works was assigned to process ballots through the DS450, and ballot reconstructs were assigned to former Clerk Office employees and City attorneys.

Although there were some challenges at Central Count, such as the DS450 rejecting a large number of ballots that had to be reconstructed as a result, the actual operation went very well. City staff poll workers uniformly noted that Central Count was very successful and felt that the preparations and leadership on-site allowed the election to be run smoothly and successfully. Poll workers were assigned to three (3) shifts with approximately 80 people per shift. Four (4) laptops with cameras were set up throughout the grand ballroom to capture all of the ballot counting via livestream.<sup>1</sup> Roles were clearly established, and social distancing was able to be maintained throughout the room.

As is standard protocol, a zero count was run on the tabulators at the beginning of the day, which confirmed that no ballots were processed prior to the official count beginning. Ballots then began being counted, and continued until after 4:00am on Wednesday November 4, 2020. Chief Inspector Fuge was busy non-stop at Central Count. As the Chief Inspector, she was required to check-in observers, answer questions from poll workers, was the only person with keys to the tabulator machines so would have to respond any time there was a glitch or jam, and had final say on all matters at Central Count. Any time an issue came up, Chief Inspector Fuge had to address it, which kept her very busy. She worked non-stop for almost twenty-four hours, with almost no breaks. She had a mobile phone on-hand and was also in frequent contact with then-Deputy Clerk Wayte at City Hall. Chief Inspector Fuge indicated she exercised final authority at Central Count until then-Deputy Clerk Wayte joined her at Central Count well into the night after the polls had closed, at which time, she deferred many questions to then-Deputy Clerk Wayte as the acting-Clerk. Once the count was complete, the ballots were again secured in the transport boxes, and were transported back to City Hall at approximately 4:40am on November 4, 2020 by eight (8) DPW employees using two box vans and two pick-up trucks. Jaime Fuge, Kim Wayte, Diana

---

<sup>1</sup> IT set up the livestream to capture ballot processing by poll workers as a courtesy to the public during the pandemic, not because of any legal obligation. As a result, the livestream had no retention value, though the City would have retained the footage had it been able to do so. City IT set up the cameras to livestream to YouTube in the same manner as it does for other City recordings. As City events have never lasted that long in the past, staff was unaware that YouTube did not save files for continual broadcasts of that length until after the event had passed. Staff contacted YouTube to determine whether the footage could be recaptured, but there is no way to restore the feed.

Ellenbecker, Pam Manley, and Amaad Rivera-Wagner were the last ones to leave Central Count after the operations were done, and the chain of custody log was signed confirming the ballots returned to City Hall.

Central Count was a massive undertaking. As a result, there were numerous people assigned to various roles that day, beyond just poll workers processing the ballots. As discussed above, Director Ellenbecker and Treasurer Manley were assigned to be roamers, helping wherever needed in order to assist Chief Inspector Fuge. The City's ballot tabulator machine servicing company, ES&S, was contracted to have an employee on-site the entire day in order to provide immediate assistance with the DS450. The City's Community Liaison, Amaad Rivera-Wagner, was tasked with handling logistical matters, such as checking the media in, coordinating food for poll workers, and relaying numbers to the Mayor throughout the day. Community Liaison Rivera-Wagner was aided in these duties by Michael Spitzer-Rubenstein until around noon. Plain clothes Green Bay Police Officers were also present to provide security throughout the day.

While most of Central Count ran smoothly, there were a handful of interactions of note at Central Count. These are detailed below:

#### *1. Sandy Juno Visits Central Count*

Mid-morning on Election Day, former Brown County Clerk, Sandy Juno checked into Central Count as an observer representing the County Clerk. She was accompanied by County Corporation Counsel Dave Hemery, representing Brown County, and Chad Weininger, who was not representing any organization. All three were checked into Central County by Chief Inspector Jaime Fuge. City employees were familiar with former-Clerk Juno, Corporation Counsel Hemery, and the County's Director of Administration, Chad Weininger. As a result, Director Ellenbecker went over to say hello, especially because she viewed the County Clerk as a partner in the election, not necessarily as just an observer. During her discussions with then-County Clerk Juno, Ms. Juno brought a few concerns to Director Ellenbecker's attention. Specifically, Ms. Juno told Director Ellenbecker that the ballots should be face-down. As a result, Director Ellenbecker went around to tables and informed poll workers to place ballots face-down. Next, Ms. Juno told Director Ellenbecker that she felt that poll workers were looking at the ballots. Director Ellenbecker again responded to Ms. Juno's request, notifying poll workers not to look at the votes. Notably, however, poll workers were required to look at the front of ballots to confirm that then-Clerk Teske's initials appeared on the ballot to confirm its authenticity. Ms. Juno also informed Director Ellenbecker that she was unaware who the Chief Inspector was, to which Director Ellenbecker notified her that it was Chief Inspector Fuge, and pointed her out directly to Ms. Juno. After speaking with Director Ellenbecker, Ms. Juno then notified Director Ellenbecker that as a poll worker, Director Ellenbecker should not be speaking to her.

This level of attention given to Ms. Juno caused other observers to become concerned. As a result, observers asked Chief Inspector Fuge why Sandy Juno, as an observer, was being provided with more access to information and was able to provide direction to poll workers, even though other observers were not afforded this opportunity. As a result, Chief Inspector Fuge went over to determine what was being discussed. Upon introducing herself, the conversation effectively ceased, and no comments were directed to her by Ms. Juno. Instead, the only question she received

from any County employees came from Mr. Weinenger, who asked for a copy of the observer log. She indicated that the observer log was not open to inspection on the day of Central Count, but would be made available after the election, in accordance with law. Her stance was immediately challenged, and it was not until another observer overhearing the conversation found the provision supporting her position in the Election materials that the matter was resolved.

No other concerns by representatives from the County were brought to Chief Inspector Fuge's attention, nor to Director Ellenbecker during her conversations. Mr. Spitzer-Rubenstein was never mentioned by Ms. Juno to anyone from the City.

## *2. Michael Spitzer-Rubenstein Designated as an Observer*

Mr. Spitzer-Rubenstein was utilized as a resource to provide logistical and advisory recommendations and assistance to the City at Central Count. However, his presence proved controversial. As a result, the activities Mr. Spitzer-Rubenstein engaged in are identified here. Upon arriving at Central Count, Mr. Spitzer-Rubenstein was provided with a tag by Mr. Rivera-Wagner. Each person who entered Central Count was expected to have tag identifying their role at Central Count. As Mr. Spitzer-Rubenstein was neither a poll worker, nor an observer, he was provided with a "City Employee" tag at that time. He had a copy of the room layout diagram, and as a result, helped poll workers who were coming in find their assigned tables. When ballots were being distributed to the tables, he pointed people in the direction of the tables with the corresponding numbers based on the room layout diagram. Once counting began, poll workers had lots of questions. He assisted by helping the poll workers find the page in the City's Central Count training manual that addressed their specific questions. In the event that a poll worker still had questions that could not be resolved by reading the manual, Mr. Spitzer-Rubenstein would call Chief Inspector Fuge over to help the poll workers. Mr. Spitzer-Rubenstein indicated he interacted with approximately a dozen people in this way. In addition, Mr. Spitzer-Rubenstein was using an Excel spreadsheet to track the pace of ballot processing on behalf of the City. He had also determined special dietary needs of poll workers for lunch. He was also seen walking around Central Count, and told poll workers they could not eat at the tables where ballots were being processed. He also recommended to Chief Inspector Fuge that poll workers speak louder so observers could hear. Notably, Mr. Spitzer-Rubenstein did not process any ballots and did not have access to the results of the election.

Midway through the day, Mr. Spitzer-Rubenstein was approached by a group of observers. The observers began asking him numerous questions about who he was and why he was at Central Count. The parties had a brief exchange wherein one observer was described as "aggressive," but this interaction did not generate any police involvement. Mr. Spitzer-Rubenstein informed the observers that he was not a City employee, and that he was there offering advice and assistance.

Around this time, WEC Administrator Meagan Wolfe received a call from Sandy Juno expressing concern that a person (later identified as Michael Spitzer-Rubenstein) had a laptop at Central Count. During her brief conversation with Ms. Juno, WEC Administrator Wolfe indicated Ms. Juno believed a consultant firm from the Mayor's Office had a computer and printer in the ballot tabulation area, and she was very uncomfortable with it. As a result of this call, WEC Administrator Wolfe contacted then-Deputy Clerk Wayte. During her call with then-Deputy Clerk



Wayte, WEC Administrator Wolfe understood that then-Deputy Clerk Wayte was not at Central Count, but was in contact with them. WEC Administrator Wolfe talked through the appropriate roles for people at Central Count, which included, the Clerk, tabulator, inspector, or observer. WEC Administrator Wolfe indicated that unless the consultant was filling one of those roles, she did not believe a consultant should be there. Around that same time, WEC Staff Attorney Nathan Judnic received a call from another person stating that there was something going on at Central Count. WEC Staff Attorney Judnic also followed-up with then-Deputy Clerk Wayte as a result.

Around noon on Election Day, Chief Inspector Fuge and Director Ellenbecker had a conversation with then-Deputy Clerk Kim Wayte, who notified them that the WEC had contacted her and recommended that Mr. Spitzer-Rubenstein be limited to one of the defined Central Count roles, specifically observer. Chief Inspector Fuge, accompanied by Director Ellenbecker, approached Mr. Spitzer-Rubenstein and notified him that he could no longer serve in his advisory role at Central Count, and that he could only be an observer. Mr. Spitzer-Rubenstein ceased his activities and assumed that role without incident. Not long thereafter, he left Central Count and went to City Hall to provide advisory assistance with media briefings.

After the polls closed, Mr. Spitzer-Rubenstein returned to Central Count and signed in as an observer. He still had the “City Employee” tag when he returned, and an observer pointed this out to Chief Inspector Fuge. As a result, Chief Inspector Fuge directed Mr. Spitzer-Rubenstein to return the tag, and he was instead provided with an observer tag. Around 1:00am, Mr. Spitzer-Rubenstein left Central Count voluntarily following a disagreement with then-Deputy Clerk Wayte.

In speaking with employees, the only concern raised regarding Mr. Spitzer-Rubenstein was whether he should have helped poll workers find information in the Central Count training manual. City staff all confirmed that they believed that Chief Inspector Fuge was in charge of Central Count, and that Mr. Spitzer-Rubenstein did not interfere with their processing of ballots.

### *3. Observers Matthew & Polly Roeser Directed to Speak with the Chief Inspector*

At some point during the day, Matthew and Polly Roeser entered Central Count to observe. While observing the reconstruction table, Ms. Roeser asked one of the poll workers, Assistant City Attorney Lindsay Mather, a number of questions that were legal in nature. Assistant City Attorney Mather declined to answer questions and informed her that she should instead speak with Chief Inspector Fuge.

Later that day, Mr. and Mrs. Roeser returned to Central Count. Upon entry, they were informed by Community Liaison Rivera-Wagner that they needed to sign in as an observer. Mr. and Mrs. Roeser objected, claiming that they had already been to Central Count as observers, and that they had not signed in the first time, and therefore did not need to sign in the second time. Community Liaison Rivera-Wagner was firm in his stance that they had to sign in as observers, and the two parties had a brief exchange to that effect. This interaction was witnessed by Police Officer Phil Scanlan, who noted that the interaction did not raise any concerns for him and did not require him to interject. Records indicate that Mr. and Mrs. Roeser did eventually sign in as observers in the observer log.

Around 2:30 am, Assistant City Attorney Mather and Community Liaison Rivera-Wagner were sitting together at a table when Ms. Roeser approached them. All of the ballots had been processed by poll workers by then, and were in queue to be fed into the tabulator. Accordingly, poll workers who were still at Central Count were on stand-by at that point, and were performing no duties. Ms. Roeser again began asking Assistant City Attorney Mather questions about Election law. Mr. Rivera-Wagner immediately informed Ms. Roeser that she was not permitted to speak directly to poll workers, and instead needed to direct her questions to the Chief Inspector. Ms. Roeser continued to maintain that she was allowed to speak to poll workers and ask them questions. Community Liaison Rivera-Wagner and Ms. Roeser's exchange was brief, and although the two were being louder than needed, the interaction was neither hostile nor threatening, and the Police Department officers on-site did not need to intervene.

#### *4. Interaction between Community Liaison Rivera-Wagner and Observer Andrew Kloster*

Over the course of the day, observer Andrew Kloster and Community Liaison Rivera-Wagner had several brief exchanges. Although each side tells a different story, what is clear is that Mr. Kloster made a number of questionable comments to Community Liaison Rivera-Wagner, including challenging his right to assist in the logistics of Central Count. As the day carried on, the exchanges became more focused on extraneous matters, rather than the election itself. At one point, Mr. Kloster and Community Liaison Rivera-Wagner were outside of Central Count at the same time and in a different part of KICC. Mr. Kloster made comments to Community Liaison Rivera-Wagner that made him feel uncomfortable, including saying things like "he's not a City employee," "he's not allowed to leave," and "he's not allowed to be here." As a result, Community Liaison Rivera-Wagner notified police officers of what he considered escalating harassment. Community Liaison Rivera-Wagner informed the police officers that he was no longer comfortable with Mr. Kloster's presence, and requested that he be removed. Mr. Kloster objected, and the matter was taken to Chief Inspector Fuge. Chief Inspector Fuge, in consultation with Director Ellenbecker, determined that because the behavior occurred outside of Central Count, it was improper to remove Mr. Kloster from Central Count. Instead, Mr. Kloster was reminded of the rules applicable to election observers, and on-site officers were requested to closely monitor the situation to ensure that no escalation continued.

#### **Assembly Committee on Campaigns and Elections / WVA v. City of Racine, et al.**

Attorney Erick Kardaal testified at the hearing before the Assembly Committee on Campaigns and Elections on March 10, 2021 claiming the City violated various state and federal laws. Attorney Kardaal had previously brought suit in federal court on behalf of the Wisconsin Voters Alliance and some of its members against the City of Green Bay, as well as the Cities of Milwaukee, Madison, Racine, and Kenosha. In that action, Attorney Kaardal asserted many of the same arguments that he made while speaking to Assembly Committee, including that the Cities' respective acceptance of private grants from the Center for Tech and Civic Life violated federal and/or state law.

The lawsuit sought a preliminary injunction to prevent the Cities from spending any more of the grant money while the case was pending. In reviewing the motion for a preliminary injunction,

Judge Griesbach reviewed the case to determine whether the Plaintiffs had a “reasonable likelihood of success on the merits.” Despite all of the allegations lobbed at the Cities, Judge Griesbach rejected Plaintiffs’ arguments, and instead found that they were unlikely to succeed on the merits of their Complaint. Specifically, Plaintiffs objected to the use of the CTCL grant funds by the Cities in conducting the 2020 elections on the grounds that doing so violated state and federal law. Plaintiffs also argued that CTCL is a Democrat-leaning organization, and was specifically giving grants only to Democrat-leaning cities in swing states in order to influence the outcome of the election. However, at the time that Plaintiffs filed their motion, more than 100 municipalities—in addition to the five named Cities—had received grants from CTCL. Importantly, Judge Griesbach noted in particular that the factual record before him did not support Plaintiffs’ allegations of impropriety, “especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well.” Judge Griesbach also found “nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.” It was not until January 19, 2021 that Judge Griesbach issued a decision granting the Cities’ motion to dismiss for lack of standing.

No allegations of fraud have been made with respect to the City’s conduct of the November 3, 2020 election, and no issues affecting the integrity of the election have been found.