

## Statement in Response to Mayor Cook's Lawsuit

At 9:00 p.m. on August 17, 2021, Mayor Cook initiated his third lawsuit against me this year, claiming the City has been "forced" to file another costly lawsuit. This abusive lawsuit is a clear exercise in political issue framing that attempts to seize and control the narrative regarding my efforts to investigate the Administration's access into the computers in my office. I find no coincidence in the fact that this lawsuit was filed late in the evening on the same day criminal search warrants were executed upon Administration officials as a part of a criminal probe into the Administration's July 26, 2021, raid upon my office.

The allegations in the Administration's third lawsuit against me are false, and I believe they have been carefully crafted in order to both mislead the public regarding my actions as the Clerk-Treasurer of Westfield and to intimidate an independently elected official into ceasing an investigation into the Administration's actions.

Unlike the Administration's previous two lawsuits this year, this time the Administration is attempting to sue me in my individual capacity. I believe this is a clear intimidation tactic that is designed to prevent my counsel from effectively defending the Administration's lawsuit. I anticipate the Administration will argue that I should be personally responsible for the cost of legally defending my Office's investigation into the Administration's actions.

As the Clerk-Treasurer of the City of Westfield, I am an independently elected official that is not beholden to the whims of Mayor Cook. I am charged with separate duties and powers under the Indiana Code, including a duty to maintain the integrity and security of the City's financial data. To be clear: all of the actions I have taken to investigate the Administration's access into my Office's computers have been undertaken in my role as a duly elected official pursuant to the legal duties and powers of my Office.

Further, I believe the allegations of this lawsuit have been carefully crafted to mislead the public regarding an investigation by my office and for the purpose of intentionally defaming my personal and public reputation.

Three and a half pages of the lawsuit are dedicated to framing my involvement with the Mayor's August 2020 examination into City finances as purposefully non-cooperative. These defamatory statements are knowingly false. Over the course of this still-ongoing examination, I have cooperated with every request made by the Mayor's examiners, with one exception: I have consistently refused to provide administrator-level access into City financial systems that would allow for manipulation of data that documents the Mayor's expenditures of taxpayer funds.

Nine and a half pages of the lawsuit are dedicated to framing my investigation as unlawful and without legal authority. I believe this aspect of the lawsuit is intended to mislead the public with regards to the investigation I have been conducting in my role as Clerk-Treasurer. The

Administration alleges my attorneys and I have engaged in a “ruse” of some sort for some purpose that is conveniently left unexplained.

There is no ruse. As the Clerk-Treasurer, I have been conducting an investigation into whether there has been any electronic access into the computers in my Office that have taken place without my knowledge and consent. The target of my investigation is the Administration: I believe there is likely a connection to the Administration’s long-standing attempts to gain administrator-level access into City financial systems, which I have consistently refused, and the Administration’s use of software that has the capability of gaining covert remote access into the computers of my Office.

I believe the Administration is now purposefully abusing our legal system with a lawsuit that attempts to politically frame my investigation as a “cyber security attack.” I believe the primary purpose of this lawsuit is an attempt to seize control of the public narrative regarding my investigation into the Administration’s action. I will vigorously defend my official actions in court through legal due process. The public deserves to know the truth of this matter.

The truth is that during the pendency of the Mayor’s first lawsuit earlier this year, my staff and I began to notice oddities on our computers. Mouse icons on screens would move without input, programs would open without being clicked on. In one circumstance, a staff member found a saved login credential of a member of the Mayor’s review team that had been saved on the web browser of her local desktop computer. These oddities were particularly confusing because they occurred without the permission request that is typically associated with a remote access session into our computers. An initial review of the programs installed on the computers in my office found that software by a company called BeyondTrust had recently been installed. Research of this product revealed that it provides its user with the capability to initiate remote access sessions without the standard permission request from the target computer.

The truth is that I found this capability – a capability that would allow the Administration to covertly access the computers used by independently elected officials – to be very alarming. The truth is that I found the fact that this program had been in use during the timeframe I consistently refused to provide administrator-level access into the financial systems I control, and while defending against a lawsuit by the Administration, to be very disturbing.

The truth is that I requested that the Administration remove the software from the computers in my office. The Administration refused this request and took the position that using this software to access the computers used by an independently elected official – without that official’s knowledge and consent while engaged in litigation against the very same official – to be merely a matter of routine business.

The truth is that I am bound by Indiana law to ensure the integrity of the City’s financial information and systems. When the Administration refused to remove the software and to

acknowledge how the program was being used, I felt that I had a legal duty to investigate how the software on our computers was being used and to take appropriate actions.

The truth is that the Administration was aware of my intention to investigate this issue, and was made aware of that intention before any work had begun. In early July my attorney communicated with the Mayor's attorney and with the Councilman Gilbert that I was interviewing forensic examiners, and then that the work had begun. The Administration was therefore well aware of my intentions to investigate this matter. In fact, the Administration even agreed that such an investigation was proper... but the Administration (who had sued me twice by this point) wanted to conduct the investigation with a forensic IT firm of their own choosing, who would then report their findings to the Administration.

The truth is that I, like any reasonable person, did not feel comfortable entrusting an investigation into potential improper conduct with the party that I suspected was engaging in improper conduct. I did not want an investigation into this matter to be hijacked by the Administration. Who could think that is unreasonable? Especially considering the fact that the Administration launched its own examination into the finances of Westfield in August 2020 *after* it was publicly announced that the City Council intended to initiate its own examination into the Administration's expenditures involving Grand Park, thereby making any such examination by the Council "unnecessary" and "duplicative." It's been a year and there have been no findings from this examination. Given this history, and given the fact that the people offering to "investigate" my concerns regarding their own conduct had sued me three times so far this year, was I unreasonable to want to conduct my own investigation of the computers in my office?

The truth is that my concerns in this regard – and the fact that I was proceeding with my own investigation – was clearly communicated to the Administration *prior* to the July 26, 2021, Council meeting. The Administration knew I had retained experts to conduct this investigation and that their work was already underway. My update to the Council on these efforts at the July 26, 2021 Council meeting was therefore no surprise to the Administration. And any confusion on this was certainly dispelled when I provided my update to the Council on July 26, 2021, at a public meeting.

The truth is that the Administration and the City's IT director Chris Larsen, who was also present at the July 26, 2021, public meeting, was aware of my investigation when Larsen entered my office *immediately after* the July 26, 2021, without my permission, and "discovered" equipment belonging to my investigator. It is for this reason that I believe the Administration is attempting to mislead the public in this lawsuit by alleging that Larsen stopped a "cyber security threat" when he entered into my office and seized my investigator's equipment.

The truth is that Larsen admitted that he identified the computers he seized as not being owned by the City *before* he seized them. I believe Larsen's actions in entering my office – the office of a separately elected official – without any permission and seizing property that did not belong to the City was completely inexcusable.

The truth is that the Mayor's third lawsuit against me this year was filed at 9:00 p.m. on August 17, 2021, in the midst of a criminal investigation into the events of July 26. The truth is that earlier that very same day Vicki Duncan, the Mayor's spokesperson, sent an email to all City employees explaining that a criminal search warrant had been executed upon Larsen and the Mayor's Chief of Staff. Is it a coincidence that this lawsuit was filed late in the evening that same day? The Administration has been aware of my intentions with regards to this investigation for over six weeks. Perhaps it is merely a coincidence, and not an attempt to seize control of the narrative of this matter by framing bits and pieces of truth into a misleading and dishonest story?

The truth is that there has been no unauthorized access or "cyber security breach" by my investigator. My investigator was acting at all times as my agent in my capacity of the Clerk-Treasurer of Westfield. My investigator's work has been limited in scope to investigating the internal event logging information contained on the hard drives of the computers in my office. When performing this work, the computers were completely disconnected from the City's network and servers. The Administration admits that Larsen found the hard drives disconnected from the network when Larsen raided my office under the cover of darkness on July 26, 2021.

How can the Administration credibly claim that this work is inappropriate, especially when the Administration advised to purportedly want to do the very same work with a forensic investigator of their own? I believe the Administration's real concern is that they cannot control the findings of an independent investigation performed by my Office.

I believe that the Mayor's third lawsuit is a meritless attack against me personally that is intended to intimidate me into ceasing my investigation. Every action I have taken in this matter has been in my role as Westfield's Clerk-Treasurer. Yet the Administration has sued me in my individual capacity and is asking the Court to impose money damages against me personally. The lawsuit is being used as a vehicle for attempting to obtain a preliminary injunction that would prevent me from publicly sharing the results of my investigation.

It is my promise to the citizens and taxpayers of Westfield, and the public at large, that I will not be intimidated by the Administration's third lawsuit against me and I will vigorously defend against their claims. And I promise to share the results of my investigation publicly and transparently, provided that the Administration is not successful in obtaining a court order that prevents me from doing so. I will continue to faithfully serve the City of Westfield, as I have always done.

Cindy Gossard, Westfield Clerk-Treasurer