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Mary H. Thompson
(In Memoriam 1965-2025)

June 25, 2026

VIA EMAIL

Nicole S. King, *Esq.*
City Attorney
City of Birmingham
Office of the City Attorney
710 20th Street North, Suite 600
Birmingham, Alabama 35203

**Re: Forcible Removal of Terri Michal From the City Council Meeting
of June 23, 2026, and the City's Misapplication of Its Public-
Comment Ordinance**

Greene and Butler v. Nebius, Inc., et al., Case No. 01-CV-2026-902109.00
Circuit Court of Jefferson County, Alabama — Birmingham Division
**DEMAND TO CEASE RETALIATION AGAINST CITIZEN
SPEAKERS —
LITIGATION HOLD AND DEMAND TO PRESERVE EVIDENCE**

Dear Ms. King:

This firm represents Terri Michal. Ms. Michal is a Birmingham resident and one of the citizens who has publicly and repeatedly opposed the City's authorization of the Nebius "BHM01 AI Factory" data center, including by speaking against the proposed data-center amendment to the City's Zoning Ordinance. Her opposition places her squarely among the residents whose interests are at issue in *Greene and Butler v. Nebius, Inc., et al.*

I write to place the City on formal notice of two related episodes of official conduct directed at Ms. Michal because of the exercise of her First Amendment rights, and to demand that the City stop treating the citizens who disagree with it as adversaries to be misdirected, silenced, and physically removed. I further write to demand the immediate preservation of all evidence relating to those episodes.

This is the *second* time in scarcely five weeks that I have had to write you about the City's retaliatory treatment of a citizen who opposes this project. On May 18,
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2026, I wrote regarding the pretextual Sunday-morning police stop of Madelyn Greene, four days after the *Greene and Butler* complaint was filed. The events described below confirm that the May 17 stop was not an aberration. As public criticism of the City’s handling of the Nebius project has intensified, the City has grown more willing to turn the instruments of government — its police, its podium, and its shifting “policies” — against the residents who criticize it.

I. The City Told Ms. Michal One Rule and Then Punished Her for Following It

The treatment of Ms. Michal is best understood against the City’s own sequence of conduct. At a City Council meeting in late May 2026, the presiding officer and Dr. O’Quinn told Ms. Michal that the Council’s policy was that a speaker “can’t speak on the same topic week after week” and could “only speak every other week regarding an item.” The City thus represented to her that its restriction was *subject-matter* based: she could not address the same topic at two meetings in a row, but a different topic was permitted.

Ms. Michal took the City at its word and arranged her participation accordingly. On June 9, 2026, the City held its public hearing on the proposed data-center amendment to the Zoning Ordinance, and Ms. Michal spoke in opposition. The following week, she spoke again regarding the data center. The week after that — on June 23, 2026 — she returned to address the Council on a *separate* subject, precisely so that she would not be raising “the same topic week after week.” She organized her own participation in her government to conform to the very rule the City had told her governed.

The City repaid that compliance by turning her away and, as set out below, having her physically removed. When Ms. Michal was told she could not speak, she observed — correctly — that this was “not what you said publicly at a meeting at the end of May.” The presiding officer acknowledged remembering that conversation. The City had told Ms. Michal the limit was topic-based; she had honored it to the letter; and the City excluded her anyway.

Compounding the unfairness, the City could not even state its own rules consistently. The presiding officer told Ms. Michal she had to sign up “by 9:30,” then conceded the correct time was “9:15” — a deadline Ms. Michal had in fact met. The published ordinance specifies no sign-up time at all; Section 2-2-11(a) requires only that a speaker sign the request form “prior to the start of the city council meeting.” Nor does the written ordinance contain any “same-topic” rule. Its sole limit on frequency is that “[n]o person shall be allowed to address the city council at two consecutive meetings unless granted by the city council” — a restriction that says

nothing whatever about subject matter. The City's own administrator acknowledged on the record that "that oversight is on us." The entire exchange is preserved on the City's official video.

What emerges is a forum administered not by definite, evenhanded standards but by shifting, unwritten, and self-contradictory ones — a topic-based rule announced aloud, a consecutive-meeting rule buried in the code, and a sign-up time the Council could not correctly recite — invoked in whatever combination served to keep a particular critic of the data center away from the microphone. That is not the application of a neutral rule. It is the exercise of standardless discretion against a disfavored speaker.

II. On June 23, 2026, the City Escalated From Misdirection to Force

It is our understanding that, at the City Council meeting on Tuesday, June 23, 2026 — the meeting Ms. Michal attended on a separate subject, in compliance with the rule the City had given her — she pressed the point that she was being excluded contrary to the City's own representations. The City did not merely decline to recognize her. **Two Birmingham police officers physically removed Ms. Michal from the meeting.**

Let there be no mistake about what that represents. A resident of this City was forcibly removed by armed officers from a public meeting of her own municipal government — a meeting convened to conduct the public's business — at the moment she was criticizing that government's conduct. Removing a peaceful speaker because of the content of her protected comment is not crowd control; it is the suppression of speech by force.

If the City contends that Ms. Michal was disruptive, out of order, or in violation of some lawful rule, it should say so plainly and identify the specific rule — and it should be prepared to prove it from the City's own audio-video recording, which will show a citizen doing nothing more than speaking. What the City may not do is answer protected criticism with the badge and the boot.

III. This Is a Pattern, Not an Isolated Event

The City's treatment of Ms. Michal cannot be viewed in isolation. Four days after *Greene and Butler* was filed, two Birmingham police officers stopped the lead named plaintiff, Madelyn Greene, on a public road in the Oxmoor Corporate Park — the very area where the challenged Project is being built — refused to articulate any reason for the stop, and fled the moment she said she would record them. I wrote you about that stop on May 18, 2026. Now the City has misstated its own ordinance to silence a different opponent of the same Project and has had her carried out of a public

meeting. The throughline is unmistakable: the City is responding to lawful, public, political opposition with the machinery of the State.

IV. The Constitutional Problems Are Serious

The public-comment period of a City Council meeting is a forum the City itself created for citizen speech. Within that forum the City may enforce reasonable, evenhanded rules — a three-minute limit, a sign-up requirement, an aggregate time cap, even a neutral limit on consecutive appearances applied to everyone alike. What the City may *not* do is decide which viewpoints get heard. It may not invent a subject-matter restriction found nowhere in its ordinance and apply it to a citizen because of the position she takes. It may not enforce its rules selectively against the speakers it dislikes. And it most certainly may not answer protected criticism by dispatching armed officers to remove the speaker.

Two further points dispose of the defenses the City is likely to raise. First, even if the Council could lawfully decline to *call* a speaker who had appeared at consecutive meetings, that provision authorizes the Council to withhold recognition — it does not authorize armed officers to physically eject a peaceful citizen from the chamber. Second, a forum governed by unwritten and shifting rules that officials apply at their discretion, and cannot even recite consistently, is the very condition the First Amendment forbids: standardless discretion over who may speak is an open invitation to viewpoint discrimination, and here it was exercised against the City's most persistent critic of the data center.

These are not close questions. The First Amendment protects Ms. Michal's right to speak and to petition her government; it forbids viewpoint and content discrimination within the forum the City has opened; and it forbids official retaliation against a citizen for the content of her protected speech. The forcible removal further implicates the Fourth Amendment, which does not permit the seizure of a peaceful person who has broken no law and disrupted nothing. Officials who order, participate in, or ratify such conduct expose themselves to liability under 42 U.S.C. § 1983, in their individual as well as official capacities.

V. Litigation Hold and Demand to Preserve Evidence

Litigation against the City is already pending, and the conduct described above is the subject of a contemplated motion and an anticipated amendment to add retaliation claims. This letter therefore constitutes a **formal litigation hold**. The City of Birmingham, the City Council and its members and staff, the Office of the Mayor, the Office of the City Attorney, the Birmingham Police Department, and every employee, agent, officer, and contractor of the City is hereby directed to take immediate steps to preserve — and to refrain from destroying, altering, deleting, overwriting, or modifying — any and all of the following:

- The complete official audio-video recordings of the City Council meeting of June 23, 2026 and of each preceding meeting at which Ms. Michal appeared or was discussed — including the meetings of June 9 and June 16, 2026 and the late-May 2026 meeting referenced above — and any portions recorded before, during, and after Ms. Michal was removed, together with any recess, hallway, lobby, or chamber-perimeter footage.
- All speaker’s request forms, sign-up sheets, and sign-in logs for the meetings identified above, and any record reflecting the topic on which Ms. Michal signed up to speak and the time at which she signed up.
- All minutes, agendas, and clerk’s notes for the meetings identified above.
- All records of the Birmingham Police Department relating to the removal of Ms. Michal on June 23, 2026, including body-worn-camera and in-car video and audio, incident and supplemental reports, CAD entries, dispatch communications, assignment and detail records, and the identities of the officers and supervisors involved.
- All communications — emails, text messages, instant and chat-platform messages, voicemails, and notes — within or among the City Council and its members and staff, the Mayor’s office, the City Attorney’s office, and the Police Department that in any way reference Ms. Michal, the public-comment or speaking policy, the removal of any speaker, the data-center opposition, the named plaintiffs or putative class members, or the pending litigation; and any directive or suggestion concerning who may speak, who should be limited, or who should be removed.

This duty applies regardless of any standard retention schedule. Any automatic deletion, purge, overwrite, or wipe cycle — including the routine cycling of body-worn-camera, in-car, or meeting-recording media — that would otherwise destroy or alter any of the foregoing must be **suspended immediately**. Any destruction or alteration after receipt of this letter will be treated as spoliation and addressed through every remedy available under Alabama law, including motions for sanctions and adverse-inference instructions.

VII. Demand to Cease — and Notice of the Action That Will Follow

On behalf of Ms. Michal, and of the citizens who share her opposition to this Project, demand is made for the City to immediately: (1) administer its public-comment period under the published terms of Section 2-2-11, applied evenhandedly and on a viewpoint-neutral basis to every speaker alike, and cease enforcing unwritten, shifting, or selectively applied restrictions against the citizens who criticize this Project; (2) cease using police officers to remove citizens for the content

or viewpoint of their protected comment; and (3) provide written assurance that no such conduct will recur.

Citizens of Birmingham have an absolute right to oppose City development projects — publicly, politically, and from the lectern of their own City Council — without being misdirected under invented rules or removed by force. We trust the City will take this matter seriously, will investigate it promptly through an appropriate independent process, and will ensure that nothing of the kind happens again.

Nothing in this letter shall be construed as a waiver of any claim, right, or remedy available to Ms. Michal, the named plaintiffs, the putative class, undersigned counsel, or any other person. All such claims, rights, and remedies are expressly reserved.

Sincerely.

A handwritten signature in black ink, appearing to read "K. Mark Parnell". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

K. Mark Parnell