

**HAMILTON COUNTY ELECTION COMMISSION**  
**MINUTES OF MEETING**  
January 11, 2012

**Call to Order:**

Upon notice duly given, Chairman Walden called to order a regularly scheduled meeting of the Hamilton County Election Commission at 8:33 am on November 17, 2011 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee

Invocation: Commissioner Braly

Pledge of Allegiance: Commissioner Crangle

Present at Meeting:

Commissioners Walden, Braly, Summers, Crangle and Attorney Clem were present at the meeting, as well as staff of the Election Commission, members of the media and public. Commissioner Anderson came in late.

Approval of Minutes:

**Commissioner Braly** made a motion to approve the minutes with correction to the spelling of her name.

**Commissioner Summers** seconded.

New Business:

**Administrator Mullis-Morgan** stated that Ballots have been approved by the state, and that the Republican ballot will have the County primary on the back.

**Commissioner Crangle** made a motion to approve the Ballots.

**Secretary Summers** seconded.

**Administrator Mullis- Morgan** also stated that there will be 837 workers for this election and that the number is usually between 800 and 900 workers. That is officers and the rest of the workers. She further stated they started training yesterday and have two classes a day Tues-Thurs for three weeks. It is for the officers and one or two other workers they choose to bring with them.

**Chairman Walden** asked if there seemed to be any confusion on the Photo ID.

**Assistant Administrator Scott Allen** stated that no there didn't seem to be. That the video is from the Coordinator of Elections and after we show it we do a question and answer. The main questions are what to do with the voter who doesn't have their ID when they come into the polling place. He further stated that we are giving them a handout, and there is also a handout available up front for the public.

**Chairman Walden** stated that he would like for the handout to be available at all the polling locations too. He also stated that they would lock the ballot boxes and check the voter registration lists after the meeting.

**Assistant Administrator Scott Allen** stated that we have given them a handout and there is one up front to give the public if they have questions.

**Administrator Mullis-Morgan** stated that she is asking that the Early Voting hours be 10:00am to 6:00 pm .That most likely it will be extended to 7:00pm in August and 8:00 pm in November. This is keeping with the usual time frames. She further stated that the Early Voting sites will be Election Commission, (Since the Election Commission opens at 8:00 am voting will

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begin at 8:00 am there.) Brainerd Recreation, Eastwood Church and Northgate. These are the sites we have been having and the only difference is Northgate is sometimes at a different place but always at Northgate.

**Commissioner Braly** made a motion to accept the Early Voting Sites & Hours.

**Commissioner Summers** seconded.

### Legal Matters:

**Attorney Clem** stated that when it comes to legal matters they can be discussed outside the open meetings law and they are not subject to the open meetings law. We had a quite an extensive legal session before the last meeting and then before this meeting. You can contact me privately. I have emailed you things in the past few weeks and apparently some of your emails don't accept large attachments. When I email you it is considered confidential. Then you as the client have the right to share it with whomever you choose, but once it is out there and is shared with anyone other than the five commissioners it loses its confidentiality. As for what we discussed before the November meeting and before this one, I don't know that I have anything to add, except that we have given you timelines and copies of all the summaries and all the documents that have been filed by all the parties. I have the documents here just one copy but we can make copies if we need too. I will say I will answer questions in the public and private you just need to decide which questions to ask in the public and which ones in private. Some need to be answered in the public and some in private.

**Secretary Summers** stated that he would like to say something and he has prepared a two page memo He would ask that the memo be part of the minutes. We have new commissioners and it is basically to remind and then that he has a few more comments he is very much concerned on how this commission is preserved. I am not trying to demean the majority party, but there have been some things that have come up innuendo's rumors and such and if I say something about an individual I want you to understand that I am not trying to cause problems. The most important part is the last paragraph, it gives a little bit of history. I have been here the longest and then Chairman Walden and then all the other commissioners are new as well as the council. Attorney Clem will tell you I have tried to make a transition with him, but the news media has a way of getting facts and interpreting them the way they want to and that is one of the great privileges of the 1<sup>st</sup> amendment. Under *T.C.A. 2-1-102* the state election commission is to regulate all conduct by the people so that maximum participation by all citizens in the electoral process is encouraged. *TCA 2-12-116(a)* the county election commission shall adhere to such policies as are necessary to aid the personnel of the election commission office in the performance of their duties with regard to the promotion of voter registration and the electoral process. That is our mission. It is not to be for or against the mayor or the recall. People read things into things. Example- I was called when Mrs. Braly was in Florida and asked was the meeting passed to gain some advantage? I said no not to my knowledge. This is important and I can live with the passing. Mr. Walden is the chairman and can schedule or reschedule meetings when he wants. But other people read things into it. Now, I do have a problem with the state attorney general being added as I don't think that the law requires. I get the impression that if you're going to attack the constitutionality of a statute that you just notify the attorney general. He further stated that thirdly he didn't think we should be in that fight. I personally with all do respect think that is for the parties council. It infringes on our image to be a neutral detached body that is here to mainly support the electoral process. Now, that is another thing and certainly anyone can respond here. What I'm trying to say is some people are getting into this to work against the

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idea of our goal or mission. Mr. North represents Mayor Littlefield and to be honest I thought we would be named in our capacity as defendants and not individually and I voted against it. I was over ruled and I can live with that, that is how the American system works. The majority rules. That is not what is happening here. My opinion and this is only my opinion not the Democratic Party's opinion. Over the years I've been right a few times and wrong many times, I accept the responsibility. My question is if we had been sued, we could have spoken to our representative and even though it has been stated many times that I voted against and Mr. Anderson abstained on the November 17, meeting to adopt the City Charter-

**Chairman Walden** stated that you voted for it the first time.

**Secretary Summers** stated that yes and he explained my reasons. To be honest I didn't think Mr. Depinto would get the signatures, and he didn't. The question that because our staff gave some advice and that we were bound to it is true in my opinion up to a point. The signatures still have to be valid in addition to the erroneous advice that they didn't have enough dates on them. That is where I differ on that.

**Chairman Walden** asked are you saying the signatures and not only the dates are suspect or just the signatures that don't have a date are not valid?

**Secretary Summers** stated that he didn't think that makes them invalid just because they didn't have the date down that they are okay. I think they still have to get the requisite number whether they get the charter number of 5000 or the 15,000.

**Commissioner Braly** asked were the signatures not validated?

**Secretary Summers** stated that he didn't know did they have enough signatures?

**Attorney Clem** stated that it was stipulated in the first trial they did have enough signatures to comply with the charter but not the state statute, they had I think 9000 signatures but that they were not all dated.

**Secretary Summers** stated that as far as any constitutional attack, maybe he misread the memo or maybe it was discussed in a private session but that he was never asked whether he felt they should defend the unconstitutionality of the state statute or the constitutionality of the city charter. He further stated that with all due respect that is the responsibility of Mr. North.

He also stated that we were not named as parties in it and don't misunderstand Everyone on here is entitled to the best council they can have I know that Mr. Walden your very successful firm is represented by Chambliss Bahner and whether that had anything to do with as to why not to do it to have you any embarrassment, I don't know and I don't make an issue of that.

**Chairman Walden** stated that he was totally confused with what Secretary Summers had just stated.

**Secretary Summers** asked why were we left out of the lawsuit, when we could have been sued in our representative capacity and not individually? That is the way these things normally are done. I'm not saying it would create any personal embarrassment for you They have represented you for years and they do a good job representing you, that is not the point I'm trying to make. It deprives me if I want to present a minority position, then I am precluding that, I guess I could have intervened but I chose not to because I think it has too many lawyers in it already. It should be a fairly simple situation and instead of this election commission defending one side or the other, whatever the law is let the recallers lawyers express their opinion and Mayor Littlefields lawyers express their opinion and Judge Hollingsworth or Judge Williams make it and we don't need to be in this fight the way that we have been sucked in to it. It is being used in my opinion for political purposes(not this commission, I'm not making that accusation) Now we accepted these questions and I have researched this and I

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have found very few laws on recalls in this state. In other states it is said that it is an extraordinary procedure. I have fought for a lot more controversial causes than this, and when you (Commissioner Crangle) said I don't know how we could ever come down on the side of something or deny the right of the people, we lose confidence in our government all the time, I agree with that. The people need to know that their laws are legitimate, They have the right to recall their elected officials. I agree but for what grounds?

**Chairman Walden** stated that we are not arguing the merits of why they chose to recall that is none of our business.

**Secretary Summers** stated that everything seems to be part of our business.. Are you going to say that your not going to let me finish?

**Chairman Walden** stated yes but not if you are going to go on about something that is in no way relative to what we are talking about today. Whether Mayor Littlefield did something to be recalled or not is no concern of ours and whatever their petition says is no concern of ours. That has been discussed and has nothing to do with us.

**Secretary Summers** stated that well if you are going to cut me off I will make my statements outside.

**Chairman Walden** asked Secretary Summers if he thought it was inappropriate for Chambliss & Bahner to represent the newspaper as well since he seemed to have a problem with them representing him?

**Secretary Summers** stated that he did not have a problem with them representing him.

**Chairman Walden** stated that you (secretary Summers) say you were not a party and I'm not 100% sure what your statement is alledging that somehow Chamblis & Bahner did something improper I don't know their motivation for suing the election commission nor do I care. But your statement of the way they structured their lawsuit in an attempt as not to embarrass me I think- in audible

**Secretary Summers** stated that I tried to tell you that I wasn't suggesting that. I told you that the procedure would have given the minority party the right to intervene.

**Chairman Walden** stated that I guess you could ask them to amend their lawsuit in a different filing to include you so you can have your minority position.

**Secretary Summers** stated that he thought this had gone on long enough and the legal involvement and expenses to be very honest I'm not going to do that. But it should have been presented in that position.

**Chairman Walden** stated let's ask Mr. North, he is here. Why did Chambliss & Bahner file the lawsuit in the form they filed it?

**Mr. North** stated we did that on both litigations on Littlefield one and Littlefield two. The conduct that made Mayor Littlefield feel aggrieved on I guess you would say, involved a formal action by the Hamilton County Election Commission. We sued the Hamilton County Election Commission as a body.

**Chairman Walden** asked why you didn't do it as individuals as their action on that?

**Mr. North** stated that is correct and that he agreed with Mr. Summers that the last thing we need is suing you individually and then we have five more attorneys in the litigation to take the same position that the Election Commission has taken. What has concerned us in this litigation as opposed to the other is the Election Commission for the first time instead of telling Judge Hollingsworth and the court of appeals we are neutral and you tell us what the law is The Election Commission has now taken the position of let me tell you what the law is and this law is unconstitutional.

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**Chairman Walden** asked that Attorney Clem to correct him if he was wrong, this question whether the constitutionality of the state recall statute was first addressed in an appellate briefs some 18 months ago.

**Attorney Clem** stated that it was also discussed in the May 2011 meeting. We discussed it in the private legal session and I have the minutes here. Also in the November meeting.

**Chairman Walden asked** attorney Clem if it was his understanding that he was to defend the Election Commissions' position with whatever resources available?

**Attorney Clem** stated that there was a big difference between the first lawsuit and the second lawsuit. The first lawsuit the election commission had not made any final determination so there really wasn't anything to defend against. So I basically stood up and said the Election Commission hasn't made any final decisions judge and we shouldn't rush this. It was very clear from the court of appeals that Mayor Littlefield and his attorneys did rush it and procedurally screwed it up and that is why we are having to do it again. The court of appeals said they had to pay all of the costs for the first case because what they asked for was inappropriate timing wise and we have to do it all over again because of what they did. Now this time, it is different because the Election Commission did make a final determination and I was directed to defend that point on the basis which was on the record from the November 17, 2011 meeting was for the constitutional basis. I do feel like then I was directed publicly and privately to defend your actions.

**Commissioner Anderson** stated that, that was a quantum leap between the certification and making a constitutional challenge when that challenge would adversely effect in audible and using the public resources to do that particularly without a formal vote by the commission. My question is, Is the lawsuit itself legal? This body never approved that.

**Attorney Clem** stated that you are still completely in charge and you can certify the direction of the lawsuit or you can direct any of it be stricken or changed you have that right.

**Chairman Walden** asked Chris to be clear that the Election Commission did not cause this issue, we are merely playing the hand we have been dealt. The issue is a result of a poorly written City Charter amendment enacted by the voters. From the DePinto issue to the recall issue the required amount of signatures to have a recall has been in question for years. I feel we have an obligation to settle this once and for all. Is the City law City Charter going to dictate the amount of signatures or is the State law going to. Otherwise next year when another issue comes before this commission and we have to decide how many signatures someone needs to do something we are going to have the same issue again. So let's fix the issue one time, pay the lawyers one time and not several times over the years and never solving the problem.

**Attorney Clem** stated that it is a repetitive issue

**Secretary Summers** stated that he thought we decided in 2006 in a vote 5-0 vote in which you voted to follow the state law

**Chairman Walden** stated that no that is not correct and you have misquoted that on several occasions, what we said on the DePinto issue was to be better safe than sorry, if you get the top number you are covered either way.

**Secretary Summers** stated that no that is what he said.

**Chairman Walden** stated that yes he did say it and he agreed with him and here we are several years later better safe than sorry. I think the citizens should know how many signatures they need and quit moving the goal line. When we told the recall group they had to have the City Charter amount then we all approved unanimously and then when they got their 9000 signatures we changed the goal line to 15,000 per state statute That is not fair. They need to know how many signatures to effect a change in their government, whether we like that or

not. We have to be consistent, and we have been.

**Commissioner Anderson** stated again that is a whole different issue from taking sides in a lawsuit to filing a complaint.

**Chairman Walden** stated that he didn't think the Election Commission was taking sides.

**Commissioner Anderson** stated that if you have two combatants and you interject the constitutional issue and inaudible two people talking.

**Chairman Walden** stated that that it is constitutional and move on. Do you think it is fair for the citizens in Nashville to recall their officials one way and the other 94 counties in Tennessee to recall their officials another way? Do you not think everyone in Tennessee should be treated the same way"?

**Commissioner Anderson** stated that was not his responsibility.

**Secretary Summers** stated that we argued that last time.

**Attorney Clem** stated that apparently someone thought we didn't argue that last time.

**Mr. North** asked could he respond since he was brought into this previously?

**Chairman Walden** answered yes he could.

**Mr. North** stated that I was a member of this Election Commission previously and I believe I understand the rights and responsibilities, and I may be living in a parallel universe but, I remember Mr. Clem standing up before Judge Hollingsworth and before the court of appeals and asking them to tell us what the law is. He did not say let me tell you what it is because I am abdicating for the City Charter because I think the state law is unconstitutional he said, tell us and we will abide by it. That is the proper role and function of the Hamilton County Election Commission and the 94 other county Election Commission. That is the role the county Election Commission is obligate to pursue and you have gone far above that.

**Chairman Walden** stated that he thought Attorney Clem has done exactly what we have asked him to do. Anyone who has told anybody that Chris Clem as our attorney as written in an editorial that was 100% wrong in everything it said ,either intentionally misled or lied to them. I can tell you that Chris Clem has provided this Election Commission a good, honest, fair council. It is my opinion (and I am not speaking for the republican party) The attempt to demonize and personalize this issue and make it about Chris Clem or anyone else other than the City Charter and the state law are at conflict. We have to know as this commission what we are supposed to do. You tell us what the laws are and we abide by them. We are playing the hand we are dealt. As misreported that we have taken a position either for or against the recall we have worked tirelessly to stay out of the fray, we don't have a dog in that fight whether the Mayor is recalled or not, But at some point we have to know what law or charter we have to follow. We have to solve this issue now whether the Mayor gets recalled or not, we won't have the ultimate authority it is in the courts and they will rule. We had to make a decision and we had a 50-50 chance of making the right decision. We don't know if we made the right one or not. I do know that we voted for the 14,854 people who signed the petition. 9000 plus were registered voters and the other 4000 or 5000 maybe were not, but we made the decision based on what we thought was right for the 9000 plus registered voters.

**Secretary Summers** stated that the majority voted for that.

**Chairman Walden** stated that yes the second time was a majority vote and the first time was unanimous that was after they got the signatures no one thought they would get then a few fell off.

**Secretary Summers** stated I don't agree with a lot of what you're saying and you don't agree with a lot of what I'm saying. I've said the purpose is we need to be more non partisan in the future.

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**Chairman Walden** stated I don't think right or wrong is partisan.

**Secretary Summers** stated there are people outside this commission-inaudible- all talking

**Chairman Walden** stated that when they read something that is 100 % wrong

**Secretary Summers** stated that forget about the editorials by either the web media or the newspaper

**Walden stated** he wouldn't call it an editorial, I'd say it was a position piece to use later..

**Secretary Summers** stated that What I was telling Tommy (Crangle) based on case law a recall election all across the country is a very extraordinary situation And with all due respect our country is based on majority rule and what we have here is a very vocal minority and they seem to have picked Littlefield whom I have absolutely no connection to as to be the whipping boy and tar & feather him so bad that anybody whoever has anything connection to him and have any future political race, I don't know that may be an agenda it may not be.

My big complaint is not with anything you say about the people having the right it is the vocal minority should not be the one that controls an election, it should be the majority. We are turning the whole electoral process upside down. I agree with judge Hollingsworth if I'm wrong you can say I told you so. I understand there are 50 of these lawsuit floating around with these grounds and these grounds don't-inaudible-all talking

**Chairman Walden** stated that then your argument isn't whether the signatures are valid or the constitutionality it is whether Mayor Littlefield did something to warrant a recall. I don't know and I don't care that is not the issue.

**Secretary Summers** stated that is one of the issues.

**Chairman Walden** stated then change the law, if you don't like the law then have our elected officials change the law. We are playing the hand we are dealt. We are not arguing the merits of a recall we are arguing whether the law requires every signature to have a date, that is what they are contesting, not whether the petition on its face was valid or not or if he did something that warrants a recall I don't know and I don't care.

**Secretary Summers** stated that could very easily be resolved between the parties without our involvement which looks like we have taken sides. If Mr. Clem says he hasn't taken a side and you say he hasn't taken a side I will live with that, but that is certainly not the public perception.

**Chairman Walden** stated How can we resolve the issue if we don't have a court saying the poorly written charter or the state law that does not treat everyone the same? Which rule or ordinance are we to interpret? I don't care about the recall one way or the other. We have to know as a body either the law applies or it doesn't apply. If they are not going to make a decision about it how do we get them to resolve the issue?

**Secretary Summers** stated we have taken other litigation, and I not faulting Chris as the attorney, but we have had other cases unless it involved an employee that we have submitted and said we are looking for guidance.

**Chairman Walden** stated that is all we are doing now  
inaudible everyone talking

**Attorney Clem** stated we actually tried that in the court of appeals. The court of appeals told us to make a decision and then I was told to defend that decision.

**Commissioner Anderson** stated let's back up, first of all no one asked the court to make a decision before you certified the petitions. The petitions were certified without any questions or without any discussion.

**Chairman Walden** stated that was absolutely 100% wrong.

**Commissioner Anderson** stated that the minutes would speak for themselves.

**Chairman Walden** stated that Judge Hollingsworth was overturned on appeal because he made an opinion that prevented us from certifying.

**Commissioner Anderson** stated that he was not going to argue with non lawyer about legal issues. I want to make a motion that this body either approve or disapprove the constitutional challenge, because I believe that the lawsuit was filed without authorization.

**Chairman Walden** stated there was a motion was there a second?

**Commissoner Braly** seconded

**Chairman Walden** asked all in favor

**Secretary Summers** interrupted and asked that they wait a minute.

**Attorney Clem** stated that he needs to clarify the motion

**Secretary Summers** stated that this issue is already in the courts why do we even need a motion?

**Commissioner Anderson** stated I do not think this body authorized it, I know I certainly did not.

**Attorney Clem** stated that he wasn't clear on his motion, he said to approve or disapprove. You need to clarify to either approve it or to disapprove it.

**Commissioner Anderson** stated that I think that is what I said to approve or disapprove the constitutional challenge.

**Chairman Walden** asked do you want us to approve it or do you want us to disapprove it? You can't ask us to do both what are you wanting us to do?

**Commissioner Anderson** stated that he could ask you for a vote.

**Commissioner Braly** asked if the question was are we going to try and defend the constitutionality of the law?

**Commissioner Anderson** stated that by defend you mean constitutional challenge and an inappropriate one I'd say.

**Attorney Clem** stated someone needs to make a motion to either defend it or make a motion not to defend it.

**Secretary Summers** stated that he thought this was unnecessary it is already in the courts and they will decide it anyways.

**Chairman Walden** stated let's go on record individually.

**Commissioner Crangle** stated it was his understanding that the issue was whether the City Charter ruled or the state law ruled and that hung on if it was enacted.

**Attorney Clem** stated that yes partially.

**Chairman Walden** stated that and if it was constitutional

**Secretary Summers** stated that the court of appeals opinion stated that it was premature or the court didn't have jurisdiction and didn't address any of these issues.

**Attorney Clem** stated that is correct.

**Secretary Summers** stated that now the horse has left the barn in my opinion and I have no issue with James being against it but

**Commissioner Anderson** stated that first of all the courts did not address the constitutionality of it.

**Attorney Clem** stated that is correct

**Commissioner Anderson** stated that if the parties had raised the issue the court would have had to rule on it.

**Secretary Summers** stated that was not necessarily true James.

**Chairman Walden** stated that is not true but I don't want to argue with a lawyer.

**Commissioner Anderson** stated that if the pleadings of a complaint-inaudible-all talking

**Attorney Clem** stated that Jerry was right, and it is not necessary to make a motion but you can make a motion if you want.

**Chairman Walden** asked if Attorney Clem would read something. Doesn't the Attorney General have to be notified if you are questioning the law?

**Attorney Clem** stated that rule 24 does say notice to the attorney general when statute rule or regulation is being questioned of the rules of civil procedure.

**Chairman Walden** asked attorney Clem so you had a duty to notify them?

**Secretary Summers** stated that to notify them but not to add them as a defendant.

**Attorney Clem** stated that you can do it one of two ways and that he did talk to the attorney general's office about if you wanted it done quickly. Having their name attached they move things quicker. Jerry is absolutely right you just have to give them a summons without adding them. Procedurally it has the same net effect, but if you list them they move quicker according to the people I spoke to. We wanted to move quickly.

**Commissioner Braly** asked that by adding them that creates a new lawsuit?

**Attorney Clem** stated that no it was the same lawsuit, same docket number

**Chairman Walden** stated that in response to the total headline that was completely incorrect, We did not file a new lawsuit, we just responded to Littlefield two.

**Attorney Clem** stated that was correct and we did indicate to the attorney general that he needed to put his two cents in, as he does anytime when the constitution comes into question.

**Secretary Summers** stated that we added a new party and that delayed it.

**Attorney Clem** stated he was told adding them would speed it up.

Secretary Summers stated it had been his experience to the contrary because when you add them then they have to appoint lawyers. He further stated that the state Attorney General duties are every state statute in this question where we have a question between the state statute and city charter they have an obligation to defend the presumption of correctness on a state statute unless it is a blatant unconstitutional matter.

**Attorney Clem** stated that he did not know how they would rule but that he was right about that.

**Chairman Walden** stated that since this began has the City Commission taken any action to solve their problem within the City Charter and make it right? It is obvious that the City is not going to fix the problem. Once again the citizens of Hamilton County will bear the expense to defend a City enacted charter that costs everybody money in legal fees and they have done nothing in 7 or 8 years to solve the problem. With this lawsuit hopefully we will be able to tell the citizens of Hamilton County and the citizens of Chattanooga what they have to do to recall an elected official that they want to recall. Do you really believe that the elected officials That stand a chance of being recalled are going to fix this problem, they haven't in past so many years. Once again the election commission is going to look like we can't make a decision and we are just trying to do what is right. Tell the taxpayers what they have to do and they will do it or they won't. We can't say we don't know. If they come to us tomorrow what it takes to do something else we can't tell them because whatever happens everyone can argue about it and nothing is solved. This is an opportunity to resolve the problem once and for all.

**Secretary Summers** stated that you are getting into a political air.

**Chairman Walden** stated that how is it right or wrong? Just tell the people the number needed.

**Secretary Summers** stated there are other things involved if you don't vote my way I'm going to take my ball and go home. They started filing papers to recall Many Rico because he ignored civic groups like the police and judges on the gang problem.

**Chairman Walden** stated we do not change that. The city can change that.

**Secretary Summers** stated ok we are going to get the less number in this case and we are going to recall you. That puts all kinds of inappropriate pressure on the public officials who have been elected by the majority vote.

**Chairman Walden** stated that doesn't have anything to do with us.

**Secretary Summers** stated it does with the effect of it as far as the entire political process as to whether we are going to have people for example-inaudible- all talking

**Chairman Walden** asked do you think we should be into that?

**Secretary Summers** stated that I'm saying someone shouldn't be afraid of running for office because they didn't address the gang problem. That is the bottom line of all this the political pressure of we are going to threaten to remove you because you didn't vote our way

**Chairman Walden** stated they do that every four years.

**Secretary Summers** that is when the recalls should be every four years

**Chairman Walden** stated then write the law to make it that way. That is not the way it is written and the people that are facing this are the people that wrote the law.

**Secretary Summers** stated that is a very simplistic impractical idea

**Chairman Walden** stated then how else is it going to be done unless the elected officials change the rules, we can't do it.

**Attorney Clem** stated that has been done smoothly before. Signal Mountain had a recall and their charter was done properly.

**Chairman Walden** stated by the same people who did the one for the city of Chattanooga

**Attorney Clem** further stated that never the less it went smoothly, I was on Signal Mtn then and I opposed the recall even though I was against the political candidate because I didn't agree with exactly your (Jerry) argument. But it went smoothly because Signal Mtn had things running properly with their charter and they enacted it properly and it worked well with the state law. The recall went off smoothly, a couple of people were not recalled and one person was recalled. There were no lawsuits.

**Chairman Walden** stated but the city has taken no action to fix this problem and the same guy who did the recall on Signal Mtn did it at the City

**Attorney Clem** stated that the city attorneys are the same as the ones on Signal Mtn.

**Chairman Walden** stated that while all this has gone one DePinto and all the mayors that have gone through and everything he has done nothing, the city council and the mayor have done nothing to prevent this from happening. It will happen again. Once again a citizen is going to come in here with their petition on whatever it is it doesn't matter and they are going to ask how many signatures do we need and were going have to say well we don't know because the city charter says this and the state law says this, but to be safe do the high number. Tell them one time and quit moving it. Regardless of a recall or not, that isn't the issue. It is the city charter and the state law conflicting and us as a body being able to give a citizen a definitive answer. That is what this is about. Whether you are for or against the recall and to personalize it and make it about anything else other than the conflict between city charter and state law.

**Secretary Summers** asked what do you mean when you say personalize?

**Chairman Walden** stated the attack on Chris and this commission that we have acted in a partisan way.

**Secretary Summers** stated that he thought the word attack is a little bit strong.

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**Attorney Clem** asked did you read the editorial? It was an attack.

**Chairman Walden** stated that sometimes the means doesn't justify the motives in my opinion in most times I have not seen any evidence that any commissioner is either for or against the recall. The issue is how many signatures and what has to be on the petition to be recalled, and Chris has put forth in my opinion a great argument that was all listed in the minutes and we decided to go with the lower number not based upon one thing but several things. The Knoxville ruling, the Nashville statute and the history that we have always gone with the lower number. We even went with people being on the ballot who couldn't fill out the application to be on the ballot. We have always said let the voters decide and whether it was the 14,854 people who signed a petition or the silent or loud minority that is irrelevant. We have to tell them how many signatures and they can either get them or not we have to resolve this issue once and for all.

**Commissioner Braly** stated that she wanted to say that she has confidence in Chris and how he is trying to do what the Election Commission voted on and I don't think he has done anything against the election commission or anything the election commission didn't approve of.

**Chairman Walden** stated the motion is the Election Commission approve the defense that Chris has put forth including the constitutionality.

We have a motion and a second. All approve, Commissioner Summers abstained.

**Secretary Summers** stated that he is abstaining for the reason that it is already in the courts

**Chairman Walden** stated that he understood that but in light of recent articles and statements he thought it was important this body stand behind Chris 100% in his efforts.

**Commissioner Anderson** stated that he was opposed because he thought it was wrong for this commission to take an adversary position.

Adjournment:

**Commissioner Braly** made a motion to adjourn.

**Secretary Summers** seconded

The next meeting is Wednesday February 8, 2012 @ 8:00 am

APPROVED;

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Jerry Summers

Secretary

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Michael S. Walden

Chairperson

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Ruth Braly

Commissioner

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James Anderson

Commissioner

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Tommy Crangle

Commissioner