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TO: Doug Bodary, CTAS

Kathy Bassham, Giles County Administrator of Elections

FROM: Elisha D. Hodge, Open Records Counsel

DATE: June 24, 2010

SUBJECT: Charter Commission Meetings

It has been brought to my attention that several counties will be electing charter commission members in the coming months. I have been asked to address whether or not the meetings of these charter commissions are required to be open to the public. The purpose of this memo is to clarify the fact that charter commissions are subject to the Tennessee Open Meetings Act. Tenn. Code Ann. Section 5-1-206 addresses this issue and reads, "All meetings<sup>1</sup> of the charter commission shall be held in compliance with the provisions of title 8, chapter 44." Title 8, chapter 44 is where the provisions that make up the Tennessee Open Meetings Act are codified.

The Tennessee Open Meetings Act specifies that when two (2) or more members of a governing body meet to make a decision or deliberate towards a decision on an issue that the entire governing body is required or could be required to act upon, that meeting must take place in public. Tenn. Code Ann. Section 8-44-102. Therefore, when two (2) or more members of a charter commission meet to make a decision or deliberate towards a decision on an issue that is before or could come before the entire commission, that meeting must be conducted in a manner that allows the public to observe what transpires. Additionally, Tenn. Code Ann. Section 8-44-103 requires a governing body to provide "adequate public notice<sup>2</sup>" of a meeting. So, prior to a

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<sup>1</sup> "Meeting" is defined as "the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter." Tenn. Code Ann. Section 8-44-102(b)(2).

<sup>2</sup> Tennessee courts have established different criteria for what constitutes "adequate public notice" for a regularly scheduled meeting and what constitutes "adequate public notice" for special called meetings. For special called meetings, the notice provided to the public must be posted in a place where the public would become aware that a meeting was scheduled, reasonably describe the purpose of the meeting, and be posted in enough time prior to the meeting so that public has the ability to become aware of the meeting and attend. *Englewood Citizens for Alternative B v. The Town of Englewood*, 1999 WL 419710 at \*2 (Tenn. Ct.

charter commission meeting, the commission must provide the public with notice of its intention to meet that is adequate based upon all of the circumstances.

As outlined above, the “meetings” of charter commissions are required to be held in compliance with the Tennessee Open Meetings Act, which means they must be open to the public and the public must have adequate notice that a meeting is scheduled to occur.

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App. June 24, 1999). For regularly scheduled meetings, the courts have simply said “adequate public notice means adequate public notice under the circumstances, or such notice based on the totality of the circumstances as would fairly inform the public.” *Memphis Publishing Company v. City of Memphis*, 513 S.W. 2d 511, 513 (Tenn. 1974).