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ELECTION COMMISSION

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LOUDON COUNTY ELECTION COMMISSION

In re: **CITY OF LENOIR CITY 2018 MUNICIPAL GENERAL ELECTION –  
Qualification of Earlena Maples for Election to the Lenoir City Council**

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**PETITION IN OPPOSITION TO  
RESPONDENT'S QUALIFICATION FOR ELECTION TO CITY COUNCIL  
AND PLACEMENT ON MUNICIPAL GENERAL ELECTION BALLOT**

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Comes the Petitioner, City of Lenoir City, Tennessee (“Lenoir City”) by and through counsel, and in support of its opposition to place Earlena Maples (“Respondent”) on the upcoming municipal ballot for Lenoir City’s general election on November 6, 2018 (the “Election”) as a candidate for elected office to the City Council of Lenoir City (the “Lenoir City Council”), would respectfully show as follows:

1. That on December 9, 1954, the qualified voters of Lenoir City elected to become a home rule municipality under Amendment 7 to the Constitution of Tennessee (now Art. XI §9). Consequently, all of the general and permanent amendments to Lenoir City’s charter through December 13, 2004 have been incorporated into what is commonly referred to as “The Home Rule Charter for the City of Lenoir City” (hereinafter referred to as “Charter”).
2. That contained within Article XV, Section 1 of the Charter is the creation of the Lenoir City Utilities Board, which shall be composed of the six (6) members of the Lenoir City Council, together with the Mayor, who shall be ex officio chairman of said board.
3. That contained within Article II of the Charter and provided hereinbelow are

certain duties, responsibilities and powers of the Lenoir City Council, which are applicable as follows:

**Section 2:**

¶2. To appoint such boards, commissions, committees and authorities not created herein as they in their discretion deem necessary for the efficient operation of the city and to set the compensation, if any, they are to receive for their services.

¶3. The City Council shall have the duty of preparing, or having prepared, a budget for the City of Lenoir City, and shall have the power to fund the budget in any manner provided by law.

¶5. To define the duties of all officers and employees of the city, except elected officials.

¶11. To grant franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchises shall embrace the power to grant exclusive franchises. Franchises may be granted for the period of twenty-five (25) years or less from the date of granting, but no longer. Such franchises may be renewable at the option of the Council.

4. That the Lenoir City Utilities Board is a department of Lenoir City comprised of the members of the Lenoir City Council and two additional appointed representatives from

Knox County established under Article XV of the Charter and provided hereinbelow are certain duties, responsibilities and powers of that board which are applicable as follows:

¶2. To have the management, control, supervision, and operation of all utilities service provided by the City of Lenoir City.

¶3. To hire all employees, which in their judgment, are necessary for the efficient management and operation of the utility systems, and to fix the compensation and salaries of such employees.

¶6. They shall have the right to discharge any employee for failure to perform his or her duties efficiently, or to terminate employment of any employee whose services the board deems no longer to be necessary.

¶7. The board shall have power to issue warrants upon the City Treasury for all lawful and proper expenditures of the board and/or to maintain all necessary banking accounts for the efficient operation of the utilities systems. All warrants or checks shall be signed by the manager or superintendent and countersigned by the Mayor.

5. That contained within the current set of circumstances, Respondent is a full-time employee of the Lenoir Utilities Board and seeks to become elected to the Lenoir City Council at the city's upcoming general election on November 6, 2018 while also serving as a current employee of the Lenoir City Utilities Board.

6. That as required by T.C.A. § 7-51-1501, "unless otherwise authorized by law or local ordinance, "an employee of a municipal government ... shall not be qualified to run for elected office in the local governing body of such local governmental unit in which the employee is employed."

7. That the Charter does not contain any provision that authorizes an employee of

Lenoir City to seek election to or hold office on the Lenoir City Council.

8. That further, and pursuant to T.C.A. § 6-54-107, no person holding office under any municipal corporation shall, during the time for which such person was elected or appointed, be capable of contracting with such corporation for the performance of any work that is to be paid for out of the treasury of such municipal corporation.

9. That there is also a common law prohibition against a public officer holding two incompatible offices at the same time. State ex rel. Little v. Slagle, 115 Tenn. 336, 89 S.W. 316 (1905).

10. Lastly, and regarding the subject issue, the Tennessee Attorney General for the State of Tennessee has opined on several occasions that a person in Respondent's position would be ineligible to be placed on the ballot and serve, if elected, upon the Lenoir City Council.

11. In Opinion 08-72 (March 31, 2008), the Tennessee Attorney General stated that since local law did not provide for or authorize such, a school teacher of the city school system in Clinton, Tennessee was ineligible to be a candidate for the city legislative body. Opinion 10-94 (August 27, 2010).

12. That Respondent is a full-time city employee working for the Lenoir City Utility Board, a municipally-owned public utility created by the Charter that operates as a department of Lenoir City and subject to the approval of a budget approved by the Lenoir City Council and therefore is prohibited by T.C.A. § 7-51-1501 of being placed on the ballot for election or serving in a position as city councilwoman on the Lenoir City Council.

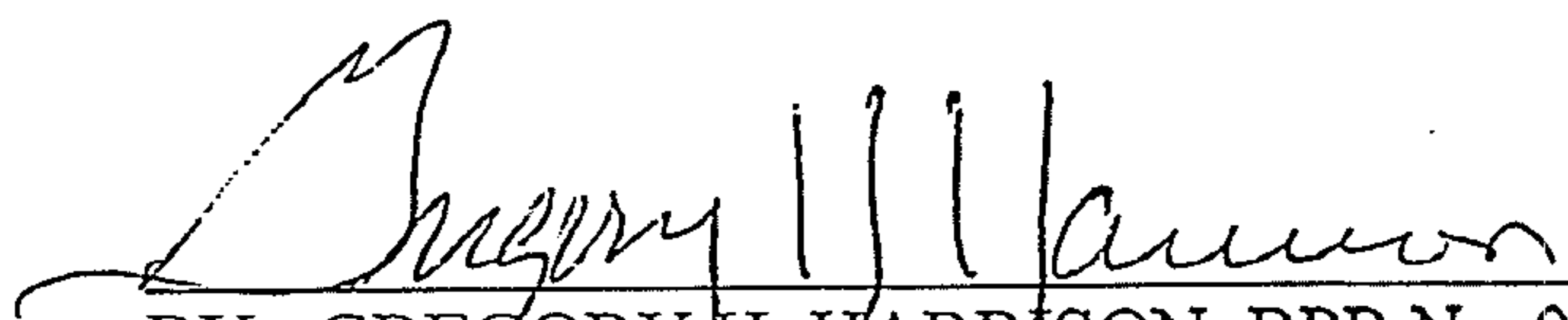
WHEREFORE, the aforesaid Premises considered, the City of Lenoir City, through its duly authorized counsel, would respectfully urge as follows:

(A) That Loudon County Election Commission hold a hearing on this matter as soon as

practical, after giving Lenoir City and Respondent adequate notice of the day, time and place of such hearing, as well as any procedures and rules adopted by the Loudon County Election Commission or other authority that must be observed in the conduct of such hearing; and

- (B) That at such hearing the Loudon County Election Commission allow Lenoir City and Respondent to each present their respective positions and arguments on this matter and present any evidence that party deems necessary to support its positions;
- (C) That at such hearing the Loudon County Election Commission determine and find that Respondent is unqualified to seek election to a position on the Lenoir City Council in Lenoir City's 2018 general election while continuing her employment with the Lenoir City Utilities Board;
- (D) That the Loudon County Election Commission not allow Respondent's name to be placed on the ballot for Lenoir City's 2018 general election and if such action has already been taken, that Respondent's name be stricken from that election's ballot;
- (E) That Petitioner be allowed to amend this Petition and Lenoir City's requests for relief prior to such hearing and in accordance with any applicable rules or procedures governing the same.

Respectfully submitted this 16<sup>th</sup> day of August, 2018.



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