

Elected Charter Commissioner Chairman, Daryl Luna, REBUTTAL (inline)
To July 3, 2014, WEKR Radio, The Breakfast Club with
Rick Head, County Commissioner Candidate and
Murray Blackwelder, Current Sheriff and Candidate for sheriff

Rick Head: My name is Rick Head (RH), a citizen here of Lincoln County, and a few weeks ago I became very familiar with the Charter and what possible implications it has in our government, and felt very strongly that we needed to move in a direction to oppose it. Since then I have spent a substantial amount of time investigating and researching this document, along with several others, and we've found even more things of concern that we want to voice today.
break

Daryl Luna: Rick Head is a citizen of Lincoln County and just “a few weeks ago,” as of mid-July, “became very familiar with the Charter and what were the possible implications of it in our government.”

One thing I want to mention here is that in a few weeks' time it is impossible for anyone to become as familiar with the document as we were over the nine-month period that we wrote it as well as the period afterwards. We've been continuing to educate the public.

In a few weeks' time, he did not approach any of the Charter writers to set him straight on any of these issues. They're clearly merely opinions that he's come up with on his own that don't reflect the content of the document. *[JY & RH continue ...]*

Joe Young: Well, we're going to let you go through your items one by one. I prefer not to ask questions about this (RH - OK) because you know your venue, and I want you to give in its entirety.

RH: All right - first point that we're really concerned about, and I say really. We're going to give you four points that we really dug deep into. The first and foremost one is there has not been any legal review of this document done. We know that other counties in the state of TN, namely Shelby and Knox, already have adopted Charter governments and in doing so have gone through a substantial number of litigations. Not all were found against the Charter, but needless to say those litigations cost a substantial amount of money, and we all know where that money comes from, that comes from the taxpayers, and it may result in programs being cut, it may result in taxes increasing, but it's going to come from us in one form or another. **##### break ###**

Daryl Luna: We have done the research on lawsuits. Lawsuits happen to every county. They happen now without a charter government in Lincoln County. We have talked to the Law Director in Knox County. We found out that there is not a problem with lawsuits and excess litigation related to the Charter. It's just normal lawsuits that a county would come across just by nature of being a county with citizens that live in that county. That's just complete false allegation.

As far as a review, legal review, there was no formal legal review, but we did ask the opinions of legal professionals, attorneys, paralegals, and what not during the drafting of the document. We have had attorneys read the document after it was drafted. I just talked to an attorney July the 7th and he has read the document. He said that he sees no problems with it under Tennessee state law. He deals with Tennessee state law, Tennessee statutes, Tennessee constitution, and the Constitution of the United States in his legal practice on a daily basis. *[RH continues again ...]*

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RH: One other concern that has been voiced by an attorney here in this county is that the judicial powers of the state shall be vested in one Supreme Court according to the Charter, and in other Circuit, Chancery, and other inferior courts, as the legislature shall from time to time ordain and establish the judges thereof and the justices of the peace, per the TN. Constitution in Article 6.

There's a problem with that. There is created one General Sessions Court in each County. In the Charter, we talk about creating additional General Sessions Courts, and from that we can absolutely see lawsuits coming. We can see litigations being involved. Anything that challenges the TN State Constitution is going to result in lawsuits. Lawsuits are going to be taxes increased for us, because somebody has to pay for those. And in this case, the ones that are going to get rich off this are the attorneys handling all the lawsuits. The taxpayers aren't. ##### break ###

Daryl Luna: That is **not** what the text of the Charter document says.

It states: "Section 4.01.C. Judiciary. The County Commission may, by ordinance, create such additional **divisions** of the General Sessions Court, as well as courts having such jurisdiction as is, or may hereafter be, provided by law, which it deems necessary and may abolish such divisions so long as the Commission shall comply with Section 4.03. of this charter. Such additional divisions of the General Sessions Court may be given exclusive jurisdiction over Lincoln County ordinance violations, and such other jurisdiction as may be authorized by all applicable laws of the State of Tennessee and this charter."

What the document says is that divisions of the General Sessions court can be created or abolished as needed by the county commission. This is common practice in Shelby and Knox County now. It has withstood the test of time in their charters, which have been in place for decades. This is something that's allowed under Tennessee state law. It's something that's common practice and it allows for the growth of a county. As the county grows and the number of citizens and the number of cases that is seen through the General Sessions court, which is a local county-specific court, then the Charter would allow them to create additional divisions to deal with additional population, additional litigation, what have you.

It's forward thinking and it's thinking that is backed up by state law, and it is thinking that is backed up by existing Charter Law. So far no litigation on those in Shelby and Knox County, same exact language word for word. *[RH continues again ...]*

RH: Next case in point, we really haven't done a cost analysis on this document. We dug into this document pretty deeply, and we have found a substantial number of cost penalties that are in there, or costs that are going to occur. One section specifically has to do with Chapter 260 (of the Private Acts of 1974-the Restructure Act) in section 7.04 (of the Charter).

This tells us that we will mimic the system that Shelby County uses for procurement and all their purchasing procedures. We have no idea exactly what the cost of that software that we're going

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to have to implement is, but since we "shall have to use it" per the document, we will have to purchase that software that we know will be in the tens to hundreds of thousands of dollars to the Lincoln County taxpayers to get that implemented. It will also require IT support. I don't know how many people are aware of what that costs us, but either we do it ourselves internally with a large IT department, or we fund that out to another group externally. In either case, we're going to have to have an IT specialist to run the department, and fund it externally or internally. More costs. ##### break ###

Daryl Luna: First off, we don't know anything about \$10,000 worth of software. There's nowhere in the Charter where there requires the purchasing of software. This is merely Mr. Head's opinion that this would need to be purchased, but nowhere in the document does it require there to be a purchasing of software. He is merely reading in his own misconceptions and own opinions into the document. Nowhere is this found—nor is there found in the Charter any requirement that additional IT support would be hired. This is just a ridiculous allegation.

What we do know about cost is that the Charter helps to rein in useless and unnecessary spending. It gets rid of county commission salaries that are not needed to run the government. It helps to rein in all these extra costs. If there are costs from the Charter, they'll be offset by savings, but there are no costs that are built into the document, and definitely nothing as far as buying software. *[RH continues again ...]*

RH: We also need to have an EOC person to see that we meet all State and Federal guidelines for affirmative action.

JY: What is EOC?

RH: Equal Opportunity Commission. We have to have an Equal Opportunity Commissioner. That person will have to ensure - that person or persons - that every company that submits quotes into Lincoln County, and works with Lincoln County, meets all Federal and State guidelines for Equal Opportunity - including affirmative action, fair labor practices, so on and so forth. All those have to be met. We don't know the exact cost in that because it depends on how broad the purchasing package ends up being, but it will be substantial. And when I say substantial, very likely into the millions of dollars, if you look over a ten-year program. ##### break ###

Daryl Luna: Well, once again, speculation. State law already requires there not be discrimination in hiring, discrimination in contracts, based on race, ethnicity, religion, and what have you. These are procedures already in the county, just in basic operation. There's not going to have to be another employee added. This is just speculation on his part and him trying to poke holes in the Charter, which is a very solid document and he cannot find it in the actual content of the document, so he's trying to create avenues to trash the document. *[RH continues again ...]*

RH: One other big concern that we have has to do with property tax freezes. It's been talked about how the Lincoln County Charter will ensure that seniors will get a property tax freeze. That is

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true in the state of TN, by TN state law, and by an amendment to the Constitution in 2007. Any county can adopt the TN tax freeze program for seniors. This allows seniors, the person applying, who is 65 or older, to get a freeze on their property taxes, as long as they don't do any improvements on their home that would cause a re-evaluation of their tax. The owner must live in the residence, and the tax is based on the income of all those on the deed of ownership of the home. The total income per family can't be over \$28,270 - that is on 2014 standards, and the property must be on 5 acres or less. You have to re-qualify every year. Many counties in the state have adopted it, and like our neighbors up in Rutherford County, the reason for their adoption is their taxes go up almost annually. So they saw it as a benefit to adopt it.

The Lincoln County Commissioners several years ago did an evaluation of this law and they determined since property taxes—we've got to differentiate there, we're talking specifically property taxes—not sales taxes, not wheel taxes, but property taxes - seldom tend to change in Lincoln County. In fact from 2003 to 2011 they did not change, and hence after they did an evaluation of it, they came up with a better plan. The plan that Lincoln County adopted doesn't freeze the taxes, but each qualifying senior, based on the same qualifying standards as the state, receives tax relief annually of \$123, in 2013. And that's adjusted each year accordingly, based on increases in inflation. When the evaluation was done, it was also found that should we adopt the State program, the cost of implementing that program for the people to monitor, and produce the documents required for that program, would have been over \$400,000 for nine years. And once again, where does that \$400,000 come from? Folks, all of us know that comes from us as the taxpayers - there's no other way to get revenue for the county. So that comes from us.

Now it could be said that property taxes could be raised every year, and we've seen our County Commissioners look at this program and enact a program that was better suited to us than the state program was. Since we've seen 'em do that, what makes us think that by their proven actions they would do anything different tomorrow to aid seniors and citizens in keeping their costs as low as possible? They've proven to us they will. I don't see any reason to think they wouldn't do likewise if things changed. ##### **break** ###

Daryl Luna: Underneath the Charter, we're trying to make sure that we allow this benefit for the seniors. Tennessee state law allows that; we think it's good—we think that seniors can take advantage of this and it will help those who have a fixed income. Those who are on fixed incomes can't worry about getting a voucher back every year. They need to know what their tax rate is going to be. They're going to need to get something set in stone so they can budget for their incomes, which is not a very hefty income anyway, if they qualify for this program.

These people who are trying to live their lives and keep the fruits of their labor to live as citizens in this county, we think it is important that we take advantage of any state program that allows them to keep their taxes at a rate which is predictable and manageable.

For the record, here is what state law reads today:

TCA 67-5-705. Property Tax Freeze Act.

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http://lincolncountycharter.org/wp-content/uploads/Tenn_Code_Ann_67-5-705.pdf

The state constitution <http://www.comptroller.tn.gov/pa/taxfreeze.asp> as of July 1, 2007; In its 2007 session, the 105th General Assembly enacted the Property Tax Freeze Act which establishes the tax freeze and authorizes the legislative body of any county and/or municipality to adopt the property tax freeze program. The Act became effective on July 1, 2007.

In order to qualify, the homeowner must file an application annually and must:

- Own their principal place of residence in a participating county and/or city
- Be 65 years of age or older by the end of the year in which the application is filed
- Have an income from all sources that does not exceed the county income limit established for that tax year

In counties or municipalities participating in the Tax Freeze Program, application may be made to the county Trustee or city collecting official.

The state Comptroller's Office will calculate the income limit for each county annually using a formula outlined in state law.

Situations where the base tax amount would change for a homeowner are:

- When improvements are made to the property resulting in an increase in its value
- When the homeowner sells their home and purchases another residence

[RH continues again ...]

RH: And our last issues we want to talk about today: Conflict of Interest. This is one that concerns every head of every department within Lincoln County that receives funds within Lincoln County. That includes our Hospital systems, our Board of Public Utilities, the Sheriff's Department, the Highway Department, all the administrators for the county, as well as the School systems. All these folks are operated on budgets within the county and are all affected by the Conflict of Interest document. This is section 12.03 in the Charter. And there's no other way to do this but to read it exactly as it's stated, so bear with me: "No elected or appointed official or employee of Lincoln County shall advocate, recommend, supervise, manage, or cause the employment, promotion, transfer or advancement of his or her relative to an office or position of employment within the Lincoln County government. For the purpose of this policy, a relative is defined - and this is very critical - as parent, step-parent, foster parent, parent-in-law, child, spouse, brother, brother-in-law, foster brother, step-brother, sister, sister-in-law, step-sister, grand-parent, son-in-law, daughter-in-law, grandchild - sounds kind of like a song. This is the critical part, "comma, or other person, comma, or any other person who resides in the same household."

So, in essence, listen very carefully to that - go back and re-read or listen to this again- there are three groups included in the term relative.

1. All listed relatives, related person by birth, marriage or fostership,
2. Other persons

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3. Any person who resides in the same household.

Now beyond the elected and appointed officials who can work for the county, there will be, because of the definition, no other person, which means any other human being, no law enforcement, no teachers, no hospital workers, nobody working for the county other than the elected and appointed officials.

Murray, how's that going to work out for you?

Murray Blackwelder: Well, I'm going to be busy. Busier than I have been. ##### break ###

Daryl Luna: Just to stop there. This Charter section is **directly out of state law**. The Charter is not creating an additional rule involving Conflict of Interest. This is as state law sets it now. So if Mr. Head has a problem with the way this reads, he then has a problem with the way state law reads which was simply copy and pasted into this document, codified in the charter so that we can have it for easy reference here in the county. [*JY interjects ...*]

JY: When you come right down to it, there are a couple of questions that I'm going to particularly answer, or that I'm going to open. But, there's been some confusion about metro government and Charter. People have... I've had people say "Well I'm for metro". And I don't think we're talking about metro here. ##### break ###

Daryl Luna: The Charter Commission has put in our ads that it is not metro. We make a point to say, "It's not metro," because those of us who oppose the charter, many of them tend to be for metro, including Bill Askins, who is part of the No Charter group and including Sheriff Murray Blackwelder. Metro is a power grab. Metro is added cost and instead of doing what the charter does, which is reducing the size and scope of government, it **increases** both of those. [*RH continues again ...*]

RH: Not at all. In fact, very simply put, these are two very distinct different governing ideas. The Charter government, as it's proposed, and if we vote it in as the citizens of Lincoln County, would replace our current county governance system. In other words, we'll throw out all our rules and regulations, policies and procedures, and enact an entirely new set of rules, policy, ordinance, and procedures how we operate Lincoln County. Metro, very, very simply put, being almost overly simplistic, is nothing more than the combination of the city and county governance so that there's one governing body within all of Lincoln County. Not two separate governing bodies as there is Fayetteville and Lincoln County. ##### break ###

Daryl Luna: Well, Mr. Head is right, that it is a consolidation of government, but it's the consolidation of government with a growth in government, a growth in salaries, a growth in expense, and a growth in power for those in elected positions. The Charter does not throw out everything that exists. It is not changing the foundational elements of Lincoln County Government. There will

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still be a county mayor; there will still be county commission; there will still be structure that is there. What it will simply do is change some of the way the county operates. It will address existing problems in the system and address those problems going forward and allow the citizens to have a better voice in that system. It is not simply throwing everything out.

If they really want to talk about metro, what they need to talk about is the loss of jobs because of the added cost. The education systems will have to match pay. If there are two systems in the county—city system and a county system—the system that pays less is going to have to match up to the pay scale of the one that pays more.

As you can tell now, times are hard and money is tight. The city pays more, so when they get ready to figure out how to pay for these added costs, what they're probably going to have to do is cut jobs to cover the upgrade in the employee salaries. As to how costs will still go up even with fewer teachers—with people losing their jobs, the salaries (costs) are going to be higher. Now consider the services, because services are going to have to be offered to the **entire** county.

Services, that if you live out in the county right now, you choose not to get. Things like sewer, things like public garbage pickup rather than private, a number of services that people who live in the city choose to have, and those in the county choose to go the private direction instead of the government providing those services. Those services will then be completely run by the government.

Competition will go down. Not only will competition go down, but it will put out of business those who seek to provide these services as a private business service. It is an enemy of entrepreneurship and an enemy of private industry. It is an enemy of the people of the county who are trying to make a living. *[JY interjects ...]*

JY: With self-government, that is governing process, you—the Commissioners, whatever the name would turn to—that number changes drastically, that's one big, big change. Right?

RH: That is. What's been proposed - what's in the Charter, is to drop the number of Commissioners from 24 down to nine. Having been in business all my life, I have to ask this one question every time I hear about talking reducing manpower. Think about it this way folks—if we reduce manpower, if you were working, and you were asked to do 62.5% more work, how would you accomplish that in your day? And that's basically what we're asking because we're asking the nine remaining commissioners to handle the entire workload that the twenty four are now doing—and oh, by the way, we're going to do this part time—and we're not going to increase compensation. ##### **break** #####

Daryl Luna: My answer to that is just because you have the manpower there doesn't mean that it's being used efficiently. Right now, we have multiple large counties in the state which are operating with fewer commissioners. Knox County has 11. Shelby County has 13. Both of those include the cities of Knoxville and Memphis respectively. They are able to do the job part-time.

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Right now, we have a county commission which is made up of 24, but there are only eight that sit on the budget committee. Already they have to do the entire work of the budget committee. Already there are people on the commission who have voiced their desire to be able to have a greater voice, but because they lack seniority, they can't even serve or speak on the budget committee. Just because the manpower is there doesn't mean it's being utilized.

As long as the government stays within its bounds of doing what it is **constitutionally and legally** required to do, there is no need for this many commissioners. Those who seek to govern us from the cradle to the grave and run our lives and run our finances, those are the ones that want more power, want more commissioners, but those more commissioners aren't necessarily doing the job that is put before them. It doesn't mean that fewer commissioners couldn't do the job put before them. They're completely capable. *[JY interjects ...]*

JY: Murray, we've addressed you? You're on... you're on board now, son.

MB: Well, as the public official that actually came out very openly opposed to this charter, ah... I see a lot of issues with it. A lot of issues that I think will affect the people of Lincoln County, in the form of their government. I'll be the first to say that I don't agree with everything the county commission does. I'll be the first to say that I've butted heads with them more than anybody has. But... as far as change is concerned, I do not agree with throwing the entire government out and starting from nothing and trying to rebuild it back. ##### break ###

Daryl Luna: This is not throwing the entire government out. The government system and the government structure that already exists will exist. **He does** see throwing the entire government out, because Sheriff Blackwelder has gone on record as saying he is for metro. He wants to get rid of the government as we know it, to not be a Lincoln County government and a Fayetteville city government. He wants there to be one consolidated government. He doesn't want there to be a Fayetteville police department and a Lincoln County Sheriff's Office. He wants to consolidate. He **wants** to change **the actual structure** of Lincoln County government.

The Charter is **keeping the structure intact** and literally changes some of the operations to fix the problems there before us. *[MB continues statements ...]*

MB: Do I think we need to make some changes? Sure, we do. ##### break ###

Daryl Luna: Well, I'm glad you agree, Sheriff Blackwelder. This is the way to make those changes.

The county commission has been deaf to the pleas of the people. They have disregarded the will of those who have put them in office, and they have refused time and time again to make the necessary changes.

Many of these changes that are coming from the Charter are because the system itself is flawed and the system itself needs addressing. The Tennessee Constitution allows the citizens of the

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county to make those changes through a charter from the government. *[MB continues statements ...]*

MB: And I told Rick, I had a saying, "If my team don't win the ballgame, it's not the game's fault." So I need to change the players. You know, if my players don't win, then it's their fault. So, the bottom line is, do I think we need to erase the whole thing and start over - No. ##### **break** ###

Daryl Luna: Well, neither do we, none of us "think we need to erase the whole thing and start over." I think we need to address the issues that are there and to say that we are trying to change the ballgame instead of the players is to completely mislead the public when actually metro would be doing that.

MB: Maybe we do need to change some of the players.

I think this Charter has some valid ideas, as far as maybe reducing the number of commissioners to 16.

My issues with going to nine is if you only need a majority vote, then five people are going to control what happens in Lincoln County. ##### **break** ###

Daryl Luna: Sheriff Blackwelder, if you really believe that nine won't work and possibly we see over time that it doesn't, then we can go through the amendment process and change it. But I still would ask, "Why do we need more than both Knox County, which contains all Knoxville, and Shelby County, which contains all of Memphis?"

He talks about "five people" controlling what happens here. Well, right now, Sheriff Blackwelder, two or three control what happens in the commission. Others just fall in line. If you'll read the document, some things require more than a simple majority for change. Some things require a super majority or a two-thirds majority.

And in the document, you'll see the rules will allow for more votes. If it is such a controversial issue that the commissioners want to make sure it is a resounding vote passing such a large change, they will be able to do that. *[MB continues statements ...]*

MB: And we all know, by the Charter's words itself, we're trying to get rid of the good 'ole boy system. When you put 5 people in control, it's not hard to have the "good 'ole boys". And, ah, that to me is a problem. ##### **break** ###

Daryl Luna: Well, the Charter document doesn't say anything about a "Good ol' boy system," Mr. Blackwelder. I'm glad you see that there is a problem with the good ol' boy system, but I would appreciate you sticking to the actual words of the Charter instead of trying to interpret its content.

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You state, “When you put five people in control, it's not hard to have a good ol' boy system.” Well, it's not hard to have it with 24 and 25 if you count the additional member of each commission meeting, the county mayor, which under the current system, sits as part of the commission meeting. The county mayor would be a completely separate entity in the Charter. The county mayor does not have a vote. The county mayor has veto power.

The county mayor is the executive, so they get the decisions from the commission, then those go to that county mayor, and then he or she they can veto or accept.

If a proposal is vetoed, it goes back to the commission and they can overturn the veto if they can get the necessary votes. *[MB continues statements ...]*

MB: That to me is a huge flaw. You know, 16 commissioners, at least you would have two in your county district that you could relate to. ##### **break** ###

Daryl Luna: Well, right now, we have three and they all run, and no one runs against them. And if someone does run against them, then you might only get one new face plus the two existing ones. Under the Charter, you have one person who is directly accountable to you. They cannot hide behind the other; they cannot say, “Well I voted against the tax raise while the other person didn't vote against it and they get off the hook because the blame isn't put their way. It will be 100% accountability—one person accountable to their constituents. *[MB continues statements ...]*

MB: If for some reason you didn't like one of them, you could at least still talk to one. ##### **break** ###

Daryl Luna: Right now, what's the difference? If you don't like one—if you don't like two—of them, you can't talk to them? What if you don't like all three of them? Being able to talk to someone doesn't have to do with likability. That's just a moot. That's ridiculous. *[MB continues statements ...]*

MB: If you only have 8 commissioners and one at large, what happens if your commissioner is out? What happens if they have a serious illness and they miss two meetings? You had no representation for your district, with only one commissioner. ##### **break** ###

Daryl Luna: Right now, in the U.S. House of Representatives, one person represents an entire host of people. These commissioners are local. We will be able to hold them accountable. Our representatives in the U.S. House, many times they miss because of fundraising or what have you. We have no way of holding them accountable.

At least under this system, they will be local and we will be able to see if our commissioners are actually showing up and representing us. We have one governor who governs the entire state, one president who governs the entire executive branch of the government of the entire 50 states and the provinces of the United States. We have one representative in the House, and then in our entire statewide, we have two senators.

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So don't give us that ridiculous argument that one person isn't enough to represent. What you have to do is make sure when someone is running for office, that they are actually going to represent you and they're going to show up and do their job. It is part of the job description. It is something that should be expected of them, and something that you should put them on record for while they are running for office and something you should hold them accountable for when they seek re-election. *[MB continues statements ...]*

MB: So I think there's a lot of things that need to be looked at, a whole lot more serious than handing out a piece of paper with eleven highlights on it. This document is 50 pages long - somewhere there about depending on what font you type it out in. My issue with that is if it's 50 pages long, and you hand me a piece of paper with 11 notes on it, surely there's more to this.
break

Daryl Luna: That piece of paper is highlights of main things to get people to read the document itself. We have sought to make sure people read the document. What the sheriff is trying to do is tell people: "Don't worry about reading the documents. Don't worry about the highlights. Take my word for it. I will tell you to read it but (at the same time, in the same voice) I will tell you you should be against it because it is bad for the county."

The Charter Commission has **not** taken a position to say you should vote for it or against it, but has said, "We hope that you will read it. We hope that you will become educated, and we hope you'll make the right decision when you go to the polls."

And, he is right that it will become law. He doesn't seem to understand this in the rest of his statements, because at times, he treats the Charter like it's something that runs counter to law, but he doesn't understand if it is passed by Lincoln County voters, it will be the law. It is our constitution, a local one—it meets our local needs.

You have the Charter Constitution, which was written in accordance with Tennessee state law, which was written in accordance with the Tennessee Constitution, which is written in accordance with the U.S. Constitution. They all get their power from the citizens, and they all work in harmony with one another. *[MB continues statements ...]*

MB: So, I urge everyone, to please read the entire document. It's a lot of reading, but it sets forth how this thing will operate. And, although I think there are some good issues in there, I think there are some things that could be applied to the system we currently have, to make it better, I don't think erasing the system we have is going to make it better. I think simply fixing the issues that you have. I go back to my analogy of if my team don't win the game, I need to change the players. I don't need to change the rules of the game. **##### break ###**

Daryl Luna: He tells them: "I urge everyone to please read the entire document." Mr. Blackwelder, the charter commission always does that too. He thinks "there are some good issues in there," but he has failed to ever mention even one good issue. He admits there that "are some things that could be applied to the system we currently have to make it better." That's what the charter does. We're

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Murray Blackwelder, Current Sheriff and Candidate for sheriff

addressing, and fixing problems in the system. So you should support it. We're not erasing the system by any means.

His analogy of "if your team doesn't win the game, you need to change the players. I don't need to change the rules of the game" shows the sheriff needs to understand that this charter document didn't come about as part of some election. The eight Charter Commissioners were elected by their districts, but this all didn't come about right after an election was held. He misses the point that this isn't an issue of people, of "players" losing an election. This is an issue of systemic problems over a prolonged period of time. The county commission, the county mayor, county officials ignoring the will of the public, raising citizens' taxes, buying unnecessary property, continuing to violate our rights, and violate good sense. This is not as a result of some election, so his analogy falls apart right there.

Where we got to with this document is we were elected by the citizens of Lincoln County are under state law and the state constitution. We, over a nine-month period, in accordance with state law, wrote this document, but we've been working on it for over two years. Nine months writing it and the rest studying and educating the people.

This is not an overnight process. It is a long process. A process that the eight of us, as well as, a number of those who have come to support the document and those who have come to support the document, and those who have become well acquainted with the document, spent a large amount of time with. *[MB continues statements ...]*

MB: You know, Joe, I've had a lot of people ask me why I came out opposed to this thing being in the position I'm in. First of all, I don't think your public officials, your elected officials, should be quiet when they see something that is going to affect Lincoln County in this manner. I don't think you elected me to sit up there and keep my mouth shut if I saw something that was going to drastically affect our way of life.

It will also drastically affect my employees. And that's one of my top priorities is to take care of my employees you have on hand, because they're not going to work under those circumstances.
break

Daryl Luna: Well, is the sheriff saying that the sheriff's deputies will quit their jobs because the government is more accountable? This doesn't even directly affect their jobs.

What we did elect the sheriff to do is actually to serve as the sheriff of Lincoln County, the chief law enforcement officer—**not** as the chief politician of the county, **not** as someone who tries to use his office and use his influence in that office to advocate against the document, especially when state law says that public monies are not to be used to advocate against the document.

By using his office, if you just look at where signs are around the county, look at where all this negative information is coming from around the county, it is using his office and his influence in his office as a bully pulpit. He is not merely addressing a private matter and a private opinion.

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He is going out of his way to use his position of sheriff to try to defeat this Charter. That is where the problem exists. [*Rick Head joins the discussion again ...*]

RH: And then there's the point beyond that. According to our legal officials, that won't hold up in our current court systems because there's no court that can handle this - per the Charter this would be handled by General Sessions court. But General Sessions court can't handle that - any fine above \$1000 - in that range or higher, has to be handled by a trial by jury. General Sessions court can't handle a trial by jury. So by definition, the clauses are not written such that they can support the TN State Constitution. ##### **break** ####

Daryl Luna: Rick again does not understand state law. The reason we included General Sessions court, and the positions that we did, in the Charter is because the Tennessee state law dealing with the Charter and its implementation and its requirements **says** the General Sessions court is to deal with these items.

Now also the Charter has not forced the General Sessions court to handle every single act done by the county. The appropriate courts underneath the Charter would handle the appropriate action. If it is a criminal offense, it would be handled by a criminal court. If it is a federal offense, it will be handled by a federal court. Anything said to the contrary is either misinformation based on misunderstanding, or misinformation based on the will to mislead the public. [*MB continues again ...*]

MB: Which brings up a whole 'nother question, and that is, if they're going to create, according to this Charter, their own General Sessions court, what are going to be the limits on this General Sessions court? If they're going to create their own court system, then, ladies and gentlemen, I don't know how this will play out. That is what has got me so overly concerned is, I don't know how it will play out. Because if you're creating your own court system and writing your own laws, then it appears to me that this thing could go any direction it wanted to, or any direction that five people voted for it to go. ##### **break** ####

Daryl Luna: In bringing up this whole new question, what Mr. Blackwelder implies: "...if they're going to create, according to this Charter, their own General Sessions court..." is **not true**. Nowhere in the Charter does it state we're creating our own **General Sessions court**. He mistakenly implies through his questions: "...what are going to be the limits on the General Sessions court..." and "if they're going to create their own court system..." that it must be true, but it's not. **The Charter does not say that we would create our own court system.**

When he admits that he doesn't "know how this will play out," well, you don't know how it'll play out because it's a complete work of fiction on your part. Nowhere in the Charter, not any page of the Charter, does it say we're creating our own system. The charter includes and speaks to maintaining the system. In fact, that's how the document is actually written. We are maintaining the systems that exist and the structures that exist.

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He is completely fabricating this as a scare tactic. The way it'll play out is the way it plays out now. The appropriate courts will see the appropriate litigation case. We're not even saying that we're creating our own court, so he needs to stop putting words in our mouth. If you want to see how this operates, see how it operates in Shelby and Knox County, which is completely legal and has operated for decades.

For the record, there is nothing in the Charter that creates new courts or new court systems. Nowhere. He continues his misinterpretation by giving us his conclusion: "Because if you're creating your own court system and writing your own laws, it appears to me this could go any direction it wanted to. Any direction that five people wanted it to go."

Once again, the Charter does not create new courts or court systems. For the record, those comments are complete fabrications. *[MB and RH continue ...]*

MB: As we were talking about fining the employees, another issue with this entire thing is the Ethics Committee. The Ethics Committee has the authority to investigate any allegation against any employee, including the school system, the highway department - anybody who receives funds from Lincoln County. This applies to anyone. So I would suppose it could apply to the non-profits too, if that were the case.

RH: Exactly. The way it's written, it applies to any entity that receives funding from Lincoln County.
break

Daryl Luna: If you are a taxpayer, you should be concerned about the spending of your taxpayer money, making sure it's being done in an ethical manner. If there are ethic violations, that simply means there is a breaking of the law. Just because you receive money from the voters, from the county and just because you are a department of the county, does not mean you are above the law.
[MB continues again ...]

MB: So, the Ethics Committee is going to consist of five people that the County Commission nominates, or appoints, and they have no training set forth in this document for them. They're going to go out here and investigate the employees of Lincoln County and then recommend retribution to the County Commission, at which point the County Commission has the option of going through with the retribution, handing it off to the District Attorney, handing it off to the TN Bureau of Investigation, or handing it off to the FBI.

My whole point with saying this is nowhere in that chain of events does it say that your department head has the option to do anything. So that's taking my authority away. As far as I can read this, and I may be off, but I don't think I am, it takes my authority away to discipline my officers, and hands it off to the County Commission and the Ethics Committee. I don't need that. I can discipline my officers just fine. So, I understand what they do in a split second decision.
break

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Daryl Luna: Okay, I want to stop here and say that the Ethics Committee will first make sure there **is** a violation. If there is a violation, they will turn it over to the proper authorities to deal with. If there's a criminal act, it will be handed over to those who would handle these criminal acts such as the district attorney, TBI or FBI or local law enforcement. However this issue needs to be handled.

In doing this, it isn't that the Ethics Committee is judge, jury, and prosecutor, then the county commission carries it out. County commission simply is made known of what is going on, that there was an actual ethics violation, and at which point, they can take the appropriate action to deal with the ethics violations.

Mr. Blackwelder states his concern about being a department head and not being able to solely take care of the issue all on his own. First off, as a department head, he should be making sure that those in his department are law-abiding citizens—that they are abiding by the laws and the ethics of the state of Tennessee.

Furthermore, if there is a violation, it shouldn't just be dealt with in-house. If it is something serious enough that it needs to go before the TBI or the district attorney or the FBI, then it is already an unlawful act that **must** be dealt with. Just because you work for a department of government or for even the sheriff's department does not mean you are above the law.

Mr. Blackwelder keeps referring to his officers in the situation, but the Ethics Committee is dealing with ethics violations. Underneath the Charter, it would take a great feat of speculation to be able to come up with a situation where this would actually affect the sheriff's department as directly as he wants to say, unless he knows already that his officers would be trying to subvert the law of the land and to subvert the proper ethical practices under Tennessee state law. Surely, that's not the case and I don't think the sheriff would want to misrepresent his deputies in said manner. *[MB continues again ...]*

MB: That's another thing that gets away with me is that I'm being bashed on the social media because of some of these things. You know, the bottom line is folks, I handle my department. If you don't believe me, ask one of my officers if I don't handle my department. By the time it makes it to the Sheriff's desk, it better be serious, because they know what I expect of them. They know the caliber of officers that are there. They know what the law says. And if they violate it, I'll be the first one on 'em. By the same token, I don't need somebody that has no knowledge of what my officers are doing, out here investigating them when they are the ones not making the split second life or death decisions that these officers have to make. They have to be given credit for the fact that they make split second life and death decisions for a living. And then somebody who has no knowledge of what they do is going to come along and armchair quarterback them. I can't go along with that. ##### **break** ####

Daryl Luna: First off, this is not directed towards your officers. If you manage your department, then you should not have a problem with this all together because if something is brought to the Ethics Committee and it is without merit, then it will stop there. It will stop because there's no merit to

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it to be investigated. If you run your department well, then you shouldn't have a problem in the first place, but what you also have to remember is Murray Blackwelder will not be the sheriff of Lincoln County as long as Lincoln County exists.

This Charter, if enacted and passed, will last long beyond his tenure sheriff. This is to protect any man or woman who enters the office of sheriff or enters the office of county mayor, the office of county commissioner, any governmental department here in the county, to make sure that their employees abide by ethical standards and lawful standards. *[MB continues again ...]*

MB: I would like to strongly urge everyone not take this thing at face value. ##### **break** ###

Daryl Luna: We as the Charter Commission would also urge the same. We would also urge them not to take the sheriff's words at face value. *[MB continues again ...]*

MB: Don't accept one piece of paper and vote on that one piece of paper. Please read this document. ##### **break** ###

Daryl Luna: We also agree, and have been trying to get people to read the document. Obviously, from what the sheriff says, reading and seeing what's actually **in** the document instead of reading **into** the document what isn't there are two completely different things. *[MB continues again ...]*

MB: Study this document. If you have questions about my stand on this, call me. I'll be more than happy to talk to you. Get a group together. I will be more than happy to talk to a group. I'm sure Rick will talk to a group if that's necessary. ##### **break** ###

Daryl Luna: Well I have talked to the sheriff. I have set him straight on a number of these issues. Other issues I was so thrown back, I didn't even know what to say at the time because his comments were so out of left field that I didn't understand what was his issue really was. *[RH joins in ...]*

RH: And that's exactly right, Murray. We've offered this time and again, and in fact we are talking to several different groups. We will at any point, any place, any time - with one person or however many people set down. The team will, or a member of the team, will discuss at length any questions you have - go through the Charter point by point, so we give you a firm and solid understanding of the Charter. I want to encourage everybody, as Murray did, do read it, give it your best shot. If there are questions, pose them. There is a website that you can go to - CitizensAgainstHomeRuleCharter.com ##### **break** ###

Daryl Luna: That sounds like a very objective web site [sarcasm] —Citizens Against—it is already putting in place the doubt. Go to the actual website that doesn't advocate for it, which is lincolncountycharter.org, which is a completely a non-partisan, non-position-taking website that simply has the information that's in the document, the document itself. *[RH again ...]*

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RH: You can post questions there and we'll put them publicly out, we'll put your questions online or not, whichever you prefer. But we'll get you answers, and they will be fact-based answers. Not our feelings or conjecture. Follow us on Facebook. We're doing the same thing every day. We're answering questions and putting more information out. Be informed before you vote. It's our obligation as citizens to do that. ##### **break** ###

Daryl Luna: Well, he wants to filter the questions. Rick Head does. His group wants to. What we've seen from looking at this is they are manipulating things that are in the document or completely making up things that aren't in the document altogether. In doing so, they have misled the public and they will continue to mislead the public through their organization.

Instead of that, you should speak to the actual Charter Commissioners who wrote the document, who didn't start reading it a few weeks ago or maybe a month ago, but have been intimately acquainted with this document since the beginning. They have strived and struggled over every word that has made it into the document, and they will give you a true, honest answer and they will encourage you to read the document for yourself. Not to take their opinions if they say, not to take the opinions of the sheriff, the group against the document or any other elected official, but will ask you to please give it a fair go yourself.

We've seen that the largest group of opposition is Lincoln County officials and employees. When we go out and go door-to-door, when we go out and talk to people in the county, they are overwhelmingly willing to read the document, to educating themselves. These Lincoln County employees claim to have read the document, but if they have, they are reading it with their own biases. They are taking these biases and they are regurgitating the same information that has been handed down from others in their sphere of influence. We've seen it by the very way that they continually reuse the same phrases.

For the record, we want everyone, whether they agree with the Charter or they disagree with the Charter or they're undecided at this point, to be civil in their discourse. We have had people that have called and actually had signs supporting the Charter. They had to remove, or they felt they needed to remove, because they were harassed for having them. They were told they were going to lose business and they were going to lose friends in doing this.

That's not how we're to operate, not the way we're supposed to treat our neighbors. Everyone should be fair to one another. Be civil. Be honest. Do not make up things. Do not fabricate, but let the document rise and fall on its own merits.

Right now, the Charter Commission, we are not a group that is advocating. We're a group that's educating, but we are being forced to combat all that information that is completely false, that is pre-meditated, and is seeking to harm the truth about the document. Thank you for this opportunity to set the record straight.