

IN THE CHANCERY COURT FOR WILSON COUNTY, TENNESSEE  
AT LEBANON

LORRIE HICKS,

Plaintiff,

v.

LEBANON CITY COUNCIL,

Defendant.

No. 2020CV141

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**VERIFIED COMPLAINT AND PETITION FOR ACCESS TO PUBLIC RECORDS**

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Plaintiff Lorrie Hicks alleges the following as her Complaint against Defendant Lebanon City Council.

**NATURE OF THE ACTION**

1. This case seeks judicial intervention and compliance with the Tennessee Open Meetings Act and the Tennessee Public Records Act.

**PARTIES, JURISDICTION, AND VENUE**

2. Plaintiff Lorrie Hicks is a resident and citizen of Lebanon, Tennessee, who has in the past requested, and continues to request, official records of the Lebanon City Council.

3. Defendant Lebanon City Council is the governing body of Lebanon, Tennessee. Defendant is a "governing body" as defined in Tenn. Code Ann. § 8-44-102(b)(1)(A). Defendant may be served through its attorney, Andy Wright, at 106 N. Castle Heights Ave. Lebanon, TN 37087.

4. This Court has jurisdiction pursuant to Tenn. Code Ann. § 8-44-106(a) and Tenn. Code Ann. § 10-7-505(b).

5. Venue is proper in this Court because this cause of action arose in Wilson County, Tennessee.

### **BACKGROUND**

6. Defendant holds meetings every week. These meetings are announced in the Lebanon Democrat newspaper, posted at City Hall, and advertised on Defendant's website. Defendant invites the public to attend these meetings.

7. Defendant is required to keep official minutes of its meetings. In addition to being required by Robert's Rules of Order (which govern Defendant's Meetings), the Lebanon City Charter itself also requires Defendant to maintain minutes of its meetings. For example, Section 1-102(3) states that each meeting shall include a reading of the previous meeting's minutes (unless waived by a majority vote of the members present). Additionally, Section 1-1003 states that Councilmembers shall disclose any personal conflicts of interests "before [any] vote *and so it appears in the minutes.*" (emphasis added).

#### **The February 27, 2020 Meeting:**

8. Defendant held a meeting on February 27, 2020. A quorum was present because five of the six councilmembers were present (Ward 5 Councilman Tick Bryan was absent).

9. The February 27, 2020 meeting began with Mayoral Administrative Assistant Debbie Jensen announcing that Mayor Bernie Ash was not present and had asked her to "fill in" as chair of the meeting.

10. Ms. Jensen is not an elected official. This action by Ms. Jensen violated Section 1-103 of Lebanon's City Charter, which states that Roberts Rules of Order applies to Defendant's meetings. Under Robert's Rules of Order, in the absence of the chair (Mayor), the vice chair should conduct the meeting. In this case, the vice chair (or mayor *pro tempore*) Is Ward 2

Councilman Fred Burton, who attended the meeting and afterwards stated he had not been contacted to act as chair.

11. During the February 27, 2020 meeting, the Councilmembers present held a public discussion about whether something involving the Lebanon Police Department should be discussed then or discussed when Mayor Ash and City Attorney Andy Wright were present.

12. Shortly thereafter—even though City Attorney Andy Wright was not present at the meeting—Ms. Jensen announced there would be a “legal meeting” and the five Councilmembers present followed her and Chief of Police Mike Justice into a room behind the dais and closed the door. Plaintiff and other members of the public were not invited to attend or observe this closed-door session.

13. When the Councilmembers, Ms. Jensen, and Chief of Police Mike Justice emerged, no further action was taken and there was no announcement about what had been discussed.

14. Following the February 27, 2020 meeting, City Attorney Andy Wright admitted to Plaintiff that these actions were improper and violated the Tennessee Open Meetings Act.

**Plaintiff's Open Records Request:**

15. City Attorney Andy Wright is responsible for compiling the minutes of Defendant's meetings.

16. On April 23, 2020, Plaintiff sent City Attorney Andy Wright an e-mail requesting the attendance records for Defendant's January 2, 2020 and February 13, 2020 meetings.<sup>1</sup>

17. Mr. Wright responded that same day, stating: “All of the minutes I took are still in my handwriting and haven't been transcribed yet. They were boxed up along with a bunch of other notes on various things and made the move to the Mitchell house. I can't off the top of my

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<sup>1</sup> A copy of Plaintiff's April 23, 2020 e-mail is attached as Exhibit 1.

head think of where that box is right now. Once I'm back to the office, I promise to try and track them down for you. It will be early May sometime unfortunately."<sup>2</sup>

18. On May 6, 2020, Plaintiff sent Mr. Wright another e-mail again requesting the attendance records for Defendant's January 2, 2020 and February 18, 2020 meetings.<sup>3</sup>

19. When Plaintiff did not get any response, on May 7, 2020 she filed a request for the meeting minutes for Defendant's January 2, 2020 and February 18, 2020 meetings pursuant to the Tennessee Public Records Act.<sup>4</sup>

20. To date, Defendant has not responded to Plaintiff's request.

### **FIRST CAUSE OF ACTION**

#### **[Violation of Tennessee Open Meetings Act – Tenn. Code Ann. § 8-44-101 *et seq.*]**

21. The Tennessee General Assembly has declared that it is "the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret." Tenn. Code Ann. § 8-44-101.

22. To effectuate this policy, the General Assembly further provided that "all meetings of any governing body are declared to be public meetings open to the public at all time, except as provided by the Tennessee Constitution." Tenn. Code Ann. § 8-44-102(a).

23. Defendant's closed-door session during its February 27, 2020 meeting violated the Tennessee Open Meetings Act.

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<sup>2</sup> A copy of Mr. Wright's April 23, 2020 e-mail is attached as Exhibit 2.

<sup>3</sup> A copy of Plaintiff's May 6, 2020 e-mail is attached as Exhibit 3.

<sup>4</sup> A copy of Plaintiff's request is attached as Exhibit 4.

**SECOND CAUSE OF ACTION**  
**[Violation of Tennessee Public Records Act – Tenn. Code Ann. § 10-7-503]**

24. The Tennessee Public Records Act provides: “All state, county and municipal records shall, at all times during business hours, . . . be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.” Tenn. Code Ann. § 10-7-503(a)(2)(A).

25. Defendant is the creator and custodian of the records Plaintiff seeks. Defendant is required to comply with the Public Records Act.

26. Defendant is required to keep minutes of its meetings, and Tennessee law requires such minutes be open to public inspection.

27. Defendant’s failure to produce minutes of its meetings to Plaintiff violates the Tennessee Public Records Act.

**PRAYER FOR RELIEF**

Plaintiff requests relief as follows:

1. That proper process issue and be served upon Defendant, requiring it to appear and answer this Complaint;
2. That this Court file written findings of fact, conclusions of law, and final judgments pursuant to Tenn. Code Ann. §§ 8-44-106 and 10-7-505(d);
3. That this Court permanently enjoin Defendant and its members from further violation of the Tennessee Open Meetings Act pursuant to Tenn. Code Ann. § 8-44-106(c);
4. That this Court retain jurisdiction over the Parties and subject matter for one (1) year following entry of final judgment and order Defendant to report in writing semiannually to the Court of its compliance pursuant to Tenn. Code Ann. § 8-44-106(d);

5. Pursuant to Tenn. Code Ann. § 10-7-50-(b), that this Court issue an order requiring Defendant to immediately appear and show cause as to why Plaintiff's Petition for Access to Public Records should not be granted;

6. That this Court order an award of all reasonable costs and attorney's fees pursuant to Tenn. Code Ann. § 10-7-505(g);

7. Such other and further general relief as this Court deems just and proper.

**VERIFICATION**

**STATE OF TENNESSEE**            )  
  )  
**COUNTY OF WILSON**\_\_\_\_\_)

Plaintiff Lorrie Hicks, after being duly sworn, states that all allegations contained in this Verified Complaint are true and correct to the best of her knowledge, information, and belief, and that all allegations contained therein alleged on information and belief are believed by her to be true.



  
Lorrie Hicks

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of June, 2020, by Lorrie Hicks, who is personally known to me and who did take an oath.

  
NOTARY PUBLIC

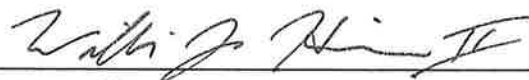
My Commission Expires: 6-4-2023

Dated:

June 23, 2020

Respectfully Submitted,

**NEAL & HARWELL, PLC**

A handwritten signature in black ink, appearing to read "William J. Harbison II", is written over a horizontal line.

Ronald G. Harris (BPR # 9054)

William J. Harbison II (BPR # 33330)

1201 Demonbreun Street, Suite 1000

Nashville, TN 37203

(615) 244-1713

[rharris@nealharwell.com](mailto:rharris@nealharwell.com)

[jharbison@nealharwell.com](mailto:jharbison@nealharwell.com)

*Attorneys for Plaintiff Lorrie Hicks*



FILED  
A.M. JUN 25 2020 P.M. *KD*  
BARBARA WEBB, CLERK & MASTER  
CHANCERY COURT, WILSON CO.

**From:** Lorrie Hicks <[lorrie.hicks@outlook.com](mailto:lorrie.hicks@outlook.com)>  
**Sent:** Thursday, April 23, 2020 12:01 PM  
**To:** Andy Wright <[awright@lebanontn.org](mailto:awright@lebanontn.org)>  
**Subject:** Workshop meetings

Hi Andy,

I was wondering if the council plans to use Zoom for workshop meetings?

Also, a while back I asked Debbie about minutes for the workshop meetings. She said you took care of that. Just wondered who attended the meeting on Jan 2 and Feb 13, 2020. Is that something you can help me with?

Thanks. Hope all is well with you and yours.

Best,  
Lorrie



FILED  
A.M. JUN 25 2020 P.M. *1:36*  
BARBARA WEBB, CLERK & MASTER  
CHANCERY COURT, WILSON CO.

**From:** Andy Wright <[awright@lebanontn.org](mailto:awright@lebanontn.org)>  
**Sent:** Thursday, April 23, 2020 10:16 AM  
**To:** Lorrie Hicks <[lorrie.hicks@outlook.com](mailto:lorrie.hicks@outlook.com)>  
**Subject:** RE: Workshop meetings

Hi there. So far, the mayor has canceled work sessions for the time being. Since the zoom city council mtg went so well, I would imagine a few of the council people may request to start doing them on zoom. I'll let you know if he does and of course notice will go out and link to it for anyone wanting to attend.

Oooh. All the minutes I took are still in my handwriting and haven't been transcribed yet. They were boxed up along with a bunch of other notes on various things and made the move to the Mitchell house. I can't off the top of my head think of where that box is right now. Once I'm back to the office, I promise to try and track them down for you. It will be early May sometime unfortunately.



FILED  
A.M. JUN 25 2020 P.M.  
1:36  
BARBARA WEBB, CLERK & MASTER  
CHANCERY COURT, WILSON CO.

**From:** Lorrie Hicks  
**Sent:** Wednesday, May 6, 2020 11:44 AM  
**To:** Andy Wright <[awright@lebanontn.org](mailto:awright@lebanontn.org)>  
**Subject:** Following up

Good afternoon Andy,

I was not sure if you were back in the office yet, but wanted to check. Was hoping you might have a chance to check the workshop attendance for 1/2/2020 and 2/18/2020.

Thanks in advance!

Lorrie



FILED  
A.M. JUN 25 2020 P.M.  
BARBARA WEBB, CLERK & MASTER  
CHANCERY COURT, WILSON CO.

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com) <[noreply@civicplus.com](mailto:noreply@civicplus.com)>  
**Sent:** Thursday, May 7, 2020 8:33 PM  
**To:** [lorrie.hicks@outlook.com](mailto:lorrie.hicks@outlook.com) <[lorrie.hicks@outlook.com](mailto:lorrie.hicks@outlook.com)>  
**Subject:** Online Form Submittal: Records Request Form

## Records Request Form

Your Name Lorrie Hicks

From (Email) [lorrie.hicks@outlook.com](mailto:lorrie.hicks@outlook.com)

Subject: Official City Records Request

Type of Document City Council workshop meeting minutes from January 2, 2020 and February 18, 2020.

Date of Meeting 1/2/2020

Phone Number 6155408195

