

Item \_\_\_\_\_  
Moved by: \_\_\_\_\_

Prepared by \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved by \_\_\_\_\_

**RESOLUTION TO WITHDRAW THE SUBPOENA SEEKING THE IDENTITY OF ALL PERSONS MAKING ANONYMOUS ONLINE COMMENTS IN CONNECTION WITH CERTAIN NEWS STORIES APPEARING IN THE COMMERCIAL APPEAL AND TO REFRAIN FROM SUCH ATCTIONS DURING FURTHER COURSE OF LITIGATION. SPONSORED BY COMMISSIONER TERRY ROLAND.**

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**WHEREAS**, On February 14, 2011 the Shelby County Board of Commissioners adopted a resolution to employ special legal counsel to represent and advise the County Commission relative to potential litigation regarding the pending referendum to transfer the administration of Memphis City Schools to the Shelby County Board of Education, State legislation related thereto, and any school redistricting plan for a merged school board.

**WHEREAS**, The resolution stated a desire to retain special legal counsel Mr. Leo Bearman, Jr. for the purpose of representing and advising the County Commission regarding potential litigation on these matters; and

**WHEREAS**, Baker Donelson filed a subpoena on behalf of the Commission in Federal Court seeking the identity of all persons making anonymous online comments in connection with certain news stories appearing in The Commercial Appeal; and

**WHEREAS**, The very nature of this extraordinary request would constitute a dangerous precedent for any governmental body participating as a party in litigation, in that it would clearly have a dangerous and impermissible chilling effect on freedom of speech and press in violation of the text and spirit of those sacred values embodied in the First Amendment of the United States Constitution;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE**, That the Shelby County Commission hereby instructs Baker Donelson to withdraw the subpoena immediately, and to refrain from such action during the further course of the litigation, the public welfare requiring the same.

**BE IT FURTHER RESOLVED**, That this Resolution shall take effect in accordance with the Shelby County Charter, Article II, Section 2.06(B).

\_\_\_\_\_  
Mark H. Luttrell, Jr., County Mayor

Date: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of County Commission