

July 14, 2016

Mr. Brennan and Ms. Rodriguez:

I reject the certification of the Recall Petition for the following reasons.

Unlike the procedure used with prior petitions, no report was given listing the number of signatures received, number validated, or those which were disqualified.

The affidavit for the petition was delivered and time stamped on June 15th, but one of the petition committee member's signatures is dated June 16, 2016.

The recall petition does not contain any of the materials purportedly supporting the allegations in the petition which were presented to residents as the petition was circulated.

A person gathering signatures made the following statement: "this petition simply puts the matter before the voters so they can decide." A completely fraudulent representation of what the petition was designed to achieve.

The petition is also invalid in format. A portion of the signature pages are landscape instead of portrait.

The Windcrest City Charter states:

Section 7.03 Petition Form, Content and Process

All papers and pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature on the petition shall comply with the provisions of Section 277.002, Validity of Petition Signatures, Texas Election Code. (amended 11/2/2010)

In addition to the defects on the face of the petition, there are also defects in the allegations alleged in the petition.

The petition states: (*rebuttal in italics*)

1. "On her Windcrest W-9 form required by the city to be signed in order to receive her monthly stipend, she crossed out that she was a U.S. citizen twice, and on her official application to run for office she crossed out that she was a U.S. citizen."

The W-9 form included with the petition circulated by Rick Cockerham and the other persons who gathered signatures was illegally obtained from someone at Windcrest City Hall. The Attorney General's office has confirmed it is illegal by both state and federal laws to disclose any IRS tax filing and is classified as a federal felony offense punishable with a fine up to \$5000 and/or up to 5 years in federal prison. (Texas Government Code 552.352 and Title 26 U. S. C. 6103) Additionally, the fact that U.S. Citizen was crossed out on the application to run for office is not grounds to recall an elected official.

2. In response to a city ordinance prohibiting raising chickens in your backyard, CCM Wright noted, "The city of Windcrest only has jurisdiction over property the city owns. Therefore, the city of Windcrest cannot tell you what to do on your own property." She added, "Do you see anywhere on your deed where the city of Windcrest owns your property? If no, then you have every right to have chickens."

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Possessing an opinion does not violate any city code or ordinance. In this particular instance the quote was taken from a posting on a social media site and was not presented in its entirety. The quote was also taken out of context in an attempt to suggest a meaning other than that which I espouse.

3. CCM Wright claims "Codes are not laws." Codes are a systematic collection of laws. She was elected to enforce and create the necessary codes/laws.

As with the second allegation, this is a quote extracted from a social media site, not presented in its entirety and taken completely out of context. I have fully supported enforcing and creating the necessary codes/laws for the City of Windcrest.

4. Section 1.02 of the Windcrest City Charter states that the City Council "shall enact local legislation." CCM Wright took an oath of office (Section 4.08) that states, "I, Kimberly Wright, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of City Council Place 4 of the City of Windcrest, State of Texas and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and the State of Texas, so help me God."

I have upheld my sworn oath. Ordinances have been presented and voted upon by myself and the entire council during my tenure. This allegation fails to present an issue upon which to base a recall election.

5. Knowingly was untruthful to her constituents by stating that the city was using the rainy day fund for the purchase of lights for a park.

The auditor verified at the June 27th RCCM that the money for the additional park lights came from the general fund which includes our rainy day funds. The City of Windcrest does not set aside the rainy day funds in a separate account. (A practice I do not believe is fiscally sound.)

6. Refuses to say the Pledge of Allegiance

This allegation fails to present an issue upon which to base a recall election. It also violates the First Amendment of the Constitution of the United States and Article 1 Sections 4 and 8 of the Texas Constitution. Additionally, a stream of judicial rulings and at least two famous Supreme Court decisions have consistently upheld an individual's right to not recite the pledge as free exercise of religion.

If the city moves forward with the illegal petition, I will pursue all legal recourse allowed under both State and Federal Law. Including, but not limited to the filing of charges against staff at City Hall who released records in violation of statute.

Kimberly Wright
Windcrest City Council Member, Place 4