

TACIR

**The Tennessee Advisory Commission
on Intergovernmental Relations**



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**MINUTES OF THE
TENNESSEE ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS
September 7, 2011**

MEETING CALLED TO ORDER

The Tennessee Advisory Commission on Intergovernmental Relations met in room 29 of the Legislative Plaza at 1:04 p.m., Chairman Senator Mark Norris presiding.

Present 18

Mayor Tommy Bragg
County Mayor Ernest Burgess
Mr. Rozelle Criner
Ms. Paula Davis
Representative Vince Dean
Representative Curtis Halford
Senator Douglas Henry
County Executive Jeff Huffman
County Mayor Kenny McBride
Mayor Keith McDonald
Senator Randy McNally
Senator Mark Norris
Mayor Tom Rowland
Mr. Tommy Schumpert
Councilmember Kay Senter
Senator Jim Tracy
Mayor Larry Waters
Comptroller Justin Wilson¹

Absent 6

Mr. Charles Cardwell
Mayor Brent Greer
Senator James Kyle
Speaker Emeritus Jimmy Naifeh
Representative Gary Odom
Representative Charles Sargent

¹ Phillip Doss represented Justin Wilson.

1. Call to Order and Approval of June 2011 Minutes

Chairman NORRIS called the meeting to order at 1:04 p.m. and asked for approval of the minutes. Vice Chairman ROWLAND made a motion to adopt the minutes. The motion was seconded by Mayor MCBRIDE. The minutes were approved.

2. Commission Updates

Chairman NORRIS recognized and welcomed TACIR's new member, Mayor Pro Tem/Councilmember Kay SENTER from the City of Morristown.

3. Utility District Board Selection Methods: Testimony from Stakeholders

a.) Presentation by Ms. Leah ELDRIDGE, Senior Legal Research and Policy Coordinator, TACIR

Ms. ELDRIDGE noted that SB 500/HB 479 and SB 830/HB 1295 had been referred to TACIR for study. She noted that these bills would change the utility district board of commissioners selection method from appointment by county mayor to election by customers in the Bon De Croft Utility District and six utility districts in Lawrence County. She stated that TACIR staff had attempted to contact all interested parties and invite them to speak at the meeting. She noted that the staff report would be presented at the December meeting.

Senator HENRY asked if the Comptroller's Office would be present. Chairman NORRIS stated that he believed that Mr. MUMPOWER would be present.

b.) Presentation by Senator Jim SUMMERVILLE, Sponsor of SB 830

Senator SUMMERVILLE said that he was appearing before the Commission on behalf of his Lawrence County constituents. He said he had heard from many people in Lawrence County on this issue. He stated that utility districts are misunderstood and obscure units of local government. Senator SUMMERVILLE stated that there was a strong movement in Lawrence County to make them more transparent and democratic. He said that a newspaper poll showed the majority want to have their commissioners elected. He said that in Tennessee we elect everybody and the self-perpetuating boards of utility district commissions do not somehow seem to fit. He said that since they spend money and have customers who expect service, why not elect the utility district commissioners as well. He said he thinks he represents the majority of people there.

c.) Presentation by Representative Joey HENSLEY, Sponsor of HB 1279

Representative HENSLEY said HB 1279 passed the House. He said the issue of utility district commissioner selection has a long history with him. When he first got elected to the House he sponsored legislation that changed the method for selecting commissioners in the Lawrence County utility districts from self-appointment to appointment by county mayor. He said this method has been in effect since 2004. He said he believes that Lawrence County has the most utility districts in the state. When they have a vacancy the board submits a list of three nominees to the county mayor and he appoints from that list. If he does not like those he sends it back for another list and if he does not like that he can appoint someone on his own or the county commission can recommend a person. Representative HENSLEY said he sponsored the legislation because he had received a resolution from the Lawrence County Commission who voted 17-1 asking him and Senator Summerville to bring legislation to allow customers to elect their commissioners. The bill passed 97-0 in the House.

Representative HENSLEY said he sends out a survey to his constituents every two years. He said he puts it in the paper. He stated that he put a separate question in the survey and asked the affected Lawrence County water customers if they would prefer the boards be elected rather than appointed. He said that 864 out of 2,000 respondents replied that yes they would like the boards to be elected. He said that 80 answered that they would like for the boards to be appointed. He said this is where the legislation came from. The bill allows the customers to have some say over the water board members. The bill would allow vacancies to be filled by election. The vacancy notice would be published in the paper. People can file qualifying papers, and a list of the qualified people is published in the paper. Then, an election is held on a Saturday where the customers can elect a person to fill the vacant position.

Senator HENRY asked which districts were affected and he asked where they were located. Representative HENSLEY said that Fall River was one. Senator HENRY asked how far it was from Lawrenceburg. Representative HENSLEY said that Fall River was in the southeast part of the county. He said that Northeast Lawrence was in the northeastern part of the county; Summertown was in the northern part and Leoma was in the southern part of the county. Senator HENRY asked if they would describe them as rural. Representative HENSLEY said yes. Senator HENRY also asked how many subscribers they had. Representative HENSLEY answered that Fall River had around 1,200 and that all were under 1,300.

Vice Chairman ROWLAND asked if the county commission has to ratify the appointment. Representative HENSLEY said no.

**d.) Presentation by Mr. Bob FREUDENTHAL, Executive Director,
Tennessee Association of Utility Districts (TAUD)**

Mr. FREUDENTHAL said that according to TAUD information 11 out of 187 districts fill their vacancies by a vote of the utility district customers. The districts that use this method do this as a result of an enactment of a general bill of local application or a private act which affects only one utility or by census within a county and that defines who they are. The bills authorizing elections were enacted for utilities that were already created and providing service for customers.

He said the Utility District Act of 1937 is the parent act that authorizes the creation of utility districts in the state of Tennessee. Section 4 of that bill as passed stipulated that vacancies were to be filled by the vote of the remaining board members then in office. Sections 3 and 4 of Chapter 249 of the Public Acts of 1973 repealed that provision and went to a different method. It enacted the appointment by county mayor for all utilities except for utilities in six counties with specific population categories. These counties continued to fill vacancies by the vote of the remaining board members in office. The language used in Chapter 249 is essentially the same language set forth in T.C.A. § 7-82-307.

Mr. FREUDENTHAL said that the first exception to the self-appointment method set forth in the 1937 Act which provided for elected utility district commissioners was Chapter 266 of the Public Acts of 1959. This Act provided for the election of commissioners for the utility districts in Shelby County. The next exception was more than 20 years later when Chapter 579 of the 1980 Public Acts provided for the election of commissioners for utility districts in Sullivan County. That bill has subsequently been repealed.

He stated that in 2004 the legislature adopted the Utility District Commissioners Selection Reform Act which attempted to bring uniformity to the selection method for utility district commissioners. It required that all new utility districts must use the county mayor appointment method. It allowed for a one time change for utility districts that elected commissioners. These districts could choose to go to the appointment by county mayor method provided that they notified the Utility Management Review Board (UMRB) and the county mayor. He said two utility districts have chosen to do that: Gibson County and Unicoi County Gas Utility District. He said that a big part of the Act of 2004 was to try to create some type of consistency of statewide application in how you select commissioners. These utility districts use the appointment by county mayor method.

Mr. FREUDENTHAL said that Public Chapter 392 which passed in 2011 made sweeping changes. It was introduced by the Comptroller and supported by TAUD. It brings greater uniformity to the selection of utility district commissioners and clarified the methodology for selecting commissioners. Lawrence County has its own act. That act requires that three names be submitted to the county mayor. The county mayor can select from the list or reject them. If the mayor

rejects this list, a new non-identical list is submitted. If the mayor rejects the second list, a third non-identical list is submitted and the county mayor must choose from that list. He said that after July 1, 2011 vacancies on utility district board must be filled by the appointment by county mayor method except for multi-county districts and those where the customers elect their commissioners.

He said there is no uniformity in the manner in which the elections by customers are conducted. Sometimes the general bill outlines how the election is to be conducted. In other cases, it empowers the board of commissioners to decide how the election is to be conducted. There is no consistency in that regard. There is currently no election which is conducted by any county or city election commissions that they are aware of. He said the lack of uniformity and lack of oversight by an election commission sometimes causes confusion in how to properly conduct the election and makes it difficult to provide guidance. Many Tennessee statutes governing elections do not apply to elections for utility district commissioners by the utility district customers.

He said that TACIR may want to obtain information on how elections are conducted in those districts that elect commissioners, how many customers actually vote in an election, how often more than one person runs for a vacant office and the costs of conducting elections.

He said that TAUD has historically supported changes in the utility district law and it has supported bringing uniformity to the method for selecting commissioners.

Mayor MCDONALD asked if the districts are members of TAUD. Mr. FREUDENTHAL said that all Lawrence County districts are members.

Senator HENRY asked if Shelby, Sullivan, and Warren counties were the only three that were taken out of this act. Mr. Don SCHOLES (counsel for TAUD) said there are 11 utility districts that currently elect commissioners. He said the two mentioned in the comments were just the first two that passed. He said the one in Shelby County really is not in effect anymore because there are no utility districts in Shelby County anymore. The one for Sullivan has been repealed. He said he is not sure the number of counties in which this situation exists. Senator HENRY asked if the Attorney General has opined on the constitutionality of this naming of counties or have the courts ruled on it. Mr. SCHOLES said he was not aware of any legal challenge in court. He said he did not know if the Attorney General had issued an opinion. Senator HENRY said that he thought that Shelby County could be distinguished because of population. He said that with the other random counties around the state a question arises.

Chairman NORRIS asked about the focus of PC 392. Mr. SCHOLES said that it focused on the method of filling vacancies and the elimination of self-perpetuating boards. Multi-county districts and districts where customers elect commissioners were exempted.

County Executive HUFFMAN asked if PC 392 only applied to utility districts. Mr. SCHOLES said this is correct. County Executive HUFFMAN asked if there were any municipal utilities that were self-perpetuating and not appointed. Mr. SCHOLES said that typically all of those are appointed either by the mayor or mayor with confirmation by county commission. He said he does not know of any county or city utility board who are elected.

Mayor BRAGG asked if any Lawrence County districts are under Environmental Protection Agency (EPA) or Tennessee Department of Environment and Conservation (TDEC) restrictions. Mr. SCHOLES said he was not aware of any. Mayor BRAGG asked if it was a fair statement that the reason to change was not any specific reason but just the desire to change their selection method. Mr. FREUDENTHAL said the statute dealing with water quality is silent on the issue of commissioner selection.

Vice Chairman ROWLAND asked if the qualifications for a mayoral appointment were in conflict with the qualifications for an elected board member. Mr. SCHOLES said he did not think so. He said the only requirement in the statute is that the person be a resident within the boundaries of the district and over 18 years of age. Vice Chairman ROWLAND asked if the person must be a customer. Mr. SCHOLES said yes.

Senator MCNALLY asked what the reason was for wanting to change the selection method in Lawrence County districts. Mr. FREUDENTHAL said there were people from Lawrence County present and he could not speak to the issue. Senator MCNALLY asked apart from the consistency argument are there any other reasons why they are opposed to it. Mr. FREUDENTHAL said that if a private act is passed allowing elections there is no consistent election method.

e.) Presentation by Mr. Jason MUMPOWER, Executive Assistant to the Comptroller

Mr. MUMPOWER said that the Comptroller's Office is very interested in the issue of elected districts because it is interested in the financial health and financial stability of every government in Tennessee. He said it is important to remember that utility districts are governments. He said times are tough for local governments. He said this past session that the Comptroller's Office had come with some legislation to streamline things for districts. He said they were moving to eliminate all self-perpetuating boards. He said there are some multi-county districts that still have self-perpetuating boards. He said they were going to be bringing legislation to ensure that no districts have self-perpetuating boards. Mr. Mumpower said that there is usually low voter turnout in those districts that elect commissioners. He said that elected commissioners may also feel pressured by customers not to raise rates when they should be raised. He said the Comptroller's Office thinks that appointment by county mayor is the best method. He said the Office thinks that this method gives customers a political voice through the county mayor.

Mayor MCDONALD asked why this is an issue in Lawrence County. Mr. MUMPOWER said that some districts in Lawrence County have been in financial distress. Mr. Mumpower said he knew that some people were very frustrated with the district operations in Lawrence County. He does not know if the issues would be solved by the selection of new commissioners.

Senator HENRY said he was concerned about the districts defaulting on bonds. He noted that this had happened in Gibson County back in the 1970s.

County Executive HUFFMAN asked what the ramifications are for the districts if they do not pay bonds back. He said he assumed they were revenue bonds. Mr. Bobbie LEE (counsel for the Comptroller's Office) stated that if a district defaults on debt they are automatically referred to the UMRB and will be considered financially distressed. County Executive HUFFMAN asked if they look at the debt on the front end or on the back end after they get in trouble. Mr. LEE said they do not look at debt on the front end. He said that the Division of Local Finance looks at the debt as a part of the budget. County Executive HUFFMAN asked if the funds have to be set up as an enterprise fund and fund 100 percent of the depreciation plus the cost to finance the construction. Mr. LEE said yes. County Executive HUFFMAN asked who looks at that. Mr. LEE said the Division of Local Finance and UMRB are involved in that somewhat but he said they are only really involved in that when districts reach financial distress status. County Executive HUFFMAN asked if the UMRB looks at all districts or only those that have a red flag go up. Mr. LEE said the Division of Municipal Audit refers districts with a red flag to the UMRB. The UMRB is appointed by the Governor. The Comptroller's Office staffs it. County Executive HUFFMAN asked if there are ramifications for the state when a district defaults on a debt. Mr. LEE said no there are not ramifications.

Senator TRACY asked who recommends candidates to the mayor. Mr. MUMPOWER said the board gives the mayor a list of three names he can choose from. The mayor can reject that list and the board must submit a second non-identical list. The mayor can reject it, and the board must submit a third non-identical list. The mayor must choose from the third list.

Mayor WATERS asked if it was the intent of the Comptroller's Office to bring legislation to make the selection method consistent. Mr. MUMPOWER said yes they are moving in that direction.

Mayor BRAGG asked if any of the elected boards are in distress. Mr. MUMPOWER said he would have to get that information.

f.) Presentation by Ms. Marcie WILLIAMS, Customer, Bon De Croft Utility District

Ms. WILLIAMS said the problem was that they had fiscally conservative ratepayers and tax and spend commissioners. She noted that the district has spent money on a new office and \$5 million on a new filtration system they did not need. She noted that they had taken over a small water system, Price's Switch, before finding out it needed new water lines and they had to spend \$600,000 to put in new water lines. She said in April they spent \$400,000 to pay for the new facility and paint some water towers and put in new lagoons. She also showed her old water filter which was black. She said the commission does not do much. She noted they offer no opportunity for public comment at the meetings. She said customers have tried to work within the system to no avail. She said some of the commissioners have been on the board for over 20 years.

g.) Presentation by Mr. Danny BROCK, Manager, Bon De Croft Utility District

Mr. BROCK noted that TDEC rule 1200-05-01.05 requires that once a public water system reaches 80 percent of design capacity the system must hire an engineering firm to prepare plans for expansion of the system. He said that between 2007 and 2009 the daily average operation rose from 22.57 hours per day to 23.5 hours per day, triggering the need to comply with the TDEC rule. He said they put the new membrane plant in operation in 2009. Since that time the daily average operation dropped to 13-14 hours a day. He said the \$5 million that was spent on the system included a 12 inch transmission line to get water from the plant to the tanks. The eight inch line could not handle the capacity. He said that with the old plant they would have been out of water each month. He said the old water plant was 35 years old and worn out. He also noted that prior to 2010 manganese was not a problem but starting in 2010 the manganese levels began to rise and they had to put in pre-treatment tanks.

Mayor BRAGG asked him why he thought Ms. WILLIAMS' water filter looked the way it did. Mr. BROCK said he did not know. Mayor BRAGG asked why there are higher rates. Mr. BROCK stated that it was due to the new treatment plant and transmission line. Mayor BRAGG asked if the system had been put on the same site. Mr. BROCK said yes.

County Executive HUFFMAN asked if they bid out purchases over \$10,000. Mr. BROCK said yes. County Executive HUFFMAN asked how they financed it. Mr. BROCK said through rural development and a CDBG grant. County Executive HUFFMAN asked who they went through to get the CDBG grant. Mr. BROCK said the county. County Executive HUFFMAN asked about the rural development financing. He asked if it was all loan or loan and grant. Mr. BROCK said loan and 25 percent grant. County Executive HUFFMAN asked if he had to include depreciation. Mr. BROCK said yes, they had to include depreciation and interest. County Executive HUFFMAN asked who set it up. Mr. BROCK said the board set

it up and rural development assisted. County Executive HUFFMAN asked if they had been before the UMRB. Mr. BROCK said they were one of the first to go before the board back when it was first formed. County Executive HUFFMAN asked if they had been back since then. Mr. BROCK said no.

Mayor MCDONALD asked about how they might address the issue of transparency and ability of ratepayers to have a say at board meeting. Mr. BROCK said that once the lawsuit is over one commissioner intends to bring up a proposal to allow time in meetings for citizens to participate.

Vice Chairman ROWLAND asked if they had complaints from other customers about matters such as Ms. WILLIAMS' filter. Mr. BROCK said no and that he had not had a complaint from Ms. WILLIAMS on the matter. Vice Chairman ROWLAND asked if water complied with standards. Mr. BROCK said yes.

Chairman NORRIS noted a letter from Commissioner Alvin Klee was included in the record since he could not be there.

h.) Presentation by Mr. Jerry AUSTIN, Commissioner, White County

Commissioner AUSTIN asked the Commission to recommend that the Bon De Croft Utility District customers have the right to vote to elect their commissioners. He said the appointment method was not working for them. He said that 700 people had signed a petition to get elections. He noted that the legislature had given the customers of 11 other utility districts the right to vote to elect commissioners.

Mayor MCDONALD asked if there was any action taken by the White County Commission to say they would be in favor or not in favor of such an action. Commissioner AUSTIN said no. Mayor MCDONALD asked if he was only speaking as an individual. Commissioner AUSTIN said yes.

Senator HENRY asked how many districts there were in White County. Commissioner AUSTIN said he thought five. Senator HENRY asked if Bon De Croft was the only one making this recommendation. Commissioner AUSTIN said yes.

i.) Presentation by Mr. David DIDICK, Manager, Fall River Road Utility District

Mr. DIDICK said that the manager of the Northeast Utility District holds the same views as he does. He said that they are totally against elections. He said the original resolution said there would be no cost to the district or county to hold these elections. He said the initial one said they had to notify them in the paper and the mail. He said that Representative HENSLEY had a corrected one which said it could be posted on the bill. He said they send their bills on postcards and there is no space to put the notice of elections on the postcards. He said they

would have to spend \$1,200 to mail out notices to all the customers. He noted that he had talked to Representative HENSLEY about his poll but Mr. DIDICK said he could not find anyone contacted in that poll. Representative HENSLEY said it was a survey printed in the newspaper that went out to everyone. Mr. DIDICK said not everyone gets to vote in a district election. He noted that all the board commissioners had gotten their 12 hours of mandatory training from TAUD. He said the commissioners take home \$94.32 a month. He said that because of Representative HENSLEY they have five commissioners instead of three like the rest of the state. He said that none of the commissioners are willing to run in an election because they would have to file financial disclosure forms and they do not want to do that. He said they try to get people to come to the meetings. They publish notice on the bills.

Representative DEAN asked if there was any talk of merging the districts. Mr. DIDICK said that Northeast Lawrence and New Prospect had already merged. There used to be nine districts but now there are six. Ethridge was taken over by Lawrenceburg. He said that Iron City had less than 100 customers and it would be a burden on them to have an election. Representative DEAN asked how long he had been serving. Mr. DIDICK said he had served four years as manager. Representative DEAN asked if he thought all the districts should merge. Mr. DIDICK said no. He said their infrastructure was 45-46 years old and their biggest problem was water loss.

Mr. DOSS asked if he was aware of economies of scale that could be achieved by consolidation that could allow the districts to address the water loss issue. Mr. DIDICK said he could not answer this question.

Senator TRACY asked how many customers he had. Mr. DIDICK said 1,200. Mr. DIDICK said the biggest problem was water leakage. Mr. DIDICK said they have 14 miles of pipe. He said they tried to get an Appalachian grant but were turned down. He said they are trying to get a rural development loan/grant to replace the pipe. Senator TRACY commented that when you have these smaller districts it is harder to upgrade your system.

Mr. DOSS asked again about merging districts and economies of scale. Mr. FREUDENTHAL said that at times it can work, but it is on a case by case basis. It depends on the geographic area and the water supply. There are infrastructure issues. He said a big issue is related to water pressure within your system and how you stack up elevation wise. He noted it is not just as simple as financial transaction. It is also operational.

**j.) Presentation by Mr. Mark MASHBURN and Mr. John SANDERS,
Commissioners, Leoma Utility District**

Mr. MASHBURN said the district was created in 1963 by three individuals who wanted a safe source of drinking water. He said they have five commissioners

who are not compensated at all. He said the district's rates are \$8.50 for the first 2,000 gallons and \$3.25 for each 1,000 gallons after that.

Mr. MASHBURN said if the bill passes then commissioners would probably be compensated. He said that it would not reduce costs to the rate payer and rates have to go up to cover the costs of an election. Mr. MASHBURN noted that the first time they asked him to serve on the board he turned them down. He felt he did not have the time. He noted that it is hard to get people to serve on the board.

Senator HENRY asked how many districts support this bill and how many oppose it. Mr. MASHBURN said that he knew of two that were against it: Leoma and Fall River.

Mayor BRAGG asked if the commissioners were appointed at large or from a district. Mr. MASHBURN said they try to get representation of the entire customer base.

k.) Presentation by Mr. Ardeen WALTERS, Customer, Fall River Road Utility District

Mr. WALTERS stated that even though the boards are appointed by the county mayor they are still self-perpetuating. He said that the customers have no input in who is appointed to the board. He stated that he believes there should be elections. The County Commission approved a resolution 17-1 requesting that the board selection method in Lawrence County be election by customers. Mr. WALTERS stated that he thinks that the Commission should honor that request.

Senator SUMMERVILLE said that he thinks he speaks for a majority of the citizens of the district who want elections. He asked that Lawrence County districts be given the same privilege that the other districts that elect commissioners have.

Representative DEAN asked if PC 392 had taken care of some of the self-perpetuation. Chairman NORRIS said yes.

Mayor BURGESS suggested term limits for commissioners.

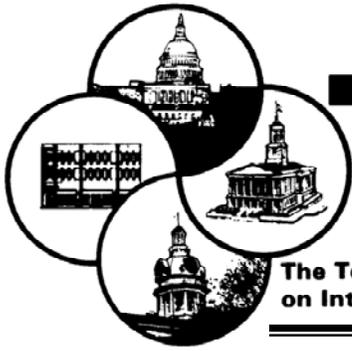
Senator HENRY asked if they could hear from the Comptroller before any report is drawn up. Chairman NORRIS noted that the staff intended to present the report at the December meeting. Chairman NORRIS asked Senator HENRY if before the report is finalized or voted on if it would be acceptable if the staff presented the report in December and got the Comptroller's input at the same time. Senator HENRY said yes.

4. New TACIR Business

Chairman NORRIS announced that Dr. GREEN would like for the Commission to develop a succession plan for TACIR leadership. Chairman NORRIS stated that an executive committee of TACIR officers will discuss the best way to go forward with transition or succession planning with the intent of having a plan by the end of the year. He added that input from Senator MCNALLY will be important, as well as from Senator HENRY.

Chairman NORRIS offered this to the members as something to talk about at the December meeting and solicited their suggestions. He thanked the Commission for accommodating him and stated that the executive committee's plan will be further discussed at the next meeting.

Chairman NORRIS adjourned the meeting at 2:50 p.m.



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MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS September 8, 2011

MEETING CALLED TO ORDER

The Tennessee Advisory Commission on Intergovernmental Relations met in room 29 of the Legislative Plaza at 8:35 a.m., Chairman Senator Mark Norris presiding.

Present 16

Mayor Tommy Bragg
County Mayor Ernest Burgess
Mr. Rozelle Criner
Ms. Paula Davis
Representative Vince Dean
Senator Douglas Henry
County Executive Jeff Huffman
County Mayor Kenny McBride
Mayor Keith McDonald
Senator Mark Norris
Mayor Tom Rowland
Representative Charles Sargent
Councilmember Kay Senter
Senator Jim Tracy
County Mayor Larry Waters
Comptroller Justin Wilson²

Absent 8

Mr. Charles Cardwell
County Mayor Brent Greer
Representative Curtis Halford
Senator James Kyle
Senator Randy McNally
Speaker Emeritus Jimmy Naifeh
Representative Gary Odom
Mr. Tommy Schumpert

² Phillip Doss represented Justin Wilson.

1. Call to Order

Chairman NORRIS called the meeting to order at 8:35 a.m.

2. Regional Water Supply Planning: Final Report on the North Central Study Area

a.) Mr. Robert MARTINEAU, Commissioner, Tennessee Department of Environment and Conservation (TDEC)

Mr. MARTINEAU introduced the water supply planning discussion and provided a brief update on the status of the North Central pilot report. He noted that the final South Cumberland pilot report was presented in June 2011. Both studies were prompted by the 2007-2008 drought and illustrate how communities can work together to meet regional needs. Adequate water resources are necessary to sustain development and growth.

Mr. MARTINEAU anticipates that the final draft of the North Central pilot report will be completed by the end of October 2011. Mr. MARTINEAU acknowledged all of the stakeholders and the partners who contributed to the study, including several state and local agencies and the Army Corps of Engineers. He also took a moment to introduce Shari MEGHREBLIAN, who has served as TDEC's Deputy Commissioner for Environment since May 2011. She has over twenty years of environmental management experience.

Senator HENRY asked for more information about Ms. MEGHREBLIAN's experience with clean water issues. Ms. MEGHREBLIAN explained that she has dealt with numerous waste, air, and water issues. She has learned that water is important not only to a community, but to the vibrancy and the ability of an area to have continued growth. This requires appropriate infrastructure, treatment facilities, and a continuous water supply. Water is a precious resource to local communities. But sometimes we have too much, not enough, it's in the wrong spot, or it's not of the right quality. These issues transcend county and political boundaries. By looking at these issues on a regional basis, we can work together and plan more efficiently.

Mayor MCDONALD commended Ms. MEGHREBLIAN on her knowledge of storm water issues. Mayor MCDONALD and several engineers previously met with her to express concerns about the impracticability of development in certain types of soil, which is affected by storm water. On her second day of work, Ms. MEGHREBLIAN demonstrated a detailed understanding of the subject.

b.) Ms. Elaine BOYD, Director of Strategic Management, Tennessee Department of Environment and Conservation (TDEC)

Ms. BOYD provided an update on the North Central pilot report, which is in the process of being finalized. She noted that the North Central study area consists primarily of Sumner County and small portions of eastern Robertson County. The primary utilities involved are Gallatin Public Utilities, which sells to Castalian Springs-Bethpage and Westmoreland; White House Utility District (White House); and Portland Public Works (Portland). Portland is the only utility that does not use Old Hickory Lake as a source of water. This study is centered on Portland's needs.

Members of the study team recently met with each of the two primary parties to discuss the report with Portland and White. One of the meetings with Portland included city aldermen. The study team wanted to hear their concerns and develop a better understanding of any issues arising from the draft report. From those meetings, the study team determined that additional information needed to be evaluated.

There are two tiers of evaluation. The first tier is qualitative and deals with factors such as flexibility and implementability. The second tier is more detailed. Two alternatives made it to the second tier: a raw water pipeline from Portland directly to Old Hickory Lake and a contract with White House. Several factors were considered, including costs, environmental impacts or benefits, water quality, and other considerations. Based on those factors, the study team recommends the contract with White House. Initial projected costs for the White House option are significantly less than the costs for the raw water pipeline, but a range of costs for both alternatives evaluated in Tier 2, depending on the withdrawals that Portland decides are most appropriate, will be developed for further comparison.

Turning to the issue of water quality, Portland uses conventional filtration. White House uses conventional plus membrane filtration and is moving to all membrane, which produces a higher quality of water. So this would be one advantage of a contract with White House. Environmental impacts are comparable for both alternatives. Other considerations are operation and maintenance costs. Those costs would be significant for the raw water pipeline alternative because of the distance and altitude involved.

The study team expects that primary sources will continue to be used (i.e., Drakes Creek and Portland City Lake). These could be used in combination with either the contract with White House or the direct pipeline alternative. White House already has interconnections with Portland. In the past, they have been used in emergencies. Because of that existing relationship, additional water could be provided immediately. A wide variety of options are available, but the ultimate decision will be up to the parties.

Another consideration is historic growth. The study team used population projections from the University of Tennessee's Center for Business and Economic Research, but growth has been affected by the recent recession. The study team used a twenty-year planning horizon because projections become more difficult with longer periods of time.

This report is a recommendation based on what the team believes to be the most sustainable choice. This is not a mandate. Portland will need to perform the detailed engineering and financial analyses to make the final decision. To help them with that evaluation, the hydrologic optimization model used by the study team will be available to both parties. TDEC partnered with Tennessee Tech and the Army Corps of Engineers to obtain a license, and Tennessee Tech has already held two training courses. Representatives from both study areas and other regions across the state have already attended. Another training course will be held later this year.

The Water Resources Technical Advisory Committee charged the study team with completing these pilot reports to create a model for the state. The third and final report will be a general report, which will discuss the process followed and some basic principles to consider. The pilot report for the North Central study area should be completed by the end of October. The general report should be completed early next year.

Chairman NORRIS asked whether the general report will be as applicable to groundwater and aquifer supplies as surface water supplies. Ms. BOYD responded that the study team's plan is to make it as applicable to places like West Tennessee, where groundwater is more predominant, as it is to other areas. She noted that the reports will be available online at TDEC's website.

Senator HENRY asked what the name of the hydrologic model, OASIS, stands for and what it does. OASIS is the acronym for Operational Analysis and Simulation of Integrated Systems. Ms. BOYD explained that it provides the ability to look at a particular system, manipulate input data, and determine what the output will be based on the data provided. The model was particularly useful in this study because North Central has three different sources: Portland City Lake, Drakes Creek, and the possible contract with White House. Users can adjust the different withdrawal amounts and determine the impacts.

Representative SARGENT asked if Ms. BOYD was familiar with LaGuardo Utility District. Chairman NORRIS asked for clarification on where this is located. Representative SARGENT explained that it is located on Old Hickory Lake. LaGuardo Utility District has been having some trouble withdrawing water from that source. Ms. BOYD stated that she was not familiar with that issue.

3. Presentation by Ms. Reem ABDELRAZEK, Senior Research Associate, TACIR, on the Non-affiliated Public Safety Answering Points Study

Chairman NORRIS introduced Tab 5 and noted that Commission members would have to vote on the report since it was a statutorily required report.

Public Chapter 473 asked TACIR to perform a study of the impact on public safety of public safety answering points (PSAPs) not affiliated with an emergency communication district (ECD). The report is to be delivered to each member of the House and Senate Government Operations Committee by December 1, 2011. Ms. ABDELRAZEK proceeded to review the findings and recommendations from the final report draft. She clarified this report concerns only those PSAPs not affiliated with an ECD, not any other entities.

There are 21 non-affiliated PSAPs across the state. Under Tennessee Code, PSAPs are given the authority to dispatch their own services without affiliating with an ECD. However, there is no definition of PSAP in the Tennessee Code. Additionally, many of the non-affiliated PSAPs interviewed for the study did not consider their organizations to be PSAPs. The main concern shared by non-affiliated PSAPs regarding consolidation or affiliation with an ECD was the loss of a local approach to emergency services. The main concern shared by ECDs regarding non-affiliated PSAPs was their lack of technology and ability to acquire a caller's location and number information. TACIR staff agreed there is a technology disparity in most cases among affiliated and non-affiliated PSAPs. TACIR staff did not find a serious negative impact created by non-affiliated PSAPs. TACIR staff agreed with current state law that encourages consolidation where appropriate, but does not require it.

Ms. ABDELRAZEK shared the following recommendations from the report. TACIR staff recommended the Tennessee Code should be amended to include a definition of PSAP in TCA § 7-86-103. TACIR staff recommended that entities that do not match the definition of PSAP and who dispatch services should be defined as public safety emergency service providers (PSEPs) and "non-affiliated PSAP" would only apply to entities that have a 911 controller, like the case of Spring Hill Police Department. TACIR staff also recommended that the General Assembly may wish to amend the Tennessee Code so that any call to 911 is delivered only to PSAPs with at least Phase II compliant technology, if not more current or Next Generation 911 (NG 911) technology.

Senator HENRY asked what the expense to local government would be to acquire Phase II equipment and NG 911 equipment. Ms. ABDELRAZEK explained all ECDs and their affiliated PSAPs already have Phase II equipment, which was paid for either by the Tennessee Emergency Communications Board (TECB) or local funding. She continued that the majority of the non-affiliated PSAPs interviewed did not express an interest in updating their technology to be

Phase II compliant. Senator HENRY asked if the report recommends that these PSAPs be required to get the technology. Ms. ABDELRAZEK answered that the recommendation pertains only to PSAPs that directly receive 911 calls from the public (not via relay or transfer).

TACIR staff recommended that state law should continue to promote but not require consolidation and that PSEPs and non-affiliated PSAPs send annual reports to their local ECD with basic contact information, notification of any interlocal agreements, and a contingency plan in case of power outages.

Mayor MCDONALD asked about consolidation of PSAPs versus the PSAPs obtaining the proper equipment. He suggested that members of the General Assembly on the Commission consider requiring that non-affiliated PSAPs get the proper equipment for safety purposes, though they should not be required to consolidate with their ECD. Mayor MCDONALD also asked about funding and the fees residents pay through their ECDs. He expressed that PSAPs should not be required to get Phase II equipment now if NG 911 equipment is soon to be in place across the state. Ms. ABDELRAZEK explained the TECB only distributes funds to affiliated PSAPs through its funding formula and equipment reimbursements. She went on to say that the recommendation in the report for PSAPs to have at least Phase II technology applies only to those receiving 911 calls so they have caller location and number information. She estimated an NG 911 controller is \$200,000 and this cost could not be justified for some of the smaller PSAPs who only receive a handful of emergency calls each week.

Vice Chairman ROWLAND asked about the issue of PSAP dispatchers having multiple job duties, and non-affiliated PSAPs placing an undue burden on their ECD when having to transfer calls. Ms. ABDELRAZEK responded that when a call is transferred, it would take the same amount of time to transfer it to a PSAP whether it is affiliated or not (unless they have a 911 controller). Vice Chairman ROWLAND asked how long the transfer process usually takes while a caller is on the line. Ms. ABDELRAZEK agreed that was a concern during the process of the study but only one ECD director interviewed mentioned transfer times as an issue.

Chairman NORRIS called for action to accept the report as submitted. Representative DEAN made a motion which was seconded by County Executive HUFFMAN. The Commission members voted and the report was approved.

4. Presentation by Dr. Stan CHERVIN, Senior Research Consultant, TACIR, on the Residual Impact of the Recession on Local Government Taxes

Dr. CHERVIN reported on the ongoing effect of the recession on local tax receipts. He began with the definition of a recession and how it was decided that the most recent one ended in June 2009. The National Bureau of Economic

Research (NBER) makes the call based on growth in gross domestic product (GDP). Though continuing elevated unemployment raises questions about the date that the recession ended, the data is based on GDP and industrial production. Consumer spending is not as large a factor because a significant amount of it can go to overseas purchases. All indicators other than unemployment bottomed out in mid-2009, but unemployment did not reach its highest point until mid-2010. This lag in unemployment effects from the recession is common. Tennessee employment continues to suffer, especially in construction jobs.

Local sales tax revenues did begin to increase in FY 2010, though 21 counties still had negative sales tax revenue growth. More than half of Tennessee counties are still collecting less than they did in FY 2007, including the four most populous counties.

Property taxes rely on housing values, which peaked in 2007–2008. Property appraisals for tax purposes lag because they are based on previous year sales. Few counties have reappraised since the peak, so total assessments may yet decline for most counties causing a decline in property tax revenues without tax rate increases. The four most populous counties had their last appraisals based on 2008 data and the next will be based on 2012 data.

Chairman NORRIS and Mayor BURGESS asked for copies of the slides, which were delivered to all Commissioners before the end of the meeting. Chairman NORRIS suggested that the issue may need to be presented to the Finance committees.

Senator HENRY asked if this referred to new or existing homes, and Dr. CHERVIN answered that it was existing homes. Vice Chairman ROWLAND said that the National Association of Contractors has reported that Cleveland/Bradley County is number five in new construction in the south. Mayor WATERS confirmed the problems Dr. CHERVIN mentioned, saying that Sevier County assessments declined and that the tax rate was increased nine cents to recover that lost revenue. He said that the assessment decline came mostly in vacation homes so that the effect was a tax decrease on those owning vacation homes and an increase on residents.

Chairman NORRIS asked if there was likely to be a “double-dip” recession. Dr. CHERVIN said we must support spending to avoid that. Senator TRACY asked if construction-related large ticket items had a strong effect on local government sales tax revenues and Dr. CHERVIN said yes, as much of that equipment did not hit the single-article maximum like cars do. Mayor BRAGG asked what the effect of declines in government spending at all levels will do. Dr. CHERVIN said that the government sector was the last to bottom out (in October 2010), which was likely because of the stimulus money. He said that while the stimulus funds were controversial, they did help avoid deep cuts in local and state spending,

especially on K-12 education. Senator HENRY asked what would happen to corporate franchise and excise tax revenues in the near future given their general volatility. Dr. CHERVIN said ours are high relative to other states but some industries pay very little and that other factors like low labor costs and utility prices benefit Tennessee.

5. Presentation by Dr. Reuben KYLE, Senior Research Consultant, TACIR, on Electric Generation and Transmission Cooperative Act

Dr. KYLE stated that in 2009 the General Assembly passed the Electric Generation and Transmission Cooperative Act, which allowed for the creation of non-profit cooperatives in Tennessee to sell electric power directly to Tennessee Valley Authority (TVA) distributors. One of the last provisions in the bill was to instruct the Commission to monitor the changes in supply arrangements between TVA and their distributors and to determine whether there will be any impact on the TVA's payments in lieu of taxes (PILOTs).

Dr. KYLE noted that in November of last year, TVA announced that the total of their payments in lieu of taxes would be \$520 million. This is a decrease of 5.5% from the previous year when payments totaled \$550 million. He noted that it is not unheard of for the payments to go down, but that it is unusual. This decrease occurred because of two things: the contraction of the economy and unusual weather patterns in 2009.

Dr. KYLE stated that in April 2011 TVA, in an agreement with the EPA to reduce pollutants, announced the closure of 18 coal-fired steam plant units in the TVA system over the next six years. The agreement also requires TVA to spend \$5 billion to upgrade pollution control systems on other plants. Six of the 18 being closed are in Humphreys County, Tennessee. Another two in Rogersville, Tennessee, and six facilities in north Alabama are also being closed. Dr. KYLE stated that the closure of these facilities was not a surprise. TVA opened a new combined combustion facility in Brownsville, Tennessee, in June and also plans to increase its nuclear power capacity.

Dr. KYLE noted that TVA is operating under a debt ceiling of \$30 billion imposed by Congress in 1980. They plan to use a sell and lease back system to stay under the debt ceiling. This will allow TVA to fund construction of the Bellefonte nuclear facility in north Alabama.

Senator HENRY asked if TVA debts are obligations of the United States. Dr. KYLE answered that they are. They are backed by the federal government. TVA is a government sponsored corporation. Senator HENRY asked if the TVA was put on a self-financing basis. Dr. KYLE responded that very little money comes from congress, and no money is for power generation. [Further research by Dr. KYLE after the meeting indicates that TVA's bonds are not obligations of the United States, and the United States does not guarantee the payments of

principal or interest on TVA bonds. (<http://www.tva.gov/finance/opportun/faq.htm#2>) TVA no longer receives any appropriations from the U.S. Congress. (<http://www.tva.com/abouttva/history.htm>)]

Dr. KYLE stated that energy conservation has a direct effect on payments in lieu of taxes. In the fall of 2010 TVA announced a plan to pursue a policy to achieve energy savings that would amount to the capacity of a large generating facility. Dr. KYLE noted that Tennessee gets 60% of the \$520 million. He further explained the allocation of these payments, referring to a chart in the docket book.

Senator HENRY asked who decides how much money is paid in lieu of taxes and how it is distributed. Dr. KYLE stated that it is done by statute. The 1933 act states specifically that 5% of TVA's gross revenues go to this purpose. The distribution within Tennessee is determined by state law.

Dr. KYLE stated that non-profit co-ops, through the Electric Generation and Transmission Cooperative Act, could sell directly to TVA distributors. This could affect the PILOTs because the money would not go through TVA's books. In 2010, the legislature amended the bill to prevent this. The Seven States Power Corporation, owned by a group of TVA distributors, took part ownership of a combined combustion facility in Mississippi. TVA operates this facility and, therefore, the money goes through TVA's books and so has no effect on the PILOTs.

Dr. KYLE stated that TVA forecasters expect a 1% to 2% revenue increase annually. Over the history of TVA, the PILOT has generally increased and rarely decreased.

County Executive HUFFMAN asked about plants that generate only during peak times at higher prices and whether they were included in the figures presented. Dr. KYLE responded that they are because TVA buys this power and resells it. County Executive HUFFMAN then asked whether the counties that this power is generated in have a PILOT with TVA and whether the money that county receives is included. Dr. KYLE responded that the PILOT is not dependent on the power that is generated locally. The money generated from this would go into the whole pot. The county does not benefit directly from presence of that facility. County Executive HUFFMAN also asked about the solar panels being built in West Tennessee and whether the revenue generated from that energy would be subject to a PILOT. Dr. KYLE said that he was not entirely sure and that it was funded through a federal energy grant.

6. Presentation by Ms. Lynnisse ROEHRICH-PATRICK, Associate Executive Director, TACIR, on Online Access to the Public Infrastructure Needs Inventory

Ms. ROEHRICH-PATRICK stated that this process will provide data to researchers and other people who have an interest in it. It comprises three major steps, some of which will require more time and resources than others. The first step will provide direct access by local officials to the items in the system that we already have in place, including the ability to add and update them. Development district staff will advise TACIR of the local officials who desire direct access to the inventory. TACIR will work with the development district staff to help local officials who are interested in doing this learn the system and provide the same support through development district staff. Local officials will be able to see what goes into the TACIR report and revise and update the information themselves. By viewing the details of all the projects in the inventory, local officials can assure themselves that the information entered in the system is what they intended to be entered. Development district staff will, however, remain responsible for the accuracy and completeness of the information to ensure the best possible data. The system in place for use by the development districts is adequate to ensure security of the information local officials wish to submit. This process will begin with the July 2011 inventory, and in the October meeting, TACIR will be explaining to the development district staff on this.

Mayor MCDONALD asked when in 2012 this process will start. Ms. ROEHRICH-PATRICK responded that the development district staff who work with the local officials will determine when they want them to start, including interviewing them and gathering inventory information. TACIR staff will discuss with the development district staff in October when they normally begin the inventory process.

Mayor MCDONALD asked if the latest data that will be used in this process will be based on July 2011 information. Ms. ROEHRICH-PATRICK responded that it will.

Senator HENRY asked who the person or entity is with the final say about information included in the inventory. Ms. ROEHRICH-PATRICK explained that TACIR has the final say on the quality and completeness of information according to the business rules that we have in place. Local officials are the ones who decide on whether a project is a need or not; TACIR does not second guess them on that.

Ms. ROEHRICH-PATRICK stated that the second step in this process will provide additional access by the general public to the information that we already have in the inventory. Initially, this form of access will be limited to downloading information in the report appendices in spreadsheet or database form. Then within the next year, a web page that will allow users to choose types of

infrastructure needs and locations they are interested in will be added. Staff hope to base this webpage on the model used by the Bureau of Economic Analysis (BEA) on their websites. Instead of choosing the information by industry, users will choose it by type of project. A report will be produced with information spanning a specific number of years for the county or counties in question. Information available will initially be at the summary level currently provided in the annual report.

Ms. ROEHRICH-PATRICK stated that step three will provide the ability to select and compare the infrastructure needs of peer cities and counties. This step, which is much more sophisticated, is a longer term goal. The model staff hope to follow is the U.S. Department of Education's Public School District Finance Peer Search, created by the National Center for Education Statistics. This process will allow comparison of infrastructure information for peer counties with comparable factors such as population size, land area size, and growth rates. Parameters that may be used to compare infrastructure projects include population factors, land area, percentage of urban or rural population, number of cities in a particular county, and tax base factors. The system will also have a default set up that will decide for the user what the similar counties are in the event the user does not want to choose all the parameters above. Step 3 will most likely take at least two years to complete.

Ms. ROEHRICH-PATRICK stated that TACIR currently has sufficient resources to accomplish at least the first two steps outlined here. Both will be built on existing systems. TACIR has in-house resources to do Steps 1 and 2, although Step 2 may require some limited programming, which is something that will require contracting. TACIR does contracting routinely as necessary to keep the current online inventory system up to date. Step 3 is much more complicated to develop, requiring more time, and programming needs. TACIR staff will use reserve funds to finance this step. Staff will begin working on Step 3 after Steps 1 and 2 are complete.

Mayor MCDONALD suggested that beyond counties, inventory information be broken down further by school districts instead of by cities because there are so many cities. He noted that all cities know the school districts they belong to. Ms. ROEHRICH-PATRICK agreed that was a good idea because there is more information about school systems than about cities, and we get most of it new every year. Detailed information needed to do peer searches on cities is only available every 10 years with decennial census.

Ms. ROEHRICH-PATRICK requested feedback from the Commissioners on information they would like to be reported.

7. Future Meeting Dates

Chairman NORRIS asked the Commission about date preferences for the December meeting. A few members expressed a preference for December 7th and 8th. None were opposed to that date. The next meeting was scheduled for Wednesday, December 7th and Thursday, December 8th.

Chairman NORRIS adjourned the meeting at 10:23 a.m.