



226 Capitol Boulevard Bldg., Suite 508  
Nashville, Tennessee 37243-0760  
Phone: (615) 741-3012  
Fax: (615) 532-2443  
[www.tn.gov/tacir](http://www.tn.gov/tacir)

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**MINUTES OF THE  
TENNESSEE ADVISORY COMMISSION  
ON INTERGOVERNMENTAL RELATIONS  
19 June 2012**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in room 30 of the Legislative Plaza at 1:04 p.m., Chairman Senator Mark Norris presiding.

**Present 18**

Mayor Tommy Bragg  
County Mayor Ernest Burgess  
Mr. Charles Cardwell  
Mr. Rozelle Criner  
Ms. Paula Davis  
Representative Vince Dean  
Mayor Brent Greer  
Representative Curtis Halford  
Senator Douglas Henry  
County Mayor Kenny McBride  
Mayor Keith McDonald  
Mr. Iliff McMahan  
Speaker Emeritus Jimmy Naifeh  
Senator Mark Norris  
Mayor Tom Rowland  
Mr. Tommy Schumpert  
Senator Jim Tracy  
Comptroller Justin Wilson<sup>1</sup>

**Absent 7**

County Executive Jeff Huffman  
Senator Jim Kyle  
Senator Randy McNally  
Representative Gary Odom  
Representative Charles Sargent  
Mayor Pro Tem Kay Senter  
County Mayor Larry Waters

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<sup>1</sup> Phillip Doss represented Comptroller Wilson.

## **1. Call to Order and Approval of the Minutes**

Chairman NORRIS called the meeting to order at 1:04 p.m. and welcomed TACIR's new executive director, Lynnis ROEHRICH-PATRICK.

Chairman NORRIS requested approval of the minutes. Vice Chairman ROWLAND made a motion to adopt the minutes; Representative DEAN seconded.

## **2. Commission Updates**

Ms. ROEHRICH-PATRICK discussed the current members' term expirations, reappointments, and replacements as described in Tab 2 of the docket book. She thanked Mayor MCDONALD for his service to the commission. Chairman NORRIS congratulated Mayor MCDONALD on being named Mayor of the Year by the Tennessee Municipal League. Ms. ROEHRICH-PATRICK introduced the full- and part-time TACIR staff, as well as the interns.

## **3. Presentation by Dr. Cliff LIPPARD, Deputy Executive Director, TACIR, on Major Achievements, Fiscal Year 2012**

Dr. LIPPARD gave a brief overview of the major achievements listed in Tab 3 of the docket book. The list will be compiled in the fiscal years 2011-12 biennial report and brought before the Commission in 2012. In reference to the completed report on Tennessee Valley Authority payments in lieu of taxes and the effect of the Electric Generation and Transmission Cooperative Act of 2009, Chairman NORRIS noted the critical importance of the PILOTs, as well as the importance of understanding federal action on power production incentives. Mayor GREER expressed particular concern about the challenges that TVA continues to face because of its debt ceiling and the impact on local governments that fund their school systems with TVA PILOTs, as well as on the State and the Commission.

## **4. Presentation by Mr. Bill TERRY, Senior Research Consultant, TACIR, on Legislative Action**

Mr. TERRY reviewed 31 bills as presented in the docket book. Twelve were referred to TACIR for study; another 13 were related to those; six others relate to past TACIR studies. The bills sent for study cover eminent domain, land use regulation, blight, government transparency, and homeowners' association regulations. Chairman NORRIS commented on the need to revisit Public Chapter 1101 (Acts of 1998) as it relates to growth plans adopted for each county as they reach the end of their 20-year span and on the broad interest in the issue of property rights in relation to land use regulation.

Chairman NORRIS recognized Representative CARR to speak to the eminent domain bill he had sponsored and which was sent to the Commission for study. Representative CARR commented that SB 1566/HB 1576 took different tracks in the House and the Senate. Several amendments were added to the Senate version before it was referred to TACIR; the House version does not include these amendments. The bill arose from a situation in Rutherford

County where a property owner believed he was not getting just compensation for property that had been condemned and spent several years and a considerable sum pursuing a remedy through the courts only to receive the amount he'd originally requested right before the court date. The bill's sponsors found this not to be an isolated incident and felt there a way to expedite the valuation process was needed. Discussion centered on the definition of "public use," with Representative CARR emphasizing that the bill addresses valuation only and does not deal with condemnation or the definition of "public use," which Chairman NORRIS noted had been redefined by the General Assembly post-*Kelo*; the choice of the American Arbitration Association (AAA) as arbitrator and the House amendment allowing only the property owner to request a court-appointed arbitrator as an alternative to the AAA; the pattern indicated by the various land use regulation bills, which Mr. TERRY described as a concern by some that planning commissions have overstepped their authority and that the regulations that are being developed are too extensive; and the statutory authority for planning commissions, which Mr. TERRY explained and which Senator HENRY suggested should be the focus of the commission's enquiry.

Questions were also raised about the method for repurchase of property under SB 548 and how value would be determined and what the standard of deterioration is for a property or neighborhood to be considered blighted, to which Mr. TERRY responded that for a building it is determined by local codes and local inspectors. Mayor MCDONALD opined that the State should have some involvement in matters of blight as the courts look to the State to define property rights and he expressed concern about the effects on neighboring properties of having to leave personal property on the lawn or sidewalk for some minimum number of days after eviction.

#### **5. Presentation by Dr. Cliff LIPPARD, Deputy Executive Director, TACIR, on Work-Program Amendment and Research Plans**

Dr. LIPPARD requested that the Commission adopt the work program amendment as proposed in Tab 5A of the docket book. Efforts to distinguish between official commission reports and staff reports to the commission were discussed with approval. Mayor MCDONALD made a motion for approval; Mayor MCBRIDE seconded.

Dr. LIPPARD discussed briefly the research plans provided in Tab 5B and explained the eight-step process used in the plans. Mayor MCDONALD requested a research plan for the blight study.

#### **6. Presentation by Ms. Lynnise ROEHRICH-PATRICK, Executive Director, TACIR, on Update on TVA PILOTS**

Ms. ROEHRICH-PATRICK discussed the memorandum in the docket book about TVA PILOTS and related information from the Association of Tennessee Valley Governments' January 2012 meeting in Nashville. Discussion centered on the fact that TVA's lease/lease-back arrangements could cause a reduction in the amount of TVA revenue that is distributed through the state's allocation formula. The reduction would be offset by increases in direct

payments to cities and counties where the lease/lease-back agreements are made. This shift is of particular concern to counties with multiple school systems, which would have to replace lost TVA revenue used to fund schools with sufficient additional revenue to share with all of the systems in the county.

Ms. ROEHRICH-PATRICK noted that TVA's use of these agreements is likely to increase because of its debt ceiling, which has been \$30 billion since 1980. Efforts to make local governments aware of these issues were noted by the members, including the Commission's annual reports, as well as efforts by the Association of Tennessee Valley Governments. Mayor GREER commended TVA for being forthcoming on these matters and for their continuing efforts to understand the effects on state and local governments, noting that this is a very fluid situation. He reiterated his earlier comments about the difficulty counties that use TVA revenue to fund their school systems would face in losing these funds because any decreases in this revenue must be replaced with local funds in order to continue receiving state education funds. Counties with multiple school systems will have to raise more revenue than they lose because all local funds must be shared among all school systems within those counties. That is not the case with TVA revenue.

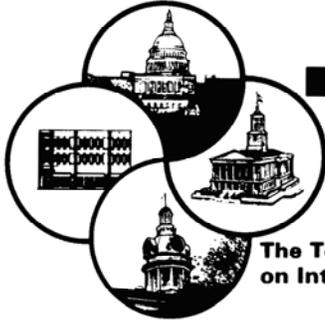
Chairman NORRIS expressed interest in hearing options for minimizing the effects of changes in TVA PILOTs. He also mentioned concerns about federal incentives for clean energy that might affect TVA and rates.

## **7. Other Matters**

Chairman NORRIS announced that he would yield the chair to Vice Chairman ROWLAND for the following day's meeting.

Chairman NORRIS expressed appreciation for Mayor MCDONALD'S service to the Commission.

Chairman NORRIS adjourned the meeting at 2:58 p.m.



# TACIR

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on Intergovernmental Relations



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MINUTES OF THE  
TENNESSEE ADVISORY COMMISSION  
ON INTERGOVERNMENTAL RELATIONS  
20 June 2012

### Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in room 30 of the Legislative Plaza at 8:35 a.m., Vice Chairman Mayor Tom Rowland presiding.

### Present 19

Mayor Tommy Bragg  
County Mayor Ernest Burgess  
Mr. Charles Cardwell  
Mr. Rozelle Criner  
Ms. Paula Davis  
Representative Vince Dean  
Mayor Brent Greer  
Representative Curtis Halford  
Senator Douglas Henry  
County Executive Jeff Huffman  
County Mayor Kenny McBride  
Mayor Keith McDonald  
Mr. Iliff McMahan  
Senator Randy McNally  
Speaker Emeritus Jimmy Naifeh  
Mayor Tom Rowland  
Mr. Tommy Schumpert  
Mayor Pro Tem Kay Senter  
Comptroller Justin Wilson<sup>2</sup>

### Absent 6

Senator Jim Kyle  
Senator Mark Norris  
Representative Gary Odom  
Representative Charles Sargent  
Senator Jim Tracy  
County Mayor Larry Waters

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<sup>2</sup> Phillip Doss represented Comptroller Wilson.

### **1. Call to Order**

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

### **2. Presentation by Ms. Ethel DETCH, Senior Research Consultant, TACIR, on Charting a Course to Tennessee's Future**

Ms. DETCH presented highlights from the staff report, *Charting a Course to Tennessee's Future*, as presented in Tab 7 in the docket book. Commission members were very complimentary of the report. Discussion centered on the status of the state's initiative to connect all county seats to Interstates via four-lane highways, the availability of water for municipal and industrial use from federal reservoir projects, the shrinking state employee labor force, recent changes in local government options under the Tennessee Consolidated Retirement System, and adult education in Tennessee, including the quality of equipment at the State's technology centers.

Dr. Phil DOSS, at Senator HENRY's request, agreed to provide information about the state's adult basic education programs reported by the Comptroller's Office of Education Accountability. Mayor Pro Tem SENTER asked that the executive summary note the importance of technology centers and community colleges. Members also expressed interest in learning the position of the current Administration on completing the county-seat-connector initiative. Senator HENRY expressed concern about the term "urban-rural divide," noting that urban and rural areas have many concerns in common, most notably poverty. Ms. Detch made a note to present the issues in a more inclusive way. Representative HALFORD raised particular concern about solutions for rural problems, noting the epidemic of drug abuse in rural areas; he suggested that it be mentioned in the report.

### **3. Presentation by Dr. Rose NACCARATO, Senior Research Associate, TACIR, on Fiscal Capacity for Fiscal Year 2013**

Dr. NACCARATO presented fiscal capacity results for use in next year's Basic Education Program (BEP) formula and explained that the TACIR index is averaged with the one produced by the Center for Economic and Business Research (CBER) at the University of Tennessee to produce the index used in the BEP formula. County Executive HUFFMAN asked if the formula still includes funding for capital improvement projects and insurance costs for ten months of the year. Ms. ROEHRICH-PATRICK said yes to both. In response to other questions about components of fiscal capacity versus the BEP itself, Ms. ROEHRICH-PATRICK explained the reasons for separating calculations of the cost of education for any particular group of students from calculations of the amount of revenue local governments can be expected to raise to pay those costs.

County Executive HUFFMAN commented on the effects of using of three-year averages in the fiscal capacity formulas, which makes both the loss or the gain of a large employer take some time to fully work its way through the formula. He also asked whether the TACIR measure made any adjustments for payments in lieu of taxes (PILOTs), since some parcels of property

are not taxed for various reasons, often for economic development deals. Ms. ROEHRICH-PATRICK explained that, while CBER uses the more current PILOT data now produced by the Controller's office, the TACIR formula continues to use much older PILOT data because of a lack of sentiment within BEP Review Committee to change any elements of TACIR's formula.

#### **4. Presentation by Dr. NACCARATO on Voting/Campaign Legislation**

Dr. NACCARATO presented a report on HB 472, which was sent to the Commission for study. The report concluded that allowing voters temporarily residing outside the counties in which they were registered warranted further study. Dr. NACCARATO commented that, although there is currently no way to instantaneously determining whether a voter has already voted in another county, the database improvements required to protect against such fraud while allowing such voting, while expensive, would have many advantages, including the ability to more efficiently remove duplicate registrations or registrations of ineligible voters. Vice Chairman ROWLAND asked what makes a residence temporary. Dr. NACCARATO responded that it has to do with whether the voter intends to move back to his or her permanent residence.

Mayor MCDONALD expressed the opinion that absentee voting is adequate to address the needs of voters temporarily residing in another county and that the report should take a stronger stance on recommending against the need for any legislation to address this problem. Upon further discussion after approving his motion not to accept the report, Mayor MCDONALD moved to reconsider. Discussion focused on the fact that the report calls for further study and that the election coordinator's office was better equipped to that and provide stronger conclusions. Representative DEAN moved that the report be accepted with the understanding that further study should be done by the election coordinator's office before any legislative action was taken. Mr. CARDWELL seconded the motion, and it passed without objection, with Mayor BRAGG, Mayor MCDONALD, Speaker Emeritus NAIFEH, and Senator HENRY abstaining.

Dr. NACCARATO then presented the staff report on HB 779, which would require local law enforcement to provide a police presence in the area of political campaign canvassing if possible when such a presence was requested, noting the recommendation that no legislative action be taken. County Executive HUFFMAN moved that the Commission accept the report. Representative DEAN seconded the motion, and it passed without objection.

#### **5. Presentation by Ms. Catherine CORLEY, Senior Research Associate, TACIR, on Report on Public Infrastructure Needs Inventory**

Ms. CORLEY presented highlights from the Commission's report, *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs*, as presented in Tab 10 of the docket book.

Senator HENRY asked whether the infrastructure information in *Charting a Course to Tennessee's Future*, presented by Ms. DETCH, matched the information in the infrastructure inventory. Ms. CORLEY confirmed that it did.

Mayor MCDONALD made the motion to accept the report. Representative DEAN seconded.

## **6. Next meeting**

Vice Chairman ROWLAND asked for resolutions at the next meeting for those departing the Commission and requested dates for the next meeting. Ms. ROEHRICH-PATRICK said she would get some dates from the chairman and then poll the members.

Senator HENRY requested a resolution to honor Dr. GREEN.

Vice Chairman ROWLAND adjourned the meeting at 10:17 a.m.