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**MINUTES OF THE  
 TENNESSEE ADVISORY COMMISSION  
 ON INTERGOVERNMENTAL RELATIONS  
 25 July 2013**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in Legislative Plaza Room 30 at 10:05 a.m., Chairman Mark Norris presiding.

<b>Present 19</b>	<b>Absent 6</b>
Mayor Troy Beets	County Mayor Ernest Burgess
Mayor Tommy Bragg	Representative Lois DeBerry
Mr. Charles Cardwell	County Mayor Brent Greer
Representative Mike Carter	Senator Douglas Henry
Mr. Rozelle Criner	Senator Randy McNally
Ms. Paula Davis	Senator Jim Tracy
Representative Ryan Haynes	
County Executive Jeff Huffman	
Senator Jim Kyle	
County Mayor Kenny McBride	
Mr. Iliff McMahan	
Senator Mark Norris	
Representative Gary Odom	
Mayor Tom Rowland	
Representative Charles Sargent	
Mr. Tommy Schumpert	
Councilmember Kay Senter	
County Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	

<sup>1</sup> Phillip Doss represented Justin Wilson

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

Chairman NORRIS called the meeting to order at 10:05 a.m. Chairman NORRIS requested approval of the minutes. A motion to adopt the minutes was made by Representative ODOM, seconded by Representative SARGENT, and passed unanimously.

## **2. Staff Awards**

Chairman NORRIS presented certificates representing employment milestones to Executive Director ROEHRICH-PATRICK, 30 years of service, and Senior Research Manager Melissa BROWN, 15 years of service. Ms. ROEHRICH-PATRICK recognized Office Manager Pam DAVENPORT, who has accepted a program manager position with the Tennessee Housing Development Agency, and thanked her for her service and welcomed Sharon GREENFIELD as the newest member of the TACIR team, giving an overview of her work history and qualifications. Ms. GREENFIELD is replacing Ms. DAVENPORT.

## **3. Public Chapter 441**

### **Presentations by Mr. Dennis HUFFER, Legal Counsel, and Mr. Sam EDWARDS, Executive Director, Greater Nashville Regional Council, on the History of Annexation and Growth Policy in Tennessee**

Mr. HUFFER presented annexation's history and current issues, including a discussion of why cities annex. He noted that Tennessee's laws have led to the incorporation of fewer cities and other districts when compared to neighboring states. Cities that can freely annex have been linked to higher bond ratings and fiscal stability. Mr. HUFFER discussed the 1953 constitutional convention that led to the adoption of Tennessee's annexation law in 1955. Before 1953, the General Assembly asserted power over municipal boundaries and incorporation through private acts. When challenged in court, municipalities were given deference and nearly all annexation ordinances were upheld. The issue of how to deal with services provided by utility districts was, and remains, a difficulty for cities. Concern from counties over local sales and other state-shared tax revenue had to be considered. Chairman NORRIS and County Executive HUFFMAN discussed why counties negotiated to retain this tax revenue for 15 years, which was primarily so the county could maintain the tax base to pay back outstanding school bonds. Mr. HUFFER discussed changes to the law after 1955, several relevant court rulings that shaped annexation, and the role of the Tennessee Municipal League in protecting the interests of cities from changes to annexation laws. Mr. HUFFER described the "Tiny Towns" law and the controversy surrounding it that contributed to the development of Public Chapter 1101.

Following the presentation, several members discussed plan of service requirements. Representative ODOM asked whether there is a requirement for cities' plans of service to include a timeline. Mr. HUFFER explained that there is no specific requirement in the statute, but that each city does spell out the period in its plan of services. Mayor MCBRIDE discussed the problems of cities annexing land in rural areas when they have no intent of providing services to those developing areas. Mayor BRAGG noted that different cities provide different

services, some more than others, and that his city extends the same services to newly annexed areas.

Mayor WATERS asked Mr. HUFFER to comment on the downsides of allowing referendums on annexation. Mr. HUFFER said only that it is difficult to get people to vote to pay more taxes, even if they will benefit from services. Representative CARTER challenged Mr. HUFFER's assertion that cities must be able to grow or else they die. He emphasized the fact that annexed citizens have no vote or voice in the process, yet are saddled with existing city debt, noting that some people choose not to live in the city.

Mr. EDWARDS presented the history and implementation of Tennessee's Growth Policy Act (Public Chapter 1101, Acts of 1998). He stressed the number of legal battles and amount of fighting that took place between cities and counties before PC 1101 passed. The committee formed to create what became the Act was a coalition of many different people and interests; the best part of the law, Mr. EDWARDS contended, was that it brought different sides together to talk about the issues. He discussed some of the tradeoffs and compromises made in the process.

Following the presentations, the Commission discussed several issues related to growth planning. Chairman NORRIS asked if annexation was integral or incidental to the rest of PC 1101. Mr. EDWARDS responded that it is incidental, because the law covers more than just annexation. It did make the process better and clearer, in his opinion. Vice-Chairman ROWLAND stressed the importance of cities being able to help counties develop commercial and industrial property as well. Mr. EDWARDS noted that a municipal-regional planning commission can coordinate development and standards, and that anyone within an urban growth boundary has notice that they may be annexed at some time in the future. Mayor BEETS stated that failure of a city to extend its boundary to embrace growth would be irresponsible. In his experience, the law is working well. Senator KYLE and Mr. EDWARDS discussed the issue of state-shared taxes and also brought up the issue of annexation and municipal school districts. Senator KYLE expressed concern that cities may seek annexation to add students to their districts. Mayor WATERS stressed the importance of cooperation and asked about enforcement of plans of service. Representative CARTER asked whether requiring that annexations be approved by referendum would harm the rest of the PC 1101 law. Mr. EDWARDS responded that it would not, but that there are systems in place that were agreed upon, and that he didn't want to see those cities that do things right be penalized.

### **Presentations by Panelists Representing Non-Government Interests**

#### **Mr. Paul LATTURE, President of the Rutherford County Chamber of Commerce**

Mr. LATTURE focused on the positive effects that annexation has on economic growth and development. He noted that site selection is fast-paced and competitive, and that having sites with services ready for development is important.

**Mr. John Avery EMISON, President of Citizens for Home Rule, Inc.**

Mr. EMISON stated that he and his organization have fought annexation for 30 years, including 150 lawsuits. He stressed the importance of property rights and representative government. He said that cities abuse the power to annex, mostly to increase revenue. He believes that annexation should only be by way of referendum.

**Mr. William HAUPT, Founder of Tennesseans Against Forced Annexation**

Mr. HAUPT said that annexation needs to come by consensus. He advocated for referendums and better notification for residents.

**Mr. Danny SELLS, Executive Director of the Tennessee Association of Conservation Districts and Spokesperson for Citizens to Maintain Gray**

Mr. SELLS described the role of conservation districts and the effect annexation and development has on agricultural land and natural resources. He cited the problems faced by farmers and what happens when farmland gets annexed and developed. He also advocated for referendum and more public involvement in the planning and annexation process to protect the rights of property owners.

**Mr. Bob FREUDENTHAL, Executive Director of the Tennessee Association of Utility Districts**

Mr. FREUDENTHAL spoke on behalf of the many types of utility districts in Tennessee. He stressed the importance of communication and long-term planning for business development. He discussed the state and federal laws that protect utility districts from annexation.

**Mr. Nathan RIDLEY, Attorney with Bradley, Arant, Boulton & Cummings, representing the Nashville Chapter of NAIOP, the Commercial Real Estate Development Association**

Mr. RIDLEY emphasized that developers want predictability when it comes to land use. He noted the fast pace and competitive nature of industrial site selection, as well as the importance of utility services. He said that PC 1101 was left vague in areas and may need some specifics. Annexation needs to be a carefully balanced process, and unplanned sprawl is expensive. Mr. RIDLEY and Mayor WATERS discussed how advances in septic systems have lessened demand for residential annexation, which can hinder commercial development.

**Ms. Mitzi SPANN, President of the Homebuilders Association of Tennessee**

Ms. SPANN presented the challenges builders face when zoning and plat approvals are changed by annexation and county and city standards differ. She urged cities to respect plans as they were approved by the county when they are annexed. Senator KYLE posed the question of, if cities had to honor county zoning, could a county zone land in a way that cities would be unable to annex it for development? Ms. SPANN said the biggest problem occurs when a development is already underway and its annexation imposes additional cost.

## **Ms. Rhedona ROSE, Executive Vice-President of the Tennessee Farm Bureau**

Ms. ROSE noted that the Farm Bureau was involved in the formation of PC 1101. She spoke about problems for rural farmers who felt under-represented as cities drew growth boundaries larger than necessary. She said that people should be able to vote on annexations and that exemptions are needed to protect farmland from annexation. Building codes and restrictions on animals and agriculture can create problems for farmers when they are annexed into a city. Ms. ROSE and Mayor BEETS discussed North Carolina's exemption of "bona fide" farms and how that term is defined. The Commissioners discussed Tennessee's green belt law, which protects certain farms, forests, and open lands from being taxed at higher values. Mr. MCMAHAN asked about grandfathered properties that had been annexed before PC 1101 was adopted and about land conservancies. Mayor BRAGG pointed out the difference between "ratepayer" services and "tax payer services."

## **4. Annual Report on Public Infrastructure Needs Inventory by Mr. David KEISER, Senior Research Associate, TACIR**

Mr. KEISER presented highlights from the Commission's report, *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs*, as presented in Tab 4 of the docket book. Discussion of the report centered on the July 1, 2013, merger of the Memphis City school district and the Shelby County school district as well as the proposed creation of several new school districts in Shelby county. County Executive HUFFMAN asked how those changes will affect the inventory. Ms. ROEHRICH-PATRICK responded that the development district staff will contact the school systems and that TACIR staff will work with them to make sure all public school needs are properly reported. Senator KYLE noted that reporting will be especially difficult because of the increased number of school systems in the county and because of the new boundaries in areas served. Ms. ROEHRICH-PATRICK acknowledged those difficulties and said that staff will provide assistance to local officials and development district staff during the change.

County Executive HUFFMAN made the motion to accept the report. Representative CARTER seconded. The report was approved unanimously.

## **5. Next meetings**

The next meetings are scheduled as follows:

- 21-22 August 2013
- 23-24 October 2013
- 4-5 December 2013

Chairman NORRIS adjourned the meeting at 2:53 p.m.