

# TACIR

**The Tennessee Advisory Commission  
on Intergovernmental Relations**



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**MINUTES OF THE  
TENNESSEE ADVISORY COMMISSION  
ON INTERGOVERNMENTAL RELATIONS  
September 16, 2009**

**MEETING CALLED TO ORDER**

The Tennessee Advisory Commission on Intergovernmental Relations met in Room 30 of the Legislative Plaza at 1:12 p.m., Vice Chairman Mayor Tom Rowland presiding.

**Present 19**

Mayor Rogers Anderson  
Mayor Tommy Bragg  
Mr. Charles Cardwell  
Ms. Paula Davis  
Representative Craig Fitzhugh  
Mayor Brent Greer  
Senator Douglas Henry  
County Executive Jeff Huffman  
Mr. John Johnson  
Mayor Kenny McBride  
Mayor Keith McDonald  
Speaker Emeritus Jimmy Naifeh  
Ms. Leslie Newman<sup>1</sup>  
Senator Mark Norris  
Mayor Tom Rowland  
Mr. Tommy Schumpert  
Senator Jim Tracy  
Mayor Larry Waters  
Comptroller Justin Wilson

**Absent 6**

Alderman Bob Kirk  
Senator James Kyle  
Senator Randy McNally  
Representative Jason Mumpower  
Representative Gary Odom  
Representative Curry Todd

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<sup>1</sup> Marie Murphy represented Leslie Newman.

**1. Call to Order and Approval of June/July 2009 Minutes**

Vice Chairman Tom ROWLAND called the meeting to order at 1:12 p.m. and asked for approval of the minutes. Mayor MCDONALD made a motion to adopt the minutes. The motion was seconded by Mr. SCHUMPERT. The minutes were approved.

**2. Resolution for Senator Anna Belle Clement O'Brien**

Ms. Kerri COURTNEY read a resolution to honor the memory of former TACIR Commission member Senator Anna Belle Clement O'Brien. Speaker Emeritus NAIFEH made a motion to adopt the resolution. The motion was seconded by Senator TRACY. The resolution was approved by the Commission.

**3. Progress Report on Qualified School Construction Bonds (QSCB)**

**a) Presentation by Mr. Justin WILSON, Comptroller of the Treasury**

Comptroller WILSON introduced the QSCB program by informing the Commission that Tennessee received \$181 million from the Recovery Act, of which \$41 million was allocated for Memphis and \$21 million to Davidson County. He noted that the rest was to be allocated by the state for use on school construction or renovation, and that the bonds had very low, if any, interest. The School Bond Authority asked TACIR to help develop an application process, do a study, and rank the applications. He noted that this was a tough issue to address and commended TACIR's method of handling it. Comptroller WILSON said that Mary Margaret COLLIER and Ethel DETCH were to speak about it in more detail but that he was happy to answer any questions.

**b) Presentation by Ms. Ethel DETCH, Research Associate, TACIR**

Ms. DETCH said that unlike many states, Tennessee has very little involvement with school buildings, so there was no staff to oversee the distribution of QSCB funds. She said that Comptroller WILSON asked TACIR to help the Division of Bond Finance develop an application process, as well as review and score applications. The applications were sent to all the school systems in the state, with 27 school systems submitting requests totaling \$368 million. Excluding Memphis and Metro Nashville's amount, the remaining requests totaled \$305 million and the available funds were only \$121 million. Ms. DETCH said that the Division of Bond Finance handled the evaluation of the financial portion of the applications, while TACIR staff—Lynnis ROEHRICH-PATRICK, Ed YOUNG, and herself—worked on the parts concerning programs. She also mentioned that school systems had to apply as either new construction projects or renovations.

Ms. DETCH said that the School Bond Authority had assembled a list of criteria for TACIR: innovation, evidence of need, compliance with mandates, and energy efficiency. The school systems were ranked and sent to the Division of Bond Finance, which looked at the financial portions and combined the two evaluative systems. The School Bond Authority approved the list of winning projects on September 10<sup>th</sup>. There were 15 projects approved from 13 school systems, not including Memphis and Nashville. Ms. DETCH said that the process was mostly finished.

Mayor MCDONALD said that he was unclear as to how much money would be available next year for this process. Comptroller WILSON said that it would be the same amount—possibly more.

Speaker Emeritus NAIFEH asked why the amounts allocated were different from the amount that was requested. Ms. DETCH said that some of the figures reflected the cost of issuance in addition to project cost. Ms. COLLIER expounded on this, saying that when the bonds are sold, cost of issuance covers expenses such as the marketing, rating agencies, and underwriters.

**c) Presentation by Ms. Mary Margaret COLLIER, Director, Division of Bond Finance**

Ms. COLLIER presented the financial criteria for selection, which included both ability to pay and qualification under the federal tax code. With regard to tax code qualification, the projects had to comply with the Davis-Bacon Act rules, as well as with the Spending Rules. Ability-to-pay considerations included credit rating, state shared taxes, and ability to service the debt. Another evaluation criteria she mentioned was homogenization of the credit between the bonds, using state shared taxes, in order to make the bonds easier to sell. She said that Comptroller WILSON, Treasurer LILLARD, and she would be meeting with the rating agencies early next month to present the credit analysis in anticipation of the sale. She expects bonds to be sold in October or November.

Ms. COLLIER also noted that the Federal Department of the Treasury had called to check on the status of the bonds and would continue to call periodically. She said that this is important, since this program is not a part of the transparency requirements for the American Recovery and Reinvestment Act (ARRA).

Ms. COLLIER mentioned that this program will be available next year and that it would most likely be expanded. Dr. GREEN asked how the availability of the program next year would affect the systems that did not make the first cut. Ms. COLLIER said that they would be eligible to apply next year and that some were already working to improve their applications. She also mentioned the possibility of extra funds from states that refused ARRA money.

Ms. COLLIER said that this was a difficult program because of the tax credits and the detailed requirements for selling the bonds. However, the federal government has allowed a “sinking fund” where money can accumulate to pay the debt service, which is an additional benefit to the schools. Comptroller WILSON added that there were many aspects of this program that are uncertain at this point.

County Executive HUFFMAN asked if the entire pool gets penalized if one county within it does not comply with the regulations. Ms. COLLIER responded that only the particular county will be penalized. One such penalty is a “make whole call” in which the bonds become immediately callable.

Comptroller WILSON added that the reason there are such strict requirements is that the consequences are uncertain. County Executive HUFFMAN asked whether the state issued the bonds and whether its credit rating was affected. Ms. COLLIER said that the Tennessee State School Bond Authority issues the bonds, and a new credit rating will be created for the new program, which will be separate from the higher education bond rating. Comptroller WILSON added that the counties that participate in this program are fully obligated and bear the burden of non-compliance.

County Executive HUFFMAN asked about the debt schedule and who determines it. Ms. COLLIER answered that it was the School Bond Authority’s responsibility and that their plan currently calls for 14 years of level principal, subject to change.

County Executive HUFFMAN asked whether arbitrage regulation was the same for this bond issue as it was for other bond issues, and Ms. COLLIER said that it was not. Since the federal government allows a permitted yield on the sinking fund, there are no arbitrage rules as long as the yield is not exceeded.

County Executive HUFFMAN then asked about the Qualified Zone Academy Bond’s (QZAB) 10% private requirement and whether it was possible to do a pilot program and borrow QSCB money for it. Ms. COLLIER replied that she was unsure about the answer to this question. She reiterated that QZAB is school specific and that the program only applies for to schools in which at least 35% of the population receives free or reduced-cost lunches. Additionally, QZAB is only for rehabilitation and equipment. Comptroller WILSON added that these issues can get very technical and that bond counsel might need to be consulted.

Ms. COLLIER then stated that QZAB and QSCB were similar due to their use of the same federal tax credit. However, QZAB is more restrictive due to its 10% private requirement. She said that the ARRA funds in QZAB should be allocated to QSCB to allow for more flexibility in funding.

Senator HENRY asked whether the state runs the risk of violating the ARRA purchasing requirements. Ms. COLLIER replied that all funds must be used under compliance with Davis-Bacon and other tax codes. If not, the individual county will face the possibility of a “make whole call.”

Dr. GREEN asked about the estimates of economic multiplier for these projects and Ms. COLLIER indicated that no official multiplier has been published yet.

Mayor MCDONALD asked if the chosen school systems had been notified yet, and Ms. COLLIER said that the winners were listed on the School Bond Authority’s website and that they were in the process of calling successful applicants.

Mayor MCDONALD also asked about the estimated timing for closing the bonds, and Ms. COLLIER estimated that it would be before Thanksgiving.

Mayor WATERS asked for an estimate of what the interest rate would be and what level of savings could be expected. Ms. COLLIER said that nationwide, 17 bond issues have been sold for QSCB, five of which had supplemental coupons. One of the supplemental coupons was slightly over 2% while the others were less than 1%.

**4. Presentation by Ms. Catherine CORLEY, Senior Research Associate, TACIR, on *Building Tennessee’s Tomorrow: TACIR’s Infrastructure Report***

Ms. CORLEY gave a brief overview of the report on public infrastructure needs and stated that the executive summary and the updated appendix table E-10 of the current report were available for approval in the docket book. She stated that the total estimated cost of infrastructure needs reported for the five year period of July 1, 2007 to June 30, 2012 was \$34.2 billion, an increase of \$5.9 billion since the last report. She said that the last report was based on inventory two years older than the one on which this report is based. The current report includes additional bridge improvement needs not captured by the last inventory. Needs at Tennessee public schools including new school construction totaled \$3.7 billion, an increase of \$225 million from the last report. She stated that this increase is attributable to the increase in new school construction.

Ms. CORLEY brought attention to appendix table E-10 in the docket book. She said that the table has been modified since the last meeting. She stated that it was brought to staff’s attention that the cost per student column did not reflect the cost per student of the individual component types; instead it reflected cost per student of all need types in the system. TACIR staff members have since updated this table and added the appropriate cost per student columns.

Vice Chairman ROWLAND asked how current table E-10 is in the docket book and gave an example of Bradley County which shows no construction in the report yet the county has one school under construction. Ms. CORLEY said that the project will probably be reflected in the next report.

Dr. GREEN said that it is very difficult to get the reports entirely up to date and that the next report will reflect a number of things which are in the process now and are not revealed in this report.

Mayor MCDONALD made a motion to adopt the report. The motion was seconded by Mayor MCBRIDE. The report was approved.

#### **5. Presentation by Dr. Harry GREEN, Executive Director, TACIR, on TACIR's Work Program**

Dr. GREEN began by discussing the upcoming project on Underground Utility Damage Prevention Program Effectiveness. He noted that the program is commonly called the "one-call" program. He stated that Chairman NORRIS is the Senate sponsor of the bill and Representative ODOM is the House sponsor. Dr. GREEN stated that unexpectedly, the project has been somewhat controversial and that many groups have expressed interest. Dr. GREEN said the Commission will need to determine how to proceed and that public hearings would be one direction to consider. He stated that the topic was on the agenda for the next day but that the Commission needed to decide a course of action to hear from other parties.

Chairman NORRIS said it is important to involve stakeholders in the process. He said that he and Representative ODOM did not intend for this to be a year long project. Additionally, he said that he thinks public input is important, but he did not intend for this to involve public hearings. He invited the members to provide input. Chairman NORRIS asked Dr. GREEN about ways to get public input in lieu of public hearings. Dr. GREEN said that typically staff identifies stakeholders and ask these stakeholders to submit written testimonies. Mayor MCBRIDE said that the following day's agenda seemed to be one-sided. He said he wants to hear from the Tennessee Association of Utility Districts and local governments. This would provide Commissioners with a broader perspective. Dr. GREEN agreed but said that due to limited time the speakers would be broken up over two separate Commission meetings. In December, the Commission would hear from other groups. Mayor MCDONALD said that based on evidence across the state he believes one-call is not working as well as he had hoped it would. He said local input is very important and that he would like to hear from other stakeholders. Dr. GREEN said this is a part of the overall plan and that representatives from each interest group would be invited to give input. Chairman NORRIS suggested that the Commission proceed as planned the following day but recommended that other speakers be invited to the December Commission meeting.

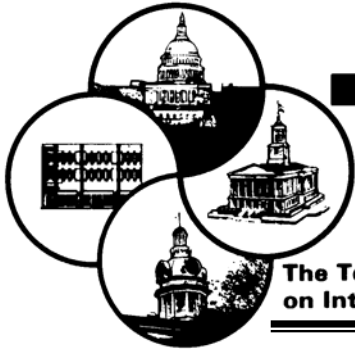
Dr. GREEN continued with a discussion of the work program. The second item he discussed was the project on Electric Generation and Transmission Cooperatives, which is due February 1, 2010. He said that staff will be able to complete this project by the due date. Dr. GREEN said that another item in the work program is a regional jail study. He noted that staff is working to produce a Request for Proposals (RFP) to procure the services of an expert via contract. Chairman NORRIS asked for more information about the contract. Dr. GREEN said this was based on an amendment to the appropriations bill. Chairman NORRIS asked if any authority was needed from Commissioners. Dr. GREEN said no but that he wanted the Commission to be informed. Chairman NORRIS asked when the RFP would be issued. Dr. GREEN requested that Ms. Libby THURMAN tell the Commission about the process. Ms. THURMAN stated that in terms of the RFP, the request is written and currently in the process of being approved by the Department of Finance & Administration and upon approval, it would be issued.

The next item Dr. GREEN discussed was a project on Emergency Communications District Funding. Dr. GREEN said staff can handle this item without any great problem. One thing he has been made aware of is that the sponsor of the bill announced that he was going to withdraw the bill. He stated he would clarify this and find out if this would relieve TACIR of any responsibility.

Dr. GREEN stated that the project on the County Revenue Partnership Fund is due June 20, 2010. He noted that staff will not have a problem meeting this deadline. Dr. GREEN then discussed another 911 study, which he stated staff can also complete by the deadline.

Dr. GREEN stated that the final two items in the work program do not have due dates and consequently have not been given high priority. These were issued in 2007 and he does not know if the sponsors are still interested. He asked for guidance from the Commission on these, though he stated he does not think we should move on them right now. Mayor MCDONALD said that he hoped the Commission would look for reauthorization on these requests because he does not know about broad interest in these bills. He hopes the Commission could set these aside, pending further notice. Dr. GREEN said he would follow up with the sponsors and inform the Commission.

Chairman NORRIS said the agenda was concluded and he adjourned the meeting at 2:23 p.m.



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## MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS September 17, 2009

### MEETING CALLED TO ORDER

The Tennessee Advisory Commission on Intergovernmental Relations met in Room 30 of the Legislative Plaza at 8:34 a.m., Chairman Senator Mark Norris presiding.

#### Present 17

Mayor Rogers Anderson  
Mr. Charles Cardwell  
Ms. Paula Davis  
Mayor Brent Greer  
Senator Douglas Henry  
County Executive Jeff Huffman  
Mr. John Johnson  
Mayor Kenny McBride  
Mayor Keith McDonald  
Speaker Emeritus Jimmy Naifeh  
Ms. Leslie Newman<sup>2</sup>  
Senator Mark Norris  
Representative Gary Odom  
Mayor Tom Rowland  
Mr. Tommy Schumpert  
Senator Jim Tracy  
Mayor Larry Waters

#### Absent 8

Mayor Tommy Bragg  
Representative Craig Fitzhugh  
Alderman Bob Kirk  
Senator James Kyle  
Senator Randy McNally  
Representative Jason Mumpower  
Representative Curry Todd  
Comptroller Justin Wilson

<sup>2</sup> Marie Murphy represented Leslie Newman.



## **1. Call to Order**

Chairman NORRIS called the meeting to order at 8:34 a.m.

## **2. Underground Utility Prevention Program Effectiveness: Progress Report on One Call Study**

### **a) Presentation by Eddie Roberson, Director, Tennessee Regulatory Authority**

Dr. GREEN stated that TACIR would try to meet the deadline of the study on the Underground Utility Damage Prevent Program.

Dr. ROBERSON addressed five questions in his talk: (1) What is underground utility damage, and how does the current law address it? (2) Why is it important? (3) Why is the Tennessee Regulatory Authority (TRA) involved? (4) Have other states implemented reforms and how are they working? (5) What reforms are needed in Tennessee to comply with federal guidelines?

Dr. ROBERSON went on to discuss each question in detail. Underground utility damage is either intentional or unintentional. It includes damage to water, sewer, natural gas, telecommunications, utilities and underground facilities. Dr. ROBERSON said there are two aspects of the current Tennessee statute that deal with this. The first addresses the damage that is caused by natural gas pipeline operators. This deals with the large companies who are the distributors of natural gas in Tennessee, such as ATMOS and Chattanooga Gas. Violations and fines are assessed by TRA with \$10,000 per violation up to \$500,000. The second addresses the damage that is caused by other utility owners and/or excavators. Violations and fines are assessed by local police with a maximum fine of \$2,500, 48 hours in jail, or both.

Dr. ROBERSON explained that there are three reasons why the issue is important. First, underground damage to utility plants represents the largest cause of unintended disruption of utility service in the state and in the nation. Second, such damages are often a large amount of unrecovered expenditures by utility companies that repair the damage. The third and most important reason is that such damage has been seen across the nation as a real potential cause for death and harm to citizens, making it a public safety issue.

Dr. ROBERSON said there are some problems with the current law. It has not been consistently enforced and it is not uniformly applied to all utilities. Only gas companies are required to belong to One Call. There are no provisions for public education efforts; there is no provision to create a stakeholder group. Finally, states are receiving mounting pressure to better enforce laws.

Dr. ROBERSON addressed the question of why the TRA is involved. He stated that TRA is able to ensure fair and reasonable utility rates, provide adequate

services, and to promote public utility safety. The TRA has a nationally recognized pipeline safety program that ensures compliance with federal and state laws dealing with underground utility safety and it is evaluated every year. He also mentioned the funding for the program: 40-50% from federal funding and 50-60% from inspection fees. The federal government could provide funding up to 80% of the state program cost. However, lack of action at the state level could result in receiving less than the maximum amount of funding from the federal government.

Chairman NORRIS asked what the total state program cost is right now. Dr. ROBERSON answered that the cost is approximately \$700,000 to \$800,000. The federal government supports \$200,000 to \$300,000 with the potential commitment to cover 80% of the cost, which will bring in more money to the state.

Senator HENRY asked what the state has to do to qualify for these federal funds. Dr. ROBERSON responded that the comments received from the federal government each year have asserted pressure on TRA to enforce pipeline safety. The federal government will issue a notice of rulemaking. For states that do not tackle this problem, they will come under those rules.

Dr. ROBERSON stated that Virginia and Georgia are the two states that have implemented the reform. It has worked in both states. The damage incidents are down.

Dr. ROBERSON pointed out that there are nine essential elements of reform. He noted that the state already complies with some of them, but needs to do more. He focused attention on what we need to do to ensure that the state receives the maximum funding. One element is that all utilities, not just gas utilities, should become members of One Call. Another element is that the state needs to establish a stakeholder task force. The purpose of this task force would be to get all the parties together and use their input and education for the program. The next element is to establish a dispute resolution process by the state. Right now the dispute resolution is the local court action. The federal government asked the states to establish an alternative dispute resolution. For example, instead of issuing a fine, establishing an educational component would be such an alternative. Another element is to empower a state agency with enforcement power with sufficient penalties to ensure consistent and fair enforcement of state law.

Mayor MCDONALD asked about the cost for these operators to become members of One Call. Dr. ROBERSON replied that Mr. TURNER is next on the agenda to discuss One Call and he could better answer the question. Mayor MCDONALD asked whether TRA has a proposal for who would be the party for the state's enforcement rather than local authority. Dr. ROBERSON responded

that TRA will be the natural agency for the task since it already has a division of gas pipeline experts and engineers.

Mayor MCDONALD asked Dr. ROBERSON how he saw the TRA dealing with private citizens who chose to dig, as opposed to companies. Dr. ROBERSON responded that it would be the same—civil penalties will be issued. Mayor MCDONALD asked whether the civil penalty would be greater than the fine assessed by local enforcement. Dr. ROBERSON said that it would depend on circumstances, such as if it was a repeat violator. With the recommendation from a stakeholder group, TRA would make a decision based on the facts and the individual cases. Mayor MCDONALD asked whether it is recommended that locals no longer be the policing agency. Dr. ROBERSON answered yes.

**b) Presentation by Bill Turner, Executive Director, Tennessee One Call System, Inc.**

Mr. TURNER talked about Tennessee One Call, its process, why it is important and why it needs change. He reviewed a history of the Tennessee One Call system. The original Act was passed in 1978. Tennessee One Call started in Nashville in 1983. Now it is statewide program that operates 24/7 and over 500,000 requests are processed each year. He stated that all gas systems are mandated to participate but other utilities are not mandated. If utilities are not participating in One Call, they cannot recoup damages. He said that anyone excavating in the state must call and give three days notice. A few years ago the federal government passed a bill that assigned a three-digit dialing number (811) to One Call. Since then Tennessee One Call System has changed its name to Tennessee 811 (TN811).

TN811 has been around for over 2 years, and it is available nationwide, wireless and wired. Excavators must notify 811 three days before digging. Then utilities are notified and they mark where their utilities are located.

Mr. TURNER stated that violators are punishable by up to \$2,500 and/or 48 hours in jail. The cost of participation is free for the excavator. The utility member pays \$1.15 per notification. Forty percent of the membership pays less than \$1,000 per year. Ten and a half percent of the membership pays less than \$200 per year. He proposed that the following changes are needed for the interest of public safety. First, all stakeholders must participate in the excavation damage prevention process. Utilities that do not participate are a danger to excavators and the citizens of Tennessee. Second, notification requirements need to be changed. Anyone excavating in Tennessee must notify TN811 no less than three working days prior to excavating, with no exemptions or exceptions. Third, changes of enforcement and penalties are needed. Mr. TURNER recommended creating an advisory committee made up of stakeholders to review violations brought before the TRA; turn enforcement over to TRA; and promote education in lieu of fines. Furthermore, Mr. TURNER

pointed out that damage prevention, public safety, protection, lives, and federal funding are the reasons these changes are necessary.

Mr. TURNER went over some common excuses why people do not call 811 before digging. He showed pictures of some incidents that occurred. He compared the reported damages for 2007 and 2008 by county in the state of Tennessee. In 2007, there were no calls made for 59% of the damages reported. In 2008, it was 53%. He ended his presentation by stating that Tennessee One Call has the opportunity right now to make Tennessee a safer state.

Mayor MCDONALD said Mr. TURNER mentioned the \$1.15 per notification and that 40% of the membership pays less than \$1,000 per year, and asked how much the other percentage pays. Mr. TURNER responded that it is purely based on usage and is proportional. Mayor MCDONALD asked Mr. TURNER to give the high range participant cost. Mr. TURNER answered that the high range customer pays around \$400,000 per year. Mayor MCDONALD commented that evidently there is no maximum to the amount that can be paid.

Mayor MCDONALD asked about additional public education for TN811. Mr. TURNER stated that TN811 spends about \$200,000 a year on promotional efforts. They use radio, TV advertisements, media publications and magazines. Mayor MCDONALD stated that he can understand how that might work on a corporate basis, but asked what he proposes to better reach the general public. Mr. TURNER responded that TN811 already started a campaign with Home Depot that includes putting information packets and stickers beside the rental equipment.

Representative ODOM noted that he wanted to follow up on Mayor MCDONALD's line of questioning. He asked whether there is a pattern for incidents by county and by the number of the excavations where no call was made. He questioned if the number or the percentage occurred from someone renting a piece of equipment and digging on their own property, as opposed to utility districts and companies. Mr. TURNER answered that unfortunately the information they receive from reported damages is very limited. Primarily, most reported incidents are in the metropolitan area, where major excavation is going on. On the national level, of all the data collected, landscaping is found to be the largest source of the underground utility damage.

Mayor GREER asked who the stakeholders would be and what efforts have been made to get their input. Mr. TURNER replied that essentially stakeholders are all underground utility companies, including electric, gas, water, telephone, sewer, cable television, and so on. He said they try to make member utilities aware of what they have been trying to do through their website and mailings.

Vice Chairman ROWLAND asked Mr. TURNER whether he is sure that most local law enforcement agencies are aware of their enforcement authority. Mr. TURNER responded that TN811 gives presentations to law enforcement agencies and makes efforts to educate people.

Mayor MCBRIDE referred back to Mayor MCDONALD's question and asked Mr. TURNER why he is not educating the general public instead of putting stickers on shovels and key tags on keys. Mr. TURNER replied that they are educating the public. TN811 has visited every rental company in the state of Tennessee and offered them educational material.

Mr. SCHUMPERT asked what the reasons were in terms of the number of reported damages. Mr. TURNER answered that essentially they did not respect markers, they dug too deep, or the markers were not located properly.

Mr. TURNER added that a year ago Fort Campbell joined this service and that was a huge success for TN811.

Mayor WATERS asked whether Mr. TURNER has anticipated or done any work on how much his agency would have to grow to handle all the extra duties. Mr. TURNER replied that TRA is going to create a department of these investigators. Dr. ROBERSON responded that he anticipated that the TRA would start with two additional investigators under the division of the gas pipeline safety program.

Chairman NORRIS asked Mr. TURNER and Dr. ROBERSON if HB 852, the bill they brought to Leader ODOM and him, does everything that they say needs to be done to meet the federal mandates. Dr. ROBERSON answered yes. Chairman NORRIS asked whether the bill is comparable to Georgia's law since there has been some reference to Georgia. Dr. ROBERSON answered no. He stated that Georgia and Virginia just started out with nine elements and they established the program from scratch. When TRA began drafting One Call, they took into consideration the best practices in the Georgia and Virginia statutes and introduced a hybrid model of what they thought was best.

Senator HENRY noted that the Chairman mentioned mandates. He wondered if the federal subsidies would cover the expenses of the state and local governments. Dr. ROBERSON responded that he did not believe it would.

Mayor MCDONALD commented that some of these questions are good examples why we need to hear from some of the other stakeholders. He said that he is not opposed to this program. As Senator HENRY just mentioned, it will bring in additional revenue to TRA and TN811, but that might not be enough. He noted that he does see the benefit of bringing these groups together, but he suggested Mr. TURNER come up with a more precise presentation on what these things would be or what else he would be doing from the aspect of public awareness.

Mayor MCBRIDE asked the sign-up cost per member. Mr. TURNER replied that it is related to the number of notifications received. It is a flat \$200 membership fee and \$1.15 per notification. Mayor MCBRIDE asked Mr. TURNER whether he anticipated the need to increase that \$1.15 fee. Mr. TURNER answered no.

Mayor ANDERSON, reviewing HB 852 in the docket book, noted that "record drawing information" is mentioned and someone will have to do the recording and drawing of that information and that responsibility will probably fall back on the locals. Mayor ANDERSON then stated that there are still a very large percentage of people on septic tanks in his county and asked if the bill was making reference to septic systems. Mr. TURNER said there is no intention of requiring septic systems to be members of TN811. However, Mr. TURNER stated that excavators will be required to call for locates when excavating for septic systems. Mayor ANDERSON then stated that there were some exclusions listed in the bill. He asked Mr. TURNER to define the agriculture purposes. Mr. TURNER responded that the agricultural exclusion includes the tilling of soil and you do not need to call when doing so.

Representative ODOM asked whether Mr. TURNER has information on the number of fines that have been levied in 2008 and 2009. Mr. TURNER responded that he does not have that information, but he knew that with one particular incident that happened in Knoxville, the individual paid a \$2,500 fine. He stated that unfortunately people typically do not share that information. Representative ODOM commented that we have a fine system in place now, but it is not being utilized. He continued that he finds it interesting that in nearly half the situations where utilities have been damaged there was actually a call to 811 placed. While this is less than 50%, he pointed out that as Mr. TURNER mentioned, of the five million dollars in known damages, half resulted even when calls were made. The problem is about as serious as if there were no calls made.

Mr. SCHUMPERT stated that this is a very complex and important problem. He further noted that we have residents, not just companies, digging. He agreed that the stakeholder group is important. Mr. SCHUMPERT stated that as a private citizen, the knowledge of one call or 811 is very low. It does not excuse the situation, but it is the reality. He said that the damages come from a lot of different sources.

Mayor WATERS stated that he agreed that we need to hear from stakeholders about this issue. He questioned if he could get a summary of the major issues to better understand what is going on and that such information would help the Commission for the study.

Chairman NORRIS thanked Mr. ROBERSON and Mr. TURNER for their presentations.

**3. Presentation by Mr. Mike MORROW, Deputy Commissioner, Department of Finance and Administration, and Special Assistant to the Governor for Recovery Act Administration, on the Federal Stimulus and Tennessee**

Chairman NORRIS noted that the due date for all of the states to report their progress and spending of federal stimulus dollars was approaching and that the Commission thought it would be a good time to get an update from Mr. Mike MORROW, Deputy Commissioner of the Department of Finance and Administration.

Mr. MORROW said that he had made a presentation to TACIR in July and had talked prospectively about the different types of programs that would be financed under the Recovery Act. He said that today he would present information on how those programs were progressing.

He discussed the state's efforts to get some of the competitive grants that are still outstanding including Health Information Technology, Broadband Application, Race to the Top Education, Green Jobs, and TIGER (Transportation Investment Generating Economic Recovery) Discretionary Grants. Chairman NORRIS asked about the maximum amount for TIGER grants, and Mr. MORROW replied that \$300,000 is the maximum that any state will receive in TIGER grant funds. Chairman NORRIS noted that these grants could go to state or local governments and that there was no single coordinating agency to keep up with state totals and serve as a clearinghouse of information on the TIGER grants. Mr. MORROW agreed that this was an ongoing problem but that there had been improvement in the information from the federal government.

Mr. MORROW discussed formula awards (the programs in the stimulus package). He said that Tennessee has been awarded a total of about \$3.7 billion and has received about \$3 billion of that allotment so far and has spent close to \$1 billion. Representative ODOM asked about the slide presentation that shows, in some cases, that more has been received than allotted. Mr. MORROW said it was just a timing difference. Sometimes the money has been allotted but there might be a lag of a few days before it actually arrives. Mayor MCDONALD asked if it was true that the money had to be spent before it was received. Mr. MORROW said it was true and that all of the state agencies use a federal grant tracking system that allowed them to keep the timing very close, such that funds were first obligated and then requested and received from the federal government in time to disburse them.

Mr. MORROW then discussed specifics of the State Fiscal Stabilization funds and Medicaid/TennCare. Mayor MCDONALD asked about the difference between the federal allotments shown in the slide presentation and in the handout. Mr. MORROW said the handout came from the website information and that he would have one of his technical staff look at it and would come back

to it later in the presentation. Representative ODOM asked how much had been disbursed for TennCare since it was generally paid in a monthly capitation. Mr. MORROW said that it was simply an enhanced match that worked as the federal government match always had, but the federal portion was higher than usual.

Mr. MORROW discussed the transportation awards and pointed out that, while the projects had started early, they take a long time and the money would be spent at the pace of construction projects. Chairman NORRIS said he believed he had heard that the Tennessee Department of Transportation had received high marks on their rollout of the program. Mr. MORROW agreed and said Tennessee had ranked third. He stated that there were some additional environmental requirements added to some areas like repaving that had slowed some of the projects down a bit at the beginning.

Mr. MORROW then discussed education funds, including Individuals with Disabilities Education Act (IDEA) and Title I that were increased from the usual. The State Fiscal Stabilization funds were flexible and to be used where most needed. They were used for health, education and corrections. He discussed Labor and Workforce Development (unemployment) and Human Services (weatherization). Chairman NORRIS asked if any of the local officials had any comments on their ability to let people know about these grants. County Executive HUFFMAN pointed out the funds go directly from community action agencies to individuals and not through local government. Chairman NORRIS said people often ask local officials though, and the Department of Human Services was not an obvious place for individuals to look for information on weatherization programs. He also noted that there were cuts in other Human Resource programs at the same time that these funds, which are 20 times what they receive for other programs, had been awarded. This might create some challenges for Human Resource agencies.

Mr. MORROW discussed the state energy program. He said that 50% of the money was in the state energy program which includes two projects: the solar array in west Tennessee on the megasite and the Solar Institute at the University of Tennessee. County Executive HUFFMAN asked if that 50% of funds could be spent now on either of the projects mentioned. Mr. MORROW said they are considered to be the same program. He then discussed the Clean Water Revolving fund, the Human Services Child Care and Development Block Grant, the THDA Home Investment Partnership program and the Byrne Justice Assistance grants. County Executive HUFFMAN asked if more of those funds were coming. Mr. MORROW said all of the state-level funds were obligated though local governments could get funds directly. County Executive HUFFMAN asked if Tennessee could get funds not used by other states. Mr. MORROW said not so much for these grants but that Tennessee could get other grant funds not used by other states.



Mr. MORROW then covered the dislocated worker grant program, the mass transit capital grants, the homelessness prevention, the drinking water fund, community service block grants, education technology and the workforce development (adult training) funds. County Executive HUFFMAN asked about technology centers and noted that some of the ones in his area had waiting lists. He wondered if the funds could be used to expand their programs to train more people. Mr. MORROW said not directly but possibly through tuition fees. County Executive HUFFMAN asked about the different areas for the grants. Mr. MORROW said there were multiple pots of money flowing through the Board of Regents for various types of programs. He said he would get a more detailed answer for the Commissioners.

Mr. MORROW then responded to previous questions about the differences between the slide presentation and the handout. Mr. MORROW said that the slide presentation included two different pots of money together (IDEA/Title I and state stabilization funds) while the handout separated those different sources of funds. Mayor MCDONALD asked for a hard copy of the presentation.

Mr. MORROW added that there are other funds that do not come to the state including: \$844 million going to federal agencies in Tennessee, \$213 million to local governments, \$418 million to non-profits, \$28 million to for-profits, and \$9.9 million to higher education.

Chairman NORRIS reiterated that the Commissioners would like a hard copy of the presentation. Dr. GREEN said they could give it to members that day if they received it in time. Mayor MCDONALD said that electronic copies would be fine, and the Commissioners agreed that an electronic copy of the presentation could be provided to the members.

#### **4. Presentation by Dr. David PENN, Director, Business & Economic Research Center, Middle Tennessee State University, on Tennessee's Economic Recovery**

Dr. PENN discussed the economic indicator tracking information that his organization is putting together and compiling on a public website for TACIR. He said that the project was just beginning and had four major goals: determining the information content, writing the programs to make the data as automated as possible, designating target dates for updates, and maintaining and updating the site for 12 months. He said the data they were currently tracking was employment and workforce data, unemployment claims in the short and long terms, Nashville MSA indicators and unemployment by county. He said he would be happy to give another report at the next meeting after the project gets underway.

## **5. Future Meeting Dates**

Chairman NORRIS called for a vote on the dates for future meetings. The Commissioners voted that the next meeting would be scheduled for Wednesday and Thursday, December 9-10, 2009.

Chairman NORRIS adjourned the meeting at 10:50 a.m.