

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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**MINUTES OF THE
TENNESSEE ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS
September 8, 2010**

MEETING CALLED TO ORDER

The Tennessee Advisory Commission on Intergovernmental Relations met in room 29 of the Legislative Plaza at 2:04 p.m., Chairman Senator Mark Norris presiding.

Present 23

Mayor Tommy Bragg
Mr. Charles Cardwell
Mr. Rozelle Criner
Ms. Paula Davis
Representative Craig Fitzhugh
Mayor Brent Greer
County Executive Jeff Huffman
Alderman Bob Kirk
Senator James Kyle
County Mayor Kenny McBride
Mayor Keith McDonald
Senator Randy McNally
Representative Jason Mumpower
Speaker Emeritus Jimmy Naifeh
Ms. Leslie Newman¹
Senator Mark Norris
Representative Gary Odom
Mayor Tom Rowland
Mr. Tommy Schumpert
Representative Curry Todd
Senator Jim Tracy
County Mayor Larry Waters
Comptroller Justin Wilson²

Absent 2

County Mayor Rogers Anderson
Senator Douglas Henry

¹ Marie Murphy represented Leslie Newman.

² Phillip Doss represented Justin Wilson.

1. Call to Order and Approval of June/July 2010 Minutes

Chairman NORRIS called the meeting to order at 2:04 p.m. and asked for approval of the minutes. County Executive HUFFMAN made a motion to adopt the minutes. The motion was seconded by Mr. CARDWELL. The minutes were approved.

2. Presentation by Dr. Harry GREEN, Executive Director, TACIR, on TACIR's Work Program Update

Dr. GREEN presented an update on TACIR's FY 2011 work program. He discussed TACIR's pending projects including the veterans service officers' compensation study, the underground utility damage prevention program study, the non-affiliated public service answering points study, the regional jail feasibility study and the E-911 study.

Dr. GREEN next outlined the publication policy for Commission and staff information reports. The first mention of this policy was in the forward of a December 1982 TACIR information report, *Local Government Finance in Tennessee*. The policy stated the official position of the TACIR will always be issued in Commission reports. These reports may include some, all, or none of the staff findings. He said that staff information reports will provide objective analysis but no policy recommendations.

Dr. GREEN read the publication policy that has been included in most TACIR publications since 1997:

Staff Information Reports, Staff Briefs, Staff Technical Reports and Staff Working Papers and TACIR Fast Facts are issued to promote the mission and objectives of the Commission. These reports are intended to share information and research findings relevant to important public policy issues in an attempt to promote wider understanding.

Only reports clearly labeled as "Commission Reports" represent the official position of the Commission. Others are informational.

Chairman NORRIS thanked Dr. GREEN for presenting this policy, especially since there have been several questions over the last six months about the difference between sanctioned reports and informational reports.

3. Regional Jail Feasibility Study: Stakeholder Feedback

a.) Ms. Libby THURMAN, Senior Research Associate, TACIR

Ms. THURMAN provided a brief overview of TACIR's regional jail feasibility study. The study was mandated by Public Chapter 554 of 2009 and assessed the feasibility of a regional jail for Clay, Fentress, Overton, and Pickett Counties. Ms. THURMAN noted that Commissioners were presented with the conclusions and findings of the study at the June TACIR meeting. Ms. THURMAN noted that the report discusses several corrections policy issues and for this reason Commissioners requested feedback from stakeholders including the Tennessee Corrections Institute (TCI), the Select Oversight Committee on Corrections, the Tennessee Department of Correction (TDOC) and the four counties included in the study. Ms. THURMAN directed Commissioners to Tab 3 in the docket book, where written feedback from TCI and the Select Oversight Committee could be found. She noted that she would hand out written feedback from TDOC.

Ms. THURMAN summarized feedback from TCI and the counties. TCI concurred with the finding that they need more enforcement authority and they noted that they have supported this for many years. Regarding a revision of jail standards, TCI reported that they are open to this, but they did note that Tennessee's Minimum Standards for Local Correctional Facilities have been deemed as constitutional. Regarding the recommendation that the state decline from housing inmates in non-certified jails, TCI stated that this would most likely create a hardship for TDOC. It may, however, provide TCI with more enforcement authority.

Ms. THURMAN stated that two of the four counties issued feedback to staff. The County Executive of Fentress County at the time of the study reported that the study was very helpful. Fentress County had voted to pursue a contract with a company to build a new jail, but the contract is now void. Ms. THURMAN stated that staff received a letter from the newly elected Fentress County Executive who reported that the County Commission called a special meeting and voted to compose a resolution requesting that TACIR allocate a portion of the remaining appropriation for additional jail planning services. Clay County also issued feedback to TACIR. The Clay County Executive expressed his appreciation for the study and said that the county was considering many jail options. The County Executive also requested additional jail planning services. Ms. THURMAN noted that Sheriff Brandon BOONE from Clay County was in attendance. Ms. THURMAN concluded her presentation and said that Mr. Bob MCKEE of the Select Oversight Committee on Corrections and Commissioner Gayle RAY of the Tennessee Department of Correction would be presenting feedback to Commissioners.

b.) Mr. Bob MCKEE, Director, Select Oversight Committee on Corrections

Mr. MCKEE stated that the Select Oversight Committee discussed TACIR's regional jail feasibility report at their August 11, 2010 meeting. He commended TACIR and the contractor who completed the study, commenting that the study was well done. Mr. MCKEE stated that the Oversight Committee understands the difficulties encountered by counties when trying to implement the regional jail concept. He said two options were presented to the Committee in the August meeting. One option was to leave the regional jail program in place as is. The second option was to initiate the General Assembly becoming more involved in the process to try to discover if there is an optimum size for regional facilities and participant counties. Mr. MCKEE noted that most of the regional jails in the nation have had assistance from the state in terms of construction cost contributions. He noted that the Oversight Committee feels that the relationship between the state and local jails is very important and therefore the state should try to stay engaged in this process. One possibility might be the use of regional jail facilities for special populations such as females or juveniles. He noted that TDOC houses approximately one-fourth of its 28,000 inmates in local jails and that more felons are released from local jails than state prisons. Programming and treatment in local jail facilities could reduce recidivism and make for better public safety. Mr. MCKEE stated that the Committee concluded that it would like to become more active in the regional jail discussion and would like to promote the concept statewide.

Chairman NORRIS noted that Commissioner RAY's written feedback highlights the variance in recidivism rates between state prisons and local jails. Chairman NORRIS said that the feedback indicates that recidivism rates for felons released from state prisons are trending down, but the opposite is true for local jails. Chairman NORRIS asked Mr. MCKEE what factors might be contributing to this variance. Mr. MCKEE stated that the difference was most likely the lack of programming and treatment in local jails.

c.) Commissioner Gayle RAY, Tennessee Department of Correction

Commissioner RAY stated that TDOC provided a lot of data for the report and that she and others were interviewed and consulted for the study. She said the report was well conceived, well done, and thorough. She noted that she visited some regional jails in Virginia when she was a sheriff and that she has served on the TCI board. She feels that TCI should have the authority to enforce jail standards and she supports using the new core standards from the American Correctional Association. She said that the ACA standards that the prison system uses are difficult for some small jails to meet. She said that TCI's current standards could possibly be blended with the core standards. Commissioner RAY noted that some sort of needs assessments could help all county jails. Issues could be looked at collaboratively by political bodies, criminal justice bodies, and citizens. Jail overcrowding might be alleviated if alternatives, such

as pre-trial diversion, were established. Commissioner RAY stated that judges in some counties have few options for sentencing other than jail or probation. In terms of TDOC reviewing its policies regarding housing state inmates in local jails, Commissioner RAY feels that that is a worthy goal. She referred to the recidivism figures in her feedback letter to TACIR. She stated that there is a double digit difference in recidivism for inmates released from local jails and state prisons. She feels that this is most likely due to the validated risk and needs assessments that each offender receives in the state prison system. These assessments identify inmate deficits such as education, addiction, mental health, marital/family, or job readiness. She stated that the Department has done a lot of training with staff to deliver research-based programs.

Inaudible Question—Commissioner RAY stated that the recidivism study is online and that TDOC can tell counties what their recidivism rates are. She said the rates vary. Chairman NORRIS asked whether counties have access to the risk and needs assessment tool. Commissioner RAY replied that they do not. Chairman NORRIS noted the figure in Commissioner RAY's letter that a 1% decrease in recidivism saves the state \$1.6 million. Commissioner RAY said that the tool is valuable for information sharing among TDOC and the Board of Probation and Parole. She stated that it would be helpful if county judiciary staff had access to this information when sentencing offenders. Probation officers are already administering the instrument in pre-sentence investigation reports. This does not happen with misdemeanants though. TDOC is starting to see results and population projections are coming down. TDOC can delay building a prison for four additional years and the tool may have something to do with that.

Commissioner RAY said that the continuum of services (alternatives to jail) is important. Senator KYLE asked what more enforcement authority for TCI would involve. Commissioner RAY stated that TCI would have the ability to close a jail.

Senator KYLE asked about incremental steps that ultimately lead to the closing of a jail. Commissioner RAY said that the fire marshal is currently the only entity who has the ability to close a jail. Commissioner RAY said that great improvements have been made in the number of jails that are certified. Senator KYLE said it would be problematic to grant any agency the authority to close a jail, but he does think it is realistic to look at other incentives that would encourage counties to get certified. He cited other examples of when incentives have worked, such as in education. Representative TODD said that TCI can decertify a facility and that that might put the county at risk. Commissioner RAY said this puts them at risk in litigation if the county is sued. Representative TODD asked how TCI works with county jails if they are decertified. Commissioner RAY said that TCI provides technical assistance. Representative TODD asked which facilities are currently not certified. Commissioner RAY said she did not have the information with her, but that it is mostly small rural counties with low tax bases. Commissioner RAY said that the state uses local jails as a buffer. It would take at least three new prisons for the state to take all inmates out of county jails. She did note that incentives and training for counties might

allow them to offer some programming. Representative FITZHUGH asked if the recidivism figures are new and the Commissioner replied that they are. She said the disparity between state inmate and local inmate recidivism is widening. Representative FITZHUGH asked if TDOC could set up a program and get it to the counties. Commissioner RAY said that a jail resource center might have existed at one point, but TDOC does not have the staff to take this on. Commissioner RAY said it would be worthwhile for counties to assess their populations and alternatives.

Representative ODOM asked if recidivism decreases could be related to sentencing policy changes. He asked if housing violent offenders longer was helping to reduce recidivism and if these offenders were moved to state prisons before other inmates. Commissioner RAY said she started this policy in recent months. Commissioner RAY said increased programming and longer sentences for violent offenders are contributing factors to reduced recidivism, but that an analysis would be needed to determine this. She said the prison population in Tennessee consists mainly of violent offenders. Commissioner RAY said if you deliver some of the evidence-based programs to violent offenders or the highest risk people, this can have an effect. Representative ODOM noted that sentencing policies and programs both could be contributing to the recidivism difference. Commissioner RAY said that everyone is struggling with this issue, and that it is a key issue. Commissioner RAY concluded her presentation. Chairman NORRIS asked if action was needed by the Commission and Dr. GREEN said no.

4. Presentation by Mr. Cliff LIPPARD, Associate Executive Director, TACIR, on E-911 Emergency Communications Funding in Tennessee

Mr. LIPPARD stated that the Commission chose not to take any action on the E-911 Funding report at the June/July 2010 meeting. The Commission had concerns that possible actions from the December 2009 meeting were still open and that not all the stakeholder input had been fully integrated into the report. The staff reviewed the transcripts and minutes from the December 2009 meeting and did not identify any open questions that had not been addressed at the meeting. Mr. LIPPARD noted that he did not intend to suggest that there was consensus at the meeting as there were still a number of issues open for consideration by the Commission.

Chairman NORRIS indicated that the one remaining issue was the lack of necessary data. Mr. LIPPARD responded that the lack of necessary data is what drove the report's four primary recommendations. There is no recommendation for funding at this time until the data is available.

Mr. LIPPARD noted that staff contacted over 700 stakeholders, including county mayors, county commission chairmen, police chiefs, fire chiefs, Tennessee Emergency Number Association (TENA) officials, Emergency Communication Districts (ECD) directors, telecommunication providers, city mayors, and the

various associations such as Tennessee Municipal League (TML), County Technical Assistance Service (CTAS), etc. requesting written input regarding the report. Staff received 22 responses, which have been on TACIR's website since December 2009. The intent was to leave the responses posted for one year and then archive them. Mr. LIPPARD added that the House sponsor for HB 0204 spoke at the December 2009 meeting. He added that the executive director and board members of the Tennessee Emergency Communications Board (TECB) were invited to speak today to provide members another opportunity to seek their input into the study.

Mr. LIPPARD recommended that this be a staff report and that staff report its findings back to the House State and Local Government Committee, which referred the study to TACIR.

Mayor MCDONALD asked what NG stood for. Mr. LIPPARD responded that NG stands for Next Generation 911. Mayor MCDONALD asked what the 911 wireless and landline fees were. Mr. LIPPARD responded that the 911 wireless fee is \$1 statewide. The wireline fees are more complicated and vary whether they are residential or business lines and there is a local component to that.

Mayor MCDONALD said he would like to know the difference between the wireless fee and the landline fees. TECB Executive Director Lynn QUESTELL began by putting the issue into historical context. The General Assembly in the 1980s passed legislation that allowed local ECDs to be created and be funded by a 911 service charge on landline technology. Local districts could have a fee on residential landlines up to \$0.65 per line and a fee on business lines up to \$2.00 per line up to a maximum of 100 lines. After the TECB was formed in 1998 the statute was amended to allow local districts to either seek a local referendum or to seek a raise in their landline rates (up to a maximum of \$1.50 per residential line and up to a maximum of \$3.00 per business line) from the TECB. Currently, 43 of the 100 ECDs have come before the TECB and sought the maximum landline rates.

Mayor MCDONALD asked about the wireless fee. Ms. QUESTELL responded that the TECB set the 911 wireless fee at \$1.00 per user or subscriber per month in 1998 and it has not been raised since that date. Mayor MCDONALD asked if that fee is \$1.00 regardless if it is a residential or business line. Ms. QUESTELL responded that was correct.

Ms. QUESTELL continued that the TECB asked the General Assembly in 2006 to change the law so that any non-wireline technology that can connect a person to 911 is subject to the \$1.00 fee. Mayor MCDONALD asked if Voice over Internet Protocol (VoIP) was subject to that non-wireline fee. Ms. QUESTELL responded that was correct.

Mayor MCDONALD asked what virtual PSAPs were. Ms. QUESTELL responded that with the Next Generation technology, 911 call centers will not have to be

under the same roof but the connectivity would be such that they could operate as though they were under the same roof.

Senator KYLE asked whether the TECB had turned down any local districts seeking a rate increase. Ms. QUESTELL responded no. Senator KYLE also asked about the standard for increasing fees. Ms. QUESTELL responded that the board has never completely turned a district down but has not given some ECDs the increase they requested. At an open meeting, the district has to file an application that goes through three year projections and what they want to use the increase for and the TECB analyzes that.

Senator KYLE asked if it is in the nature of a tariff. Ms. QUESTELL responded no, that it is a 911 service charge.

Senator KYLE asked if it is legislated or if anyone has ever judged the standards of whether you approve an increase so one can measure whether you are being consistent, fair, or just doing what is asked of you. He asked if other people in the community are asked whether they want the fee increased. Ms. QUESTELL responded that the law requires there be a meeting in the local community where that issue is discussed. The local 911 board has to vote on the increase, then hold an open hearing, and then apply using a template to the TECB. The primary thing after looking at the numbers is the need and justification of what the local district wants that for. The TECB then reviews that every three years. The TECB uses the extensions to ensure there is still a need for the increase.

Senator KYLE asked how many 911 boards there are, and Ms. QUESTELL responded that there are 100 ECDs. Senator KYLE asked if that meant some counties had more than one 911 board. Ms. QUESTELL responded that before the TECB was created, six cities set up their own 911 district according to the process set up by the General Assembly. Thus there are six districts that are cities. When the General Assembly created the TECB in 1998, it added a provision that the creation of any new ECDs had to be approved by the TECB and that has never been granted.

Senator KYLE asked if Memphis is one of those cities. Ms. QUESTELL responded no. Memphis is part of the Shelby County ECD. There is one 911 district in Shelby County and it provides funding to the 13 911 call centers that are run by various entities in Shelby County. In response to a recent incident, part of the problem was that caller did not stay on the line long enough for the latitude and longitude to be determined.

Senator KYLE concluded that he would appreciate the TECB visiting his office before the next session.

Representative TODD asked if the ECD's budget is considered when rate increases are sought. For example, do you look at the salaries, or are they set at a state scale? Ms. QUESTELL responded that the salaries are set at the local

level and the local districts are permitted by law to decide what their relationship will be with the county and sheriff's office and responding entities. In Shelby County there is one ECD that primarily provides equipment for all the 911 call centers.

Representative TODD asked if the increase can be used for salaries. Ms. QUESTELL responded yes, if the salaries are in the operation of the local district, which according to the Attorney General would be if the entity is direct dispatching for the district.

Representative TODD asked if each local entity could use the rate increase to raise salaries based on what their need is. Ms. QUESTELL responded that would be a local decision and not something the TECB had a say in.

Representative TODD asked if the local entity has the autonomy to raise salaries. Ms. QUESTELL responded it does as long as the salaries are being spent in the operation of the district because they perform direct dispatch.

Vice Chairman ROWLAND asked if the free phones the government is providing do not pay 911 fees. Ms. QUESTELL responded that users do not pay 911 fees in the Safelink program. She continued that the TECB has contacted the FCC about that.

Vice Chairman ROWLAND asked if there were any enforcement tools, or was it up to the FCC, or is any state authorized to enforce? Ms. QUESTELL responded that the TECB was told that the law could be changed to reach those phones.

Mayor MCDONALD said that the used cell phones being donated to battered women are problematic for 911, and it is a point that we ought to be cognizant of because it is an indirect funding issue. The problem is that someone could call 911 off a dead phone, however, because it is not assigned the number there is no way to get back to that phone. He wants TACIR to consider this as legislators look at the regulations of cell phones in the future.

Mr. LIPPARD responded that was a good point and that a similar issue was raised in TACIR's 2006 report. Phones donated to charities around that time often did not have any type of GPS-function. That is probably less of an issue now as there are new phones being donated.

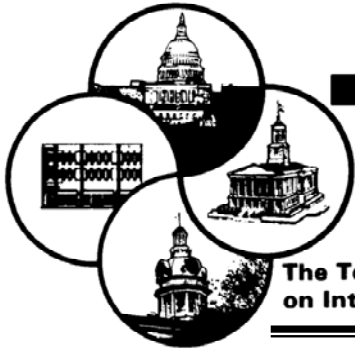
Chairman NORRIS asked Mr. LIPPARD what the recommendation was and if there was an action item. Mr. LIPPARD responded that since the study was referred to TACIR for analysis that the report could be considered a staff report and report back to House State and Local Government committee the staff's recommendations without it being endorsed as a Commission report. Mr. LIPPARD stated staff would defer to the will of the Commission.

Chairman NORRIS said that he would defer to the body on that. He would be satisfied with that but asked what the will of the Commission was. He asked if we should continue as Mr. LIPPARD has suggested or take it up today and vote on it as a Commission report? It sounds like there still may be some additional work to be done.

Mr. LIPPARD added that as staff continues its research on unaffiliated PSAPs, more issues will come up due to new technology. He does not see this moving off the agenda anytime soon.

Chairman NORRIS said that we will take it as a staff report if there is no objection. There was no objection.

Chairman NORRIS adjourned the meeting at 3:00 p.m.



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**MINUTES OF THE
TENNESSEE ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS
September 9, 2010**

MEETING CALLED TO ORDER

The Tennessee Advisory Commission on Intergovernmental Relations met in room 29 of the Legislative Plaza at 8:39 a.m., Chairman Senator Mark Norris presiding.

Present 20

Mayor Tommy Bragg
Mr. Charles Cardwell
Mr. Rozelle Criner
Ms. Paula Davis
Representative Craig Fitzhugh
Mayor Brent Greer
Senator Douglas Henry
Alderman Bob Kirk
County Mayor Kenny McBride
Mayor Keith McDonald
Speaker Emeritus Jimmy Naifeh
Ms. Leslie Newman³
Senator Mark Norris
Representative Gary Odom
Mayor Tom Rowland
Mr. Tommy Schumpert
Representative Curry Todd
Senator Jim Tracy
County Mayor Larry Waters
Comptroller Justin Wilson⁴

Absent 5

County Mayor Rogers Anderson
County Executive Jeff Huffman
Senator James Kyle
Senator Randy McNally
Representative Jason Mumpower

³ Marie Murphy represented Leslie Newman.

⁴ Phillip Doss represented Justin Wilson.

1. Call to Order

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

2. Regional Water Supply Planning

a.) Mr. Paul SLOAN, Deputy Commissioner, Tennessee Department of Environment and Conservation

Mr. SLOAN thanked the Commission for the opportunity to discuss further the two pilot studies on regional water supply planning. He stated that the regional water supply project provides an important model for the state. There are 16 partners participating and developing these plans for two regions: North Central (predominately Sumner County) and the Cumberland Plateau. The idea arose in response to the drought of 2007.

The experience of responding to the drought taught some core lessons. The first was the value of partnership and collaboration between various agencies and expertise to respond to the drought. The second lesson was experiencing severe shortages and seeing the consequences of what growth would bring in the future if we did not properly plan for it. Mr. SLOAN added that the same scarcity will occur if we do not plan ahead to deal with growth.

A water resource technical advisory board consisting of 17 organizations across the state was created to look at water resources and update the state drought management plan. Another task that the advisory board took up was the need for regional planning for water supply. The conclusion of the board was that there needed to be a model plan focusing on two vulnerable areas. The task force identified these two areas and assembled a team of 16 different agencies that could provide the expertise to align sustainable water supply to our current needs within the region and the projected needs 20 years out.

Mr. SLOAN stated that once solutions to current and long term regional water supply issues have been clearly identified, they will be better positioned to get funding and to wisely direct capital to the kinds of projects that are most relevant and meaningful for long term solutions.

Senator HENRY requested a list of participants. Chairman NORRIS stated his understanding was that the missing pieces are the two pilot study reports and recommendations and then with that TACIR will complete its compilation. Mr. SLOAN confirmed.

b.) Mr. Ben ROHRBACH, Chief, Hydrology and Hydraulics, U.S. Army Corps of Engineers, Nashville District

Mr. ROHRBACH, Chief of Hydrology and Hydraulics with the U.S. Army Corps of Engineers, presented his assessment of the current status of the two pilot

studies, including existing water sources and future demand projections (20-year projections). The two pilot studies are based on Portland/North Central Tennessee and the Southern Cumberland Plateau. The studies focus on source water development, particularly establishing a regional source available to satisfy the needs of pilot areas.

The pilot studies are being conducted by a planning team that has experts from several backgrounds working in a collaborative effort. The goal of the studies is to sustainably match water sources with current and future needs through a regional approach and multi-utility district focus.

Mayor MCDONALD mentioned that the Portland community would have to use a private utility to obtain additional water they may need, which Mr. ROHRBACH confirmed. Mayor MCDONALD then asked what work the study group has done on contracts and who would arbitrate such a contract so that Portland's growth would not be adversely affected by whatever terms are in the contract. Mr. ROHRBACH said that issue has been discussed by the technical advisory committee, including feedback from members of the Tennessee Association of Utility Districts (TAUD) and TACIR, challenges have been recognized, it is a principal issue, and it will be addressed in detail in the pilot study report. Mr. ROHRBACH said in the future that policy implementation may call for a fee for water withdrawal and offered to present this issue separately to the Commission if necessary.

Senator TRACY asked for clarification on whether Old Hickory Lake would be the long-term source for the North Central pilot project and what are the water sources for Monteagle and the other areas in the Southern Cumberland Plateau. Mr. ROHRBACH answered it will end up being additional surface water sources for the Cumberland region and interconnection and regional cooperation.

Mr. ROHRBACH said alternatives were developed from stakeholder input and include demand management, existing source improvement, and new source development using OASIS software to evaluate the water systems and alternatives. The evaluation has different tiers. Based on the Tier 1 evaluation, it seems that the preferred alternatives for the South Cumberland are: purchasing the recreational Ramsey Lake to convert to water supply, raising the Big Fiery Gizzard Lake, and/or a combination of the two. A Tier 2 evaluation would need to be conducted. In the Tier 1 evaluation for the North Central area, the preferred alternative is the establishment of the Portland to White House interconnection.

There have been supplemental investigations beyond the Tier 1 evaluations. TACIR helped evaluate the financial conditions of the utilities in the regions to determine if they would be able to implement proposed alternatives and serve as regional providers. Energy audits were conducted by the University of Tennessee in Memphis. The Tennessee Department of Environment and

Conservation (TDEC) also provided source water quality evaluations. These investigations will be used moving forward to the Tier 2 evaluations of the preferred alternatives. The next steps include a Tier 2 evaluation of the South Cumberland alternatives, generating two separate technical reports for the pilot areas, a report on regional water supply planning guidance, and proceeding with the implementation of the alternatives. There are also plans to host the OASIS model on a statewide basis at Tennessee Technical University.

Chairman NORRIS asked if information about OASIS software is available online and if it is being used in other parts of the country. Mr. ROHRBACH answered yes, and that it is being used in Tennessee by the Duck River Agency, and the North Carolina Department of Natural Resources. He said HydroLogics is the vendor.

Mr. DOSS asked if the demand projections took demand management alternatives or demand reduction efforts into account. Mr. ROHRBACH answered the demand projections are principally based on population growth and an evaluation of historical trends. They do not implicitly account for conservation and baseline management strategies, which is a conservative approach. However, the OASIS evaluations do account for drought management strategies which reflect time-sensitive, temporary demand reduction measures, but do not take into consideration long-term conservation management. Mr. DOSS asked if there is significant per capita use variation by district. Mr. ROHRBACH said he could not recall if there was and mentioned that the U.S. Geological Survey member would know better. He said he believes in the South Cumberland area there may have been one utility member that was outside the average range for demand or price. Generally, however, there was consistency within a range of per capita use.

Senator HENRY asked which of the two study areas reflected how water needs are statewide, i.e., is it more like Portland or South Cumberland across Tennessee with increased water demand? Mr. ROHRBACH said the necessary research to answer that question has not been done but most likely, across the state it is somewhere in between. The North Central region would represent a faster growing region and the South Cumberland would be on the other end.

Senator HENRY commented that Portland will require several million gallons of water in the future and asked who is required to pay for the improvements: state, federal, or local governments. Mr. SLOAN answered that it comes from all three of those sources, and it is hoped this study will better inform the state revolving fund program to get better long-term solutions and low interest funding. It is also hoped that grants like community development block grants (CDBG) and infrastructure support grants will be of assistance. He said another avenue to explore is the relationship with the U.S. Army Corps of Engineers as a partner, which is important to planning and securing future federal funds. Mr. SLOAN said there are two challenges moving forward. One is identifying the other logical

regions across the state that are in need of this sort of supply. The second is to help the partners in the two pilot regions coordinate funding. Senator HENRY asked who the partners are. Mr. SLOAN listed some of the partners: U.S. Army Corps of Engineers, TACIR, Department of Economic and Community Development, Farm Bureau, Department of Agriculture, TAUD, Tennessee Technical University, and Duck River Development Agency. There are 16 total partners.

These two pilots have a price tag of about \$1 million. TDEC contributed half and the U.S. Army Corps of Engineers has matched that fully. In addition, the U.S. Geological Survey has contributed, as well as some non-governmental organization (NGO) neighbors. The model needs to be made more affordable and accessible so it can be used in other regions. There are a lot of partners needed to make the plan comprehensive. Moving forward, finding a way to make it affordable for other regions is important.

Mayor WATERS asked what plans are in place to encourage utilities to partner with other utility agencies. Mr. SLOAN responded that, in his experience with the most recent drought and the Nashville flood, full cooperation between agencies has been the rule. Based on his experience, any agency that wants to work in isolation is a distinct minority. From a regulatory perspective, systems have to work together, though in some instances it has been a challenge.

Mayor MCDONALD asked if the University of Memphis Shelby County aquifer study has been considered for use as a groundwater study. Mr. SLOAN answered that the task force will identify the next steps and projects.

Senator TRACY asked what the time frame is for the pilot projects and when they would be implemented. Mr. SLOAN said he anticipates the final plans by the end of October and is not sure when the implementation will begin. Identifying the funding sources is very important and having the plan will facilitate that. Mr. FREUDENTHAL, Executive Director of TAUD, added that some elements of the pilot project are already in implementation.

c.) Mr. Bob FREUDENTHAL, Executive Director, Tennessee Association of Utility Districts

Mr. FREUDENTHAL stated that his involvement with this project began prior to his work with TAUD. He served on the staff of the Hendersonville Utility District during the drought and had the opportunity to work with Representative MCDONALD as he was working on his initial legislative bill on behalf of TAUD.

Mr. FREUDENTHAL stated that prior to his comments he would like to add that they respect the right of negotiation between public entities since the case between White House and Portland has been discussed.

He stated that he was asked to discuss challenges that utilities face, particularly whether to provide utilities to areas that are sparsely populated. He said it becomes both a fiscal and operational discussion, and it can provide long-term issues and questions. Not only do you have to factor in initial construction costs, but then you have to operate that system. If a development is slower than initially thought, you still have to maintain those water lines, maintain those pressures, and maintain that flushing, so it becomes a long-term cost.

Mr. FREUDENTHAL provided a one-page written report that highlighted additional informational costs as it relates to extension of water lines and service. He emphasized the second to last paragraph of the handout that focused on a recent water line extension project in Giles County.

Mayor MCDONALD asked about the legal rights between the parties: what that is and how it can be improved. Mr. FREUDENTHAL stated that he is not an attorney but the TAUD attorney is available. Mayor MCDONALD said that Mr. FREUDENTHAL gave an opinion before his presentation as if he had an answer. Mr. FREUDENTHAL stated that he gave an opinion about the two parties in negotiation. He stated that he did not know of a mechanism that requires mediation or arbitration at this time. Mayor MCDONALD stated that the study group should be looking at some type of arbitration so it does not have to go to a costly court settlement.

Senator TRACY asked if there was a need for legislation to require utility districts to work together. He stated that he does not think there should be legislation to do so since they can usually work together, but asked for confirmation that there was not a need. Mr. FREUDENTHAL confirmed that they already do so across the state and provided numerous examples.

d.) Mr. Doug MURPHY, Executive Director, Tennessee Duck River Development Agency

Mr. MURPHY stated that he was going to discuss three items: who they are; why they got into regional water planning; and the process. The Duck River Development Agency was established in 1965 and represents five counties and seven water systems.

Mr. MURPHY stated that a regional water plan is necessary. The Duck River and Normandy Reservoir support multiple uses for water and the Duck River is a biologically diverse river. In 2007, during record drought, the Normandy Reservoir reached 42% of capacity and flow in the upper Duck River was dependent on the Normandy Reservoir. Mr. MURPHY stated that two bills were passed that required them to look into regional planning. No long-term creditable plan existed, and there was a need for a proven decision-making model. The project area focused on four counties: Bedford, Coffee, Marshall, and Maury. Mr.

MURPHY stated that the process was open and that six workshops were held throughout the year, along with three public open houses.

Mr. MURPHY said that the water supply plan has three parts: needs assessment, alternative analysis, and implementation. Mr. MURPHY stated that if another record drought happened, then a four million gallon a day deficit would exist. The alternative analysis started with 40 alternatives and narrowed to 26 quickly. Mr. MURPHY said the advantages of implementing a multi-component project is that it provides multiple sources and the regional solution has benefits beyond water supply, including enhancing stream flow, extending recreation during periods of drought, and reducing flood risk downstream of Normandy Dam. It also allows flexibility in financing across the entire region. Mr. MURPHY stated that the completed report with recommendations and an implementation plan will be presented to the board in October.

Vice Chairman ROWLAND asked what biological diversity is. Mr. MURPHY replied that it is a whole bunch of critters living together and all love each other. Mayor BRAGG asked why the Normandy Dam was built. Mr. MURPHY replied that it was built for flood control, recreation, and water supply.

Mr. MURPHY stated that a fact sheet was being handed out and the presentation is available electronically.

Mayor WILBUR from the city of Portland stated, from the floor, that evaluation of cost should include peak demand along with average demands. He said that public policy is a tremendous issue on establishing rates. The Tennessee Regulatory Agency appears to mandate that you get your water source from one particular place. It does not allow them to consider alternative sources and negotiate rates. Chairman NORRIS responded that when and if legislation is proposed this will be the touchstone.

Senator TRACY asked what the third of the three proposals was. Mr. MURPHY replied that it is the baseline management. Senator TRACY asked which would be the priority. Mr. MURPHY stated that he feels they will increase capacity at Normandy first and the drought plan will be running parallel. Senator TRACY stated that these will all work together.

e.) Ms. Lynnis ROEHRICH-PATRICK, Associate Executive Director, TACIR

Ms. ROEHRICH-PATRICK presented the report, which was written by Dr. Mary ENGLISH and her colleague, Roy ARTHUR, under a grant to the University of Tennessee's Institute for a Secure and Sustainable Environment. Ms. ROEHRICH-PATRICK emphasized that a sound water supply planning process is more important than a statewide plan, which is the direction TDEC's Water Resources Technical Advisory Committee (WRTAC) has taken. She

emphasized that conditions vary across the state, and having a water supply study or plan is more important in some areas than in others. For example, the South Cumberland region studied by the WRTAC sits on a divide between watersheds and faces different challenges from those in the North Central Tennessee study area, which has access to a more nearly unlimited water supply from the Cumberland River. Likewise, the Duck River, which was the subject of a separate but similar study has incredible natural resources, presenting different challenges, balancing all the demands placed on the river as that region grows. Even in West Tennessee, which relies primarily on ground water, there are challenges created by the growth, including the possibility of pulling those water levels down and being unable to replenish the supply through the normal course of nature.

Ms. ROEHRICH-PATRICK talked about the challenges of serving the unserved in sparsely populated areas and the expense of doing that, as well as the challenges of serving populations in densely populated areas, as the kinds of challenges that require a regional approach and the involvement of the local community, as well as experts to assist them with analyzing their situation and determining their best course of action.

Ms. ROEHRICH-PATRICK stated that the nine states chosen for the study were of interest because they had a wide variety of approaches. There are some features of their approaches that were common to all those states, including short- and long-term planning, watershed-based planning, groundwater and surface water planning, as well as planning for water allocation strategies. Other basic features include legislatively mandated planning, the locus of planning (central, regional, local), the idea of broad participation, and the gathering of data. Among the more forward-thinking features shared by the nine states were critical areas planning, conjunctive management, linking quantity and quality, and conservation and efficiency. She also stated factors that may cause complications, including the federal role in managing some state waters and other states' claims on interstate water resources. Ms. ROEHRICH-PATRICK also noted the importance of water rights law for both surface water and groundwater.

Ms. ROEHRICH-PATRICK concluded by talking about implications for Tennessee, noting that Tennessee needs to build on the basics that are in place, including registering withdrawals, regulating transfers, and the WRTAC. Also Tennessee needs improvement on integrating quality and quantity, something TDEC's Division of Water Supply and Division of Water Pollution Control are working on. Other strategies to consider include conservation methods such as inclining rates and permits for large water withdrawals, linking surface water planning with ground water planning especially in critical hydrological areas, and studying water supply and demand statewide to determine which areas to address first. All of these things are detailed in the report.

Ms. ROEHRICH-PATRICK suggested publishing the report on TACIR's website to make it widely available. Senator NORRIS agreed and asked where the Commission goes from here as far as TACIR's involvement is concerned, bearing in mind that the state government is going to be in transition. He also asked if the pilot report will be available for the December meeting. Ms. ROEHRICH-PATRICK said the report should be available for the December meeting.

3. Presentation by Ms. Ethel DETCH, Research Associate, TACIR, on Utility Damage Prevention Program Effectiveness

Ms. DETCH presented the final report on the Utility Damage Prevention Project. She reiterated that the changes have been proposed to state law because the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) is actively encouraging all states to strengthen their utility damage prevention statutes to reduce damage to gas and hazardous liquid pipelines. Congress has authorized PHMSA to take direct enforcement action against excavators if the Secretary of Transportation deems a state's enforcement program is inadequate. They have also implied that states could lose federal funding for their gas pipeline safety programs.

Ms. DETCH indicated that the federal government's next step will be a "notice of proposed rulemaking" which will likely be issued in Fall 2010, with the actual rule issued in Fall 2011. She noted that the advance rulemaking notice stated that "a threshold criterion for determining the adequacy of a state's damage prevention enforcement program will be whether the state has established and exercised its authority to assess civil penalties for violation of its one-call law." Tennessee law presently does not authorize civil penalties.

Chairman NORRIS asked for a motion to adopt the report as a Commission report. There was a motion by Vice Chairman ROWLAND, seconded by Representative FITZHUGH, and approved by the Commission. Chairman NORRIS reiterated that we need to wait and see what the federal government will do, but this report will serve as a foundation for future discussions.

4. Future Meeting Dates

Chairman NORRIS called for an agreement on the dates for the next meeting. After some discussion, he announced that the meeting would be scheduled on December 15-16, 2010.

Chairman NORRIS adjourned the meeting at 10:52 a.m.