

# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations

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## MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

19 November 2014

### Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in Legislative Plaza Room 30 at 1:06 p.m., Chairman Mark NORRIS presiding.

Present 18	Absent 6
Mayor Troy Beets	Representative Ryan Haynes
County Mayor Ernest Burgess	County Executive Jeff Huffman
Mr. Charles Cardwell	Representative Gary Odom
Representative Mike Carter	Senator Randy McNally
Mr. Rozelle Criner	Representative Charles Sargent
Mayor Betsy Crossley	Senator Jim Tracy
Ms. Paula Davis	
County Mayor Brent Greer	
Senator Douglas Henry	
County Mayor Kenny McBride	
Mr. Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Mayor Tom Rowland	
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 Mark NORRIS called the meeting to order at 1:06 p.m. and requested approval of the minutes. Mayor Tom ROWLAND moved adoption and Commissioner Charles CARDWELL seconded the motion, which passed unanimously.

## **2. Commission Updates**

Chairman NORRIS recognized TACIR's executive director, Lynnise ROEHRICH-PATRICK, to give an update to the members. Ms. ROEHRICH-PATRICK directed the members to the resolutions at tab 2 in the docket book honoring Senator Douglas HENRY and Representative Gary ODOM for their service to the Commission, the legislature, and the citizens of the state of Tennessee. Following the reading of the resolution, Chairman NORRIS asked for a motion for its approval. Commissioner Iliff MCMAHAN moved approval, Mayor Tom ROWLAND seconded the motion, and the Commission unanimously approved it. At Chairman NORRIS's invitation, Senator HENRY made a few comments about the history of TACIR, saying, "It has been a tremendous privilege to serve with you ladies and gentlemen. I don't know of any assignment I've had since I have been in the legislature that has given me as much fulfillment as serving on this Commission." Chairman NORRIS responded, "It has been a great honor to serve with you and we appreciate your service so much."

Chairman NORRIS observed that a similar resolution for Representative ODOM was in the packet and, since Representative ODOM was not present for a recitation, asked for a vote to approve it. Commissioner CARDWELL moved approval, Mayor MCBRIDE seconded, and the Commission unanimously approved it.

Ms. ROEHRICH-PATRICK announced the promotion of staff member Bob MOREO to senior research associate.

## **3. Work Program for 2015**

TACIR's deputy executive director, Dr. Cliff LIPPARD, presented the Commission's work program for calendar year 2015 for approval. Chairman NORRIS and Senator HENRY discussed the importance of one of the recurring projects included in the program, the public infrastructure needs inventory, with Senator HENRY saying the inventory is important because it provides a considered judgment on what projects the state and its local governments should spend their limited resources. Mayor Brent GREER added that the process of the local governments working with the development districts to compile their needs is helpful and provides useful information for the state. Mayor Troy BEETS moved approval, Mayor Kenny MCBRIDE seconded, and the Commission unanimously concurred.

#### **4. Municipal Boundary Changes and Comprehensive Growth Plans (Public Chapter 707, Acts of 2014)—Draft Report for Review and Comment**

Senior research associate Bob MOREO presented for review and comment a draft of the Commission's report on municipal boundary changes and comprehensive growth plans, which was prepared in response to Public Chapter 707, Acts of 2014. He reminded the Commission that the final report would be submitted for approval at the January 2015 Commission meeting and presented several draft recommendations from the report to address key issues concerning municipal boundary changes and growth planning policies. Discussion centered on the report's recommendations concerning annexation referendums and petitions, deannexation, noncontiguous annexation, and the status of growth plans, as well as on annexation of agricultural property.

Mr. MOREO discussed the report's finding that annexation referendums may be costly and cumbersome unless they can be aligned with a regular election. Moreover, referendums exclude non-resident landowners from the decision-making process. Because of this, the draft recommendation is that if the legislature chooses to allow non-resident landowners, including businesses, to participate in annexation decisions, a formal petition process would be a constitutional, easier way to allow non-resident participation than elections. Petitions are also less costly and time-consuming. However, any formal petition process in Tennessee must allow participation by residents and not just landowners.

Mr. MOREO said that the report also says that willing landowner requests for annexation of areas not adjacent to the city limits will be more difficult under Public Chapter 707 because landowners and residents in between can stop them, but could be accommodated by giving cities a way to annex non-contiguous properties. This may be well suited for commercial or industrial development and could help cities accommodate development requests and meet the community's needs without taking in unwilling residents of unincorporated areas.

Mr. MOREO also said that the report discusses the fact that residents and landowners who no longer want to be a part of a city—often because the city has failed to fully implement its plan of services—have no recourse under current law other than suing the city to provide services. The report discusses the option of allowing residents or landowners to petition for deannexation, but only if the deannexation would not create islands, donut holes, or noncontiguous territory and only by agreement with the county.

Regarding growth plans, Mr. MOREO said the report notes that the plans required by the Growth Policy Act do not expire, but there is also no requirement to update them. While one of the primary reasons for cities and counties to establish growth plans—to define where cities could annex by ordinance without consent—has been eliminated, there are still several ways growth plans determine where annexation and incorporation can occur. The draft recommendation in the report is that the legislature require all counties to convene their coordinating committees and review their growth plans before a certain date and revise or readopt them and then repeat this process at regular intervals or as circumstances require.

Finally, Mr. MOREO said that, while Public Chapter 707 deleted from statute the method of annexation by ordinance, there are a number of obsolete references to annexation by ordinance in other sections of the code that need to be addressed to make annexation policy and procedures consistent going forward. He referred the Commission to Appendix A, which includes a complete list of obsolete references to annexation by ordinance and suggestions for how to correct the statutory language in each section.

Following the presentation, commission members discussed concerns that corridor annexation can be used by annexing cities to skirt bad infrastructure. Mayor GREER said that cities sometimes annex up to a bridge that is in disrepair, skip the bridge, and then continue annexing on the other side, leaving the county responsible for the bridge. Mr. MOREO said the referendum process could make that type of annexation harder, but that there is no recommendation in the draft report concerning corridor annexation. Mayor GREER said that it should be looked at because of the potential expense to counties. Mr. MOREO added that cities and counties could enter into agreements to address infrastructure maintenance. The Commission expressed an interest in seeing how other states manage donut holes left by creative annexation.

Representative CARTER said that some cities annex corridors and then deannex the roads. He said this is really noncontiguous annexation in a two-step process. The county has to continue to maintain the road while the city gets the revenue from the annexed area.

The Commission also discussed annexation in other states, including methods used and restrictions on annexing certain types of property. Tennessee is one of six states that limit annexation to referendum or consent only; states with referendums usually limit voting to residents being annexed. Many other states allow cities to annex without consent in limited circumstances.

Representative CARTER said that he is preparing a bill for the next legislative session that will allow non-resident owners who are registered voters in that county to vote on the annexation. The bill uses the two-owners-per-property limit.

It was also noted in the discussion that some states prohibit annexation of agricultural property. Tennessee prohibits annexation of land used for agricultural purposes unless the owner consents. Councilmember SENTER asked how the term agricultural purposes is interpreted. Mr. MOREO said that agriculture is defined elsewhere in the statutes. Mayor ROWLAND asked whether a definition of agriculture would include dormant land that has potential for agriculture or only land actually in production.

Commissioner SCHUMPERT suggested that a city annexing a street or road should need approval from the governing body presently maintaining that road (state or county). Representative CARTER shared a suggestion that cities could deannex roads only if they were up to code.

Mayor ROWLAND expressed concern that a deannexation may take away the right of someone to engage in an existing business that is legal inside the city but not outside the city. He gave a hypothetical example of a business owner who owns property in a county that does not have beer sales making a major investment in order to sell beer after his property is annexed by a city that allows beer sales. Mayor ROWLAND was concerned about what would happen to the owner if the property were subsequently deannexed.

Representative CARTER expressed concern about how deannexation might affect project bonds, saying that if you deannex an area with a bond, you are in technical default on the bond. He shared a suggestion that annexations be temporary, pending completion of the plan of services. The city could borrow money once the plan was complete.

Councilmember SENTER asked staff to find out whether other states have a minimum threshold for annexation by referendum or petition and wondered what would be the fairest way for providing representation.

Chairman NORRIS expressed an interest in more information on dual majorities, which require that both a majority of city residents and a majority of residents of the area proposed for annexation approve the proposal. Under current law in Tennessee, when a city chooses to let city residents vote, each area is a separate vote and both must pass or the annexation fails.

Councilmember SENTER asked whether staff would deliberate on the changes to the law suggested in appendix A. Chairman NORRIS said yes and noted that Representative CARTER has a bill to address this. Executive Director ROEHRICH-PATRICK added that, if commissioners see something in there that they want done one way or another, they should let staff know.

Mayor BEETS asked whether a city could refuse a petition for annexation. Mr. MOREO replied that the city legislative body votes whether to adopt a resolution to move forward or not. Mayor BEETS asked for confirmation that the new law doesn't change that.

The members also expressed interest in seeing a fully-described example of how a petition process might work, including details on who would be eligible to sign, what the requirement would be for passage, who would keep and administer the petition, where residents would need to go to sign, who would verify signatures and tally results, and how long the petition would remain open.

There was also some discussion on the status of growth plans. Mayor WATERS asked whether Public Chapter 707 addressed any of the concerns about how complex it is to amend growth plans. Chairman NORRIS said that it does not. Representative CARTER added that 707 had a provision for expanding a growth boundary in limited circumstances for adjacent property owned by the same owner.

## **5. School Board Budget Line-item Authority for City Councils and County Commissions (Senate Bill 1935 by Johnson)—Draft Report for Review and Comment**

Senior research consultant Ethel DETCH presented the draft report on school system budgets for review and comment. The bill prompting the study, Senate Bill 1935 by Senator Jack Johnson, was sent to the Commission by the Senate State and Local Government Committee. If passed, it would have given certain local legislative bodies authority to alter or revise administrative line items within school systems' budgets when administrative spending exceeds 10% of the total budget. Presently, local legislative bodies can revise only the total budget amount.

Ms. DETCH gave an overview of the current school budget process in Tennessee, where most school systems are dependent on another body. Only nine states have this arrangement. In Tennessee, although school boards are organized around local government jurisdictions, they are creatures of the state, established to provide education, a state responsibility. To fulfill its constitutional obligations for public education, the General Assembly has passed many laws clearly establishing that the local legislative bodies are responsible for providing school funding, but the elected school boards are responsible for operations. In addition, laws provide local legislative bodies other methods to provide oversight of school system budgets. The report includes a draft recommendation that authority over specific budget line items within school budgets remain with the elected school boards.

Mayor BEETS commented that he had reviewed the report from both the perspective of a school board member as well as a county commissioner and endorsed the recommendation that the authority for budget line items should remain with the elected school board.

## **6. Assessing the Value of Low-Income Housing Tax Credits for Property Tax Purposes (Senate Bill 1671 Southerland)—Draft Report for Review and Comment**

Senior research consultant Dr. Stan CHERVIN presented for review and comment the draft report on valuing low-income housing tax credit properties for property tax purposes. The bill prompting the study would have prohibited consideration of the value of tax credits when valuing low-income housing tax credit properties.

The most common approach for valuing LIHTC properties for property tax purposes is the same used for regular commercial rental properties: the income approach. No one disputes that this application of the income approach is appropriate for LIHTC properties. The disagreement is over whether and how to consider the tax credits. Tennessee courts recognize the tax credits as a value enhancing factor that is properly considered in the assessment of LIHTC properties. Any investor who purchases an LIHTC property with tax credits remaining would have access to those remaining credits and would account for them in the purchase price of the property along with net operating income. In 2003, the state court of appeals affirmed the board of equalization's decision to consider the credits by adding the present value of all remaining tax credits to the value calculated using the income approach and restricted rents.

The bills' supporters claim that including the value of the credits makes LIHTC projects unviable and will result in developers and investors abandoning Tennessee for other states. However, because there are almost no unused tax credit allocations in other states, it is unlikely that private developers and investors will abandon Tennessee. Nevertheless, considering the credits value in this way may affect the pattern of development within the state and may lead to developers cutting costs in other areas.

Other means to support low-income housing and avoid these issues in Tennessee include laws allowing local governments to authorize their health, educational, and facilities boards to negotiate payment in lieu of tax (PILOT) agreements with developers of properties that further the board's public purpose of providing multi-family housing facilities to be used by persons of low or moderate income. This clearly applies to LIHTC properties. State law also allows local governments other than the metropolitan government of Nashville and Davidson County to authorize their public housing authorities to negotiate PILOT agreements specifically with LIHTC developers, but the authority must submit each such agreement to the legislative body of all affected taxing jurisdictions for approval. In Memphis, where these agreements are common, PILOTs have resulted in payments that are considerably less than property tax payments would be. The report includes information from Michigan, which has developed a model ordinance that its local governments can use to establish PILOTs more easily.

Dr. CHERVIN presented two alternatives for the Commission's consideration. Both spread the effect of the credits over the life of the project to address cash flow problems that arise under current law. They included either dividing the total present value—or the total amount of credits, as done in Idaho—over the number of years in the restricted rent agreement and adding this value to the standard income approach including restricted rents. Responding to a question for clarification of the Idaho approach, Dr. CHERVIN said that it results in a relatively small additional tax based on the credit.

Chairman NORRIS asked for more information about the Michigan PILOT model. Dr. CHERVIN clarified that both Michigan and New Jersey have state laws that authorize every local government to offer PILOTs and that these laws provide some guidance for minimum and maximum payments, though the amount required varies in each state.

Members also discussed whether including the credits in the assessed value for tax purposes would affect the availability or quality of low-income housing. Asked whether any evidence existed from either THDA or another source that the development of LIHTC properties had stopped or slowed in the Tennessee counties that had been including the tax credits in property valuations, Dr. CHERVIN replied that staff would investigate.

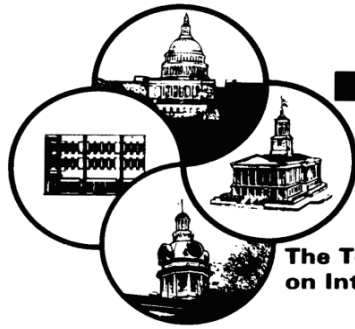
Mayor SENTER asked staff to replace the hypothetical example of a low-income housing tax credit property in the report with an actual example from a developer in Chattanooga.

Senator HENRY asked that the Commission hear from the Comptroller before providing its final recommendation on a bill that would depress revenue. Chairman NORRIS also suggested that the Commission invite the Treasurer to speak.

Chairman NORRIS noted that the final report would be presented at the January 2015 meeting.

**Chairman NORRIS adjourned the meeting at 3:26 pm.**





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**MINUTES OF THE  
TENNESSEE ADVISORY COMMISSION  
ON INTERGOVERNMENTAL RELATIONS  
20 November 2014**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in Legislative Plaza Room 30 at 8:40 a.m., Chairman Mark NORRIS presiding.

<b>Present 17</b>	<b>Absent 7</b>
Mayor Troy Beets	Representative Ryan Haynes
County Mayor Ernest Burgess	Senator Douglas Henry
Mr. Charles Cardwell	Representative Gary Odom
Representative Mike Carter	Senator Randy McNally
Mr. Rozelle Criner	Mayor Tom Rowland
Mayor Betsy Crossley	Representative Charles Sargent
Ms. Paula Davis	Councilmember Kay Senter
County Mayor Brent Greer	
County Executive Jeff Huffman	
County Mayor Kenny McBride	
Mr. Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Mr. Tommy Schumpert	
Senator Jim Tracy	
County Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	

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

## **Call to Order**

Chairman NORRIS called the meeting to order at 8:40 a.m.

### **1. Requiring Sprinklers in Places of Worship (House Bill 1649 by Hill, T.)—Final Report for Approval**

Research associate Jennifer BARRIE presented the final report on fire sprinkler requirements for places of worship for approval. She reminded the Commission that House Bill 1649 by Representative Timothy Hill was sent to the Commission by the House Local Government Subcommittee. If passed, it would have exempted single-story places of worship that meet specific size, occupancy, and exit requirements and that are located in unincorporated areas without a water supply from the requirement to install fire protection sprinkler systems. Because of the increased risk to the health, safety, and welfare of community members, firefighters, and property, and because reasonable means are available to support sprinkler systems where public water supplies cannot, the final report includes a recommendation by the Commission that the General Assembly not exempt these churches from sprinkler requirements.

Ms. BARRIE noted that the final report includes some additional discussion of risks and challenges specific to fighting fires in rural places of worship. For example, a 2011 University of Tennessee study found that people living in rural areas are at the highest overall risk for fire death in the state, and from 2009 through 2013, the average property-value-loss per-fire in places of worship without sprinklers was 36% in unincorporated areas compared with only 22% in incorporated areas. The report also discusses several effective fire prevention methods to reduce the losses, but clearly argues that other methods are not equivalent to automatic sprinkler systems, the most effective method. Sprinklers address the two major challenges of fighting fires in rural areas—longer firefighter response times and limited access to water.

Mayor BEETS moved approval of the report, Mayor MCMAHAN seconded, and it was approved with only Representative Mike CARTER voting no.

### **2. Uninsured Motorist Identification and Enforcement (House Bill 2457 by Lundberg)—Update**

Research associate Nathan SHAVER presented background information about issues raised by House Bill 2457 by Representative Jon Lundberg, which would have created an uninsured motorist enforcement database. The Tennessee Financial Responsibility Law of 1977 requires that all vehicles registered in the state have adequate insurance or other proof of ability to pay for damages resulting from an accident; but Tennessee has the sixth highest uninsured motorist rate in the nation, at 20.1 percent, according to insurance industry estimates. Tennessee does not have a means other than checks at traffic stops and accidents to ensure motorists maintain insurance coverage on their vehicles.

Mr. SHAVER said that House Bill 2457 would have addressed these issues in three main ways. First, it would have forbidden the county clerks, acting for the Department of Revenue, to issue a registration or renewal unless the application were accompanied by evidence that it meets the requirements of the financial responsibility law. Second, he said that the bill would have created an uninsured motorist identification database that would have been used to verify compliance. The database would have been administered by the Department of Revenue with the cooperation of the departments of Safety and Commerce and Insurance and maintained by a contractor. Third, the bill would have required insurers to verify coverage upon request by the contractor using a web-based system available 24 hours a day, 7 days a week. Mr. SHAVER said that other states have setup similar electronic verification systems of three basic types: (1) database systems, (2) web-based systems, (3) and hybrid systems.

He said that once an uninsured vehicle is identified, states penalize those drivers. Mr. SHAVER referenced a 2014 report from Ohio (attachment C to the memo) that lists the penalties for violating states' financial responsibility laws. These penalties are substantial in many states and include large fines, vehicle impoundment, loss of registration, loss of license, and even jail time, but the report found that the severity of penalties a state imposes does not affect its uninsured motorist rate.

Chairman NORRIS and executive director Lynnis ROEHRICH-PATRICK discussed the timing of the report, with executive director ROEHRICH-PATRICK saying that staff will have a report for the Commission by January, but that meeting the deadline placed on the study would mean the Commission would not have an opportunity to review and comment because this bill was sent to TACIR with a due date at the beginning of session. She said that staff have a good amount of work to do to fully understand all the processes and need more time.

Mayor HUFFMAN asked whether the bill addressed where the fine money goes and exactly what the responsibility of the county clerks is under the bill. Mr. SHAVER responded that he thought the fine money went to the Department of Revenue but was not sure and would have to check. He said that the county clerks' responsibility under the bill is to verify compliance with the financial responsibility law before registration or renewal of a vehicle is issued.

The Commission discussed the need to determine the potential effect of the bill on current uninsured motorist coverage. Because of the complexity of the bill, Senator TRACY said the Commission should hear from representatives from the insurance industry and from county clerks, and Commissioner Schumpert said that the Commission should be given a year to study this bill.

### **3. Recommended Workplace Civility Policy for State Agencies and Local Government (Public Chapter 997, Acts of 2014)—Draft Report for Review and Comment**

Senior research consultant Ethel DETCH presented the draft model healthy workplace policy required by Public Chapter 997 based on bills sponsored by Representative PARKINSON and Senator KYLE. Ms. DETCH introduced the workgroup members who had helped develop the draft policy. Ms. DETCH explained that the policy would be optional and that the language

would need to be adapted to fit each particular government's structure and existing policies. She noted that Chairman NORRIS had requested an opinion from the Attorney General but that the response has not yet been received.

In the discussion following the presentation, Mayor BEETS asked whether the policy would pertain to volunteers who help with city-sponsored events. Ms. DETCH replied that the workgroup had not addressed volunteers but would discuss it when they meet.

Mayor BURGESS said that counties already have many personnel regulations and policies in place that relate to this legislation. He also questioned how local governments could adopt a policy that would make them immune from suit. Representative PARKINSON responded that the bill's intent was to isolate the perpetrator and ensure that employees were informed as to what behavior is unacceptable. Chairman NORRIS commented that sometimes certain employees are granted a certificate of employability that gives companies some limited immunity in exchange for hiring them, but he added that applying that concept to government is more complicated.

There was discussion of whether the Act would create a new cause of action. The request to the Attorney General asks whether this creates a new cause of action. It also included a question addressing another point of discussion, how the policy would apply to county governments with their various elected officials. On a related topic, Representative CARTER asked who in a county would have to pay to defend a highway superintendent who abuses another employee. Mayor BURGESS replied that Rutherford County assumes that the county is responsible for defending all of its employees.

Mayor HUFFMAN referenced Public Chapter 361, Acts of 1997 (codified as Tennessee Code Annotated, Section 5-23-104), which lists required personnel policies for counties but does not address complex federal laws. He noted that even though a county government might have a centralized personnel manual, various offices within the county governments might have different needs. Libby McCROSKEY, legal consultant for the County Technical Assistance Service testified that guidance was needed as to how the policy would be adopted in a county.

Mayor BURGESS commented that his county had recently adopted ethics policies developed by the County Technical Assistance Service, Municipal Technical Advisory Service, and the Tennessee School Board Association. He thought that language might cover this issue as well.

Mayor CROSSLEY asked how the model policy would apply to municipalities with a city manager/council form of government and whether a complaint against one of them would apply to all. Chairman NORRIS said that he would think that it would apply to individuals.

Chairman NORRIS indicated that staff would share the Attorney General's opinion with the members when they receive it.

#### **4. Civil Protection Against Invasion of Privacy Using Enhanced Recording Devices (House Bill 1855 by Williams, R.)—Draft Report for Review and Comment**

Research Associate Nathan SHAVER presented a draft report on House Bill 1855 by Representative Ryan Williams that would have created new civil remedies for invasion of privacy. He said that with advances in technology, shielding one's privacy has become increasingly difficult and that some of the weakness of privacy law comes from its tension with the First Amendment. He said that the bill would have created a new remedy for capturing or attempting to capture an image or recording through the use of a visual or auditory enhancing device—what we might call a virtual or constructive invasion of privacy—regardless of whether the image or recording were published. This new cause of action would have applied in limited circumstances.

Mr. SHAVER said that the bill raised two constitutional issues. First, it included an amendment that would have exempted “established news media,” which raises both Fourteenth Amendment equal protection issues and First Amendment freedom of the press issues. Second, the bill allows lawsuits against third parties that use images or recordings taken in violation of the bill. The United States Supreme Court has never allowed penalties against a publisher of truthful matters of public concern, even when the party that published the material knew it was obtained illegally by another.

Mr. SHAVER also noted that the bill did not explicitly mention the use of unmanned aircraft (often called drones); therefore, it's not clear whether the bill would reach an invasion of privacy by that means, although drones flown low enough might constitute trespass under current law. Following the presentation, there was discussion of privacy and safety issues related to drones with several members saying that the report should address those issues.

#### **5. Homeowners Associations (House Bill 2070 by Farmer)—Draft Report for Review and Comment**

Senior research associate Michael MOUNT presented a draft report on issues related to homeowners' associations (HOAs) for review and comment. The bill prompting this study, House Bill 2070 by Andrew Farmer, was sent to the Commission by the House Local Government Committee. If passed, it would have required sellers to disclose whether their property were located in a planned unit development (PUD), and if so, whether the PUD were complete. The report meets the intent of House Resolution 170, which called for TACIR to study HOAs' rules and regulations and the responsibility of HOAs to insure their obligations. The report also considers issues raised by Senate Bill 2198 by Jack Johnson and House Bill 2060 by Jeremy Durham, which would have forbidden HOAs to restrict parking on public streets and to ban political signs on private property without the approval of the city or county legislative body. It also would have forbidden HOAs to attach liens without presenting clear and convincing evidence to a judge, and prohibited fines in excess of monthly dues.

Mr. MOUNT presented six recommendations to the Commission. In order to insure the completion of infrastructure in developments, local governments should maintain surety bonds

or letters of credit and possibly require automatically renewing letters of credit. To protect homeowners when developers abandon their responsibility to maintain common property or become insolvent, homeowners should be able to force the developer to transfer the HOA to them. Like condominiums built after January 1, 2009, all condominiums built before that date and all single-family HOAs should be required to carry property and liability insurance and should be required to give notice of that coverage to residents upon request. HOAs should be authorized to limit the time, place, size, number, and manner of display of political signs but should not be allowed to completely prohibit those signs in order to balance resident rights and community aesthetics. Because HOAs have an interest in seeing that the streets within their boundaries are safe, they should be allowed to continue regulating parking on public streets. Finally, in an effort to balance fairness to owners with the needs of the HOA, all HOA fines should be required to be reasonable, as they are in newer condominiums, HOAs should be required to provide notice of any attached liens, and foreclosures should be limited to a minimum delinquent dollar amount or period.

Mayor GREER asked the Commission to examine the obligation of counties to pay off HOA liens before selling a property at a tax sale. Chairman NORRIS directed the Commission to study this further.

## **6. Next meetings**

- January 28 and 29, 2014

**Chairman NORRIS adjourned the meeting at 10:10 A.M.**