



226 Anne Dallas Dudley Blvd, Suite 508
 Nashville, Tennessee 37243-0760
 Phone: (615) 741-3012
 Fax: (615) 532-2443
 www.tn.gov/tacir

**MINUTES OF THE
 TENNESSEE ADVISORY COMMISSION
 ON INTERGOVERNMENTAL RELATIONS**

September 15, 2021

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building at 1:01 p.m., Chairman Ken Yager presiding.

Present 16	Absent 8
Mayor Rogers Anderson	Mayor Buddy Bradshaw
Mayor Tom Bickers	Mr. Calvin Clifton
Mayor Kevin D. Brooks	Representative John Crawford
Deputy Commissioner Paula Davis	County Clerk Mary Gaither
Mayor Terry Frank	County Executive Jeff Huffman
Representative Patsy Hazlewood	Mr. Jeff Peach
Mayor Jill Holland	Senator Katrina Robinson
Representative Harold Love Jr.	Mayor Larry Waters
Senator Jon Lundberg	
Mayor A. Keith McDonald	
Comptroller Jason Mumpower ¹	
Representative Antonio Parkinson	
Senator Bo Watson	
Representative Ryan Williams	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Brimm represented Jason Mumpower.

1. Call to Order and Approval of the Minutes

Chairman Ken YAGER called the meeting to order at 1:01 p.m. Before taking up the minutes, Chairman YAGER took out of order the first portion of tab 2, the reading of the resolution honoring the late TACIR Chairman Mike Carter.

Chairman YAGER said that Chairman Carter was a legislator whose “advice was always valuable, but it was undergirded by the care for the people.” He continued, saying that Chairman Carter “had a heart for the people.” Vice Chairman Kevin Brooks, Senator Bo Watson, and Representative Patsy Hazlewood, as well as Executive Director Cliff Lippard, joined Chairman YAGER in presenting the framed resolution to the late Chairman Carter’s wife, Representative Joan Carter, and their eldest son, Stephen Carter. Also attending was Chairman Carter’s longtime legislative assistant, Ms. Melinda Price.

Following the presentation of the resolution, Chairman YAGER requested and received approval of the June meeting minutes.

2. Commission and Staff Update

Executive Director Cliff LIPPARD took up the rest of tab 2, first informing the members that Assistant Commissioner Sammie Arnold rolled off TACIR at the end of August as he left his position with the Department of Economic and Community Development to begin a new position as chief of staff for Speaker of the House of Representatives Cameron Sexton.

Dr. LIPPARD next introduced three new TACIR research associates—Chris Belden, Presley Powers, and Michael Strickland—and noted that Research Manager Jennifer Barrie had completed a Graduate Certificate in Public Policy at Tennessee State University’s College of Public Service.

3. House Bill 366/Senate Bill 1604 (Right-Of-Way Dedications)—Panel

Mr. Bill TERRY, Senior Research Consultant, preceded his introduction of the panelists by disclosing to the Commission that he is a registered lobbyist with the Tennessee chapter of the American Planning Association (TAPA) and had told TAPA he could not represent them if the bill comes back up. Representative Ryan WILLIAMS asked him how he would be able to separate the research he does for the Commission from the fact that he is still a TAPA lobbyist and had lobbied against the bill. Mr. TERRY responded that he would not represent TAPA in any matter related to the bill. Executive Director Cliff LIPPARD said that Mr. Terry had been a Commission consultant for several years and had shown objectivity in his work. He added that there are other staff members working on the project as well. Representative WILLIAMS stated that he appreciated Mr. Terry disclosing his conflict of interest and looked forward to seeing his objectivity with regards to the study.

Mr. TERRY then introduced a panel of experts who represented different perspectives on the issue of right-of-way dedications. The panel included:

- Sandra KNIGHT, Bradley County highway superintendent, Tennessee County Highway Officials Association representative;
- Kevin RIGSBY, town planner, Town of Smyrna, Tennessee Municipal League representative;
- Benjamin MOORMAN, legislative chair, Tennessee Association of Professional Surveyors; and
- Charles SCHNEIDER, chief executive officer, Home Builders Association of Tennessee.

Ms. KNIGHT said that highway departments can work only on property officially dedicated and accepted by the county. If property owners dedicate extra right-of-way, the department can work on things such as ditches and driveway tiles. She said she thinks decisions about dedications should be made at the local level. Representative WILLIAMS asked whether all the rights-of-way were being utilized in Bradley County prior to five years ago for widening projects. Ms. KNIGHT said the ditches, driveway tiles, and people's access to public roads in the rights-of-way were utilized by the department but not all the rights-of-way were used for road widening.

Mr. RIGSBY gave a brief overview of the purpose, use and benefits of property dedications. He also presented the Tennessee Municipal League's three reasons for opposing SB 1604/HB 366. First, it would impair a local government's ability to fully exercise its subdivision regulation authority in a consistent and equitable manner. Second, the bill is based on the flawed premise that any right-of-way dedication required by a local government is a taking and violates the US Constitution. The US Supreme Court held in *Dolan v. City of Tigard* that when a requirement for a right-of-way dedication is in response to an identifiable impact in which a governmental entity has a legitimate public interest and the dedication provides a solution that is both related to and proportional to the anticipated impact, such dedications are constitutional. Third, it would have the effect of transferring from the property owner to the local taxpayers any costs associated with accommodating alterations to existing or planned streets that may be required to ensure the safety of the motoring public and pedestrians.

Representative WILLIAMS asked whether Smyrna typically gives abandoned streets or rights-of-way back if there are two adjoining property owners who want to close them. Mr. RIGSBY said they have given abandoned streets or rights-of-way to the property owners if the town has not utilized the property in many years. Representative WILLIAMS followed up asking whether this is a common practice across the state. Mr. RIGSBY said he did not know. Representative WILLIAMS said in his community they do charge property owners and the property owners must pay for an abandoned right-of-way or street.

In response to Representative WILLIAMS' question about whether a grandmother would have to dedicate property to Smyrna if she just wanted to deed her property to her three grandchildren, Mr. RIGSBY stated that she would have to dedicate property if it was going to be developed intensely. If she wanted to divide her 100-acre property among her three grandchildren, she would not have to dedicate property because the lots would be over five

acres and would not be a subdivision. Representative WILLIAMS asked whether the grandmother would have to dedicate right-of-way if her property was less than five acres and she wanted to divide it among her three grandchildren. Mr. RIGSBY said she would have to dedicate right-of-way in that case.

Representative WILLIAMS asked whether the use of the grandmother's land is different from that of the developer that must subdivide. Mr. RIGSBY responded that whether it's a 639-unit development or two one-acre lots divided off a farm, under state law, it is a subdivision. It must comply with the subdivision regulations. If the right-of-way is not adequate per the adopted major thoroughfare plan, they would have to dedicate right-of-way.

In response to Representative WILLIAMS' question about whether they would be more amenable to a bill like this if there was a requirement for the local municipality to build a road within a certain time period, Mr. RIGSBY replied no because the plan is a long-term plan; the road may be needed ten years from now but not today. One also must consider the city's budget.

Representative WILLIAMS asked what he should tell the grandmother who subdivides her property and must dedicate land for a right-of-way while her neighbor who doesn't subdivide her property is paid by the local government for her right-of-way. Mr. RIGSBY said that the grandmother subdivided her property which created value on her property. Representative WILLIAMS remarked that he did not think it was fair for the grandmother to have to dedicate a right-of-way while her neighbor got paid for her right-of-way.

In response to Mayor Tom BICKERS' question about what roads would be impacted by this legislation, Mr. RIGSBY answered that this legislation would not affect the ability of communities to require rights-of-way for new streets being developed. It would only affect the ability of local governments to require dedications of rights-of-way along existing roadways. Mayor BICKERS asked whether a city could require a developer to build improvements in the right-of-way. Mr. RIGSBY responded that you could require them to build improvements, but you could not require them to give you the right-of-way if this bill became law. Mayor BICKERS asked whether it would be wise if presented with the situation created by this bill to require the developer to go ahead and build the improvements which would impose greater expense on the developer on the front end. Mr. RIGSBY replied yes.

Executive Director LIPPARD read a statement from Mr. Calvin CLIFTON. Mr. CLIFTON wrote that "I have serious concerns regarding this legislation. While the dedicated right-of-way may not have been used to date for roadways widening or intersection improvement it is utilized constantly for the provision of stormwater drainage via surface ditches or underground piping. It is also the location for necessary utilities to serve the existing and future development; these include water, wastewater, natural gas, and electric utilities. It is important that these utilities be located within dedicated roadway for their practical operation and future maintenance and/or repairs. Additionally, the local government public works agency typically mows and maintains these rights-of-way at the expense of the taxpayers. The developer and/or property owners receive immediate benefit from the dedication of these rights-of-way as they receive

immediate maintenance of the shoulders, ditches, and related facilities located there not to mention the availability for future expansion.”

Mr. MOORMAN shared the concerns the Tennessee Association of Property Surveyors has about right-of-way dedications and gave an overview of the provisions of SB 1604/HB 366. Mayor BICKERS asked whether he had any basis to suggest that the revenue lost from dedicated property would be greater than the cost if the county or municipality had to purchase property. Mr. MOORMAN responded that it would be dependent on a lot of factors such as how much the property had appreciated over the years. Mayor BICKERS said in his city they approve two, three and four lot subdivisions regularly with no required dedication of a right-of-way. Mr. MOORMAN replied that in most of the jurisdictions he has worked in dedications are required.

In response to Mayor BICKERS’ question asking whether he was aware of court decisions where courts have indicated that dedications are a taking, Mr. MOORMAN said he was not aware of any specifically. Mayor BICKERS asked whether it was his position that requiring the developer to use a portion of the property for stormwater detention is a taking. Mr. MOORMAN responded no, he considers that to be a choice by the developer. There are other options such as underground detention and use of pervious pavers that do not require them to give up property for stormwater detention. Mayor BICKERS said he suspected that Mr. Moorman didn’t mean it in the literal sense when he used the word extortion to describe current practices but that when developers develop property any project costs are divided among the buyers of the developed property. Mr. MOORMAN responded that developers may get compensated but what about small farmers. Mayor BICKERS stated that in his community they approve small subdivisions of property among family members typically without requiring dedications. Mr. MOORMAN said that Mayor Bickers’ community was in the minority.

Mayor Keith MCDONALD asked whether he had documentation showing that most local governments require property to be dedicated when considering small divisions of family-owned property. He said in his experience most communities do not require dedications in the case of small divisions of family-owned property. Mr. MOORMAN stated he would welcome the opportunity to work with his professional associates to acquire that. He added that he would like to see the highway commissioners tell the Commission how many of them are purchasing rights-of-way for road improvements and how often they do that.

Mayor Jill HOLLAND said she is the mayor of a small town and that, on the few occasions they have had to compensate owners for easement dedications, the payment to them has not been minimal. The city had to hire a surveyor and appraiser and had to pay the property owner. It is money out of the taxpayers’ pockets. She said this is a local problem and each municipality can figure out what is best for them. Representative WILLIAMS remarked that the reason for the legislation is not to restrict local governments but to give guidance to local governments because we are taking people’s property without compensation.

Representative Harold LOVE Jr. said he had concerns about situations where landowners may not be aware of what’s going to happen to their property. He had a situation where the city

asked him to dedicate six feet of property or pay into a sidewalk fund to get a permit to build an addition to his house.

Mayor MCDONALD asked whether he considered money to be the only kind of compensation available. Mr. MOORMAN replied no, but he did not consider the right to subdivide property to be compensation. Mayor MCDONALD said they get value from the ability to develop land for a profit and get access to the city's infrastructure and services like roads, water and sewer. Mr. MOORMAN noted this legislation is primarily earmarked for small developments and divisions of family property because these are the people being hurt most by not being compensated. He said they had proposed limiting this legislation to small developments, but this proposal was rejected by opponents to the legislation.

Mayor MCDONALD said there had been situations where owners of smaller parcels had chosen not to sell to the developer and after property values went up, they decided to sell the property. The city had to buy the right-of-way and pay attorney's fees when the owners decided to take the city to court over the value of that right-of-way. In those cases, the owners caused the city to spend a lot of extra money and they would need to address that in any legislation. Mr. MOORMAN told him that there is no way to control for that on an individual level, but they will be marking on the property maps where the reservation line is so current and future property owners can be made aware the area is reserved for right-of-way purposes.

Mr. SCHNEIDER said that the Home Builders Association did not take a position on the bill because concessions are a part of doing business in the home building industry. He then gave a brief overview of right-of-way dedications and other land regulations. He ended by saying that you cannot look at any land use restriction in isolation. They all play a role in limiting the amount of land a builder can build on and this impacts the price of homes. Mayor MCDONALD asked how many counties or cities would allow a developer to come forward with a plan that would not lose any buildings by perhaps building on smaller lots. Mr. SCHNEIDER added that his point was that when you have state environmental regulations and zoning regulations that are not synched up, it can really take a lot of land out of production.

In response to Mayor Terry FRANK's question about whether anyone was tracking dedications at a state level, Mr. MOORMAN replied that he didn't know. Mr. SCHNEIDER remarked that if developers are required to dedicate property, they can often get concessions on other aspects of the development such as how far apart the homes must be. Private landowners who are not developers may not be aware that they could ask for these types of concessions.

Representative WILLIAMS asked how the Tennessee Department of Transportation obtains rights-of-way. Mr. MOORMAN said they purchase the property.

In response to Representative WILLIAMS' question about statewide data on what percentage of total lots are large multiunit developments, Mr. SCHNEIDER said he didn't have the total number but thought that most new homes were in subdivisions of less than 200 acres. Representative WILLIAMS stated that in Putnam County 88.1% of total lots were in subdivisions with three or less lots. Mr. SCHNEIDER said that is not unusual in counties with a

population of under 100,000 and in more populous counties there would be more large developments.

4. Public Chapter 503, Acts of 2021 (Childhood Obesity) – Speaker

Dr. Kevin VANZANT, Research Associate introduced Dr. Shari BARKIN, director of pediatric obesity research at the Vanderbilt Diabetes Center, who presented information about the negative effects childhood obesity has in Tennessee and possible policy responses. She said childhood obesity affects health, economics, and even national security and explained why it is important to intervene early with sufficient and sustained efforts. She opened with a chart showing the rising prevalence of obesity in the US since the 1960s. To explain this increase, she pointed to the environment in the US where we have easy access to cheap, low nutrient foods, as well as the increasingly sedentary lifestyles of young people.

Dr. BARKIN gave childhood obesity statistics for Tennessee including the 20.4% adolescent obesity rate, fourth worst among the 50 states. She said obesity is both a disease and a risk factor for other chronic diseases and that about 80% of obese adolescents remain obese into adulthood. Dr. BARKIN said these numbers are why it is so important to intervene early.

Dr. BARKIN said the national healthcare costs associated with childhood obesity are estimated at \$14 billion annually in direct health expenses. Adult obesity costs are between \$147-210 billion a year. In Tennessee, Dr. BARKIN said that in 2014, the cost of overall obesity was \$2.49 billion. She said obesity even affects national security—nearly 1 in 4 young adults are too heavy to serve in the military.

Dr. BARKIN said that low-quality food and lower activity levels change how a child's body functions and sets up individuals with childhood obesity for later chronic disease. She said this is a tough problem to fix because ultra-processed foods are cheaper and more available while being lower in nutrients. Dr. BARKIN also said it was important to understand how larger societal forces affect individual choices and behavior. She said there are five stages of childhood development with different effects of exposure to obesity during each one—pregnancy, infancy and toddlerhood, preschool, elementary, and adolescence.

Mayor Jill HOLLAND asked Dr. BARKIN what can be done without government officials being dictatorial, and what are incentives for parents to make healthier decisions for their families and children. Dr. BARKIN said it is important to understand what drives our processes and systems on this issue. She said the “default settings” in our environments are important and cited an experiment performed by the Disney Company as an example. The experiment involved changing the default food options and making the standard option healthier (such as fruit instead of fries), while still allowing individuals to change their order if they would like to. Dr. BARKIN said that this experiment showed that most people did not switch to the less healthy options.

Dr. BARKIN also said that, in her experience working with the parents of her patients, they are motivated to be healthier for their kids. She said the Tennessee Obesity Task Force worked with private companies, like Nissan, which changed policies for its employees to allow them to be more active, as an example of attempts to change people's defaults in everyday life.

Senator YARBRO asked Dr. BARKIN how she organizes the problem conceptually. Dr. BARKIN said she had organized her presentation around the different stages of childhood development so policymakers can think more about what are the policy levers that exist for each one. She said the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is not being fully utilized in Tennessee now. [Note: WIC is one of the nation's largest federal nutrition programs, serving approximately 6.3 million people, including about half of all infants born in the United States.] Augmenting utilization could be something policy makers could consider. Dr. BARKIN then highlighted that for preschool-age children the importance of getting 10 minutes of exercise or activity every hour and how that can help build muscle mass, which helps change metabolism and reduce chronic diseases later. She also explained the challenge of competing priorities within school systems but said we do have the policy option of making physical activity in schools more of a priority. For school-age students, she focused on increasing insurance coverage and encouraging more use of green spaces.

Vice Chairman Kevin BROOKS asked about specifics of Tennessee's ranking on childhood obesity. Dr. VANZANT said Tennessee's percentage of obese children from ages 10-17 is 20.4% compared to the national average of 15.5%.

Vice Chairman BROOKS asked about the problem of food deserts. Dr. BARKIN said food deserts (where you can't find any healthy food) and food swamps (where it is very easy to get unhealthy food) are both problems. She said that creating economic incentives that are good for both business and good for public health is clearly one of the tools in the toolkit of policy makers.

Representative Ryan WILLIAMS asked whether there are any states that are moving the needle on this issue and said the Tennessee General Assembly had previously considered removing the sales tax on unprocessed foods. Dr. BARKIN said it is the right approach to look at and compare Tennessee to what other states are doing. Charlotte, N.C. has made targeted efforts to make healthy food widely available, has created partnerships with private businesses within the city, and has dedicated more staff for its parks and recreation division than is the case currently in Tennessee.

Mayor Terry FRANK asked whether there are any studies that track the supplemental food programs with obesity rates. She said there are some areas that have both high obesity rates and high poverty rates and many of the supplemental food programs, as well as the school food programs, feature foods that are the cheapest and the easiest to transport and are hyper-processed. Mayor FRANK said that she doesn't want to limit choice away from these less healthy options, but asked Dr. BARKIN whether that is something policy makers may need to consider. Dr. BARKIN said that in her experience younger kids were often more open to trying new food options than adults. She said food-management skills in combination with access to healthy foods can make a big difference and that the Lancet report showed that WIC in preschool was one of the only successful interventions that has slowed down preschool obesity rates.

Mayor Tom BICKERS asked how the education system can be incentivized to focus on some of these important life skills, so we have a healthier population. Dr. BARKIN said learning how to

cook and be physically active are critical life skills that will improve your health and your economic earning potential. She also said it is important to decide what it is that we're measuring. For instance, instead of measuring body mass index, we could measure amounts of physical activity in schools to ensure that children receive at least the minimum needed for good health.

5. The Effect Of The Covid-19 Recession on Public Infrastructure Needs—Draft Staff Report for Review and Comment

Research Director Mark MCADOO presented the interim staff report on the effect of the COVID-19 recession on public infrastructure needs for review and comment. Dr. MCADOO said the Coronavirus Disease 2019 (COVID-19) beginning in early 2020 and the health response to the pandemic resulted in an economic recession. He explained that staff is conducting a two-part analysis with the interim report focusing on the effects of the Great Recession to establish a baseline for the next report focused on the recession caused by COVID-19.

Dr. MCADOO said because the COVID-19 pandemic is ongoing, it is uncertain whether or to what extent the pandemic will affect public infrastructure needs long-term, but that the Great Recession does not appear to have shaped trends of needs reported in TACIR's Public Infrastructure Needs Inventory. He said an analysis of public infrastructure inventory needs data collected during 2020 will be compared to the historical trends established by the analysis included in the interim staff report and that the results will be provided in a follow-up staff report, anticipated to be presented to the commission in September 2022.

Senator YARBRO asked whether the report was accounting for the temporary use of private facilities for COVID-19 testing. Dr. MCADOO responded that there were operational changes that were mentioned in the interim report, but that the report focused on public infrastructure needs primarily during the Great Recession from December 2007 to June 2009 and that the effects of the recession caused by COVID-19 on public infrastructure needs remain uncertain and will be examined in the next report.

Chairman Ken YAGER adjourned the meeting at 3:56 p.m.



226 Anne Dallas Dudley Blvd, Suite 508
 Nashville, Tennessee 37243-0760
 Phone: (615) 741-3012
 Fax: (615) 532-2443
 www.tn.gov/tacir

**MINUTES OF THE
 TENNESSEE ADVISORY COMMISSION
 ON INTERGOVERNMENTAL RELATIONS**

September 16, 2021

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building 8:35 a.m., Chairman Ken YAGER, presiding.

Present 14	Absent 10
Mayor Rogers Anderson	Mayor Buddy Bradshaw
Mayor Tom Bickers	Mr. Calvin Clifton
Mayor Kevin D. Brooks	Representative John Crawford
Deputy Commissioner Paula Davis	County Clerk Mary Gaither
Mayor Terry Frank	Representative Patsy Hazlewood
Mayor Jill Holland	County Executive Jeff Huffman
Senator Jon Lundberg	Mr. Jeff Peach
Representative Harold Love Jr.	Senator Katrina Robinson
Mayor A.Keith McDonald	Mayor Larry Waters
Comptroller Jason Mumpower ¹	Senator Bo Watson
Representative Antonio Parkinson	
Representative Ryan Williams	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Brimm for Jason Mumpower.

6. Comprehensive Litter Review—Panels

Research manager Jennifer BARRIE reminded Commission members that Mayor Kevin BROOKS, at the last commission meeting, requested TACIR conduct a comprehensive study of litter, and after a discussion in which it was clarified that the study was not to focus on a bottle deposit or on plastic bags, the Commission unanimously voted to add the study to the work program. Staff will present an update of the research at the January 2022 meeting, the draft report at the fall 2022 meeting, and the final report at the January 2023 meeting.

Ms. BARRIE introduced a panel of experts representing different perspectives on the issue. The panel included:

- Shawn BIBLE, transportation manager with the Tennessee Department of Transportation (TDOT) Highway Beautification Office;
- Rich FOGE, president of the Tennessee Malt Beverage Association;
- Missy MARSHALL, executive director of Keep Tennessee Beautiful;
- Janet BOSCARINO, founder and executive director of Clean Memphis;
- Mike BUTLER, chief executive officer of the Tennessee Wildlife Federation (TWF);
and
- Bill KETRON, mayor of Rutherford County.

Ms. BIBLE described the office's efforts to address litter in the state, including the state litter grant program and other programs, activities, and partnerships. Mayor BROOKS asked how the TDOT Beautification Office quantified the reported 43% reduction in litter. He said he has not seen a decrease in his area and that there has been an uptick in litter because of COVID. Ms. BIBLE said they hired a national firm to survey a statistically viable sample of roads and compared the results from the 2006 and 2016 studies to determine the reduction. Because of COVID, prisoner litter crews have not been able to go out as often, and there has been a big reduction in normal litter pick up. Chairman Ken YAGER asked whether the Beautification Office requires training for litter grant coordinators and said he has observed that the county litter programs are as strong as the coordinators are. Ms. BIBLE said the coordinators are required to attend annual training, and the office also does some training on how to conduct litter education because that can be more challenging for some counties than the pickup is.

In response to Mayor Tom BICKERS' question about whether it is TDOT's responsibility to clean up pieces of tires and vehicle debris on the interstates, Ms. BIBLE said it, and \$12 million of the \$19 million that TDOT spends on litter is contracted mowing and litter pickup. TDOT also contracts with some counties that take crews out to clean up along county roads. Mayor BICKERS asked whether TDOT could dedicate more funding to stewardship of existing roads rather than new construction. For example, overgrown rights-of-way foster more litter. Louisville does its own clean up, but if the burden shifts to municipalities, they will need more funding, and TDOT should pay them. Ms. BIBLE said she does not deal with overall TDOT budget priorities but agrees about rights-of-way and said TDOT is trying to address mowing.

Mayor BICKERS also said the Tennessee Wildlife Resources Agency (TWRA) access ramps in Louisville have a lot of litter, and he would like to know what can be done. Ms. BIBLE acts as a liaison and tries to work with other agencies and invited Mayor BICKERS to call her.

Mayor Jill HOLLAND said tires and plastic bags are problems in her community and asked how TDOT works with TDEC (Tennessee Department of Environment and Conservation) to deal with tires and what is being done about plastic bags. Ms. BIBLE responded that TDEC is responsible for disposal of tires, and because tires are a big problem, TDOT partners with TDEC and is involved with tire collection and storage. To address plastic bags, TDOT is focusing on reusable bags and did a statewide reusable bag giveaway and education about bags. Mayor BROOKS said he is looking for solutions to clean up the tires in his area, and TDEC has cited and put liens on a private property with illegally dumped tires. He will call Ms. BIBLE for help. Mayor HOLLAND asked about education for school children, and Ms. BIBLE said all litter grants fund education, almost all their county partners are doing school programs, and other partners, like Keep Tennessee Beautiful and Clean Memphis, also do school programs. TDOT is also starting to do litter education as part of driver's education.

In response to Mayor Terry FRANK'S question about what TDOT needs to do or is doing about enforcement, Ms. BIBLE said they want tickets written and enforced. Fines are an important tool, and judges need to support law enforcement. The TDOT Beautification Office is studying what other states are doing with incentives and grants for litter law enforcement programs. Because some people won't stop littering unless they think they will get a ticket, there needs to be messaging about consequences and enforcement.

Mr. FOGE explained how beer and beverage tax revenue funds the TDOT litter grant program and Keep Tennessee Beautiful and how a coalition of industry associations is working to address litter in the state. He said the state beer tax generates about \$17 million per year, and it funds the litter grant program. He said local governments receive \$134 million a year from the wholesale beer tax. Mayor MCDONALD commented that the \$134 million is not a lot of money. When the funds are divided among all the local agencies, it is not enough to do enforcement and handle litter in municipalities. Mr. FOGE said the wholesale beer tax goes directly to the local government where the beer is sold. For example, in 2019, the City of Bartlett directly received \$732,000, which goes to the city's general fund. Mayor BROOKS said Cleveland does not receive any litter grant money, although it does receive some beer tax money. He is a proponent of Tennessee's program, but said something systemically is not working—we are 47th in the nation on lack of recycling and litter. Some states have programs that are working. Mr. FOGE agrees and is working with an industry coalition that thinks the existing framework is good and would like to see additional resources to expand and build on what we have. Chairman YAGER suggested that the study needs to look at the litter laws and maybe tighten them up.

Ms. MARSHALL described how the organization's programs, affiliates, and partnerships address litter and how their goal is to inspire Tennesseans to change their behavior by focusing on education, engagement, and enforcement.

Ms. BOSCARINO described the organization's efforts in Memphis and Shelby County to address litter and dumping through education, engagement, and connections in schools and the community and its focus on a culture of sustainability and environmental stewardship. Mayor HOLLAND asked whether Tennessee has incentives for recycling companies to come to the state. Ms. BOSCARINO said she believes that TDEC and ECD (Department of Economic and Community Development) do have incentives for these types of "green" businesses and that companies have goals to reduce waste and want solutions. It is important that the state encourage circular economies with funding and economic development. Mayor BROOKS agreed that public-private partnerships are incredibly important and asked how connected the state is to the private sector. Ms. BOSCARINO said her job is to make connections and collaborate, and she is organizing an advisory council to get those people in a room to figure out the issues and opportunities.

Mr. BUTLER said litter is a gateway issue for conservation and discussed the coalition that TWF is organizing that relates to the promotion of a circular economy. Following Mr. BUTLER's presentation, Mayor MCDONALD asked what the Tennessee Wildlife Federation is doing to educate hunters and get them to pick up trash and be stewards. Mr. BUTLER said when it comes to prevention because the Federation's approach is to focus on policy, he points hunters to Keep Tennessee Beautiful cleanups and other cleanups.

Mayor KETRON requested that the TACIR study do a deep dive into the litter laws and tire disposal fees, including where the fee revenue is going and how it is being used. He responded to Mayor HOLLAND's question about whether fines are relevant to the amount of litter. He said the first offense is \$25, and it increases from there. The legislation needs teeth. Convenience centers being closed also contributes to dumping. Ms. MARSHALL clarified that the act of littering is illegal, and the fines are based on the amount (weight) of litter.

Mayor FRANK clarified that counties receive the tire fees directly now instead of through grants from the state. She said counties don't have resources to deal with solid waste and asked whether TDEC could provide more technical guidance to local governments. Ms. BOSCARINO said TDEC has a role to help local governments and does coordinate a materials marketplace. Mayor KETRON said legislation has not changed regarding how tire money is used, and the TACIR study should do a deep dive with TDEC about the tire fund. Dr. LIPPARD added that this study will revisit and update the previous TACIR study of illegal tire dumping.

Mayor MCDONALD requested contact information for the panelists. [Staff emailed the information to the Commission members after the meeting].

7. Public Chapter 585, Acts of 2021 (State Gold Depository) – Draft Report For Review and Comment

Research Associate Kevin VANZANT presented the draft report on Public Chapter 585, Acts of 2018, for review and comment. The Act directed the Commission to "study the feasibility of creating a state gold depository, including whether other states or jurisdictions have created one."

Dr. VANZANT said the cost to build a depository is high and, to make enough revenue from storage fees to cover costs, a depository would need about \$1 billion in deposits. Furthermore, for a state depository in Tennessee to reach enough in deposits to be viable, it would need deposits from both institutional investment funds and individual investors, but it seems rare for large investment funds like university endowments to invest in gold. Dr. VANZANT said that because no in-state institutional investment funds have said they will buy or store gold in Tennessee, and because Tennessee's sales tax makes buying and storing gold in Tennessee unattractive to both institutional investment funds and individuals, the draft report finds that there does not appear to be enough demand for a state gold depository to be viable.

Dr. VANZANT said Tennessee is one of only eight states that does not exempt any of the sales of precious metal coins and bullion and stakeholders say a sales tax exemption could make it more likely that Tennesseans would purchase precious metals from in-state dealers and would bring in more tourism dollars in Tennessee by attracting coin shows to the state. He also said that stakeholders point out that Tennessee does not apply the sales tax to other types of investments, like stocks and bonds. Dr. VANZANT said that for these reasons the draft report recommends that the General Assembly could consider a sales tax exemption for precious metal coins and bullion once it's clear that the exemption will not violate the American Rescue Plan Act, which includes a provision that requires states to give back federal funds used for "a reduction in the net tax revenue."

Mayor Terry FRANK asked why past efforts to pass a sales tax exemption had failed in Tennessee. Mayor Kevin BROOKS said that, in his experience serving in the Tennessee General Assembly, the argument against the sales tax exemption has had to do with the overall importance of the sales tax in Tennessee, as a state with no income tax, and the hesitancy of Tennessee legislators to erode the tax base by passing exemptions on such an important source of revenue for the state.

Mayor FRANK asked for details about the fiscal consequences for the state of passing the exemption. Dr. VANZANT said that the most recent legislation proposing an exemption on precious metals [Note: HB514/SB870 sponsored by Rep. Gant and Sen. Stevens] had a fiscal note that reported a \$360,800 decrease in revenue for the state and a \$117,800 decrease in revenue for local governments.

Mayor Keith MCDONALD asked about a change in the fiscal notes for legislation proposing a sales tax exemption on precious metals from the 109th General Assembly to the 112th General Assembly. [Note: Beginning in 2017 and the 110th General Assembly, Fiscal Review began using specific data on the number of precious metal dealers in Tennessee from a 2016 survey by the Industry Council for Tangible Assets (ICTA) as part of its calculations, resulting in lower estimates of the decreases in state and local sales tax revenue. Mayor BROOKS had also noted this change in the fiscal notes over time in his earlier comments.] Dr. VANZANT said that the change had to do with a new data source being used by the Fiscal Review Committee to calculate the cost of a sales tax exemption on precious metals to the state. Executive Director Cliff LIPPARD said that some other states target investments with their exemption, but the tradeoff can be that that type of targeting can present administrative challenges. Dr. VANZANT said that Indiana tries to exempt only the sales of precious metals that go into an

IRA account and that that state has reported to TACIR staff that that can be difficult to administer.

8. House Bill 1593/Senate Bill 1235 (State Contracting and African-American Owned Businesses)—Update

Research Manager Bob MOREO presented an update to the Commission of findings from staff's examination of Tennessee's procurement processes. The study, to determine whether disparities exist in the issuance of state contracts to businesses owned and operated by African Americans, was directed by House Bill 1593 and Senate Bill 1235. The bill directed the commission to study the effects of such disparities among the African-American business community and recommend actions to reduce any disparities going forward.

Mr. MOREO explained the meaning of disparities and the legal context in which disparity studies are necessary for governments seeking to implement race-based procurement initiatives. Historically, Tennessee has not pursued such initiatives, instead relying on race-neutral strategies to assist minority-owned businesses, and Mr. MOREO explained the relevant statutory history of these programs, including the 2003 creation of the Governor's Office of Diversity Business Enterprise (Go-DBE). He said the memo includes findings from a 2009 disparity study commissioned by the Go-DBE, which determined only 0.4% of state spending from 2003-2007 had gone to African-American owned suppliers and said that many of the recommendations from that 2009 report have been incorporated into the state's procurement policies to some extent.

Mr. MOREO explained how staff continues to work to gather comparable data needed to make direct comparisons to the statistics presented in the 2009 report and provided some Go-DBE and Census Bureau data that appear to show improvement with regards to the share of state dollars going to African-American owned businesses. The memo cautions, however, that increased spending alone doesn't determine whether the disparity between spending and availability has narrowed or been eliminated. Mr. MOREO said that staff continues to work with Go-DBE and procurement staff to get more data and will interview members of the African American business community.

Representative Harold LOVE Jr. asked about the factors that influence the disparity ratio for a given type of procurement and said the ratios in the 2009 report for all but the Other Services category were "grim." Mr. Moreo explained how the disparity ratio is calculated. Representative LOVE asked that the Commission's report include amounts the state spends in different business categories (e.g. construction, professional services).

Representative PARKINSON asked Mr. MOREO to explain what "availability" means in a disparity study. Mr. MOREO said the studies determine a relevant geographic market for each business category being studied and determine the percentage of firms owned by minorities within those markets and categories; these firms are available to bid on contracts for that particular item or service. Representative PARKINSON asked whether there are barriers to availability. Mr. MOREO said he hopes this research will help identify those barriers and help the state target its efforts where African American availability is underrepresented. Representative PARKINSON said the state should help develop the types of African American

businesses where availability is low, because when there is low availability the expected utilization remains low.

Deputy Commissioner Paula DAVIS asked whether staff had gathered information about best practices from other states. Mr. MOREO said yes, along with federal guidelines as well. Mayor Jill HOLLAND spoke of the importance of education and learning certain business skills but said that businesses need help understanding how to bid on government contracts and may not be aware of government assistance that's available.

Other Business

Following a determination that staff would survey members to determine the dates for the next meeting, Chairman Ken YAGER adjourned the meeting at 11:33 a.m.