

**Tennessee Advisory Commission on Intergovernmental Relations
Non-Governmental Panel on Annexation and Growth Policy in Tennessee
July 25, 2013**

**Oral Comments by Danny D. Sells, Consultant/Executive Director
Tennessee Association of Conservation Districts
And, Resident and Landowner in Gray, Washington County, Tennessee**

Mr. Chairman and members of the Commission, I am Danny Sells and, as a consultant, serve as the Executive Director of the Tennessee Association of Conservation Districts (TACD). I am also a landowner and resident of the Gray Community in Washington County. Being from Gray, I am active with the group known as the Citizens to Maintain Gray, dealing with annexation issues in our community.

First, on behalf of Tennessee's 95 Soil Conservation Districts, I appreciate the opportunity to offer our concerns about annexation and growth policy in Tennessee and how they impact our natural resources. I am also honored to relay the concerns of my neighbors in Gray on our experiences with annexation proposals since January of 2012. Along with the statements I have provided, I will discuss both perspectives today.

Soil Conservation Districts are local entities of state government charged with protecting and enhancing the soil resource of Tennessee. These 475 Supervisors volunteer their time to partner with state and federal agencies and to give local guidance to state and federal programs. We work mostly with private landowners but not exclusively and we work mostly with rural landowners but also provide significant assistance to cities and towns on natural resource management issues. As an example, TACD, along with local Districts, just completed 5 meetings across the state highlighting soil health approaches in land management. The information was presented to more than 1,200 landowners and professionals in 5 months.

The Tennessee Association of Conservation Districts has interest in growth and annexation policy in Tennessee because of the impact of that policy, both good and bad, on the state's natural resources. Our association adopted policy a couple years ago concerning the annexation of agricultural land and policies that can increase the loss of important productive working farms due to development without appropriate consideration. Tennessee has 26 million acres of land with 70-80% of that in private hands. Farmland takes up more than 10 million of those acres on about 77,000 farms. Farms are relatively small in Tennessee when compared with the rest of the country but, their production is nearly \$4.5 billion per year statewide.

So, when you impact growth and land use policy in Tennessee, you have a high likelihood of impacting a farmland owner. Over the last 2 or 3 ag census publications, we have also seen the number of farmers in Tennessee making their primary income from the farm dropping below

50%. This not only makes the farm industry less stable, it gives that farmer a fallback for when taxes get too high or land use policy too onerous to just say, "I give up", and we most often see that land go to non-agricultural use. We are concerned because we keep hearing that agriculture and ag related industry provided the largest number of jobs in the state. And tourism, which here depends on open space and a green Tennessee, is cited as the number two job producer. Growth and annexation policy can change that, and not necessarily for the better. As a farmer, I may lose a crop to weather, pest or other problem but for certain I will be back and give it another try next year. But, when that productive agricultural land becomes a mall, a parking lot or a subdivision it certainly will not be back in production. No matter how much we need that food and fiber production in the future.

We also believe it is important to look at water and how we change that natural function when we develop open land or forested land. We may not think that important this year but we will have another drought and it likely will be deeper and longer than the last. Whether for food production or for the city user, we have to pay attention to those areas that allow for needed recharge. Tennessee is also the most biologically diverse inland state in the nation with more species of flora and fauna than any other, and more than many costal states. We need to consider this miraculous feature because it adds to our uniqueness and helps to make this the "greenest state in the land of the free".

We ask TACIR, and ultimately the State Legislature, to look at these issues in the total context of the needs of this state and its residents. To look at the property rights we have as individuals in the ownership of private land. We ask you to realize that the annexation of active agricultural land, though normally not limiting that use, forces the change in that use of this important land. With high investment and low return, the increase in taxes alone causes the premature development of this land to non-agricultural use.

We ask that strong consideration be given to the natural resources of the state and what impact development, good or bad, will have on those resources. We believe any policy has to include good planning because from good planning comes good management. In all the reading we do about this issue in Tennessee, from the statute to the many reports and guides that have been published, the main point is the importance of municipal growth and development. Well, those of us in rural Tennessee too, love to go to town for it is important to the richness of life and to acquire the products we wish to use. But, there is a lot of Tennessee that is rural, equally important for many reasons, some of which I have mentioned here. The issue you have been charged to review has got to respect rural and urban equally, urban growth and agriculture equally, the rights of the individual and the needs of the city equally, the present and the future equally.

I would now like to make a few comments about our experience in Gray. In the statement I presented, I talked about our community as it led up to a significant change in January of 2012.

In the interest of time, I'll let you read the statement but note the change was the use of city initiated annexation from years of only using annexation by landowner request.

Our shock was the size of the first annexation which included substantial agricultural land. Additionally, our realization was that no one was willing to answer legitimate questions or to provide a reasonable mechanism where we might get answers. In reality, the refusal to talk to the people that owned the land they were after. Some changes were made but in about 4 months, 100 acres of our community were consumed. But, even before the 30 day waiting period was up, letters went out for another section of Gray to be annexed. Again, very few answers came except it was because they could. But this time, in the public hearing before the City Commission, we were able to point out several discrepancies and it was rather obvious the elected officials were quite unfamiliar with the area, reasons for annexation, why similar properties were included in the first but not the second and where the roads were even located. This created division on the Commission and the annexation proposal failed on a tie vote at second reading. This is where things are left today.

But this experience helped us better understand the current law, it's lack of consideration for the rights of landowners and the fact that even though it did end earlier annexation wars, it has today become just bad law that doesn't protect the citizens from those with more resources or our communities from being overrun. I would like to highlight several changes, or different approaches, on revisions to this law or on the construction of new growth policy for Tennessee.

First, the speed with which this can happen under current law. You are a private homeowner trying to do battle with a professional planning staff with a 14 day notice. The reality is, if the city hits all the marks, you can be annexed in to the city, including the 30 day waiting period after final approval, in a little more than 90 days. It took way more than 90 days to pass the law that directed this review. There is a real need to be more respectful of the individuals that make up our communities and their desire to know what is impacting their most important family asset—their home. We propose that any annexation proposal require a 180 day notice before the City Commission begins consideration.

Second, our cities and counties are changing much more rapidly than when this law was enacted in 1998. And, the growth plans that began this process have little relation to needs today or the annexations proposed today. We feel the County Coordinating Committee, or a Subcommittee, should remain in place and the growth plan be revisited every 4 years.

Third, there is no oversight by any entity or agency on the application of this law. And, any interpretation of the law by a municipality goes unchallenged because there is no one to do so, except, if a land owner, impacted by that interpretation, has the ability to pay for a court challenge. Even for something as simple as the requirement to publish a map and they fail to do so. This is a burden too heavy to be borne by a single citizen. Therefore, in any revised or future

annexation statute, there should be an agency or entity charged with ensuring the stature is carried out as intended.

Forth, informational meetings and public hearings, as currently conducted, do not seem to answer questions or bring useful information to the public impacted by annexation proposals. These activities should help the public understand, even if they don't agree, and respect their view whether for or against an annexation proposal. We propose a series of three public hearings/informational meetings that are better directed under the stature and not a part of a regular Commission meeting.

Fifth, strip annexations may be necessary but should require an additional level of approval to ensure their proper use. The oversight entity should review strip annexation proposals by cities for purpose and balanced against the lack of annexation opportunities taken on tracts more contiguous to the city boundary.

Sixth, agricultural land should be exempt from annexation, even if situated inside the Urban Growth Boundary, as long as it is being used for agricultural purposes and until the land use changes or is sold for a purpose other than agricultural production.

Seventh, we strongly feel any change in the annexation statute should reinstate the ability of a landowner's legal challenge to be heard by a jury, unless both parties agree to a streamlined process.

Eighth, we feel any change in the annexation statute should include a requirement to study and revise the tax sharing arrangements between the city and county to assess the impact of annexation on the funding of county services and resulting impact on county residents.

Ninth, and last, annexation approved by a referendum of the property owners is certainly a change from the history of our approach in Tennessee and we have looked seriously at both sides of the issue. After the discussions in the legislative session this year and a review of the laws in other states, we have concluded Tennessee should adopt the requirement that annexation be by referendum, with very few exceptions. We feel this is the only approach that will fully respect the rights of property owners and, we believe, this will result in much better growth planning because those landowners will have to agree with the city's plan and proposal.

We realize that if the referendum approach is taken, it would eliminate some of the items mentioned but wanted to discuss each one as a part of our experience.

Again, I appreciate the opportunity to offer our thoughts on these issues today and look forward to any questions you may have.

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Annexation Law, Agricultural Land and Open Space in Tennessee: Conflict or Partnership?

Tennessee Advisory Commission on Intergovernmental Relations (TACIR) Non-Governmental Panel, July 25, 2013

**Comments by the Tennessee Association of Conservation Districts (TACD)
Danny D. Sells, Consultant/Executive Director**

“Man Argues...Nature Acts”

Voltaire

The Tennessee Association of Conservation Districts is the association for Tennessee's 95 Soil Conservation Districts. TACD is a state chartered non-profit with the mission of: “Helping Conservation Districts conserve and enhance the natural resources of Tennessee through education, leadership and advocacy”. TACD will celebrate our 70th year at our annual convention in Nashville in February, 2014.

Tennessee's Soil Conservation Districts are local entities of state government established under TCA 43-14-201, known as the Soil Conservation Districts Law, and are guided by the State Soils Committee established under that same law. Under that law and within the District, Soil Conservation Districts have the power to conduct surveys, investigations and research concerning soil erosion and other natural resource issues. They have the power to complete and support demonstration projects and carry out prevention activities and to enter into agreements with landowners and with the Department of Agriculture and other agencies. They may own property, real or personal, and may dispose of that property.

These are a few of the powers set out in the law but one additional item that we feel is most beneficial to Tennessee's natural resources is the ability to develop comprehensive plans for the conservation of soil resource and plans for the control and prevention of soil erosion. These plans can be comprehensive but are also on individually owned tracts and provide education and management opportunities about the protection of natural resources for future generations. These powers center around soil but the more the science is developed and the soil resource is understood, the more we realize the myriad of human activity and land use that impacts this most critical of the resources we use.

Our five volunteer District Supervisors, each a landowner and resident of that District have been assisted in this work by the Soil Conservation Service, now Natural Resources Conservation Service, of the United States Department of Agriculture. They provide the technical assistance, technical guidelines, training and program support for carrying out these activities. By law, the federal partner cannot provide this assistance except through the District. We are also aided by the Tennessee Department of Agriculture, Water Resources Division,

including some financial support, some staff support and the state cost-share program known as the Agricultural Resources Conservation Fund. I should also mention the state statute allows the individual counties to provide financial assistance to the District and a great number do so. Most of that support is in helping to provide District staff that assists the federal and state partners in carrying out our joint work. I might add here that the 1101 Act of 1998 called for a Soil Conservation District representative to be a member of the County Coordinating Committee to develop the initial draft of the growth plan.

I want to make it clear that the Tennessee Association of Conservation Districts is not against appropriate development or growth of our communities. Over our 70 years, we have certainly seen many changes in our state and in our communities. I have been involved in the conservation movement through my local Soil Conservation District, statewide through TACD and federally through work with SCS, now NRCS, since the late 1970's, so I have seen many changes here and elsewhere. Additionally, I, and also our TACD leadership, saw the annexation wars of the early 1990's and we were glad to see those settle down to the benefit of our local communities. We too want our families to grow and prosper here, at home, if at all possible. But these changes have brought pressure on our resources and concern about what the future may hold.

After several years of discussion, our association adopted policy in early 2012 raising our concern about annexation and its impact on rural agricultural land and open space in Tennessee. And, if it is true what we have heard said many times that the number one job producer in Tennessee is agriculture and agriculture related products and, the number two job producer for Tennessee is tourism, which is largely based on open space and a green Tennessee, then policies that continue to develop these lands without ample thought and consideration will eventually have a major impact on the character of our state.

I am not an economist or trained as a natural resource scientist so I am not going to quote studies or highlight statistics but hopefully mention a few things that should impact us as policymakers. I have mentioned jobs but I think we should look at a few issues from a layman's point of view. There are more than 26 million acres of land in Tennessee and it is indicated 75-80% is privately owned land. According to USDA's National Agricultural Statistics Service, Tennessee has more than 10 million acres of land in farms making up approximately 77,000 farms. The average farm is 140 acres with the average land value at \$3,650 per acre. Nationally, Tennessee ranks 8th in the number of farms per state, 27th in land in farms and 44th on the size of farms. Meaning our farms are on the small side with a large number of farmland owners. It should also be noted the value of agricultural production in Tennessee is nearly \$4.5 billion annually. All these are based on 2011 statistics.

So, when you impact land in Tennessee you are very likely impacting a landowner in Tennessee. That farm land owner has invested, on average, a half a million dollars in land and likely half again that much in equipment and other support or upkeep of that operation. These

landowners have more invested than likely 90% of us in our home and work. Their annual expenditures and production income rolls over 6, 7, maybe 8 times in the local community adding value to the economic engine of Tennessee. It should also be noted that over the last decade or so, we have seen the number of farm operators deriving their main income from the farm drop below 50% meaning that now most farms are not solely dependent on farm income, which is both good and bad. Good in that it increases the amount of money available to fuel the economy but bad in that it likely makes the farm industry less stable. So, will an incorrect approach to land policy make them consider just giving up and what is the long term impact of that?

It is hard to look at land policy without considering water. That may seem difficult in a year that is near or over normal rainfall but our responsibility is to look over the long term. There will be another drought cycle and it seems each one is a little deeper and longer. We will again see neighboring states consider tapping into our state's water and, with the rapid growth in population continuing and projected to grow for some time in the South; the water wars of the west are continuing to creep east. Whether on the farm or in the city, we have to better manage this most important resource. Impervious surfaces, mismanaged agricultural land, low cost development over low impact development and the policies that drive us down the wrong road exacerbate the problem. We are beginning to see in agricultural land management that maybe it is not just a soil erosion problem but an infiltration problem. We are seeing more and more what a critical role our forested land plays in recharging our aquifers and, along with healthy soil, purify the contaminants we humans have added to the ecosystem. It isn't an either/or proposition but a management issue that good resource, growth, development and annexation policy can help us understand the systems in which we live whether operating a farm or planning a development or just guiding our state toward an even better future.

Tennessee is the most biologically diverse inland state in the nation with more species of flora and fauna than any other inland state, and more than many of the coastal states. We have critters and plants here at home that exist nowhere else in the world. This is part of our uniqueness, part of our attraction and certainly why Davy Crockett called Tennessee, "the Greenest state in the land of the free". And, with the expected growth here and around the world, we will need to double our production of food and fiber over the next 50 or so years. If we manage our resources correctly, Tennessee can be a part of that important need and participate in the financial opportunities that may provide. As a farmer, I may lose a crop to weather, or pests, or to some other calamity out of my control but I will be back next year and I will give it another try. However, we need recognize in these decisions that if good agricultural land becomes an industrial site, a mall, a road or a subdivision it is lost to the production of food and fiber forever and can never participate in that need, be it for production or financial gain.

Land Use Planning is a tough nut to crack because there are winners and losers in those decisions. However, good policy on how we look at growth and development, how we respect each other's investments and the consideration of needs that go well beyond the dollar earned or

dollar lost, along with reasonable oversight, can take us to a future that is needed and not just desired.

We ask TACIR, and ultimately the State Legislature, to look at these issues in the total context of the needs of this state and its residents. To look at the property rights we have as individuals in the ownership of private land. We ask you to realize that the annexation of active agricultural land, though normally not limiting that use, forces the change in the use of this important land to another activity. With high investment and low and risky return, the increase in taxes alone causes the premature development of this land to non-agricultural use . So, for those of us that own this land, in reality it becomes a taking to us and many times a poor decision for the future of us all.

We ask that strong consideration be given to the natural resources of the state and what impact development, good or bad, will have on those resources. We believe any policy has to include good planning for that is what soil conservation and Soil Conservation Districts are all about. From good planning comes good management and this must be the goal on all uses of our finite land resource. In all the reading we do about this issue in Tennessee from the statute to the many reports and guides that have been published, the main point is the importance of municipal growth and development. Well, those of us in rural Tennessee too love to go to town for it is important to the richness of life we too desire and in acquiring the products we wish to use. But, there is a lot of Tennessee that is rural, equally important for many reasons, some of which I have mentioned here. The issue you have been charged to review has got to respect rural and urban equally, urban growth and agriculture equally, the rights of the individual and the needs of the city equally, the present and the future equally. We do not want to argue...but to act in the interest of, and with respect for, all Tennesseans.

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Annexation Issues in Washington County, Johnson City and the Gray Community

Presented by Danny D. Sells, resident and landowner in Gray

Tennessee Advisory Commission on Intergovernmental Relations (TACIR) Non-Governmental Panel, July 25, 2013

Annexation became an issue, or a threat, to the Gray Community, known to many of us born and raised here as Gray Station, when a manufacturing facility located here and a major highway between Johnson City and Kingsport came through the community. This highway is now I-26 and intersects I-81 just north of Gray. In the late 1980's and early 1990's it was just a question of whether Johnson City or Kingsport would get here first. Both cities used strip annexation along I-26 (it was Highway 137 back then) with Kingsport stopping at the Sullivan/Washington County line and Johnson City annexing to that same county line. Along the interstate, Gray is about 4 or 5 miles from each city's downtown area. Other than this strip annexation, the annexation by Johnson City in Gray was mostly by property owner request and therefore not of serious concern locally.

Prior to the strip annexation the Gray Community did discuss incorporation of the Gray Station area but there was not sufficient interest for that to happen. This was likely the lost opportunity to avoid the current issue but eventually with the strip annexation splitting the community it would have meant an East Gray and a West Gray. As the area around the Gray exit off the major highway began to grow, additional annexations happened and then with construction of a new road to connect to Tri-City Airport, which made an alternative route to the airport from I-26, we saw more traffic and activity in our community. However, Johnson City continued with the approach of annexation by request and did not force annexation on those unwilling.

With that very brief history, I want to discuss the issue over the last couple years and will then list several issues of concern we hope this Commission and the Legislature will address concerning the future of annexation law in Tennessee.

The situation changed drastically with a letter many of us received dated January 25, 2012. I personally received the letter because I bordered the proposed area for annexation. This letter announced a two hour informational session on February 9th (15 days' notice) and hearing before the Johnson City Planning Commission on February 14th (5 days following the informational meeting). This letter also included a map which roughly showed the areas to be annexed. A good number of the residents of the community attended the meeting which was just

a mix and mingle type meeting and no formal question and answer session. I attended and ask a question relating to the impact on agriculture in the annexed areas of three different city officials, a planning staff member, a Department head and a police leadership official in attendance. I got three different answers to the same question.

This annexation proposal included more than 307 acres of which 215, or 70 per cent, was agriculture land being used for agriculture production. It included about 90 homes and about 160 residents. The city estimated 22 school age children but we could only identify 5 or 6. Even though there may have been a couple business owners with some interest, we could not identify anyone that had requested the annexation nor did we ever get any consistent response from Johnson City as to why the annexation was being proposed or why they were now doing city initiated annexations instead of by request. Naturally, the agricultural land being included brought many questions but again very few answers.

The Planning Commission hearing was held and many of us provided comments with little or no response. A couple weeks later the City Commission did take it up on first reading and passed it on to second reading and a hearing. The community was pretty well organized at this time as the Citizens to Maintain Gray and voiced their concerns in peaceful demonstrations before the City Commission meeting. Many of us again provided comments with little or no response but the Commissioners did have considerable discussion about the agricultural land. At this point they delayed consideration of what was called the Suncrest Annexation for about a month. When it came back to the Commission they voted to pass it on second reading and directed the planning staff to remove most of the agricultural land and present the revision for third reading. The third reading happened on May 3, 2012. The agricultural land was removed, no consideration was given to the other landowners, many elderly and on fixed incomes, most got a minor reduction in sewer rates, forced to pay for trash pickup, got a few street lights and come the end of this year, will begin paying city taxes on top of their county taxes. A win on the farm land, many told us, but an overall depressing event for the Gray community. So, on June 3rd, nearly 100 acres of our community became a part of Johnson City.

Unfortunately, it did not stop there. On May 25, 2012, letters went out on a proposed annexation on the east side of Gray called the Bobby Hicks Highway/Airport Road Annexation. The previous annexation was on the west side of I-26. This letter announced consideration of this annexation proposal at the Johnson City Regional Planning Commission meeting on June 12th. No informational meeting was proposed. The Planning Commission meeting was held and many of us did offer comments and pose questions since this area is less developed than the previous annexed area in Gray. Little response was given and we were pretty much directly told, from the dais, that they knew much more than we did and their approach was best for us. Needless to say many of our residents were quite upset but we were able to keep things civil. The Planning Commission approved the proposal and moved it on to the City Commission.

The Johnson City Commission did hear on first reading the Bobby Hicks Highway/Airport Road Annexation on May 21, 2012, and passed it on to second reading. Our community did have a large presence at the meeting and had very clearly let the Commission know of our lack of support for this proposal. The second reading did happen at the City Commission meeting on July 5, 2012, and several of us did speak during the public hearing on this proposal. We pointed out several inconsistencies in this proposal and expressed our appreciation that agricultural land was not included. They had included condominiums in the previous annexation but did not include similar ones in this proposal, they had included a house well off the road and part of a farm that just happened to be surveyed separate from the farm, the Commissioners clearly did not know the area when referring to roads and attempting to answer our questions, they had included business property on one side of the road but not business property on the other and, when presented with their own map showing several vacant parcels between the lots proposed for annexation, it was difficult for them to give a credible response as to why this was necessary. When they voted, one Commissioner, a bank board member, abstained because a branch of that bank was included in the proposal. Thus, the proposal failed in a 2 to 2 tie vote. This is where things are today.

Again, with this brief discussion of our experience since January of 2012, and there is a great deal more detail as you would expect, I want to share what we have learned through this process about the 1101 Act and how it is being applied in our community of Gray. I will go through them, not necessarily in order of importance, and will in each one explain how we might propose the issue could be improved or changed to better respect the citizens and property owners of Tennessee.

1. The first thing to mention is the speed at which these things can happen under the 1101 Act. The 14 day requirement was added after 1998 but believe me, in our case it took two weeks for the shock to wear off. Most of our cities have planning staff, full time, and they do how this is done. Pair that with an unsuspecting private citizen, trying to earn a living and take care of a family and then trying to battle a professional staff. Many of us had to make major schedule shifts to attend some of these meetings and yes, at a cost to us personally. Reality, if the city hits all their marks, this can be over, including the 30 days to consider challenging it, in a little over 90 days. This impacting for many of us the largest and most important possession our family treasures, our home.

Any new legislation, if municipal initiated annexations remain, should require a minimum of a 180 day notice prior to the City Commission beginning its consideration. There should be a minimum of 60 days allowed before the Planning Commission hears the proposal.

2. The 1101 Act began as a 20 year bill and may remain that way. However, we have got to consider our communities, cities and counties are changing much more rapidly than 20 years ago. Urban Growth Boundaries, Planned Growth Areas and Rural Areas change and shift as we grow and develop. And, as we look at new opportunities or improve our planning process. Even our residents are much more mobile than 20 years ago and our planning must reflect our community residents.

We would propose the County Coordinating Committee, or a subset that appropriately reflects the county and land ownership in the county, should reconvene every 4 years to reassess the growth plan.

3. There must be an oversight entity, within state government, to monitor any future annexation and growth law in Tennessee. In our experience many things came up but one I brought to the attention of Johnson City was the requirement to publish a map in the paper along with the proposed annexation notice of consideration. There was puzzlement at first but the staff did realize it was a requirement and have, fairly consistently, been publishing a map. But, I did question where I would go if they had not. I asked all the way up to the state level and the only relief the law gives is to take it to court. And, just on a simple matter of failing to follow the requirements as set out in the law. That is a burden too onerous to place on the back of the citizenry. Additionally, if there is no oversight, any interpretation of the law a city makes, or county for that matter, cannot be challenged except in court. Given the burden of the cost to bring legal action, this is just mischief looking for a place to happen and, allowed by the law.

This law, and any future annexation and growth policy, must be directed to the appropriate state agency for oversight and consistency to ensure it does not allow for the municipalities to use their interpretation of the law to inappropriately subvert the rights of individual citizens or landowners.

4. Unfortunately, informational meetings or public hearings at the commission meeting are a bit of a useless exercise. They are more like listening sessions with no report at the end. There is not a discussion and usually, given the short timeframe of both the notice of intent and the allowed time for the hearing, only an irate statement made by a private landowner. This process doesn't bring understanding or answer any questions. We must make this a step that improves

the process, brings understanding, if not agreement, and one that offers respect to the private property owner's point of view.

We would propose a series of three public hearings / informational meetings, separate from Commission meetings that are of a format that does answer questions to the whole group and explains the proposed action for the benefit of the city and the residents proposed to be annexed.

5. Even though it may be necessary in some cases, strip annexation does also disrupt communities and uses publically owned right-of-ways to allow a city to force annexation on a potentially unwilling community or landowner and, with a right-of-way that that land owner may have helped pay for through their taxes; local, state or federal. We feel there should be a higher requirement set for a strip annexation proposal.

Strip annexation proposals should be reviewed by an oversight entity with a standard set for the reason and purpose for the strip annexation including a close look at a lack of initiated proposals for annexation more contagious to the existing city boundary.

6. Agricultural land is very important to our communities, our state and the nation. Agricultural land that is in production should never be negatively impacted just because it can be developed or is contiguous to the city boundary, even if it is within the Urban Growth Boundary. In most cases, farmland that is annexed is forced into a land use change from that action and usually causes that land to be lost to agricultural production forever.

Agricultural land should be exempted from annexation until there is a change in land use triggered by a request for a non-agricultural zoning designation or if sold for purposes other than active agricultural production.

7. Any land owner should have the opportunity to have their grievance heard before a jury of their peers. This is a basic right but the law should allow for the option of a speedier resolution if agreed to by both parties. Current law pushes this too far toward the advantage of the city and we feel justice has to be more balanced.

Any revision of the current 1101 Act, or any new law governing annexation or growth, should allow for the option of a private land owner to bring their complaint before a jury, if desired.

8. Many parts of the 1101 Act, many of the reviews and interpretations of the act and many of the guides from the Municipal Technical Advisory Service and others go to great length to spell out the importance of making it possible for cities to grow and develop. I'm not going to directly challenge that, even though I have some reservations, but, I will say that support for and the natural development of our rural areas is equally important. The majority of our land in Tennessee is outside the city limits, a great number of our residents live outside the city, many of our children go to school in the county and not in the city, our roads in the county are as important for commerce as those in the city and, the myriad of other services our counties provide are equally important to us. When cities are encouraged to just "consume" territory as a means of growth, instead of looking within to see how growth can also occur through development within, it seriously begins to inhibit the ability of our counties to grow their tax base. When land that may be developed in the future is annexed wholesale into the city, the county has to look elsewhere to meet the service needs of county residents. When a city proposes to annex in a fashion that limits the number of school age children or annexing around a county school, it places an additional strain on county financial resources. When the law requires an unequal use of local use taxes collected or a contribution, unearned and less fettered, when the county raised funds to build or repair schools, it puts a greater burden on the county taxpayer. And yes, it will eventually cause that burden to cross that boundary and impact the city landowner as well. At this point in this law, we have a serious need to take a look at how the current system is working, or not working. Things were quite different at the late 1990's and either through this policy, general tax policy or education policy, we need an equitable approach that reflects the needs of the entire county and its residents.

We propose any changes to this law, or any new law on growth and annexation, require a review of how the current tax sharing works and how it is impacted by annexation of land likely to be developed within the county, if not annexed.

9. The issue of how cities want to grow and expand and how they view their county cousins is often an issue of some contention. The issue on an individual's personal property rights and how severely that is impacted for the greater good is another tough issue. And you, as legislators, or as locally elected officials are charged with splitting that hair. Unfortunately, the

views of both sides on annexation are on a parallel track that will likely never naturally come together. We certainly can make the situation worse but hope we look for a way that is better. We took some steps in 1998 that stopped the wars and certainly made it better than it was. But this is not 1998 and another step needs to be taken.

I have to admit that since my beginning effort to understand Tennessee's annexation law when this all started in Gray in early 2012, I have had mixed feeling about a referendum requirement. Mainly because of trying to understand how annexation in Tennessee had worked over history. I did begin to learn how other states deal with the issue and try to protect growth while respecting the rights of private property owners. And, over the course of this year, I have listened to many discussions and pontifications on annexations in this Plaza and the two chambers of the Capitol Building. I heard predictions of how even this moratorium would kill development wholesale across Tennessee. And, I heard eloquent and thoughtful statements from Senator Watson and Representative Carter, the sponsors of the current law that directs this review. And yes, I listened to an equally eloquent and thoughtful statement from Senator Norris, Chairman of this Commission, on the need to review the 1101 Act and make corrections if needed to meet our challenges coming out of this economic slump.

Neither I, nor my neighbors and family in Gray, are against growth or development. We aren't against Johnson City or Kingsport. I was born in Kingsport and go there often. Many of our memories are of times in Johnson City and we weekly go there to eat and shop. I believe it was Mr. Schumpert in your last meeting that mentioned the attempt to consolidate the schools in Knox County and it failed. And then after formal meetings, people were appropriately heard and talked to, their questions answered and after that the effort succeeded by a healthy margin. That is most of what we want, respect for who we are and what we own. If we work together and talk together we will gain understanding and together construct a plan that betters us all as a real community. Unfortunately, that isn't happening now. Some cities hide behind the law and use it to say what they are doing is legal. They will even say the law limits what they can do instead of realizing, or admitting, the law sets a minimum standard and not a maximum standard.

After much discussion and review, we have come to the conclusion that there must be a referendum that returns the property rights to the citizen. But, a referendum that is constructed in a way that serves us all and provides the vehicle to talk and gain understanding about the future of our communities. This referendum will likely necessitate the city looks at a larger area in an annexation because of the cost and effort to gain its approval at the polls. But, I strongly believe this type process will have the added benefit of providing community planning that is much improved because it isn't just simply meeting a requirement of the law but must win the approval of those that own the land.

We propose that a referendum be required for future annexations with few exceptions. We further propose this be done with an additional requirement that current growth plans be updated to current needs and approached in a manner that will make them useful under this new referendum requirement and not done just minimally to meet the need of a legal requirement. This would require the reinstatement of the local coordinating committee and add the additional requirement that this committee reflects the land use and ownership of the entire county proportionally.

We understand this proposal could eliminate the need for some of the previously listed items and likely cause the rewrite of the current law, including a new approach to the current growth plans. But, that is a step that needs to be taken and new growth plans can easily be built on current plans and improved as mentioned. We have seen annexation proposals that seem to have no relation to the approved growth plan and this is an opportunity to require the two be appropriately tied together in future annexation proposals.

I appreciate the opportunity, and am humbled, to offer these thoughts on the growth of our communities and their possible annexation, on behalf of my neighbors, friends and fellow land owners in Gray. I look forward to continuing to provide information and assistance to the TACIR staff and this Commission and, look forward to working with the Legislature next year in adopting appropriate and needed changes to annexation and growth statutes in Tennessee.

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