



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**

**December 1, 2021**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building at 1:03 p.m., Chairman Ken Yager presiding.

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

<sup>1</sup> Dana Brimm represented Jason Mumpower.

## **1. Call to Order and Approval of the Minutes**

Chairman Ken YAGER called the meeting to order at 1:03 p.m. Chairman YAGER then requested and received approval of the September 2021 meeting minutes.

## **2. Commission and Staff Update**

Executive Director Cliff LIPPARD provided the members an update on recent administrative and legislative actions concerning two issues related to the Commission's work, the governor's proposed reforms to education funding and the Basic Education Program and the Joint Subcommittee of Government Operations' vote sunset the Local Government Planning Advisory Committee. Dr. LIPPARD next acknowledged the achievements of TACIR Research Manager Michael Mount, who had recently completed the TACIR Learning Pyramid and had graduated from the Tennessee Government Management Institute.

## **3. Public Chapter 585, Acts of 2021 (State Gold Depository)—Final Report For Approval**

Research Manager Michael MOUNT presented the final report on the feasibility of a gold depository in Tennessee for the Commission's approval. The report was required by Public Chapter 585, Acts of 2021, which directed the commission to study "the feasibility of creating a state gold depository, including whether other states or jurisdictions have created one."

Mr. MOUNT said, since the draft report was presented at the last meeting, staff had added information regarding the fiscal notes for sales tax exemption bills, added information regarding the effect of sales tax exemptions on state and local sales tax bases, and continued to refine other information in the report. He also said that, although information was added to clarify all the factors that make storing precious metals in Tennessee less attractive to both institutional and individual investors than storing it in other states, the finding that a state gold depository is not viable remained unchanged from the draft report. He added that the draft report made one recommendation that the General Assembly could consider a sales tax exemption for precious metal coins and bullion if it becomes clear that the exemption will not violate the American Rescue Plan Act or once all the federal funds have been spent. Mr. MOUNT said Kentucky and Tennessee contested the constitutionality of a provision of the Act that requires states to give back federal funds used for "a reduction in the net tax revenue." He said although the district court ruled in favor of Kentucky and Tennessee, the decision could be appealed, and the recommendation remains unchanged from the draft report.

Mr. Calvin CLIFTON asked when an appeal of the federal district court ruling in favor of Kentucky and Tennessee in *Ketucky et al v. Yellen* could occur? Mr. MOUNT said it's not clear. He said not every district court has finished their lawsuits, which would in turn determine the timeline for an appeal. Mayor Tom BICKERS added there would typically be 30 days to file a notice of appeal. He said, because district and appellate court rulings can conflict, it could be months or a year before there's any clarity on that. [Note: The US Treasury filed a notice of appeal to challenge the district court's decision in *Kentucky et al v. Yellen*, and the case is pending.]

Representative Bud HULSEY spoke in favor of gold as an investment, spoke in favor of a sales tax exemption for precious metal coins and bullion, and expressed concerns regarding federal policy. He spoke in favor of creating a state gold depository, adding that a group of investors wants to build it. He asked the Commission for help in finding a way to make that work, adding that the state would get to run a state gold depository, which would create a revenue stream for the state at no expense to Tennessee's taxpayers.

Mayor Terry FRANK asked whether a law recognizing gold and silver coins as legal tender, like laws in Wyoming, Utah, Oklahoma, and Arizona, would be beneficial to what he is trying to accomplish with a state depository. Representative HULSEY said that any alternative way to buy and sell would be a good thing.

Mayor BICKERS moved approval of the amended report with Mayor Keith MCDONALD seconding the motion. The report was approved unanimously.

#### **4. Public Chapter 503, Acts of 2021 (Childhood Obesity Study) – Panel**

Research Associate Dr. Kevin VANZANT said Public Chapter 503, Acts of 2021, directed TACIR “to perform a comprehensive evaluation on the socioeconomic impact childhood obesity has in Tennessee and its short and long-term effects.” He said TACIR staff are studying the societal costs of childhood obesity and the challenges of implementing and evaluating public health policies that seek to address childhood obesity, given the complexity of the problem and the many different factors involved.

Dr. VANZANT introduced a panel of stakeholders representing different perspectives on the issues affecting childhood obesity in Tennessee. The panel included:

- Dr. Jacqueline Yenerall, Assistant Professor, Department of Agricultural and Resource Economics (ARE), University of Tennessee, who discussed the direct economic effects of childhood obesity, including medical expenses, and indirect economic effects, including lost productivity.
- Lori Paisley, Senior Director, District Operations, Tennessee Department of Education, who oversees the Coordinated School Health program, which she said aims to improve student health outcomes by supporting the connection between good health practices, academic achievement, and lifetime wellness by working with families, schools, and communities.
- Leslie Meehan, Director, Office of Primary Prevention, Tennessee Department of Health (TDOH), who discussed the department's efforts to combat childhood obesity and said that beyond nutrition and physical activity, there are many other contributing factors making childhood obesity a complex problem without a singular solution, and therefore not an issue that the Department of Health can tackle alone.

Ms. Meehan said a recent initiative of the TDOH is the Healthy Built Environment Grants. These grants create opportunities for local communities to create programs, like a running club, or improve infrastructure, such as building a new greenway or playground. Local community interest has far exceeded available funding. Senator Jon LUNDBERG asked Ms. MEEHAN

about the holistic approach to obesity and whether a playground in every school or a farmer's market in every town was going to be as effective as other possible initiatives. Ms. MEEHAN said that TDOH staff do hear anecdotally from Tennesseans that barriers like not having a park or a full-service grocery store do matter, but that the TDOH works through encouragement, not through mandates, and they understand that no single solution is a silver bullet.

Chairman YAGER asked about some counties not having playgrounds and whether Healthy Built Environment Grants target those counties as a result. Ms. MEEHAN said that the TDOH grant application process accounts for the economic status of the community. Chairman YAGER suggested that TDOH consider accounting for both the economic distress of a county and a lack of certain facilities.

Mayor Jill HOLLAND asked about the causes of the wage penalty for adults with obesity and specifically about the statistic cited by Dr. YENERALL that white women's wages decline by 2.8% for every additional 10 pounds. Dr. YENERALL responded that research shows that the primary cause of this wage penalty for women appears to be discrimination, which is substantiated by studies that show that the wage penalty is particularly pronounced in service industries.

County Executive Jeff HUFFMAN asked whether the cases of Type 1 diabetes are rising alongside the cases of Type 2 diabetes in children and whether the increasing prevalence in diabetes in children overall is leading to increased health care costs as they become adults. Dr. YENERALL said that a medical problem in childhood persisting into adulthood could lead to increased medical costs, but it would depend on other factors as well, including the quality of medical treatment received. County Executive HUFFMAN asked how the prevalence of childhood diabetes in Tennessee compares to other states in the southeast. Ms. PAISLEY said that she does not have the exact numbers with her, but CSH does track that information and she believes Type 2 diabetes is increasing in Tennessee's student population. Chairman Ken YAGER asked for the information to be provided to Executive Director Cliff Lippard. [Ms. Paisley provided the information, and Dr. Lippard sent the information to Commission members via email.]

Representative Patsy HAZLEWOOD asked about the idea that childhood obesity is not a strong predictor of adult health conditions. Dr. YENERALL said the research she mentioned included children just barely meeting the threshold for obesity – when looking only at those that have severe obesity there is a correlation with adult health conditions. Dr. YENERALL also said that obesity is just one risk factor for other health conditions and other factors would have an influence as well.

Mr. Jeff PEACH asked Ms. PAISLEY whether she thought the nutrition in school meals and the amount of physical activity required of students could be improved. Ms. PAISLEY said the US Department of Agriculture (USDA) regulates school meals for Tennessee schools and Tennessee physical education and physical activity laws apply as well. She said CSH has an annual physical education/physical activity report that they produce for the General Assembly on progress in this area. Mr. PEACH asked whether any schools in Tennessee were interested in exceeding USDA regulations and Ms. PAISLEY said cafeteria managers want to serve food that

meets federal guidelines but also want to serve food that kids will eat, and that can sometimes be a difficult balance to find.

Mayor A. Keith MCDONALD said that healthy food preparation may need more emphasis in our school curriculum. Mayor Larry WATERS asked about students sedentary habits and amount of screen time. Ms. PAISLEY said that they collect that information from students in Tennessee and the results indicate that screen time among kids is only increasing.

## **5. House Bill 366/Senate Bill 1604 (Right-of-Way Dedications) – Update**

Senior Research Director Leah ELDRIDGE presented an update to the Commission of findings from staff's study of Senate Bill 1604 and House Bill 366. The Lieutenant Governor and House Speaker had sent a letter to the Commission requesting that it study the bill. Senate Bill 1604 and House Bill 366 would prohibit a local government from requiring dedications of land along existing roads; dedications are conveyances of land to a government for public use. A government could negotiate with the property owner to reserve a portion of land for transfer to the government in the future, but the government would have to pay just compensation to the owner if it took possession of it. Ms. ELDRIDGE said that a draft report would be presented at the January 2022 Commission meeting.

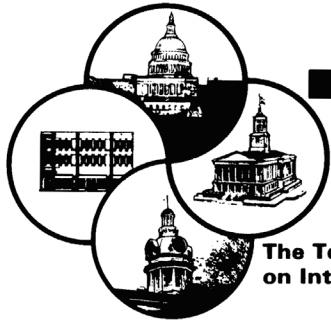
Ms. ELDRIDGE explained that before approving subdivisions of property local governments may require property owners to dedicate land or an easement along existing roads that either are not wide enough to accommodate the new development or fail to meet the width requirements of the local major street plan. The US Supreme Court has held that governments can require dedications subject to the requirements of the Nollan-Dolan test that was developed in two cases, *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. A dedication that does not meet these requirements violates the Takings Clause of the US Constitution. The question is how to ensure local governments comply with the requirements of Nollan-Dolan test. Other states have passed laws that include requiring local governments to pay just compensation for dedicated property, limiting the use of dedications in certain situations, putting the language from the Nollan-Dolan test in their state statutes and requiring analysis of dedications.

In response to Mayor Tom BICKERS' question about whether the bill is inconsistent with the holdings in the US Supreme Court cases, *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*, Ms. ELDRIDGE responded that it is inconsistent. He then asked whether a developer who was aggrieved by the scope of a dedication could pursue a remedy in court in order to determine whether it met the requirements of the Nollan-Dolan test. Ms. ELDRIDGE said that the developer could take the matter to court. Mayor BICKERS asked whether any effort had been made to determine the bill's fiscal impact on governments. Ms. ELDRIDGE replied that staff had contacted the state Division of Property Assessments to see whether they had information on property that had dedicated but they did not have that information. She said that they will continue to try to determine that impact as they continued with the study. Mayor BICKERS asked whether there was any information on how often these dedications took place. Ms. ELDRIDGE said they had surveyed planners to try to get this information and would include the results in the draft report.

Mayor Jill HOLLAND asked which state prohibited dedications of property if the subdivision of property involved farmland. Ms. ELDRIDGE responded that Delaware prohibited local governments from requiring dedications if the property would continue to be used as farmland or if the property was being transferred to a family member who would use it as farmland or as their principal residence. Mayor HOLLAND asked why there was a provision in the bill that a real estate agent would have no duty to inform any party to the real estate transaction concerning the reservation. Ms. ELDRIDGE replied that she believed that the realtors had asked that the language be included in the bill and they may have been concerned about liability.

Mayor Rogers ANDERSON said that, because of the added cost to counties, he thinks the issue of a city's planning commission requiring a county to dedicate sidewalks on county property needs to be addressed as well.

Chairman YAGER adjourned the meeting at 2:44 p.m.



# TACIR

**The Tennessee Advisory Commission  
on Intergovernmental Relations**



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**

**December 2, 2021**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building 8:32 a.m., Chairman Ken YAGER, presiding.

| <b>Present 15</b>                       | <b>Absent 9</b>                  |
|---|----------------------------------|
| Mayor Rogers Anderson                   | Representative John Crawford     |
| Mayor Tom Bickers                       | County Clerk Mary Gaither        |
| Mayor Buddy Bradshaw                    | Representative Patsy Hazlewood   |
| Mayor Kevin Brooks                      | Mayor Jill Holland               |
| Mr. Calvin Clifton                      | Representative Harold Love Jr.   |
| Deputy Commissioner Paula Davis         | Representative Antonio Parkinson |
| Mayor Terry Frank                       | Senator Katrina Robinson         |
| County Executive Jeff Huffman           | Senator Bo Watson                |
| Senator Jon Lundberg                    | Representative Ryan Williams     |
| Mayor A. Keith McDonald                 |                                  |
| Comptroller Jason Mumpower <sup>1</sup> |                                  |
| Mr. Jeff Peach                          |                                  |
| Mayor Larry Waters                      |                                  |
| Senator Ken Yager                       |                                  |
| Senator Jeff Yarbrow                    |                                  |
|   |                                  |
|   |                                  |
|   |                                  |
|   |                                  |
|   |                                  |

<sup>1</sup> Dana Brimm represented Jason Mumpower.

## 6. Public Chapter 497, Acts of 2021 (Water Recreation Resources) – Panel

Research Manager Jennifer BARRIE said the General Assembly passed Public Chapter 497, Acts of 2021, directing the Commission to study the effects of non-fish-and-game-related recreational activities, such as paddle boarding, canoeing, kayaking, and tubing, on Tennessee’s waterways, and strategies to fund, manage, and protect water and land resources affected by these activities. She said that according to stakeholders, there has been an increase in recreational boating activities on Tennessee’s waterways in recent years, in part because of increased use of nonmotorized vessels such as canoes and kayaks. Stakeholders agree both that this has led to congestion and access issues as well as conflicts between members of the public using the water for recreation and that there is a need for new strategies to manage these resources. Ms. BARRIE said these challenges are not unique to Tennessee, and commission staff is reaching out to other states to learn what they are doing to address similar issues. Staff will present the draft report at the summer 2022 meeting and the final report in December 2022.

Ms. BARRIE introduced a panel of stakeholders representing different perspectives on the issues affecting water recreation and Tennessee’s waterways. The panel included:

- Thomas Moncrief, associate general counsel with Tennessee Wildlife Resources Agency (TWRA), who explained the actions taken and rules implemented by TWRA to regulate commercial paddlecraft outfitters on waterways and gather data;
- Mike Robertson, director of operations for Tennessee State Parks, who presented an overview of Tennessee state parks and described access to water recreation provided to the public within the parks;
- David Brown, executive director of Tennessee Paddlesports Association, who described the paddlecraft industry and use on Tennessee’s waterways and discussed a few misconceptions, issues, and solutions;
- Andrea White, Tennessee state director for American Canoe Association (ACA), who discussed the role of the ACA in providing training and education and helping to improve safety and the work being accomplished in the state by the paddling community;
- Jane Polansky, education and outreach program manager with Harpeth Conservancy, who presented management challenges and strategies for addressing waterway recreation issues; and
- Mike Butler, chief executive officer of Tennessee Wildlife Federation (TWF), who discussed the importance of conservation, protection, and management of Tennessee’s diverse resources and the challenges of and strategies for managing increased outdoor recreation in the state.

In response to a question from Mayor BICKERS regarding whether the statutory mandate of TWRA includes litter cleanup and maintenance of TWRA access areas, Mr. MONCRIEF said the charge of TWRA is to manage wildlife and natural resources for the benefit of Tennessee citizens and visitors. If wildlife in a public park could potentially be harmed by litter, then TWRA would be responsible for dealing with the litter. Otherwise, TWRA gives grants each



year for stream cleanup, but its mandate generally doesn't include litter cleanup. Mayor BICKERS asked what TWRA can do to devote more attention to its access areas. Mr. MONCRIEF said he is not sure, but he will talk to the director and deputy director and offered to share his contact information with Mayor BICKERS to follow up. [Staff emailed Mr. MONCRIEF's information to Mayor BICKERS after the meeting.]

Mayor BICKERS described issues with people leaving trash behind when tubing on the Little River and asked what can be done at the state and local level to maintain and regulate these types of situations on rivers. Mr. BUTLER responded that the Little River is an example of a situation where a river-specific management plan would be a good idea, but it would require leadership and all stakeholders at the table during the process. He suggested using the *American Rivers' Guide to Sustainable River Recreation Management Planning* as a resource. In response to Mayor BICKERS' question about whether legislation would be necessary to give local governments authority to implement management plans and charge fees, Mr. BUTLER said he thinks there is existing authority but isn't sure. He also suggested the idea of public-private partnerships to manage access areas. Mr. MONCRIEF also said he is not sure about local government authority.

In response to Mr. Calvin CLIFTON's questions about whether anyone is reaching out to other states that are comparable to Tennessee and what those states are doing, Mr. BROWN responded that Ohio is similar to Tennessee since people engage in the same type of boating activities in Ohio as they do in Tennessee. Mr. MONCRIEF added that TWRA staff Betsy Woods and Darren Rider have communicated with other states about regulations. For example, Ohio has a hybrid system wherein people can either register each boat they own or buy a license, and both options generate revenue for the state. Mr. BUTLER has looked at the Current River in Missouri, which has a management plan, and he has a list of four or five rivers with management plans, in addition to the Ocoee River example in Tennessee.

Mayor FRANK mentioned the issue of overlapping regulations and funding mechanisms and asked whether there is sufficient collaboration between agencies and who has responsibility. Mr. BROWN agreed that overlapping fees and regulations are an issue, there are many regulatory state and local agencies, and there is no overarching entity, and that this study is an opportunity to address this. Ms. POLANSKY added that there is a potential for lease agreements, for example with the county rescue squads that are unfunded, and management plans could address who is responsible for what. Mr. BUTLER agreed and said management plans need to be river specific, and more collaboration is needed. Ms. WHITE added that the Ocoee River fee structure should be considered.

Mayor FRANK likes the idea of the Texas sporting goods sales tax and asked Mr. Brown to explain how it works and whether we have enough data to recommend something similar. Mr. BROWN explained that the revenue from the Texas tax is deposited into a fund for recreation opportunities and that the tax only applies to sporting goods that are not already subject to the federal excise tax. We don't know how much a similar tax would generate in Tennessee and would have to decide which products to tax. He added that if there was an additional fee, the commercial paddlecraft outfitters would like a credit on the state sales tax, but not the local option tax.

## **7. Electric Vehicles and Other Issues Affecting Road and Highway Funding—Update**

Research Manager Bob MOREO presented some announcements and news from recent months related to the Commission’s study of electric vehicle (EV) adoption in Tennessee and noted the topic was recently discussed during budget hearings for the Tennessee Department of Transportation. Ford Motor Company will develop new facilities at the state’s Memphis Regional Megasite and start building electric F-series trucks in 2025, and the Tennessee Valley Authority announced plans to replace much of its own vehicle fleet with electric vehicles by 2030. Hertz is ordering 100,000 Tesla vehicles for its rental car fleet, a sign that EVs are expanding into the rental sector. Mr. MOREO said additional information and possible alternatives will be presented to the Commission at its spring meeting with a draft report planned for the fall and final report ready for approval in December 2022.

Mayor Tom BICKERS shared that a recent survey of auto executives projected that half of new vehicles sold in 2030 will be EVs. He said the rate of EV adoption will affect how Tennessee funds its highways and roads. Mr. MOREO said staff will work to gather up-to-date projections for the report and share them at the spring meeting.

Vice Chairman Kevin BROOKS said the memo presented by staff at the June 2021 meeting included an estimate of 100,000 EVs in Tennessee in 2030 and shared his opinion that EV growth is happening faster than anticipated. Mr. MOREO said that even as more new EVs are being sold, many traditionally fueled vehicles will remain in use for years to come and the replacement of gasoline-powered vehicles by EVs will be spread out over time.

Mayor Rogers ANDERSON asked whether the next update could explain how much fuel tax is paid per vehicle, on average, and where the money goes. Mr. MOREO said some of that information was included in the last update and the next update will include that information as well. Mayor ANDERSON said he is concerned, at the local level, how much it will cost to maintain current levels of funding. Mr. Calvin CLIFTON said recent TDOT budget hearings gave a figure of about \$300 in taxes generated by the average vehicle. Executive Director LIPPARD said these are the types of questions the report is going to try to answer. Mayor ANDERSON asked whether the study will look at revenue from aviation fuel and fuel used for boating as well. Dr. LIPPARD said that was not specifically included in the research plan, as the study is focused on how EVs will affect road funding

## **8. House Bill 1593/Senate Bill 1235 (State Contracting and African-American Owned Businesses)—Draft Report**

Research Manager Bob MOREO presented the draft report on House Bill 1593 by Representative Miller and Senate Bill 1235 by Senator Gilmore for review and comment. The bill directed the Commission to study whether disparities exist in the issuance of state contracts to businesses owned and operated by African Americans; provide information on the effect of any such disparities on the African American business community, as well as the manner in which other states have addressed disparities; and report its findings no later than January 31, 2022, including any recommendations for reducing disparities if they are found. He said the final report will be presented to the Commission for approval at the January 2022 meeting.

Mr. MOREO said a study commissioned by the Governor's Office of Diversity Business Enterprise (Go-DBE) in 2007, published in 2009, documented evidence of disparities and made recommendations to reduce those disparities. The draft report shows the state has implemented most recommendations to some degree. The state has not commissioned a follow-up disparity study, and, because current state data is not tailored to serve as a foundation for such studies, TACIR staff could not fully update the analysis from the 2009 disparity study for this project.

Mr. MOREO said Go-DBE data provided to TACIR does, however, allow for some comparisons. This data shows that state procurement spending with African American-owned businesses has increased overall, but aspirational agency-level spending goals for minority-owned businesses are not often being met, and the state's procurement spending with African American-owned businesses is highly concentrated in two agencies and very few types of services.

Mr. MOREO said the draft report notes certain barriers that disproportionately affect African American-owned businesses' ability to compete for state contracts and describes existing state resources and programs available to small businesses and African American-owned businesses alike in Tennessee. The report describes how governments' authority to adopt race-conscious procurement policies is limited under state policy and federal laws and discusses Tennessee's race-neutral approach to procurement and assistance to small- and minority-owned businesses. The draft report finds that race-conscious procurement policies are not feasible at this time and concludes that incremental improvements to the state's race-neutral approach can be made, suggesting two recommendations to improve data collection and the reporting of disparity efforts across state agencies.

Chairman Ken YAGER asked whether commissioning a new disparity study would require legislation. Mr. MOREO replied that it would not, necessarily, but would be a matter of Go-DBE funding the study. Senator Jeff YARBRO asked what the possible cost would be. Mr. MOREO said that the cost of studies in other states have ranged from several hundred thousand to perhaps one million dollars.

Chairman YAGER said staff should contact the General Assembly's Fiscal Review Committee to find out whether they have information about the number of contracts they review that are awarded to African American-owned companies.

Chairman YAGER adjourned the meeting at 10:55 a.m.