

# **LOUDON COUNTY COMMISSION**

## **REGULAR MEETING**

**October 06, 2003**

- |      |   |                                   |
|------|---|-----------------------------------|
| (1)  | <b>Public Hearing</b>                               |                                   |
| (2)  | <b>Opening Of Meeting</b>                           |                                   |
| (3)  | <b>Roll Call</b>                                    |                                   |
| (4)  | <b>Agenda Adopted</b>                               |                                   |
| (5)  | <b>Minutes Adopted For Sept. 08, 2003</b>           |                                   |
| (6)  | <b>Audience Comments On Agenda Items</b>            |                                   |
| (7)  | <b>Grants Accepted</b>                              | <b><u>Resolution 100603-A</u></b> |
| (8)  | <b>Highway Budget Amendments Approved</b>           |                                   |
| (9)  | <b>Cable TV Per Diem Died</b>                       |                                   |
| (10) | <b>Financial Report</b>                             |                                   |
| (11) | <b>Vonore Road Rezoning Approved</b>                | <b><u>Resolution 100603-B</u></b> |
| (12) | <b>Black Road Rezoning Approved</b>                 | <b><u>Resolution 100603-C</u></b> |
| (13) | <b>Highway 11 Rezoning Denied</b>                   | <b><u>Resolution 100603-D</u></b> |
| (14) | <b>Zoning Resolution Amendment Approved</b>         | <b><u>Resolution 100603-E</u></b> |
| (15) | <b>Rarity Pointe Building Permits Sent to LCRPC</b> |                                   |
| (16) | <b>Steekee School Recognized</b>                    |                                   |
| (17) | <b>Irene Lane Extension Monies Appropriated</b>     |                                   |
| (18) | <b>Air Quality Task Force Approved</b>              | <b><u>Resolution 100603-F</u></b> |
| (19) | <b>Attorney Report</b>                              | <b><u>Exhibit G</u></b>           |
| (20) | <b>Notaries Approved</b>                            |                                   |
| (21) | <b>Audience Comments On Non-Agenda Items</b>        |                                   |
| (22) | <b>Adjournment</b>                                  |                                   |

**LOUDON COUNTY COMMISSION  
STATE OF TENNESSEE  
COUNTY OF LOUDON**

**October 06, 2003  
6:00 PM**

**(1)  
Public  
Hearing**

**PUBLIC HEARING**

1. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four, 13-7-105 of the Tennessee Code Annotated, to rezone property located at 11480 Vonore Road, containing 2.41 acres, situated in the First Legislative District, referenced by New Tax Map 50, Parcel 196.00, from R-1, Suburban Residential District to O-1, Office-Professional District.  
**No one** came forward to speak.
2. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four 13-7-105 of the Tennessee Code Annotated, to rezone property located at 465 Black Road, containing 5.3 acres, situated in the Third Legislative District, referenced by New Tax Map 84, Parcel 28.00, from M-1, General Industrial District to A-1, Agriculture-Forestry District.  
**No one** came forward to speak.
3. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four, 13-7-105 of the Tennessee Code Annotated, to rezone property containing 8.74 acres, located 19666 Highway 11 East, situated in the Fifth Legislative District, referenced by New Tax Map 7, Parcel 62.00, from R-1, Suburban Residential District to C-2, General Commercial District.  
**Mr. Mose Waller**, neighboring property owner, came forward to speak in opposition of this request.
4. Consideration of amending the zoning resolution of Loudon County, Tennessee, Article 5, Supplementary provisions applying to specific districts, amending sections 5.041 A-1, Agriculture-Forestry District, 5.042 A-2, Rural Residential District, and 5.043 R-1, Rural Residential District pursuant to Tennessee Code Annotated Section 13-7-105.  
**No one** came forward to speak.

**REGULAR MEETING**

**(2)  
Opening  
Of Meeting**

**BE IT REMEMBERED** that the Board of Commissioners of Loudon County convened in regular session in Loudon, Tennessee on the 6<sup>th</sup> day of October, 2003.  
**The Honorable Roy Bledsoe** called the meeting to order.  
**Officer Sonny Routson** opened Court, **Commissioner Meers** led the Pledge of Allegiance to the Flag of the United States of America, and **Officer Sonny Routson** gave the invocation.

**(3)  
Roll Call**

Present were the following Commissioners: **Marcus, Meers, Jenkins, Maples, Franke, Bledsoe, Duff, Shaver, Harold and Miller: (10).**  
Thereupon **Chairman Bledsoe** announced the presence of a quorum. Also present was the **Honorable George Miller, County Mayor** and **County Attorney Harvey Sproul.**

(4)  
Agenda  
Adopted

**Chairman Bledsoe** requested that the October 06, 2003 agenda be adopted.  
**Commissioner Maples** requested that Item 6F1, "*Ambulance Committee Recommendation*" be rolled to the November Commission meeting. A **motion** was made by **Commissioner Miller** with a second by **Commissioner Shaver** to adopt agenda with requested deletion. Upon voice vote the motion **Passed** unanimously.

(5)  
Minutes  
Adopted  
For Sept.  
08, 2003

**Chairman Bledsoe** requested the September 08, 2003 County Commission Meeting minutes be approved and accepted.  
A **motion** was made by **Commissioner Franke** with a second by **Commissioner Harold** to adopt minutes as presented.  
Upon voice vote the motion **Passed** unanimously.

(6)  
Audience  
Comments  
On Agenda  
Items

**Chairman Bledsoe** asked for any visitor wishing to address the Commission regarding items on the planned agenda to come forward.  
**Mr. Lynn Mills**, Loudon County Cable Television Authority member, came forward to speak in favor of Item 6B5, "*Consideration of per diem for Cable TV Authority members \$75 per month*" and made himself available for any questions.

(7)  
Grants  
Accepted

**Nancy Richesin**, Loudon County Budget and Finance Director, requested consideration of the following items:

1. Consideration to accept a grant from the Tennessee Commission on Children and Youth for Loudon County Juvenile Services JAIBG Outdoor Adventure Program (\$6,365.00).
2. Consideration to accept a grant from the Tennessee Emergency Management Agency for Loudon County EMA Domestic Preparedness involving weapons of mass destruction (\$50,000.00).
3. Consideration to accept a grant from the Tennessee Department of Transportation for the 2003 – 2004 Litter Grant Program (42,037.00).

**Resolution 100603-A**

A **motion** was made by **Commissioner Harold** with a second by **Commissioner Duff** to accept grants.

Upon roll call vote the following commissioners voted **Aye**: **Marcus, Meers, Jenkins, Maples, Franke, Bledsoe, Duff, Shaver, Harold and Miller**: (10).

The following commissioners voted **Nay**: (0).

Thereupon the chairman announced the motion **Passed**: (10-0).

(8)  
Highway  
Budget  
Amendments  
Approved

4. Consideration of approving Highway Budget Amendments.

A **motion** was made by **Commissioner Miller** with a second by **Commissioner Marcus** to approve budget amendments.

Upon roll call vote the following commissioners voted **Aye**: **Marcus, Meers, Jenkins, Maples, Franke, Bledsoe, Duff, Shaver, Harold and Miller**: (10).

The following commissioners voted **Nay**: (0).

Thereupon the chairman announced the motion **Passed**: (10-0).

(9)  
Cable TV  
Per Diem  
Died

5. Consideration of per diem for Cable TV Authority members \$75 per month

A **motion** was made by **Commissioner Harold** to approve this request. Motion **Died** due to lack of second.

(10)  
Financial  
Report

6. Mrs. Richesin distributed the August 2003 financial report.



**Mr. Russ Newman**, Office of Planning & Community Development, requested discussion and consideration on the following items:

(11)  
**Vonore Road  
Rezoning  
Approved**

1. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four, 13-7-105 of the Tennessee Code Annotated, to rezone property located at 11480 Vonore Road, containing 2.41 acres, situated in the First Legislative District, referenced by New Tax Map 50, Parcel 196.00, from R-1, Suburban Residential District to O-1, Office-Professional District.

A motion was made by **Commissioner Meers** with a second by **Commissioner Marcus** to accept this request.

Upon voice vote the motion **Passed** unanimously.

**Resolution 100603-B**

(12)  
**Black Road  
Rezoning  
Approved**

2. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four 13-7-105 of the Tennessee Code Annotated, to rezone property located at 465 Black Road, containing 5.3 acres, situated in the Third Legislative District, referenced by New Tax Map 84, Parcel 28.00, from M-1, General Industrial District to A-1, Agriculture-Forestry District.

A motion was made by **Commissioner Franke** with a second by **Commissioner Shaver** to accept this request.

Upon voice vote the motion **Passed** unanimously.

**Resolution 100603-C**

(13)  
**Highway 11  
Rezoning  
Denied**

3. Consideration of amending the zoning map of Loudon County, Tennessee, pursuant to Chapter Four, 13-7-105 of the Tennessee Code Annotated, to rezone property containing 8.74 acres, located 19666 Highway 11 East, situated in the Fifth Legislative District, referenced by New Tax Map 7, Parcel 62.00, from R-1, Suburban Residential District to C-2, General Commercial District.

A motion was made by **Commissioner Duff** with a second by **Commissioner Shaver** to deny this request.

Upon voice vote the motion **Passed** unanimously.

**Resolution 100603-D**

(14)  
**Zoning  
Resolution  
Amendment  
Approved**

4. Consideration of amending the zoning resolution of Loudon County, Tennessee, Article 5, Supplementary provisions applying to specific districts, amending sections 5.041 A-1, Agriculture-Forestry District, 5.042 A-2, Rural Residential District, and 5.043 R-1, Rural Residential District pursuant to Tennessee Code Annotated Section 13-7-105.

A motion was made by **Commissioner Shaver** with a second by **Commissioner Maples** to accept this request.

Upon voice vote the motion **Passed** unanimously.

**Resolution 100603-E**

(15)  
**Rarity Pointe  
Building  
Permits Sent  
to LCRPC**

A motion was made by **Commissioner Franke** with a second by **Commissioner Shaver** to send request for issuance of building permits at Rarity Pointe to the Loudon County Regional Planning Commission for further study and recommendation.

Upon voice vote the motion **Passed** unanimously.

(16)  
**Steekee  
School  
Recognized**

**Commissioner Meers** recognized Principal and Vice-Principal of Steekee Elementary School for receiving National Blue Ribbon status and requested that a formal Resolution be drawn and presented to the school at the November County Commission meeting.

(17)  
**Irene Lane  
Extension  
Monies  
Appropriated**

A motion was made by **Commissioner Miller** with a second by **Commissioner Meers** that the county contribute to the widening and extension of Irene Lane up to \$15,000.

Upon roll call vote the following commissioners voted **Aye: Marcus, Meers, Jenkins, Maples, Franke, Bledsoe, Duff, Shaver, Harold and Miller: (10).**

The following commissioners voted **Nay: (0).**

Thereupon the chairman announced the motion **Passed: (10-0).**

(18)  
Air Quality  
Task Force  
Approved

A **motion** was made by **Commissioner Miller** with a second by **Commissioner Jenkins** to approve the Loudon County Air Quality Task Force members.  
Upon voice vote the motion **Passed** unanimously.

**Resolution 100603-F**

(19)  
Attorney  
Report

**Attorney Sproul** reported on the following items:

1. Loudon County won the Pearl Hawkins vs. Loudon County Sheriff's Department case.
2. The suit has been dropped against CSX Railroad (for land acquisition for the Greenback Convenience Center) because an agreement has been signed for the property.
3. Explained written legal opinion regarding Lenoir City annexation plans along Highway 321.

**Exhibit G**

After much discussion, a **motion** was made by **Commissioner Shaver** with a second by **Commissioner Franke** to appoint Commissioners Jenkins, Maples, Duff and Shaver to meet with the City of Lenoir City regarding concerns with the annexation process.

Upon voice vote the motion **Passed** unanimously.

**Commissioner Harold** asked to be excused for the remainder of the meeting.

(20)  
Notaries  
Approved

**Angie Chambers, County Mayor's Assistant**, requested consideration of approving the following Notary Applications:

<i>Elaine Hood</i>	<i>Jennifer John</i>
<i>Guilford F. Tyler, Jr.</i>	<i>Amber N. Presley</i>
<i>Gwendolyn R. Hughes</i>	<i>Robert E. Wilkerson</i>
<i>Susan H. Fox</i>	<i>Angela R. Kizer</i>
	<i>Abby Clendenen</i>
	<i>Debra P. Bozeman</i>
	<i>Judy F. Surret</i>

A **motion** was made by **Commissioner Duff** with a second by **Commissioner Shaver** to approve these Notary Applications.

Upon voice vote the motion **Passed** unanimously.

(21)  
Audience  
Comments  
On Non-  
Agenda  
Items

**Chairman Bledsoe** asked for any visitor wishing to address the commission regarding items not on the planned agenda to come forward.

**Ms. Pat Hunter**, Loudon County resident, came forward to state concerns regarding development on Harrison Road.

**Mr. Marvin Thompson**, Loudon County resident, came forward to state that he will make a presentation at the next workshop regarding establishing a new local television station.

**Commissioner Shaver** reported that the courthouse annex parking lot is almost complete.

**Commissioner Maples** requested that a light be placed outside the courthouse annex.

**Commissioner Duff** questioned if anyone knew why a letter, concerning Division II Court, from District Attorney Scott McCluen was addressed to him.

(22)  
Adjournment

There being no further business, a **motion** being duly made and seconded, the October 06, 2003 meeting stood adjourned at 7:50 p.m.

ATT ST:

  
COUNTY CLERK

  
CHAIRMAN

  
COUNTY MAYOR



**LOUDON COUNTY COMMISSION**

**RESOLUTION 100603-A**

**Resolution Authorizing Submission Of An Application For A Litter And  
Trash Collecting Grant From The Tennessee Department Of  
Transportation And Authorizing The Acceptance Of The Said Grant**

**WHEREAS**, the County of Loudon intends to apply for the aforementioned grant from the Tennessee Department of Transportation; and

**WHEREAS**, the contract for the grant will impose certain legal obligations upon the County of Loudon.

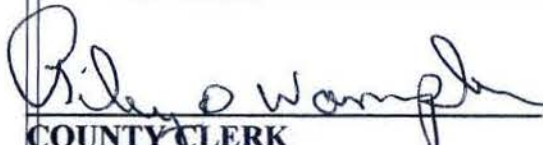
***NOW, THEREFORE, BE IT RESOLVED:***

1. That George M. Miller, Loudon County Mayor, is authorized to apply on behalf of Loudon County for a litter and trash collecting grant from the Tennessee Department of Transportation.
2. That should application be approved by the Tennessee Department of Transportation, then George M. Miller, Loudon County Mayor, is authorized to execute contracts or other necessary documents, which may be required to signify acceptance of the litter and trash collecting grant by Loudon County.

Adopted this 6<sup>th</sup> day of October 2003.

  
COUNTY CHAIRMAN

**ATTEST:**

  
COUNTY CLERK

**APPROVED:**

  
COUNTY MAYOR

**RESOLUTION  
100603-B**

**A RESOLUTION AMENDING THE ZONING MAP OF LOUDON COUNTY, TENNESSEE, PURSUANT TO CHAPTER FOUR, §13-7-105 OF THE TENNESSEE CODE ANNOTATED, TO REZONE PROPERTY LOCATED AT 11480 VONORE ROAD, CONTAINING 2.41 ACRES, SITUATED IN THE FIRST LEGISLATIVE DISTRICT, REFERENCED BY NEW TAX MAP 50, PARCEL 196.00, FROM R-1, SUBURBAN RESIDENTIAL DISTRICT TO O-1, OFFICE-PROFESSIONAL DISTRICT.**

**WHEREAS**, the Loudon County Commission, in accordance with Chapter Four, §13-7-105 of the Tennessee Code Annotated, may from time to time, amend the number, shape, boundary, area or any regulation of or within any district or districts, or any other provision of any zoning resolution, and

**WHEREAS**, the Regional Planning Commission has forwarded a recommendation regarding the amendment to the Zoning Map of Loudon County, Tennessee,


**WHEREAS**, a notice of public hearing and a description of the resolution appeared in the Loudon County News Herald on August 21, 2003, consistent with the provisions of Tennessee Code Annotated, §13-7-105,

**NOW, THEREFORE, BE IT RESOLVED** by the Loudon County Commission that the Zoning Map of Loudon County, Tennessee be amended as follows:

1. That property located at 11480 Vonore Road, containing 2.41 acres, situated in the First Legislative District, referenced by New Tax Map 50, Parcel 196.00, be rezoned from R-1, Suburban Residential District, to O-1, Office-Professional District, as represented on the attached map; said map being part of this Resolution.

**BE IT FINALLY RESOLVED**, that this Resolution shall take effect immediately, the public welfare requiring it.

ATTEST

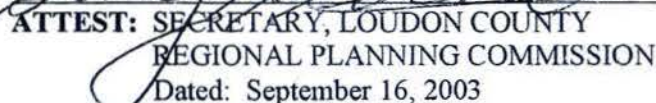
  
APPROVED: LOUDON COUNTY EXECUTIVE

  
LOUDON COUNTY CHAIRMAN  
DATE: 10/06/03

The votes on the question of approval of this Resolution by the Planning Commission is as follows:

APPROVED: 10

DISAPPROVED: 0

  
ATTEST: SECRETARY, LOUDON COUNTY  
REGIONAL PLANNING COMMISSION  
Dated: September 16, 2003

**RESOLUTION  
100603-C**

**A RESOLUTION AMENDING THE ZONING MAP OF LOUDON COUNTY, TENNESSEE, PURSUANT TO CHAPTER FOUR, §13-7-105 OF THE TENNESSEE CODE ANNOTATED, TO REZONE PROPERTY LOCATED AT 465 BLACK ROAD, CONTAINING 5.3 ACRES, SITUATED IN THE THIRD LEGISLATIVE DISTRICT, REFERENCED BY NEW TAX MAP 84, PARCEL 28.00, FROM M-1, GENERAL INDUSTRIAL DISTRICT TO A-1, AGRICULTURE-FORESTRY DISTRICT.**

**WHEREAS**, the Loudon County Commission, in accordance with Chapter Four, §13-7-105 of the Tennessee Code Annotated, may from time to time, amend the number, shape, boundary, area or any regulation of or within any district or districts, or any other provision of any zoning resolution, and

**WHEREAS**, the Regional Planning Commission has forwarded a recommendation regarding the amendment to the Zoning Map of Loudon County, Tennessee,

**WHEREAS**, a notice of public hearing and a description of the resolution appeared in the Loudon County News Herald on August 21, 2003, consistent with the provisions of Tennessee Code Annotated, §13-7-105,

**NOW, THEREFORE, BE IT RESOLVED** by the Loudon County Commission that the Zoning Map of Loudon County, Tennessee be amended as follows:

1. That property located at 465 Black Road, containing 5.3 acres, situated in the Third Legislative District, referenced by New Tax Map 84, Parcel 28.00, be rezoned from M-1, General Industrial District, to A-1, Agriculture-Forestry District, as represented on the attached map; said map being part of this Resolution.

**BE IT FINALLY RESOLVED**, that this Resolution shall take effect immediately, the public welfare requiring it.

ATTEST

LOUDON COUNTY CHAIRMAN  
DATE: 10/06/03

APPROVED: LOUDON COUNTY EXECUTIVE

The votes on the question of approval of this Resolution by the Planning Commission is as follows:

APPROVED: 10

DISAPPROVED: 0

ATTEST: SECRETARY, LOUDON COUNTY  
REGIONAL PLANNING COMMISSION  
Dated: September 16, 2003



RESOLUTION  
100603-D

A RESOLUTION AMENDING THE ZONING MAP OF LOUDON COUNTY, TENNESSEE, PURSUANT TO CHAPTER FOUR, §13-7-105 OF THE TENNESSEE CODE ANNOTATED, TO REZONE PROPERTY CONTAINING 8.74 ACRES, LOCATED 19666 HIGHWAY 11 EAST, SITUATED IN THE FIFTH LEGISLATIVE DISTRICT, REFERENCED BY NEW TAX MAP 7, PARCEL 62.00, FROM R-1, SUBURBAN RESIDENTIAL DISTRICT TO C-2, GENERAL COMMERCIAL DISTRICT.

WHEREAS, the Loudon County Commission, in accordance with Chapter Four, §13-7-105 of the Tennessee Code Annotated, may from time to time, amend the number, shape, boundary, area or any regulation of or within any district or districts, or any other provision of any zoning resolution, and

WHEREAS, the Regional Planning Commission has forwarded a recommendation regarding the amendment to the Zoning Map of Loudon County, Tennessee,

WHEREAS, a notice of public hearing and a description of the resolution appeared in the Loudon County News Herald on September 4, 2003, consistent with the provisions of Tennessee Code Annotated, §13-7-105,

NOW, THEREFORE, BE IT RESOLVED by the Loudon County Commission that the Zoning Map of Loudon County, Tennessee be amended as follows:

1. That property containing 8.74 acres, located at 19666 Highway 11 East, situated in the Fifth Legislative District, referenced by New Tax Map 7, Parcel 62.00, be rezoned from R-1, Suburban Residential District, to C-2, General Commercial District, as represented on the attached map; said map being part of this Resolution.

BE IT FINALLY RESOLVED, that this Resolution shall take effect immediately, the public welfare requiring it.

ATTEST

APPROVED: LOUDON COUNTY

The votes on the question of this resolution by the Planning Commission is as follows:

APPROVED: 10

DISAPPROVED: 0

ATTEST: SECRETARY, LOUDON COUNTY  
REGIONAL PLANNING COMMISSION

Dated: September 16, 2003

**RESOLUTION  
100603-E**

**A RESOLUTION AMENDING THE ZONING RESOLUTION OF LOUDON COUNTY,  
TENNESSEE, ARTICLE 5, SUPPLEMENTARY PROVISIONS APPLYING TO  
SPECIFIC DISTRICTS, AMENDING SECTIONS 5.041. A-1, AGRICULTURE-  
FORESTRY DISTRICT, 5.042. A-2, RURAL RESIDENTIAL DISTRICT, AND 5.043.  
R-1, RURAL RESIDENTIAL DISTRICT PURSUANT TO  
TENNESSEE CODE ANNOTATED SECTION 13-7-105**

**WHEREAS**, Loudon County, in accordance with Chapter 7 §13-7-201 through §13-7-204 of the Tennessee Code Annotated, may from time to time, amend any regulation of or within any district, or any other provision of any zoning resolution; and

**WHEREAS**, the Loudon County Regional Planning Commission has forwarded its recommendation regarding the amendment to the Zoning Resolution of Loudon County, Tennessee; and

**WHEREAS**, a notice of public hearing and a description of the ordinance appeared in the Loudon County News-Herald on September 14-15, 2003, consistent with the provisions of Tennessee Code Annotated §13-7-203; and

**WHEREAS**, the promotion of public health, safety, general welfare and most appropriate land uses are stated purposes of the Zoning Resolution of Loudon County, Tennessee.

**NOW, THEREFORE, BE IT RESOLVED** that the Zoning Resolution of Loudon County, Tennessee be amended as follows by amending the following section (additions in bold italics):

**Section 1.** To amend Section 5.041. A-1, Agriculture-Forestry District by adding the following:

**Subsection C. Uses Permitted as Special Exceptions:**

*Adding item 14: Daycare Centers – To serve up to 12 clients with no more than two (2) employees.*

**Section 2.** To amend Section 5.042. A-2, Rural Residential District, by adding the following:

**Subsection C. Uses Permitted as Special Exceptions:**

*Adding item 15: Daycare Centers – To serve up to 12 clients with no more than two (2) employees.*

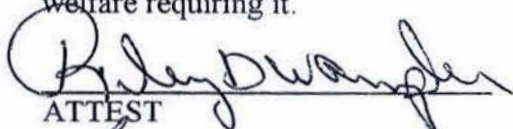
**Loudon County Resolution #100603-E**  
Amending Sections 5.041, 5.042 & 5.043

**Section 3.** To amend Section 5.043. R-1, Suburban Residential District, by adding the following:

**Subsection C. Uses Permitted as Special Exceptions:**

*Adding item 10: Daycare Centers— To serve up to 12 clients with no more than two (2) employees.*

**BE IT FINALLY RESOLVED**, that this Resolution shall take effect immediately, the public welfare requiring it.

  
ATTEST

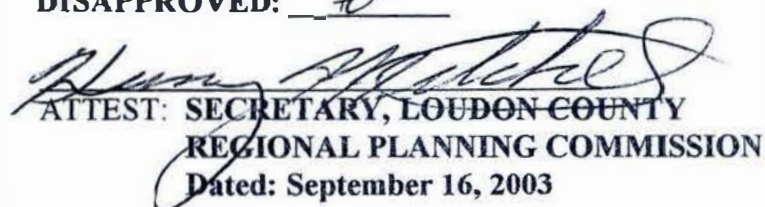
  
LOUDON COUNTY CHAIRMAN  
DATE: \_\_\_\_\_

  
APPROVED: LOUDON COUNTY EXECUTIVE

The vote on the question of approval of this Resolution by the Regional Planning Commission is as follows:

APPROVED: 10

DISAPPROVED: 0

  
ATTEST: SECRETARY, LOUDON COUNTY  
REGIONAL PLANNING COMMISSION  
Dated: September 16, 2003

File #03-09-224-RGZ-CO



**LOUDON COUNTY COMMISSION**

**RESOLUTION NO. 100603-F**

**RESOLUTION APPROVING OR ACKNOWLEDGING BOARD OR  
COMMITTEE APPOINTMENT BY COUNTY MAYOR**

**WHEREAS**, by statute, and/or intergovernmental agreement and/or County Procedural Regulations, the County Mayor has authority to make certain committee and board appointments; and

**WHEREAS**, an appointment is necessary and/or desirable at this time; and

**WHEREAS**, the County Mayor appoints the following as members of the

**LOUDON COUNTY  
AIR QUALITY TASK FORCE**

<u>Appointee</u>		<u>Term Expiration</u>
Russ Ellis	(Loudon City)	October 29, 2005
Bruce Giles	(Lenoir City)	October 29, 2005
Laird Willson	(Tellico Village)	October 29, 2005
Dr. Bud Guider	(Medical)	October 29, 2005
Quincy Styke/ Vick Milichis	(TDEC)	October 29, 2005
Mike Slimbarski	(Industry)	October 29, 2005
Dennis Brennan	(Industry)	October 29, 2005
Matt Campanaro	(Industry)	October 29, 2005
Larry Hardison	(Rep. Lenoir City Council)	October 29, 2005
Nancy James	(Loudon City Council)	October 29, 2005
Nancy Marcus	(Loudon County Commission)	October 29, 2005
Don Miller	(Loudon County Commission)	October 29, 2005

**NOW, THEREFORE, BE IT RESOLVED** that the County Commission in regular session assembled this 6<sup>th</sup> day of October, 2003 hereby approves or acknowledges (as appropriate), the said appointments.

  
COUNTY CHAIRMAN

ATTEST:

  
COUNTY CLERK

  
COUNTY MAYOR

## Exhibit G

Oct 02 03 01:21p

Sproul and Hinton

8659868706

p. 2

### SPROUL & HINTON

ATTORNEYS AT LAW

205 16. BROADWAY

P.O. BOX 444

LENOIR CITY, TENNESSEE 37771.

TELEPHONE (865) 986-8054

FAX (865) 986-8706

HARVEY L. SPROUL  
ROBERT G. HINTON

ROBERT A. VEST

E-MAIL ADDRESSES:  
hisproul@charter.net  
rghinton@charter.net  
vestra@charter.net

TO: Loudon County Mayor and Loudon County Commission

FROM: Harvey L. Sproul, County Attorney

DATE: September 30, 2003

SUBJECT: City of Lenoir City Proposed Annexation along Highway 321 Within its Urban Growth Boundary

### Background

The City of Lenoir City recently has begun proceedings preliminary to the annexation of certain territory within its urban growth boundary (UGB).

In May, 2003, the City of Lenoir City in taking its preliminary plans for annexation, apparently sent a letter to those property owners which the City felt came within the purview of its definition of properties within its urban growth area, to wit, owners of occupied residential property in a residential zone.

The announced results were that there were thirty-one (31) lots of record to which annexation inquiries were sent. The city received twenty-four (24) replies, of which thirteen (13) were in favor, eleven (11) were opposed, and seven (7) replies were not received and were considered to be non-voting. The "non-replies" were initially declared to be approvals, although apparently some of the letters were never received by the property owners. In addition, the city apparently did not send inquiries to some "residential" properties within the growth boundary because they were not in a "residential" zone, which would have been okay under the city definition, but all residential owners would have had to have been notified under the county resolution. These, and possibly others, comprise several "irregularities" when compared to the requirements that would have been involved under the county resolution.

It now is clear that the resolution adopted by the City of Lenoir City is somewhat different than the resolution adopted by Loudon County.

### Public Chapter 1101

The Tennessee legislature adopted new legislation in 1999 which required governments in every county to agree upon a growth plan and boundaries. The idea was to make "growth" less fractious and expensive (from the litigation standpoint), and to be fair to both cities and counties.

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The new legislation required formation of a Coordinating Committee in each county with the mission of attempting to gain approval from the governments as to a plan, and then certifying the plan to Nashville.

In Loudon County, after some difficulties, the growth boundaries were adopted by the joint (county/city) Coordinating Committee after having received apparent approval by the cities and the county. The coordinating committee approved, and certified to the state, the Urban Growth Boundaries (UGB) and the Planned Growth Boundaries (PGB) based upon resolutions adopted by the County Commission and the municipalities involved.

The resolution adopted on April 10, 2000 by the City Council of the City of Lenoir City states in pertinent part (as also exactly stated in the Loudon and Greenback approval resolutions):

"Now, therefore, be it resolved by the City of Lenoir City that annexations within the urban growth area that include occupied residential property in a residential zone will only be initiated when the mutual consent of more than fifty percent (50%) of the affected properties is obtained, with each property having one (1) vote. For the purpose of this resolution, a property is a lot of record or a buildable lot by definition of the county's subdivision regulations." (underlining supplied).

The resolution adopted by the Loudon County Commission was adopted approximately two months later, on June 5, 2000, and states as follows, in part:

"Whereas, the Cities of Lenoir City, Loudon, Greenback, have additionally adopted resolutions expressing their intentions to only annex residential property within their urban growth boundaries by the mutual consent of more than fifty percent (50%) of the affected property owners; and (emphasis supplied)

Whereas, the Loudon County Growth Management Coordinating Committee approved a growth management plan recommendation on April 26, 2000, amending their recommendation adopted on December 15, 1999, by reducing the Lenoir City urban growth area in three locations, as shown on the attached map, and resulting in a reduction of 4.26 square miles;

Now, therefore, be it resolved by the Loudon County Commission, meeting in regular session assembled this 5<sup>th</sup> day of June, 2000, that the Growth Management Plan recommendation approved by the Loudon County Coordinating Committee on April 26, 2000, be adopted."

Apparently no written joint agreement was signed to "seal" the agreement between the county and the cities after the adoption of the resolutions. If this procedure had been done, the conflicts probably would have been found and resolved.



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However, with these resolutions in hand, the Coordinating Committee, as aforesaid, on June 26, 2000 then submitted certification to the State Local Government Planning Advisory Committee (LGPAC) that its recommended plan in Loudon County had been accepted by the cities and the county, and requested final approval, which was given by LGPAC on June 28, 2000.

It should be noted that copies of the cities' and county resolutions were not included in the certification sent by the Coordinating Committee to the State with its certification of final boundaries, and LGPAC would not have known of the conflict in wording, but was required by law to honor the certification from Loudon County.

Please note the Lenoir City resolution was adopted April 10, 2000, and the county resolution was adopted June 5, 2000. I have found no explanation as to why the county resolution did not include a verbatim quoting of the language in the cities' resolutions, but apparently the county resolution was done in general terminology, and the differences were just overlooked by the Coordinating Committee.

Although it also appears that no one in the cities or the county realized the differences in the resolutions, it would appear that the Coordinating Committee should have become aware of the discrepancies between the city resolutions and the county resolution in reference to the side agreement requiring a vote of residential properties before an annexation could be legally accomplished. I might note that if an attorney had been advising the Coordinating Committee, the discrepancies quite possibly would have been detected, and could have been worked out.

As to the right to sue, if the county had realized the differences and objected, and if the Coordinating Committee had proceeded to certify the plan to Nashville in spite of opposition, and the LGPAC had approved it, the statute then specifically authorizes the county (and others) to contest the approval of the plan in court, if done within sixty (60) days.

However, it should be noted there apparently is no dispute with any of the parties as to the location of the boundary lines between the two districts, only as to the wording of the side agreements.

#### Issue

As I understand, the question given to me to answer is: Does the county have standing to contest judicially the annexation pending before the Lenoir City Council?

Secondarily: What would be the legal implication of doing so?

The answer as to "standing to sue" is unclear, as is explained in more detail.

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Public Chapter 1101 specifically provides that the county has standing to contest an annexation by a city after the adoption of the plan by the coordinating committee but before the LGPAC has accepted it. However, to do so, it is required that the legislative body disapprove the annexation and that a majority of property owners in the affected area petition the county to represent their interest in opposing the annexation, but there could be no jury. Also, under these circumstances, the property owners could bring suit to contest the annexation on their own, and if only property owners bring suit, then a jury can be used.

Also, as stated above, the county specifically has standing to contest the plan itself if the Local Government Planning Advisory Committee should go ahead and approve a plan undesirable to the wishes of the county. Public Chapter 1101 provides that a disenchanted county or owner of real property is entitled to a judicial review of the county coordinating committee plan if filed within sixty (60) days after final approval by the Local Government Planning Advisory Committee.

After the county growth plan is approved and the new boundary lines are established, the statute (TCA 6-58-111) specifically states a "quo warranto" action may be filed in court to challenge an annexation begun by a city. The party filing the action has the burden of proving that: (1) an annexation ordinance is unreasonable for the overall well-being of the communities involved; or (2) the health, safety, and welfare of the citizens of property owners of the municipality and territory will not be materially retarded in the absence of such annexation; (b) in any such action, the action shall be tried by the Circuit Court Judge or Chancellor without a jury. However, the statute does not specifically state that a county has authorization or standing to sue, as is specifically authorized in other sections of the statute on other matters, also as discussed hereinabove.

#### Status of Other Litigation

Inasmuch as this law is comparatively recent in this State and the plans themselves have been adopted comparatively recently, there has been very little (if any) litigation of this law and how it may have been applied to annexation efforts by cities in the various counties.

In this regard, our specific situation might be somewhat complicated anyway, as compared to other counties, because we have "personalized" side agreements (to wit, residential voting) that are involved in the controversy.

#### Personal Opinion

It appearing that there has been no real precedent established by previous cases decided by an Appellate Court, I can only give my personal analysis.

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To recap, in our situation in Loudon County it appears that a growth boundary plan has been approved specifying boundaries about which there is no conflict. However, the "side agreements" between the cities and the county were not put into writing as a signed agreement, the parties (the cities, the county and the Coordinating Committee) did not perceive that the resolutions that were adopted were conflicting, and the Coordinating Committee approved the boundaries thinking that there was an agreement between the cities and the county.

The law is clear that the Local Government Planning Advisory Committee is the final authority in the approval of a county growth plan certified by the county Coordinating Committee. For Loudon County, the LGPAC resolution of approval sent to Nashville states as follows:

WHEREAS, the Loudon County Coordinating committee has submitted a County Growth Plan for Loudon County and its municipalities, and

WHEREAS, the Loudon County Coordinating Committee has certified that the plan has been ratified pursuant to TCA 6-58-104.

NOW, THEREFORE, BE IT RESOLVED by the Local Government Planning Advisory Committee that the Loudon County Growth Plan is hereby approved and becomes effective this date.

The only things the LGPAC had from the Coordinating Committee was the certification and the accompanying boundary map, and there apparently is no conflict as to the geographical boundaries of each growth area. So, again, the "growth plan" which was approved, as I understand it, is the map showing the boundaries of the different areas around each city.

The conflict is in the interpretation of the approving governmental resolutions. Inasmuch as that part of the adopted plan has significant inconsistencies concerning the necessary voting approval of residential owners in the area to be annexed, it is my opinion that annexation efforts by a city contrary to the county resolution is ineffective (if challenged), until the requirements are clarified and agreed to by a court and/or by the parties. In other words, if an annexation were attempted that conflicted with the county resolution, it is my opinion the county would have standing to ask for a declaratory judgment requesting a court to define the appropriate interpretation, and could gain an injunction stopping the annexation until the issue was resolved.

But if the annexation were within Lenoir City's urban growth boundary, and did not violate the county's resolution otherwise, a court proceeding filed by the county probably would not be successful.

Following the above thought, my feeling is that if the dispute were filed in court, the court probably would send the plan back requiring that the original procedures be followed in

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accordance with the statute to reconcile the differences, if agreement could not be reached otherwise.

Under this statute, the County Coordinating Committee would be resurrected, and after negotiation between the parties, establish its version of a plan. If the county or a municipality rejects such a Coordinating Committee plan, then the Coordinating Committee would reconsider its action. If the Committee declines to make changes or if a revised Recommended Growth Plan (RGP) is also rejected, any party to the RGP may declare the existence of an impasse and the Secretary of State would appoint a panel of three (3) administrative law judges who would attempt to mediate the situation. If the ALJ suggestion is rejected, the ALJ would propose a final RGP. The plan proposed by the administrative law judge (or by the LGPAC if the plan did not go to an ALJ, but was left up to the County Coordinating Committee to recommend a final plan), would be considered by the LGPAC, which has authority to approve a final plan as it sees fit. Then, as stated above, if any government is dissatisfied with the plan, an appeal of the plan may be filed in court (however, in our personal scenario, the case probably would already be in court).

It would seem to be better to try to work out the matter by agreement and without litigation. Under the statute, after three years (and in our case three years with an approved plan have passed), a party to a recommended growth plan may propose amendments which shall be newly-considered by the Coordinating Committee, and it is possible that this could be a method of bringing the issue of the conflicting resolutions to the table and ultimately reaching an agreement, at least avoiding immediate litigation.

Back to the question as to the county's standing to file suit against a proposed annexation upon the complaint of property owners, and as previously stated, it is not clear that a county has standing to consider complaints from property owners as to a proposed annexation by a city, and then to file suit.

#### Investigation

Obviously, it is a policy issue as to whether the county would attempt to get involved with every and any dispute or objection that is brought by a county resident concerning a proposed annexation by a city; which could get to be very expensive and set a precedent. Even if it is determined the county has authority to file suit, it would appear that the decision to file a suit should come after a thorough investigation as to the issues, and after a recommendation based upon that investigation. The legislation as adopted by the General Assembly was to allow cities to expand reasonably within a growth area, and to stop litigation and lawsuits. I think the courts will keep the purpose in mind, so reaching a reasonable compromise has a lot to be said.

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State Attorney General Opinion

Although I think the county does have standing to file suit over the conflicting resolutions, another method of possibly avoiding expensive litigation would be to ask the State Attorney General for an opinion as to the legal issues involved in this dispute. It is possible a resolution of the issue could come from such an opinion.

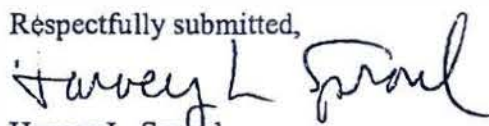
Reconsideration by Lenoir City

Finally, I am aware that Lenoir City at this point has not proceeded with a second reading based upon the objections the City Council heard from many residential property owners in the area to be annexed as to the method and manner by which the annexation has been initiated. The matter has been referred to a workshop, and could result in changes that would correct the alleged deficiencies, or could change to an annexation that does not conflict with the county resolution.

In the meantime, it should be remembered that the conflict in the resolutions involves all the cities, and the county or any of the cities could initiate informal negotiations which would have the possibility of changing the language and resolving the conflict between the two resolutions, and result in a signed agreement between the cities and county governments. Otherwise, the issue will only arise again, because there will always be complaints from some property owners who do not want to be annexed.

Because of the lack of time and the lack of judicial precedent, this memorandum is not as comprehensive as it might otherwise be (although you may think it is more comprehensive than you wanted). It results in my personal legal opinion based upon background and experience rather than necessarily on legal precedent. However, hopefully this will serve as a background, and suggest alternatives that could help resolve the current matter, and future matters, without the necessity of litigation.

Respectfully submitted,

  
Harvey L. Sproul

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