LEGISLATIVE AGENDA COMMITTEE
JULY 23, 2019

AGENDA

TIME: 2:30 p.m.
LOCATION: City Hall Conference Room

1) CALL TO ORDER

2) ATTENDANCE

3) ADOPTION OF MINUTES: June 18

4) DISCUSSION REGARDING THE CITY’S LEGISLATIVE AGENDA

5) ADJOURNMENT
CALL TO ORDER

The first meeting of the City of Clarksville Legislative Agenda Committee was called to order by Chairman Jeff Burkhart on Tuesday, June 18, 2019, at 3:30 p.m. in the City Hall Conference Room, 1 Public Square, Clarksville, Tennessee.

ATTENDANCE

PRESENT: Jeff Burkhart, Ron Erb, Stacey Streetman

Mayor Joe Pitts was also present.

GENERAL DISCUSSION

Mayor Pitts and members of the committee had a general discussion to determine a course of action and to note various issues that could be presented to the Tennessee General Assembly in the Fall along with Montgomery County Government.

ADJOURNMENT

The meeting was adjourned at 4:20 p.m.
Memorandum

TO: Legislative Agenda Ad-hoc Committee
   Councilman Jeff Burkhart, Chair
   Councilman Ron Erb
   Council-Lady Stacey Streetman

FROM: Joe Pitts

DATE: July 17, 2019

RE: Legislative Agenda items and ideas

I solicited input from our department heads regarding the legislative agenda we are considering for the 2020 legislative session of the Tennessee General Assembly. I've summarized the items below and have also included the following attachments to this document:

1. A memorandum from Brian Taylor, General Manager of CDE Lightband
2. A recent news article pertaining to one of the items for your consideration, and previously filed legislation to allow state historic tax credits,
3. A June 19 letter from Stan Williams our Transportation Planner from the RPC,
4. A working document from Montgomery County Mayor Jim Durrett that will be their committee's working list, and
5. A legal opinion relative to the "fifty dollar fine clause" for city courts.

Submission from Finance & Revenue Department:

I would like to have the administrative processing fee provided to local partners for providing DMV services increased from $4 to $10. When we originally agreed to provide this additional service we were told the fee was being increased to $10. That has not occurred and our State contacts act like it was never the plan.

The citizens pay the fee in addition to the drivers license renewal fee for the convenience of utilizing the City Hall location. The City retains the fee as per state law. We have contracted with
the State and our contract would allow for us to collect and retain the increased fee. The TCA needing to be amended is below:

55-50-331. Examination for, and issuance, renewal and contents of, licenses -- Conditional licenses.

(a) Notwithstanding this chapter to the contrary, the department has oversight of the issuance, examination and renewal of all driver licenses provided for in this chapter. The department is authorized to contract for the provision of any service related to the issuance, examination and renewal of driver licenses subject to applicable contracting statutes and regulations. The commissioner has the discretion to solicit outside consulting services in order to accomplish on a competitive basis the design and application of the system and implementation of this system. Any entity so contracting with the department is authorized to charge an additional fee of four dollars ($4.00), which shall be retained by the entity for administrative costs.

Submission from Parks & Recreation Department:

1. We would like to expand the "no smoking" law to include outdoor public venues such as baseball, softball, athletic fields, events and even parks although I know that would be a stretch. Basically anywhere that people gather and children play. Here is a link to the current restrictions: https://www.tn.gov/health/health-program-areas/fhw/tobacco/smokefree-tennessee/smokefree-tennessee-faq.html it addresses sports arenas but it is referring to stadiums such as for the Titans and Bridgestone.

2. We are increasingly having issues with people bringing "therapy dogs" to our events and facilities. In fact there were two at the Business After Hours last week inside the WREC. One was actually legit, had a vest on that said "do not touch" and was clearly being trained. The other was a small fuzzy dog that was being held in a lady's arms like a baby and being posed for selfies with everyone that would allow the owner. Legally, and rightfully so, we cannot ask what their disability is that requires them to have a therapy dog and there is no regulatory, governing body for therapy dog certification and no paperwork requirement for the owner to take them into public areas. This becomes an issue for several reasons. One being that when people see other people bringing dogs into a facility, they assume that they can as well. Another is that when all dogs are not trained as therapy dogs, they don't always behave well and we run the risk of them getting into a fight with another dog or biting someone. This actually happened a few years back at Rivers and Spires. The noise, people, food and excitement of new situations creates fear and excitement that would cause any dog to misbehave. Is there something that can be done to provide therapy dogs/owners with identification so we know that they are legitimate? I am positive that businesses across the country are dealing with the same issues. More on the ADA law and therapy dogs here: https://americandisabilityrights.org/adr/service-dogs?gclid=EAAlQobChMl5WJraGH4wIvHlSzCn0fXQ-LEAYAaAEgLQ_D_BwE#sdteams-publicaccess
3. Full funding for LWCF (Land and Water Conservation Fund). 
https://www.nrpa.org/our-work/advocacy/advocacy-engage/  This is a source of grant money 
that we have been successful in receiving in the past. 
Submission from the Police Department:

There is something that I would like to address, and that is vehicles that flee from Law 
Enforcement. It is a class E felony to flee from a lawful traffic stop. We have one of the most 
restrictive pursuit policies in the State and we have people flee traffic stops constantly. When 
you examine the costs of vehicle pursuits not only across the Nation, and the State but here in 
Clarksville over the years it has been enormous. There have been instances here in Clarksville 
where innocent citizens have been injured, and killed due to the result of a vehicle pursuit. The 
problem we have as well as any other Law Enforcement agency has is if we can't identify the 
driver there is very little we can do. I would like to see some sort of penalty for the registered 
owner failing to act responsible. For instance I go to stop a Sport Bike on the bypass and he/she 
flees at 100 plus mph. there is no way I could identify the operator so there is very little I can do 
except for questioning the registered who would tell me to have a nice day along with a few 
other expletives. I would like to see some form of action supported by T.C.A. that an agency 
could take, such as issuing the registered owner a citation for failure to act as a responsible 
motor vehicle owner which would also mean points on that individual's license. I can provide 
stats and numbers that would support this issue, for instance we had 130 incidents of what we 
call non pursuits in 2018, and 135 in 2017, which means 265 incidents where individuals fled 
from a traffic stop. I just wanted to run this by you to see if it would be something worthwhile to 
present to the Legislative committee.

Other items that have been submitted or discussed:

1. Increasing city fines from $50. Please see legal opinion relative to Tennessee State 
   Constitutional restrictions going beyond $50.
2. E911 fee. Increasing the current fee from $. To $1.16
3. State Historic Tax Credits: please see enclosed newspaper article indicating the impact 
   a fee might have on historic building renovations.
4. Allowing CDE Lightband, and other municipal broadband providers to serve outside their 
   city limits service area.
5. Juvenile Detention Center
6. Creation of a Military Affairs Commission by the state of Tennessee. In 2008-09 the 
   state of Tennessee eliminated the Military Affairs Commission due to inactivity. The 
   multi-billion dollar impact of Fort Campbell and other military related entities in our state 
   deserve a cabinet level commission that will measure and track the importance of 
   military affairs in our state.

I look forward to our meeting on July 23rd.
Memorandum

To: Mayor Joe Pitts
CC: 
From: Brian D. Taylor
Date: 7/1/2019
Re: Legislative agenda

We work closely with our statewide organization in putting together a legislative agenda for Municipal Electric Systems. While many of our agenda items may only apply to Municipal Electric Systems, some to apply to the City as a whole.

We are more than happy to pass along our citywide legislative agenda to our statewide agency (TMEPA). Below are a few topics we focused on last year and will more than likely come up again this next year:

- There were two open records bills that came up and we expect them to return next session
  - Posting all agenda items and documents on website; this would be expensive for small systems that contract out website maintenance
  - A bill to allow a person to take photos of records
- Broadband expansion - While this will be a dead issue for Municipal expansion for some time, we continue to look at opportunities to partner with Co-ops or private businesses.
- Net Metering – This would force electric utilities to pay retail rates for excess solar generation. This is not fair to the customer that relies 100% on the grid.
- Smart Metering – This comes up every year, to date it has not gotten much traction. We are fully deployed with our metering infrastructure and are actually deploying our second-generation metering system.
• FCC Small Cell – A bill was passed two years ago to handle this at the state level, however now there is legislation pending at the federal level. The new legislation would treat a small cell attachment just as a wire attachment; they are not the same.

As you can see the above topics are focused on the defensive posture. We do not have anything we are pushing at this time, however something may come up during next week’s annual meeting and we will finalize our agenda late January early February.

Again, we are happy to help by sharing resources.
Tax credit could help save city's history

Old Dabbs building was demolished last month

Brooklyn Dance
Clarksville Leaf-Chronicle
USA TODAY NETWORK - TENNESSEE

The dismantling of Clarksville's historic Dabbs building has raised questions about the future of run-down historic landmarks in town.

The building, one of the city's oldest, is on the National Register of Historic Places, though it's not specifically designated as significant. That's based on the most recent historic survey, which was conducted in the 1970s.

But the historic designation doesn't protect the building from being demolished.

Building owner Ed White said he originally intended to restore the Dabbs building but later deemed it unfixable. The building was ultimately approved for demolition by the Design Review Board in January.

A back and forth

The debate between demolition versus renovation is not a new one.

Thirty-five states in the country offer up to a 20% tax incentive for developers to restore historic buildings. But Ten-
Where do we go from here?

The access to healthcare in rural Tennessee...

Continued from Page 1A

See

History

According to a recent study, rural areas in Tennessee lack access to healthcare services, making it difficult for residents to receive proper medical care. This problem is compounded by the shortage of healthcare professionals in these regions. Efforts are being made to improve access to healthcare by expanding telemedicine services and partnering with local hospitals to increase outreach in rural areas. However, more needs to be done to address the healthcare disparities faced by rural residents.

Without a consistent, reliable source of funding, the medical community in rural Tennessee struggles to provide quality care to their patients. This lack of support can lead to decreased access to basic healthcare services, such as primary care and specialty care.

The Tennessee Department of Health is working to address these issues by increasing funding for rural healthcare facilities and expanding telemedicine programs. However, more needs to be done to ensure that all rural residents have access to the healthcare they need.

The future of rural healthcare in Tennessee is uncertain, but there is hope for improvement. With continued efforts from the state and healthcare providers, residents of rural Tennessee can look forward to better access to healthcare services.

The leaf-Chronicle
HOUSE BILL 1061

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 4, relative to incentives for the rehabilitation of historic structures.

WHEREAS, this General Assembly recognizes the importance of restoring and preserving the state's historic buildings and structures; and

WHEREAS, the restoration and preservation of the state's historic buildings and structures fosters civic beauty, revitalizes and renews communities, expands the state's economy, creates new employment, retains existing employment, and promotes public education, pleasure, and welfare; and

WHEREAS, this General Assembly enacts this Historic Rehabilitation Investment Incentive Act to facilitate the restoration and preservation of the state's historic buildings and structures and redevelop the state's main street communities; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 4, is amended by adding Sections 2 through 8 as a new part.

SECTION 2. This part shall be known and may be cited as the "Historic Rehabilitation Investment Incentive Act."

SECTION 3. As used in this part:

(1) "Certified historic structure" means a property that is located in this state and is:

(A) (i) Listed individually on the national register of historic places; or
(ii) Located in a registered historic district listed on the national register of historic places and is certified by the secretary of the United States department of the interior as contributing to the historic significance of the district; or

(B)

(i) Listed individually on the Tennessee register of historic places; or

(ii) Located in a registered historic district listed on the Tennessee register of historic places and is certified by the commission as contributing to the historic significance of the district;

(2) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the commission has certified as meeting the United States secretary of the interior's standards for rehabilitation as defined in 36 CFR 67.7;

(3) "Commission" means the Tennessee historical commission;

(4) "Eligible costs and expenses" has the same meaning as "qualified rehabilitation expenditures" defined in Section 47(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. § 47(c)(2)), except that the depreciation and tax-exempt use provisions of that section do not apply to cost and expenses incurred by an entity exempt from the tax imposed under § 67-6-322, and those costs and expenses are eligible costs and expenses if the other provisions of Section 47(c)(2) of the Internal Revenue Code (26 U.S.C. § 47(c)(2)) are satisfied;

(5) "Owner" means the person who holds legal fee or leasehold title to a certified historic structure, or an identifiable portion of the structure;

(6) "Person" means any natural person, corporation, including any for-profit or nonprofit corporation, general or limited partnership, limited liability company, trust, estate, or other business entity;
(7) "Placed in service" means that sufficient rehabilitation work has been completed which would allow for occupancy of the entire certified historic structure or of some identifiable portion of the structure, or that the owner has commenced depreciation of the qualified rehabilitation expenses, whichever occurs first;

(8) "Qualified rehabilitation expenditures" has the same meaning as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 47(c)(2)(A)); and

(9) "State premium tax liability" means any liability incurred by an insurance company for the following taxes, as applicable:

(A) Premium taxes under title 56, chapter 4, part 2; title 50, chapter 6, part 4; §§ 56-13-114; 56-14-113; 56-22-114; and 56-45-110;

(B) Retaliatory tax under § 56-4-218; and

(C) Any other premium taxes and retaliatory taxes imposed upon an insurance company by this state under any other law.

SECTION 4. Tax credit; carryforward; allocation.

(a) Any owner that incurs qualified rehabilitation expenditures for the rehabilitation of a certified historic structure shall earn a tax credit against any state premium tax liability in an amount equal to twenty-five percent (25%) of the qualified rehabilitation expenditures; provided, that:

(1) The rehabilitation meets standards consistent with the standards of the secretary of the United States department of the interior for rehabilitation, as certified by the commission;

(2) The certified historic structure is placed in service on or after January 1, 2017; and
(3) The total amount of qualified rehabilitation expenditures associated with the certified historic structure exceeds five thousand dollars ($5,000).

(b) The entire tax credit shall be earned in the year in which the certified historic structure, or portion of the structure, attributable to the qualified rehabilitation expenditures is placed in service; provided, that the tax credit shall be claimed in three (3) equal annual installments beginning with the year in which the certified historic structure, or portion of the structure, attributable to the qualified rehabilitation expenditures is placed in service. The total tax credit claimed for any taxable year, including the amount of any carryforward tax credit claimed, shall not exceed the claimant's state premium tax liability due. Any unused portion of any installment of the tax credit may be carried forward for the five (5) years following the year in which the installment could be claimed.

(c) The tax credit may be allocated among some or all of the partners, members, shareholders, or other owners of any partnership, limited liability company, S-corporation, or other similar pass-through entity in any manner agreed to by the partners, members, shareholders, or owners without regard to their sharing of other tax or economic attributes and may be allocated on an annual basis, including an allocation of the entire tax credit, or any installment of the credit, to any partner, member, shareholder, or other owner who was a partner, member, shareholder, or other owner at any time during the year in which the tax credit is allocated. There is no limit on the total number of allocations of all or part of the total credit authorized under this section.

SECTION 5. Application and Certification.

(a) Requests for designation of a property as a certified historic structure and of a proposed rehabilitation shall be made on the following forms, which shall be promulgated by the commission:
(1) A form used to request designation of a property as a certified historic structure;

(2) A form used to request certification of a proposed rehabilitation as meeting the standards consistent with the standards of the secretary of the United States department of the interior for rehabilitation; and

(3) A form used to request certification of a completed rehabilitation.

(b)

(1) If the owner also applies for the federal historic rehabilitation tax credit pursuant to Section 47 of the Internal Revenue Code of 1986 (26 U.S.C. § 47), then in lieu of requesting the tax credit provided in this part on the forms required by subsection (a), the owner may request the tax credit on parts 1, 2, and 3 of the historic preservation certification application used by the national park service, including any additional forms and certifications as may be requested by the commission. The owner may seek a state tax credit exclusively without also applying for the federal tax credit. If the owner is eligible to claim a state tax credit exclusively, the application forms for the historic rehabilitation investment incentive provided by the commission shall be used.

(2) A project, or any part or phase of a project, also submitted for the federal historic rehabilitation tax credit will be reviewed and approved by the national park service before the commission issues its determinations under this chapter. Official written determinations from the national park service, including advisory determinations on phased work, may meet this qualification. The commission shall consider national park service decisions in rendering its determinations. A project that receives certification for the purposes of the federal historic rehabilitation tax credit shall receive a certification of eligibility.
pursuant to the Tennessee historic rehabilitation investment incentive; provided, that the building is a certified historic structure at the time the credit is taken.

(3) The owner may subdivide a phased project submitted for the federal historic rehabilitation tax credit program into a series of smaller projects submitted for the state program. These smaller projects must be described in the application for the federal historic rehabilitation tax credit at the outset of the project, and must correlate to individual phases of the federal phased project. Each project corresponding to a phase of the federal historic rehabilitation tax credit project may be submitted for the state credit when that phase of work is placed in service. Official determinations from the national park service must still be received for each phase of work submitted for the federal program before the commission issues its determination on each corresponding smaller project submitted for the state program.

(c) Concurrently with the certificate of a completed rehabilitation, the commission shall issue to the owner a tax credit certificate providing the amount of tax credit generated by the qualified rehabilitation expenditures incurred during the rehabilitation. To issue a tax credit certificate, the owner shall provide the commission with the following:

(1) An audited cost report issued by a public accountant licensed by this state confirming the amount of qualified rehabilitation expenditures incurred during the rehabilitation of the certified historic structure; and

(2) Evidence that the certified historic structure has been placed in service.

SECTION 6. Retaliatory Tax. A claimant of a tax credit shall not be required to pay any retaliatory tax levied under § 56-4-218 as a result of claiming the tax credit.
SECTION 7. Rules; fees.

(a) Within ninety (90) days of the effective date of this act, the commission may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and adopt the forms necessary or convenient to implement this part.

(b) The commission may adopt a fee, not to exceed ten thousand dollars ($10,000), for the applications and certifications required by this part or by any rules promulgated pursuant to this part. The fees shall be receipts of the commission to be used for performing its duties under this part.

SECTION 8. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.
June 19, 2019

Re: road project phases that could/should be included in this year’s Legislative agenda

Dear Mayor Pitts and Mayor Durrett,

Road projects that were specifically included in the 2017 IMPROVE Act and have a dedicated funding source:

1. SR48/Trenton Rd. (from near SR374/101st Pkwy. to near I-24) encourage TDOT to complete the PE-NEPA phase in a timely manner. Funding was obligated in the FY2017-2020 Transportation Improvement Program (TIP). Then complete the PE-Design phase in a timely manner. Partial funding is obligated in the FY2020-2023 TIP.

2. SR374 extension (from Dotsonville Rd. to SR149) encourage TDOT to complete the PE-NEPA document. Corridor public meetings were conducted in Nov. 1997. Funding was obligated in the FY2005-2008 TIP. Then complete the PE-Design phase according to schedule so Right-of-Way phase can begin as per the FY2020-2023 TIP.

3. SR374 extension (from Dotsonville Rd. to US79/SR76/Dover Rd.) encourage TDOT to complete the PE-NEPA document. Corridor public meetings were conducted in Nov. 1997. Funding was obligate in the FY2005-2008 TIP. Then complete the PE-Design phase according to schedule so Right-of-Way phase can begin as per the FY2020-2023 TIP.

4. I-24 widening (from KY State line to SR76/exit 11) to encourage TDOT to obligate funding to complete the PE-NEPA phase and move to Design in a timely manner.

Projects that need to be constructed:

1. SR13/Wilda Rudolph Blvd. (from Holiday Dr. to Alfred Thun Rd.) encourage TDOT to issue Construction bid letting as scheduled for Dec.
2019. Safety improvements include double-lane the eastbound off ramp, install a traffic signal and provide more storage under the current interchange for the I-24 west bound on ramp. Funding was obligated in the FY2014-2017 TIP.

Mayor Pitts anc Mayor Durrett
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2. SR112/Madison St. sidewalks, service roads and SR76 intersection (as 1 project) encourage TDOT to issue Construction bid letting as scheduled for Aug. 2020. Funding was obligated in the FY2017-2020 TIP and FY2020-2023 TIP.

Should you have any questions, contact me at your convenience.

Sincerely,

J. Stan Williams
Transportation Planning Director

Cc: James Halford
Kyle D Johnson
Jeff Tyncall
Legislative Agenda – 2019 Public Input

1. Elizabeth Black - It would be nice to the committee to address people bringing pets in Government buildings. It's very difficult during elections when people bring dogs.

2. Stan Williams – Transportation Planning Director
   Road projects that were specifically included in the 2017 IMPROVE Act and have a dedicated funding source:
   - SR48/Trenton Rd. (from near SR374/101st Pkwy. to near I-24) encourage TDOT to complete the PE-NEPA phase in a timely manner. Funding was obligated in the FY2017-2020 Transportation Improvement Program (TIP). Then complete the PE-Design phase in a timely manner. Partial funding is obligated in the FY2020-2023 TIP.
   - SR374 extension (from Dotsonville Rd. to SR149) encourage TDOT to complete the PE-NEPA document. Corridor public meetings were conducted in Nov. 1997. Funding was obligated in the FY2005-2008 TIP. Then complete the PE-Design phase according to schedule so Right-of-Way phase can begin as per the FY2020-2023 TIP.
   - SR374 extension (from Dotsonville Rd. to US79/SR76/Dover Rd.) encourage TDOT to complete the PE-NEPA document. Corridor public meetings were conducted in Nov. 1997. Funding was obligate in the FY2005-2008 TIP. Then complete the PE-Design phase according to schedule so Right-of-Way phase can begin as per the FY2020-2023 TIP.
   - I-24 widening (from KY State line to SR76/exit 11) to encourage TDOT to obligate funding to complete the PE-NEPA phase and move to Design in a timely manner.

Projects that need to be constructed:
   - SR13/Wilma Rudolph Blvd. (from Holiday Dr. to Alfred Thun Rd.) encourage TDOT to issue Construction bid letting as scheduled for Dec. 2019. Safety improvements include double-lane the eastbound off ramp, install a traffic signal and provide more storage under the current interchange for the I-24 west bound on ramp. Funding was obligated in the FY2014-2017 TIP.
   - SR112/Madison St. sidewalks, service roads and SR76 intersection (as 1 project) encourage TDOT to issue Construction bid letting as scheduled for Aug. 2020. Funding was obligated in the FY2017-2020 TIP and FY2020-2023 TIP.

3. Commissioner Joe Smith
   Requests to improve infrastructure and traffic flow around Montgomery County:
   (1) Funding to widen Warfield Blvd from Dunbar Cave to Madison St.
   (2) Funding to Widen Hwy 41A Bypass from Madison St to Riverside Dr.
   (3) Funding to complete Highway 374 across the Cumberland River to Highway 149
   (4) Funding to Widen Trenton Rd from Tylertown Rd. to Wilma Rudolph Blvd.
   (5) Funding to Widen Rossvie Rd from Rollow Ln to Warfield Blvd.
   (6) Funding to Widen I-24 from State Line to Mile Marker 12.
Department of Corrections Requests to for Youth Rehabilitation Center in Montgomery County:
(1) Funding to build a youth corrections facility in Montgomery County
Public Safety Requests to allow EMS to be a part of Bridge Program:
(1) Urge legislators to include Emergency Medical Personnel in the 25/55 Bridge Program for retirement

Parks and Recreation Requests:
(1) Request better funding for Port Royal and Dunbar Cave State Parks that are a local attraction

Opioid Epidemic Requests:
(1) Urge legislators to make it mandatory for all overdose victims to attend rehabilitation treatment funded by the state
(2) Requests for new state law increasing the prison time and fines for anyone selling opioids illegally or who are abusing their ability to prescribe them.

High Speed Internet and Broadband Request:
(1) Urge legislators to allow free market in all of the rural areas of Tennessee

4. Dr./Commissioner Rashidah Leverett, County Commissioner, District 5 at district5@mcc.gov or 931-266-1083

Provide Protection and Support for Witnesses and their Families in Criminal Investigations.

PURPOSE: (I) The impact of crime on the citizens of Montgomery County can be profound. Witnesses may suffer from physical, mental, emotional and financial harm, from which some may never recover. Injuries may be threatened or inflicted upon witnesses or their families, and threats may even be made against lives.

(II) States have a responsibility to respect the fundamental rights of victims, assist them in accordance with their special needs, and protect them from further harm.
All criminal justice systems have a duty to put in place procedures to provide measures for the protection of persons whose cooperation with the criminal justice system in an investigation or prosecution, puts them, or persons closely associated with them, at risk of serious physical or emotional harm. Such measures may include:
• Assistance before and during trial to cope with the psychological and practical obstacles of testifying;
• Protective measures before, during and after hearing or trial for "at risk" witnesses.
• Court procedures to ensure the witness' safety while testifying;
• A cover: witness protection programme.
The challenges posed to States in providing assistance and protection measures to victims and witnesses of crime are compounded when such organized crimes are also transnational. Adequate witness protection measures may be in place in one country, but fail to protect them against threats present in others for lack of cooperation mechanisms. This transnational challenge highlights the need for a higher degree of international cooperation.

According to the United Nations Drug and Crime Articles 24 and 25 of Organized Crime Convention, State parties shall take appropriate measures within their means to provide effective protection as well as assistance to victims and witnesses of crime. Such measures may include inter alia establishing procedures to safeguard the physical integrity of people who give testimony in criminal proceedings from threats against their life and intimidation. Witnesses must be protected from threats, intimidation, corruption, or bodily injury and States are obliged to strengthen international cooperation in this regard.

The Montgomery County Commission requests that the Tennessee General Assembly examine the issue of protection and support for witnesses of criminal investigations.

5. Montgomery County Sheriff’s Office Submissions
   a. LEGISLATIVE ITEM: Amend certain requirements for Professional Bondsman.

   PURPOSE: The purpose of this legislative change is to make professional bondsman, to include their agents, employees, representatives, etc. to be subject to the same requirements when acting as a bounty hunter by taking fugitives into custody. The current statutory definition of a ‘Professional bondsman’ or ‘bondsman’ under TCA 40-11-301 does not reference or describe duties that are specific to acting as a ‘bounty hunter’ as defined in TCA 40-11-318. However, ‘Bounty hunting’ as defined in the previous citation does provide an exemption to ‘bounty hunting’ status when a person is taken into custody by a professional bondsman and/or their agents, employees, representatives, etc.

   BACKGROUND: Current law requires a person who intends to perform the services of a bounty hunter to undergo background checks, follow certain procedures, maintain appropriate identification, and undergo specific training. Professional bondsman and/or their agents, employees, representatives, etc. may perform the services of a bounty hunter but is not required to meet any of the clearly established requirements of a bounty hunter. Numerous incidents have occurred where professional bondsman and/or their agents, employees, representatives, etc., have engaged in conduct that would have been a violation of statute had such conduct been engaged by a bounty hunter(s) while taking person(s) into custody. These actions created a hazard to public safety and resulted in
unnecessary injury. Moreover, current law provides no remedy or corrective behavior. The Clarksville Police Department, the 19th Judicial District Attorney’s Office, and the Montgomery County Sheriff’s Office have worked diligently to seek remedies to this issue. All of these agencies have spent considerable resources responding to, investigating, and evaluating prosecutorial options. Amending portions of the current statute is what is necessary to provide the standards for professional bondsman and/or their agents, employees, representatives, etc., as well as make certain actions punishable by law.

ADDITIONAL INFORMATION: Contact Sheriff John Fuson at jsfuson@mkgtn.net or 931.320.2215.

ADDITIONAL REFERENCE MATERIAL: The following portions of statute have been reviewed by the 19th Judicial District Attorney’s Office and suggested changes accordingly that are indicated by striking portions indicated in RED, and adding portions indicated in BOLD BLUE ITALICS.

40-11-301. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Available capacity" is a professional bondsman's capacity reduced by the total amount of bail, expressed in dollars, which the professional bondsman has outstanding and from which the professional bondsman has not been released;

(2) "Capacity" is the total amount of bail, expressed in dollars, on which a professional bondsman may act as surety;

(3) "Equity in real estate" is determined by taking the fair market value of the real estate and subtracting from that value all outstanding liens and encumbrances. For purposes of establishing fair market value, either the county property assessor's appraisal or an opinion of value from a licensed real estate broker may be used; and

(4) (A) "Professional bondsman" means any person, firm, partnership or corporation, engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, in criminal proceedings, or for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including municipal courts or securing the payment of fines, judgments or damages imposed and of costs assessed by those courts upon preliminary or final disposition thereof;

(B) "Professional bondsman" or "bondsman" extends to and includes the agents, representatives or employees of a professional bondsman, or those acting for the bondsman, whether with or without compensation or salary. The business of a professional bondsman shall be limited to the acts, transactions and undertakings enumerated in subdivision (4)(A) and to no others. (Marked through red text deleted and replaced by “may include bounty hunting as defined in 40-11-318(a).”) 40-11-318.

Bounty hunting.
(a) "Bounty hunting" means a professional bondsman or a person who acts as an agent of a professional bondsman who attempts to or takes into custody a person who has failed to appear in court and whose bond has been forfeited, for a fee, the payment of which is contingent upon the taking of a person into custody and returning the person to the custody of the professional bondsman for whom the bounty hunter works. However, "bounty hunting" does not include the taking into custody of a person by a professional bondsman. (Add text in blue and delete marked through red text.)

(b) No person who has been convicted of a felony shall serve as a bounty hunter in this state. Persons having been convicted of a felony who perform the services of a bounty hunter as defined in this section commit a criminal offense, punishable as a Class A misdemeanor.

(c) Before a bounty hunter takes into custody any person who has failed to appear in court, the bounty hunter shall comply with § 40-11-401, make a good faith effort to verify the person's address, and present to the office of the appropriate law enforcement officer of the political subdivision where the taking will occur:

1. A certified copy of the underlying criminal process against the defendant;
2. A certified copy of the bond or capias;
3. Proper credentials from a professional bondsman in Tennessee verifying that the bounty hunter is an agent of a professional bondsman; and
4. A pocket card, with identifying photo, certifying that the bounty hunter has completed the training required by § 40-11-401.

(d) Failure to present all of the proper credentials as specified in this section to the office of the appropriate law enforcement officer prior to taking any person into custody shall be punishable as a Class A misdemeanor.

(e) A professional bondsman, who knowingly employs a convicted felon to act as an agent of the bondsman for purposes of taking into custody a person who failed to appear in court, commits a Class A misdemeanor.

(f) Any resident of this state who is a United States citizen and who intends to perform the functions of a bounty hunter as defined in subsection (a), shall submit to a criminal history background check as provided by § 38-6-109 at the sheriff's office at the county of the person's permanent residence. The person requesting the criminal history background check shall be responsible for any fees associated with the background check. The criminal background check shall include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation (TBI) and the federal bureau of investigation (FBI). The sheriff's office shall maintain files in their respective counties on bounty hunters requesting a criminal history background check. A sheriff may charge a fee of not more than two hundred dollars ($200) for each background check performed pursuant to this subsection (f) and in addition to the background check fees payable to the TBI, the FBI and any designated vendor.

(g) No bounty hunter shall wear, carry, or display any uniform, badge, shield, card, or other item with any printing, insignia, or emblem that purports to indicate, or copies or resembles an item that indicates that such bounty hunter is an employee, officer, or agent of any local, state, or federal government or any political subdivision of any local, state,
or federal government. Any time a bounty hunter is engaged in the functions of bounty hunting, the bounty hunter shall wear clothing that clearly identifies the person as a bounty hunter and prominently displays the words "bounty hunter".

(h) Nothing in this section gives a bounty hunter legal defense or privilege to violate any traffic laws or criminal statutes. 40-11-133. Arrest of defendant by bail bondsman or other authorized person.

(a) For the purposes of §§ 40-11-132, 40-11-203, and 40-11-204, the bail bondsman, bounty hunter or surety may arrest the defendant on a certified copy of the undertaking, at any place either in or out of the state, or may, by written authority endorsed on the certified copy, authorize another person to make the arrest. In the event that circumstances prevent the obtaining of a certified copy of the undertaking or capias from the clerk's office at the time of the arrest or surrender, a duplicate copy of the same shall suffice until such time that a certified copy can be obtained from the clerk's office.

(b) After the payment of the forfeiture, the bail bondsman, bounty hunter or surety may arrest the defendant on a certified copy of the capias, or may, by a written authority endorsed on the certified copy, authorize another person to make the arrest.

(c) Any capias issued pursuant to a forfeit, whether the forfeit is conditional or final, shall remain in full force and effect until the defendant is apprehended and returned to the criminal justice system, and a disposition is entered in the defendant's case.

(d) Any approved bail bondsman in good standing is authorized to return the defendant to the jurisdiction for which the bail bond is obligated for the defendant's appearance; provided, the bail bondsman is liable for the expenses of returning the defendant and the defendant is located within this state.

(Add bounty hunter to persons authorized to arrest in subsections (a) and (b).)

b. LEGISLATIVE ITEM: Certification of veterans with military police training and experience.

PURPOSE: The purpose of this legislation will enable a better path for transitioning members of any branch of the military who has been honorably discharged as a former Military Police Officer. The legislation should create eligibility for the veteran to attend the POST transition school currently conducted by the Tennessee Law Enforcement Training Academy. Suggested criteria should further specify that the veteran meet all the minimum requirements for employment in the state of Tennessee for a Police Officer, be hired by a state or local law enforcement agency to perform duties that require POST certification, and have experience of not less than two years serving as a military police officer. This legislation will provide excellent opportunities for well-trained, disciplined soldiers to transition to civilian life.

BACKGROUND: Several Tennesseans serve their country around the world as Military Police Officers. Moreover, many members of the military from other parts of the country serve here in Tennessee. This legislation would incentivize Tennesseans to return to their home state to become police officers; and incentivize non-residents transitioning out of the military to remain in Tennessee. Currently, the Tennessee Law Enforcement Training Academy costs city and county agencies $3,300 in tuition.
Additionally, the city and county agencies furnish salary and benefits for the entire 12-week school. Furthermore, most local agencies have structured field training programs that range from 10 to 14 weeks. The transition school taught at the academy has a tuition rate of $825 and concludes in three weeks. Most agencies have accelerated field-training programs that range from four to eight weeks. By leveraging a three-week transition school, and a shorter field-training program, state and local agencies will have the ability to deploy former military police officers on the street in less than half the time. The cost savings is also significant. On average, an agency will provide salary and benefits to an untrained officer for approximately 26 weeks of academy and field training. Additionally, the salary and benefits of the recruits training officer must be included for the entire field-training period. Currently, the cost of the 12-week academy, salary and benefits for a new officer for six months, and the training officer for the field training phase, total approximately $60,000. A transitioning former military police officer may be deployed at a cost of approximately $21,596. This represents approximately 1/3 of the cost that agencies must currently bear to bring our military police heroes into civilian law enforcement. Florida, Kentucky, Minnesota, Missouri, Montana, North Carolina, North Dakota, Texas, and Virginia all have similar paths for Military Police Officers. This proposed legislation is good for our military, it is good for Tennessee law enforcement agencies, and is good for our community.

ADDITIONAL INFORMATION: Contact John Smith, Chief Deputy, Montgomery County Sheriff’s Office at jsmith@mcgtn.net or 931.320.1829.

c. LEGISLATIVE ITEM: Amend portions of the Tennessee Code to redefine “Prisoner Day” and to allow counties to seek pretrial confinement for convicted TDOC inmates.

PURPOSE #1: The current definition of “Prisoner Day” in TCA 41-8-103(11) is limited to the days after the inmate is ‘sentenced to the department of correction.’ Redefining “Prisoner Day” by striking the italicized phrase in the previous sentence to ‘convicted by the trial court’ will allow counties to seek reimbursement from the state for a convicted inmate.

BACKGROUND: After conviction, inmates must remain incarcerated, at the continued expense to the county, until the date of sentencing, unless the trial judge sets a bond, or releases the inmate. Upon conviction, the inmate should be considered the responsibility of the Tennessee Department of Correction. Recent analysis of inmates being held in the Montgomery County Jail that are convicted, but not sentenced, would be eligible for approximately $30,000 in annual per diem reimbursement.

PURPOSE #2: Amending TCA 41-8-106(g)(2) in proper fashion will allow the commissioner of the Department of Correction to compensate a county for “Detainee Days” as defined in T.C.A. 41-8-101(6), where the trial judge allows the defendant credit for pretrial detention as authorized under T.C.A. 40-23-101(c). Additionally, any portions of the County Correctional Incentives Act of 1981 should be amended as to not contradict the intent of these amendments.
BACKGROUND: Many inmates that are convicted of crimes receive credit by the trial judge for time incarcerated in the local jail on a sentence imposed following conviction. The credit reduces the time the inmate serves in the custody of the Tennessee Department of Correction thereby reducing the financial burden on the state. In essence, the county bears the states expense. The most recent analysis of “Detainee Days” for pre-trial confinement revealed that Montgomery County would have been eligible for over $300,000 in annual per diem reimbursement.

ADDITIONAL INFORMATION: Contact Sheriff John Fuson at jsfuson@mctn.net or 931.320.2215.

6. William Wright – wrwright@mctn.net
A suggestion for the legislative agenda would be having the bridge retirement program to cover all commissioned deputies in the sheriff office.

7. Commissioner Jason Knight Jason Knight - jasonknightfor18@gmail.com
a. The state should allow counties the ability to be able to do a line by line review assessment and approval of school budget items to ensure that tax dollars are being spent adequately, appropriately and frugally in such a manner that ensures that funds are allocated to each item appropriately and in the best interest of the community the school board represents.

b. Tennessee is suggested to have a no cost school lunch program available to every child in the state of Tennessee. This will ensure each child is receiving adequate nutrition required for that child to learn and grow while in school regardless of a parent’s financial situation.

c. Streamlined process for infrastructure (road) improvements to ensure that excess time is not being used to construct, repair, or otherwise develop a road. As it takes 10 almost to complete a road project the hope is to somehow cut that down by half.

d. Stream line the IEP program in the state of TN granting at the very least an immediate 504 plan (within one school based IEP meeting) to any and all medically diagnosed special needs child. This will ensure that each child receives the care required.

e. Ensure that each school has funding available to or even making it mandatory to allocate funds for schools budget to ensure there are programs available for children on the spectrum to ensure their learning needs are met.

f. Installing either metal detectors or ensuring each county has adequate SROs and providing those SROs with metal detecting wands to ensure the safety and security of each child upon entering each school.
Legal Opinion No. 2002-07

To: Metropolitan Beer Permit Board
   Metropolitan Department of Public Works
   Metropolitan Department of Health
   Metropolitan Department of Water Services
   Metropolitan General Sessions Court

Date: November 20, 2002

You have requested a legal opinion from the Department of Law on the following question:

Question

Does Article VI, § 14, "The Fifty-Dollar Fine Clause," and its requirement that fines in excess of $50 be assessed by a jury, apply to administrative agencies?

Answer

Article VI, §14 of the Tennessee Constitution does not apply to administrative agencies. This constitutional provision only restricts the ability of judges to impose discretionary fines greater than $50. It does not prohibit administrative agencies from assessing civil penalties in excess of $50.

Analysis

The "Fifty-Dollar Fine Clause," (Article VI, § 14 of the Tennessee Constitution, originally adopted as Article V, § 11 of the Constitution of 1796) provides that:

No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.
The caption of Article VI of the Tennessee Constitution, where the Fifty Dollar Fine Clause is located, is "The Judicial Department" and its various sections deal with the powers and qualifications of the various members of the judicial branch. Article VI, § 2 establishes the Supreme Court; Article VI, § 4 establishes the qualifications of judges of inferior courts, and Article VI, § 10 vests within the inferior courts the power of certiorari.

Courts have Applied the Fifty Dollar Fine Clause to Judge-Assessed Fines

Historically, the Fifty Dollar Fine Clause has been interpreted numerous times as a limitation on the power of judges. The two cases of State v. Bryant, 805 S.W.2d 762, 763 (Tenn. 1991) and State v. Mackey, 553 S.W.2d 337 (Tenn. 1977) both identified "distrust of a powerful judiciary" as being the basis for this clause. France v. State, 65 Tenn. 478, 485 (1873) explained that the clause was designed in response to certain "unprecedented proceedings" during the reign of King James II of England. More importantly, France held that "this important provision ...was aimed at the abuse of unlimited power of courts in respect to fines, and was not intended as a limitation upon the power of legislation." Id. The court in France went on to hold that legislatively established fines in excess of $50, where there was no judicial discretion in their imposition, were constitutionally permissible. Id.

Similarly, Upchurch v. State, 281 S.W. 462, 464 (Tenn. 1926) held that the clause was intended "to prevent judges from imposing unreasonable fines, and to prevent confiscation of the citizen's substance under the guise of a statute applied by a judicial tribunal" (emphasis added). Poinder v. State, 193 S.W. 126, 128 (Tenn. 1917) held that: "[w]here it not for section 14 of article 6 of the Constitution, an impecunious defendant upon whom a large fine had been imposed might be imprisoned for years at the will of the judge alone who tried him" (emphasis added).

While the language in these cases is persuasive, it is important to note that none of these historical cases dealt with administrative proceedings. In each, the facts involved the imposition of fines by Article VI judges.

The Tennessee Supreme Court Recently Overturned Prior Cases Limiting the Applicability of the Fifty Dollar Fine Clause to Municipal Ordinances

In City of Chattanooga v. Davis, 54 S.W.3d 248, 261-62 (Tenn. 2001)(overruling O’Dell v. City of Knoxville, 54 Tenn.App. 59, 388 S.W.2d 150 (1964)), the Tennessee Supreme Court for the first time held that the Fifty-Dollar Fine Clause applied to limit the amount of municipal ordinances. In particular the court ruled that it prohibited the imposition of a fine greater than $50 if the ordinance was intended as a punishment, or if the evidence showed that the actual effect of the fine was punitive. Davis did not explicitly limit its ruling to Article VI courts, although the two cases in question both involved fines imposed by Article VI judges without any waiver by the defendants of their right to a jury.

The Tennessee Supreme Court Has Not Applied the Fifty-Dollar Fine Clause to Punitive Civil Forfeitures Assessed in Administrative Hearings

Davis followed and relied in part upon the prior Tennessee Supreme Court decision in Stuart v. State Dept. of Safety, 963 S.W.2d 28 (Tenn. 1998), a case that applied the Excessive
Fines Clause, Article I, § 16, (as opposed to the stricter Fifty-Dollar Fine Clause) to determine the appropriateness of civil forfeitures. Stuart held that:

While forfeiture is not necessarily a criminal action for purposes of the double jeopardy clause, forfeiture is, at least in part, a punitive measure. As a result, the excessive fines clause applies even to civil in rem forfeitures of property.

Id at 34. Early in the opinion the Stuart court held that the civil sanctions of forfeiture were not criminal penalties and did not invoke the double jeopardy clause, despite their punitive nature. Id at 33-34. Ultimately, following proportionality analysis, the court found that the civil forfeiture of an $18,000 truck was not disproportionate to the malefactor’s culpability and that it passed excessive fines analysis. The court did not mention or analyze the impact of the Fifty-Dollar Fine Clause.

In 2001, the Tennessee Supreme Court in Davis cited Stuart for the proposition that “civil proceedings may impose sanctions that are ‘so punitive in form and effect’ as to trigger constitutional protections.” Davis, 54 S.W.3d at 261, citing Stuart, 963 S.W.2d at 33. The Court went on to note that “an otherwise civil sanction can become a ‘fine’ subject to constitutional limitation when the sanction ‘is, at least in part, a punitive measure.’” Davis, 54 S.W.3d at 262, citing Stuart, 963 S.W.2d at 34. Interestingly, Davis did not take issue with Stuart’s implicit holding that forfeitures, which were punitive and thus controlled by the excessive fines clause, were not limited by the Fifty-Dollar Fine Clause. The primary factual distinction between the two cases is that Davis dealt with a punitive fine being assessed by an Article VI judge, whereas Stuart dealt with a significantly greater financial penalty being assessed in an administrative hearing.

The Fifty Dollar Fine Clause Does Not Apply to Administrative Proceedings

The reason why the Fifty Dollar Fine Clause did not apply in Stuart is made plain in the Tennessee Supreme Court’s decision in Plasti-Line, Inc. v. Tennessee Human Rights Commission, 746 S.W.2d 691, 694 (Tenn. 1988), wherein the Court held that an administrative agency is not a court. In particular the Tennessee Supreme Court held that administrative law judges and members of administrative boards do not need to meet the criteria for the judiciary, as set forth in Article VI, § 4 of the Tennessee Constitution. Id. Further they held that the right to trial by jury, as otherwise assured by Article I, § 6 of the Constitution did not apply to administrative proceedings. Id at 692. Following this logic, if administrative law judges are not bound by Article VI, § 4, because they are not judges, then they are not bound by Article VI, § 14 either. The fact that the Tennessee Supreme Court also found that administrative law judges and administrative boards are not required to have jury trials only reinforces this conclusion. See also Jones v. Greene, 946 S.W.2d 817, 823-24 (Tenn.App. 1996) (following Plasti-Line and finding no right to a jury in the following proceedings: (1) any case that could be tried prior to 1796 without a jury, (2) in equitable proceedings, (3) in proceedings with no disputed material facts, (4) in proceedings for the punishment of small offenses, (5) paternity proceedings, (6) “summary proceedings,” and (7) to any proceeding established after the adoption of the Tennessee Constitution in 1796); also Helms v. Tennessee Department of Safety, 987 S.W.2d 545, 547-48 (Tenn. 1999)(holding that “for rights and
remedies created after the formulation of our Constitution [in 1796], the legislature is free to enact procedures that do not include jury trials." *Id* at 547).

The Tennessee Supreme Court's 1995 decision in *Richardson v. Tennessee Board of Dentistry*, 913 S.W.2d 446, 453 (Tenn. 1995), further makes clear that administrative agencies are not Article VI courts. In fact, the Court determines that administrative agencies are members of the executive branch, vested with powers by the legislative branch. This case further supports the thesis that Article VI restrictions do not apply to such agencies. Instead, the limitations contained in Article III relative to the executive branch would apply.

*Plasti-Line* and its progeny dictate that the Fifty-Dollar Fine Clause is limited to proceedings undertaken in Article VI courts before Article VI judges. The Tennessee Constitution is logically laid out with the broad grant of rights contained in Article I, the distribution of powers is described in Article II, the powers of the Executive are defined in Article III, and the powers of the judiciary are defined in Article VI. *Plasti-Line* stands for the proposition that Article VI does not apply to administrative law judges and administrative boards. The later cases of *Jones v. Greene* and *Helsms v. TDOT* make it even clearer that the Article I, § 6 right to a jury, does not apply to proceedings created after the adoption of the Constitution in 1796, including administrative proceedings.

This argument is significantly buttressed by the recent ruling by the Chancery Court of Davidson County in *Dickson v. State*, No. 00-2823-1, slip opinion. In *Dickson*, Chancellor Kilcrease found that the Fifty-Dollar Fine Clause "does not restrict administrative agencies". *Id* at 6. The court reasoned that the language in *Davis* only addressed the application of the Fifty-Dollar Fine Clause to judges, not to administrative bodies. *Id*. The court quoted *Davis* at length, and found support for its position from the following quote: "The Fifty-Dollar Fines Clause restricts the ability of a judge to impose a particular form of punishment." *Id.* quoting *Davis* cited as "*Barrett*", 54 S.W.3d at 258.

The Chancellor's opinion is supported by the history discussed above. Article VI, § 14 was drafted in response to abuses by the judiciary, and was not intended as a limitation on the legislative branch. *France*, 65 Tenn. at 485. Administrative agencies and administrative remedies are products of the legislative branch, and the people's remedy against abuses by such parties is not only through judicial review, but primarily through the ballot box.

The Court of Appeals, by omission, has further made clear the limits of *Barrett*. In an unreported decision, *Taylor v. Greene*, 2002 WL 75929 (Jan. 22, 2002) the appellate court followed *Stuart* and continued to apply excessive fines analysis, under Article I, § 16, to analyze the propriety of punitive civil forfeitures instead of invalidating the civil forfeitures via the Fifty Dollar Fine Clause. A prior unreported appellate decision, *Hawks v. Greene*, 2001 WL 1613889 (Dec. 18, 2001), had similarly cited both *Stuart* and the recently-decided *Davis* case in the context of a civil forfeiture, without application of the Fifty Dollar Fine Clause. Meanwhile, the Tennessee Attorney General opined that a State administrative agency could assess a penalty in excess of $10 without a trial by jury. Tenn.Op.A.G. 99-123. The Attorney General further opined that an Article I, § 6, right to a jury was not violated by administrative proceedings that post-dated the Tennessee Constitution (thus a finding consistent with *Plasti-Line*). This opinion was issued prior to *Barrett* and does not deal with the Fifty-Dollar Fine Clause, but it provides further weight to the argument that
administrative proceedings are not required to provide juries nor to follow the strictures of Article VI courts.

**Conclusion**

The $50 fine limitation does not apply to proceedings before an administrative agency. It continues to apply to all proceedings that are initiated in the Article VI courts: General Sessions, Circuit, Chancery or Criminal Court. Fines assessed in an administrative or executive branch setting, where the Article VI Courts merely have appellate review, are only limited by Article I, § 16 and its broader limitation on excessive fines.

This opinion is limited to the question asked and should not be construed as an opinion concerning any other matter.

The Department of Law of
The Metropolitan Government of
Nashville and Davidson County

[Signature]

Wm. Michael Safley
Associate Director of Law

Approved:

[Signature]

Karl F. Dean
Director of Law

cc: Honorable Bill Purcell, Mayor
Honorable Howard Gentry, Jr., Vice Mayor