MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., September 9, 2013
The Virginia Housing Center
Henrico Room 2
4224 Cox Road
Glen Allen, Virginia

Members Present

John G. Kines, Jr., Chairman
John T. Stirrup, Jr., Vice-Chairman
Harold H. Bannister, Jr.
Cole Hendrix
Bruce C. Goodson

Members Absent

Staff Present

Zack Robbins, Local Government Policy Manager
Ed Lanza, Senior Public Finance Analyst
Barbara Johnson, Administrative Assistant

Call to Order

Commission Chairman John Kines called the meeting to order at 10:05 a.m. on September 9, 2013 in Henrico Room 3 at the Virginia Housing Center in Glen Allen, Virginia.

I. Administration

Mr. Kines announced that Mr. Robbins has been selected to serve as the new Local Government Policy Manager. He also recognized Ms. Johnson, who was attending today's meeting and has provided support for the Commission for several years.

A. Approval of Minutes of the Oral Presentations on July 8, 2013; of the Public Hearing on July 8, 2013; and the Regular Meeting on July 9, 2013

Mr. Hendrix made a motion that the minutes of the of the Oral Presentations on July 8, 2013; of the Public Hearing on July 8, 2013; and the Regular Meeting on July 9, 2013 be approved. Such motion was seconded by Mr. Goodson, and the Commission unanimously approved the minutes without amendment.

B. Public Comment Period

The Chairman opened the floor to receive comments from the public. No person appeared to testify before the Commission during the public comment period.

C. Presentation of Financial Statement for August 2013

Referencing an internally produced financial statement that encompassed expenditures through the end of August 2013, Mr. Robbins stated that fiscal year-to-date expenditures for personnel were 16.8% of the total budget and that expenditures on non-personnel were 9.2%. She also stated that, to date, overall expenditures have amounted to 14.6% of the total budget for the current fiscal year.

In response to a question from Mr. Stirrup, Mr. Robbins stated that staff would be seeking approval to fill the vacant Senior Policy Analyst position as soon as possible.

D. Local Government Policy Manager's Report

Mr. Robbins provided a brief update concerning potential interlocal issues, including a matter involving Front Royal and Warren County, which is unrelated from the case that the Commission is currently reviewing; the potential reversion of the City of Martinsville to town status; and a potential voluntary agreement between the Town of Marion and Smyth County.

Mr. Robbins also called members' attention to several newspaper articles included in their agenda packages regarding the pressure on municipalities to change their elections from May to November.

He also stated that the Town of Clarksville has held a public hearing on its proposed voluntary settlement agreement with Mecklenburg County, noting that the proposal has incorporated the Commission's recommended reduction in the annexation area.

II. Presentation of Commending Resolution to Susan Williams

Mr. Kines presented a commending resolution, adopted by the Commission on July 9, 2013, to Ms. Susan Williams recognizing her many significant contributions as the Local Government Policy Manager for the Commission from April 2007 until May 2013. Ms. Williams expressed her appreciation for the resolution as well as for the opportunity to serve on the Commission.

III. Front Royal Limited Partnership – Town of Front Royal – Warren County Annexation Issue

Mr. Robbins announced that the parties involved in this case have reached a voluntary settlement agreement, and called on Mr. Doug Napier, Front Royal Town Attorney and Mr. Blair Mitchell, Warren County Attorney to provide comment.

Mr. Mitchell stated that the County's primary concern with respect to the annexation proposed by Front Royal Limited Partnership (FRLP) was obtaining a sufficient cash proffer amount to offset the impact of FRLP's proposed development to the County's schools. He stated that the FRLP had concerns about committing to the suggested cash proffer amount, because it was unclear what the Town would require upon annexation and rezoning, particularly with respect to transportation. In response, the Town conducted a "mock-rezoning" process.

Mr. Mitchell indicated that the parties believe that much of the information contained in FRLP's September 2012 annexation submission was relevant to the requirements for the upcoming voluntary settlement agreement submission. He stated that he had discussed with Commission staff to determine that the parties could make reference to the 2012 submission where appropriate, and provide updated economic and financial information. He added that the parties each planned to submit a brief synopsis of their interests. He added the Commission's visit would remain in mid-November, and that he had discussed with staff that the three hours of time reserved for oral presentations would be sufficient.

Mr. Napier stated that some of difficulties with the negotiation were "rezoning without zoning," and trying to foresee how this project would develop over a span of several years.

Mr. Hendrix asked how the developer would be assured that the proffer language that was agreed to in the voluntary settlement agreement would be the same as what would be accepted by the Town in the actual rezoning process. Mr. Mitchell responded that the agreement states that FRLP will proffer a minimum amount of cash; however, additional negotiation would occur at the time of rezoning which could result in additional proffers. In addition, past planning efforts for that property over the last eight years, which have involved all three parties, have clarified expectations for the development of the property. There was discussion regarding the phased development of the property, a proposed two-tiered cash proffer amount, and public service needs generated by the property.

Mr. Robbins stated that staff would provide a cursory review to the original 2012 submission to see what additional information will be needed for the upcoming submission, and would try to share that with the parties by the end of the week.

Mr. Stirrup noted that the deadline that was proposed for the parties to provide responses to the Commission's request for additional information fell on a state holiday. Mr. Mitchell suggested moving that deadline to Friday, November 8th.

Mr. Bannister made a motion, which was seconded by Mr. Hendrix, to accept the parties' request to extend the deadline for submission of a voluntary settlement agreement from August 27, 2013 to September 20, 2013; and to approve the following review schedule:

Deadline for receipt of proposed voluntary settlement agreement, materials/exhibits in support of the proposed agreement <u>and</u> the resolutions approved by the governing bodies: Friday, September 20, 2013 at the close of business.

Deadline for parties' (i.e., FRLP's, the Town of Front Royal's and Warren County's) responses to requests for additional information / supplemental submissions by parties: Friday, November 8, 2013 at the close of business.

Monday, November 18, 2013 (Front Royal, Virginia):

10:30 AM	Tour of affected area
2:00 PM – 5:00 PM	Oral presentations
7:00 PM	Public hearing

Tuesday, November 19, 2013 (Front Royal, Virginia):

10:00 AM	Special Commission Meeting
10:30 AM	Regular Commission Meeting

Closing of record: Two weeks after the Commission's public hearing (at the close of business) on Monday, December 2, 2013.

Commission's draft report: Date to be determined but **January 13, 2014 regular meeting** unless parties jointly request another extension.

Mr. Mitchell also provided additional information regarding the other Town of Front Royal – Warren County issue that Mr. Robbins had mentioned in his report at the beginning of the meeting. He said it is likely that the end negotiation will not result in a case before the Commission.

IV. <u>Falls Church – Fairfax County Proposed Voluntary Settlement Agreement</u>

Mr. Robbins stated that since the Commission's visit to Falls Church, the parties have submitted three new documents: a findings of fact document; correspondence that updates the acreage of the proposed annexation area from 42.4 acres to 38.41 acres; and revisions to the proposed voluntary settlement agreement that reflect the acreage change and include additional language to ensure that the County will cooperate in the event that any easements it holds need to be relocated. He added that the revisions to the agreement had not yet been approved by the respective governing bodies, and therefore the agreement that was officially before the Commission was the one that was originally submitted. However, a footnote was added to page one of the report to reflect the acreage change, and he distributed an additional footnote for incorporation into the report to acknowledge that the Commission was aware of the easement language in the current draft of the agreement.

Next, Mr. Robbins and Mr. Lanza reviewed each section of the draft report that was included in the Commission's agenda package in detail.

Mr. Hendrix made a motion, which was seconded by Mr. Bannister to approve the draft report, incorporating the additional footnote into page one regarding easement language, and correcting the first sentence in the fourth paragraph on page six to clarify that the City's water

utility was being sold, not the City itself as the report erroneously stated. The motion was unanimously approved.

Mr. Kines commended the parties for their work in negotiating the agreement. Mr. John Foster, Falls Church City Attorney, and Ms. Cynthia Tianti, Deputy County Attorney for Fairfax County thanked the Commission and staff for their assistance in the review process.

V. <u>Introduction of VACo's new Director of Government Affairs</u>

Mr. Robbins introduced Mr. Erik C. Johnston, Director of Government Affairs with the Virginia Association of Counties, who has replaced Ted McCormack, who retired in June. Mr. Johnston stated that he looks forward to working closely with the Commission in the future.

Mr. Bannister said that in the past, the Commission has had involvement in the VACo Annual Conference, and asked if that was anticipated at the upcoming conference. There was discussion regarding the Commission's past involvement at the conference. Mr. Kines requested that the Commission staff and VACo discuss how the two groups can work more together at the conference and throughout the year.

VI. <u>2013 Catalog of State and Federal Mandates on Local Governments (Draft)</u>

Mr. Robbins explained that every year the Commission is statutorily required to publish the Catalog of State and Federal Mandates on Local Governments. He then presented a summary of some of the key additions and changes to this year's catalog, which are summarized in the Commission's agenda package.

Mr. Bannister made a motion that the draft 2013 Catalog of State and Federal Mandates on Local Government be approved. Such motion was seconded by Mr. Hendrix, and the Commission unanimously approved the minutes without amendment.

VII. <u>2013 Cash Proffer Survey and Report</u>

Mr. Robbins indicated that the survey instruments were mailed out to all localities that are eligible to collect cash proffers in early July, and about 60% of the responses have been received. In order to reach a 100% response rate, staff will be contacting the non-responsive localities after the due date, which is September 30th.

VIII. Staff Updates on Task Forces

A. Governor's Task Force for Local Government Mandate Review

Mr. Robbins said that the Task Force met on July 31, 2013 in Fairfax County, to consider its goals for the upcoming year, which is the final year of the body before its authorizing legislation expires at the end of FY2014. He noted that some of the more notable goals that were adopted included:

- Establish a permanent process for ongoing discussions between state agencies and localities.
- Educate gubernatorial candidates on the Task Force's work.
- Reinstatement of requirements to file bills with a local fiscal impact by the first day of session.
- Review of pensions as unfunded mandates.
- Determine the appropriateness of extending the body's sunset clause, and the role of the body if it were extended.

Mr. Robbins noted that their next meeting would be held on September 27th at the Main Street Centre building in Richmond. Discussion ensued regarding the implementation of the Task Force's recommendations.

B. Local Fiscal Impact Analysis Task Force

Mr. Lanza began his update of the Fiscal Impact Study (FIS) Task Force by stating that the Task Force has recommended that the Commission should not develop a process for the analysis of budget items. Next, he presented a flowchart to the Commissioners that explained the current FIS process as well as the proposal being made by the Task Force. Mr. Lanza also explained that the Task Force has proposed a change to §30-19.03 of the Code of Virginia and the language will be added as a recommendation in its final report. In order to accommodate an increase in workload, Mr. Lanza explained that the Task Force is investigating a technological solution that would decrease the administrative work that is involved with the FIS process. Next, Mr. Lanza defined the subject areas that will be proposed by the Task Force. He stated

that bills will be distributed to specific subject areas rather than a larger group of local volunteers. Finally, he stated that the Commission could collect data gathered from pre-filed bills from local legislative liaisons through a pre-session conference held by VACo and VML.

C. Town-County Powers Task Force

Mr. Robbins reported that the Town-County Powers Task Force was formed at the request of the Chair of the House Counties, Cities and Towns Committee in response to a bill that was tabled, HB1535 (2013), to clarify situations where a statute grants powers to towns and counties, but fails to clarify how those powers are treated within towns, as they are part of their parent county. He explained that most of the group's members were concerned about the unintended consequences of an overarching bill that would attempt to address all potential code conflicts, as HB1535 would. The group also contemplated a statute by statute approach, to identify problem areas, and eventually determined that when issues arise regarding these overlapping powers, they usually can be resolved through discussion among the localities. The group's final conclusion was that no statutory changes should be made, and staff will be drafting the response to the committee Chair in the upcoming weeks.

IX. Schedule of Regular Meetings

Mr. Kines confirmed that the Commission's next regular meeting would be held on Tuesday, November 19, 2013 at 10:30 a.m. in Front Royal. The tentative meeting dates for 2014 were also noted, as follows:

a. Monday, January 13, 2014
b. Monday, March 10, 2014
c. Monday, May 12, 2014
d. Monday, July 14, 2014
e. Monday, September 8, 2014
f. Monday, November 10, 2014

X. Upcoming Events of Interest

Mr. Kines reminded members of the upcoming VML and VACo Annual Conferences. In response to a question from Mr. Goodson, Ms. Williams explained that the Commission does

not have sufficient funds to pay for members to attend conferences. Mr. Hendrix suggested selecting one member to attend VML and another for VACo. Mr. Bannister suggested that if VACo were willing to waive registration fees, perhaps the Commission could provide a presentation to one of the sessions at the conference.

XI. <u>Adjournment</u>

Mr. Bannister made a motion to adjourn the meeting, which was seconded by Mr. Goodson, and unanimously adopted. The meeting was adjourned at 12:18 p.m.

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John G. Kines, Jr.
Chairman

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Zachary Robbins
Local Government Policy Manager