

**DRAFT MINUTES**  
**Commission on Local Government**  
**Oral Presentations**  
**City of Bristol – Washington County**  
**Voluntary Settlement Agreement**  
**2:00 p.m., May 12, 2014**  
**Holiday Inn Bristol**  
**Conference Rooms D & E**  
**3005 Linden Drive**  
**Bristol, Virginia 24202**

**Members Present**

John T. Stirrup, Jr., Chairman  
Bruce C. Goodson, Vice-Chairman  
Cole Hendrix  
Victoria L. Hull  
John G. Kines, Jr.

**Members Absent**

**Staff Present**

Zachary Robbins, Local Government Policy Manager  
J. David Conmy, Senior Policy Analyst  
Edward Lanza, Senior Public Finance Analyst

**I. Call to Order**

Commission Chairman John T. Stirrup, Jr. called the meeting to order at 2:00 p.m. on May 12, 2014 in Conference Rooms D and E of the Holiday Inn in Bristol, Virginia. He indicated that the Commission is here today to review a proposed voluntary settlement agreement (VSA) between the City of Bristol, Virginia, and Washington County. The proposed agreement provides for:

1. the waiver by the City and County of their legal rights to contest:
  - a. the validity of Va. Code § 58.1-608.3 creating a Development of Regional Impact (DRI),
  - b. eligibility of “The Falls” development and/or its expansion to be deemed a DRI and a public facility under § 58.1-608.3,

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- c. authority of the Comptroller to remit state sales and use tax to the City or County under § 58.1-608.3, and
  - d. the authorization, execution, issuance, sales and delivery, or validity of any bonds issued by the City or the County or the Industrial Development Authority of the City or County;
2. revenue sharing of \$350,000 per year paid by the City to the County for a period of 7 years for the County's loss of revenue due to a County retailer relocating to the City;
  3. revenue and economic-growth sharing from the development of the Trammel property as a DRI located in the County on a 75% County and 25% City ratio for 7 years;
  4. revenue sharing from major businesses relocating between the City and the County on a 50/50 ratio for a period of 15 years;
  5. for waiver of the City's right to seek annexation of the Trammel property for a period of 1 year following affirmation of the Voluntary Settlement; and
  6. for other matters.

Next, Mr. Stirrup introduced the members of the Commission and provided biographical information on each member. He also introduced the Commission staff.

## II. Commission's Review

Mr. Robbins indicated that the Commission on Local Government is directed by law to review proposed annexations and other local boundary change and transition issues – as well as negotiated agreements settling such matters – prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such proposed action or agreement, the Commission is directed to “hold hearings, make investigations, analyze local needs and make findings of facts and recommendations” regarding the issue to the affected local governments. With respect to a proposed agreement that is negotiated under the authority of Section 15.2-3400 of the *Code of Virginia* – such as the one proposed – the Commission is required to report, in writing, its findings and recommendations as to whether the proposed settlement is in the best

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interest of the Commonwealth.

Mr. Robbins stated that the oral presentations were advertised by notice published in the *Bristol Herald-Courier* and the *Washington County News* on Wednesday, April 16, 2014, and again on Wednesday, April 23, 2014. In addition, notice of the oral presentations was mailed to the local governments contiguous to, or sharing functions, revenue or tax sources with, the City and County.

Mr. Robbins explained that the Commission was present as a result of a joint submission filed on March 4, 2014, by the City of Bristol, Virginia, and Washington County requesting the Commission to review and issue findings on a proposed VSA negotiated by the City and County. Prior to their arrival, the Commission received:

- Notice by the City of Bristol, Virginia, and Washington County of a VSA;
- A copy of the proposed agreement as well as data and exhibits supporting the agreement;
- Resolutions adopted by the Bristol City Council and the Washington County Board of Supervisors requesting the Commission to review the agreement;
- Indication that copies of the Notice, the proposed agreement, and data and exhibits were mailed to each of the local governments contiguous to or sharing functions, revenue or tax sources with the City of Bristol, Virginia, and Washington County.

Mr. Robbins also noted that the materials relevant to the proposed agreement were reviewed by the members of the Commission and staff, and subsequent requests were made for additional information to the City and the County on April 4th. The City and County responded to those requests on May 2, 2014, and staff had conducted a preliminary review of the supplemental submission.

Mr. Robbins stated that earlier that morning, the Commission toured the affected area, and, at 7 o'clock this evening, the Commission would be holding a public hearing. He stated that the purpose of this afternoon's meeting was to receive oral presentations from City and County representatives.

Mr. Robbins stated the Commission has agreed to keep its record open for the receipt of additional information and citizen comment through May 30, 2014. If anyone

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wished to submit any additional data or comment – other than that requested by the Commission – they must do so by that date. He indicated that additional data may be needed and requested by staff.

Mr. Robbins indicated the Commission will endeavor to render its report to the affected local governments prior to the end of July 2014. The Commission is currently scheduled to meet during the week of July 14. The meeting date will be announced on the Commission’s website as well as the Virginia Regulatory Town Hall website and the Commonwealth Calendar.

Mr. Stirrup asked if any Commission members wished to offer any comments. With no such requests being made, Mr. Stirrup then proceeded to determine the order of proceedings between the City and County.

### **III. Oral Presentations by the City and County**

#### A. Opening Statements

##### a. City of Bristol, Virginia

Mr. Carter Glass, counsel for the City of Bristol, Virginia, offered an opening statement in which he described the negotiations between the City and County and emphasized the improved working relationship between the two localities as a result of their efforts to address significant economic threats posed to them by the State of Tennessee. He introduced Mr. Pete Curcio, the City attorney, who also introduced several key staff members and City Council members in the audience. Mr. Glass indicated that he would be calling two witnesses to testify before the Commission: Mr. Andrew “Drew” Trivette, Assistant City Manager, Director of Planning, and Director of Economic Development for the City of Bristol; and The Honorable Guy Odum, Mayor of the City of Bristol.

##### b. Washington County

Mr. Richard “Dickie” Cranwell, counsel for Washington County, introduced himself and Lucy Phillips, Washington County attorney, and Mr. Jason Berry, county administrator, who introduced several County Board of Supervisors members in the audience.

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Mr. Cranwell then began his opening statement during which he described the existing pattern of retail development in the area, the proposed “The Falls” and “The Pinnacle” developments, and the threat of the latter development leading to the VSA between the City and the County. He emphasized that despite the County’s inability to get similar DRI legislation passed, the VSA before the Commission would be the only avenue for benefits to flow to the County.

He described in greater detail the existing retail development located in Washington County at Exit 7 and how it serves as the second largest source of tax revenue for the County (\$2.2 million annually). Furthermore, he indicated the land area occupied by this retail development is less than 1% of the total land area for Washington County yet it produces nearly one third of the sales tax revenue for the County.

He then went on to discuss The Pinnacle development in Tennessee in greater detail and its competitive threat of lowering revenues to the County, the City and the Commonwealth. He alluded to the history of The Pinnacle site in light of the Tennessee legislature’s actions and how the \$9.6 million in government subsidies from the State of Tennessee had already led to the loss of several retailers from the City and County.

He then reinforced the importance of the VSA indicating that, since Washington County was unable to get the DRI legislation, the VSA is the only recourse available to the County to mitigate any significant financial losses as a result of The Falls and The Pinnacle. He then went on to describe the provisions of the agreement and concluded by urging the Commission to approve the VSA.

#### **B. Formal Presentations**

##### **a. City of Bristol, Virginia**

Next, Mr. Trivette came forward and described his job with the City, and other responsibilities including implementing The Falls project.

In response to a series of questions by Mr. Glass, Mr. Trivette oriented the Commission with a map of the area and specifically identified the boundaries of The Falls’ DRI. He also provided information on the history of retail development in the area

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and emphasized the significance of tax revenues generated at Exit 7 for the City of Bristol, Virginia (see Table 9 of the joint petition).

At Mr. Glass' request, Mr. Trivette then went on to discuss other older commercial areas in the City, such as the Bristol Mall, which have suffered greatly as businesses have relocated to other locations, including several to The Pinnacle in Tennessee. Mr. Trivette also elaborated on efforts the City has taken to address these issues, including active business recruitment, economic incentives, and site marketing/promotion. He admitted that despite those efforts, there are still commercial areas within the City that are declining.

At Mr. Glass' request, Mr. Trivette described more of the difficult socioeconomic conditions of the City, including statistics on substandard housing, fiscal stress, and median household income. He indicated that these conditions coupled with the City's declining commercial areas, make the continued viability and success of commercial retail at Exits 5 and 7 all the more critical to the future of Bristol, Virginia.

Mr. Glass then focused the discussion on the Border Regional Retail or Tourism Facility Act (Tab G of the joint petition) passed by the Tennessee legislature in 2011 and the resulting development of The Pinnacle. Mr. Trivette linked the Tennessee legislation to the City and County's VSA. He described how the City's pursuit of the DRI legislation was in direct response to the Tennessee legislation, which, in his opinion, was created to negate Virginia's longstanding competitive advantage in recruiting retail along the Interstate 81 corridor. Mr. Trivette indicated that in addition to the \$9.6 million that has already been paid to the developer of The Pinnacle, Bristol, Tennessee, has committed an additional \$16 million in general obligation bonds for the project. Mr. Trivette also shared a video of The Pinnacle site with commentary orienting the Commission and audience and describing specific features of the site.

Mr. Glass and Mr. Trivette then discussed the threat of the Tennessee legislation on the City, the County, and the Commonwealth. The discussion focused on the threat of reducing the aforementioned localities' tax base, enticing certain businesses to

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relocate (such as Belk's from the Bristol Mall) to Tennessee, and luring away potential new businesses from Virginia.

A question posed by Mr. Kines focused on the difference of local government structures in Tennessee and Virginia and how Bristol, Tennessee, and its parent county would be sharing in the revenues generated by The Pinnacle project. A question posed by Mr. Robbins expanded upon this topic with respect to annexation. Mr. Trivette indicated that Tennessee historically has had more lax annexation laws compared to Virginia and that Bristol, Tennessee, has had numerous annexations covering a much larger land area than Bristol, Virginia, though the Tennessee legislature has enacted an annexation moratorium although he was unsure of the duration of the moratorium.

A question posed by Mr. Lanza led to further clarification by Mr. Trivette that Bristol, Virginia, serves as the commercial center of Southwest Virginia due to its synergy of location of retail at Exits 5 and 7. Furthermore, Mr. Trivette indicated the goal of The Falls development is to attract retailers not currently present in the region or Commonwealth thereby leading to an increase in the shopping footprint from about 800,000 people to nearly 3 million people roughly 100 miles away.

Mr. Glass then posed a series of questions to Mr. Trivette on the DRI legislation, the genesis of the dispute between Bristol, Virginia, and Washington County, the settlement agreement between the two parties, and the status of The Falls project. Mr. Trivette described how The Falls meets the eligibility requirements established by the Virginia legislation (Tab J in the joint petition). Mr. Trivette highlighted the inability of the County to utilize the DRI legislation and the relocation of Lowe's serving as the focal points for the dispute and potential litigation. He touched on the various aspects of the resulting settlement agreement between the two parties and how it resolved any further legal disputes between them.

Mr. Trivette indicated that The Falls project is currently on schedule in terms of site work and leasing of phases for Phases I, II, and III. Mr. Trivette then shared a video of The Falls site with commentary orienting the Commission and audience and describing specific features of the site and development.

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Mr. Glass and Mr. Trivette then discussed each of the principal provisions of the VSA including the rationale behind each. Discussion focused on a waiver of litigation claims, the binding of future Boards and Councils to the agreement, the specific revenue sharing details and terms of the agreement including data on the City's ability to make such payments, the cooperation between the City and County for the development of the Trammel property, and the duration of the agreement.

Mr. Trivette responded to a question from Mr. Conmy on the City's other economic development strategies other than retail development. He mentioned goals to diversify the City's economy and move beyond manufacturing to focus on the creative economy and cultural heritage of Southwest Virginia and tourism. He also elaborated on the City's efforts to grow its existing food manufacturing industry and how the agreement is beneficial to both the City and the County in terms of economic development.

Next, Mayor Guy Odom came forward and stated that he has been mayor, since July of 2013 and as a member of the Bristol City Council since 2008.

Mayor Odum discussed his familiarity on the VSA and the history of formulating the agreement. He alluded to the improved working relationship between the City and County leading up to and as a result of the agreement. He stated that he thought the agreement was in the best interest of the citizens of the City, and provided an explanation of his role in crafting the agreement, his long history as a citizen of the City, and an emphasis on how the agreement will provide additional amenities such as retail to the citizens and visitors of the region.

Mr. Glass and Mayor Odum also discussed the threat of The Pinnacle development and the related Tennessee legislation to the City and County. Mayor Odum alluded to the loss of several retailers and jobs in the City and County and how the developer of The Pinnacle has been actively courting and luring other potential tenants who have an existing presence in the City.



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Mayor Odum mentioned how he has noticed an improved working relationship between the two governments, and requested that the Commission on Local Government recommend approval of the VSA.

Mr. Goodson asked for more information on the local support of the agreement by the City's citizens. Mayor Odum indicated that during his public outreach on the agreement, many of the citizens seemed to misunderstand the agreement; but, once he explained it, many were supportive of it.

#### **b. Washington County**

Mr. Cranwell called Mr. Berry, the Washington county administrator forward. Mr. Berry affirmed Mr. Trivette's previous description of the VSA as being accurate. Mr. Berry also provided a history of the evolution of the agreement and how the guiding principle for both parties was to avoid litigation over the DRI legislation and The Falls while promoting economic development. Mr. Berry also provided an overview of the Tri-Cities area including a description of its population base. Mr. Berry included an overview of the growth of the City and County.

Mr. Berry provided a description of the history of the Exit 7 area in Virginia and a history of Exit 74 in Tennessee. He described how the Exit 7 area had evolved from farmland into a commercial center and its significance as a tax revenue source for Washington County. He then noted how Exit 74 in Tennessee had been vacant for about two decades despite having readily available infrastructure on site.

Mr. Cranwell and Mr. Berry then discussed in greater detail the tax revenue generated at Exit 7 for Washington County. Mr. Berry emphasized the significance of the five-percent difference in the Virginia and Tennessee sales tax rates and how that difference has given Virginia a significant retail development advantage in the Southwest Virginia and Northeast Tennessee regions. Mr. Berry also stated that 81% of the sales tax for Washington County is generated at Exit 7.

Mr. Berry emphasized the significant threat The Pinnacle poses to the synergy of retail located in the City and County. He opined that he did not think The Pinnacle

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would be possible without the local public assistance resulting from the Tennessee legislature.

Mr. Berry expressed that the VSA was the avenue by which Washington County would be able to maintain and protect its existing retail base and future development, though he expressed disappointment over the County's inability to get similar DRI legislation approved during the most recent General Assembly session. Despite that setback, he expressed confidence in the agreement between the City and the County and optimism for the County over its ability to develop the Trammel property. He cited examples of the County's history with other retail developments and its tax advantage compared to both Bristol, Virginia, and Bristol, Tennessee.

Mr. Berry admitted that while The Falls is also a threat to Washington County similar to the threat of The Pinnacle, the revenue sharing component allows the County to recoup some of the losses it would experience from Lowes leaving the County. He also expressed support of the 50/50 share of revenues if either party were to recruit the other party's major retailers.

Mr. Berry expressed concern over losing tenants at the Highlands Shopping Center to The Pinnacle, especially since the previous owners of the shopping center, who have detailed knowledge of the leases in the center, have now partnered with the developer of The Pinnacle. Mr. Berry indicated this concern has been confirmed by the recent announcement of Bed, Bath and Beyond – a retailer at The Highlands – announcing its intent to relocate to The Pinnacle.

Mr. Berry affirmed that the VSA has improved the relationship between Washington County and Bristol and stated that with the two parties working together Virginia, Washington County and Bristol, Virginia, can maintain their competitive edge. Mr. Berry also reiterated Washington County's tax advantage and how that could potentially make the County a more attractive location for future business investment. Finally, Mr. Berry indicated that he thought the VSA was in the best interest of the County and the Commonwealth of Virginia.

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In response to questions from Mr. Goodson, Mr. Berry indicated that the mutual aid agreements assisted the County and City in establishing a foundation and common ground for the VSA.

Mr. Kines also asked Mr. Berry for his opinion on the attraction of Virginia's sales tax compared to that of Tennessee in the region. Mr. Berry offered that he thought the tax difference between the two states was substantial enough that he felt Virginia would still be the priority choice for retail in the region. He also indicated that he had received overwhelming support from the business community over the City and County's agreement.

Mr. Conmy asked Mr. Berry about other economic development strategies for Washington County beyond retail development. Mr. Berry indicated that the County is in the process of hiring an economic development director. He also indicated that the County is focused on manufacturing for economic development in addition to expanding its retail, service, and health care sectors. He also emphasized prioritizing diversifying the County's economy and identifying businesses that would complement some of the existing businesses available at The Falls.

Mr. Robbins inquired about the probability of the Trammel property developing within the 15-year period mentioned in the VSA. Mr. Berry indicated that he has received calls from multiple parties expressing interest in the site. Mr. Berry also indicated that as a result of the VSA, potential investors have taken a more serious interest in Washington County because of the message of cooperation and business-friendliness that the VSA delivers.

Ms. Hull asked if there was outreach to businesses regarding the VSA, especially regarding some of the revenue sharing provisions. Mr. Cranwell provided more detail about the availability of copies of the agreement to the public.

Ms. Hull also inquired about the exclusivity of retail establishments locating in The Falls versus The Pinnacle. Mr. Berry responded that most of the first retailers to announce their intent to move to The Pinnacle have been easier for the developer to attract since he had knowledge about their existing leases, and that the future tenants

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would be more challenging to recruit. He emphasized the priority of recruiting retailers that will complement but not compete with the existing retail businesses in the area. Mr. Trivette described the recruitment model for The Falls as being one that would find retailers that the City – and in some cases the Commonwealth - did not already have. He contrasted that model with the The Pinnacle by indicating that it has already been luring retailers away from other Tennessee locations, such as Kingsport, while also bringing in other retailers that already have a presence in the region.

Mr. Cranwell called his second witness: The Honorable Randy Lee Pennington, vice-chairman of the Washington County Board of Supervisors, who has served on the Board for three years. Mr. Pennington stated that the relationship was poor between the City and the County prior to the VSA. Mr. Cranwell then discussed with Mr. Pennington the history of the VSA and the negotiating team of which Mr. Pennington was a part. He also provided a background on the history of The Falls and The Pinnacle developments, the DRI legislation, and the Tennessee legislation.

Mr. Cranwell and Mr. Pennington then discussed the nature of the relationship between the City and County after the settlement agreement. Mr. Pennington also offered his opinion on the benefits of the VSA to Washington County and his optimism for the success of the Exit 7 area in Washington County. Mr. Cranwell then discussed the more specific details of the VSA with Mr. Pennington, to which Mr. Pennington offered his support. Finally, Mr. Pennington offered that in his opinion, the VSA was in the best interest of the County and the City and requested that the Commission approve the VSA.

Mr. Cranwell then called his final witness: The Honorable Phillip B McCall, chairman of the Washington County Board of Supervisors, who has served as chairman since January 2014 and had served on the Board for 15 years.

Mr. Cranwell and Mr. McCall then discussed the history of the Exit 7 area in Washington County. Mr. McCall then provided his opinion of the previous difficult working relationship between the City of Bristol, Virginia, and Washington County, especially over the City's previous annexation case with the County.

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Mr. McCall discussed provided information on the history of the Tennessee legislation, The Pinnacle site and the resulting partnership between the City and County in order to compete against The Pinnacle. Mr. McCall provided details and his opinion on the specific provisions of the VSA, and indicated that he thought the VSA was in the best interest of the County and offered his opinion of the improved working relationship between the City and the County.

**IV. Closing Remarks**

Mr. Glass and Mr. Cranwell both thanked the Commission for their consideration and urged their favorable recommendation to the Special Court.

Mr. Stirrup offered final comments, expressed appreciation for all in attendance, and reminded those in attendance of the 7:00 public hearing on the VSA. Finally, he stated that the Commission anticipates completion of its report by the end of July 2014.

**V. Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 5:04 p.m.

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John T. Stirrup, Jr.

Chairman

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Zachary Robbins

Local Government Policy Manager