

**DRAFT Minutes
Regular Meeting
Commission on Local Government
3:00 p.m., November 15, 2010
Board of Supervisors Meeting Room
Carroll County Government Center
605-1 Pine Street
Hillsville, Virginia**

Members Present

Harold H. Bannister, Jr., Chairman
Wanda C. Wingo, Vice-Chairman
Vola T. Lawson
Cole Hendrix
Kathleen K. Seefeldt

Members Absent

Staff Present

Susan Williams, Local Government Policy Manager
Zachary Robbins, Senior Policy Analyst

Call to Order

Commission Chairman Harold H. Bannister, Jr., called the meeting to order at 3:04 p.m. on November 15, 2010 in the Board of Supervisors Meeting Room at the Carroll County Government Center in Hillsville, Virginia.

I. Town of Hillsville – Carroll County Voluntary Settlement Agreement

A. Staff Update

Ms. Williams indicated that a submission was filed on September 9, 2010 by the Town of Hillsville and Carroll County requesting the Commission to review and issue findings on a proposed voluntary settlement agreement negotiated by the Town and County. She reminded members that the proposed agreement provides for the immediate

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annexation to the Town of Hillsville of approximately 610.8 acres of territory located in Carroll County; revenue sharing with respect to certain taxes collected from that annexed area; waiver of future annexation and city status rights by the Town for a period of 40 years; and settlement of pending litigation and resolution of water and sewer services issues between the Town and the County.

With the submission, Ms. Williams said the Commission received documents from the Town and County describing the proposed agreement and the affected area. She further stated that staff reviewed those materials and, on October 8, made separate requests for additional information to the Town and the County. Ms. Williams reported that the Town and County responded by November 8, in accordance with the review schedule established by the Commission. She also indicated that staff reviewed their responses and followed up with a couple of questions on November 9 to which responses were provided on November 10.

Ms. Williams explained that, as required by law, the Commission's public hearing and oral presentations were advertised by notice published in The Carroll News and The Galax Gazette on October 27 and again on November 3. In addition, she stated that notice of the public hearing and oral presentations was mailed to the local governments contiguous to, or sharing functions, revenue or tax sources with the Town of Hillsville and Carroll County.

Ms. Williams stated that the public hearing will start at 7:00 p.m. and that the tour of the affected area will commence at 9:00 a.m. the next day and be followed at 10:30 a.m. by oral presentations from Town and County representatives on the proposed agreement and at 12 Noon by a special meeting of the Commission.

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Ms. Williams stated that the Commission will keep the record open for the receipt of additional citizen comment through November 30, 2010 and will close the record as of that date. She reminded members that the relevant standard of review is whether the proposed settlement is in the best interest of the Commonwealth. She further stated that, as determined at the Commission's last meeting, the Commission will endeavor to render its report to the affected local governments prior to the end of January 2011. She added that the Commission is tentatively scheduled to meeting on Monday, January 10 in Richmond, and it is anticipated that the Commission will consider a draft report at that time. Ms. Williams indicated that there is a handout which includes a compilation of the statutes and regulations relevant to the review, and Mr. Bannister asked her to distribute it to the members.

II. Administration

A. Approval of Minutes of September 13, 2010 Regular Meeting

Mrs. Seefeldt made a motion that the minutes of the Commission's regular meeting of September 13, 2010 be approved. Such motion was seconded by Mrs. Lawson, and the Commission unanimously approved the minutes without amendment. Mr. Hendrix abstained from voting on the minutes because he was not present at the meeting.

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 October 2010

Referencing an internally produced financial statement that encompassed expenditures through the end of October 2010, Ms. Williams stated that the financial report covered the first two months of Fiscal Year 2011 (FY11) and that Commission personnel and non-personnel expenditures for that period represented 36.80% of the total amount budgeted for the fiscal year.

D. Local Government Policy Manager's Report

1. Economist Position Vacancy

Ms. Williams reported that Mr. Ziony announced his retirement, which will be effective December 31, 2010. She said that, starting October 1, he began working two days per week and using his accumulated annual leave. She explained that she completed the necessary paperwork to request that the position be filled, including a lengthy justification explaining why the position is critical to the work of the Commission. Ms. Williams stated that the DHCD director and the Secretary of Commerce and Trade have approved filling the position, and the request now awaits action by the Governor's Chief of Staff.

Mr. Bannister expressed his appreciation for Mr. Ziony's many years of dedicated service and suggested that the Commission adopt a resolution commending him for it, which was favorably received by the other members. At Mr. Ziony's request, Ms. Williams expressed Mr. Ziony's preference that the Commission not entertain such a resolution. A brief discussion ensued after which, on motion by Mrs. Lawson that was seconded by Mrs. Wingo, the Commission voted unanimously to direct Ms. Williams to prepare a letter of commendation to Mr. Ziony for their signatures at the next meeting.

2. Budget

Ms. Williams reported that the Governor asked state agencies to propose 2, 4 and 6 percent reductions to their budgets in preparation for the budget that he will present to the joint money committees on December 17.

3. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the City of Covington – Alleghany County; Town of Culpeper – Culpeper County; City of Bedford – Bedford County; Community of Massanutten – Rockingham County; Town of Clarksville – Mecklenburg County; Town of Pulaski – Pulaski County; Town of Middletown – Frederick County; and Town of Front Royal – Warren County. She directed members' attention to numerous newspaper articles concerning these and other local government issues that were included in their agenda packages. Ms. Williams indicated that the Commission can anticipate the filing of a consolidation action involving the City of Covington and Alleghany County in the very near future and should probably plan to hold their March meetings in Covington.

4. Studies of Interest

Ms. Williams reported that the Intergovernmental Relations Committee of the Governor's Commission on Government Reform and Restructuring met on September 29 in Williamsburg and that the full Commission met on October 4 and is scheduled to meet again on November 18. She indicated that, in addition to attending these meetings, Commission staff has been working with Department of Planning and Budget (DPB) staff to develop a draft plan for moving forward after the Governor's Commission's

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recommendations that were issued on September 13, two of which pertain to mandates imposed on local governments.

Ms. Williams indicated that the Joint Subcommittee Studying Development and Land Use Tools, which was extended by the 2010 General Assembly for another year, met that morning. Ms. Williams stated that, because Commission staff was in Hillsville, Mr. Bill Ernst, DHCD's policy manager, presented the Commission's draft interim report on urban development area (UDA) designations to the joint subcommittee.

5. Staff Activities

Ms. Williams indicated that Commission staff completed DHCD's biennial report to the Governor and General Assembly on Virginia's PDCs on September 30 and staff also attended the Virginia Association of Planning District Commissions (VAPDC) annual agency heads luncheon on October 27 in Richmond. She further reported that Commission staff has been assisting with preparations and will participate in the Governor's Housing Conference on November 18 and 19 in Richmond.

III. 2010 Report on Proffered Cash Payments and Expenditures by Virginia's Counties, Cities and Towns

Mr. Robbins explained that Va. State Code §15.2-2303.2 requires the Commission to gather data from local governments on the collection and use of cash proffers, and that every locality eligible to collect cash proffers with a population in excess of 3,500 must report its use of proffers by September 30. By November 30, Commission's report is then required to be submitted to the chairs of the Senate Local Government and House Counties, Cities and Towns Committees.

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Mr. Robbins stated that 153 localities are required to report, consisting of 88 Counties, 36 Cities, and 29 Towns. An additional 132 Towns are eligible to collect proffers, but not required to report due to not having population in excess of 3,500. All of these are listed in Appendix B to the report.

Mr. Robbins noted that the surveys were mailed on July 6, and a 100% response rate was achieved upon completing follow-up emails and phone calls. A copy of the survey form is in Appendix C to the report. The survey asked localities to provide:

- Total cash proffer revenue collected
- Cash proffers pledged, whose payment is conditioned only on time
- Cash proffer revenue expended
- Purposes for what the revenue was expended

Mr. Robbins then reviewed the results of the survey, which are summarized in Appendix D. For FY2009-2010, the survey found that 43 localities (28.1% of those eligible) reported cash proffer activity in the form of collections, pledges or expenditures. This is a 4.4% decrease from the FY2008-2009, when 45 reported activity. Total Collection was \$48.7 million – up 15% from the previous fiscal year.

Mr. Robbins then observed that Northern Virginia localities collect more proffers than the rest of the state. Localities within the Washington Consolidated MSA collected 81% of the statewide proffers in FY2009-2010, whereas only 34% of the statewide population is located there. The Richmond MSA localities collected 12% of the proffers, with only 16% of the population. The Hampton Roads MSA collected only 7% of the proffers, with 21% of the state's population.

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Mr. Robbins said this year the top five counties collecting proffers were, in order from most to least collected: Loudoun, Prince William, Chesterfield, Fairfax, and Chesapeake, with Loudoun collecting 42% of the statewide total. Chesapeake, Suffolk, and Manassas collected the most among cities, and Leesburg and Herndon collected the most among towns.

Mr. Robbins then explained that cash proffer expenditures are often collected and expended in different years due to capital facility planning and time needed to accumulate sufficient funds to complete a project. In FY2009-2010, the total amount of cash proffer funds expended was \$46,019,644 – a 6.5% decrease from FY2008-2009. Of those funds, 29.2% was spent on schools, and 29% on transportation projects.

Mr. Robbins stated that pledges conditioned only on time were \$46.1 million, up 583% from \$7.9 million in the prior fiscal year; however, he cautioned that this survey question is not always interpreted consistently by the localities. Caroline County reported \$36,500,000 of that, presumably due to a large rezoning recently approved at Carmel Church for 8,500 dwelling units.

Mr. Robbins then directed the Commission's attention to three charts that were not a part of the report, but are intended to be posted to the Commission's website, showing trends of collections and expenditures over time since the first survey in FY 2000-2001.

Finally, Mr. Robbins shared two minor changes to the report this year. First, four Russell County towns that had been inadvertently omitted from the list of localities permitted to collect proffers, were added to the list in Appendix B. None of these towns are required to report on the use of cash proffers because their population is fewer than

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3,500. Second, a map is now included as part of Appendix B in the report showing the localities that are permitted to accept cash proffers.

Mr. Hendrix noted that in Appendix D, Albemarle County's data was not formatted consistently with the other localities. Mr. Robbins stated that he would correct this in the final report.

On motion of Ms. Seefeldt, seconded by Ms. Lawson, the Commission unanimously approved the 2010 Report on Proffered Cash Payments and Expenditures by Virginia's Counties, Cities and Towns, subject to correcting the formatting error noted by Mr. Hendrix.

IV. Draft Interim Report on the Progress of Cities, Counties, and Towns Toward Designating Urban Development Areas (UDAs)

Mr. Robbins reminded the Commission that, during the 2010 General Assembly Session, § 15.2-2223.1 (the UDA statute) was amended to require localities to submit certain documents to the Commission on Local Government pertaining to the designation of UDAs and the Commission to report to the Governor and General Assembly each year regarding the overall compliance with the UDA statute. In preparation for the initial report in 2011, Commission staff surveyed all local governments to develop baseline data. The survey responses were used to develop this interim report.

Mr. Robbins stated that today Bill Ernst, Policy Manager for the Department of Housing and Community Development, was presenting this draft document to the Joint Subcommittee Studying Development and Land Use Tools.

Mr. Robbins stated that the survey asked respondents to choose the most applicable statement from nine choices in order to identify the status of their locality with

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respect to adopting one or more UDAs as required by the UDA statute. The survey was sent to all 324 units of local government in Virginia – regardless of whether they are a UDA mandated locality because the statute does not exempt any locality from the reporting requirement.

Mr. Robbins then explained the responses of the survey and stated that several trends were revealed through the survey data:

- Towns are much less prepared to comply with the UDA statute than cities and counties. Several smaller towns appear to be unaware that the requirement applies to their jurisdiction.
- Most localities with populations over 20,000 appear to be complying or progressing toward compliance. None of the localities under 20,000 in population have yet adopted one or more UDAs.
- Cities and counties with lower levels of fiscal stress are more likely to be prepared for the deadlines to adopt UDAs than their counterparts that are experiencing greater fiscal stress.
- In sum, smaller jurisdictions – towns mostly – are less likely to have progressed, or even understand that the statute applies to them.

Mr. Robbins noted that the individual survey responses are included at the end of the report, along with indication as to whether the locality is required to adopt one or more UDAs. Mr. Robbins also pointed out that Prince William County's survey response indicated intent to comply with the UDA statute by July 1, 2012; however, the county Board of Supervisors later resolved to halt UDA planning efforts, and seek amendments to the UDA statute as part of their 2011 legislative package. There was insufficient time

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to amend the survey results to reflect this change, as stated in a footnote on page 16 of the report.

On motion of Mrs. Wingo, seconded by Mrs. Lawson, the Commission unanimously approved the Interim Report on the Progress of Cities, Counties, and Towns Toward Designating Urban Development Areas (UDAs).

V. Scheduling of Regular Meetings

The Commission confirmed that its next regular meeting is scheduled to take place on Monday, January 10, 2011 at 10:00 a.m. at the Virginia Housing Center in Glen Allen, provided that space is available. The following regular meeting of the Commission is tentatively scheduled to take place on Monday, March 14, 2011 and will likely be held in Covington, Virginia.

VI. Adjournment

There being no further business to come before the Commission, on motion by Mrs. Wingo that was seconded by Mr. Hendrix, the meeting was adjourned at 4:39 p.m.

Harold H. Bannister, Jr.
Chairman

Susan B. Williams
Local Government Policy Manager