

**Draft Minutes
Regular Meeting
Commission on Local Government
10:00 a.m., January 10, 2011
The Virginia Housing Center
Henrico Room 2
4224 Cox Road
Glen Allen, Virginia**

Members Present

Wanda C. Wingo, Chairman
Cole Hendrix, Vice-Chairman
Harold H. Bannister, Jr.
Kathleen K. Seefeldt
Vola T. Lawson¹

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 10:10 a.m. on January 10, 2011 in Henrico Room 2 at the Virginia Housing Center in Glen Allen, Virginia.

I. Election of Officers

Mrs. Seefeldt nominated Mrs. Wingo for Chairman, and the Commission unanimously elected Mrs. Wingo as Chairman for 2011. Mr. Bannister nominated Mr. Hendrix for Vice-Chairman, and the Commission unanimously elected Mr. Hendrix as Vice Chairman for 2011. **[Mrs. Wingo assumed the Chair at this point in the**

¹ Mrs. Lawson's term on the Commission expired on December 31, 2010; however, pursuant Va. Code §15.2-2902, she continued to serve as a temporary member of the Commission solely for the purpose of the Commission's report on the Town of Hillsville – Carroll County proposed voluntary settlement agreement. Mrs. Lawson did not participate in any other matter coming before the Commission at the meeting.

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meeting.] Because Mrs. Lawson had not yet arrived at the meeting, Mrs. Wingo asked if there would be any objection to adjusting the order of the agenda in order to delay the Commission's consideration of the draft report on the proposed Town of Hillsville – Carroll County voluntary settlement agreement until Mrs. Lawson's arrival. There was no such objection, and Mrs. Wingo called on staff to provide comment regarding the proposed consolidation of the City of Covington and Alleghany County.

II. City of Covington – Alleghany County Proposed Consolidation into the City of Alleghany Highlands

A. Preliminary Staff Comment

Ms. Williams indicated that, on January 7, 2011, the Commission received a submission requesting them to initiate a proceeding to determine the eligibility of the County of Alleghany and the City of Covington to merge into a city form of government pursuant to Va. Code §§ 15.2-2907 and 15.2-3526. She stated that the submission included a copy of the proposed consolidation agreement as well as certain documentation supporting the agreement, including pertinent resolutions adopted the Citizen Committee acting for the Board of Supervisors of Alleghany County and the Citizen Committee acting for the City Council of the City of Covington (Citizens Committees). She indicated that the Commission – just as it must in other reviews – will be required to hold a public hearing, tour the affected area and hear oral presentations in Covington/Alleghany County. She then acknowledged the presence of Mr. Carter Glass – the attorney representing the Citizen Committees.

B. Comments by Representatives of the Parties

Mr. Glass explained that the Alleghany Circuit Court appointed the Citizens Committees when the governing bodies of the City of Covington and Alleghany County were unable to develop a consolidation agreement within the statutory one-year time limit after the filing of citizens' petitions in both localities requesting that they do so. Mr. Glass stated that he represented the governing bodies during that year and that they agreed to his representation of the Citizens Committees. He then provided an overview of the court and Commission processes and of the key provisions in the proposed agreement that would consolidate the City of Covington and Alleghany County into the City of Alleghany Highlands. Mr. Glass indicated that, while the agreement provides for a city form of government, there are provisions in the agreement that are more commonly seen in counties: such as a law enforcement services provided by an elected city sheriff and deputy sheriffs instead of a police department; townships within the consolidated city with annexation powers; notice requirements before an ordinance is considered by the city council; and voter referendum requirements before the issuance of certain debt. Mr. Glass then stated that the standard of review for the Commission is the same as that for the special three-judge court: to determine the proposed consolidated city's eligibility for city status – namely, that the proposed consolidated city would have the fiscal capacity to function as an independent city and to provide appropriate services and a determination that it would be in the best interests of the parties and the Commonwealth.

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C. Commission Deliberation and Action

After a brief discussion and with Mr. Glass' input, the members approved the following tentative review schedule on a motion by Mr. Hendrix, which was seconded by Mrs. Seefeldt:

Request for additional information – Tuesday, February 22, 2011 at close of business.

Parties' response to request for additional information / supplemental submissions by parties – Tuesday, March 15, 2011 at close of business (with hardcopies provided to the Commission staff and sent by express mail directly to the members).

Monday, March 21, 2011 (Covington/Alleghany County, Virginia):

3:00 PM Commission Meeting (Regular)

7:00 PM Public Hearing

Tuesday, March 22, 2011 (Covington/Alleghany County, Virginia):

9:00 AM Tour of Affected Area

10:30 AM Oral Presentations

12:00 Noon Commission Meeting (Special)

Closing of Record - Tuesday, April 5, 2011 at close of business

Commission's draft report - Monday, May 9, 2011

III. Administration

A. Approval of Minutes of November 15 and 16, 2010 Meetings

Mr. Bannister made a motion that the minutes of the following meetings, which took place in Hillsville, Virginia, be approved: the Commission's regular meeting of November 15, 2010; the Public Hearing held on November 15, 2010; and the Oral Presentations made on November 16, 2010. Such motion was seconded by Mrs. Seefeldt, and the Commission unanimously approved the three sets of 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 December 2010

Referencing an internally produced financial statement that encompassed expenditures through the end of December 2010, Ms. Williams stated that the financial report covered one-half of Fiscal Year 2011 (FY11) and that Commission personnel and non-personnel expenditures for that period represented 55.45% of the total amount budgeted for the fiscal year. On a motion by Mr. Bannister that was seconded by Mr. Hendrix, the Commission unanimously accepted the Financial Statement for December 2010.

D. Local Government Policy Manager's Report

1. Economist Position.

Ms. Williams reported that Mr. Ziony's retirement became effective on December 31, 2010. She further indicated that, starting October 1, he began working two days per week and using his accumulated annual leave, as anticipated. She reminded members 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 and that the DHCD director and the Secretary of Commerce and Trade approved filling the position. She indicated that the request awaits action by the Governor's Chief of Staff.

2. Letter of Appreciation

Ms. Williams directed members' attention to the letter of appreciation for Mr. Ziony that was included in their agenda packages and emailed to them previously. On a motion by Mrs. Seefeldt that was seconded by Mr. Bannister, the Commission unanimously adopted the letter of appreciation.

3. Letter from the Town of New Market and Shenandoah County

Ms. Williams made reference to a letter the Commission received from the New Market town manager and the Shenandoah county administrator regarding two of the recommendations that the Commission made in the July 2010 report on the proposed Town of New Market – Shenandoah County voluntary settlement agreement. Ms. Williams directed members' attention to their letter as well as her letter in response, both of which were provided in their agenda packages. Ms. Williams indicated that she did not receive the clarification she requested in her letter regarding the authority for the town to collect monies other than cash proffers from developers, nor has she received a response from either party.

4. Budget

Ms. Williams reported that Governor McDonnell's proposed changes to the 2010-2012 biennial budget published on December 17 did not include any changes that directly impact the Commission, though there are changes that would impact state employees generally.

5. Change in Mileage Rate

Ms. Williams reported that, effective January 1, 2011, the mileage rate for personally owned vehicles will be 51 cents and that this is a change from the current rate of 50 cents.

6. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the Town of Culpeper – Culpeper County; City of Bedford – Bedford County; Town of Clarksville – Mecklenburg County; Town of Appomattox – Appomattox 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. Looking ahead, Ms. Williams indicated that, in addition to the proposed consolidation of the City of Covington and Alleghany County submitted for review by the Commission on January 7, the Commission can reasonably anticipate the filing of actions involving a Town of Culpeper – Culpeper County Voluntary Settlement Agreement and the reversion of the City of Bedford to town status in Bedford County this year.

7. Staff Activities

Ms. Williams indicated that Commission staff participated in the Governor's Housing Conference on November 18 and 19 in Richmond. In addition, staff attended a meeting of the Governor's Commission on Government Reform and Restructuring on November 18 in Richmond. She further indicated that staff would be participating in the annual VACo – VML Legislative Liaisons Retreat as well as an agency managers' retreat on January 11, 2011.

IV. Fiscal Stress Report for 2008/2009

Ms. Williams explained that, prior to his retirement, Mr. Ziony completed the fiscal stress computations for 2008/2009 and prepared numerous tables depicting the data, which were provided to the Commission's state agency customers and posted on the Commission's website. Ms. Williams stated that, subsequent to his retirement, Mr. Ziony prepared the fiscal stress computational exhibits workbook for each county and city for 2008/2009, which is comprised of 402 tables and posted on the Commission's website.

Ms. Williams stated that the measurement of fiscal stress involves the construction of a three-variable index that is based on the most recent data available for all 95 counties and 39 cities. She said that the three variables are (1) the level of revenue capacity per capita during a specified time period, which is currently 2008/2009; (2) the degree of revenue effort over the same time period; and (3) median household income, as estimated on the SAIPE website of the U.S. Census Bureau. She explained that this last variable is different this year from years past. She indicated that, previously, median adjusted gross income for individuals and married couples was used but that data came from the Weldon Cooper Center, and they are no longer calculating it.

Ms. Williams explained that another change in the computation of fiscal capacity this year is the multiplication of each locality's vehicular registration total by the personal property tax revenue of all county and city governments per motor vehicle. She further stated that statewide proceeds from the vehicular license tax have been captured by the average rate of return associated with "other" local-source instruments.

Ms. Williams said that, with respect to each of these three factors – revenue capacity, revenue effort and median household income – each county and city in Virginia

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is assigned a relative stress score and that this establishes the distance of a given locality's raw score from the mean of the overall data distribution for all localities. She added that it is expressed in terms of standard deviation units.

Ms. Williams stated that these three relative stress scores – the one for revenue effort, the one for revenue capacity and the one for median household income – are then added together for each jurisdiction to come up with a figure that represents the fiscal strain of each jurisdiction during the measurement period. She explained that the higher the sum of those three scores is for a given jurisdiction, the greater that jurisdiction's fiscal stress. While it is not an absolute indicator of financial hardship for a given county or city, she stated that what that figure shows is how fiscally stressed a given jurisdiction is in relation to every other county and city in Virginia. Ms. Williams directed members' attention to the three tables in their agenda packages that depict this information. She explained that the first table shows the revenue capacity per capita for each locality as well as each locality's relative stress score for revenue capacity; the second table shows the revenue effort for each locality as well as each locality's relative stress score for revenue effort; and the third table shows the median household income for each locality for 2008 as well as each locality's relative stress score for median household income.

Ms. Williams explained that the fourth table shows the fiscal stress index score and stated that, for each locality, it is the sum of its relative stress score for revenue capacity plus its relative stress score for revenue effort plus its relative stress score for median household income. She noted that the fourth table also depicts the rank score for each of the 134 localities (95 counties and 39 cities) and what that score means in terms

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of the fiscal stress classification for the jurisdictions – as in whether that jurisdiction is classified as High Stress; Above Average Stress; Below Average Stress or Low Stress.

She directed members to another table that included the same information on it but with the data sorted by fiscal stress rank instead of alphabetically by locality. Ms. Williams indicated that there is also a table that shows the fiscal stress classification for this year as well as that for last year for each jurisdiction with an asterisk beside the 14 localities that changed classifications since last year. She explained that there was no leapfrogging and that any jurisdiction that moved to another classification moved to the adjacent classification.

Ms. Williams reported that the City of Emporia had the highest fiscal stress index score for this computational round and Goochland County had the lowest, which is the same as last year. She stated that, while there was some re-ordering in the “High Stress” category, only two jurisdictions moved into it – the City of Radford and the City of Richmond – and both of them were “Above Average Stress” last year. Ms. Williams stated that only one jurisdiction – Sussex County – moved out of “High Stress,” and they moved into “Above Average Stress.” She said that the only jurisdiction to move into “Low Stress” this year was Surry County, and they were in the “Below Average Stress” category last year. She added that New Kent County moved out of “Low Stress” and into “Below Average Stress” this year.

Ms. Williams reported that Charles City, Craig, Dinwiddie, King and Queen, Mecklenburg and Richmond Counties and the Cities of Chesapeake and Williamsburg all moved from “Above Average Stress” last year to “Below Average Stress” this year, and

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the City of Fredericksburg moved from “Below Average Stress” to “Above Average Stress.”

Ms. Williams indicated that the two remaining tables in members’ packages depict (1) a view over time of the revenue capacity per capita for each county and city, from the 2004/2005 computational round through the current round and (2) a view over time of the revenue effort for each locality for that same time period. She reiterated that all of the tables had been posted on the Commission’s website along with the fiscal stress computational exhibits workbook for each of the 134 jurisdictions and that Mr. Ziony provided the tables to the Commission’s state agency customers who use the information to allocate funds to localities. She explained that, as an example, the three relevant computational exhibits for Accomack County were provided in members’ packages.

Ms. Williams stated that a Fiscal Stress Report for 2008/2009 might not be forthcoming because of the vacancy on the Commission staff but stated that the tables and computational exhibits workbook provide the basic information that is used by the Commission’s customers. She then asked for members’ consideration of the tables and exhibits workbook she had presented. On a motion by Mr. Bannister, which was seconded by Mr. Hendrix, the Commission unanimously approved the tables and workbook.

V. Town of Hillsville – Carroll County Voluntary Settlement Agreement

Upon Mrs. Lawson’s arrival at the meeting, Mrs. Wingo called on staff to present the Commission’s draft report on the proposed Town of Hillsville – Carroll County Voluntary Settlement Agreement. Ms. Williams and Mr. Robbins presented the draft report. Ms. Williams noted that Mrs. Lawson’s term on the Commission expired on

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December 31, 2010 but that she continued to serve as a temporary member of the Commission solely for the purpose of the Commission's report on the Town of Hillsville – Carroll County proposed voluntary settlement agreement and that her temporary membership is authorized by Va. Code §15.2-2902.

Ms. Williams indicated that the draft report was emailed to the Commission members for their review and comment on December 20, 2010, and a hard copy was mailed to them the same day. Ms. Williams highlighted the various sections contained in the report. Ms. Williams explained that, with respect to a proposed agreement such as this one negotiated under the authority of Va. Code §15.2-3400, the Commission is required to determine “whether the proposed settlement is in the best interest of the Commonwealth.”

Mr. Robbins then provided an in-depth analysis of the interests of the town, county and area proposed for annexation as well as the Commonwealth.

Next, Ms. Williams presented the following draft findings and recommendations to the members for their consideration:

In the preceding sections of this report, the Commission has reviewed a proposed voluntary settlement agreement negotiated by the Town of Hillsville and Carroll County addressing the interests of the two jurisdictions. Based upon that review, we find that the agreement promotes the viability of both local governments and is consistent with the best interests of the Commonwealth. Accordingly, we recommend the court's approval of the agreement. While finding the agreement to be in the best interest of the two jurisdictions and the State, there are a few related issues which we are obliged to address.

RESOLUTION OF DISPUTES

While the cooperative process used in the negotiation of the proposed settlement has fostered mutual understanding and collaboration between the Town and County, future differences may occur as the application of the policies contained in the agreement are implemented. Accordingly, we recommend that the

proposed settlement be amended to include a provision for the resolution of disputes that may arise relative to its implementation. Such a provision will benefit the Town and County by providing a mechanism to settle any disagreements that may arise in the future.

40-YEAR ANNEXATION MORATORIUM

The Commission has historically approached provisions for lengthy bans on annexation with reservation. In this instance, the agreement provides for a waiver of annexation and city status rights by the Town for a period of 40 years. The agreement does not prohibit the Town from annexing additional territory during that time with the consent of the County, and it further provides that any such area incorporated into the Town will be subject to the same revenue sharing obligations applicable to the land proposed for annexation under this agreement.

The Commission recognizes that several factors distinguish the circumstances in this instance and lend support to such a lengthy moratorium. First, the existing growth trends in the area do not signify an imminent need for additional land, and the Town currently has a very large inventory of vacant developable land within its boundaries – an amount which generally exceeds that available in similarly sized and populated towns. Second, in terms of commercial development potential, the property within Boundary Adjustment Area A is the most valuable in the area and will enable the Town to recapture resources from the business activity that has been redirected from the existing Town to the annexation area. Next, the 40-year moratorium is part of the basis of the bargain between the Town and County, which also includes provisions that will settle pending litigation between the two jurisdictions regarding water and sewer issues in the best interest of both. Finally, both parties to the proposed agreement were represented by highly competent independent legal counsel of their own choosing, and they entered into the agreement on a fully informed basis. After careful consideration of these factors, the Commission concludes that the 40-year moratorium is acceptable under these specific circumstances.

ADDITIONAL PARCEL

The metes and bounds description of Boundary Adjustment Area A, which was included in the original submission to the Commission omits an additional parcel that the parties agreed to include in the annexation area in response to a request by the property owner that occurred after the agreement was approved by the Town and County. This parcel was depicted as though it were included in the annexation area on some of the additional maps that were submitted to the Commission as supporting documentation; however, the parcel is not included in the 610.8 acres described in the agreement. The property consists of 4.92 acres located on the east side of Airport Road at the northern edge of Boundary Adjustment Area A and is identified as Tax Map # 82-A-13. The Commission

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believes it is appropriate that the agreement be amended to include this parcel and that the metes and bounds description be revised to reflect its addition.

Next, Ms. Williams presented the following statement from the draft report that would precede members' signatures at the end of the final report:

The Commission on Local Government acknowledges the considerable effort devoted by officials of the Town of Hillsville and Carroll County to negotiate the agreement before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. We commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Mr. Hendrix inquired as to the importance of the 40-year annexation moratorium to the parties, and Mr. Larowe, the county administrator for Carroll County, responded that it was a major point of negotiation between the town and county and its modification would require much additional negotiation between the parties. Mr. Bannister asked whether Carroll County adopted their draft comprehensive plan as anticipated at their December meeting, and Mr. Larowe responded that the board of supervisors adopted it at that time. Mrs. Seefeldt asked what the procedure would be for adding the additional parcel to the agreement, and Ms. Williams responded that it would be up to the parties to modify the agreement to include the additional parcel and that no further action would be required on the part of the Commission.

A brief discussion ensued at the conclusion of which Mrs. Lawson made a motion that the Report on the Town of Hillsville – County of Carroll Proposed Voluntary Settlement Agreement be approved by the Commission. Her motion was seconded by Mr. Bannister and the report was unanimously approved by the Commission members without amendment.

VI. 2011 General Assembly Session

A. Fiscal Impact Analysis Process

Ms. Williams stated that the General Assembly Session will convene on January 12 and should adjourn 46 days later on February 26. Ms. Williams reminded the members that the *Code of Virginia* requires the Commission to determine whether bills referred for local fiscal impact analysis impose either a “net increase in expenditure” or “net reduction in revenue” on localities. She said that the bills are referred to the Commission for analysis by the Division of Legislative Services (DLS), but that VML and VACo may also request that DLS refer specific bills to the Commission.

Ms. Williams reported that 28 local government volunteers – from 19 counties, ten cities and three towns across the Commonwealth – had signed up to participate in the process so far, compared with 36 volunteers last year. She explained that, once bills are assigned to the Commission, staff sends out an email to the volunteers with a bill list and a priority designation – either A, B or C – that has been determined jointly by VACo and VML and that the volunteers provide the fiscal estimate information on special forms. Ms. Williams said that Commission staff reviews and synthesizes the information provided then writes a fiscal impact estimate, which is provided to the patron of the bill and posted on the Legislative Information System website next to the bill.

Ms. Williams indicated that, of the nine bills referred by DLS to the Commission for analysis in 2010, seven were defeated, tabled or continued; one was amended so that it no longer has a fiscal impact; and one with a minimal local fiscal impact passed.

Ms. Williams stated that there has been a lot of interest in mandates imposed on local governments during the past year from Governor’s Reform Commission and its

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Intergovernmental Relations Committee, including specific inquiry about the Commission's process for estimating the fiscal impact of potential mandates.

Finally, Ms. Williams indicated that it is unclear how the repeal of the requirement that bills with a local fiscal impact be introduced on the first day of the Session will impact the timing of bill referrals from DLS as well as the completion of the fiscal impact estimates.

B. Bills of Interest and Legislative Action Summaries

Ms. Williams reported that, by the end of the business day on Friday, January 7, 426 bills and resolutions had been introduced – 222 HBs; 74 HJR; 6 HRs; 91 SBs; and 33 SJRs. She noted that the pre-file deadline for legislation is 10:00 AM on the first day of the Session, and, after that, there are limits on the number of bills that each member can introduce. She added that a total of 2,964 bills and resolutions were introduced in 2010, and 2,577 were introduced in 2009. She said that Commission staff, to date, had been assigned and had completed three legislative action summaries (LASs) and that, last year, staff prepared 68 LASs and nine fiscal impact statements.

VII. Scheduling of Regular Meetings

On a motion by Mr. Bannister that was seconded by Mr. Hendrix, the Commission unanimously adopted the following schedule of regular meetings for the remainder of 2011: May 9; July 11; September 12; and November 14. The meetings will take place at 10:00 a.m. at the Virginia Housing Center (provided that space is available), unless the Commission's review schedule dictates otherwise.

Earlier during the meeting, the Commission confirmed that its next regular meeting will take place on Monday, March 21, 2011 at 3:00 p.m. Covington/Alleghany

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County. Mrs. Wingo asked the Commission to consider an inclement weather date for the March meetings in Covington/Alleghany County. Subsequently, the Commission adopted the following schedule in case of inclement weather and Mr. Bannister requested that, if possible, the alternative dates be included in the notice published in the newspaper:

Monday, March 28, 2011 (Alleghany County/Covington Virginia):

3:00 PM Commission Meeting (Regular)

7:00 PM Public Hearing

Tuesday, March 29, 2011 (Alleghany County/Covington Virginia):

9:00 AM Tour of Affected Area

10:30 AM Oral Presentations

12:00 Noon Commission Meeting (Special)

VIII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:32 a.m.

Wanda C. Wingo
Chairman

Susan B. Williams
Local Government Policy Manager