

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., April 12, 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
Cole Hendrix
Wanda C. Wingo
Harold H. Bannister, Jr.

Members Absent

Staff Present

Susan Williams, Local Government Policy Manager
Zack Robbins, Senior Policy Analyst
Ed Lanza, Senior Public Finance Analyst

***Mrs. Wanda C. Wingo's term on the Commission expired on December 31, 2012; however, pursuant to Va. Code Section 15.2-2902, Mrs. Wingo continues to serve as a temporary member of the Commission for the limited purpose of participating in the final reports on the Commission's review of the proposed Town of Clarksville – Mecklenburg County voluntary settlement agreement and the Front Royal Limited Partnership – Town of Front Royal – Warren County citizen-initiated annexation action. Both of these are matters currently pending before the Commission, which Mrs. Wingo fully participated in prior to the expiration of her term. Mrs. Wingo abstained from voting on any matter coming before the Commission at this meeting that did not involve one of these two matters.**

Call to Order

Commission Chairman John Kines called the meeting to order at 10:02 a.m. on April 12, 2013 in Henrico Room 2 at the Virginia Housing Center in Glen Allen, Virginia. Because Mr. Doug Napier, Attorney for the Town of Front Royal, had not yet arrived at the meeting, Mr. Kines, with the agreement of the other members, modified the order of items on the agenda and proceeded with the item on administration.

I. Administration

A. Approval of Minutes of January 28 and 29, 2013 Meetings

Mrs. Wingo made a motion that the minutes of the following meetings, which took place in the Town of Clarksville, be approved: the Oral Presentations and the Public Hearing held on January 28, 2013. Such motion was seconded by Mr. Bannister, and the Commission approved both sets of minutes without amendment. Mr. Hendrix abstained from voting on the minutes because he was unable to attend at the meetings. Next, Mr. Stirrup made a motion, which was seconded by Mr. Bannister, that the minutes of the Commission's regular meeting of January 29, 2012 be approved, and the Commission approved the minutes without amendment. Mr. Hendrix abstained from voting on the minutes because he was unable to attend at the regular meeting. Mrs. Wingo abstained from voting on the minutes of the regular meeting because her term on the Commission expired on December 31, 2013, and her participation in Commission proceedings as a temporary member is limited to the pending reviews, as described above.

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 March 2013

Referencing an internally produced financial statement that encompassed expenditures through the end of March 2013, Ms. Williams stated that expenditures for personnel for three-

fourths of the fiscal year were 76.55% of the total budget and that expenditures on non-personnel were 70.0%. She also stated that, to date, expenditures have amounted to 75.96% of the total budget.

At this time, Mr. Napier arrived at the meeting, and Mr. Kines, with the agreement of the other members, suspended the agenda item on administration and proceeded with the agenda item regarding the Front Royal Limited Partnership – Town of Front Royal – Warren County annexation issue.

II. Front Royal Limited Partnership (FRLP) – Town of Front Royal – Warren County Citizen-Initiated Annexation Issue

Ms. Williams provided a brief update regarding the pending proceedings and indicated that the Commission needs to take action on the following items (1) a joint request from the three parties for a delay in the proceedings, dated April 12, 2013; (2) an updated preliminary review schedule; and (3) authority for the Chairman to designate a mediator to assist the parties upon their request.

Mr. Kines called on the representatives of the parties to make comments. Mr. Blair Mitchell, attorney for Warren County began by presenting a joint request for an extension in the proceedings, which was dated April 12, 2013. This latest request asks that the Commission delay the deadline for the Town and County to file their responses until June 25, 2013 and requests that the Commission's on-site meetings be delayed to coincide with the Commission's September meeting. In the letter, which was signed by all three parties – they also agree to extend the Commission's reporting deadline.

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Mr. Mitchell indicated that negotiations between the three parties are going very well. He described the County's primary concern as being the impact that development in the area proposed for annexation would have on county services, especially schools. He also mentioned that the 640 acres in question is located in an area that is currently served by two-lane country roads. Mr. Mitchell stated that, as a result of the joint meeting of the three parties held in February, each party now understands the others' concerns as well as points of agreement and disagreement, the latter of which continue to be the subject of their negotiations. Mr. Mitchell described a "mock rezoning" that is currently underway in which Mr. Vazzana, on behalf of FRLP, has filed a development plan and proffer statements with the Town's planning commission for consideration. Mr. Mitchell also indicated that FRLP has met with the Town planning commission three times and will hold a public input session on Wednesday. He further stated that a traffic impact analysis study has been filed by FRLP. Mr. Mitchell concluded his remarks by stating that he believes there will be a voluntary settlement agreement and asking that the Commission approve the extension requested by the parties.

Next, Mr. Doug Napier, attorney for the Town of Front Royal, addressed the Commission. Mr. Napier agreed with Mr. Mitchell's remarks regarding the progress of the negotiations. He added that a lot of growth is occurring north and east of town where this annexation is proposed. He stated that new roads need to be built in that area and plans to do so are already underway. He also indicated that a new school is being proposed and that the FRLP annexation request will have an impact on that project. Mr. Napier described trying to

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put all these pieces together and coordinate activities, which will take time and is one of the reasons for the delay request. Mr. Napier indicated that Leach Run Parkway (a north-south connector) will connect the area east of town with Mr. Vazzana's property. He further indicated that this proposal will have east-west connector.

Mr. Napier explained that the Town of Front Royal is in the process of developing a new comprehensive plan and that Mr. Vazzana's request has caused the Town to restart its visioning process for the new plan in order to expand its scope. Mr. Bannister asked whether the Town would be doing a comprehensive plan update at this time even if FRLP had not initiated this annexation action, and Mr. Napier responded that they would but reiterated that FRLP's petition has caused the town to expand the scope of the plan.

Mr. Bannister asked whether any other developer has ever submitted a "mock rezoning" package to the Town's planning commission for evaluation, and Mr. Napier responded that other developers have done this. Mr. Bannister asked if the new comprehensive plan would be completed by the end of this fiscal year, and Mr. Napier indicated that is the goal. Mr. Bannister indicated his understanding that the town agrees with the most current delay request. He then asked whether the Town anticipates further delay requests. Mr. Napier responded that the Town would like not to request further delays. Mr. Kines asked whether the comprehensive plan is being done "in house," and Mr. Napier responded that it is. Mr. Bannister asked if there is a need for a mediator to assist with the negotiations, and Mr. Napier responded that the parties are working well together at this time,

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and he does not see a current need for a mediator to assist them. Mr. Bannister asked for more details regarding the traffic impact study mentioned previously, and Mr. Napier deferred to Mr. Vazzana. Mr. Napier added that he has not yet seen the traffic study, as it was completed very recently. Mr. Vazzana responded that it was been submitted to VDOT for review and that comments have been received from VDOT regarding the scoping document. He further stated that the final draft of the study was just completed, and they will be forwarding it along to VDOT. He further stated that the study was submitted to the Town's planning commission on April 5 to assist in their evaluation of the proposed annexation and future land use arrangements.

Mr. Vazzana then began his remarks to the Commission. He indicated that he is largely responsible for many of the requests for the extensions as he is learning his way through this process. Mr. Vazzana described the last several months as very productive. He indicated that FRLP agreed to spend some time with the Town planning commission to determine what they would and would not be comfortable with regarding future land use arrangements in the proposed annexation area. Mr. Vazzana said they have had three work sessions so far, and he thinks their discussions are going very well. He added that he also believes this interaction will be very beneficial to the town council because the council trusts and gives a lot of weight to the recommendations of its planning commission.

Mr. Vazzana stated that, at this point, he believes that the planning commission will be comfortable issuing their guidance by mid-May. He said it will then be a matter of going back

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to the County Board of Supervisors and the Town Council and delving more into the terms of a voluntary settlement agreement to determine what the governing bodies are willing to agree to and whether the parties can find middle ground.

Mr. Vazzana acknowledged that a big part of this project is infrastructure, but stated that, in his opinion, road improvements are needed whether or not this project is developed. Mr. Bannister asked Mr. Vazzana to forward the traffic impact study to Commission staff, and he agreed. Mr. Bannister then asked Mr. Vazzana whether he thinks a mediator is needed at this time, and Mr. Vazzana replied that he does not. Mr. Bannister asked if Mr. Vazzana if he anticipates the need for any additional delays. Mr. Vazzana responded that he hopes to have the submission ready in time for the Commission to conduct its on-site meetings in Front Royal in September, but he pointed out that there will be some leeway in the schedule to extend the response deadlines and still make the September meetings. He added that deadlines seem to facilitate the decision making process.

Mr. Stirrup asked for additional background on the quasi public hearing that will be conducted by the Town planning commission. Mr. Vazzana responded that the planning commission is requesting input from citizens at the hearing and giving them the opportunity to voice their concerns about development in the proposed annexation area. Mr. Kines asked whether there has been any discussion with the County planning commission, and Mr. Vazzana responded that the county planning director is attending all meetings and fully participating in this process. Mr. Stirrup asked whether minutes will be kept of public hearing to which Mr.

Napier responded in the affirmative. Mr. Stirrup asked that a copy of the minutes be sent to the Commission. Mr. Stirrup recalled a previous tax revenue sharing proposal contemplated by the Town and County and inquired as to whether it would have any impact on the pending proposal. Mr. Napier responded that was the subject of lawsuit and was disposed, and Mr. Mitchell added that it will have no impact on this project. Mr. Mitchell indicated that the minutes from the joint meeting of the parties might be helpful to the Commission, and he offered to send them.

Mr. Bannister then made a motion that the Commission authorizes the Chairman to designate a mediator upon the joint request of the parties. Such motion was seconded by Mrs. Wingo and unanimously approved by the Commission.

Next, Ms. Williams read the parties' April 12, 2013 joint request for a delay in the Commission's proceedings into the record. Ms. Williams explained that, during the meeting, she prepared the necessary revisions to the proposed review schedule that was distributed at the beginning of the meeting. She then read aloud the following schedule:

Deadline for receipt of materials and exhibits filed by the Town of Front Royal and Warren County in response to Front Royal Limited Partnership's (FRLP's) annexation notice: Tuesday, June 25, 2013 at the close of business.

OR

Deadline for receipt of proposed voluntary settlement agreement, materials/exhibits in support of the proposed agreement and the resolutions approved by the governing bodies: Tuesday, June 25, 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, August 30, 2013 at the close of business.

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Monday, September 9, 2013 (Front Royal, Virginia):

9:00 AM Tour of the affected area
10:30 AM Oral presentations by the Petitioner, Town and County
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County (Continued)

Tuesday, September 10, 2013 (Front Royal, Virginia):

9:00 AM Regular Commission Meeting
10:30 AM Oral presentations by the Petitioner, Town and County (Continued)
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County (Continued)
7:30 PM Public Hearing

Wednesday, September 11, 2013 (Front Royal, Virginia):

9:00 AM Oral presentations by the Petitioner, Town and County
(Continued, if needed)*
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County
(Continued, if needed)*
TBA Special Commission Meeting

*Note: If the parties negotiate a voluntary settlement agreement, it is unlikely that the oral presentations will continue into Wednesday.

Closing of record: Two weeks after the Commission's public hearing (at the close of business) on Wednesday, September 25, 2013.

Commission's draft report: Date to be determined but **November [18] 2013 regular meeting** unless parties jointly request another extension (or Commission extends on its own motion)

Ms. Williams then asked if these dates are agreeable to the parties, and all three parties indicated that they are agreeable. Mr. Hendrix made a motion to amend the proposed review schedule as presented by Ms. Williams. Such motion was seconded by Mr. Stirrup and unanimously approved by the Commission. Finally, Ms. Williams asked that the Commission

also approve the delay request dated April 12, 2013. Mr. Bannister made a motion that the delay request be approved, which was seconded by Mrs. Wingo and unanimously approved by the Commission.

At this time, the Commission returned to the agenda item on administration:

D. Local Government Policy Manager's Report

1. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues, including a voluntary settlement agreement between the City of Falls Church and Fairfax County; the potential reversion of the City of Martinsville to town status; potential voluntary settlement agreements between the Town of Smithfield and Isle of Wight County and the Town of Marion and Smyth County; and a potential boundary adjustment between the Town of Port Royal and Caroline County. Ms. Williams reported that Commission staff had provided additional technical assistance since the Commission's January meeting to the Town of Port Royal as well as to the George Washington Regional Commission staff person who is assisting the Town and County in their negotiations. Ms. Williams also called members' attention to several newspaper articles included in their agenda packages regarding cash proffer policies in Chesterfield and Hanover Counties.

2. Staff Activities

Ms. Williams highlighted various staff activities that have taken place since the Commission's regular meeting on January 29. Ms. Williams indicated that staff participated in a

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meeting of the Governor's Task Force for Local Mandate Review held on March 13 in Richmond.

Ms. Williams indicated that most staff activities had been focused on legislative duties, including the drafting of legislative action summaries, local fiscal impact statements, enrolled bill reports and talking points for Governor's amendments as well as attending pertinent legislative committee and subcommittee meetings and the weekly meeting of local legislative liaisons. Other staff activities were concentrated on the review of the proposed Town of Clarksville – Mecklenburg County voluntary settlement agreement.

3. Periodic Review of Commission Regulation 1VAC 50-20

Ms. Williams reported that the Periodic Review of the Commission regulation pertaining to organization and rules of procedure is now complete. She stated that the Agency Background Document was prepared and posted on the Town Hall regulatory website on March 21.

4. Planning District Boundary Review Process

Ms. Williams reported that the planning district review process is still underway. She reminded members that the Code of Virginia requires the Department of Housing and Community Development (DHCD) to review the boundaries of the planning districts following every decennial census. She indicated that no requests for boundary changes were received during the public comment period that closed on December 19. Ms. Williams stated that the next tasks associated with the process will be preparing a demographic analysis of the planning districts; conducting a survey of state agencies; and drafting a report.

III. 2013 General Assembly Session

A. Local Fiscal Impact Analysis

Mr. Lanza stated that the Code of Virginia requires that the Commission on Local Government determine whether bills referred for fiscal impact analysis impose either a net increase in expenditures or a net reduction in revenues to localities. He stated that, through VML and VACo, the Commission solicits volunteers from localities to conduct fiscal analysis. Mr. Lanza reported that there were 30 volunteers this year: 15 counties, 10 cities, and 5 towns. He further stated that there were four additional volunteers this year from school districts. Mr. Lanza added that the Commission received a 100% response rate from six localities: the Counties of Rappahannock and Spotsylvania; the Cities of Danville and Winchester; and the Towns of Louis and Strasburg. Next, he indicated that, of the ten bills referred to the Commission for analysis, six were defeated, three were amended favorably, and one passed in its original form. Mr. Lanza further explained that, of the three bills that were amended, two became completely different bills with significantly less local fiscal impact. Finally, he stated that response rates varied from a low of 43% of volunteers to 70%.

B. Bills of Interest

Mr. Robbins presented two documents, Bills with Potential Positive Impacts on Local Governments and Bills with Potential Negative Impacts on Local Governments, which were produced by the staff and contain all enrolled bills that were identified as having a potential local government impact. He noted that the lists contain 73 “positive” and 45 “negative”

measures, though the total number of bills is greater, due to identical bills being introduced in both houses. Mr. Robbins added that the lists are categorized by subject area, with the largest “negative” measure category being education, with 36%. With respect to the “positive” bills, the top category was Public Safety, with 23%. He then summarized several of the bills on the lists and described their potential impact on local governments and school divisions.

C. Budget

Ms. Williams called members’ attention to a document that was prepared by VML and distributed in their agenda packages, which featured budget amendments included in the enrolled Budget Bill that have an impact on local governments. Ms. Williams highlighted several amendments, most notably the elimination of the requirement that local governments return \$45 million in state aid to the Commonwealth each year. Ms. Williams explained that Governor McDonnell included this amendment in his proposed amendments to the 2012-2014 biennial budget, which were released last December and that the General Assembly approved the amendment.

D. Studies

Ms. Williams directed members’ attention to a document - emailed to them previously - describing the Commission’s three new studies for 2013. She noted that, in addition to the new studies, the Commission will continue to assist the Mandates Task Force through June 2014.

Next, Ms. Williams described the new studies. First, she indicated that language included in the final 2012-2014 Budget Bill requires the Commission to convene a task force to

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determine a process for the preparation of fiscal estimates for bills and budget items anticipated to require a net additional expenditure, or a net reduction of revenue, by a locality.

Ms. Williams pointed out that it is important to note that, unlike the current statute that governs the local fiscal impact analysis process, the study language includes budget items, which would be far more time consuming to identify and to analyze.

Ms. Williams explained that the budget language further requires that the task force include representatives from VACo, VML and the Virginia Association of School Business Officials (VASBO) as well as city managers and county administrators, local government and school finance directors, and local commissioners of revenue and treasurers. Ms. Williams announced that the members of the task force – a total of 10 – have now been designated by their respective organizations. Ms. Williams then inquired as to whether a member of the Commission will also serve on the task force, but no member was designated during the meeting. Ms. Williams indicated that a report is due on December 1, 2013 to the Chairmen of the House Appropriations and Senate Finance Committees, which will require that it be ready in time for the Commission to consider at their regular meeting currently scheduled for November 18.

Ms. Williams described a second task force, which was requested by Delegate Riley E. Ingram, Chairman of House Committee for Cities, Counties and Towns, in a letter directed to DHCD director Bill Shelton. Ms. Williams stated that, in the letter, Delegate Ingram requests the Commission on Local Government staff to facilitate the creation of a task force to evaluate

the legal rights and responsibilities of towns and the counties in which they sit to carry out police power regulations and related general powers. She indicated that, in the letter, the task force is also asked to assess any areas of uncertainty over the relative powers and responsibilities of towns and counties to carry out police power responsibilities.

Ms. Williams stated that, according to Delegate Ingram's letter, the president of the Local Government Attorneys of Virginia (LGA) is prepared to designate four attorneys representing towns and four attorneys representing counties that have incorporated towns within their borders to serve as members of the task force. She stated that Delegate Ingram also asked that the task force include representatives of VACo and VML, and the Director of the Commission on Local Government or other staff members of the Commission. Ms. Williams then read a list of names of attorneys under consideration by LGA as well as the two attorneys designated by VACo and VML. Ms. Williams indicated that she anticipates that LGA will finalize the local government attorney designations by the end of April. Mr. Bannister expressed an interest in participating on this task force, subject to scheduling availability. Ms. Williams stated that Delegate Ingram asked that the task force should complete its work and send written recommendations to him by November 1, 2013.

Ms. Williams then described a third study – required by language included in the final 2012-2014 Budget Bill – that directs the Joint Legislative Audit and Review Commission (JLARC), with assistance from the Commission on Local Government, to analyze and make recommendations going forward regarding the most effective balance between the costs of

incentives for government and school consolidations with the expected resulting savings and operational benefits, and how best to structure such state incentives to achieve both clarity for localities as well as justification that incentives are adequate, but not more than necessary. Ms. Williams stated that the budget language requires that JLARC complete its study and submit a final report no later than October 1, 2014.

Finally, Ms. Williams indicated that, during the upcoming year, Mr. Lanza will serve as lead staff on the fiscal impact task force, while Mr. Robbins will be in charge of staffing the Mandates Task Force, and Ms. Williams will head the staffing responsibilities with respect to the Town/County powers task force.

IV. Assessment of State and Federal Mandates on Local Government

Mr. Robbins explained that, each year, the Commission's staff identifies the mandates that are due for assessment in the upcoming fiscal year and requests each responsible agency to determine the best time to conduct their assessments, which is reflected in the proposed schedule. Mr. Robbins distributed a revised copy of the proposed schedule, which was dated March 19, 2013. In addition, Mr. Robbins explained that staff asks VML and VACo if they would like to request that any additional mandates be assessed. Mr. Robbins reported that neither organization requested the assessment of any additional mandates this year. Mr. Robbins stated that there are 13 mandates that are due for assessment in FY 2013-2014 and that, upon the Commission's approval, staff will forward the schedule to the Secretary of Commerce and Trade and the Governor for approval. On a motion made by Mr. Bannister and seconded by Mr.

Hendrix, the assessment schedule, last revised March 19, 2013, was approved by the Commission.

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

Ms. Williams stated that the Mandates Task Force met most recently on March 13 in Richmond. She reported that, at that time, the Task Force adopted its second interim report to the Governor, a copy of which was included in members' agenda packages along with the Governor's press release announcing the issuance of the report. Ms. Williams indicated that the next Task Force meeting is scheduled for May 16, 2013 in Richmond and will feature the first in a series of Intergovernmental Roundtables involving local government and state agencies. Ms. Williams reported that this roundtable will be with the Virginia Department of Education.

VI. Schedule of Regular Meetings in 2013

Ms. Williams reiterated the following 2013 regular meeting schedule, which was approved by the Commission at their November 19, 2013 regular meeting and modified today to accommodate the review of the FRLP-Town of Front Royal-Warren County citizen-initiated annexation issue:

Monday, May 6 at 10:00 a.m. at the Virginia Housing Center in Glen Allen
Monday, July 8 at 10:00 a.m. (location to be determined)
Tuesday, September 10 at 9:00 a.m. (Front Royal)
Monday, November 18 at 10:00 a.m. (location to be determined)

VII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:53 a.m.

John G. Kines, Jr.
Chairman

Susan B. Williams
Local Government Policy Manager