

DRAFT MINUTES
Regular Meeting
Commission on Local Government
3:00 p.m., March 21, 2011
McCarthy Hall - Room 513
Dabney S. Lancaster Community College
1000 Dabney Drive
Clifton Forge, Virginia 24422

Members Present

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

Members Absent

Staff Present

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

Call to Order

Commission Chairman Wanda C. Wingo called the meeting to order at 3:00 p.m. on March 21, 2011 in McCarthy Hall, Room 513 on the campus of Dabney S. Lancaster Community College in Clifton Forge, Virginia.

I. Administration

A. Approval of Minutes of January 10, 2011 Meeting

Mr. Bannister made a motion that the minutes of the Commission's regular meeting of January 10, 2011 be approved. Such motion was seconded by Mr. Hendrix, and the Commission unanimously approved the minutes without amendment.

B. Public Comment Period

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

C. Presentation of Financial Statement for February 2011

Referencing an internally produced financial statement that encompassed expenditures through the end of February 2011, Ms. Williams stated that the financial report covered two-thirds of Fiscal Year 2011 (FY11) and that Commission personnel and non-personnel expenditures for that eight-month period represented 71.8% of the total amount budgeted for the fiscal year. The members accepted the report for filing.

D. Local Government Policy Manager's Report

1. Recruitment for Senior Public Finance Analyst/Economist Position

Ms. Williams explained that the economist position vacated by Mr. Ziony on December 31 was posted on February 2. She stated that the position is advertised as “open until filled” and that applications are still being accepted.

2. Appointment to the Commission

Ms. Williams indicated that an appointment by the Governor to fill the vacancy on the Commission created by the expiration of Mrs. Vola Lawson's term on December 31, 2010 is anticipated at any time. Mrs. Seefeldt asked that a resolution commending Mrs. Lawson for her many years of dedicated service on the Commission be prepared in time for the Commission's consideration at its next regular meeting on May 9 and that Mrs. Lawson be invited to the July 11 regular meeting for its presentation.

3. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the Town of Culpeper – Culpeper County; the City of Bedford – Bedford County; and the Town of Clarksville – Mecklenburg County. She directed members'

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attention to numerous newspaper articles concerning these issues that were included in their agenda packages.

4. Recent Activities

Ms. Williams indicated that she attended in part the VACo – VML Legislative Liaisons Retreat and the DHCD Strategic Planning Retreat on January 11. In addition, Ms. Williams and Mr. Robbins participated in the VML-VACo Legislative Day on February 3. Ms. Williams monitored all Senate Local Government and House Counties, Cities and Towns Committee and Subcommittee meetings and attended weekly VML-VACo Legislative Liaisons meetings throughout the General Assembly Session.

Ms. Williams commended Mr. Robbins for his analysis of the newly-released 2010 U.S. Census population data and for calculating the population growth rates for all Virginia localities. She explained that Mr. Robbins used this information to produce lists of the localities that are eligible to collect cash proffers, the localities that are required to designate urban development areas in their comprehensive plans, the counties that are immune from town incorporation, and the cities that are eligible to revert to town status.

II. City of Covington – Alleghany County Consolidation Agreement

Ms. Williams indicated that, on January 7, 2011, the Citizens Committee acting for the Covington City Council and the Citizens Committee acting for the Alleghany County Board of Supervisors requested that the Commission initiate a proceeding to determine the eligibility of the City and County to merge into a city form of government. She stated that the proposed agreement would consolidate the City and County into a new City of Alleghany Highlands. Ms. Williams explained that the Citizens Committees were appointed by the Circuit Court after the governing bodies of the City and County were

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unable to negotiate a consolidation agreement in the one-year period they were allowed by statute after voters in the City and County filed petitions asking them to effect a consolidation agreement. Ms. Williams remarked that, over the course of more than a year, the ten members of the two Citizens Committees held more than two dozen Committee meetings plus numerous subcommittee meetings and hearings in order to perfect an agreement.

Ms. Williams reported that the Citizens Committees' joint submission included Notice of a consolidation agreement; a copy of the proposed agreement; and certain documentation supporting the agreement, including pertinent resolutions adopted by both Committees. Ms. Williams stated that Mr. Kevin Terrell, a member of the Alleghany County Citizens Committee, is the only member of either committee who did not sign the resolution. She indicated that Mr. Terrell was invited to make remarks at the oral presentations but is unable to appear and instead has provided written comments, which will be read into the record at that time. Ms. Williams stated that, in response to the Commission's invitation, the Covington City Council designated the Mayor and the Alleghany County Board of Supervisors designated its Chairman to participate in the oral presentations.

Ms. Williams reported that the Citizens Committees responded to the Commission's February 22 request for additional information on March 16 and that such responses were provided to members and staff. She added that staff will follow up as necessary with the City of Covington to acquire information to which the Citizens Committees did not have access and which the City did not provide to them. She also indicated that staff has conducted a preliminary review of the supplemental submission.

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Ms. Williams noted that the last time the Commission reviewed a consolidation agreement was in 1995, and it concerned the City of Bedford and Bedford County. She further stated that, in its history, the Commission has reviewed a total of five consolidation agreements, and two of those involved local governments in the Alleghany Highlands: City of Covington-City of Clifton-Forge-Alleghany County in 1986 and City of Clifton Forge-Alleghany County in 1991. Ms. Williams indicated that, in both instances, the Commission found that the localities met the legal requirements for consolidation into an independent city, and the special courts agreed, but neither proposal was successful at referendum. She added that, in 2000, the Commission also reviewed and endorsed the voluntary settlement agreement setting forth the terms and conditions for Clifton Forge's transition from city to town status, which became effective July 1, 2001.

Ms. Williams explained that the Commission's review of the proposed consolidation agreement is conducted under the authority of Va. Code § 15.2-2903, which requires the Commission's review of the consolidation of two or more localities – when at least one of them is a county – into a city. She stated that, if Covington and Alleghany County were proposing to merge into a county, then no review would be required by the Commission unless the agreement also called for a tier city.

Ms. Williams stated that the legal standard that is applicable to the Commission's review of the consolidation agreement is the same standard that will apply to the special court that will review the agreement after the Commission issues its final report. Ms. Williams noted that the legal standard is different from that which applies to voluntary settlement agreements. Ms. Williams explained that, with respect to consolidation

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agreements, the standard is whether the proposed consolidation is eligible for city status.

She further indicated that there are three criteria in the statute for determining eligibility for city status. She stated that the first criterion is a specified population density but that requirement is not applicable in this situation because the proposed consolidation includes an existing city. Ms. Williams explained that the other two criteria are (1) the fiscal capacity to function as an independent city and to provide appropriate services; and (2) the best interests of the parties and the Commonwealth, including the Commonwealth's interest in promoting strong and viable units of government. Finally, Ms. Williams distributed a handout to the members that included updated logistical information in addition to statutes and regulations relevant to their review of the consolidation agreement.

III. FY 2012 Scheduling of Mandate Assessments

Mr. Robbins gave a brief background of the mandate assessment process, stating that overseeing the mandate assessment process is one of the Commission's statutory responsibilities. Mr. Robbins also explained which mandates are required to be assessed under Executive Order 58 (2007).

Mr. Robbins then explained that mandates can be re-assessed if requested by the Commission on Local Government, with input from interest groups, localities, and state agencies. He informed the Commission that staff had contacted VML and VACo, and neither agency requested that any specific mandates be re-assessed.

Mr. Robbins handed the Commission members a packet including the catalog entries for the mandates that were proposed to be assessed and referred to the proposed assessment schedule that was included with the Commission's meeting materials. Mr.

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Robbins stated that he requested preferred assessment periods from all affected agencies, and all agencies responded.

Finally, Mr. Robbins requested that the Commission approve the proposed assessment schedule, as presented, so that it can be reviewed and approved by the Secretary of Commerce and Trade and the Governor and then published in the *Virginia Register*.

On a motion by Mrs. Seefeldt, seconded by Mr. Bannister, the members unanimously approved the proposed assessment schedule for Fiscal Year 2012, as presented.

IV. 2011 General Assembly Session

A. Fiscal Impact Analysis Process

Ms. Williams stated 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 further indicated that bills are referred to the Commission for analysis by the Division of Legislative Services (DLS) and that VML and VACo may request that DLS refer specific bills to the Commission.

Ms. Williams reported that 28 volunteers from 19 counties, six cities and two towns from across the Commonwealth participated in the process this year. She further indicated that all the bills referred by DLS to the Commission for analysis in 2011 were requested by VML and/or VACo. Ms. Williams stated that five of the six bills analyzed for fiscal impact this year were defeated or tabled. She explained that the other bill was favorably amended for local governments but may still have a local fiscal impact to the

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extent that lowering the evidentiary standard applicable to taxpayers appealing real estate assessments results in more successful appeals.

Ms. Williams called members' attention to the "2011 CLG Local Fiscal Impact Estimates Scorecard" provided in their agenda packages. She reported that the overall response rate for each bill varied from 40.7 – 77.8 percent. Ms. Williams announced that Henrico, Rappahannock and Spotsylvania Counties, the City of Roanoke; and the Towns of Ashland and Vienna each had a response rate of 100 percent and each of them responded 100 percent on time. Ms. Williams indicated that the "Scorecard" was provided to VML and VACo. She stated that she sent emails thanking the volunteers and that Mrs. Wingo would be sending letters of appreciation to the volunteers on behalf of the Commission.

Mrs. Wingo inquired as to whether the elimination of the first-day introduction requirement for bills with local fiscal impact affected this year's process. Ms. Williams responded that it affected the timing of bill referrals and impact statement filings but that most bills were analyzed before they were considered by a legislative committee.

B. Bills of Interest

Ms. Williams indicated that, in addition to the six Fiscal Impact Statements, staff prepared 44 Legislative Action Summaries and 35 Enrolled Bill Reviews during the 2011 General Assembly Session. She then highlighted a number of bills of particular interest to the Commission. Ms. Williams described five bills that deal with mandates imposed on local governments and stated that three of these have a direct impact on the work of the Commission. She explained that Delegate Byron's HB 2319 and Senator Stanley's identical SB 1382 provide that, with respect to state mandates imposed on local

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governments, such assessments shall include an estimate of the fiscal impact of the mandates on the affected local governments in addition to a written justification as to why the mandate should or should not be eliminated.

Ms. Williams described Senator Newman's SB 1452, which amends the statute that sets forth the general powers and duties of Commission by adding:

"...At the direction of the Governor, to assist a five-member task force appointed by the Governor to review state mandates imposed on localities and to recommend temporary suspension or permanent repeal of such mandates, or any other action, as appropriate. The Governor shall have all necessary authority granted under § 2.2-113, or any other provision of law, to implement the task force recommendations or may recommend legislation to the General Assembly as needed. The task force shall be appointed by and serve at the pleasure of the Governor and shall serve without compensation. The task force may include city or town managers, county administrators, members of local governing bodies and members of appointed or elected school boards. All agencies of the Commonwealth shall provide assistance to the Commission, upon request. The provisions of this subdivision shall expire July 1, 2014."

Ms. Williams explained that two other bills eliminate mandates that were previously recommended by state agencies for elimination during the Commission's mandates assessment process. She stated that Delegate Habeeb's HB 2376 directs the Department of Social Services to eliminate mandates related to office space and facility requirements imposed on local departments of social services and that HB 2435 – also introduced by Delegate Habeeb – directs the Department of Corrections to eliminate

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mandates related to contract inmate classification reporting requirements imposed on localities.

Ms. Williams stated that six bills (three identical bills introduced on each side) pertain to the proposed City of Covington – Alleghany County consolidation. She indicated that Delegate Shuler’s HB 1769 and Senator Deeds’ identical SB 900 will allow townships to use the traditional annexation process to seek to expand their boundaries as long as the consolidation agreement includes a provision allowing the exercise of that power and that only townships created as a result of a consolidation occurring subsequent to July 1, 2011, are authorized to use this annexation process. She added that HB 1770 (Shuler) and identical SB 899 (Deeds) provide a new charter for the City of Alleghany Highlands, and HB 1771 (Shuler) and identical SB 901 (Deeds) authorize the State Compensation Board to allocate law-enforcement deputies to a city sheriff in cities without a police force if the city was created by the consolidation of a city and a county subsequent to July 1, 2011. Finally, Ms. Williams described HB 1721 introduced by Delegate (Robert G.) Marshall, which ultimately failed but would have made the designation of urban development areas (UDAs) in comprehensive plans optional rather than mandatory.

C. Budget

Ms. Williams explained that the Governor can recommend amendments to the enrolled Budget Bill (HB 1500) and that those amendments will be considered by the General Assembly during Reconvened Session on April 6; therefore, the Budget will not “final” until that time. Ms. Williams explained that the Budget Bill as enrolled reinstates the five percent employee contribution for Plan 1 state employees effective

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June 25, 2011 and provides a five percent salary offset concurrently but that these changes do not impact local government employees. She further stated that the Budget Bill provides an additional 15 percent in general funds for each of the 21 PDCs – a statewide total of \$232,869 – to partially restore previous reductions. She then described three successful budget amendments that are related to the proposed City of Covington – Alleghany County consolidation. The first provides that the City of Alleghany Highlands will receive 599 funds in an amount equal to the funds that would have gone to the City of Covington, net of any additional funds which may be provided to the new city sheriff by the Compensation Board. Another permits the Compensation Board to allocate positions of a former county to a newly formed consolidated city, and the third clarifies that the director of the Department of Planning and Budget (DPB) may transfer funds between agencies as necessary when a city and county consolidate into a single city.

VI. Scheduling of Regular Meetings

The Commission confirmed that it will hold its next regular meeting on Monday, May 9 at the Virginia Housing Center in Glen Allen, provided that space is available. On a motion by Mrs. Seefeldt, seconded by Mr. Hendrix, the Commission unanimously confirmed the following schedule of regular meetings for the remainder of 2011: 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.

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VII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 4:19 p.m.

Wanda C. Wingo
Chairman

Susan B. Williams
Local Government Policy Manager