

DRAFT MINUTES
Commission on Local Government
Oral Presentations
Town of Front Royal – Warren County
Voluntary Settlement Agreement
2:00 p.m., November 18, 2013
Warren County Government Center
County Board of Supervisors Room
220 North Commerce Avenue
Front Royal, Virginia 22630

Members Present

John G. Kines, Jr., Chairman
John T. Stirrup, Jr., Vice-Chairman
Harold H. Bannister, Jr.
Cole Hendrix
Bruce C. Goodson

Members Absent

(See note below)*

Staff Present

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 Front Royal – Warren County voluntary settlement agreement. This matter is currently pending before the Commission, which Mrs. Wingo fully participated in prior to the expiration of her term. Mrs. Wingo was ill, and unable to attend the public hearings and oral presentations that were held on November 18, 2013 in Front Royal, Virginia.**

I. Call to Order

A. Welcome

Chairman Kines called the meeting to order at 2:06 p.m. on November 18, 2013 in the County Board of Supervisors Room in the Warren County Government Center. Mr. Kines announced that the Commission is present to review a proposed voluntary settlement agreement between the Town of Front Royal and Warren County. He further explained that the proposed agreement provides for the annexation to the Town of Front Royal of approximately 604.7 acres of territory located in Warren County; to include the acceptance of certain proffered conditions upon the

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rezoning of such territory; and other matters.

B. Introduction of Commission Members and Staff

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

C. Commission's Review

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

D. Advertisement

Mr. Robbins indicated that the oral presentations were advertised by notice published in the *Warren Sentinel* on Thursday, October 31, 2013 and again on Thursday, November 5, 2013 and in the *Northern Virginia Daily* on Tuesday, October 29, 2013 and again on Tuesday, November 7, 2013. In addition, notice of the oral presentations was mailed to the local governments contiguous to, or sharing functions, revenue or tax sources with, the Town and County.

E. Activities to Date

Mr. Robbins stated that the Commission is here today as a result of an annexation action filed by Front Royal Limited Partnership (FRLP) on September 20, 2012, notifying the Commission of its intent to petition the court for the annexation of 604 acres that it owns in Warren County, into the corporate limits of the Town of Front Royal. Since the initial filing, the parties, consisting of FRLP, Warren County, and the Town of Front Royal, have jointly requested several delays in the proceedings to allow the jurisdictions and the partnership to have time to attempt to negotiate a settlement. Their negotiations resulted in a voluntary settlement agreement, which was approved by the Front Royal Town Council on August 12, 2013 and the Warren County Board of Supervisors on August 26, 2013. It should be noted that FRLP is a party to the agreement that was submitted; however, state law only permits localities to be parties to such an agreement. Prior to our arrival here today, the Commission received:

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

Mr. Robbins stated that the materials relevant to the proposed agreement were reviewed by the members of the Commission and staff, and requests were made for additional information to the Town and County on October 11, 2013. The Town and County responded to those requests on November 8, 2013, and staff has conducted a preliminary review of the supplemental submission.

Mr. Robbins also advised the Commissioners that prior to the meeting, he distributed a revised version of the Warren County Board of Supervisors' resolution; a binder containing the Town's responses to the Commission's request for additional information; maps of the Town and proposed transportation improvements; and a revised version of the voluntary settlement agreement that removes FRLP as a party to the case. Mr. Robbins noted that this revised agreement is not the one that is before the Commission, as it has not yet been adopted by the Town and County.

He then reviewed the meeting schedule for the Commission's on-site meetings in Front Royal, explaining that this morning the Commission toured the affected area and that, at 7:00 p.m. this evening, a public hearing will be held.

F. Closing of Record

Mr. Robbins stated that the Commission has agreed to keep its record open for the receipt of additional information and citizen comment through December 2, 2013.

G. Commission's Report

Mr. Robbins noted that the Commission's report should be issued by the end of January 2014, and that the Commission is currently scheduled to meet on January 13, 2014. *(On the following day, at its regular meeting on November 19, 2013, the Commission rescheduled the Commission's January 13th meeting to January 6, 2014)*

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II. Oral Presentations by the Town and County

Mr. Kines stated that FRLP would be the first party to present to the Commission.

Mr. David Vazzana with FRLP came forward and thanked the Commission, the Town, and the County for working with him through the last year. Mr. Vazzana introduced his first representative, Mr. Bill Barnett, a longtime member of the Front Royal - Warren County Economic Development Authority.

Mr. Barnett presented a history of planning efforts and development proposals on the subject property and environs. He explained that Happy Creek Industrial Park was created decades ago with the anticipation of an interchange on Route 606 at Interstate 66. Such interchange never was constructed, leaving the park without good road access. He said that the vision was not for the industrial park to remain an island far removed from the Town, but for mixed development to occur between the park and the existing Town, so that the park would eventually become an extension of the Town. He added that the park has plenty of vacant land, and adjacent land is available for further expansion.

He then reviewed population growth trends, and growth constraints in Warren County, noting that the land proposed for annexation is the last easily developable tract that is adjacent to the Town of Front Royal, that development of this tract will be integrated and connected to the existing town, and that the proposed East-West Connector will alleviate many of the Town's transportation concerns. He noted that as time passes on and available land runs out, most of the population growth in the area has been occurring in the County rather than the Town.

Mr. Barnett explained, in response to questions from commissioners, that the currently proposed alignment of the East-West Connector is conceptual and not finalized; and that the proposed interchange between Route 606 and I-66 is not currently included in any VDOT plans. In addition, Mr. Barnett explained that the vast majority of new housing has been in the County in large lot developments, noting that the lack of available land in the Town, and market desires are potential causes for this trend.

Next, Mr. Joe Duggan, a landscape architect with Duggan and Associates came forward and noted that several plans and studies since the 1990s, by both the Town and County, have concluded that this area of land is the most appropriate place for additional development adjacent to Front Royal. He then reviewed the proposed conceptual plans for the site, noting drainage and land use patterns.

Mr. Vazzana added that the details of the site development will be determined through the zoning process, adding that he has been working with the County and Town for about ten years regarding this property. He stated that an earlier rezoning proposal for a larger number of dwelling

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units did include a proposal for an interchange at Route 606/I-66, but the FHWA did not support adding an interchange solely to alleviate local traffic issues, which gives rise to the need for the east-west connector through the property. Mr. Vazzana stated that he believed a large economic development project would likely be required for the I-66/Route 606 interchange to be prioritized by VDOT. He added that the 2010 Town rezoning of his land likely would not have been approved if it had not been for proffers to construct a part of the east-west connector road. He summarized that it is in the best interest of the state for a planned community to be provided in the Front Royal area, providing potential residents with housing choices and compact development.

Mr. Bannister asked about using collector-distributor lanes along I-66 to permit closely-spaced interchanges. Mr. Vazzana stated that it had not been studied.

There was discussion regarding the need for additional housing in the Town, County and region.

In response to a question from Mr. Stirrup, Mr. Vazzana stated that Community 1 on the conceptual plan would be developed first, with a unified design, and he anticipates about 350 units in that phase.

In response to a question from Mr. Hendrix about potential impacts to the Town, Mr. Vazzana stated that if the annexation were to be approved, yet the development did not occur, the property would remain in agricultural use, and would be paying real estate taxes to the Town.

Mr. Steven Burke, Front Royal Town Manager, came forward and provided responses to several questions that had been asked earlier. He stated that an interchange at Route 606/I-66 was not realistic due to the Federal Highway Administration's interchange spacing requirements, reviewed potential reasons for the Town's lower growth rate, and said that after annexation, the development of the property will require a rezoning, at which time the Town will be able to evaluate the anticipated impacts and request appropriate proffers. He then reviewed the \$40 million upgrade to its utility system that is being constructed to comply with environmental regulations, and discussed cooperative efforts with Warren County regarding stormwater program implementation. Finally, he gave an overview of the Town's water, sewer, and electric system, and demonstrated that there is significant excess capacity in those systems.

There was further discussion involving the construction of Leach Run Parkway, and utility connection fees.

Mr. Burke explained in response to a question from Mr. Robbins that the policy on extending utilities into the County requires town council approval following a formal request from the board of supervisors. To date, he explained no request has been declined. He added that the Town has special authorization from the General Assembly to collect Payment In-Lieu of Tax Fees

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from commercial entities outside of the town limits, whereby the businesses can pay the amount of taxes they would have paid to the Town if they were located within the town limits, and in return those users receive in-town connection fees and utility rates.

Mr. Lanza noted that the Commission requested a projection of future revenues and expenses from the Town, relative to the annexation area, and that the town's response assumed that the land would remain in agricultural use, and requested that the Town provide projections based upon the build-out of the property. Mr. Burke responded that the Town was reluctant to make such a projection, because the size of the development is not definite at the current time, and that the Town would consider such as part of its analysis when the property is submitted for rezoning.

In response to a question from Mr. Robbins, Mr. Burke stated that the Town has accepted proffers to limit the maximum number of new residential permits issued annually in certain zoning cases.

There was discussion regarding transfers made from the enterprise fund to the general fund. Mr. Burke explained that administrative support for enterprise funds comes from general fund positions in the Town government, and the enterprise fund transfers are made to cover the costs of such support. In response to a question from Mr. Hendrix, Mr. Burke responded that a program for Payment In-Lieu of Taxes from the Town's utilities does not exist.

Mr. Jeremy Camp, Planning Director for the Town of Front Royal came forward to receive questions from Mr. Doug Napier, Front Royal Town Attorney. Mr. Camp stated that the development of the annexed area would help with the Town's transportation system by providing alternate routes to Happy Creek Road, and allow additional volumes to be added to the transportation network, as there is no remaining capacity. He further stated that zoning approval has been granted on property owned by FRLP for about 300 units within the Town, and that proffers on that property are anticipated to be coordinated with the proffers that would result from rezoning the annexation area. He also said that the Town determined that it would be more prudent to bring the property into the Town before determining what the proffers should be for the property, and that there is not yet a sufficient development proposal to determine what the appropriate proffers would be to mitigate the project's impact, adding that VDOT was unwilling to review the proposal until there was an actual rezoning case.

Mr. Camp indicated that he could provide the Commission with a copy of the Heptad, LLC rezoning case as requested. Discussion followed regarding the completion of Leach Run Parkway, proffers on the existing portion of the Town property, and proffers to guarantee the construction of the East-West Connector.

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Mr. Kines called for a ten-minute recess at 3:57 p.m.

The meeting resumed at 4:15 p.m.

Mr. Blair Mitchell, Warren County Attorney came forward and discussed Warren County's perspective on the negotiations of the proposed annexation. He stated that from the beginning, Warren County's concern was the impact of potential development on County schools. He stated that the County estimated an additional 213 elementary, 87 middle, and 91 high school students would be generated by the proposal's maximum 818 market-rate units.

He added that, unlike the County, the Town has not been willing to discuss details of the anticipated rezoning, as it would be more advantageous to the Town to undergo a simple boundary line adjustment followed by a standard rezoning review once the property is accepted into the town limits. He then discussed the 'mock-rezoning' proposal for the FRLP property that was used by the Town to assist in the consideration of the voluntary settlement agreement.

Mr. Mitchell stated that the County would have preferred more than the average \$12,500 in cash proffers that are guaranteed through the agreement; however, this would still be the greatest per-unit amount that the County has ever received from cash proffers.

Mr. Mitchell then reviewed some other aspects of the terms in the settlement and past planning efforts in this area of the Town, adding that the properties included in the 1976 and 1978 annexations were immediately zoned Residential R-1, instead of Agricultural A-1, which caused planning difficulties for several decades due to the increased allowable density. The currently proposed annexation area would be annexed as A-1 property.

Mr. Mitchell also addressed the revisions that have been made to the voluntary settlement agreement, discussed concerns about adding an exit to I-66, and reviewed proffers from other zoning cases in this part of town.

In response to a question from Mr. Goodson, Mr. Mitchell explained that the agreement as written would require the Town to not approve any zoning case on the property unless proffers met the minimum standard specified by the agreement, leaving it possible for both localities to request additional proffers.

Mr. Doug Stanley, Warren County Administrator came forward to address the Commission. He stated that this land has been contemplated for higher density development for a long time, reviewed development constraints to Warren County, discussed past planning efforts for this property, and held that limited road access has delayed the development of this land. He then discussed the merits of the negotiated agreement, and claimed that he believed the development of the property would cluster growth around the Town, provide for decades of residential growth needs, and provide the highest and best use of the property.

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Mr. Bannister asked if this proposal would further isolate the developments that are north of Interstate 66. Mr. Stanley responded that this land has been isolated since it was developed, and that the proposed project will improve the access to those neighborhoods.

There was discussion about providing additional interstate access to the area.

There being no further questions from commissioners, Mr. Kines asked Mr. Mitchell to proceed with the County's closing statements. Mr. Mitchell reiterated points made earlier, and requested the Commission's approval of the agreement.

Mr. Kines requested Mr. Napier to proceed with the Town's closing statements. Mr. Napier highlighted that this is not a situation where the Town is requesting annexation, but rather one where the property owner is initiating annexation, with the Town's support, and stated that it will benefit the Town and Commonwealth. With respect to an anticipated zoning case, he stated that the Town cannot ask for specific proffers because the plan is generalized at this stage in the process. He stated that there should be no harmful effects to the Commonwealth or the Town as a result of the annexation because it is undeveloped and will remain so until there is a specific development proposal, adding that the only specific need that can be identified by the Town currently is the East-West Connector. He then summarized that the agreement is in the best interest of the Town, County and the Commonwealth.

In response to a question from Mr. Goodson, Mr. Burke stated that parts of the Town are not currently provided electricity by the Town, and the Town intends to receive permission to be the electric provider for the annexation area.

Mr. Kines thanked the parties for their work on negotiating the proposed settlement agreement.

III. Adjournment

There being no further business to come before the Commission, Mr. Kines adjourned the meeting at 5:07 p.m.

John G. Kines, Jr.
Chairman

Zachary Robbins
Senior Policy Analyst