

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., January 6, 2014
The Virginia Housing Center
Henrico Room 2
4224 Cox Road
Glen Allen, Virginia

Members Present

John T. Stirrup, Jr., Chairman
Bruce C. Goodson, Vice-Chairman
Cole Hendrix
John G. Kines, Jr.
Harold H. Bannister, Jr.¹

Members Absent

Staff Present

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

Call to Order

Commission Chairman John Kines called the meeting to order at 10:12 a.m. on January 6, 2014 in Henrico Room 2 at the Virginia Housing Center in Glen Allen, Virginia.

I. Election of Officers for 2014

Mr. Goodson nominated Mr. Stirrup for Chairman, and the Commission unanimously elected Mr. Stirrup as Chairman for 2014. Mr. Hendrix nominated Mr. Goodson for Vice-Chairman, and the Commission unanimously elected Mr. Goodson for Vice-Chairman for 2014.

[Mr. Stirrup assumed the Chair at this point in the meeting.]

¹ Mr. Bannister's term on the Commission expired on December 31, 2013; however, pursuant to Va. Code Section 15.2-2902, Mr. Bannister continued to serve as a temporary member of the Commission for the limited purpose of participating in the final report on the Commission's review of the Front Royal Limited Partnership – Town of Front Royal – Warren County citizen-initiated annexation action. Mr. Bannister did not participate in any other matter coming before the Commission at the meeting.

II. Administration

A. Approval of Minutes of the Oral Presentations on November 18, 2013; of the Public Hearing on November 18, 2013; and the Regular Meeting on November 19, 2013

Mr. Goodson made a motion that the minutes of the Oral Presentations on November 18, 2013; of the Public Hearing on November 18, 2013; and the Regular Meeting on November 19, 2013 be approved. Such motion was seconded by Mr. Kines, 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.

At this time, the Chairman amended to the agenda to allow for introductory remarks for the Town of Marion – Smyth County voluntary settlement agreement.

III. Town of Marion – Smyth County Voluntary Settlement Agreement

Mr. Robbins stated that the Town of Marion and Smyth County had negotiated a voluntary settlement agreement pursuant to Va. Code § 15.2-3400, and this morning submitted the Notice to the Commission. The notice was accompanied by the agreement, supporting data and exhibits, resolutions from the Town and County governing bodies requesting the review and designating the appropriate contact persons for each party, and indication that notification had been mailed to other local governments as required by the Commission's regulations.

Next, Mr. Robbins explained the Commission's statutory duty to review such matters, to hold hearings, make investigations, analyze local needs and make findings of facts and recommendations prior to their presentation to the court for ultimate disposition. He then explained that the standard of review is to determine whether the proposed settlement is in the best interest of the Commonwealth, which by extension includes the best interest of the Town, County, and areas proposed for annexation. He also reviewed the statutory advertising requirements for the Commission's public hearing.

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Mr. Robbins stated that the Commission is required by statute to complete its report within six months of receipt of the submission, which would fall on July 6, 2013. Mr. Robbins then advised the Commission that Bristol and Washington County are expected to also submit a voluntary settlement agreement to the Commission in the next few weeks, therefore combining these site visits should be considered, as the two localities are only 40 miles apart. Under normal circumstances, the site visit would be performed at the Commission's next meeting, in March; however, staff obligations from the General Assembly session would make this trip difficult, so he recommended visiting both of these sites in May.

Mr. Bill Rush, Marion Town Manager, addressed the Commission, and explained that the agreement includes annexation and revenue sharing components. He added that both the Town Council and Board of Supervisors unanimously voted in favor of the agreement, and that no citizens showed up at hearings to comment on the agreement.

Mr. Robbins then provided the background on the Bristol-Washington County voluntary settlement agreement, explaining that it is primarily a revenue sharing agreement. He explained that there is also legislation pending before the General Assembly that is interwoven with this issue dealing with sales tax revenue generated on the subject properties.

Mr. Rush indicated that he was concerned that Bristol and Washington County's agreement is likely more controversial than Marion and Smyth County's, and asked for assurance that if the Bristol case does not get submitted in a timely manner, that Marion's site visit would still occur in May. Mr. Robbins explained that the Commission could reserve the right of the chair to adjust the review schedule as needed, and confirmed that if the Bristol case were deferred for some reason, the Marion case would still be heard in May. He added that the six month requirement for the Commission to issue its report (unless it extends on its own motion by sixty days) falls on July 6, 2014, and the Commission does not meet until July 14, so the Commission would need to extend the Marion review on its own motion, for one week.

Mr. Rush proceeded to provide additional background on the agreement and annexation areas. Mr. Stirrup confirmed that the commissioners were available for travel to Bristol and Marion on May 12, 13, and 14. After discussion, Mr. Goodson made a motion, which was seconded by Mr.

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Hendrix to adopt the following review schedule for the review of the Town of Marion – Smyth County voluntary settlement agreement, and the anticipated City of Bristol – Washington County voluntary settlement agreement, while reserving the right of the chairman to adjust the schedule in case the Bristol-Washington County agreement is not submitted as currently anticipated:

Marion/Smyth County:

Date submitted: Monday, January 6, 2014

Request for additional information: Friday, March 21, 2014 by the close of business

Parties' response to request for additional information / supplemental submissions by parties: Friday, April 18, 2014 by the close of business (delivered to staff and mailed to members)

Bristol/Washington County:

Date submitted: Not yet submitted. Anticipated by the end of January.

Request for additional information: Friday, April 4, 2014 by the close of business

Parties' response to request for additional information / supplemental submissions by parties: Friday, May 2, 2014 by the close of business (delivered to staff and mailed to members)

Site Visits:

Monday, May 12, 2014 (Bristol, Virginia):

10:30 AM Tour of affected area
12:30 PM Lunch
2:00 PM Oral presentations
5:00 PM Dinner
7:00 PM Public hearing

Tuesday, May 13, 2014 (Marion, Virginia):

10:30 AM Tour of affected area
12:30 PM Lunch
2:00 PM Oral presentations
5:00 PM Dinner
7:00 PM Public hearing

Wednesday, May 14, 2014 (Marion, Virginia):

10:00 AM Special Commission Meeting
10:30 AM Regular Commission Meeting

Post Site-Visit (for both cases):

Closing of Record: Friday, May 30, 2014 at the close of business

Commission's draft report: Monday, July 14, 2014

Such motion passed unanimously.

The Chairman returned to the agenda.

II. Administration (continued)

C. Presentation of Financial Statement for December 2013

Referencing an internally produced financial statement that encompassed expenditures through the end of December 2013, Mr. Robbins stated that fiscal year-to-date expenditures for personnel were 44% of the total budget and that expenditures on non-personnel were 23%. He also stated that, to date, overall expenditures have amounted to 39% of the total budget for the current fiscal year.

D. Local Government Policy Manager's Report

Mr. Robbins said that interviews for the Senior Policy Analyst position have been completed, and that the selected candidate should be announced in the next few days.

Mr. Robbins then reviewed other local government issues from around the state, which were included in the news clippings that were distributed to the Commission, specifically:

- The Falls Church – Fairfax County voluntary settlement agreement has been approved by the special court.
- Martinsville's proposal to revert to town status has been tabled indefinitely. There were several bills anticipated to be introduced to require a referendum for the reversion to proceed. There have also been concerns about dilution of minority representation, and the negative net financial impact that may result to Henry County.

In other news, Mr. Robbins advised the Commission that:

- Staff attended the VML/VACo Legislative Liaisons pre-session meeting in December, and presented an overview of the fiscal impact review process.
- Ms. Vola Lawson, a former commissioner, and Alexandria City Manager, passed away in December. Mr. Robbins will be collecting funds to make a donation to the Vola Lawson Animal Shelter in Alexandria on behalf of the Commission.

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- Governor-elect Terry McAuliffe has created a transition council on local government, which met last December.

B. Report on the Town of Front Royal – County of Warren Voluntary Settlement Agreement (Draft)

Mr. Robbins reminded members that the Commission received this case as a petition from Front Royal Limited Partnership (FRLP) to annex 604 acres that it owns into the Town of Front Royal, in September 2012. The parties subsequently negotiated the agreement, which was submitted to the Commission on September 19, 2013. He added that the agreement that was submitted in September included FRLP as a party; however, state law only permits voluntary settlement agreements between two or more localities, as no provision exists to permit a private party to enter into such agreements. Subsequent amendments to the agreement were submitted to the Commission removing FRLP as a party, but neither governing body has adopted the amendments; therefore, the Commission's report is on the original submitted agreement.

Mr. Robbins and Mr. Lanza proceeded to review each section of the report in detail, including the following points, which staff suggested as potential edits to the Commission:

- When the report was drafted, the assessed value of the annexation area could not be determined due to an error in the assessment records, and an estimate from the Town was utilized in the report. Following the publication of the draft report, corrected assessed values were submitted to the Commission. Mr. Robbins stated that he would like for the Commission to amend the report to include this updated information.
- In the "Interests of the Commonwealth" section, Mr. Robbins suggested removing the third sentence of the second paragraph, as it was erroneously included in the report.
- Mr. Lanza noted that the end of the third paragraph should be reorganized, as it makes reference to "three of four largest sources of local tax revenues," which are described as "property taxes, business, professional and occupational taxes,

and meals and lodging taxes.” It is unclear as drafted that these are three separate tax categories.

Following staff’s presentation, Mr. Hendrix raised concerns that the three-judge court may take issue with the fact that the agreement that the Commission reviewed did not comply with the law because the agreement was between two localities and a private party. He suggested including language that states that the Commission has received the new agreement with only two parties included (although it has not been officially adopted by either the Town or County), and has acted with knowledge of the revised version, and believes that should the revised draft be the version submitted to the Court. Discussion proceeded on this matter, and members concluded that the report also should contain a footnote at the beginning of the report, disclosing advice received from the Office of the Attorney General regarding this issue, and that the revised draft agreement should also be included as an appendix.

Mr. Stirrup then noted that on page 14, the \$12,500 cash proffer should be further explained, perhaps through a footnote, to state that \$12,500 is actually an average, is in today’s dollars, and is only applicable to non-age restricted dwellings.

Mr. Hendrix made a motion that the draft Report on the Town of Front Royal – County of Warren Voluntary Settlement Agreement be approved, subject to the aforementioned changes suggested by staff and the Commission. Such motion was seconded by Mr. Goodson, and the Commission unanimously approved the report, incorporating the aforementioned changes.

C. Fiscal Stress Report for 2011/2012 (Draft)

Mr. Lanza opened by notifying the Commission that the maps to be included as exhibits to the fiscal stress report were included in their packets. He then added that based upon a recommendation from Mr. Hendrix, he would like to include a web link to the computational exhibits in the report.

Mr. Lanza began by providing background information to the Commission. He stated that the index illustrates a locality’s ability to generate additional local source revenues from its current tax base relative to the rest of the state and that it is used as a means to distribute state

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aid to localities. He indicated that a score of 100 for fiscal stress or any of its components equaled a statewide average. Next, he reported that stress scores are divided into four categories and the deviations are determined by standard deviation. Finally, Mr. Lanza provided the details of the 2012 report.

Mr. Goodson made a motion that the draft Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Cities and Counties for FY2012 be approved, subject to the suggested incorporation of a web link to the computational exhibits. Such motion was seconded by Mr. Hendrix, and the Commission unanimously approved the report, incorporating the aforementioned change.

D. 2014 General Assembly Session

a. Fiscal Impact Process

Mr. Lanza stated that the Code of Virginia requires the Commission to determine whether bills referred for local fiscal impact impose either a "net increase in expenditures" or a "net reduction in revenues." He indicated that bills are referred to the Commission by the Division of Legislative Services, but that VACo and VML may request DLS to refer specific bills for analysis. He noted that there are 36 local volunteers for this session: 19 counties, 12 cities, and 5 towns. He said that staff reviews and synthesizes the information provided by local volunteers and then writes a fiscal impact statement, which is then provided to the patron of the bill and posted on the Legislative Information System. Next, Mr. Lanza stated that there have not been any requests for local fiscal analysis yet. He added that staff is piloting the eFIS system that is currently used by the Department of Planning and Budget and the Department of Taxation, to see how it can help with local fiscal impact reviews, and that HB 199 has been introduced, which would permit those agencies to forward bills of interest to the Commission. Finally, Mr. Lanza reviewed the budget items that will be needed in order for the additional volume of fiscal impact bills expected to be referred to the Commission in 2015.

b. Bills of Interest

Mr. Robbins and Mr. Lanza reviewed several bills of interest with the Commission:

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- HB199 is a recommendation of the Fiscal Impact Review Process Task Force. It would permit the Department of Planning and Budget and the Department of Taxation to forward bills to the Commission's staff for fiscal impact review.
- HB 193 would require local governing bodies to have a policy in place prior to permitting its members to remotely participate in governing body meetings.
- HB 209 would require localities to make the preliminary subdivision plat review process optional for subdivisions with 50 or fewer lots.
- HB 75 and SB 51 would limit localities from regulating certain agritourism activities, and was recommended by a task force formed after interest in a zoning enforcement incident in Fauquier County.
- HB 158 would extend the moratorium on the formation of new cities and city annexation for another two years; however, the bill explicitly exempts the Towns of Leesburg and Blacksburg from the moratorium on new city formation.
- A bill is anticipated to be submitted dealing with the enforcement of the Virginia Statewide Building Code in towns. The issue is that some towns who rely on their parent county for building inspection services, believe that if the town adopts the optional maintenance portion of the building code, that the county should be the party enforcing the maintenance code. Counties have contended that maintenance code enforcement is not a self-supporting endeavor, unlike building inspections, which is a fee-based activity.
- Another bill is anticipated that would extend and potentially re-purpose the Task Force for Local Government Mandate review.
- A bill is anticipated to reinstate the first day introduction requirement for bills with a local fiscal impact. The Chair of the Task Force for Local Government Mandate Review sent a suggested resolution of support for this to all Virginia local elected officials.

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- With regard to the Appropriation Act, the proposed budget would cut \$70,000 in each year of the 2014-16 biennium from state pass-thru funding to Planning District Commissions.

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

Mr. Robbins stated that the Governor's Task Force for Local Government Mandate Review would meet next on February 19th at 10 a.m. in the Main Street Centre building in Richmond. No agenda has been drafted yet, but pension issues have been the main subject studied over the last few meetings.

F. Schedule of Regular Meetings

Mr. Stirrup noted that the next meeting of the Commission would be March 10, 2014. Mr. Goodson inquired as to whether he could participate remotely, due to a time conflict. Mr. Robbins advised that open meeting requirements would apply, so the location of the teleconference would need to be advertised and open to the public. Mr. Goodson stated that he would prefer to listen in only, which would not require any advertisement or need to be open to the public.

Mr. Kines asked if members could file paper copies of the conflict of interest disclosures. Mr. Robbins stated that he would forward the .pdf file to the members.

G. Adjournment

Mr. Kines made a motion to adjourn the meeting, which was seconded by Mr. Hendrix, and unanimously adopted. The meeting was adjourned at 12:07 p.m.

John T. Stirrup, Jr.
Chairman

Zachary Robbins
Local Government Policy Manager