

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., May 9, 2011
The Virginia Housing Center
Henrico Room 3
4224 Cox Road
Glen Allen, Virginia

Members Present

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

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 10:10 a.m. on May 9, 2011 in Henrico Room 3 at the Virginia Housing Center in Glen Allen, Virginia. Mrs. Wingo acknowledged the Commission's newest member – Mr. John G. Kines, Jr. She explained that Governor McDonnell recently appointed Mr. Kines to fill the vacancy created by the expiration of Mrs. Lawson's term and that Mr. Kines had served on the Commission previously. All the members joined Mrs. Wingo in welcoming Mr. Kines back to the Commission.

I. Administration

A. Approval of Minutes of March 21 and 22, 2011 Meetings

Mr. Hendrix made a motion that the minutes of the following meetings, which

Minutes

Regular Meeting

10:00 a.m., May 9, 2011

Page 2

took place in the Alleghany Highlands, be approved: the Commission's regular meeting of March 21, 2011; the Public Hearing held on March 21, 2011; and the Oral Presentations made on March 22, 2011. Such motion was seconded by Mr. Bannister, and the Commission unanimously approved the three sets of minutes without amendment. Mrs. Seefeldt did not vote on the motion to approve the minutes because she was not present at the time; however, she arrived at the meeting shortly thereafter. Mr. Kines abstained from voting on the minutes, as he was appointed to the Commission on April 21, 2011 and, therefore, did not participate in the March meetings.

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 April 2011

Referencing an internally produced financial statement that encompassed expenditures through the end of April 2011, Ms. Williams stated that the financial report covered 83.3% of Fiscal Year 2011 (FY11) and that Commission personnel and non-personnel expenditures for that period represented 82.4% of the total amount budgeted for the fiscal year. On a motion by Mr. Hendrix that was seconded by Mr. Bannister, the Commission unanimously accepted the Financial Statement for April 2011.

D. Local Government Policy Manager's Report

1. Appointment to the Commission

Ms. Williams stated that, on April 21, Governor McDonnell appointed Mr. Kines to serve on the Commission. Ms. Williams indicated that Mr. Kines recently retired as the Prince George County administrator and that he previously served on the Commission

Minutes

Regular Meeting

10:00 a.m., May 9, 2011

Page 3

from January 2003 – May 2008. Ms. Williams welcomed Mr. Kines back to the Commission on behalf of the staff and expressed how she looks forward to the opportunity to work with him once again.

2. Recruitment for Senior Public Finance Analyst Position

Ms. Williams indicated that, thus far, 51 persons have applied for the position of Senior Public Finance Analyst / Economist, which will remain open until filled. She stated that DHCD Human Resources completed their initial screening of the applications, as has she, and that interviews will likely take place in the next few weeks.

3. Travel Reimbursement

Ms. Williams explained that Delegate Keam's HB 2277, which was approved by the 2011 General Assembly and signed by the Governor, requires that nonlegislative members of boards, commissions, committees, councils, or other collegial bodies who are appointed at the state level and who receive three or more travel reimbursements annually participate in the Electronic Data Interchange Program administered by the Department of Accounts as a condition of accepting the appointment. Ms. Williams explained that, instead of a check, reimbursements for travel expenses would be electronically deposited directly into members' bank accounts. She further explained that the requirement applies only to members who are appointed or reappointed on or after July 1, 2011. However, she stated that, for ease of administration and in order to save \$1 per check issued, DHCD's Office of Fiscal Management is asking all board members to voluntarily sign up for direct deposit, regardless of when they were appointed or reappointed. Ms. Williams called members' attention to the relevant form that was included in their agenda packages.

4. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the Town of Culpeper – Culpeper County; City of Bedford – Bedford County; and Town of Clarksville – Mecklenburg 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 the Commission can reasonably anticipate the filing of Notice and accompanying materials requesting that the Commission review a proposed Town of Culpeper – Culpeper County voluntary settlement agreement in the next 60 days.

5. Staff Activities

Ms. Williams highlighted staff activities that have taken place since the Commission's regular meeting on March 21. Ms. Williams indicated that Commission staff attended the VML-VACo Legislative Liaisons meeting on April 5 in Richmond; monitored the Reconvened Session, which took place on April 6; and observed the April 12th meeting of the Governor's Commission on Government Reform and Restructuring. She explained that Executive Order 32, signed by Governor McDonnell on April 12, continues the Commission for another year with a final report due by November 1, 2011. Ms. Williams also reported that she participated in a DHCD managers' strategic planning retreat on April 21. In addition, Ms. Williams announced that she and Mr. Robbins learned to calculate revenue capacity, revenue effort, median household income and the fiscal stress index and are currently working on the annual report that will detail County-Municipal Boundary Change Actions in Virginia for 2010.

6. State Budget

Ms. Williams explained that, during the Reconvened Session, the General Assembly considered amendments to the Budget Bill that were proposed by Governor McDonnell. She stated that the Budget Bill is now final, and the text of the re-enrolled bill is available on the Legislative Information System (LIS). Ms. Williams indicated that the Governor did not suggest any amendments to the enrolled budget that would impact state funding for Commission operations. She reported that the final budget includes a 15 percent increase in funding for each PDC beginning July 1, 2011 as well as amendments recommended by the Governor that will benefit other programs at DHCD – the Derelict Structures Fund (for industrial site revitalization) and the Virginia Main Street Program.

II. Draft Report on the City of Covington – Alleghany County Consolidation Agreement

Ms. Williams began the staff's presentation of the draft report by describing the development of the consolidation agreement and discussing the major provisions contained in the proposed agreement. She also highlighted the proposed charter for the City of Alleghany Highlands as well as legislation and budget amendments approved by the 2011 General Assembly that are pertinent to the consolidation action. Ms. Williams then detailed the proceedings that have taken place before the Commission, including a duly advertised public hearing, tour of the affected area and oral presentations. She also noted previous Commission actions in the Alleghany Highlands area.

Ms. Williams stated that, in undertaking such reviews, the Commission is required to “investigate, analyze, and make findings of fact, as directed by law, as to the

Minutes
Regular Meeting
10:00 a.m., May 9, 2011
Page 6

probable effect” of the proposed action on the people residing in the affected jurisdictions.

Ms. Williams discussed the general characteristics of the proposed consolidated City of Alleghany Highlands, indicating that the new city would have a combined population of 22,211 persons, a land area of approximately 451 square miles and a population density of 49.26 persons per square mile. She further stated that the consolidated city would have a population larger than 17 of Virginia’s 39 cities but with a density of population significantly less than that of any other city in the Commonwealth.

Ms. Williams next explained that the legal standard that is applicable to the Commission’s review of the proposed agreement is the same standard that will apply to the special court that will be appointed by the Supreme Court of Virginia to review the agreement after the Commission issues its final report. She stated that the standard is whether the proposed consolidation is eligible for city status. She explained that there are three statutory criteria for determining eligibility for city status: (1) a specified population density; (2) the fiscal capacity to function as an independent city and to provide appropriate services; and (3) the best interests of the parties and the Commonwealth, including the Commonwealth’s interest in promoting strong and viable units of government. Ms. Williams indicated that, in this particular situation, the population density requirement is not applicable because the proposed consolidation includes an existing city. Ms. Williams then called upon Mr. Robbins to present the fiscal capacity analysis and relevant findings contained in the report.

Mr. Robbins described staff’s review of the proposed city’s fiscal capacity to function as an independent city and its ability to provide appropriate services.

Minutes
Regular Meeting
10:00 a.m., May 9, 2011
Page 7

Mr. Robbins explained that four similarly sized cities were used to compare fiscal attributes – Bristol, Hopewell, Staunton, and Waynesboro. He then reviewed a scatter plot included in Appendix E, Part 3, which compares revenue capacity to revenue effort. Mr. Robbins indicated that the proposed city’s fiscal attributes would be comparable to those of the cities of Bristol and Hopewell.

Mr. Robbins then provided an overview of the state incentives for consolidation, including general ‘hold-harmless’ funding for 20 years and additional assistance in the areas of transportation, police protection, and education.

Mr. Robbins then explained that past Commission reports have always addressed concerns about increased service expectations due to the proposed jurisdiction’s status as a city. He said that the Commission has never found this to be a problem and that the boundaries of the townships and proposed urban service districts will help define areas where urban services should be expected.

Mr. Robbins next reviewed a scatter plot, which appears in Appendix F, Part 2 and compares debt and debt service to revenue capacity for all of Virginia’s localities as well as the proposed jurisdiction. He noted that the proposed city would have a high amount of debt but that it appears the debt payments would be manageable when compared to the rest of the state.

Mr. Robbins addressed concerns that were raised during the Oral Presentations regarding the potential loss of USDA Rural Development program funding due to the proposed city status and its population. He directed members’ attention to Appendices G and H. Mr. Robbins presented information showing that the Alleghany Highlands area has not been overly reliant on federal assistance to meet its capital project needs. He

Minutes
Regular Meeting
10:00 a.m., May 9, 2011
Page 8

noted an important exception was Recovery Act funds which were used for Alleghany County's wastewater treatment plant but emphasized the temporary nature of these federal stimulus funds. Finally, Mr. Robbins stated that, if USDA funds were not available to the proposed city, alternate funding sources could be utilized or an exception to the USDA regulations could be pursued.

Mr. Robbins then reviewed a chart in Appendix J, which showed the varying levels of savings anticipated by the different consolidation studies that have been conducted in the Alleghany Highlands area. He noted that the wide variation also shows how the actual savings realized would be determined in large part by the decisions made by the proposed City's elected council. Mr. Robbins concluded that, based on the Commission's analysis, the proposed city has the fiscal capacity to function as an independent city and to provide appropriate services to its residents, as required by the statute.

Mr. Hendrix and Mr. Bannister initiated a discussion among the members concerning whether it would be appropriate to show revenue data for the existing City of Covington and Alleghany County on the scatter plots contained in Appendices E and F, which compare revenue capacity to revenue effort and debt and debt service to revenue capacity, respectively.

Mr. Robbins explained staff's reasoning that it would be most appropriate not to include that information as the question before the Commission is whether the proposed jurisdiction is eligible for city status. He further explained that, according to the statutory criteria, this standard includes a determination that the proposed city has the fiscal capacity to function as an independent city but does not require a comparison of the

Minutes
Regular Meeting
10:00 a.m., May 9, 2011
Page 9

existing localities to the proposed city. After some discussion, the Commission decided not to include the comparative information in the report, as it was not deemed relevant to the statutory criteria.

Next, Ms. Williams reviewed the interests of the parties, including the more efficient use of public resources, future economies of scale in the provision of services, the elimination of undesirable competition between the City and the County and a greater ability to engage in long-range, coordinated planning for future development. Ms. Williams also highlighted the interdependence and complementary nature of the localities, including their current cooperation in the provision of certain public services and their demographic similarities. Ms. Williams concluded that, based on the Commission's analysis, the consolidation of the existing jurisdictions into a new independent city is consistent with the interests of the parties.

Ms. Williams then discussed the interests of the Commonwealth. First, she reviewed the impact of the proposed consolidated city on compliance with state policies in the areas of education, environmental protection and public planning. Ms. Williams then reviewed the impact of the proposed consolidation on the viability of local governments in the Alleghany Highlands area. She discussed the potential impact on the towns of Clifton Forge and Iron Gate, which are presently situated in Alleghany County and would become "townships" in the consolidated City of Alleghany Highlands. Ms. Williams indicated that, as townships, Clifton Forge and Iron Gate would continue to function under their existing charters and would have all the powers granted to towns under general law, except for the ability to transition to city status and extra-territorial planning powers. Ms. Williams stated that neither town would qualify for city status

Minutes

Regular Meeting

10:00 a.m., May 9, 2011

Page 10

under current law. Ms. Williams further indicated that, as a result of legislation approved by the 2011 General Assembly and signed by the Governor, the “townships” of Clifton Forge and Iron Gate would retain traditional annexation rights, which should address any concerns that the towns may have regarding future boundary expansion. Ms. Williams concluded that, based on the Commission’s analysis, the consolidation proposal is consistent with the interests of the Commonwealth.

Ms. Williams then presented the findings and recommendations contained in the draft report. She indicated that, based on the analysis, the Commission finds that the consolidation proposal meets the statutory requirements for city status and recommends the court’s approval of the plan of consolidation.

On a motion by Mr. Bannister, which was seconded by Mr. Hendrix, the Commission members who participated in the review of the consolidation agreement unanimously adopted the report without amendment, subject to finalization by staff. Mr. Kines did not participate in the review of the consolidation agreement because he was not appointed to the Commission until after the review was underway; therefore, he did not vote on the adoption of the Commission’s report.

III. 2011 Survey of Cash Proffers

Mr. Robbins presented the 2011 Cash Proffer survey instrument to the Commission for approval. He explained that, this year, the survey includes an additional page with a few questions designed to collect fiscal impact data and other feedback regarding the mandate that local governments complete the cash proffer survey on an annual basis. Mr. Robbins further explained that Commission staff will be assessing this mandate for DHCD beginning July 1, 2011, provided that the assessment schedule

Minutes
Regular Meeting
10:00 a.m., May 9, 2011
Page 11

adopted by the Commission in March is approved by the Secretary of Commerce and Trade and the Governor. On a motion by Mr. Bannister, which was seconded by Mrs. Seefeldt, the Commission unanimously approved the survey instrument.

IV. Commending Resolution for Mrs. Lawson

Ms. Williams referenced a resolution, distributed to the members prior to the meeting, which commends Mrs. Lawson for her dedicated service to the Commission. On a motion by Mrs. Seefeldt, which was seconded by Mr. Bannister, the Commission unanimously adopted the resolution. The members requested that Mrs. Lawson be invited to join them at an upcoming Commission meeting for presentation of the resolution.

V. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:35 a.m. The Commission's next regular meeting is scheduled for Monday, July 11, 2011 at 10:00 a.m. The meeting will be held at the Virginia Housing Center in Glen Allen, provided that space is available.

Wanda C. Wingo
Chairman

Susan B. Williams
Local Government Policy Manager