



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

TO: Members of the Commission on Local Government
FROM: J. David Conmy, Local Government Policy Administrator
DATE: April 29, 2021
SUBJECT: Draft Agenda, Materials, and Other Items of Interest

Please find enclosed the following:

1. Draft agenda for your regular meeting to be held on Thursday, May 13, 2021, at 11:00 AM (**please note this meeting will be held electronically via Google Meet**);
2. Commission on Local Government (CLG) Electronic Meeting Information and Rules;
3. Draft minutes for your last regular meeting held on March 25, 2021;
4. Martinsville Reversion: Amended Review Schedule;
5. Materials related to the Commission's Periodic Review of its Virginia Administrative Code (VAC) Regulations; and

Other Items of Interest:

1. Various newspaper articles of interest.

In addition, recent issues of VACo *County Connections* and VML *eNews* can be accessed on the web at:

- <http://www.vaco.org/newsroom/county-connections/>
- <https://www.vml.org/publications/enews/>

If you have any questions or require additional information, please feel free to contact me at (804) 371-8010 (office), (434) 825-0353 (cellular), or david.conmy@dhcd.virginia.gov.

I look forward to seeing you – virtually – on May 13th!

Enclosures

Partners for Better Communities



www.dhcd.virginia.gov



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AGENDA

Regular Meeting

Commission on Local Government

11:00 a.m., May 13, 2021

***This meeting is to be held electronically (via Google Meet), pursuant to [§ 4-0.01 OPERATING POLICIES of Chapter 56 of Special Session I of the 2020 Acts of Assembly](#).**

Electronic Meeting Details:

- The link for entering the electronic meeting and access to meeting materials can be found by navigating through the following two pages:
 - [Virginia Regulatory Town Hall website](#)
 - [Commonwealth Calendar](#)
- All meeting participants are asked to mute their devices upon entering the meeting space and only un-mute themselves when called upon by the Chair.
- Please contact Cody Anderson (cody.anderson@dhcd.virginia.gov) to pre-register your attendance, if you plan to speak during the Public Comment Period of the agenda, or if you need additional services to accommodate your attendance/participation.

Call to Order

I. Administration

A. Approval of Minutes of the Regular Meeting on March 25, 2021

B. Public Comment Period

C. Policy Administrator's Report

(Mr. Conmy)

II. Notice of City of Martinsville's Intention to Petition for an Order Granting it Town Status within Henry County

A. Staff Update

(Mr. Conmy)

B. Comments from the Parties

C. Update to Commission's Review Timeline

(Mr. Conmy)

D. Commission Deliberation and Action

(Dr. Davis)

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III. Periodic Review: Commission on Local Government Regulations (1VAC50 et seq)

A. Preliminary Staff Comment (Mr. Anderson)

B. Commission Deliberation and Action

IV. Public Comment: CLG Mandatory Property Tax Exemptions Study (Dr. Davis)

V. Fiscal Stress Report for 2018/2019

A. Staff Update (Mr. Conmy)

VI. 2021 General Assembly – Reconvened and Special Sessions

A. Staff Update (Mr. Anderson and Mr. Conmy)

VII. Other

VIII. Schedule of Regular Meetings

A. Staff Presentation (Mr. Anderson)

IX. Upcoming Events of Interest

A. Staff Presentation (Mr. Anderson)

X. Adjournment

DRAFT

Commission on Local Government
Electronic Meeting Information and Rules

This meeting of the Commission on Local Government (CLG) meeting will occur via electronic means in accordance with the provisions detailed in the Appropriations Act ([see § 4-0.01 OPERATING POLICIES of Chapter 56 of the 2020 Special Session I Acts of Assembly](#)). The meeting is being conducted electronically to conduct business that is, “statutorily required or necessary to continue operations,” of the CLG during the COVID-19 pandemic.

Below are certain points of information and rules for the meeting.

- The meeting will be recorded.
- Votes will be taken by Roll Call.
- In order to avoid noise feedback and other potential disruptions, Commission members, members of the public, and staff are asked to please mute their computers (Mute button on your screen or ((⌘ / Ctrl) + d on your keyboard) or phones (*6 on your dial pad)) when not speaking.
- It is requested that Commission members, members of the public, and staff state their name each time prior to speaking.
- The minutes of the meeting will state, “The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.”



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DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT

Commission on Local Government

March 25, 2021

11:00 A.M.

Digital Meeting Only

Due to the COVID-19 pandemic and public health emergency and the need to provide social distancing and prohibit large gatherings, the meeting was held electronically in accordance with the State of Emergency Declared by the Governor and the 2020 amendments to the 2020 Appropriations Act. The meeting was held via Google Meet.

Members Present

R. Michael Amyx
Stephanie Davis, PhD, Chair
Diane M. Linderman, PE, Vice Chair

Members Absent

Rosemary M. Mahan

Call to Order

The Commission on Local Government (CLG) Chair, Dr. Stephanie Davis, called the meeting to order at 11:00 a.m.

Mr. David Conny, Local Government Policy Administrator for the Department of Housing and Community Development (DHCD), noted that due to the Governor's Declared State of Emergency due to COVID-19, it is impracticable and unsafe for the CLG to assemble in a single location, so the Commission meeting is being held electronically, by video conference and telephone options, pursuant to 2020 Amendments to the 2020 Appropriation Act. The purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the CLG and the discharge of its lawful purposes, duties, and responsibilities. The public is welcome to use the link and phone number options made available by staff to attend the meeting electronically. The CLG will make available a recording or transcript of the meeting on its website in accordance with the timeframes established in Sections 2.2-3707 and 2.2-3701.1 of the Code of Virginia.

Administration

A motion was made by Ms. Linderman and seconded by Mr. Amyx to approve the draft agenda with an amendment to present a commending resolution for Mr. Ali Akbor after item VI. The motion passed (Yea: Amyx, Davis, Linderman).

A motion was made by Mr. Amyx and seconded by Ms. Linderman to approve the minutes of the Regular Meeting on January 5, 2021. The motion passed (Yea: Amyx, Davis, Linderman).

Dr. Davis opened the floor to receive comments from the public.

Mr. Joe Lerch, representing the Virginia Association of Counties (VACO), appeared before the Commission. Mr. Lerch expressed VACO's support for the Mandatory Property Tax Exemptions Study. Mr. Lerch also expressed sympathy and condolences to the Commission and staff on behalf of VACO in regards to the tragic passing of Commission staff member Ali Akbor.

No other member of the public appeared before the Commission. The public comment period was closed.

Mr. Conmy lead a moment of silence in honor of the passing of Commission staff member Ali Akbor, who passed on March 17th, 2021.

Ms. Kristen Dahlman, Policy and Legislative Director at DHCD, provided an update on staffing progress and noted that the two vacant staff member positions would likely be filled by May Commission meeting.

Mr. Conmy briefly presented various news articles of interest to the Commission.

Notice of the City of Martinsville's Intention to Petition for an Order Granting it Town Status within Henry County

Mr. Conmy provided a brief summary of the status of the case in which Martinsville has petitioned for an order granting it town status within Henry County. He alluded to a joint letter from counsel for the City and County that requests an 84 day extension

to the Commission's reporting deadline and associated review schedule milestones.

Dr. Davis recognized Mr. Jeremy Carroll, representative of Henry County in the Martinsville reversion case. Mr. Carroll expressed that the parties are moving forward in good faith to resolve any barriers between Martinsville reverting from city to town status.

Dr. Davis recognized Mr. Stephen Piegrass, representative of the City of Martinsville in the Martinsville reversion case. Mr. Piegrass expressed gratitude to the Commission for granting the joint request of the City and County to extend the reversion case deadlines by 84 days. Mr. Piegrass noted that the City remains hopeful and optimistic about the upcoming mediation between the City and the County in April.

Mr. Conmy presented a table summarizing some considerations to the Commission's existing review schedule and possible revisions that would take into account the 84 day extension jointly requested by the parties and granted by the Commission.

It was mentioned by both parties to the case that there may need to be an extension of the July 1st date at which the Commission's record would close.

There was discussion between the Commission and staff considering the effects that the loss of Mr. Akbor may have on staff's ability to review the case within the extended time period. Mr. Conmy indicated that he was cautiously optimistic that staff would still be able to proceed within the established review schedule, including within the 84-day extension.

After discussion, a motion was made by Ms. Linderman and seconded by Mr. Amyx to extend the dates of the oral presentations, public hearing, and special closed session CLG meeting for the Martinsville reversion case to the week of June 14th as identified in the "+84 day date" column in the table presented by Mr. Conmy and to direct staff to continue work on

identifying amicable dates for all parties for additional meetings as required. The motion passed (Yea: Amyx, Davis, Linderman).

Assessment of State and Federal Mandates on Local Government

Mr. Cody Anderson, Legislative Affairs and Boards Coordinator at DHCD, presented background on the assessment of state and federal mandates on local government by state agencies. Mr. Anderson noted that a minor change to the schedule had occurred between the sending of the packet and the Commission meeting, itself, which included the addition of SHHR.DBHDS015 governing Data Collection on Children and Adolescents, that had been scheduled for assessment in the time since the packet was made available to the public.

A motion was made by Mr. Amyx and seconded by Ms. Linderman to approve of the mandates assessment schedule as presented by staff. The motion passed (Yea: Amyx, Davis, Linderman).

Fiscal Stress Report for 2018/2019

Mr. Conmy gave the Commission a brief update on the status of the 2018/2019 Fiscal Stress Report. Mr. Conmy noted that at this time, only the City of Hopewell remains delinquent in transmitting data to the Auditor of Public Accounts, which provides one of the primary data sources for the Fiscal Stress Report. Mr. Conmy mentioned that pursuant to an internal CLG policy, the Fiscal Stress Report would be presented to the Commission during its July meeting using the most recently available data for localities with delinquent data.

2021 General Assembly Session Update

Mr. Conmy provided the Commission with an overview of the Fiscal Impact Statement (FIS) formation process, including a summary breakdown of the various FIS that were formulated in response to proposed legislation during the 2021 General Assembly Session.

Mr. Anderson and Mr. Conmy provided a brief summary of various House and Senate bills of interest from the conclusion of the 2021 Regular and Special Sessions. Many of these bills had

been signed by the Governor or were pending the Governor's approval.

Mr. Conmy gave a short presentation on the status of the Governor's budget, which was pending final approval by the Governor's office. He also provided a brief overview of matters of local interest from the American Rescue Plan that was signed by President Biden.

Mr. Conmy noted that the conference report budget currently includes a provision requesting the Commission to conduct a study reviewing the fiscal effects of mandatory property tax exemptions on the capacity of local governments to deliver essential services to the public. He suggested that the study could proceed with a stakeholder advisory group approach and would benefit from the participation of one Commissioner to help facilitate the meetings and report back to the full Commission on the study progress. Dr. Davis volunteered to serve as the point person on the Commission for the purposes of the study, should the Governor's budget as proposed be approved.

Commending Resolutions
for Kimble Reynolds and
Ali Akbor

Mr. Anderson presented the Commission with proposed resolution commending Mr. Kimble Reynolds for his service as a Commissioner, which expired on December 31st of 2021.

A motion was made by Ms. Linderman and seconded by Mr. Amyx to approve of the resolution as presented by staff. The motion passed (Yea: Amyx, Davis, Linderman).

Mr. Conmy read aloud a resolution commending former staff member Ali Akbor for his service prior to his tragic passing on March 17th of 2021.

A motion was made by Ms. Linderman and seconded by Mr. Amyx to approve of the resolution as presented by staff. The motion passed (Yea: Amyx, Davis, Linderman).

(A copy of those resolutions is included at the end of these minutes.)

Schedule of Regular Meetings

Mr. Anderson noted the next meeting of the Commission will be Monday, May 13th followed by a meeting potentially taking place on July 22nd pending staff review.

Upcoming Events of Interest

Mr. Lerch noted that the Virginia Association of Counties was tentatively planning for their annual conference to take place in person in November in Norfolk.

Ms. Michele Gowdy, representing the Virginia Municipal League, noted that they were planning a webinar in April to review the 2021 General Assembly Session, as well as a tentatively planned in person Annual Conference in Loudoun County in October.

Other

There was no other business.

Adjournment

A motion was made by Ms. Linderman and seconded by Mr. Amyx for adjournment. The motion passed and the Commission adjourned at 12:35 p.m.

DRAFT

**COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA**

At a regular meeting of the Commission on Local Government held virtually on Thursday, March 25, 2021, at the hour of 11:00 a.m., the following resolution was unanimously adopted:

WHEREAS, Kimble Reynolds, Jr., was appointed by Governor Terence R. McAuliffe and confirmed by the 2016 Virginia General Assembly to serve on the Commission on Local Government for a term of five years; and

WHEREAS, He served the Commission with distinction from May 10, 2016, until December 31, 2020; and

WHEREAS, He was unanimously elected Vice-Chair of the Commission, on January 10, 2017, serving in that capacity during 2017; and

WHEREAS, He was unanimously elected Chair of the Commission on January 9, 2018, serving in that capacity during 2018; and

WHEREAS, as Chair, he oversaw the Commission's adoption of its Report on Annexation Alternatives; and

WHEREAS, He was instrumental in providing his expertise to the Commission's review of the Caruso Odin, LLC - Town of Culpeper - County of Culpeper Citizen-Initiated Annexation Action and the City of Covington - County of Alleghany Voluntary Economic Growth-Sharing Agreement; and

WHEREAS, His commitment to the best interests of the Commonwealth and its localities coupled with his knowledge and experience in local government affairs made him an asset to this Commission; and

WHEREAS, His effective advocacy of his perspective, along with his respectful consideration of the views of others rendered him an invaluable participant in the Commission's deliberations; and

WHEREAS, His intelligence, integrity, and dedication earned him the sincere respect and admiration of the members of this Commission, its staff, and all others associated with its activities; and

WHEREAS, His good humor, his wit, and his graciousness added immeasurably to the pleasure and satisfaction derived from service on this Commission; and

WHEREAS, The termination of his service with the Commission deprives the Commonwealth of a distinguished and faithful public servant and this body of a valued member and good friend;

NOW, THEREFORE, BE IT RESOLVED, That the Commission on Local Government does hereby express its gratitude to **Kimble Reynolds, Jr.**, for his many contributions to this body and acknowledges with regret the loss of his company and good counsel.

BE IT FURTHER RESOLVED, That a copy of this resolution be spread upon the Minutes of this meeting and that a framed copy thereof be presented to **Kimble Reynolds, Jr.**, as a permanent testament of our affection, esteem, and high regard.

Stephanie Davis, PhD, Chair

Diane M. Linderman, PE, Vice-Chair

R. Michael Amyx

Rosemary M. Mahan

**COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA**

At a regular meeting of the Commission on Local Government held virtually on Thursday, March 25, 2021, at the hour of 11:00 a.m., the following resolution was unanimously adopted:

WHEREAS, **Ali Akbor** served the Commission on Local Government with distinction for over five years from January 4, 2016, until his tragic passing on March, 17, 2021; and

WHEREAS, During his time with the Commission, he worked with eight Commissioners, and assisted the Commission with its reports on the Covington-Alleghany Economic Growth Sharing Agreement, the Caruso Odin, LLC - Town of Culpeper - County of Culpeper Citizen-Initiated Annexation Action; the ongoing review of the City of Martinsville Petition for an Order Granting it Town Status within Henry County, and numerous other reports and studies; and

WHEREAS, His research into the fiscal conditions of local governments was essential in the development of the Commission's annual Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Cities and Counties; the development of a Fiscal Distress Monitoring System in coordination with the Virginia Auditor of Public Accounts; the Commission's Report on Annexation Alternatives; and most recently the development of the Local Vulnerability Analysis in response to the COVID-19 Pandemic for which his work has received national and international recognition; and

WHEREAS, He was instrumental in facilitating and managing a group of local volunteers for purposes of advising state policymakers on the fiscal impact of legislative proposals on local governments during six Regular Sessions and one Special Session of the Virginia General Assembly and

WHEREAS, He received numerous awards while working at the Virginia Department of Housing and Community Development including Employee of the Month and Special Project Awards for the Website Redesign Team and the Report on Annexation Alternatives; and

WHEREAS, His dedication, industry, character, integrity, faith, and honor served as a model for those engaged in public service; and

WHEREAS, His knowledge, professionalism, and commitment have earned him the respect and admiration of all the members of this Commission, State and local officials throughout Virginia, and others who have had the good fortune of his association; and

NOW, THEREFORE, BE IT RESOLVED, That the Commission on Local Government does hereby posthumously express its gratitude to **Ali Akbor** and his family for his many contributions to this body and for his enhancement of the professional and personal lives of all who have been associated with him; and

BE IT FURTHER RESOLVED, That a copy of this resolution be spread upon the Minutes of this meeting and that the resolution be presented to **his wife Farzana Rahman, daughter Zannatul Shahla, son Shabib Akbor, and son Nehan Akbor** as a permanent testament of our affection, esteem, and high regard.

Stephanie D. Davis, Ph.D., Chair

Diane M. Linderman, PE, Vice-Chair

R. Michael Amyx

Rosemary M. Mahan

2021 CLG meeting schedule:

- 2021
 - 1/14/2021
 - 3/11/2021
 - 5/13/2021
 - 7/22/2021 (please note this date has changed from the Commission's regular meeting schedule)
 - 9/9/2021
 - 11/4/2021

Review Schedule

- ~~9/18/2020 (Friday): Official Receipt of Notice~~
- ~~10/14/2020 (Wednesday): schedule review and invitation of parties to introduce case~~
- ~~12/1/2020 (Tuesday):~~
 - ~~Materials and exhibit response by County to petition~~
 - ~~OR receipt of VSA, materials/exhibits, and supportive resolutions~~
- ~~1/8/2021 (Friday)~~
 - ~~Deadline for Commission staff to complete request for additional information~~
 - ~~Deadline for parties to provide City and County space where documents are available for public inspection~~
 - ~~Deadline for parties to advise staff if court reporter is being provided (not required)~~
- 4/28/2021 (Wednesday) – 4/29/2021 (Thursday): Mediation between parties
- 5/13/2021 (Thursday)
 - Regularly scheduled Commission on Local Government Meeting
 - **Opportunity to adjust future review schedule dates identified below based on the outcome of the 4/28 – 4/29/2021 mediation, if needed**
- 5/28/2021 (Friday):
 - Deadline for response by all parties to request for additional information
 - **May change based on outcome of mediation**
- 6/14/2021 (Monday) – 6/16/2021 (Wednesday):
 - Oral presentations (online)
 - Public hearing (online)
 - **May change based on outcome of mediation**
- 6/17/2021 (Thursday):
 - Regular Commission meeting (including for purposes of closed session)
 - Outside 2021 Regular Commission Meeting Cycle
 - Special Commission meeting
 - **May change based on outcome of mediation**
- 7/1/2021 (Thursday):
 - Closing of Commission's record
 - Deadline for parties to submit a written concluding argument with proposed findings and recommendations (optional)

Commission on Local Government
Martinsville Reversion
Adopted Amended Review Schedule
4/2/2021

- **Per comments from the parties, it may be preferable to extend this date.**
 - **Ideal for the extended date to occur prior to the 7/22/2021 rescheduled Regular and Special Commission meeting**
- **May change based on outcome of mediation**
- 7/22/2021 (Thursday):
 - Regular Commission meeting
 - Special Commission meeting
 - **May change based on outcome of mediation**
- 8/5/2021 (Thursday):
 - Regular Commission meeting
 - Report adoption
 - **The consensus among the Commission, the parties, and staff during the 3/25/2021 Commission meeting was that this date could reasonably be extended, in coordination with and at the request of the parties, to accommodate the Commission and staff with the production of the final report if needed.**
 - **May change based on outcome of mediation**



Periodic Review of Regulations

Executive Order 17 (2014) requires that all non-exempt regulations be reviewed at least once every four years. This means that, in the last four years, if a non-exempt regulation has not been either subject to a regulatory action, or comprehensively reviewed by the agency/board, it is appropriate to publish a Notice of Periodic Review in the Register. The Notice of Periodic Review invites comments on the entire regulation.

The Town Hall facilitates the periodic review process by (1) helping you determine when it is time to conduct a periodic review, (2) notifying the Registrar who will publish the Notice of your periodic review, (3) notifying users who have signed up for e-mail notification and (4) automatically opening the public forum to receive comments.

Although the process is transparent to the public, the following instructions are aimed at state users.

Jump down to

- [How to determine if a periodic review is necessary](#)
- [How to begin your periodic review](#)
- [How to review comments received in the public comment forum](#)
- [How to complete your review once the comment period is over](#)

How to determine if a periodic review is necessary

Step 1: You can use the "My Agency Boards" option on your "Agency Functions" menu to locate the desired board

Step 2: While on the Chapters tab for the selected board, you will notice the column named "Last Activity". Last Activity will show the last time the chapter had an action published in the Virginia Register. If no activity has occurred in the last 4 years, a periodic review should be conducted as soon as possible.

How to begin your periodic review

Step 1: Click on Periodic Reviews link on top right corner. You can see any pending periodic reviews. Click on [Start a New Periodic Review](#) link. Select the board. Select the chapter.

Step 2: Edit the template announcement text. This text will be published in the Virginia Register and sent out in an email to any public users who selected this chapter in their preferences. Select the beginning and ending dates for the public comment period. The beginning date should correspond to the publication date for the Virginia Register. The ending date should be at least 21 calendar days from the beginning day.

Step 3: Click on **Submit**. The Registrar's office will be notified.

How to review comments received in the public comment forum

See the section of this manual on [public comment forums](#).

How to complete your review once the comment period is over

After the public comment period is complete and no later than 60 days after your notice of periodic review is published in the Register, you must complete your review.

Step 1: Select "My Periodic Reviews" on your "Agency Functions" menu to locate the desired periodic review.

Step 2: Select the link under "Chapter Title" for the periodic review. Click on the "Edit Review" link.

Step 3: Select one of the three choices for the review result (Retain / Amend / Repeal).

Step 4 (option 1): If you selected to retain the regulation, you should upload the completed "TH07" form. To locate the form from the Town Hall Home page, click on **Regulatory forms and templates** link.

Step 4 (option 2): If you selected to amend or terminate the regulation, you should specify in the pull down list which action will affect this change. Your review is not complete until you create an action to affect the change and upload your agency statement document.



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER FOURTEEN (2018) (AMENDED)

DEVELOPMENT AND REVIEW OF STATE AGENCY REGULATIONS

Importance of the Initiative

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including, but not limited to, §§ 2.2-4013 and 2.2-4017 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the review of all new regulations and changes to existing regulations proposed by state agencies, which shall include all agencies, boards, commissions, and other entities of the Commonwealth within the executive branch authorized to promulgate regulations. Nothing in this Executive Order shall be construed to limit my authority under the *Code of Virginia*, including to require an additional 30-day public comment period, file a formal objection to a regulation, suspend the effective date of a regulation with the concurrence of the applicable body of the General Assembly, or to exercise any other rights and prerogatives existing under Virginia law.

Definitions

The following acronyms and definitions are set out for ease of use and represent only a summary of terms and acronyms related to the regulatory review process. More detailed descriptions and definitions appear in the Administrative Process Act (APA), § 2.2-4000, *et seq.* of the *Code of Virginia*.

“Agency Background Document” (ABD) refers to a form completed by agencies and uploaded on the Virginia Regulatory Town Hall website for each regulatory stage in order to describe and explain the regulatory action. The form for each stage is available on the Town Hall.

“Administrative Process Act” (APA) refers to § 2.2-4000, *et seq.* of the *Code of Virginia*, which contains provisions setting forth the process for promulgating regulations in Virginia.

“Day” means a calendar day.

“Virginia Department of Planning and Budget” (DPB) refers to the state entity that reviews regulatory proposals for economic and policy impact and manages the Virginia Regulatory Town Hall website.

“Economic Impact Analysis” (EIA) refers to a report prepared by DPB that evaluates the estimated costs and benefits of a regulatory proposal.

“Emergency rulemaking process” refers to the process used (1) when there is an emergency situation as determined by the agency and affirmed by the Governor that an emergency regulation is necessary, or (2) when a Virginia statutory law, Acts of Assembly (such as the appropriation act), federal law, or federal regulation requires that a state regulation be effective in 280 days or fewer from its enactment.

“Executive Branch Review” refers to the review of a regulatory proposal at various stages by the executive branch before the regulatory proposal is published in the *Virginia Register of Regulations* and is available for public comment.

“Exempt rulemaking process” refers to the process by which agency actions exempt from the promulgation requirements of Article 2 of the APA can be adopted and filed directly with the Office of the Registrar of Regulations (Registrar) and are not subject to Executive Branch Review outlined in this executive order. Agencies should consult with their respective cabinet secretary prior to promulgating a regulation under the exempt process.

“Fast-track rulemaking process” refers to the process utilized for rules that are expected to be noncontroversial.

“Mandate” refers to a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.

“Notice of Intended Regulatory Action” (NOIRA) refers to the first stage in the standard rulemaking process under Article 2 of the APA.

“Office of the Attorney General” (OAG) refers to the state agency headed by the Attorney General. The OAG reviews regulatory proposals at the emergency stage, the fast-track stage, and the proposed stage. In addition, the OAG must review a proposal at the final stage if changes with substantial impact, as determined by either the promulgating agency or DPB, have been made since the proposed stage.

“The *Virginia Register of Regulations*” (*Register*) refers to an official legal publication that provides information about proposed and final changes to Virginia’s regulations.

“Rulemaking or regulatory process” refers to the four types of rulemaking processes in Virginia: (1) emergency, (2) fast-track, (3) standard, and (4) exempt.

“Standard rulemaking process” refers to the default rulemaking process in Virginia. If a regulatory proposal does not meet the criteria for exempt, fast-track, or emergency rulemaking, it goes through the standard rulemaking process, generally consisting of three stages: NOIRA, proposed, and final.

“The Virginia Regulatory Town Hall website” (Town Hall) refers to the website managed by DPB and used by agencies to post regulatory proposals and to facilitate the regulatory review process.

“*Virginia Administrative Code*” (VAC) refers to Virginia’s official legal publication for regulations.

Policy and Principles

The executive branch agencies of the Commonwealth must consider, review, and promulgate numerous regulations each year. This Executive Order sets out procedures and requirements to ensure the efficiency and quality of Virginia’s regulatory process. All state employees who draft, provide policy analysis for, or review regulations shall carefully consider and apply the principles outlined below during the regulatory development and review process.

General

- A. All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare. Accordingly, agencies shall consider:
 - 1. The use of user fees or permits;
 - 2. The use of information disclosure requirements, rather than regulatory mandates, so that the public can make more informed choices;
 - 3. The use of performance standards in place of required techniques or behavior; and
 - 4. The consideration of reasonably available alternatives in lieu of regulation.
- B. Where applicable, and to the extent permitted by law, it shall be the policy of the Commonwealth that only regulations necessary to interpret the law or to protect the public health, safety, or welfare shall be promulgated. These principles shall be considered when an agency performs its periodic review of regulations pursuant to § 2.2-4017 and this Executive Order.
- C. Regulations shall be clearly written and easily understandable.
- D. Regulations shall be designed to achieve their intended objective in the most efficient, cost effective manner.

Regulatory Development

- A. Regulatory development shall be based on the best reasonably available and reliable scientific, economic, and other information concerning the need for, and consequences of, the intended regulation. Agencies shall specifically cite the best reasonably available and reliable scientific, economic, or statistical data as well as any other information in support of regulatory proposals.
- B. Regulatory development shall be conducted in accordance with the statutory provisions related to impact on small businesses. DPB shall work with state agencies to address these requirements during the regulatory review process, including notifications, as appropriate, to the Joint Commission on Administrative Rules.
- C. During regulatory development, agencies shall consider the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth, as well as the cost of compliance to the general public.

Public Participation

- A. Agencies shall actively seek input for proposed regulations from interested parties, stakeholders, citizens, and members of the General Assembly.
- B. In addition to requirements established in Article 2 of the APA, agencies shall post all rulemaking actions on Town Hall to ensure that the public is adequately informed of rulemaking activities.
- C. All legal requirements and guidelines related to public participation shall be strictly followed to ensure that citizens have reasonable access and opportunity to present comments and concerns. Agencies shall inform interested persons of (1) Town Hall's email notification service that can send information regarding specific regulations, regulatory actions, and meetings about which citizens are interested, and (2) the process to submit comments in Town Hall public comment forums. Agencies shall establish procedures that provide for a timely written response to all comments and the inclusion of suggested changes that would improve the quality of the regulation.

Other

- A. Agencies, as well as reviewing entities, shall perform their tasks in the regulatory process as expeditiously as possible and shall adhere to the timeframes set out in this Executive Order.
- B. Regulations are subject to periodic evaluation, review, and modification, as appropriate, in accordance with the APA, policy initiatives of the Governor, and legislation.

- C. Each agency head will be held accountable for ensuring that the policies and objectives specified in this Executive Order are followed. Agency heads shall ensure that information requested by DPB, a Cabinet Secretary, or the Office of the Governor, in connection with this Executive Order, is provided on a timely basis. Incomplete regulatory packages may be returned to the appropriate agency by DPB.

Applicability

The review process in this Executive Order applies to rulemakings initiated by agencies of the Commonwealth of Virginia in accordance with Article 2 of the APA.

With the exception of the requirements governing the periodic review of existing regulations, the posting of meeting agenda and minutes, and the posting of guidance documents, agencies and agency regulatory action exempt from Article 2 of the APA are not subject to the requirements of this Executive Order. Nonetheless, the Governor, a Cabinet Secretary, or the Chief of Staff to the Governor may request in writing that an agency comply with all or part of the requirements of this Executive Order for regulations exempt from Article 2 of the APA. Copies of such requests shall be forwarded to the Governor's Policy Office and DPB. In addition, a Cabinet Secretary may request in writing that certain Article 2 exempt regulations be further exempted from all or part of the requirements of this Executive Order.

These procedures shall apply in addition to those already specified in the APA, the agencies' public participation guidelines, and the agencies' basic authorizing statutes. As of July 16, 2018, these procedures shall apply to all regulatory actions and stages that have been submitted to DPB for any stage of Executive Branch Review.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, create any cause of action or provide standing for any person under Article 5 of the APA (§ 2.2-4025 *et seq.* of the *Code of Virginia*), or otherwise challenge the actions of a government entity responsible for adopting or reviewing regulations.

Regulatory Review Process

Regulations shall be subject to Executive Branch Review as specified herein. All agency regulatory packages shall be submitted via Town Hall. For each stage of the regulatory development process, agencies shall complete and post the applicable ABD on Town Hall to describe the regulatory action and inform the public about the substance and reasons for the rulemaking. Agencies shall ensure that the correct regulatory text is synchronized with the appropriate stage information page on Town Hall.

If a regulatory package is submitted to DPB, and DPB determines that the package is not substantially complete, then DPB shall notify the agency within 10 days. At that time, the agency must withdraw the package from Town Hall and resubmit the package after all missing elements identified by DPB have been added. Agencies shall submit regulatory packages to the Registrar for publication on Town Hall within 14 days of being authorized to do so.

In rulemakings where there are two or more stages, the filing of each stage shall be submitted on Town Hall as expeditiously as the subject matter allows and no later than 180 days after the conclusion of the public comment period for the prior stage.

A. Standard Rulemaking Process

1. NOIRA Stage

The NOIRA shall include the nature and scope of the regulatory changes being considered and the relevant sections of the VAC. This package shall include draft regulatory text if it is available.

DPB shall review the NOIRA to determine whether it complies with all requirements of this Executive Order and applicable statutes, and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete NOIRA review package from the agency, the Director of DPB or his designee shall advise the appropriate Cabinet Secretary and the Governor of DPB's determination.

If the Director of DPB or his designee advises the appropriate Cabinet Secretary and the Governor that the NOIRA presents issues requiring further review, the NOIRA shall be forwarded to the Cabinet Secretary. The Cabinet Secretary shall review the NOIRA within 14 days and forward a recommendation to the Governor. If DPB does not find issues requiring further review, the agency shall be authorized to submit the NOIRA to the *Register* for publication after the Governor approves the NOIRA.

The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove NOIRAs on behalf of the Governor.

Public comments received following publication of the NOIRA should be encouraged and carefully considered in developing the proposed stage of a regulatory proposal.

2. Proposed Stage

Following the initial public comment period required by § 2.2-4007.01 of the *Code of Virginia*, and taking into account the comments received, the agency shall prepare a regulatory review package.

At this stage, the proposed regulation and regulatory review package shall be in as close to final form as possible, including completed review by all appropriate regulatory advisory panels or negotiated rulemaking panels. New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the proposed stage.

The order of Executive Branch Review shall be as follows:

- a. OAG. The OAG will conduct a review of the proposed regulation and produce a memorandum assessing the agency’s legal authority to promulgate the regulation and determining whether the content of the proposed regulation conflicts with existing law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed regulation. After the OAG has completed its review, the package will be submitted to DPB.
- b. DPB. DPB shall review the proposed regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Consistent with § 2.2-4007.04 of the *Code of Virginia*, within 45 days of receiving a complete regulatory review package, the Director of DPB or his designee shall prepare a policy analysis and EIA, and advise the appropriate Cabinet Secretary and the Governor of the results of the review.
- c. Cabinet Secretary. The Cabinet Secretary shall review the proposed regulation package within 14 days and forward a recommendation to the Governor.
- d. Governor. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove proposed regulations on behalf of the Governor.

3. **Revised Proposed Stage (Optional)**

Following the public comment period of the proposed stage, required by § 2.2-4007.03 of the *Code of Virginia*, the agency may wish to make additional changes and/or receive additional public comment by publishing a revised proposed regulation (as allowed by § 2.2-4007.03 of the *Code of Virginia*). The order of Executive Branch Review for the revised proposed stage shall be the same as for the Proposed Stage, with the exception that DPB will perform its duties within 21 days.

4. **Final Stage**

Following the approval of the proposed regulation package or the revised proposed regulation package, and taking into account all comments received during the prior stage, the rulemaking entity shall revise the proposed regulation.

If any change with substantial impact—as determined by DPB—has been made to the regulatory text between the proposed and final stages, the agency shall obtain a letter from the OAG certifying that the agency has authority to make the additional changes.

The order of Executive Branch Review shall be as follows:

- a. DPB. DPB shall review the final stage package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. In particular, DPB shall assess the effect of any substantive changes made since the publication of the proposed regulation and the responsiveness of the agency to public comment. Within 21 days of receiving a complete final regulation package from the agency, the Director of DPB or his designee shall prepare a policy analysis advising the appropriate Cabinet Secretary and the Governor of the results of the review.
- b. Cabinet Secretary. The Cabinet Secretary shall review the final stage regulation package within 14 days and forward a recommendation to the Governor.
- c. Governor. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove proposed final regulations on behalf of the Governor.

B. Fast-Track Rulemaking Process

The fast-track rulemaking process is for rules that are expected to be noncontroversial.

DPB shall review the fast-track regulation to determine whether it complies with all other requirements of this Executive Order and applicable statutes, and whether the contemplated regulatory action comports with the policies of the Commonwealth as set forth herein. DPB shall request the Governor's Office to determine if the fast-track process is appropriate when there is any question as to whether a package should be allowed to proceed in this manner. The Governor or his designee retains sole discretion to disapprove use of the fast-track rulemaking process when the Governor or his designee determines it is not in the public interest.

After a fast-track regulation has been submitted on Town Hall, Executive Branch Review will proceed as follows:

1. OAG. The OAG will conduct a review of the proposed fast-track regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation and determining that the content of the proposed regulation does not conflict with existing law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the fast-track regulation. After the OAG has completed its review, the package will be submitted to DPB.
2. DPB. DPB shall determine within 10 days or less whether the regulatory package is appropriate for the fast-track rulemaking process and communicate

this decision to the agency. After a package has been determined to be appropriate for the fast-track process, the Director of DPB or his designee shall have 30 days to prepare a policy analysis and EIA, and advise the appropriate Cabinet Secretary and the Governor of the results of the review.

3. Cabinet Secretary. The Cabinet Secretary shall review the fast-track regulation package within 14 days and forward a recommendation to the Governor.
4. Governor. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove fast-track regulations on behalf of the Governor.

C. Emergency Rulemaking Process

Emergency regulations may be promulgated by an agency if it determines there is an emergency situation, consults with the OAG, and obtains the approval of the Governor or his designee. Emergency regulations may also be promulgated where Virginia statutory law, an Act of Assembly such as the appropriation act, federal law, or federal regulation requires that a state regulation be effective in 280 days or fewer from its enactment and the regulation is not exempt from the APA.

If the agency plans to replace the emergency regulation with a permanent regulation, it should file an Emergency/NOIRA stage. The order of Executive Branch Review shall be as follows:

1. OAG. The OAG will conduct a review of the proposed emergency regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation and determining that the content of the proposed regulation does not conflict with existing law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed emergency regulation. After the OAG has completed its review, the package will be submitted to DPB.
2. DPB. DPB shall review the proposed emergency regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Within 14 days of receiving a complete emergency regulation package from the agency, the Director of DPB or his designee shall prepare a policy analysis, and advise the appropriate Secretary and the Governor of the results of the review.
3. Cabinet Secretary. The Cabinet Secretary shall review the proposed emergency regulation package within 10 days and forward a recommendation to the Governor.
4. Governor. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove emergency regulations on behalf of the

Governor.

An emergency regulation shall be effective for up to 18 months and may be extended for up to an additional six months if, despite the rulemaking entity's best efforts, a permanent replacement regulation cannot become effective before the emergency regulation expires. If an agency wishes to extend an emergency regulation beyond its initial effective period, the agency shall submit an emergency extension request to the Governor's Office via Town Hall as soon as the need for the extension is known, but no later than 30 days before the emergency regulation is set to expire. The emergency extension request must be granted prior to the expiration date of the emergency regulation, pursuant to § 2.2-4011(D) of the *Code of Virginia*.

D. Periodic Review of Existing Regulations

Existing state regulations shall be reviewed every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law, as regarding § 2.2-4007.1 of the *Code of Virginia*.

The regulatory review shall include: (1) the continued need for the rule; (2) the nature and complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Prior to commencement of the periodic regulatory review, the agency shall publish a notice of the review in the *Register* and post the notice on Town Hall. The agency shall provide a minimum of 21 days for public comment after publication of the notice. No later than 120 days after close of the public comment period, the agency shall publish a report of the findings of the regulatory review in the *Register* and post the report on Town Hall.

The periodic review shall include (1) a review by the Attorney General or his designee to ensure statutory authority for regulations, and (2) a determination by the Governor or his designee, whether the regulations are (a) necessary for the protection of public health, safety and welfare and (b) clearly written and easily understandable.

The periodic review must be conducted on Town Hall and may be accomplished either during the course of a comprehensive regulatory action using the standard rulemaking process, or by using the periodic review feature as follows:

1. If during the course of a comprehensive rulemaking, using the standard regulatory process, the agency plans to undertake a standard regulatory action, then the agency can fulfill the periodic review requirement by including a notice of a periodic review in the NOIRA. When the proposed stage is submitted for Executive Branch Review, the ABD shall include the result of

the periodic review. When a regulation has undergone a comprehensive review as part of a regulatory action and when the agency has solicited public comment on the regulation, a periodic review shall not be required until four years after the effective date of the regulatory action.

2. Using the periodic review feature. If, at the time of the periodic review, the agency has no plans to begin a comprehensive rulemaking using the standard rulemaking process, then the agency shall use the periodic review feature to announce and report the result of a periodic review using the appropriate Town Hall form. If the result of the periodic review is to amend or repeal the regulation, the agency shall link the periodic review with the subsequent action to amend or repeal the regulation.

Electronic Availability of Petitions and Documents

Agencies shall post petitions for rulemaking and decisions to grant or deny the petitions on Town Hall, in accordance with the timeframes established in § 2.2-4007 of the *Code of Virginia*.

Executive branch agencies shall post the notice of, and agenda for, a public regulatory meeting on Town Hall at least seven days prior to the date of the meeting, except if it is necessary to hold an emergency meeting in which case the agenda shall be posted as soon as possible.

In addition, agencies that promulgate regulations and keep minutes of regulatory meetings shall post such minutes of those meetings on Town Hall in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the *Code of Virginia*.

Agencies shall post all guidance documents or a link to each agency guidance document, as defined by § 2.2-4101 of the *Code of Virginia* on Town Hall. Any changes to a guidance document or a guidance document link shall be reflected on Town Hall within 10 days of the change.

Effective Date of the Executive Order

This Executive Order amends Executive Order No. 14 (2018) issued by Governor Ralph S. Northam and rescinds Executive Order No. 58 (1999) issued by Governor James S. Gilmore, III. This Executive Order shall become effective on July 16, 2018, and shall remain in full force and effect until June 30, 2022, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 16th day of July, 2018.



Handwritten signature of Ralph S. Northam in black ink.

Ralph S. Northam, Governor

Attest:

Handwritten signature of Kelly Thomasson in black ink.

Kelly Thomasson, Secretary of Commonwealth

Commission on Local Government:
 Periodic Review of Regulations (1 VAC50 et seq.)
 Potential Review Schedule

CLG meeting date for announcing periodic review	VA Register Publication Request Date deadline	VA Register publication date	21 days later (close of comment period)	CLG meeting date (for review of comments)	60 day deadline from end of comment period (for completion of review)	CLG Meeting for closing review
5/13/2021	5/19/2021	6/7/2021	6/28/2021	7/22/2021	8/27/2021	9/9/2021

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By RYAN MURPHY

THE VIRGINIAN-PILOT | MAR 22, 2021



FEEDBACK



Flood Area

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NORFOLK — Wondering how waterlogged your house would be after a big storm? Or maybe you're thinking about buying or renting somewhere in Norfolk but can't make heads or tails of the federal flooding maps and the different flood zones.

The city of Norfolk has just rolled out a new tool called [the Flood Risk Learning Center](#) that will show — visually show, not via arcane elevation charts — just how high the water will rise on most houses in the city.

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Once you’ve done that, the program will superimpose floodwaters you could expect with a reasonably likely flood scenario.

City staff found when trying to communicate the risk of flooding to homeowners and renters, residents would become confused and overwhelmed after getting wrapped up in federal flood zone designations and the droves of information available.

“The impetus was first to deliver the message in a way that was digestible — flood depth,” said Matt Simons, a Norfolk city planner.

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FEEDBACK

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The tool doesn’t cover every property in Norfolk. Simons said larger footprints of commercial buildings or large apartment complexes made it more difficult to estimate a ground level, which is needed to make an accurate representation of flooding. So for now, the tool only deals with single-family homes, duplexes and triplexes. But it still covers more than 56,000 properties across the city.

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Simons said.

The program isn't one-size-fits-all, either. Developed with a company called Civis Analytics, it gives targeted results, as well as targeted recommendations, depending on how high the flood risk for a given property.

In the lowest-lying areas, users will see the result of flood events that could reasonably happen once every 10 years. Those on higher ground may see the result of a Category 3 hurricane.

"We wanted people to know they still have flood risk, even if they are out of the 500-year flood plain," Simons said.

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The intention isn't to shock, Simons said, but to prompt some to take those next steps of getting a new flood insurance policy or installing flood vents in their crawlspaces.

Simons said about 80% of homes in Norfolk that face a high risk of flooding have flood insurance coverage, considerably higher than the national average.

But outside of the riskiest designations, only 10% have such plans, despite Norfolk being a low-lying coastal city that would be largely inundated by a mid-sized

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25, North Carolina group says

MAR 14, 2021

into effect. That's part of the reason Norfolk's trying to get the word out

early, before hurricane season starts in June.

To view Norfolk's new tool, visit norfolk.floodriskcenter.com.

Ryan Murphy, 757-739-8582, ryan.murphy@pilotonline.com

Topics: [Flooding](#), [Sea level rise](#), [flood insurance](#), [Norfolk](#)



Ryan Murphy

Staff Writer



Ryan Murphy covers the city of Norfolk. He is a native of Hampton Roads and spent 3½ years at the Daily Press in Newport News before coming to The Pilot in January 2017.

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Black Kettle Commons overcomes first potential - Rappahannock News (VA) - March 25, 2021

March 25, 2021 | Rappahannock News (VA) | Tim Carrington for Foothills Forum

Three supervisors open to the project

Clarification: This story has been updated from the print edition version to more accurately represent Supervisor Debbie Donehey's position on the project.

The Black Kettle Commons Project — suspended somewhere between a vision and a formal proposal — has quietly cleared a show-stopper hurdle, with three County Supervisors now open to a **boundary adjustment** that would slightly enlarge the town of Washington and pave the way for the mixed-use development to advance.

Hampton Supervisor Keir Whitson has joined Chris Parrish (Stonewall-Hawthorne) in expressing support for the **boundary adjustment**. Debbie Donehey (Wakefield) said, "I still need more information on the project," but isn't rejecting the notion of an eventual adjustment. Still Donehey is sensitive to concerns about redrawing lines: "I know people are concerned that if we do one boundary line adjustment there will be more."

"There are elements that would be of benefit to the county," Whitson said in an interview, "and the upside for our citizens appears to outweigh any downside of making that small adjustment." Action on the issue awaits submission of a formal proposal, setting out in detail how the project, unveiled last year, would take shape on land that currently straddles the town and the county. As the specifics emerge, legal, financial and environmental snags could complicate the realization of the project, but barring surprises the crucial boundary shift appears secure.

Washington resident Chuck Akre, who owns the nine-acre parcel, would donate property and a building to serve as a permanent home to Rappahannock County Food Pantry, which loses its rental space near Sperryville late this year. Other elements of the mixed-used project could include up to 20 rental housing units, designed for elderly people or young couples, groups that might value convenience and affordability. There would also be community spaces, offices for non-profits, and possibly a new home for the Rappahannock County Public Library. The parcel abuts the land where the new Washington Post Office is under construction.

Last year, in a meeting to explain the concept to the Board of Supervisors, Akre said that the boundary change would be necessary because the town declined to extend its public sewer system outside the town limits. But assuming the property can be tucked inside the town, Washington officials for the most part are prepared to embrace the Black Kettle idea.

Financially, the town would benefit from sewage hookup fees, followed by new usage fees that would spread the costs of its \$4 million wastewater treatment plant. The county, for its part, would bring in new property taxes, which constitute the largest contribution to county revenues. Currently, the largely neglected parcel is defined by swampy wetlands and the ruins of a motel, and contributes little to the coffers of either town or county.

Washington Treasurer Gail Swift said she supports the project with the **boundary adjustment**, but she warned that "Black Kettle won't be a rescue" to the town's financial strains. She is pushing a water and sewage rate increase, which will be the focus of public hearings on April 12.

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Similarly, Washington Council member Joseph Whited said the project "could be a dent" in the town's obligations related to the wastewater project, and he has also said that rate increases are needed independent of what happens on the new project. He adds that "capacity won't be a problem" for the treatment plant if and when the project comes to fruition.

Residents who are supportive or broadly sympathetic to the proposal worry that Black Kettle Commons will reignite old firestorms in the county. Some have dubbed the mixed-use idea "Bike Trail Two," referencing the bitter debate over a mile-long trail that, if approved, would have connected the high school with the elementary school at no expense to the county using donated and state-provided funds. (The Board of Supervisors ultimately rejected the idea.)

While Washington is associated with costly meals and pricey real estate, Black Kettle Commons wouldn't be a playground for wealthy residents and visitors. The Food Pantry, for example, serves the least wealthy residents of the county, and the library and other community spaces would be designed to appeal to all residents and non-profits in the county. Similarly, rental housing for young families and the elderly wouldn't appeal primarily to those seeking luxury.

Swift noted that the proposed project "satisfies both the town and county comprehensive plans." The town's 2017 plan noted that Washington's population had dwindled from 247 in 1980 to 128 in 2015. The plan called for Washington to "address the need for a small increase in population while maintaining the spirit of a small town community and its culture of hospitality."

The county's comprehensive plan encourages "residential development within the designated village areas."

Whitson also underscored the small scale of the plan: the **boundary adjustment**, which has prompted some warnings of a domino-effect annexation drive, would slice 3.5 acres from a total county acreage of 170,496.

These endorsements notwithstanding, the details of the project will be scrutinized from legal, environmental and financial viewpoints, and opponents will be unlikely to shy away from active debate.

Akre declined to comment for this article.

CITATION (AGLC STYLE)

Tim Carrington for Foothills Forum, 'Black Kettle Commons overcomes first potential hurdle', *Rappahannock News* (online), 25 Mar 2021 <<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1817790BD0D60348>>

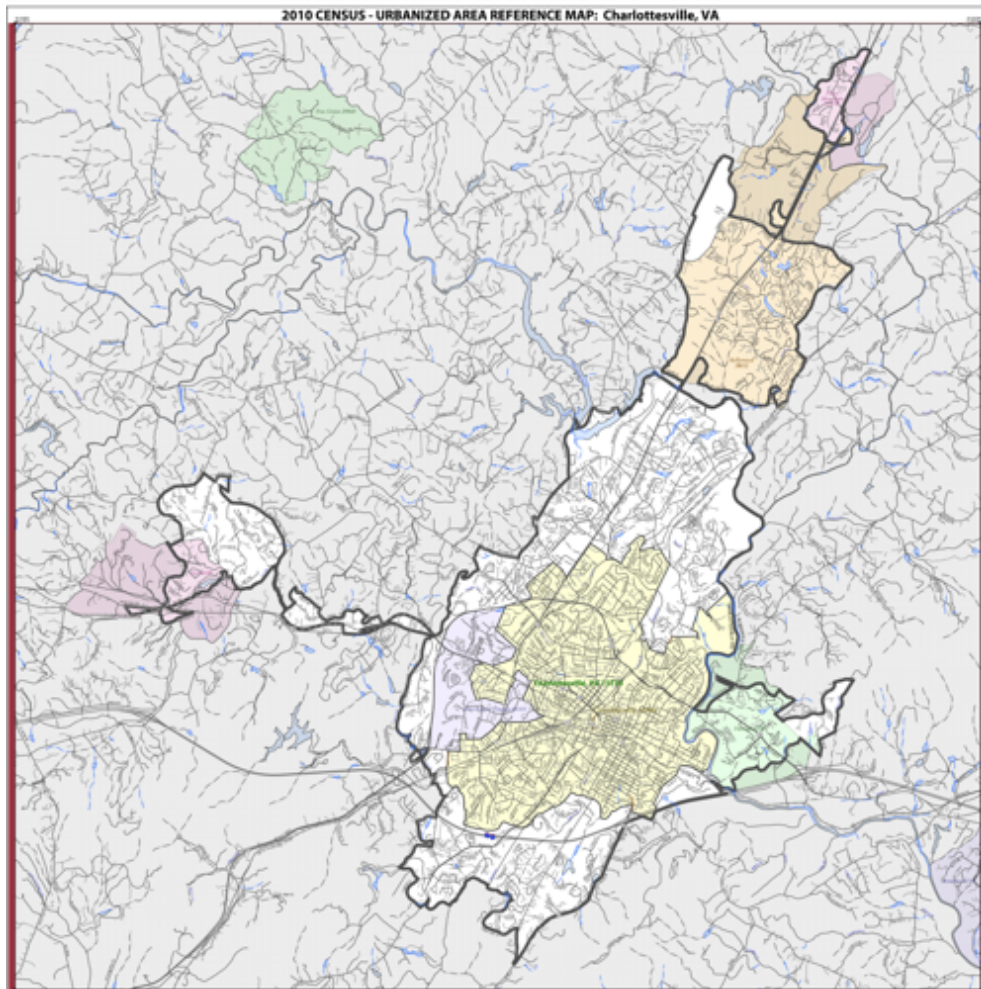
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BREAKING **TOP STORY**

Local officials signal opposition to MSA changes

Allison Wrabel

Mar 27, 2021



A map of the current Charlottesville urban area.

Allison Wrabel

The Charlottesville Metropolitan Statistical Area is at risk of being downgraded, depending on population changes from the 2020 Census and new proposed definitions.

The federal government is proposing changes to the standards for MSAs, which would increase the minimum population of an MSA's urban area to 100,000 people. Areas with more than 10,000 people but fewer than the minimum to qualify as a metropolitan area are classified as Micropolitan Statistical Areas.

It's unclear how the changes will affect the area if approved, and officials across the country and state have asked the Office of Management and Budget to delay or reconsider their adoption.

Locally, David Blount, the director of legislative services for the Thomas Jefferson Planning District Commission, said uncertainty regarding the impacts of the change on the area led him to sign on to a letter asking for the proposal to be reevaluated.

“I think OMB, in some of the information they put out, said it is purely statistical, but I think there's more information that we saw coming out, and different groups were having questions about funding formulas and potential impacts — how might different federal funding allocations be impacted?” he said.

The Charlottesville MSA is made up of Charlottesville and Albemarle, Fluvanna, Greene and Nelson counties. Currently, a metropolitan statistical area must contain a Census Bureau-delineated urban area with a population of 50,000 or more, which the OMB wants to raise to 100,000 people.

The Charlottesville urban area consists of the city and much, but not all, of what Albemarle considers its “urban ring” — Pantops, the Fifth Street and Avon Street Extended area, the Rio Road area and around Hydraulic Road — as well as Hollymead, Piney Mountain and a portion of Ivy.

A map submitted with the MSA change proposal of potentially affected areas, including the Charlottesville MSA, was based on 2010 Census data, which showed a population of 92,359 for the Charlottesville urban area.

According to the most recent American Community Survey from the Census Bureau, the urban area's population is estimated at 101,520, with a margin of error of $\pm 1,369$ residents.

But the criteria for a census block to be included in an urban area could also be changing and might cause the boundaries of the Charlottesville urban area to shrink.

In a separate proposal, the Census Bureau is proposing to require 385 housing units per square mile as the primary criterion for determining whether a census block qualifies for inclusion in an urban area, replacing the use of population density. The previous standard was 1,000 people per square mile.

Allocations for the Community Development Block Grant Entitlement Program — which come from funds from the U.S. Department of Housing and Urban Development to provide “decent housing and a suitable living environment, and ... economic opportunities, principally for low- and moderate-income persons” — are based on OMB standards.

Eligible grantees for its entitlement program need to be principal cities of MSAs, a city within an MSA with more than 50,000 people or urban counties that have a population of 200,000 or more. There are also non-entitlement funds given to states that are given to localities that are not a metropolitan city or part of an urban county.

The Brookings Institution and The Aspen Institute wrote a letter Blount signed that was submitted as a comment to OMB. They said current requirements to access federal program resources “often disadvantage rural applicants through a bias towards large populations, compounding the difficulty for low-capacity communities to identify and access funding.”

“Widening this pool of ‘nonmetro’ communities would likely result in the current remote and distressed towns with very small populations competing with an even larger number of well-resourced former metropolitans for scarce federal funds, such as CDBG non-entitlement funding,” the letter said. “Further, many of these currently

low-capacity communities are in rural counties with persistent poverty, the majority of which have majority minority populations, which means this change could worsen inequity.”

Senators Mark Warner and Tim Kaine signed on to a letter with other senators asking the OMB to “establish a comprehensive process” to “fully evaluate the impact of such a change on the distribution of federal resources and services to arrive at any future proposed change.”

The senators noted that the pandemic has led people to temporarily migrate to new areas of the country outside of their permanent homes, citing data from the United States Postal Service that “nearly 16 million people changed addresses during the pandemic — an increase of almost four percent from the year before.”

“This significant increase in people moving as a result of the pandemic demonstrates that population data based on the calendar years of 2020 or 2021 is likely to be misleading and inaccurate in predicting long-term trends about where Americans will choose to live,” the letter said.

Blount, who also serves as the executive director of the Virginia Association of Planning District Commissions, said the possible change would not affect the Charlottesville-Albemarle Metropolitan Planning Organization — which is responsible for transportation planning and programming in the urban area — as MPOs are required for urban areas of more than 50,000 people.

“We have some concerns. We’d like to slow the process down until there can be some further examination done as to what all the impacts could be,” Blount said.

The Virginia Hospital & Healthcare Association also sent in a letter, saying the change would have a negative impact on multiple hospitals that are already struggling due to the COVID-19 pandemic.

“In Virginia, these hospitals would no longer be in an established MSA and would now be considered rural hospitals,” the letter said. “For example, Charlottesville — which is home to a major university and one of two state teaching hospitals that are a safety net

for Virginia residents — would now be considered a rural area. The negative impact of this change across all Virginia hospitals is estimated to be over \$65 million.”

The Charlottesville MSA would become a Micropolitan Statistical Area if it were to lose its metropolitan status.

The University of Virginia Health System said it didn’t know how it would be affected by the possible change.

“At this point, we don’t have enough information ... to know how or if this impacts us,” said Eric Swensen, spokesman for the UVa Health System, in an email.

Localities were caught off guard by the potential change.

In an email to the Associated Press, Charlottesville Spokesman Brian Wheeler said “perhaps they made a mistake.”

Allison Wrabel

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Windsor, site of viral traffic stop, leans heavily on ticketing to fund its budget

By **Ned Oliver** - April 16, 2021



Windsor, population 2,700, is located 25 miles west of Norfolk on Route 460 in Isle of Wight County. (Ned Oliver/Virginia Mercury)

The aggressive treatment of an Army lieutenant during a routine traffic stop in the tiny town of Windsor may have surprised some local residents, many of whom called video of the incident a shocking and brazen display of police misconduct.

But the stop itself did not: The town is one of a handful of jurisdictions in Virginia with a well-earned reputation for ticketing passing motorists — an approach to traffic enforcement that pads the tiny town’s budget but which Black residents suspect disproportionately targets minorities.

“I tell everybody in my family that I know or anybody coming to visit me, when you hit Windsor, slow your ass down to 35,” said longtime resident Judith Dempsey.

Like other residents, she said the dark stretch of U.S. Route 460 where officers initiated the now notorious traffic stop of Lt. Caron Nazario is known locally as a favorite spot for police to run radar and look for other potential vehicular violations. And the highway, a busy four-lane road that cuts through peanut fields and swamps to connect Hampton Roads to Petersburg, gives officers plenty of opportunities.

For a town with a population of just 2,600 people, all that traffic enforcement turns a hefty profit. Nearly 10 percent of local revenue came from fines, which totaled

\$160,000 in 2013, the last year local officials submitted an audited financial report to the state. The town's proposed budget for the coming year suggests the trend continues, forecasting seven percent of local revenues will come from fines.

Compared to most local governments in Virginia, the numbers represent an unusually large chunk of revenues. The latest figures available from the state show just four municipalities that submitted audited financial reports derived more than five percent of their revenues from fines: the city of Emporia and the counties of Greenville, Brunswick and Sussex, the latter of which is also home to a stretch of 460.

Windsor's reliance on fines to fund town operations also stands out on a per-capita basis, coming to more than \$60 per resident, compared to the statewide average of \$13 per resident.

Local leaders and residents defended the police department's enforcement of traffic laws this week, calling speeding a big problem in a town where a busy four-lane road serves as its main street.

Mayor Glyn Willis said the enforcement is motivated by safety concerns, not profit.

"We're known as speed traps, but the reality of it is that a lot of people don't slow down through town," he said. "People are coming through, they're trying to get from Point A to Point B and Windsor just happens to be the really annoying place between Petersburg and Suffolk that has three stoplights."

Some residents shared Willis' concerns. "Yes, the cops stop people, but you've got to realize it's 35 miles per hour through here and people do 50," said Dinah Stevenson, a retired nursing assistant, as she folded clothes at the town's laundromat.

Others, however, were quick to note that Nazario wasn't speeding. The traffic stop began after officers alleged they couldn't read the temporary license plate taped to his back window through the tinting and escalated after he opted to drive about a mile at low speed to a well-lit gas station — a step police often advise but officers in this case interpreted as an attempt to flee.

Black residents of the town said that while speeding can be a problem, they believed traffic enforcement disproportionately targets minority drivers — a nationwide problem commonly described as "driving while Black." One of the most [expansive studies of the issue](#) took place in North Carolina, where researchers found Black drivers were 64 percent more likely to be stopped by police than White drivers. The study also found that once stopped, Black drivers were more than twice as likely than White drivers to be searched, though police found contraband more often in the vehicles of White drivers.



In Virginia, police departments weren't required to track and report demographic data on traffic stops and searches until last summer, when legislation pursued by Del. Luke Torian, D-Prince William, went into effect. The Virginia State Police say they plan to make the results available beginning July 1.

But court records reviewed by the Virginia Mercury suggest that Black drivers bore a disproportionate share of tickets for driving infractions issued by town police officers last year, accounting for just under half of all tickets written even though Black people make up just 23 percent of the local population and 20 percent of the state's population.

The numbers match the perception of disproportionate enforcement among Black residents. George Weeks, a Marine Corps veteran who has lived on the main road for seven years said he saw plenty of traffic stops from his window and had no doubt Black people were more likely to be pulled over.

"We serve our country," he said. "We shouldn't be treated like that. We should be treated with respect. We put our lives on a battlefield, then we got to come home to this? It's not right."

Brandon Randleman, a Windsor native who now lives in Hampton Roads, said that when he served as student body president at Virginia State University, he often received complaints of profiling from students who traveled 460 to reach the historically Black university.

"They've come to me personally and said this is a speed trap zone that disproportionately affects African Americans," he said. "And many African American students know that."

ACLU of Virginia Executive Director Claire Guthrie Gastañaga noted that [disproportionate ticketing](#) of Black residents in Ferguson, Mo., contributed to the outpouring of outrage in 2014 after an officer shot and killed Michael Brown, an unarmed teenager.

"They should not be putting their police in a situation where their ability to run the town is based on the number of tickets they're able to write," Gastañaga said. "It just creates a recipe for distrust and a recipe for bad policing, and it results in stuff like this."

On that point, the policing community and the ACLU of Virginia appear to agree.

Dana Schrad, the director of the Virginia Association of Chiefs of Police, said she couldn't comment directly on the situation in Windsor, but said she's encountered the problem before and it creates clear conflicts of interest.



“I will tell you this, there are some local governments that look to their police departments to be proactive in traffic enforcement for that reason and we tell our chiefs all the time, ‘Rise above that,’” Schrad said. “You should not have to earn your department’s budget on the road. That becomes an unethical practice.”

State lawmakers have taken steps in the past to rein in small-town speed traps, most notably in 2012 after a local sheriff in Hopewell — an office charged with operating the city jail rather than enforcing traffic laws — drew national attention for hiring a team of deputies to ticket speeders on a mile-long section of Interstate 295 that passed through the city. The department racked up as much as \$2 million in fines in a single year.

While the sheriff insisted the patrols were an important public safety measure, lawmakers in the General Assembly took a dimmer view of the operation. To discourage such enforcement, they began including language in the state budget requiring local governments to turn fines over to the state if they rose above a certain threshold.

But they ended the program in 2016. Then-Del. Riley Ingram, a Republican who represented the city, championed the repeal, arguing the rule had unfairly infringed on local government decision making — and budgets.

“Local governments have got to have money,” [Ingram told The Progress-Index](#) at the time. “There’s no question about it.”

Both Schrad and Gastañaga suggested that in areas where speeding is a legitimate safety concern, there are opportunities state and local leaders can pursue that don’t require a traffic stop by an armed law enforcement officer.

Schrad said the Chiefs of Police Association would welcome a broad legalization of speed cameras, which have been rolled out in other states to automatically mail tickets to drivers who break the law. Currently use of the devices is limited in Virginia to [school and construction zones](#).

At the ACLU, Gastañaga said the organization opposes increasing camera-based enforcement, arguing, among other things, that it’s impossible to prove who was driving the vehicle at the time of the offense. Instead, she pointed to traffic calming measures as an alternative, which can range from radar activated signs to roundabouts.

“If we’re truly concerned about traffic in small towns, maybe we’ve built the roads the wrong way,” she said.”

But to her, the bigger issue is that the state has starved local governments of cash by limiting the kinds of taxes and fees they can implement to raise funds, which



she said can lead to pressure on police departments to become revenue generators.

Windsor Police Chief Rodney Riddle, speaking to the media for the first time this week since the traffic stop began drawing national attention, didn't address his town's reputation as a speed trap. But he did say he viewed tight municipal budgets as an issue.

"One of my biggest problems is keeping good officers," he said, complaining that employees often leave for agencies that can offer higher pay.

"I'm in competition for the best and the brightest, and with what I have to offer, sometimes I don't necessarily get what I want."

Ned Oliver

Ned, a Lexington native, has more than a decade's worth of experience in journalism, beginning at The News-Gazette in Lexington, and including stints at the Berkshire Eagle, in Berkshire County, Mass., and the Times-Dispatch and Style Weekly in Richmond. He is a graduate of Bard College at Simon's Rock, in Great Barrington, Mass. Contact him at noliver@virginiamercury.com



https://martinsvillebulletin.com/news/local/reversion-talks-between-martinsville-henry-county-set-for-this-week/article_02244614-a45c-11eb-937d-db432cf7f41f.html

EDITOR'S PICK TOP STORY

Reversion talks between Martinsville, Henry County set for this week

Bill Wyatt
Apr 25, 2021



This is the meeting in December 2019 when the Martinsville City Council votes unanimously to revert. City Attorney Monday (left) with council members Danny Turner, Chad Martin, Mayor Kathy Lawson, Jennifer Bowles and Jim V

BILL WYATT, MARTINSVILLE BULLETIN

Bill Wyatt

y definition, mediation is an intervention in a dispute in order to resolve it. That's the
B process set for two days this week involving Martinsville and Henry County.

The dispute is over Martinsville's petition to the state to change from an independent city to a town largely dependent upon Henry County.

Henry County officials say that dependency equates to an estimated cost of \$5 million a year.

To put that into perspective, that's about \$100 per year for every man, woman and child who make Henry County their home.

Martinsville officials maintain Henry County's figure is exaggerated.

Henry County Attorney George Lyle described this as a "big sticking point" and something Henry County intends to address when the two sides meet on Wednesday and Thursday and begin to try to find common ground.

Neither Henry County nor Martinsville officials have said who will mediate the intervention, but a retired State Supreme Court justice has been mentioned more than once.

We also aren't sure who will be in the meetings, although Lyle and Martinsville City Attorney Eric Monday will be, as will the outside counsel from Richmond and Roanoke that each government will return. City Manager Leon Towarnicki and County Administrator Tim Hall could play roles, but Mayor Kathy Lawson and Board of Supervisors Chair Jim Adams could be reduced to spectator.

Because this process can be carried out behind a wall of legal secrecy — state open meetings laws say this one can be closed — there has been no public disclosure of where this in-person meeting will take place, who is expected to attend or who will be allowed to observe.

Given the process of mediation is of a legal nature, it might be that the future of Martinsville and Henry County will be meted out by Richmond and Roanoke attorneys before a retired judge with no connection to the area.

The exclusion of the public from this process is a request by those conducting and participating in it and apparently has been granted by the Commission on Local Government as set forth by State Code that dictates the process involving reversion from a city to a town.

In fact, the code stipulates that “any qualified voter or property owner of the city or adjoining county may by petition become party to the proceedings.”

There is neither a record of any qualifying citizen petitioning for participation nor is there any record of the city or county advising local residents that this provision exists.

How it will work

Although the state provides generally for any independent city with a population of less than 50,000 and a recorded majority vote by all the members of its governing body to petition for reversion from a city to a town, approval is a different matter.

The state code stipulates that once the matter comes before the special court, three judges will decide if six conditions have been met:

The current population of the city must still be under 50,000.

The adjoining county has been included in the proceedings.

The proposed change “will not substantially impair the ability of the adjoining county to meet the service needs of its population.”

Nor will it “result in a substantially inequitable sharing for the resources and liabilities of the town and the county.”

Is “in the best interests of the city, the county, the Commonwealth, and the people of the county and the city.”

Helps to promote a stronger local government.”

It may be expected that in this early mediation process, attorneys for Henry County may assert that even though Martinsville qualifies to apply, it may not qualify to be approved to revert to a town if Henry County is required to absorb the brunt of the cost.

Those that have reverted

Only three independent cities in Virginia have reverted to a town and, by comparison, Martinsville differs from the others in two significant ways:

By combined population, the town of Clifton Forge represents about 19% of Alleghany County, South Boston is about 18% of Halifax County’s total population, and the town of Bedford is less than 8% of the greater Bedford County population.

By comparison, Martinsville — at approximately 12,852 residents — represents about 20% of its combined population with Henry County (60,409). But the increase for the county would be about 25%.

This means the cost for Henry County to provide newly required services to the town of Martinsville likely would be greater per capita than any of the other three previous reversions in the state.

Then there is the consideration of necessity.

In December 2019, City Attorney and Assistant City Manager Eric Monday painted a solid financial picture for the city of Martinsville and declared the city did not need to revert to a town.

He projected the city was financially able to continue as an independent city indefinitely, but if it reverted to a town and shed itself of expenses that would become the responsibility of Henry County, the new town of Martinsville would have a windfall of extra money.

Financial advisers spoke publicly to the Henry County Board of Supervisors after analyzing the city's finances and concurred with Monday: Martinsville is a financially healthy city.

This is counter to all three reversions the state has approved. South Boston, Bedford and Clifton Forge all petitioned on the grounds of being financially stressed with the likelihood of becoming insolvent if a drastic action such as reversion were not agreed upon.

The issues

If the past is any indication of the future, the conditions of Martinsville reverting to a town would include:

- Martinsville retaining all of its current debt.
- The Martinsville school system and school board would cease to exist and become part of Henry County schools.
- All of the constitutional officers for Martinsville — commonwealth attorney, commissioner of revenue, for instance — would cease to serve, and their offices would become the responsibility of Henry County's constitutional officers, and all court operations in Martinsville would become part of the Henry County court system.
- The town of Martinsville likely would be made responsible to maintain its streets, collect its own garbage and provide utilities to its residents.
- The town would also continue to be responsible for its own police department.

Double-taxation?

To pay for these ongoing costs and debt, Martinsville would impose a real estate tax on the town's residents. A second real estate tax would be levied on town residents by Henry County in order to pay for the services the county has had to absorb, such as schools and court systems.

In theory, the reduction of duplication will make the cost to Martinsville and Henry County combined less than the combined cost of each government operating independent of each other.

May never know

The Virginia Commission on Local Government granted an 84-day pause in the process to allow Martinsville and Henry County time to iron out their differences and come to some agreement that would prevent or reduce the amount of time the commission will be required to complete the process.

The commission commented that, if progress is made in mediation, the delay could be extended, making it appear unlikely the lawyers for the two governments will come close to settling all of the differences this week.

Either way, it is possible the public may never know the matters that will be discussed.

The State Code provides that “the Commission may direct that the conduct of the negotiations be in executive session. In addition, the Commission may, with the agreement of the parties, appoint an independent mediator, who shall be compensated as agreed to by the parties. Offers and statements made in negotiations shall not be reported in the finding of facts or introduced in evidence in any subsequent court proceedings between the parties.”

Asked for confirmation that the mediation was still scheduled for April 28 and 29 and any details related to it, said Monday: “It is still on and will be in-person.

Unfortunately, given the confidentiality of any mediation, I’m not at liberty to discuss any details — but we do look forward to what we hope will be a productive meeting with our colleagues in Henry County.”

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Bill Wyatt

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