

**DRAFT MINUTES**  
**Regular Meeting**  
**Commission on Local Government**  
**10:30 a.m., September 13, 2011**  
**Culpeper County Board of Supervisors Meeting Room**  
**County Administration Building**  
**302 North Main Street**  
**Culpeper, Virginia**

**Members Present**

Cole Hendrix, Vice-Chairman  
Harold H. Bannister, Jr.  
John G. Kines, Jr.

**Members Absent**

Wanda C. Wingo, Chairman  
Kathleen K. Seefeldt

**Staff Present**

Susan Williams, Local Government Policy Manager  
Zachary Robbins, Senior Policy Analyst  
Edward Lanza, Senior Public Finance Analyst

**Call to Order**

Commission Chairman Wanda C. Wingo was unable to attend the meeting; therefore, Vice-Chairman Cole Hendrix called the meeting to order at 10:32 a.m. on September 13, 2011 in the Culpeper County Board of Supervisors Meeting Room in Culpeper, Virginia.

**I. Administration**

**A. Approval of Minutes of July 11, 2011 Meeting**

Mr. Kines made a motion that the minutes of the Commission's regular meeting of July 11, 2011 be approved. Such motion was seconded by Mr. Bannister, and the minutes were unanimously approved without amendment.

**B. Public Comment Period**

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

**C. Presentation of Financial Statement for August 2011**

Referencing an internally produced financial statement that encompassed expenditures through the end of August 2011, Ms. Williams stated that the financial report covered the first two months of Fiscal Year 2012 (FY12) and that Commission personnel and non-personnel expenditures for that period represented 16.28% of the total amount budgeted for the fiscal year. She also indicated that the total amount budgeted for FY12 is the same as FY11 (i.e., \$352,033).

**D. Local Government Policy Manager's Report**

**1. Governor's Reform Commission**

Ms. Williams reported that the Governor's Commission on Government Reform and Restructuring met on August 31. She indicated that, at the meeting, it was announced that the Governor will soon appoint the 5-member Task Force for Local Government Mandate Review. Ms. Williams stated that the Reform Commission also heard reports from its work groups (i.e., Health & Human Resources; Natural Resources; Administration/Human Resources; Finance; and Commerce and Trade) and that the next meeting of full Commission is scheduled to take place in November.

**2. Update on Previous Cases Before the Commission**

Ms. Williams called members' attention to several documents included in their agenda packages relating to the proposed City of Covington – Alleghany County consolidation, including the Three-Judge Court Opinion and Final Order Granting City

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Status Eligibility. Ms. Williams stated that the consolidation question will be on the November 8, 2011 ballot and that a majority of voters in both jurisdictions must vote “yes” in order for the consolidation to be approved. She added that the last successful local government consolidation in Virginia occurred in 1974 when the Cities of Suffolk and Nansemond consolidated into the City of Suffolk.

Ms. Williams reported that the New Market Town Council approved the Town of New Market - Shenandoah County Voluntary Settlement Agreement on July 18 and that the Shenandoah County Board of Supervisors was scheduled to consider the agreement on August 23 but that she was not informed as to the outcome of that meeting. Ms. Williams also stated that it is unclear whether the local governing bodies amended the agreement to address any of the Commission’s recommendations.

### **3. Potential Issues**

Ms. Williams next provided a brief update concerning potential interlocal issues involving the City of Bedford – Bedford County; the Town of Clarksville – Mecklenburg County; the Town of Middletown – Frederick County; and the Town of Front Royal – Warren County. Finally, Ms. Williams directed members’ attention to numerous newspaper articles concerning these and other local government issues that were included in their agenda packages.

### **4. Fiscal Stress**

Ms. Williams reported that the Counties of Isle of Wight and Greene recently submitted their audit reports and Comparative Report transmittal data to the Auditor of Public Accounts (APA). She further indicated that all counties and cities have now

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submitted this data, which is utilized by the Commission on Local Government to calculate fiscal stress.

#### **5. Other Staff Activities**

Ms. Williams reported that she attended the Virginia Association of Planning District Commissions (VAPDC) Summer Conference on July 28-30 in Virginia Beach where she had the opportunity to speak to and receive input from the PDC executive directors regarding the format of the UDA report, as required by the statute. Ms. Williams also indicated that PDC annual reports to the Department of Housing and Community Development (DHCD) were due on September 1 and that, so far, she has received reports from 19 of the 21 PDCs.

Ms. Williams also indicated that she recently updated two Service Areas in DHCD's strategic plan: "Financial Assistance for Regional Cooperation" (i.e., PDCs) and Intergovernmental Relations (i.e., CLG). In addition, Ms. Williams stated that Mr. Robbins will be attending the Virginia GIS Conference on September 19 and that she will be attending the FOIA 2011 Workshop on October 13 and the Local Government Attorneys (LGA) Fall 2011 Conference on October 20-22. She added that all three events will be held in Henrico County.

#### **II. 2011 Catalog of State and Federal Mandates on Local Governments (Draft)**

Mr. Robbins provided an overview of the Catalog of State and Federal Mandates on Local Government and the annual catalog update process. He stated that the draft 2011 catalog contains 616 mandates, compared with 597 in last year's edition.

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Next, Mr. Robbins reviewed agency requests for changes to the Catalog, which Commission staff did not recommend for incorporation into the Catalog. Those entries include:

**SCT.DPOR002 (Water and Wastewater Works Operators License) and SCT.DPOR003 (Waste Management Facility Operators License).** The Department of Professional and Occupation Regulation (DPOR) requested that this mandate be eliminated from the catalog because the mandates apply to the population at-large, not just local governments. Mr. Robbins recommended that, while the mandates may apply to the general population, they should still be included since these mandates apply to facilities that are most often owned and operated local governments rather than private entities.

**SPS.VDEM014 (State Homeland Security Grant Program).** Mr. Robbins stated that the Commission's contact with the Department of Emergency Management (VDEM) maintained that this program did not place any requirements upon local governments. Commission staff reviewed the program further and contacted a staff member who works directly with this program and verified that there are quarterly financial reports and progress reports that recipient localities must file with VDEM, effectively affirming that this is a non-discretionary condition of financial aid.

**SFIN.TAX013 (Real Property Tax Exemption for Disabled Veterans) and SFIN.TAX014 (Tax Exemption for Certified Pollution Control Equipment and Facilities).** The Department of Taxation (TAX) sent a letter to Commission staff, which was included in the Commission's meeting materials, stating that

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these two entries should not be included in the Catalog. TAX's reasoning was that there are several similar mandates in the tax code that are not currently included in the Catalog, and that assessing these particular mandates may not be effective, since they are the result of constitutional amendments. Commission staff maintains that these mandates should be included in the Catalog, as they meet the criteria outlined in Executive Order 58 (2007).

**SNR.MRC003 (Comprehensive Plan to Include Coastal Resource Management).** The Marine Resources Commission (MRC) stated that this mandate does not appear to be a mandate with direct MRC oversight. MRC staff recommended assigning this mandate jointly to the MRC, the Department of Conservation and Recreation (DCR) and the Virginia Institute for Marine Science (VIMS). Commission staff recommends assigning this mandate solely to the MRC because it would be ineffective for three agencies to assess a single mandate and because MRC is the subject matter expert in this area. Additionally, VIMS is not a state agency, but rather a branch of the College of William and Mary.

Mr. Joe Mayer – Lead Tax Policy Analyst, Policy Development, Virginia Department of Taxation – appeared before the Commission and stated that his department was also concerned that inclusion of the two additional taxation mandates previously mentioned (SFIN.TAX013 and SFIN.TAX014) would create a situation whereby TAX would be required to identify all existing state fiscal preemption mandates, which would be a large burden on their agency's staff.

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Ms. Williams explained that when Executive Order 58 (EO 58) was signed in 2007, 'State Fiscal Preemption' was created as a new type of mandate to be included in the Catalog and made subject to assessment by the state agencies responsible for overseeing them. At that time, no direction was provided as to whether the Commission would identify existing state fiscal preemption mandates. Ms. Williams explained that it is not staff's intention to require the Department of Taxation to identify all of the fiscal preemption mandates that existed prior to the issuance of EO 58 in 2007, unless it is the pleasure of the Commission to do so. After a brief discussion, the Commission, by consensus, affirmed that only fiscal preemption mandates that existed prior to 2007 will be included in the Catalog.

Mr. Robbins then directed the Commission's attention to Parts A and B of the Catalog, which contain the mandate catalog entries. In the materials distributed prior to the meeting, only the entries for mandates that were substantively changed were printed, and Mr. Robbins noted certain mandates of interest.

Next, Mr. Robbins reviewed Appendix C, which summarizes all of the changes to catalog entries. He noted that there were 10 new mandates, five mandates that were expanded, and five mandates that were eliminated as a result of legislative or regulatory changes. Fifteen additional entries were newly identified mandates, which had not been previously identified for inclusion in the Catalog.

Mr. Robbins then presented Appendix E, which included a summary of mandates by type and agency. He noted that this year's catalog contains 478 mandates that are subject to agency assessment, up from 470 in the 2010 edition.

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Mr. Robbins then reviewed changes to Appendix F, which summarizes Virginia statutes affecting mandates. There were two changes resulting from the 2011 General Assembly. The first was new legislation directing the Commission on Local Government to assist a 5-member task force to be appointed by the Governor. The task force's purpose is to review mandates and recommend appropriate mandates for temporary suspension or permanent repeal. The second is a change to the assessment process that requires agency assessments of mandates to include an estimate of the fiscal impact of mandates on local governments and a written justification as to why the mandate should or should not be eliminated.

After a brief discussion, on a motion by Mr. Kines, seconded by Mr. Bannister, the members unanimously accepted staff's recommendations regarding the six mandates described by Mr. Robbins; affirmed that only state fiscal preemption mandates enacted after the issuance of EO 58 in 2007 will be included in the Catalog; and approved the draft 2011 edition of the Catalog as presented.

**III. 2011 Survey and Report on Urban Development Area (UDA) Designations in Comprehensive Plans**

Ms. Williams stated that the Commission is required to report annually to the Governor and General Assembly on the overall compliance by certain high-growth localities with the requirement that they designate urban development areas in their comprehensive plans. She explained that, because the statute does not specify a date on which the report is due, the "default" due date was October 1. She described the difficulty this posed because mandated counties had until July 1, 2011 to establish UDA and then 90 days to submit the necessary documentation to the Commission (i.e., until

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October 1). She stated that, upon explaining this unique situation to the Division of Legislative Automated Systems (DLAS), their director agreed to change the due date to November 15.

Ms. Williams then reminded members of the survey instrument they approved at their July 11 meeting and reported that, on August 10, 2011, a link to the on-line survey was emailed to county administrators in 95 counties, city managers in 39 cities and town managers or mayors in 182 of 190 towns. She further stated that PDCs also provided contact information for the planning directors in their member jurisdictions that have them and that the survey link was also sent to them. She added that the survey was mailed to the eight towns for which no email address was available.

Ms. Williams indicated that the surveys were due by the close of business on September 9 and that Wyatt Little – DHCD policy analyst and UDA web survey administrator – prepared a preliminary report of the findings which she received via email in Culpeper. Ms. Williams reported that 90 counties (94.7%); 31 cities (79.5%) and 100 towns (52.6%) responded to the on-line survey, for an overall response rate of 68.2 % (i.e., 221 localities). She stated that several jurisdictions responded by submitting a completed survey in hardcopy instead of on-line and that the responses from these localities have not yet been added to the database. Ms. Williams reported that 94% of localities responding on-line have adopted a zoning ordinance and 36% indicated that their locality is required by statute to designate one or more UDAs. She further stated that 58 responding localities indicated that they do not believe that they are required to establish one or more UDAs based on the report of the 2000 Census, and 102 respondents indicated that they do not believe they are required to do so based on the report of the

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2010 Census. She added that a responding locality could select both responses. She stated that two localities responded that a majority of their governing body determined that the locality will not comply with the UDA mandate. In closing, Ms. Williams cautioned that these are preliminary results only and, as such, are subject to change. She said that a draft report on UDA designations in comprehensive plans will be prepared in time for the Commission's consideration at the November 14, 2011 regular meeting.

#### **IV. Presentation of Commending Resolution to Vola T. Lawson**

Mr. Hendrix presented a commending resolution, adopted by the Commission on May 9, 2011, to Mrs. Vola Lawson recognizing her many significant contributions as a valued member of the Commission from January 1, 2006 until January 10, 2011. Mrs. Lawson expressed her appreciation for the resolution as well as for the opportunity to serve on the Commission.

#### **V. Scheduling of Regular Meetings**

The Commission confirmed that its next regular meeting is scheduled to take place on Monday, November 14, 2011 at 10:00 a.m. at the Virginia Housing Center in Glen Allen, provided that space is available. The following regular meeting of the Commission is tentatively scheduled to take place on Monday, January 10, 2012 at the same location, provided that space is available.

**VI. Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 11:35 a.m.

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Cole Hendrix  
Vice-Chairman

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Susan B. Williams  
Local Government Policy Manager