

**DRAFT MINUTES**  
**Regular Meeting**  
**Commission on Local Government**  
**10:00 a.m., March 19, 2012**  
**The Virginia Housing Center**  
**Henrico Room 3**  
**4224 Cox Road**  
**Glen Allen, Virginia**

**Members Present**

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

**Members Absent**

**Staff Present**

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

**Call to Order**

Commission Chairman Cole Hendrix called the meeting to order at 10:01 a.m. on March 19, 2012 in Henrico Room 3 at the Virginia Housing Center in Glen Allen, Virginia. Mr. Hendrix and the other members welcomed John T. Stirrup, Jr. to the Commission. Mr. Stirrup was appointed by Governor McDonnell on February 24 to serve on the Commission, and he is a former Supervisor and Vice-Chairman of the Prince William County Board of Supervisors.

**Minutes**

**Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 2**

**I. City of Bedford – County of Bedford Proposed Voluntary Settlement Agreement**

**A. Preliminary Staff Comment**

Ms. Williams stated that, on March 13, the Commission received a submission requesting the members to review and issue findings on a proposed Voluntary Settlement Agreement between the City of Bedford and Bedford County. Ms. Williams explained that the Agreement would result in the transition of the City to town status within the County and that it would also provide for an immediate expansion of the new Town's boundaries; a simplified process for the potential incorporation of additional areas into the Town in the future; and a framework for a proposed merger of the water and sewer operations of the City and the Bedford County Public Service Authority.

Ms. Williams indicated that prior reversions include the City of South Boston to town status in Halifax County in 1995 and the City of Clifton Forge to town status in Alleghany County in 2001.

Ms. Williams further stated that, as required by statute and Commission regulations, the submission includes: Notice by the City of Bedford and the County of Bedford of a Voluntary Settlement Agreement; a copy of the proposed agreement as well as data and exhibits supporting the agreement; and resolutions adopted by the Bedford City Council and the Bedford County Board of Supervisors requesting the Commission to review the agreement. Ms. Williams indicated that the resolutions stated the intention of the governing bodies to re-adopt the agreement subsequent to the Commission's review and that they also designated the contact persons in each locality for communications with the Commission regarding the review of the agreement. Finally, Ms. Williams

**Minutes**  
**Regular Meeting**  
**10:00 a.m., March 19, 2012**  
**Page 3**

stated that the submission included indication that copies of the Notice, the proposed agreement and an index of data and exhibits were mailed to each of the local governments contiguous to or sharing functions, revenue or tax sources with the City of Bedford or the County of Bedford.

Ms. Williams stated that, on the Commission's behalf, she sent a letter to the parties acknowledging receipt of the submission and inviting their participation at the meeting today. She went on to state that the Commission is directed by law to review proposed Voluntary Settlement Agreements prior to their presentation to the courts for ultimate disposition and that the Commission is directed to "hold hearings, make investigations, analyze local needs and make findings of facts and recommendations" regarding the issue to the affected local governments. She indicated that the Commission is required to report, in writing, its findings and recommendations as to whether the proposed settlement is in the best interest of the Commonwealth, which includes the preservation and promotion of the general viability of the affected localities.

Ms. Williams stated that by law such findings must be rendered within six months after the Commission receives notice from the locality intending to file court action, provided that, on its own motion, the Commission may extend the period for filing its report by no more than sixty days. She explained that no further extension is permissible without the agreement of the parties.

Finally, Ms. Williams distributed copies of the Commission's "Canons of Conduct" to the members and the representatives of the parties in attendance. She called attention in particular to the canons relating to ex parte communication, real property interests and member absence.

**B. Comments by Representatives of the Parties**

Mr. Hendrix asked for comments by representatives of the parties, and Mr. Carter Glass, special counsel for the City of Bedford, and Mr. Carl Boggess, Bedford County Attorney, introduced themselves to the Commission. Mr. Glass began by explaining that the proposed agreement provides for the reversion of the City to town status and also provides for an immediate boundary adjustment; phased optional boundary adjustments in the future, if certain specified criteria are met; and a proposed unified water and sewer utility system. Mr. Boggess added that the utility consolidation agreement called for in the proposed Voluntary Settlement Agreement has not yet been executed. He further stated that the County agrees that the water and sewer utility systems should be consolidated and that they are currently working with consultants and outside counsel on the details. Mr. Hendrix inquired as to whether the parties want to proceed with the Commission's review of the proposed Voluntary Settlement Agreement without the utility consolidation agreement in place. Mr. Glass affirmed that the parties want the Commission to proceed with its review and explained that the proposed Voluntary Settlement Agreement specifically addresses the unlikely possibility that a utility consolidation agreement is not reached. While the parties do not anticipate that the utility consolidation agreement will be executed by the time of the Commission's on-site meetings in Bedford in May, they are working diligently on the agreement and believe it should be done by July.

**C. Commission Deliberation and Action**

Mr. Hendrix began by asking representatives of the parties how much time they will need for oral presentations. A tentative review schedule was previously circulated

## **Minutes**

### **Regular Meeting**

**10:00 a.m., March 19, 2012**

#### **Page 5**

that would allow three hours for the oral presentations, and the parties agreed that this should be an adequate amount of time. A brief discussion ensued, and, on a motion made by Mrs. Wingo and seconded by Mr. Stirrup, the Commission subsequently approved the following review schedule:

**Request for additional information:** Wednesday, April 11, 2012 by the close of business

**Parties' response to request for additional information / supplemental submissions by parties:** Thursday, May 3, 2012; eight (8) copies delivered to the Commission offices by the close of business

#### **Monday, May 14, 2012 (Bedford, Virginia):**

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

#### **Tuesday, May 15, 2012 (Bedford, Virginia):**

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

**Closing of Record:** Tuesday, May 29, 2012 at the close of business

**Commission's draft report:** Tuesday, July 17, 2012 (at 9:00 AM in Clarksville)<sup>1</sup>

## **II. Town of Clarksville – County of Mecklenburg Proposed Annexation Action**

### **A. Preliminary Staff Comment**

Ms. Williams stated that, on March 9, the Commission received Notice by the Town of Clarksville of its intent to petition for annexation of territory in Mecklenburg County. Ms. Williams reported that the Notice indicates that the five areas proposed for annexation contain approximately 6.0 square miles and are fully described in the Resolution and legal descriptions included in the submission. She further stated that the

---

<sup>1</sup> The Commission originally set a date of July 10, 2012 for consideration of the draft report; however, prior to adjournment, the schedule was adjusted in order to accommodate the on-site meetings associated with the Town of Clarksville – Mecklenburg County annexation action.

**Minutes**  
**Regular Meeting**  
**10:00 a.m., March 19, 2012**  
**Page 6**

Notice indicates that the Town desires to negotiate an agreement with the County providing for the annexation of territory to the Town.

Ms. Williams said that a cover letter accompanying the Notice indicates that copies of the entire submission were sent via UPS to the Town of Clarksville and Mecklenburg County representatives and that the Notice indicates that copies of the Notice, the Resolution and an annotated index of data and exhibits were mailed to each of the local governments contiguous to or sharing functions, revenue or tax sources with the Town. Ms. Williams indicated that the Town also submitted data, exhibits and other materials in support of the Notice and that the Notice indicates the designated contact person for communications with the Commission.

Ms. Williams said that, on the Commission's behalf, she sent a letter to the attorneys for the Town and the Mecklenburg County administrator acknowledging receipt of the Town's submission and inviting representatives from both the Town and County to participate at the meeting today.

Ms. Williams explained that the Commission is directed by law to review proposed annexations prior to their being presented to the courts for ultimate disposition and that, upon receipt of the Notice, the Commission is directed to "hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations to the affected local governments. She further stated that the Commission is directed by statute to determine "the necessity for and expediency of annexation." As a guide in determining "necessity and expediency," Ms. Williams explained that the Commission is required to consider "the best interests of the people of the county and the town, services to be rendered and needs of the people of the area

**Minutes**  
**Regular Meeting**  
**10:00 a.m., March 19, 2012**  
**Page 7**

proposed to be annexed, the best interests of the people in the remaining portion of the county and the best interests of the Commonwealth in promoting strong and viable units of government.” She stated that the relevant statute also specifies a number of fiscal concerns, public service functions, community of interest factors and state policies which are to be evaluated in considering the best interests of the parties and the state.

Ms. Williams said that, because the law precludes towns from initiating annexation actions more than once in any ten-year period, the analysis of each proposed annexation necessarily involves a reasonable projection of relevant conditions and concerns in addition to an assessment of current circumstances. Ms. Williams stated that this is the Commission’s first town-initiated annexation action since the Town of Big Stone Gap - Wise County action, notice of which was filed in late 2001. Mr. Kines interjected that the most recent annexation action that was filed with the Commission was property-owner initiated and involved the City of Bristol and Washington County.

Ms. Williams reiterated that by law the Commission’s findings must be rendered within six months after the Commission receives notice from the locality intending to file court action, provided that, on its own motion, the Commission may extend the period for filing its report by no more than sixty days. She explained that no further extension is permissible without the agreement of the parties.

Ms. Williams then distributed copies of the Commission’s “Canons of Conduct” to the representatives of the parties in attendance. She called attention in particular to the canons relating to ex parte communication, real property interests and member absence.

Ms. Williams stated that there are two issues before the Commission today with respect to this annexation: to determine whether the parties would desire for the

**Minutes**

**Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 8**

Commission to appoint an independent mediator to assist in negotiations regarding the proposed annexation and to establish a schedule for its review of the proposed annexation. She noted that, historically, the Commission has delegated to the Chairman the authority to designate an independent mediator to assist the parties upon mutual request in their negotiations.

Ms. Williams indicated that she had already provided information to the attorneys for both parties regarding mediation, including the resumes of three mediators who have experience in this area and have indicated an interest in remaining on the list maintained by the Commission. She also stated that the parties are free to jointly select a mediator of their own choosing who is not on the list. She further explained that, while the Commission does not have funds budgeted to pay for mediation services, the position was adopted some time ago that, if both parties to an annexation action were to agree to participate in mediation, the Department of Housing and Community Development would be willing to pay for the first day of mediation services as well as the mediator's expenses for that first day but that the parties would be responsible for paying for everything after that first day. She said that special counsel to the Town has already indicated that the Town is agreeable to mediation.

**B. Comments by Representatives of the Parties**

Mr. Hendrix asked for comments by representatives of the parties, and Mr. James Cornwell, counsel for the Town of Clarksville, and Mr. Russell Slayton, Mecklenburg County Attorney, introduced themselves to the Commission. Mr. Cornwell indicated that the Town has tried to discuss the issue of annexation with the County to no avail. He further indicated that the Town is amenable to mediation. Mr. Slayton indicated that the



**Minutes**

**Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 9**

County just received the Town's submission ten days ago and has not yet had time to thoroughly review its contents. He further stated that the Mecklenburg County Board of Supervisors will be meeting in one week and that, while he cannot speak on their behalf, he believes that they will agree to mediation.

**C. Commission Deliberation and Action**

On behalf of the Commission, Mr. Hendrix encouraged the parties to negotiate a settlement of the issues presented, and he reiterated the offer of mediation services to assist in that endeavor. Mr. Hendrix then referenced a tentative review schedule that was previously circulated, which would allow the County until June 11 to file materials and exhibits in response to the Town of Clarksville's annexation notice. On behalf of Mecklenburg County, Mr. Russell Slayton, County Attorney, insisted that was not enough time for the County to properly respond and asked that the Commission extend the date until the end of June.

Next, Mr. Hendrix asked the representatives of the parties how much time they will need for oral presentations, and a tentative review schedule (revised from the one previously circulated) was distributed that would allocate six hours for the oral presentations. Mr. Cornwell indicated that the Town would like for the Commission to allocate three or four days for this purpose. Mr. Cornwell also pointed out that the maps contained in the Town's comprehensive plan, which was adopted in 2009 and included in the Town's submission to the Commission, do not match the actual annexation areas because adjustments have been made since the plan's adoption. He further stated that the Town is already providing water and sewer services in the proposed annexation areas.

**Minutes**

**Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 10**

Mr. Kines echoed the concern that the proposed schedule did not allocate an adequate amount of time for the parties to properly present their issues to the Commission, and he emphasized the importance of scheduling an appropriate amount of time to fully hear the case, especially because it is a contested action. A lengthy discussion concerning scheduling ensued, and Mr. Hendrix, without objection from the other members, decided to move forward with the agenda and return to this issue prior to the end of the meeting.

Later in the meeting, Mr. Hendrix returned to this issue and additional discussion concerning scheduling ensued. On a motion made by Mr. Kines and seconded by Mrs. Wingo, the Commission subsequently agreed to extend the time for the County's response to June 18, 2012. As a consequence of this extension and in response to concerns that not enough time had been allotted for the oral presentations, the Commission decided to move the on-site meetings and public hearing from July 9-10 to July 16-18. On a motion made by Mr. Kines and seconded by Mr. Bannister, the Commission subsequently adopted the following meeting schedule for the review:

**Monday, July 16, 2012 (Clarksville/Mecklenburg County, Virginia):**

9:00 AM Tour of the affected areas  
10:30 AM Oral presentations by the Town and County

**Tuesday, July 17, 2012 (Clarksville/Mecklenburg County, Virginia):**

9:00 AM Regular Meeting of the Commission on Local Government  
10:30 AM Continuation of oral presentations by the Town and County  
7:30 PM Public Hearing

**Wednesday, July 18, 2012 (Clarksville/Mecklenburg County, Virginia):**

9:00 AM Continuation of oral presentations by the Town and County (**if needed**)

**Commission's draft report:** September 10, 2012

**Minutes**  
**Regular Meeting**  
**10:00 a.m., March 19, 2012**  
**Page 11**

Finally, on a motion made by Mr. Bannister and seconded by Mrs. Wingo, the Commission voted to delegate to the Chairman the authority to designate an independent mediator to assist the parties upon mutual request in their negotiations.

**III. Administration**

**A. Approval of Minutes of January 9, 2012 Regular Meeting**

Mr. Kines made a motion that the minutes of the Commission's regular meeting held on January 9, 2012 be approved. Such motion was seconded by Mr. Bannister, and the Commission approved the minutes without amendment. Mr. Stirrup abstained from voting because he was not present at the January 14 meeting, as he had not yet been appointed to serve on the Commission at that time.

**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 February 2012**

Referencing an internally produced financial statement that encompassed expenditures through the end of February, Ms. Williams stated that the financial report covered two-thirds of Fiscal Year 2012 (FY12) and that Commission personnel and non-personnel expenditures for that period represented 61.85% of the total amount budgeted for the fiscal year.

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

**1. Potential Issues**

Ms. Williams provided a brief update concerning potential interlocal issues, including a possible boundary line adjustment involving the Town of Middletown and Frederick County.

**2. Staff Activities**

Ms. Williams highlighted various staff activities that have taken place since the Commission's regular meeting on January 9, including providing continued staff support to the Governor's Task Force for Local Government Mandate Review; preparing Fiscal Impact Statements (FISs), Legislative Action Summaries (LASs) and Enrolled Bill Reviews (EBRs) and monitoring legislation affecting local governments; and participating in Local Government Day at the General Assembly as well as the Virginia Association of Planning District Commissions (VAPDC) Winter Conference. Ms. Williams also explained that staff assisted the Governor's policy office in the preparation of the Governor's annual report on "the petitioning localities, the mandate or portion thereof for which temporary suspension of state mandates was sought, and the response provided to the locality." She reported that Rockbridge County requested temporary suspension of the mandate that would require the County landfill to be closed by the Department of Environmental Quality (DEQ) on December 31, 2012, subject to the agency's prioritization closure schedule; however, the request was subsequently withdrawn when DEQ agreed not to require the County to close the landfill by that date. Ms. Williams indicated that legislation addressing the issue was also introduced but later stricken for the same reason.

## **Minutes**

### **Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 13**

#### **IV. Commending Resolution for Mrs. Seefeldt**

Ms. Williams referenced a resolution, distributed to the members prior to the meeting, which commends Mrs. Seefeldt for her dedicated service to the Commission. On a motion by Mrs. Wingo, which was seconded by Mr. Kines, the Commission adopted the resolution.

#### **V. Governor's Task Force for Local Government Mandate Review**

Ms. Williams explained that the Task Force met on January 16 and adopted its first interim report to the Governor, which was included in the agenda packages that were mailed to the members. She indicated that the Task Force meeting was immediately followed by a press conference with Governor McDonnell at which time he announced that Delegate Byron and Senator Newman would be introducing identical omnibus mandate relief bills for the Administration. She reported that these bills (i.e., HB 1295 and SB 679), as enrolled, eliminate more than a dozen mandates relating to procurement procedures, education and land use, as recommended by the Task Force. She then called members' attention to a handout that described the mandates eliminated in the Governor's omnibus bills and referenced several other bills that addressed Task Force recommendations. Ms. Williams stated that one of the provisions in the Governor's bills has a direct impact on the work of the Commission: the elimination of the urban development area (UDA) reporting requirements on localities. She explained that localities will no longer be required to submit UDA documentation to the Commission, and the Commission will no longer be required to report annually to the Governor and General Assembly on localities' compliance with the mandate. She further stated that two other identical bills which passed – Delegate Rust's HB 869 and Senator Smith's SB

## **Minutes**

### **Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 14**

274 – not only eliminate the reporting requirement, but also make UDAs optional rather than mandatory, which was another recommendation of the Task Force.

## **VI. 2012 General Assembly Session**

### **A. Fiscal Impact Analysis Process**

Ms. Williams stated that the *Code of Virginia* requires the Commission to determine whether bills referred for local fiscal impact analysis impose either a “net increase in expenditure” or “net reduction in revenue” on localities. She further indicated that bills are referred to the Commission for analysis by the Division of Legislative Services (DLS) and that VML and VACo may request that DLS refer specific bills to the Commission.

Ms. Williams reported that 35 local government volunteers – from 20 counties, nine cities and six towns across the Commonwealth – participated in the process this year, compared with 28 volunteers last year. Ms. Williams stated that thirty bills were referred by DLS to the Commission this year, which is five times as many bills as last year. She indicated that, of the thirty bills referred to the Commission for analysis this year, 21 (70%) were defeated, continued or tabled and only nine (30%) passed, some with modifications that reduced their fiscal impact.

Ms. Williams called members’ attention to the “2012 CLG Local Fiscal Impact Estimates Scorecard” and the FIS texts and bill summaries provided in their agenda packages. She reported that the overall response rate for each bill varied from 26% – 60% percent. Ms. Williams announced that Rappahannock and Spotsylvania Counties each had a response rate of 100 percent and each of them responded 100 percent on time.

## **Minutes**

### **Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 15**

Ms. Williams indicated that the “Scorecard” will be provided to VML and VACo. She also stated that she will send emails thanking the volunteers for all their hard work.

#### **B. Bills of Interest and Legislative Action Summaries**

Ms. Williams stated that the 2012 General Assembly Session convened on January 11 and adjourned sixty days later on March 10 and that a total of 2,876 bills and resolutions were introduced this year. She reported that, during the session, in addition to the thirty Fiscal Impact Statements, Commission staff prepared 79 Legislative Action Summaries (up from 44 in 2011) and 69 Enrolled Bill Reviews (up from 35 in 2011). She explained that, at the request of the Governor’s policy office, this year Commission staff identified bills as they were enrolled that would have either a negative impact (e.g., impose a new mandate or restriction) or positive impact (e.g., eliminate a mandate or ease a restriction) on local governments and school divisions. She called members’ attention to two handouts in which each of the bills identified during this process were highlighted. Finally, Ms. Williams indicated that Reconvened Session will take place on April 18.

#### **C. Budget**

Ms. Williams stated that the 2012 Regular Session adjourned without an adopted budget but that the 2012 Special Session 1 convened immediately upon adjournment sine die of the Regular Session for the purpose of considering budget bills. She added that the General Assembly is scheduled to meet on March 21 in a pro forma session.

#### **VII. Assessment of State and Federal Mandates on Local Government**

Mr. Robbins explained that each year the Commission’s staff identifies the mandates that are due for assessment in the upcoming fiscal year and requests each responsible agency to determine the best time to conduct their assessments, which is

**Minutes**

**Regular Meeting**

**10:00 a.m., March 19, 2012**

**Page 16**

reflected in the proposed schedule, which was included in members' agenda packages. In addition, Mr. Robbins explained that staff asks VML and VACo if they would like to request that any additional mandates be assessed. Mr. Robbins reported that neither organization requested the assessment of any additional mandates this year. Mr. Robbins stated that there are 12 mandates that are due for assessment in FY 2012-2013 and that, upon the Commission's approval, staff will forward the schedule to the Secretary of Commerce and Trade and the Governor for approval. On a motion made by Mr. Kines and seconded by Mr. Stirrup, the assessment schedule was approved by the Commission.

**VIII. Scheduling of Regular Meetings**

The Commission's next regular meeting is scheduled for Tuesday, May 15, 2012 at 10:30 a.m. The meeting will be held in Bedford at a location to be determined.

**IX. Adjournment**

There being no further business to come before the Commission, on a motion by Mr. Kines which was seconded by Mr. Stirrup, the meeting was adjourned at 11:47 a.m.

---

Cole Hendrix  
Chairman

---

Susan B. Williams  
Local Government Policy Manager