

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., September 27, 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 10:07 a.m. on September 27, 2012 in Henrico Room 3 at the Virginia Housing Center in Glen Allen, Virginia.

I. Administration

A. Approval of Minutes of July 9, 2012 Meeting

Mrs. Wingo made a motion that the minutes of the Commission's regular meeting held on July 9, 2012 be approved. Such motion was seconded by Mr. Bannister, and the Commission approved the minutes without amendment.

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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 2012

Referencing an internally produced financial statement that encompassed expenditures through the end of August 2012, Ms. Williams stated that the budgeted amount for FY 2013 is \$353,033, which is the same as last fiscal year. She added that expenditures for personnel to date were 20.75% of the total budget and that expenditures on non-personnel were 11.86%. She also stated that, to date, expenditures have amounted to 19.44% of the total budget.

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 or voluntary settlement agreement involving the Town of Appomattox and Appomattox County as well as the potential reversion of the City of Martinsville to town status. Next, Ms. Williams reported that Commission staff met with representatives of the Town of Port Royal regarding a potential boundary line adjustment by agreement with Caroline County.

2. Planning District Commissions (PDCs)

Ms. Williams stated that she participated in the Virginia Association of Planning District Commissions (VAPDC) Summer Conference in Virginia Beach on July 26-28. She noted that

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PDCs are required to submit an annual report to DHCD and that those reports were due on September 1. She added that she will be preparing DHCD's biennial report to the Governor and the General Assembly on PDCs, which is due on September 30.

Ms Williams also provided an update on the upcoming review of planning district boundaries. She noted that DHCD is required to review the boundaries after every decennial census. She stated that letters were sent to all PDC executive directors describing the process. Finally, she reported that she intends to send a request for public comment to all interested parties around October 24. That comment period will run until early December.

3. Staff Activities

Ms. Williams highlighted various staff activities that have taken place since the Commission's regular meeting on July 9. She indicated that staff participated in a conference call with the town manager of Rich Creek regarding a boundary line adjustment with Giles County. She stated that staff met with Department of Behavioral Health and Developmental Services (DBHDS) representatives regarding their catalog abstracts. Ms. Williams also indicated that staff participated in meetings of the Governor's Task Force for Local Mandate Review held on July 30 in Richmond and September 17 in Virginia Beach. Ms. Williams report that, on August 15, she and Mr. Lanza were interviewed by Joint Legislative Audit and Review Commission (JLARC) staff as part of their Review of Incentives for Regional Collaboration on Local Government Functions. Subsequent to that meeting, Ms. Williams, at the request of JLARC staff, took a survey designed for local government officials and provided feedback. Next,

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Ms. Williams reported that staff attended a Regional Transportation Conference on September 21. Finally, she stated that she spoke at the town section of the VML annual conference on September 24 regarding boundary line adjustments by agreement, voluntary settlement agreements and annexations.

II. Town of Clarksville – County of Mecklenburg Annexation Action

Ms. Williams indicated that Greg Haley could not be in attendance but had submitted a list of “avoid” dates to be used by the Commission for purposes of scheduling on-site meetings in Clarksville in November. Ms. Williams indicated that it was her understanding that Mr. McRoberts would be attending the meeting today; however, he was not present. Ms. Williams reiterated that the mediation process was successful and that the parties reached a voluntary settlement agreement. She reminded members that the parties had previously anticipated that the agreement would be presented to the town council and the county board of supervisors by mid-September. However, she acknowledged that she has not since been updated on whether the council and board have considered the agreement. She noted that the Commission typically does not schedule on-site reviews prior to receiving a submission, and she noted that resolutions approved by both governing bodies requesting the Commission’s review of the proposed agreement and indicating their intention to adopt the agreement subsequent to the Commission’s review are required by regulation. Ms. Williams stated that she notified the parties that the Commission needs the voluntary settlement agreement and all of the supporting materials and exhibits because the case has materially changed from the original

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annexation submission. Then, she recommended that the Commission set a deadline by the close of business on October 9, 2012 to receive the materials if the on-site meetings are to be held on November 19 and 20 in Clarksville. The reason for the deadline is because the regulations require that the agreement and supporting materials are made available for public inspection prior to the public hearing. In addition, staff needs adequate time to review and make requests for additional information prior to the on-site meetings.

Mr. Hendrix illustrated the conflict between keeping the current schedule (November 19-20) without seeing the submission versus changing the dates to a later time that could be inconvenient to members or staff. In response to Mr. Stirrup's question about deadlines, Ms. Williams indicated that the Commission will need to approve the Town and County's request dated August 6, 2012 for a 60-day extension. She also described the deadlines in the case after including the extension. In addition, she recommended that, at a future meeting, the Commission grant an additional 60-day extension on its own authority to give staff ample time to prepare the report. Mr. Kines made a motion to keep the schedule with a provision that if the agreement and all supporting materials and exhibits are not submitted by the close of business on October 9, the November schedule will be postponed. The motion was seconded by Mr. Stirrup. The Commission approved the motion unanimously. Mr. Kines then made a motion to approve the parties' 60-day extension. The motion was seconded by Mr. Bannister. The Commission approved the motion unanimously. Mr. Hendrix added that the Commission reluctantly agreed to the on-site review schedule. In addition, the Commission observed that

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the materials and exhibits previously submitted in support of the annexation action are not appropriate to address the proposed settlement agreement and that the materials and exhibits due by October 9, 2012 are to be tailored specifically to the terms of the proposed agreement.

III. Front Royal Limited Partnership – Town of Front Royal – Warren County

Annexation Issue

Ms. Williams opened by thanking the parties for making the trip to Richmond on such short notice. She stated that, prior to this petition, the most recent citizen-initiated annexation case considered by the Commission involved the City of Bristol and Washington County and was concluded in October of 2004. She noted that the Commission reviewed another citizen-initiated annexation action in 1991, which involved the City of Bedford and Bedford County.

Ms. Williams noted that another case involving the Town of Leesburg and Loudoun County was dismissed by the Commission in 2003.

Ms. Williams reported that the Front Royal Limited Partnership (FRLP) filed its petition with the Commission on September 20, 2012. She stated that FRLP owns 767 acres, a portion of which is already located in the Town and that this petition is about annexing the 604.76 acres of FRLP property that are located in the County. As described in the petition, she stated that the property is adjacent to the Town's "North Eastern Planning Area" and is roughly bounded by the Front Royal-Warren County Economic Development Authority Happy Creek Technology Park to its east, the Shenandoah River and the Quarry to its west, and the Alleghany Power 765 KvH transmission lines and Interstate 66 to its north. She also said that a Norfolk-Southern

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railroad line runs along the southern border of the FRLP Town property and separates it from Happy Creek Road.

Ms. Williams indicated that in a letter sent to all three parties she informed them of the option to have the Commission appoint an independent mediator upon their joint request. Next, she reminded the Commission that, in the past, the Commission has delegated to the Chairman the authority to designate an independent mediator to assist the parties upon mutual request in their negotiations. She also noted that the Commission has six months to issue its report, which would be on March 20, 2013 unless an extension is jointly requested by the parties or executed by the Commission on its own authority. She asked that the Commission consider the month of March for the on-site meeting dates. She also indicated that members and staff will need to review submissions from three different parties: the property owner, the Town, and the County. Ms. Williams noted that, in past cases, the Town and County have been given between three and four months to respond to the Petitioner's notice. She asked the Commission to consider the time staff is required to devote to the 2013 General Assembly session when setting a schedule; she further stated that the Session is scheduled to convene on January 9 and adjourn on February 23. Ms. Williams also indicated that, in the past, the Commission has set aside three days for on-site meetings in such cases. Ms. Williams then called members' attention to a proposed meeting schedule, which she also distributed to representatives of the parties in attendance.

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Mr. Bannister made a motion to give the Chairman the authority to designate an independent mediator to assist all three parties on the Commission's behalf, which was seconded by Mrs. Wingo. The motion passed unanimously.

Chairman Hendrix then called on representatives of the parties to make preliminary comments if they so desired. Mr. Dave Vazzana addressed the Commission on behalf of FRLP, the Petitioner. Mr. Vazzana briefly described the contents of the petition and indicated that he is looking forward to working with the Town, County, the Commission members and staff.

Mr. Blair Mitchell, the attorney for Warren County, also addressed the Commission. He explained that the county board of supervisors has not yet had an opportunity to meet to consider the petition. He indicated that, while he could not speak for the board, mediation in this case may be helpful. Next, Mr. Mitchell indicated that town council and board of supervisors meetings take on Mondays and Tuesdays throughout each month. He also warned of potential inclement weather in early March in the Front Royal area. In response to a question from Mr. Bannister, Mr. Mitchell reported that the Town and County have a good relationship.

Mr. Mitchell indicated that a jointly-run charrette between the Town and the County regarding the property that is the subject of the petition filed with the Commission was conducted in 2004, but the recommendations were not approved. Referring to page 29 of the Petitioner's submission, Mr. Mitchell stated that the intersection of Shenandoah Shores Road and Interstate Route 66 seems to be a logical boundary for the Town and wondered if the other

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property owners could be brought into the Town as well. Ms. Williams responded that the other property owners could file petitions to become part of the annexation proceeding – subject to the requirement that 51% of the petition contain the signatures of 51% of the voters or property owners. Ms. Williams further indicated that additional petitioners joined the citizen-initiated annexation action involving the City of Bristol and Washington County back in the 2000s.

Mr. Doug Napier addressed the Commission as the attorney for the Town of Front Royal. He agreed with Mr. Mitchell that the Town and County have a good relationship. He also stated that Town Council has not had the opportunity to review the petition. He believes that mediation may be a worthwhile option for the Town.

Ms. Williams asked both the Town and the County if they had any concerns with the proposed December 20 deadline for town and county responses to the petition. There were no objections from either party.

Mrs. Wingo made a motion to schedule on-site meetings in Front Royal on March 20-22, 2013 and to adopt the Schedule of Formal Review that was prepared by Ms. Williams. The motion was seconded by Mr. Bannister and the Commission passed it unanimously. The Commission thereby established the following schedule:

Deadline for receipt of materials and exhibits filed by the Town of Front Royal and Warren County in response to Front Royal Limited Partnership's (FRLP's) annexation notice: Thursday, December 20, 2012 by the close of business

Deadline for parties' (i.e., FRLP's, the Town of Front Royal's and Warren County's) responses to requests for additional information / supplemental submissions by parties: Wednesday, February 20, 2013 by the close of business

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Wednesday, March 20, 2013 (Front Royal, Virginia):

9:00 AM Tour of the affected area
10:30 AM Oral presentations by the Petitioner, Town and County
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County (Continued)

Thursday, March 21, 2013 (Front Royal, Virginia):

9:00 AM Regular Commission Meeting
10:30 AM Oral presentations by the Petitioner, Town and County (Continued)
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County (Continued)
7:30 PM Public Hearing

Friday, March 22, 2013 (Front Royal, Virginia):

9:00 AM Oral presentations by the Petitioner, Town and County
(Continued, if needed)
12:30 PM Lunch
2:00 PM Oral presentations by the Petitioner, Town and County
(Continued, if needed)
TBA Special Commission Meeting

Closing of record: Two weeks after the Commission's public hearing (at the close of business)

Commission's draft report: Date to be determined at but not later than **May 20, 2013** (approximately) unless parties jointly agree to an extension

IV. 2012 Catalog of State and Federal Mandates on Local Governments (Draft)

Mr. Robbins stated that every year the Commission publishes the *Catalog of State and Federal Mandates on Local Government* based upon a review of the past year's legislation and state agency input. He then explained that the materials distributed to the Commission included only those portions of the Catalog that were amended from the 2011 edition, and noted that additional changes were included in the supplemental materials that were distributed to the Commission immediately before the meeting.

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Next, Mr. Robbins reviewed the contents of Appendix C, which describes this year's changes to the Catalog, highlighting some of the noteworthy legislation that affected local governments. Of the proposed changes, Mr. Robbins noted that the Marine Resources Commission requested that one of their entries – Comprehensive Plan to Include Coastal Resource Planning (SNR.MRC003) – be amended so that it is jointly assigned to their agency, the Department of Conservation and Recreation, and the Virginia Institute for Marine Science. Mr. Robbins explained that the Catalog is organized to identify a single administering agency for mandates that are subject to state agency oversight, but he recommended adding a comment to the Catalog entry explaining the shared responsibilities. He also pointed out that an unprecedented number of mandates, fifteen in all, were eliminated or eased during the 2012 session, and that fourteen of those were recommendations of the Governor's Task Force for Local Government Mandate Review.

On a motion by Mr. Bannister, which was seconded by Mr. Kines, the Commission unanimously approved the draft 2012 edition of the catalog without amendment.

V. 2012 Cash Proffer Survey and Report

Mr. Robbins stated that, every November, the Commission approves its report on cash proffer revenues and expenditures. Localities that are required to report cash proffer information to the Commission must do so by September 30. Mr. Robbins indicated that, to date, about 85% of the mandated localities have submitted their cash proffer information. He

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added that, at the request of the Housing Commission, he is also gathering supplemental information from localities that have substantial cash proffer activity.

VI. Governor's Task Force for Local Mandate Review

Ms. Williams reported that the most recent Task Force meeting was held in Virginia Beach on September 17. She stated that the current focus is on the relationship between state and local governments – including how programs and services are funded – as well as on education mandates and new mandates that were imposed in the 2012 General Assembly session. Ms. Williams reported that the next Task Force meeting is scheduled for October 18 in Richmond. She also noted that the following meeting is scheduled for November 13 in conjunction with the annual Virginia Association of Counties (VACo) conference at the Homestead. She added that Task Force Chairman Pat Herrity and Member Mr. Shaun Kenney will update conference attendees on the work of the Task Force. Finally, she stated that the Task Force plans to issue its next report to the Governor by the first week of December. Ms. Williams explained that the deadline for requests for drafts of legislation to be prefiled is Monday, December 3.

VII. GIS Mapping of Boundary Line Adjustments

Mr. Robbins explained that the Virginia Geographic Information Network (VGIN) contacted Commission staff to learn what kind of data is collected regarding boundary line adjustments. Currently, the state has no central data set showing local government boundaries, other than that provided by the US Census Bureau, which can take years to

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incorporate updates. At the request of VGIN, the Commission staff will begin maintaining an up-to-date layer of local boundaries, which would be shared for use with all state agencies.

Other

Ms. Williams acknowledged that Mr. McRoberts had arrived during the beginning of her remarks regarding FRLP petition for annexation. When Mr. McRoberts left the meeting during her remarks, Mr. Robbins followed him into the hallway and had a brief conversation. Mr. Robbins reported that Mr. McRoberts indicated that he sent an email to Ms. Williams stating that he would be late for the meeting. Ms. Williams checked her iPad and the email was not there; however, she then checked her blackberry and reported to the members that Mr. McRoberts had in fact sent an email at 9:50 AM indicating that he would be late and asking that the Commission defer the Clarksville annexation matter until his arrival. Ms. Williams then called members' attention to a letter from a Mecklenburg County property owner that was included in their agenda packages. Mr. Hendrix noted that the parties should be prepared to address the issues raised in the letter.

Ms. Williams then reminded the members to complete the mandatory Conflicts of Interest Act training by December 31, 2012.

VIII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:39 a.m.

Cole Hendrix
Chairman

Susan B. Williams
Local Government Policy Manager