

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:30 a.m., May 15, 2012
City of Bedford Council Chambers
215 East Main Street
Bedford, Virginia 24523

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 10:02 a.m. on May 15, 2012 in the City of Bedford Council Chambers in Bedford, Virginia.

I. Administration

A. Approval of Minutes of March 19, 2012 Regular Meeting

Mrs. Wingo made a motion that the minutes of the Commission's regular meeting held on March 19, 2012 be approved. Such motion was seconded by Mr. Bannister, and the Commission approved the minutes 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 April 2012

Referencing an internally produced financial statement that encompassed expenditures through the end of April, Ms. Williams stated that the financial report covered 83.3 percent of Fiscal Year 2012 (FY12) and that Commission personnel and non-personnel expenditures for that period represented 77.0% of the total amount budgeted for the fiscal year.

D. Local Government Policy Manager's Report

1. Potential/Previous Issues

Ms. Williams provided a brief update concerning potential interlocal issues, including a possible citizen-initiated annexation involving the Town of Front Royal and Warren County and potential boundary line adjustments involving the Town of Abingdon and Washington County as well as the Town of Middletown and Frederick County. Ms. Williams also reported that a special court ratified the Town of Culpeper-Culpeper County voluntary settlement agreement and another special court approved an amended Town of New Market-Shenandoah County voluntary settlement agreement. Both agreements were reviewed by the Commission.

2. Staff Activities

Ms. Williams highlighted various staff activities that have taken place since the Commission's regular meeting on March 19, including a May 1 meeting with representatives from the Virginia Housing Commission, the Virginia Association of Counties (VACO), the Virginia Municipal League (VML) and the High Growth Coalition regarding information that is collected via the Commission's annual cash proffer survey. She explained that Senator Watkins requested that certain additional information be

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collected from the jurisdictions that collect/expend the highest amounts of cash proffer funds. She indicated that Mr. Robbins would elaborate during his remarks later on the agenda.

Ms. Williams next acknowledged Mr. Robbins' extraordinary efforts in redesigning the Commission's website, which will soon be unveiled. She also indicated that, since the last meeting, staff spent a considerable amount of time reviewing the submissions and preparing requests for additional information to the City of Bedford and Bedford County as well as to the Town of Clarksville and Mecklenburg County.

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

A. Staff Update

Ms. Williams explained that no joint request to defer the Commission's proceedings for a specific period of time was received from the parties. She stated that, instead, the Commission received a May 1 letter from Mecklenburg County and a May 3 letter from Town of Clarksville, both of which were distributed to the members prior to the meeting. Ms. Williams then provided an overview of the activities to date. She indicated that both parties have agreed to mediation with Dr. Roger Richman beginning in July. She explained that Dr. Richman is not available until that time. She further stated that both parties have agreed to delay the Commission's on-site meetings (i.e., the tour, oral presentations and public hearing) in Clarksville, which are currently scheduled for July 16-18, 2012.

However, Ms. Williams explained that the Town would like to delay the on-site meetings until September, whereas the County would like to delay them until November. Ms. Williams stated that another difference between the parties is that the County is

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requesting that the deadline for filing their response to the Town's annexation filing be extended from June 18, 2012 (which date was approved by the Commission on March 19) until September 17, 2012, and the Town opposes this request.

Referencing the relevant code section and Commission regulation, Ms. Williams then stated that the Commission is required to render its report with six months after notice is filed, provided that the Commission may extend its reporting deadline by no more than sixty days on its own motion. She further explained that the Commission cannot further extend its reporting deadline without the agreement of the parties.

Ms. Williams stated that the Town of Clarksville filed its notice of intent to petition for annexation on March 9, 2012. Ms. Williams then distributed a handout to the members and representatives of the parties, which depicted the following information:

March 9, 2012 (date notice was filed) + 6 months = report due September 9, 2012
+ 60 days at the request of the parties = report due November 8, 2012;
+ 90 days at the request of the parties = report due December 8, 2012;
+ 60 days at the request of the parties + 60 days on Commission's own motion = report due January 7, 2013; or
+ 90 days at the request of the parties + 60 days on Commission's own motion = report due February 6, 2013

Ms. Williams reiterated that in addition to any extension granted at the request of the parties, the Commission will be able to further extend the report deadline by up to sixty days on its own motion. She added that staff will likely request that the Commission do so because of workload issues – most notably that associated with the Governor's Task Force for Local Government Mandate Review.

Ms. Williams reminded members of the "avoid dates" submitted by the Town and County for the months of September and November and that, at the last regular meeting,

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the Commission decided to set aside three consecutive days for meetings in Clarksville.

Ms. Williams stated that the only consecutive three-day periods during which both parties are available are as follows: September 12, 13 and 14; September 18, 19 and 20; and November 28, 29 and 30.

Ms. Williams further stated that, while the relevant statute requires that the Commission meet “at least once every two months,” the Commission’s regulations require that regular meetings be held in January, March, May, July, September and November. She explained that the Commission typically schedules on-site meetings concerning case reviews in conjunction with regular Commission meetings in order to conserve time and resources, but there is no requirement to do so. She then stated that representatives of the Town and County were present and prepared to make comments.

B. Comments by Representatives of the Parties

First, Mr. Greg Haley, the attorney representing Mecklenburg County, spoke on the County’s behalf. He provided background information and reiterated his request, previously provided in writing to the Commission, that the Commission’s on-site proceedings in Clarksville be delayed from July until November 2012 and that the County’s deadline to respond to the Town’s filing be extended from June 18, 2012 until September 17, 2012. He explained that the County anticipates that mediation will be difficult and that September proceedings in Clarksville would not allow adequate time for mediation to take place. Mr. Haley further stated that responding to the Town’s filing will be expensive for the County and, if agreement between the parties is achieved through mediation, unnecessary. Finally, Mr. Haley stated that, if the Commission decides to hold its meetings in Clarksville in September as requested by the Town, the

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County asks that the deadline for submitting its response be extended until August. Mr. Haley also indicated that the mediator will require the County to provide its position on the annexation issue and that the Town will know exactly where the County is coming from at the beginning of mediation without a formal written response to the Town's filing.

Next, Mr. Jim Cornwell, the attorney representing the Town of Clarksville, spoke on the Town's behalf. He acknowledged the presence of the Town's interim manager, Dr. Charles Lee. Mr. Cornwell provided background information regarding the Town's annexation notice. He explained why the Town requested that the Commission's proceedings be delayed from July until September and why, at this time, the Town opposes a delay until November. He also explained the Town's opposition to the Commission extending the deadline for the County to respond to the Town's filing, as requested by the County. He noted that these requests were previously made in writing to the Commission. Mr. Cornwell explained that the Town wants one or two months to devote to mediation and that the Town is not in a position to enter mediation without the County's response.

C. Commission Deliberation and Action

Mr. Hendrix began by asking whether the issues involved here are well known between the Town and County. Mr. Cornwell responded that, after three years, the County's position is still not clear to the Town, though he acknowledged that some property owners might not want to be annexed and that there are political issues involved. He added that, in the midst of this, the Town has nevertheless supplied water and sewer services to an industrial park located in the County.

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Mr. Hendrix then asked whether the County understands what the Town is seeking. Mr. Haley responded that the County previously adopted a benchmark policy, which requires a 75% agreement of property owners in order for boundary adjustments involving multiple properties to occur. He stated that, under this policy, the Towns of La Crosse and Clarksville have each had boundary adjustments automatically agreed to by the County.

Mr. Bannister asked if the County's benchmark policy is available in writing and when it was adopted. Mr. Haley responded that it was adopted in November 2010 and that the County would be providing a copy of it in response to the Commission's request for information (due May 16, 2012).

Mr. Hendrix then asked what the citizens think about the proposed annexation, and Mr. Haley responded that, according to the survey results included in the Town's submission to the Commission, citizens are overwhelmingly opposed to annexation.

Mr. Haley also indicated that the County needs more information from the Town regarding its proposed annexation. He stated, for example, that the County does not know how the Town will pay for the improvements it proposes. Mr. Haley indicated that, in general, the County has the same questions for the Town as the Commission asked in its April 4, 2012 letter requesting additional information.

Mr. Hendrix then proposed to extend the deadline for the County's response by thirty days and to hold the proceedings in Clarksville on September 18, 19 and 20, 2012. A lengthy discussion ensued during which it was revealed that not all Commission members would be available during that time period. Mr. Cornwell then indicated that the Town would withdraw all its previously designated "avoid dates" in the month of

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September. Mr. Hendrix then modified his proposal so that the Commission's proceedings would instead take place on September 25, 26 and 27 in Clarksville. Mr. Kines then made a motion that the County's response deadline be extended by thirty days and that the Commission's proceedings be held on September 25, 26 and 27, 2012 in Clarksville. Such motion was seconded by Mr. Bannister and unanimously approved by the Commission. Thus, the Commission's meeting schedule for the review was modified to the following:

Tuesday, September 25, 2012 (Clarksville/Mecklenburg County, Virginia):

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

Wednesday, September 26, 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

Thursday, September 27, 2012 (Clarksville/Mecklenburg County, Virginia):

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

Commission's draft report: To be determined but not before November 8, 2012.

III. 2012 Survey of Cash Proffers

Mr. Robbins presented the 2012 Cash Proffer Survey instrument to the Commission for approval, adding that the forms are mailed out around July 1st. He explained that staff is considering offering the survey online, in addition to the current options of returning the survey to the Commission via mail, fax, or email. Mr. Robbins also mentioned that the localities that have averaged \$1 million or more in annual cash proffer activity – and will receive the request for supplemental information mentioned by Ms. Williams earlier – include the Counties of Loudoun, Prince William, Chesterfield,

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Fairfax, Hanover, Spotsylvania, James City and Frederick. On a motion by Ms. Wingo, which was seconded by Mr. Kines, the Commission unanimously approved the survey instrument.

IV. Governor's Task Force for Local Government Mandate Review

Ms. Williams reported that the Governor's Office is currently working with Task Force Chairman Pat Herrity and the Commission staff to establish a date for the next meeting of the Task Force. She promised to inform the members of the Commission as soon as a date is set.

V. Scheduling of Regular Meetings

Because the Commission's next regular meeting was previously scheduled to take place on July 17 in Clarksville and the Clarksville proceedings were rescheduled for September 25-27, the Commission reconsidered the July 17 meeting date. The Commission decided instead to hold its next regular meeting on Monday, July 9, 2012. The meeting will be held at the Virginia Housing Center in Glen Allen, provided that space is available.

VI. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:48 a.m.

Cole Hendrix
Chairman

Susan B. Williams
Local Government Policy Manager