

DRAFT MINUTES
Commission on Local Government
Oral Presentations
Town of Marion – Smyth County
Voluntary Settlement Agreement
2:00 p.m., May 13, 2014
Lincoln Theater
117 East Main Street
Marion, Virginia 24354

Members Present

John T. Stirrup, Jr., Chairman
Bruce C. Goodson, Vice-Chairman
Cole Hendrix
John G. Kines, Jr.
Victoria L. Hull

Members Absent

Staff Present

Zachary Robbins, Local Government Policy Manager
Edward Lanza, Senior Public Finance Analyst
J. David Conmy, Senior Policy Analyst

I. Call to Order

A. Welcome

Chairman Stirrup called the meeting to order at 2:00 p.m. on May 13, 2014 in the Lincoln Theater in Marion, Virginia. Mr. Stirrup announced that the Commission is present to review a proposed voluntary settlement agreement between the Town of Marion and Smyth County. He further explained that the proposed agreement provides for the immediate annexation to the Town of Marion of approximately 409 acres of territory located in Smyth County and the potential incorporation of an approximately 100 additional acres; for the waiver of certain annexation and city status rights; for the sharing of Town and County revenues generated from certain areas proposed for annexation; for the conveyance of certain real estate and water rights on property owned by the Town; and for other matters.

B. Introduction of Commission Members and Staff

Next, Mr. Stirrup introduced the members of the Commission and provided biographical information on each member and introduced the Commission staff.

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II. Commission's Review

Mr. Robbins explained that the Commission on Local Government is directed by law to review proposed annexations and other local boundary change and transition issues – as well as negotiated agreements settling such matters – prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such proposed action or agreement, 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. With respect to a proposed agreement that is negotiated under the authority of Section 15.2-3400 of the *Code of Virginia* – such as the one proposed here – 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.

Mr. Robbins indicated that the oral presentations were advertised by notice published in the *Smyth County News-Messenger* on Wednesday, April 16, 2014 and again on Wednesday, April 23, 2014. In addition, notice of the oral presentations was mailed to the local governments contiguous to, or sharing functions, revenue or tax sources with, the Town and County.

Mr. Robbins stated that the Commission is here today as a result of a Notice filed by the Town of Marion and Smyth County on January 6, 2014 requesting the Commission to review and issue findings on the proposed agreement negotiated by the Town and County. Prior to this meeting, the Commission received:

- Notice by the Town and County of a voluntary settlement agreement;
- A copy of the proposed agreement as well as data and exhibits supporting the agreement;
- Resolutions adopted by the Town Council and County Board of Supervisors requesting the Commission review the agreement;
- 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 Town or the County;
- A draft revised voluntary settlement agreement incorporating comments suggested by the Commission's staff; and
- A joint request from the Town and County to extend the Commission's reporting deadline by sixty days to allow the parties to work on technical amendments to the agreement.

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Mr. Robbins said that the materials relevant to the proposed agreement were reviewed by the members of the Commission and staff and that subsequently, separate requests for additional information were sent to the Town and the County on March 21st. The Town and County responded to those requests on April 18th, and staff has conducted a preliminary review of the supplemental information.

He then reviewed the meeting schedule for the Commission's on-site meetings in Marion, explaining that this morning the Commission toured the affected area and that, at 7:00 p.m. this evening, a public hearing will be held. He added that the Commission's record would remain open on this matter until the close of business on May 30, 2014, and that the Commission would endeavor to render its report to the affected local governments at its September 2014 meeting because of the aforementioned request to extend the Commission's deadline.

II. Oral Presentations by the Town and County

Mr. Stirrup invited Mr. Bill Rush, Marion Town Manager, to begin the presentation.

Mr. Rush introduced the following representatives of the Town who were present: Mayor David Helms, Council members Suzanne Jennings, Jim Owens, and Bill Weaver, Town Attorney Mark Fenyk, and Town staff members Ken Heath, Olivia Hall, Anita Catron and Cindy Stanley.

Mr. Rush explained that the Town has a reasonable amount of vacant land, which lies outside of the path of development. He stated that Interstate 81 will cause future growth to occur beyond the Town's boundaries, and that the main annexation areas will provide the Town with land around Exits 47 and 45, which are prime for commercial development.

Mr. Rush stated that the Town and County have realized the need for partnerships with one another in order to seek economic development and an expanded tax base, citing the existing cooperation between the two localities in the provision of public utilities. He added that commercial development within the Town has been limited to small, local business ventures, and large scale development has largely occurred in Wythe and Washington Counties to the east and west, respectively. He stated that the proposed annexation will provide the Town with land that is crucial for economic development, allowing the County to focus on economic development in other areas of the County. He added that the ability to serve liquor-

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by-the drink, which is available in the Town, but not the County, is critical to attracting restaurants, hotels and other tourism-related industries.

With respect to the land proposed to be annexed, Mr. Rush stated that 59% of the land is already owned by the Town, and that the other 41% is privately-owned and located near the Interstate 81 exits. He noted that the County's comprehensive plan recognizes the appropriateness of continued development along the Interstate 81 corridor around the Town. He then stressed the importance of two entranceways to the municipality: The Route 16 corridor to the south, and the Route 11 corridor to the east.

Regarding revenues, Mr. Rush reviewed each proposed annexation area, noting that Area A will only generate a slight increase in the amount of meals taxes generated, because it is currently Town-owned. For Areas B and C, he anticipates additional real estate tax revenue, amounting to \$2,150 and \$11,361, respectively. He stated that Area D should eventually generate the most revenues; however, those funds would be committed to the Smyth Crossings Community Development Authority for a period of time under the proposed revenue sharing arrangement.

Mr. Rush then stated that most Town services should not be impacted by the annexation, and then reviewed how each public service would be minimally impacted by the agreement.

Mr. Rush then summarized the proposal, stating that the financial impact of the proposed agreement should be minimal, that the Town will be given control of its gateways, that it will spur development, and that it will enable future joint efforts between the Town and County.

Mr. Rush also provided an overview of economic trends in the Smyth-Marion area, noting that the County's population has been decreasing since 1950, despite the construction of Interstate 81, and attributed the loss of the textile and woodworking industries as a major cause.

Mr. Rush again addressed the need for vacant land in the town, explaining that the majority of the Town's vacant land is in the northern part of the town and is suited for residential development and also will be used by the Emory and Henry College project. He emphasized that flat land does not exist, and that the hope is to not compete and instead work together with the County to develop the commercial properties.

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Next, Mr. Rush reviewed the history of the Smyth Crossings Community Development Authority (CDA), explaining that discussions began with a private developer beginning in 2006, then ceased during the recession. The developer has maintained a purchase option on the property since 2006, and following the recession he encouraged the Town and County to create the CDA to facilitate the development of the property. Mr. Rush stated that the Town and County jointly created the CDA in response, and that bonds would be issued by the Authority when the developer is ready to pursue development. He explained that the Town and County do not want the annexation of Area D to occur unless development occurs, and as such proposed tying the annexation to the issuance of the CDA bonds. Due to market demands and demographics in Southwest Virginia, he added that it cannot be anticipated how soon, or if ever development would occur at that site.

In response to a question from Mr. Lanza, Mr. Rush affirmed that the revenues from the revenue sharing component of the agreement should be regarded as hypothetical.

Mr. Stirrup invited Mr. Michael Carter, Smyth County Administrator, to begin the County's presentation.

Mr. Carter indicated that in addition to serving as County Administrator, he is the Chair of the Smyth Crossing CDA. He then introduced the following representatives of the County who were present: Board of Supervisors members Blake Frazier and Howard Burton, Economic & Community Development Director Lori Hester, and County Attorney Michelle Clayton.

Mr. Carter and Mr. Frazier emphasized the cooperation among the localities and requested a positive recommendation from the Commission.

Mr. Hendrix noted that if Area D were not to develop, the agreement would still require some commitments from the Town and County. He asked if the development were to not occur, whether that would cause any animosity between the Town and County. From the County standpoint, Mr. Frazier responded that he did not foresee such, referring to the revenue sharing part of the agreement as optimistic.

In response to a question from Mr. Lanza, Mr. Frazier commented that the County would benefit from the agreement through an improved working relationship with the Town, along with an improved economy and additional jobs.

Ms. Clayton expressed her appreciation to the Commission's staff for their assistance to the localities while the agreement was developed over the last two years. She acknowledged the joint request that was submitted by the Town and County for a sixty day extension to the

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Commission's reporting deadline, in order to make clarifications to the agreement so that it is interpreted consistently among future Town and County officials. She also recognized Mr. Rush for taking the lead in this effort. Ms. Clayton also stated that it is critical for this annexation to occur when Area D develops so that the infrastructure can be funded jointly with Town and County revenues. She added that it will still be important for the agreement to remain somewhat flexible for the bond counsel and the developer to be able to work out details when development occurs.

In response to a question from Mr. Kines, Ms. Clayton responded that the loss of population can be attributed to the loss of manufacturing, adding that the lack of amenities such as shopping can make it difficult to attract employers. Mr. Carter and Ms. Hester added that many young people choose not to stay in the area, primarily due to the lack of jobs and amenities. Ms. Clayton added that the County successfully received General Assembly authorization for liquor-by-the drink at certain Interstate 81 exits within the County, which generated economic interest in the area. She added that action, along with having Exit 47 ready for development will help in recruiting manufacturers.

In response to a question from Mr. Goodson, Ms. Clayton stated that liquor-by-the-drink was available at Exit 47, but development there would not likely occur without the CDA's assistance.

Mayor Nelms remarked that over the last decade there has been substantial improvement to the amenities in the downtown area, but commercial activity at the Interstate is needed to further entice youth to return to Smyth County after college.

Ms. Clayton added that the County's financial position has improved over the last several years.

Mr. Robbins explained that he understood that while the CDA bonds are being paid off, all revenues generated to the Town and County in Area D would be diverted to the CDA bond payments, which was affirmed by Ms. Clayton and Mr. Rush. He asked the parties to explain how the revenue sharing agreement is to operate after the bonds are paid off. Ms. Clayton stated that it may be decades before the bonds are paid off, and explained that the intent is for revenues to be shared with the Town and County on a 50/50 basis following the repayment of the bonds. Mr. Rush added that following the bond repayment, and any other maintenance needs in the CDA are met, then the 50/50 split would begin. In response to a question from Mr.

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Stirrup, Mr. Rush affirmed that after 25 years, both parties must agree to modify the revenue sharing provisions, and such modifications could only occur every 25 years.

Mr. Robbins asked for background on the Town-owned spring property. Mr. Rush explained that the Town has owned that property for a very long time, and that another spring provides sufficient water supply for Marion. He added that Smyth County would benefit from this water source as its water system develops.

Mr. Robbins requested clarification as to the agreement's intent for the land transfers associated with the spring property. Mr. Fenyk stated that the land is to be subdivided, with the spring portion to go to the County. The portion of the land containing a ballfield was declined by the County and would remain with the Town, and the Adkins Ruritan Club would receive the portion of the land occupied by their building.

Mr. Robbins asked whether the severance of the water rights from the property that was to be retained by the Town would be a problem in the future. Mr. Fenyk responded that the Town would have access to other water sources such as the Holston River. Mr. Robbins asked if the Town were to try to sell the property in the future, would the inability to construct a well be problematic. Mr. Fenyk stated that he believed public water might be available by that time. Mr. Carter added that the County should get the first option to purchase that land. Ms. Hull and Mr. Goodson suggested that such a detail should be clarified in the agreement or through deed restrictions. Discussion ensued regarding the state requirements for the withdrawal of ground and surface water and the County's intention to use the spring as a backup for the Town and County systems.

Mr. Robbins noted that the Commission has traditionally discouraged lengthy waivers to annexation and city-status rights that are longer than 15 or 20 years, and asked the parties to explain how the time periods for such waivers were decided upon. Mr. Rush remarked that the likelihood of a town-initiated annexation would be low for a long period of time.

Ms. Hull asked for further explanation as to why the 15 acres of Area B were intended for annexation. Mr. Rush responded that the Town wanted to develop this area as a gateway to the Town and that there is no liquor-by-the-drink allowed in that area.

In response to a question from Mr. Stirrup, Mr. Rush responded that liquor by the drink was permitted in unincorporated parts of Smyth County at Exits 39, 44, 47, 50, and 54, as well as all of the Adkins Magisterial District.

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Mr. Conmy asked if the Town could address whether any increase in demand for police service should be anticipated, especially with the large number of abandoned buildings in Area C. He also asked whether the County had any issues in those areas as well. Mr. Rush stated that Marion police already drive through Area C due to the road configuration, and that the town-owned properties to be annexed are already patrolled by the Town. Mr. Carter stated that the existing mutual aid arrangements between the Town and County should also minimize the impact.

Mr. Lanza inquired whether increased police demands were anticipated at Exit 47 when the CDA property develops. Mr. Rush acknowledged that such a development will increase calls for service, and noted that the officer-to-citizen ratio for Marion is better than most localities in Southwest Virginia, so there is room to absorb additional demand for police service.

Mr. Rush and Mr. Carter provided brief closing remarks.

Mr. Kines congratulated the parties for working together on the agreement. Mr. Stirrup appreciated all of the work of the County and Town staffs on the agreement and recognized the hospitality that the Commission has experienced on this visit. He noted that with the extension request, the Commission's report should be completed in September.

V. Recess

At 3:17 p.m., Mr. Stirrup announced that the Commission will stand in recess until 7:00 p.m. for the public hearing.

John T. Stirrup
Chairman

Zachary L. Robbins
Local Government Policy Manager