

**DRAFT Minutes
Regular Meeting
Commission on Local Government
10:00 a.m., July 12, 2010
The Virginia Housing Center
Henrico Room 2
4224 Cox Road
Glen Allen, Virginia**

Members Present

Harold H. Bannister, Jr., Chairman
Wanda C. Wingo, Vice-Chairman
Cole Hendrix
Vola T. Lawson
Kathleen K. Seefeldt

Members Absent

Staff Present

Susan Williams, Local Government Policy Manager
Zachary Robbins, Senior Policy Analyst
Steve Ziony, Principal Economist

Call to Order

Commission Chairman Harold H. Bannister, Jr., called the meeting to order at 10:02 a.m. on July 12, 2010 in Henrico Room 2 at the Virginia Housing Center in Glen Allen, Virginia.

I. Administration

A. Approval of Minutes of May 3 and 4, 2010 Meetings

Mrs. Wingo made a motion that the minutes of the following meetings, which took place in New Market, Virginia, be approved: the Commission's regular meeting of May 3, 2010; the Public Hearing held on May 3, 2010; and the Oral Presentations made on May 4, 2010. Such motion was seconded by Mrs. Seefeldt, and the Commission unanimously approved the three sets of minutes without amendment. Mr. Hendrix

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abstained from voting on the minutes because he was not present at the meetings due to illness.

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 June 2010

Referencing an internally produced financial statement that encompassed expenditures through the end of June 2010, Ms. Williams stated that the financial report covered all of Fiscal Year 2010 (FY10) and that Commission personnel and non-personnel expenditures for that twelve-month period represented 95.30% of the total amount budgeted for the fiscal year. She explained that the unexpended funds, which occurred primarily because of vacancy savings and totaled about \$16,500, were utilized by the Department of Housing and Community Development for other purposes.

D. Local Government Policy Manager's Report

1. Potential Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the Town of Hillsville – Carroll County; the City of Covington – Alleghany County; the City of Bedford – Bedford County; and the Town of Culpeper – Culpeper County. She directed members' attention to numerous newspaper articles concerning these issues that were included in their agenda packages. Ms. Williams indicated that, by the end of August 2010, the Commission should anticipate the filing of a proposed voluntary settlement agreement between the Town of Hillsville and Carroll County for review. In addition, by the end of 2010, she said the Commission should expect the filing

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of actions involving the proposed consolidation of the City of Covington and Alleghany County into the City of Alleghany Highlands as well as the reversion of the City of Bedford to town status within Bedford County. Finally, Ms. Williams indicated that she had no update on the issues involving the Town of Clarksville – Mecklenburg County or the Towns of Cheriton and Cape Charles – Northampton County, which have been mentioned at previous meetings.

2. Studies of Interest

Ms. Williams reported that the Governor's Commission on Government Reform and Restructuring has established four committees: Government Simplification and Operations; Customer Service, Performance, Accountability and Transparency; Consolidation of Shared Services and Enterprise Architecture; and Intergovernmental Relations. She further indicated that Mayor Paul Fraim of the City of Norfolk is chairing the Intergovernmental Relations Committee and that she recently attended a meeting called by a key member of his staff, which included representatives from the Virginia Municipal League (VML) staff as well. Ms. Williams said that she will be monitoring the meetings of the Committee, the first of which is scheduled to take place on July 14.

Ms. Williams indicated that the Joint Subcommittee Studying Development and Land Use Tools, which was extended by the General Assembly for another year, has no meetings scheduled at this time.

3. Staff Activities

Ms. Williams indicated that, on July 23, Commission staff will attend a Planning and Zoning Law Seminar sponsored by the Citizens Planning Education Association of Virginia (CPEAV) in Charlottesville. A focus of the seminar will be on the designation

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of urban development areas (UDAs) required in certain localities' comprehensive plans, on which the Commission will be required to report to the Governor and General Assembly annually. Ms. Williams indicated that, on behalf of the agency, she will be attending the Virginia Association of Planning District Commissions (VAPDC) Summer Conference on July 29-31 in Virginia Beach.

E. Conflict of Interests (COI) Act Training

Ms. Williams reminded the members that they are required by statute to complete Conflict of Interests (COI) Act Training every two years. She indicated that each member must complete the training by December 31 of this year. She further stated that the DVD from the Office of the Attorney General (OAG) is no longer approved for this purpose and that the course is now web-based through the OAG's knowledge center. She indicated that the instructions for how to register and login as an external user were included in their agenda packages. Ms. Williams explained that the training takes about an hour to complete, and it is delivered in modules, each of which ends with a few questions that must be answered. She asked the members to print the certificate after completing the course and to send it to the Commission staff. Mr. Bannister indicated that he had attempted to logon but was unable to do so. Ms. Williams said that she would look into the matter and provide additional information to the members.

II. Town of New Market – County of Shenandoah Proposed Voluntary Settlement Agreement

Ms. Williams presented the draft report on the Town of New Market – County of Shenandoah Proposed Voluntary Settlement Agreement, with participation from Mr. Ziony and Mr. Robbins. The draft report was emailed to the Commission members

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participating in the review of the agreement for their review and comment on July 2, 2010, and a hard copy was mailed to them the same day. Ms. Williams led members through the draft report, highlighting various sections, including the scope of review; general characteristics of the town, county and area proposed for annexation; and the interests of the town, county and area proposed for annexation as well as the Commonwealth. Ms. Williams explained that, with respect to a proposed agreement such as this one negotiated under the authority of Va. Code §15.2-3400, the Commission is required to determine “whether the proposed settlement is in the best interest of the Commonwealth.”

Mr. Ziony described the thorough public finance analysis that was undertaken by staff – focusing on public capital investment and revenue capacity per capita, revenue effort, and fiscal stress in Shenandoah County – in order to assess the fiscal impact of the agreement on the County if the fiscal impact model proposed in the agreement should prove unworkable for any reason. He also indicated that, while the findings are summarized in the body of the report, Exhibit A contains the analysis in its entirety.

Ms. Williams then presented the following draft findings and recommendations to the members for their consideration:

In the preceding sections of this report, the Commission has reviewed a proposed voluntary settlement agreement between the Town of New Market and Shenandoah County addressing the interests of the two jurisdictions. Based upon that review, we find that the Settlement Agreement promotes the viability of both local governments and is consistent with the best interests of the Commonwealth. Accordingly, we recommend the court’s approval of the agreement. While finding the agreement to be in the best interest of the two jurisdictions and the State, there are several related issues, which we are obliged to address.

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RESOLUTION OF DISPUTES

While the cooperative process used in the negotiation of the proposed settlement has fostered mutual understanding and collaboration between the Town and County, future differences may occur as the application of the policies contained in the agreement are implemented. Accordingly, we recommend that the proposed agreement be amended to include a provision for the resolution of disputes that may arise relative to its implementation. Such a provision will benefit the Town and County by providing a mechanism to settle any disagreements between the parties concerning the future development of the Growth Area.

ACREAGE OF AND REFERENCES TO GROWTH AREA

The Town's Notice describes the annexation area as approximately 1,559 acres; the proposed voluntary settlement agreement as well as the metes and bounds description indicates a Future Growth Area containing approximately 1,710 acres; and the "Growth Area – Real Estate" spreadsheet provided in the Joint Submission specifies acreage of 1,818. In response to the Commission's request for a reconciliation of these differences, the Town indicated that the "Growth Area is actually 1,710 acres." However, upon further inquiry by the Commission, the Town confirmed that this figure includes only land area within tax parcels and is exclusive of rights-of-ways. The Town indicated that "including the right-of-ways, the total area would approximately be 1,918.121 acres."

In addition, the proposed agreement refers to an annexation area consisting of territory "lying generally to the north, south, and east of the existing Town corporate limits." [Subsection 2.1]. However, in the documentation submitted with the Notice, reference is made to a Western Growth Area, which, upon inquiry, the Town confirmed is intended to be included within the annexation area described in the proposed agreement.

Thus, the proposed agreement should be amended to reflect the accurate acreage of the Growth Area as well as to make reference in Subsection 2.1 to territory lying to the west of the existing Town corporate limits.

FUTURE LAND USE MAP

The Future Land Use Map, agreed to by the Town and the County subsequent to a collaborative public planning process for the Growth Area, depicts the future land use in the Growth Area by colored districts. The map is referred to in the agreement with regard to the boundary of the Growth Area in Subsection 2.1 and land use and zoning in the annexation area in Section 3. As drafted, the map does not include a legible legend to discern the Growth Area boundary and land use plan. Additionally, three areas on the map do not appear to show any proposed land uses:

1. The northern one-third of the Western Growth Area.
2. The area noted as "L," east of the Old Town Core.
3. Areas west of the roundabout on U.S. Route 11.

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To prevent potential misunderstandings in the future, this map should be updated to include a legend and to more clearly depict the boundary of the Growth Area as well as the proposed land uses. The Future Land Use Map is defined in the Settlement Agreement in terms of the dates upon which it was agreed to by the Town and County. Similarly, the Future Land Use Plan definition in the agreement refers to the date on which it was agreed to by the Council. The Commission notes that these definitions may prove problematic in the future when either the map or the plan requires amendment.

CASH PAYMENT TO THE COUNTY

The proposed Settlement Agreement provides that a cash payment will be paid by the property owner at the time of a Town zoning permit application and made payable to the Town of New Market, and the Town will issue no zoning permit until the payment is made. The proposed agreement also requires that the Town forward this payment to the County within 60 days. However, pursuant to Chapter 613 of the 2010 Acts of Assembly, effective July 1, 2010, a cash proffer can be collected or accepted by a locality only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property. While the provisions of this act are set to expire on July 1, 2014, the relevant term in the proposed agreement is presently in conflict with the act and should be amended accordingly.

20-YEAR ANNEXATION MORATORIUM

The Commission has historically approached provisions for lengthy bans on annexation with reservation, in this instance a ban on any future annexations for a period of 20 years. Through a collaborative planning process, the County and Town have determined that the land within the Growth Area – which, at present includes 1,000 acres of vacant land suitable for development – is sufficient to accommodate the Town's growth over the next 40 years. The Commission believes that the 20-year ban is not excessive under these circumstances.

Next, Ms. Williams presented the following statement from the draft report that would precede members' signatures at the end of the final report:

The Commission on Local Government acknowledges the considerable effort devoted by officials of the Town of New Market and Shenandoah County to negotiate the agreement before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. We commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

A lengthy discussion ensued, which focused primarily on the cash payment to the county provision in the proposed agreement and the recommendation regarding the resolution of disputes.

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In addition, Mrs. Lawson pointed out an error on page 5 of the report regarding the median household income of County residents and asked that it be corrected. Mrs. Lawson also asked that the paragraph on page 24 of the report describing the various annexation area acreages that were provided to the Commission be repeated at the beginning of the section of the report describing the annexation area with an explanation that the acres cited with respect to the annexation area varies in the report depending on the document referenced. The Commission agreed to these two amendments. Mrs. Seefeldt suggested that the recommendation regarding resolution of disputes be deleted, but there was no consensus among the other members to do so.

Mrs. Lawson then made a motion that the Report on the Town of New Market – County of Shenandoah Proposed Voluntary Settlement Agreement be approved by the Commission as amended with respect to the error on page 5 and the annexation area acreage as described above. Her motion was seconded by Mrs. Wingo and unanimously approved by the Commission members present who participated in the review of the agreement. Due to illness, Mr. Hendrix did not participate in the review or in the Commission's deliberations; therefore, he abstained from the vote on the report.

III. Commending Resolution for Mr. Bolster

Mr. Bannister presented a resolution, adopted by the Commission on March 8, 2010, to Matthew G. Bolster, recognizing his significant contributions as the senior policy analyst to the Commission from September 2007 until January 2010. Mr. Bolster expressed his appreciation for the resolution.

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IV. Fiscal Stress Report for 2008/2009

Mr. Ziony explained that staff is currently mobilizing data to support the fiscal stress computations for 2008/2009. In its final form, the master file will encompass 31 demographic, economic, and fiscal indicators drawn from the U.S. Census Bureau, the Weldon Cooper Center for Public Service, the office of the State Auditor, the Department of Taxation, and the Department of Motor Vehicles. Mr. Ziony stated that, at present, the CLG's dataset includes 29 variables covering the population, property values and levies, motor vehicle license tax rates, and own-source revenues of Virginia's localities.* It should be noted that 19 of these data elements apply to the 134 counties and cities statewide. The eight remaining variables are linked either to the 95 counties or to the 190 towns of the Commonwealth. Mr. Ziony anticipates that the balance of the required statistical measures, denoting the total and median adjusted gross income for counties and cities, will be in hand by mid-December of this year.

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Fiscal Stress, 2008/2009: Data Inventory

<u>Data Sources</u>	<u>Data Dimensions</u>	<u>Number of Variables</u>	<u>Observational Units</u>	<u>Data Received</u>
Weldon Cooper Center	Total Population	1	Counties, Cities	Yes
U.S Census Bureau	Total Population	2	Counties, Towns	Yes
Department of Taxation	Total Adjusted Gross Income	1	Counties, Cities	No
Weldon Cooper Center	Median Adjusted Gross Income	1	Counties, Cities	No
Department of Taxation	Property Values and Levies: Real Estate, Personal Property, and PSC Property Totals	8	Counties, Cities	Yes
Weldon Cooper Center	Motor Vehicle License Tax Rates: Passenger Cars, Motorcycles, and Non-Commercial Trucks	6	Counties, Towns	Yes
Department of Motor Vehicles	Total Number of Registered Motor Vehicles	2	Counties, Cities	Yes
Auditor of Public Accounts	Own-Source Revenue Totals: Real Estate Tax, Personal Property Tax, PSC Property Tax, Motor Vehicle License Tax, Local-Option Sales Tax, Property Tax Interest, Property Tax Penalties, PILT, Interlocally Shared Revenue, All Dimensions	10	Counties, Cities	Yes*

*

The revenue data have been received for all jurisdictions except Scott County.

Staff, Commission on Local Government

V. Assessment of State and Federal Mandates on Local Governments

Mr. Robbins stated that staff has identified numerous updates for the upcoming Catalog of State and Federal Mandates on Local Governments. Within the next few weeks, staff will be submitting abstracts of the existing catalog entries, along with anticipated modifications, for agencies to review.

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Mr. Robbins mentioned three notable items of interest from the most recent General Assembly Session that will be reflected in the upcoming Catalog:

- Deletion of SOE.DOE020, Triennial Census of School-Age Population, which has been replaced by population estimates to be provided by the Weldon-Cooper Center;
- Addition of Urban Development Area reporting requirements, which will be administered by the Commission on Local Government; and
- Modifications to SOE.DOE119, Charter School Applications, as the review procedure has been changed to provide more involvement from the Department of Education.

VII. Scheduling of Regular Meetings

The Commission confirmed that its next regular meeting is scheduled to take place on Monday, September 13, 2010 at 10:00 a.m. at the Virginia Housing Center in Henrico County, provided that space is available. The Commission indicated that, if the Hillsville – Carroll County voluntary settlement agreement is submitted for review in August as anticipated, the Commission will tentatively plan to hold regular and special meetings as well as the necessary public hearing and oral presentations on November 15 and 16, 2010 in Hillsville.

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VIII. Adjournment

There being no further business to come before the Commission, on motion by Mrs. Lawson that was seconded by Mrs. Seefeldt, the meeting was adjourned at 12:10 p.m.

Harold H. Bannister, Jr.
Chairman

Susan B. Williams
Local Government Policy Manager