

2012 VACo Achievement Awards - Culpeper County, VA

Voluntary Boundary Adjustment and Water/Sewer Service Agreement between the Town of Culpeper and Culpeper County

Overview:

The Town of Culpeper, Virginia is located in the geographical center of Culpeper County. It is the focal point of the County, and the seat of local Government. The Town owns and operates its own water and sewer system, while the unincorporated areas of the County rely primarily on wells and septic systems. The Town and its environs are the primary growth area of the County but the Town is approaching build-out. As such, the area around the Town, the “Town environs,” have long been an area planned for development, especially commercial and light industrial uses—economic development which improves the tax base. Based upon this development pattern, the need for public water and sewer service in the Town environs has been an issue for decades. The Town, also in need of expanding its tax base, has contemplated boundary expansion for many years as well.

In light of the circumstances above, the Town and County have debated and negotiated possible agreements which would provide for water and sewer service in the Town environs and expand the Town’s boundaries for the last 20 years. There has been consideration of forming a regional authority, and there have been multiple short term agreements. However, the necessary long term solution has been elusive. Negotiations have been tense at times, but on March 28, 2012 a final order of the court was entered which finalized a settlement agreement encompassing both utilities and Town boundary adjustments. The agreement ends

years of rancorous debate. It is a model of adaptive thinking that benefits both parties in every respect.

The Issues:

Culpeper County, in the areas directly adjacent to the Town Corporate Limits, is well suited for commercial, light industrial and high tech development. Although the Town and County have reached agreement to accommodate the extension of public water and sewer service to various projects over the years, the uncertainty of the availability of water and sewer service and the often lengthy negotiations that went along with it was hampering economic development efforts in the County. The idea of developing an independent system for the County that would duplicate services seemed too costly and inefficient. The Town of Culpeper has grown steadily and is near build-out. The Town was searching for a way to expand its boundaries without resorting to annexation in an effort to expand its tax base.

The County was concerned that the uncertainty surrounding water and sewer service put a cloud over economic development. Even when service was provided, the rates and tap fees were 50 to 100 percent higher for County customers. The County was also concerned about annexation or boundary line adjustment that could lead to the construction of high density housing, placing a greater burden on the school system as a result of adding more students.

The Town was concerned about providing water and sewer to businesses in the County which would have an advantage over businesses in Town due to the fact that various Town taxes would not be applicable. The Town was unwilling to turn over its water and sewer assets to any kind of regional authority.

The Solution

The Voluntary Settlement Agreement which the County and the Town came up with to solve these issues is one that we feel is highly innovative, adaptive and could be a model for others to follow. The major tenets of the Agreement are as follows:

- ❖ The County established a water and sewer service area according to its Comprehensive Plan. The Town agrees to provide service in that area at the same rates as those within the Town—all rate payers will be treated equally. The County can add to or subtract land areas from the service area at its discretion. The Town responsibility for service is limited to a total of 1.5 million gallons per day over a thirty year period.
- ❖ The County agrees to a voluntary boundary adjustment of three areas of primarily retail commercial development which will substantially increase the Town tax base. This initial boundary adjustment occurs July 1, 2012. The County further agrees that once every ten years for the next 30 years the Town can expand through boundary adjustment by Ordinance. Such expansion will be limited to areas adjacent to the Town within the County designated water and sewer service area that meet certain development density criteria. In this manner, the County decides how it develops, but once developed in an urban manner at urban densities, it is eligible for boundary adjustment, but no more frequently than every ten years.

The Agreement insures that the Town can grow on the general principal that “if it looks like a town and acts like a town” it should be part of the Town. It allows the County to plan and

manage the development and to be assured that utilities are available to serve such development. The financial impact on the County from boundary adjustment is minimal, as the County still retains the real estate taxes on land within the Town. To reinforce this, the Town agreed not to seek city status for 30 years.

VACo Award Criteria

“AN INNOVATIVE SOLUTION TO A PROBLEM OR SITUATION”

The solution in this instance solved two very significant distinctly different problems: orderly and regular expansion of the Town’s boundaries and utility services for the County. The Voluntary Settlement Agreement is innovative in many ways, but most importantly, it provides full flexibility for whatever development patterns lay ahead—it is adaptive. The County can modify the water and sewer service areas to accommodate development patterns, however they may change. The County determines how the areas develop, while the Town can modify its boundaries in an orderly fashion, grow its tax base and help to keep its existing businesses competitive. All of this occurs without contested annexation or difficult negotiation. Both jurisdictions can grow as they desire for a period of 30 years with some level of certainty.

“PROMOTE INTERGOVERNMENTAL COOPERATION”

The Agreement resolved 20 or more years of dispute over two major issues with a single, adaptive solution that epitomizes cooperation between jurisdictions. The Agreement was fully vetted by the Commission On Local Government and they made no substantive

changes or recommendations. Although complex, in some ways, the beauty of the Agreement is in its simplicity of concept. The details are extensive, but the concept is clear and concise. The three judge panel that signed the Final Order called it a model for other local governments and complimented the jurisdictions for their good work. Of additional note is the fact that while the Agreement was crafted through intensive discussions between the Town and County staffs, the details were hammered out by many face-to-face meetings of the full Town Council and County Board of Supervisors. Although painful at times, both governing bodies knew that they had to work out conflicts at the highest level.

“PROVIDE A MODEL FOR OTHER LOCAL GOVERNMENTS”

There are numerous examples, more failed examples than successful ones, of two more jurisdictions trying to cooperate on water and sewer services. There are many examples of contested annexation suits. We believe that the Agreement between the County and Town of Culpeper could easily be adapted for use in other jurisdictions and could serve as an excellent model.

“PROGRAMS MAY BE BASED ON PROGRAMS FROM ANOTHER ENTITY”

We believe that the Voluntary Settlement Agreement in this case is truly unique and unlike any other such settlement agreements between jurisdictions because both jurisdictions have the flexibility to adapt their needs to changing conditions. The County can modify the water and sewer service areas to accommodate changes in growth patterns and the Town can chose how and where to expand its boundaries in growth areas enabled by its utility services .

Conclusion

The Voluntary Settlement Agreement is innovative in many ways. On the boundary adjustment side, its adaptive approach is unlike any other we found in our research. The water and sewer service area is flexible and can change as it might naturally without any need to revisit the Agreement. Boundary adjustments are subject to density criteria that make perfect sense. The criteria insure that the County can develop its own territory without interference, and yet the Town can benefit from having provided the utilities that made it possible for that development to occur. All of the moving parts in the Agreement work such that the long term nature of the deal can be accommodated without concern that changing circumstances will lead to problems with the Agreement. It will stand the test of time. On the water and sewer service side of the equation, the Agreement accomplishes all of the goals set forth by each jurisdiction. The County sought to have certainty and stability in knowing that service would be available, and we sought to insure that rate payers in the County would be treated exactly the same as those in Town. The Town sought to retain control of its water and sewer system, and to expand its customer base without putting businesses in the Town of Culpeper at a competitive disadvantage. Both jurisdictions are satisfied that the Voluntary Settlement Agreement is the best outcome for the community as a whole. Further, the Agreement is good for the Commonwealth in that it avoids duplication of services requiring additional wastewater discharges.