

**Report on the
Town of Smithfield - County of Isle of Wight
Voluntary Settlement Agreement**



**Commission on Local Government
Commonwealth of Virginia**

May 1997

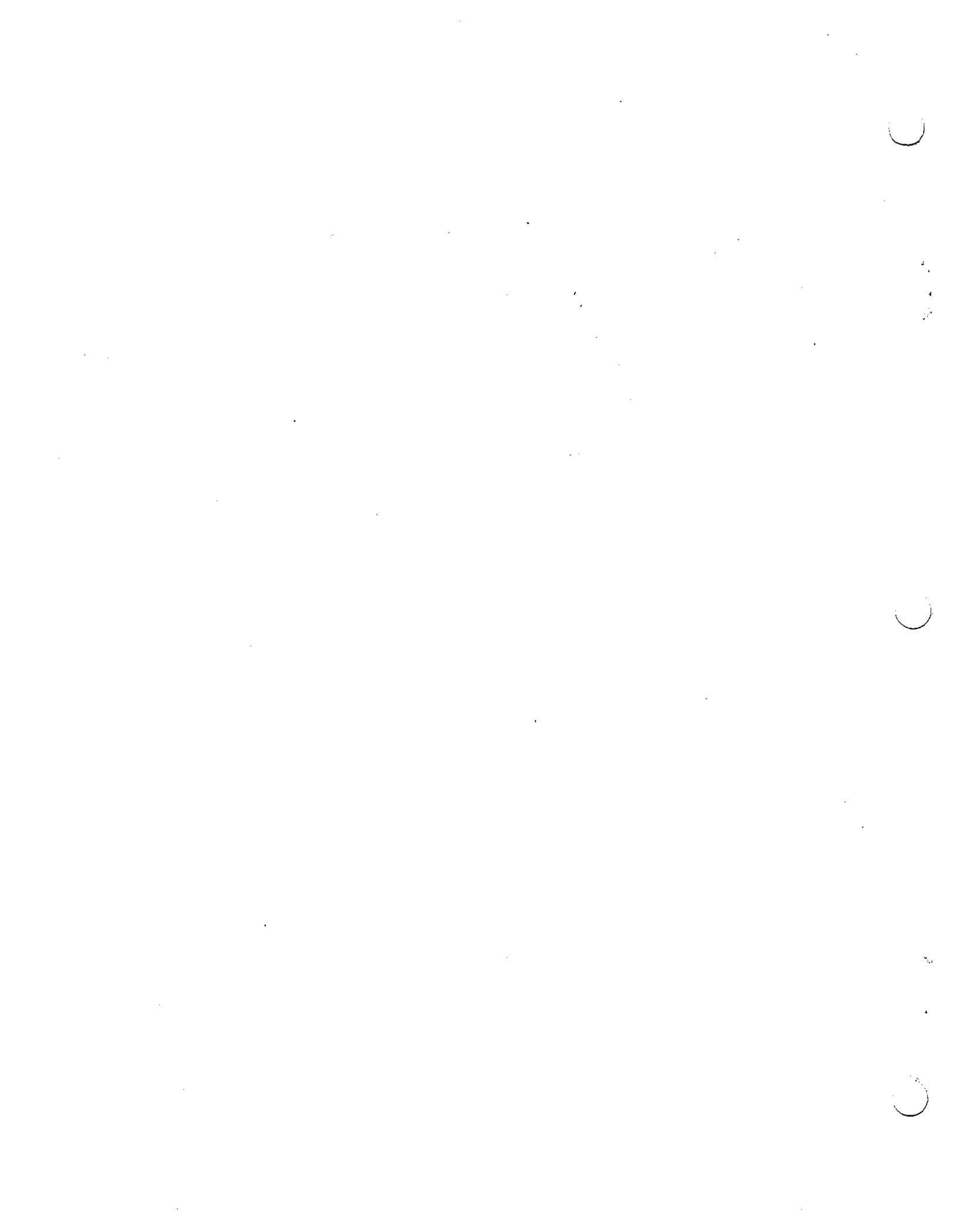
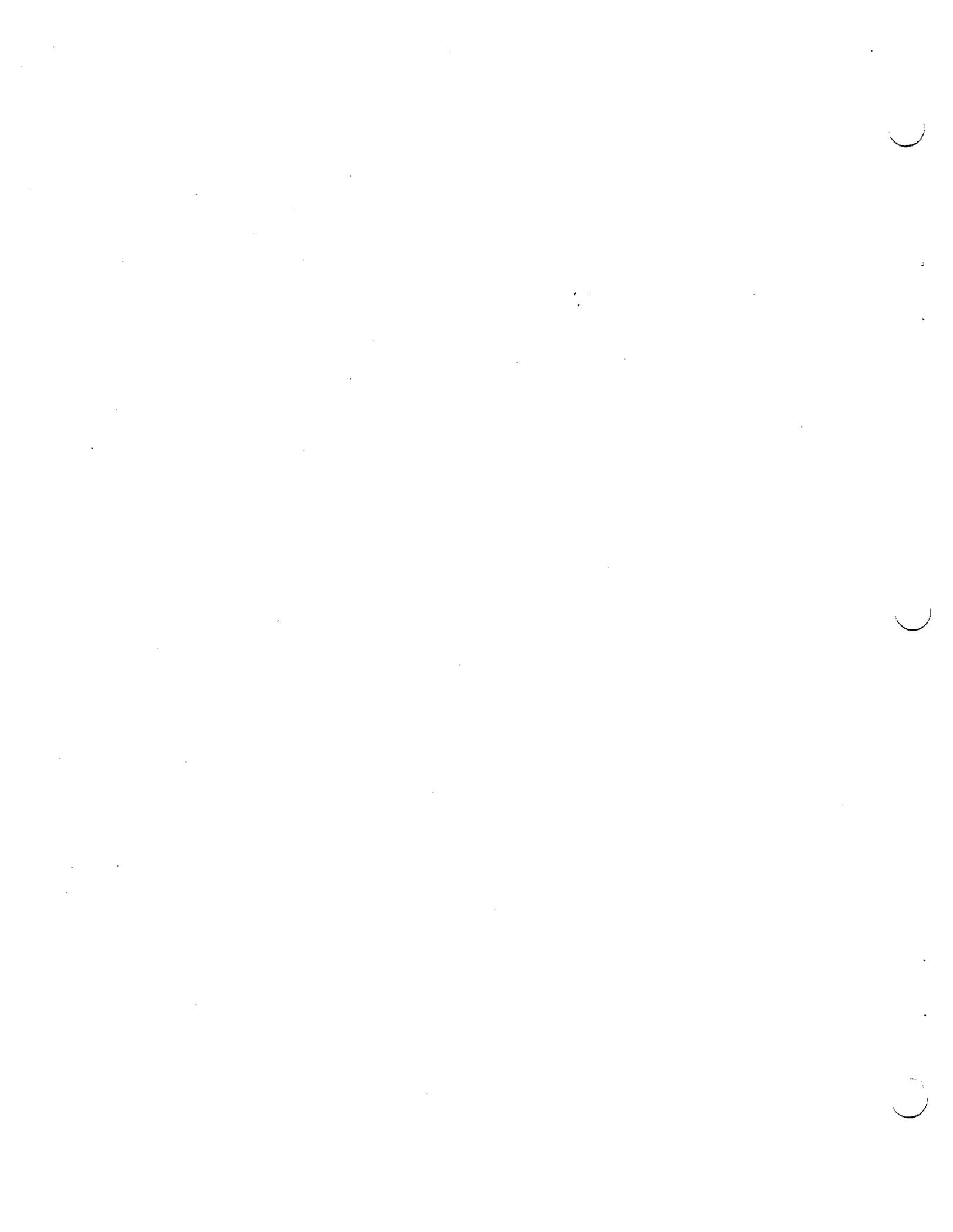


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**REPORT ON THE
TOWN OF SMITHFIELD - COUNTY OF ISLE OF WIGHT
VOLUNTARY SETTLEMENT AGREEMENT**

PROCEEDINGS OF THE COMMISSION

On October 25, 1996 the Town of Smithfield, acting in concert with Isle of Wight County, formally submitted to the Commission on Local Government for review a proposed voluntary settlement agreement which had been negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia. Consistent with the Commission's Rules of Procedure, the Town's notice was accompanied by data and materials supporting the proposed agreement.¹ Further, in accordance with statutory requirements, the Town gave notice of the proposed agreement to 24 other political subdivisions with which it was contiguous or with which it shared functions, revenues, or tax sources.² The proposed agreement contains provisions which would (1) grant the Town an annexation of 3.89 square miles of territory in Isle of Wight County, (2) establish a moratorium on further Town-initiated annexations for a period of ten years subsequent to the effective date of the annexation, (3) require the Town to share with the County a portion of the consumer utility tax revenues it derives from the area proposed for annexation, (4) exchange ownership and control of certain water and sewerage facilities in the area proposed for annexation and other portions of the County, and (5) engage the Town and County in a collaborative planning effort.³

¹Town of Smithfield, **Notice by the Town of Smithfield of Its Intent to Petition for Approval of a Voluntary Settlement Agreement and Supporting Data** (hereinafter cited as **Town Notice**).

²Sec. 15.1-945.7(A), Code of Va.

³**Voluntary Settlement Agreement Between the Town of Smithfield and the County of Isle of Wight** (hereinafter cited as **Settlement Agreement**). See **Appendix A** for the complete text of the **Settlement Agreement**.

The Commission convened in Smithfield on February 17, 1997 to tour the Town and relevant areas in Isle of Wight County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing for the purpose of receiving citizen comment.⁴ The public hearing, which was advertised in accordance with Section 15.1-945.7(B) of the Code of Virginia, was attended by approximately 92 persons and produced testimony from 12 individuals. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions through March 3, 1997.

SCOPE OF REVIEW

The Commission on Local Government is directed by law to review proposed annexations, petitions for partial county immunity, 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 to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.⁵ With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

⁴Vice Chairman Geline B. Williams was unable to take part in the February 17, 1997 proceedings and, accordingly, was not a participant in the discussions, deliberations, drafting, or approval of the Commission's report on this settlement agreement.

⁵Sec. 15.1-945.7(A), Code of Va.

As we have noted in previous reports, it is evident that the General Assembly encourages local governments to attempt to negotiate settlements of their interlocal concerns. Indeed, one of the statutory responsibilities of this Commission is to assist local governments in such efforts. In view of this legislative intent, the Commission believes that proposed interlocal agreements, such as that negotiated by the Town of Smithfield and Isle of Wight County, should be approached with respect and a presumption of their compatibility with applicable statutory standards. The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia shall be reviewed by this body prior to their final adoption by the local governing bodies. We are obliged to conclude, therefore, that while interlocal agreements are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption cannot be permitted to render our review a **pro forma** endorsement of any proposed settlement. Our responsibility to the Commonwealth and to the affected localities requires more.

GENERAL CHARACTERISTICS OF THE TOWN, THE COUNTY, AND THE AREA SUBJECT TO ANNEXATION

TOWN OF SMITHFIELD

The community of Smithfield, which was founded in 1749 and incorporated by the General Assembly in 1752, served as the seat of government for Isle of Wight County during the last half of the eighteenth century.⁶ Demographic data indicate that the Town of Smithfield experienced significant growth during the prior decade, with its populace

⁶J. Devereux Weeks, **Dates of Origin of Virginia Counties and Municipalities** (Charlottesville: Institute of Government, University of Virginia, 1967); Town of Smithfield, **Comprehensive Plan, Town of Smithfield** (hereinafter cited as **Town Comprehensive Plan**), Apr. 1987, p. 4; and Segar Cofer Dashiell, **Smithfield, A Pictorial History** (Norfolk: The Donning Company/Publishers, Inc., 1977), pp. 9, 14.

increasing between 1980 and 1990 from 3,718 to 4,686 persons, or by 26.0%.⁷ A population estimate for 1995 placed the Town's populace at 5,315 persons, a further increase of an additional 13.4% since the preceding decennial census.⁸ Based on its land area of 6.13 square miles and the 1995 population estimate, the Town has a population density of 867 persons per square mile.⁹

The evidence indicates that the Town's populace was somewhat older and less affluent than that of the State as a whole. As of 1990 (the most recent year for which data are available) the median age of Smithfield residents was 34.3 years, a statistic greater than that for the State overall (32.6 years).¹⁰ Further, the percentage of Smithfield's 1990 population which was age 65 years or over was 14.0%, while the comparable figure for the Commonwealth collectively was 10.7%.¹¹ With respect to income, data reveal that as of 1989 (the latest year for which such data are available) the

⁷U. S. Department of Commerce, Bureau of the Census, **1980 Census of Population, Number of Inhabitants, Virginia**, Table 4; and U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2. Smithfield's 1990 population represented 18.7% of Isle of Wight County's total population as of that date. Less than one-third of Virginia's 189 towns experienced an increase in population during the decade of the 1980s.

⁸David T. Piland, Management Assistant, Town of Smithfield, memorandum to the Smithfield Planning Commission, Jun. 7, 1996.

⁹**Town Notice**, Tab "General Data," p. 4. The Town's last boundary expansion, which occurred in 1979, increased the size of Smithfield by 4.4 square miles and added 1,050 persons to its population. See **Appendix B** for a statistical profile of the Town, the County, and the area proposed for annexation under the terms of the settlement agreement. See **Appendix C** for a map of the Town and that area.

¹⁰**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2.

¹¹**Ibid.**

median family income in Smithfield was \$35,152, or approximately 92% of the statistic for the Commonwealth as a whole (\$38,213).¹²

In regard to the Town's present physical development, 1996 land use data reveal that 25.3% of Smithfield's total area is devoted to residential development, 3.0% to commercial enterprise, 3.3% to industrial activity, 2.7% to public or semi-public uses, and 8.6% to transportation purposes, with 57.1% (2,241 acres) remaining undeveloped.¹³ However, exclusive of land affected by major environmental constraints (e.g., tidal marsh, inland waters, steep slopes, or location within the 100-year flood plain) or other development limitations (e.g., situated within tracts which have been designated by the Town as Chesapeake Bay Resource Protection Areas pursuant to Sec. 10.1-2109 of the Code of Virginia), Smithfield retains only 795 acres, or 20.3% of its total land area, vacant and generally suitable for development.¹⁴

Data are not available which would provide a profile of employment in the Town and, thereby, indicate the current nature and extent of the commercial activity within the municipality. Clearly, however, Smithfield is a regional center for manufacturing and is the focus of retail trade for the northern portion of Isle of Wight County.¹⁵

¹²U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Social, Economic, and Housing Characteristics, Virginia**, Table 10.

¹³**Town Notice**, Tab "Town's Need to Annex," Table 1, p. 4.

¹⁴ With respect to the latter areas, the Commission observes that while the natural resource protection requirements of the Chesapeake Bay Preservation Act do not bar the development of affected properties, in some instances, they do constrain its utility and availability.

¹⁵ Although discrete employment data for Smithfield are not available, information presented by the Town reveal that four meat packing firms located within the municipality collectively employ approximately 3,200

COUNTY OF ISLE OF WIGHT

Isle of Wight County was founded as one of Virginia's original shires in 1634 and, accordingly, can trace its origins to virtually the earliest English settlement in America.¹⁶ As in the case of the Town, Isle of Wight County experienced growth in its population during the decade of the 1980s, with its populace increasing from 21,603 to 25,053 persons, or by 16.0%.¹⁷ The official population estimate for 1995 placed the County's population at 27,600 persons, an increase of 10.2% since the preceding decennial census.¹⁸ On the basis of its 1995 population and an area of 319 square miles, Isle of Wight County has an overall population density of 87 persons per square mile.¹⁹

With respect to the nature of its population, statistical indices disclose that the age profile of the County's populace is comparable to that of the State generally but that the income level of its residents is less than that of the Commonwealth overall. Data indicate that, as of 1990 (the most recent year for which data are available), the median age of residents of Isle of

persons. (Peter M. Stephenson, Town Manager, Town of Smithfield, letter to staff of Commission on Local Government, Jan. 3, 1997.)

¹⁶Dates of Origin of Virginia Counties and Municipalities.

¹⁷1980 Census of Population, General Population Characteristics, Virginia, Table 14; and **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2. In addition to Smithfield, there is one other incorporated town, Windsor, located within Isle of Wight County. Between 1980 and 1990 the population of the unincorporated portion of Isle of Wight County increased by 14.5%.

¹⁸Julia H. Martin and Donna J. Tolson, Virginia's Population, 1995 Estimates (Charlottesville: Weldon Cooper Center for Public Service, June 1996).

¹⁹1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 15.

Wight County was 33.7 years, a statistic marginally less than that of the Town (34.3 years) but slightly exceeding that for the State as a whole (32.6 years).²⁰ Similarly, the data indicate that, as of 1990, 11.2% of the County's population was age 65 or over, a figure less than that of the Town (14.0%) but only slightly in excess of that of the State overall (10.7%).²¹ In terms of earnings, the median family income for Isle of Wight County residents in 1989 was \$33,123, a figure below that for the Town (\$35,152), and only 86.7% of the comparable statistic for the Commonwealth overall (\$38,213).²²

In regard to the nature of its physical development, the data indicate that Isle of Wight County, following a decade of extremely limited commercial and industrial development, has experienced considerable growth in such activity since 1990. Statistics reveal that between 1980 and 1990 the number of nonagricultural wage and salary positions in the County increased from 9,765 to 9,772, or by only 0.07%.²³ Employment data for the quarter ending March 1996, however, placed the number of nonagricultural wage and salary positions in the County at 11,187, a growth of 14.5% since the beginning of the decade.²⁴ As of 1995, however, nearly

²⁰**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 1. The data for Isle of Wight County include that for the residents of the County's two incorporated towns.

²¹**Ibid.**

²²**1990 Census of Population and Housing, Summary Social, Economic, and Housing Characteristics, Virginia**, Table 10.

²³Virginia Employment Commission, Economic Information Services Division, "**ES-202 Covered Employment and Wages File, Annual Average Employment**"; and Virginia Employment Commission, Economic Information Services Division, "**Estimated Labor Force Data.**"

²⁴Virginia Employment Commission, "Covered Employment and Wages in Virginia by 2-Digit SIC Industry for Quarter Ending March 31, 1996 - Isle of Wight County." The data for Isle of Wight County included that

two-thirds of the County's total civilian labor force (14,119 persons) continued to be engaged in agricultural activity, was required to seek employment outside Isle of Wight County, or was unemployed.²⁵ With respect to its overall economic nature, the evidence suggests that agricultural and forestal activities remain significant components of the County's economy. According to 1992 U. S. Bureau of the Census data, there were 212 farms in the County occupying a total of 86,247 acres, or approximately 135 square miles.²⁶ Further, 1991 data disclose that there were 141,161 acres (approximately 221 square miles) in Isle of Wight County classified as "timberland."²⁷ In sum, while Isle of Wight County has

for the residents of the Towns of Smithfield and Windsor. As of March 1996, more than one-third of the nonagricultural wage and salary positions within Isle of Wight County were employed in manufacturing food products, with most of those employment opportunities being located in the Town of Smithfield.

²⁵**"Estimated Labor Force."** Statistics for Isle of Wight County include those for the residents of its two incorporated towns. The term "civilian labor force" is defined to include all individuals 16 years of age or over (exclusive of persons serving in the armed forces) within a specified geographic area who are either employed or unemployed and actively seeking employment. In 1990, 6,890 County residents traveled to jobs located outside the boundaries of Isle of Wight County. (Virginia Employment Commission, Economic Information Services Division, Commuting Patterns of Virginia Workers: County and City Level for 1990, Mar. 1993.)

²⁶U. S. Department of Commerce, Bureau of the Census, 1992 Census of Agriculture, Virginia, Table 1, p. 168. In 1992 the average market value of agricultural products sold by farms in Isle of Wight County was \$181,380, or more than three times that of the comparable figure for the State overall (\$48,694). (Ibid., Table 2, p. 180.) In 1992, Isle of Wight County led the Commonwealth in the number of hogs and pigs sold and was the second leading locality in the State for the production of peanuts. (Ibid., Tables 13, 15.)

²⁷U. S. Department of Agriculture, Forest Service, Forest Statistics for the Coastal Plains of Virginia, 1992, Table 1. The Forest Service defines "timberland" as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for nonforest use, capable of producing 20 cubic feet of industrial wood per acre

experienced growth in its nonagricultural wage and salary employment in recent years, the County remains predominantly rural.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation under the terms of the agreement negotiated by the Town of Smithfield and Isle of Wight County consists of three separate tracts adjacent to the Town which collectively contain 3.89 square miles of territory, 352 persons, and, based on 1996 data, \$23.8 million in assessed property values.²⁸ Thus, the area contains 1.2% of the County's total land area, 1.3% of its population, and 1.2% of its FY1994/95 assessed property values.²⁹ Based on its area and the 1995 population estimate, the area proposed for annexation has a population density of 90 persons per square mile.

In terms of current development, the area contains one residential subdivision, a shopping center, and other commercial establishments.³⁰

per year, and not withdrawn from timber utilization by legislative action. Such property may also be included in the Census Bureau's definition of "farm land."

²⁸**Town Notice**, Tab "General Data," p. 8. Assessed values for the area proposed for annexation include those for real estate, mobile homes, and personal property. Data concerning real estate in both the County and the area proposed for annexation reflect the application of use value assessment for qualifying properties. (Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.)

²⁹**Ibid.**

³⁰Commercial facilities in the area proposed for annexation include the Smithfield Plaza Shopping Center adjoining the southeastern boundary of the current Town and several businesses located either adjacent to that retail facility along State Route 10 or within the Waterford Oaks mixed-use development. Further, Isle of Wight County has given development approval to two planned residential communities, identified as Cypress Creek and London Park, within the area proposed

According to the most recent land use data, 5.6% of the area proposed for annexation is devoted to residential development, 0.8% to commercial enterprise, 2.6% to industrial operations, 1.3% to public and semi-public uses, and 2.3% to transportation purposes, with 87.4% of the area (2,171 acres) remaining vacant or engaged in agricultural production.³¹ Exclusive of land restricted in its development potential due to environmental constraints (i.e., situated on slopes greater than 15% or covered by tidal marshes or inland waters) or appropriate land use considerations, the area proposed for annexation contains 1,592 acres of vacant land generally suitable for development.³² In sum, although the area proposed for annexation is predominantly vacant, it does contain several focal points of development.

STANDARDS FOR REVIEW

As a previous section of this report has noted, the Commission on Local Government is charged with reviewing proposed interlocal settlements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia to determine whether such settlements are "in the best interest of the Commonwealth." In our judgment, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this

for annexation. Those developments will collectively contain 700 residences when completed. (R. Bryan David, Director of Planning and Zoning, County of Isle of Wight, letter to staff of Commission on Local Government, Mar. 26, 1997.)

³¹**Town Notice**, Tab "Town's Need to Annex," Table 2. Included in the vacant land inventory for the area proposed for annexation is the undeveloped portions of the Waterford Oaks mixed-use development, as well as the planned Cypress Creek and London Park subdivisions.

³²**Ibid**. Also included in the vacant land with restricted development potential are parcels which are subject to the provisions of the Chesapeake Bay Preservation Act.

instance, the Commission is required to review an interlocal agreement which provides for (1) the annexation by the Town of Smithfield of 3.89 square miles of territory in Isle of Wight County, (2) the establishment of a moratorium on further Town-initiated annexations for a period of ten years subsequent to the effective date of the annexation, (3) the payment to the County of a portion of the consumer utility tax revenues to be collected by Smithfield from the area proposed for annexation, (4) the exchange of ownership and control of certain water and sewerage facilities in the area proposed for annexation and elsewhere in the County, and (5) the establishment of a collaborative planning effort between the Town and County. A proper analysis of the proposed Town of Smithfield - Isle of Wight County settlement agreement, as mandated by statute, requires consideration of the ramifications of these provisions with respect to the current and future viability of the two jurisdictions.

INTERESTS OF THE TOWN OF SMITHFIELD

Land for Development

As indicated previously, the Town of Smithfield currently has within its boundaries approximately 2,241 acres of undeveloped land, with that acreage constituting 57.1% of the Town's total land area.³³ Excluding from that total acreage, however, property situated on slopes exceeding 15%, covered by tidal waters, located within the 100-year floodplain, or subject to the provisions of the Chesapeake Bay Preservation Act, Smithfield has 795 acres, or only 20.3% of its total land area, vacant and generally amenable to development.³⁴ It is important to note, however, that a portion of this vacant land is limited in its development potential by parcel size, land ownership patterns, or by adjacent land uses. While adverse environmental

³³**Ibid.**, Table 1.

³⁴**Ibid.**

factors and locational concerns are not absolute barriers to development, they do render sites less attractive to prospective developers and can constitute major impediments affecting their utilization. The migration of commercial establishments from Smithfield, as well as current development patterns adjacent to the municipality, can be cited as evidence of the relative scarcity of attractive sites for development within the Town. With respect to those two considerations, Town officials have indicated that since 1988 approximately ten businesses ceased operation within Smithfield and relocated to the area proposed for annexation, and much of the new residential development in the Smithfield environs has occurred in the areas adjacent to the Town.³⁵

The proposed annexation would bring within the Town of Smithfield approximately 1,592 acres of vacant land generally suited for development and having access to major thoroughfares and Town water and sewage services.³⁶ The development potential of the area proposed for annexation is suggested, as indicated above, by the existing and planned growth currently occurring contiguous to the Town's eastern and southern boundaries. In our judgment, the proposed annexation will provide the Town of Smithfield with additional vacant land having significant potential for future development.

³⁵*Ibid.*, p. 3. Some of the commercial concerns relocating outside the Town's current boundaries established their new operations in the Smithfield Plaza Shopping Center. Further, since 1988 Isle of Wight County has granted rezoning approval to three residential developments in the area proposed for annexation which will collectively contain approximately 860 dwelling units when completed.

³⁶Significant portions of the area proposed for annexation are located adjacent to U. S. Highway 258/State Route 10 or State Route 10.

Fiscal Assets and Public Service Liabilities

Fiscal Assets. The Town of Smithfield, which has historically constituted a focal point of development in the northeastern portion of Isle of Wight County, has not experienced growth in its fiscal base in recent years commensurate with that of the County generally. Between FY1990/91 and FY1994/95 the assessed value of real estate in the Town grew from \$193.5 million to \$228.2 million, or by 17.9%. During the same span of years, such values in Isle of Wight County overall grew nearly twice as rapidly, increasing from \$992.9 million to \$1,311.3 million, or by 32.1%.³⁷ With respect to funds collected from all local revenue sources, the data indicate that during the period in question the Town's total collections increased by 27.5%, or somewhat less than that of the County (30.4%).³⁸ Thus, Smithfield's principal tax base (i. e., real property assessables), as well as its total local-source revenues, grew in recent years at rates less than that of the County overall.

In terms of the comparative fiscal burden borne by Smithfield residents, an examination of the real estate tax rates in Virginia's larger towns is of relevance. Based upon the ratio between assessed property values and recorded sale prices, as calculated by the Virginia Department of Taxation, the true real property tax rate in Smithfield in 1995 (the latest year for which the calculation has been made) was \$0.22 per \$100, an amount greater than the average of such tax rates in the 28 other towns in

³⁷**Town Notice**, Tab "General Data," p. 15. Assessed real property values for the County include property located within the towns of Smithfield and Windsor.

³⁸Town of Smithfield, **Comprehensive Annual Financial Report** (hereinafter cited as **Town Audit Report**), **Year Ended June 30, 1991** and **Year Ended June 30, 1995**; County of Isle of Wight, **Comprehensive Annual Financial Report** (hereinafter cited as **County Audit Report**), **Year Ended June 30, 1991** and **Year Ended June 30, 1995**.

Virginia with populations of 3,500 persons or more (\$0.18).³⁹ As a consequence of the overlay of Town and County levies, the residents of Smithfield carried an aggregate true real property tax burden in 1995 (\$0.90) more than 32% greater than that borne by residents of the unincorporated areas of Isle of Wight County (\$0.68).⁴⁰ With respect to total real property taxes paid, in FY1994/95 Smithfield residents contributed an estimated \$98.75 per capita to the Town and, in conjunction with residents in Isle of Wight County generally, \$306.58 per capita to the County.⁴¹

The proposed agreement will permit the Town to annex an area containing an estimated \$23.8 million in 1996 assessed property values and, accordingly, will increase Smithfield's total assessed property values by 7.8%.⁴² Based on current assessment data, tax rates, and fee structure, the area proposed for annexation is expected to generate initially approximately

³⁹Virginia Department of Taxation, **1996 Virginia Assessment/Sales Ratio Study**, Feb. 1996; and Virginia Department of Taxation, **Virginia Local Tax Rates, Tax Year - 1995**. The set of towns for this analysis was selected on the basis of their 1990 populations. In order to calculate a true tax rate for the jurisdictions under study, the nominal real property tax rate of each town was multiplied by the median assessment/sales ratio of the respective county. The range of true real estate rates in the 28 towns in 1995 was between a low of \$0.045 and a high of \$0.33.

⁴⁰**1995 Virginia Assessment/Sales Ratio Study; and Virginia Local Tax Rates, Tax Year - 1995**.

⁴¹**Town Notice**, Tab "General Data"; and **County Audit Report, Year Ended June 30, 1995**. Towns in Virginia may tax all classes of property eligible for taxation by a county. In such instances, town property taxes do not supplant county property taxes. Because discrete data concerning real property tax revenues for FY1994/95 are not available for the Town, the per capita contribution of municipal residents was calculated using the reported FY1994/95 assessed real estate property values (\$228,194,750), the municipality's 1995 nominal real estate tax rate (\$0.23 per \$100 of assessed value), and its 1995 population estimate.

⁴²**Town Notice**, Tab "General Data," p. 8. Assessed values for the area proposed for annexation include real estate and mobile homes, tangible personal property, and business personal property.

\$215,500 in additional local-source revenue for the Town, an increase of 13.6% above Smithfield's total local-source revenue collections in FY 1994/95.⁴³ However, this amount would be reduced by an estimated \$15,500, or by approximately 7%, under the terms of the revenue-sharing provision contained in the proposed agreement.⁴⁴ With respect to intergovernmental aid, Smithfield has estimated that the proposed annexation will result in an increase of approximately \$109,000 in State aid for the municipality.⁴⁵

Public Service Liabilities. While the proposed annexation will provide the Town of Smithfield with additional revenues and the potential for future economic growth, it will concurrently present the municipality with increased public service responsibilities. The proposed settlement will require the Town to extend its general governmental services to the citizens in the area annexed at the same level as is currently provided within the municipality. In terms of these additional public service liabilities, the Town estimates that it will be required to expend \$258,000 annually from its general fund for operational purposes and an additional \$221,000 for capital improvements and equipment within five years following the effective date of the proposed annexation.⁴⁶ Since the Town estimates that it will receive

⁴³**Ibid.**, Tab "Town's Ability to Finance Annexation," Table 1.

⁴⁴**Ibid.** Under the terms of the proposed agreement, Smithfield is required to pay the County one-half of all the consumer utility taxes, exclusive of any taxes collected for enhanced emergency telephone service, derived by the Town from the area proposed for annexation for a period of ten years following the effective date of the annexation. (**Settlement Agreement**, Sec. 2.08.)

⁴⁵**Town Notice**, Tab "Town's Ability to Finance Annexation," Table 1. The largest source of intergovernmental aid that the Town will receive as a result of the proposed annexation will be for the maintenance of streets and highways in the annexed area.

⁴⁶**Ibid.**, Table 2; and Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.

initially approximately \$325,000 in general fund revenues from the proposed annexation, Smithfield can easily meet the cost for the extension of services to the annexed area.⁴⁷

With respect to the impact of the proposed annexation on the Town's enterprise funds, several points merit note. First, Smithfield has identified specific water and sewer improvements which are needed in the area to be annexed and has developed a five-year plan to meet those needs.⁴⁸ In terms of these additional utility improvements, the Town estimates that it will be required to expend from its enterprise funds the first year following the effective date of annexation approximately \$87,000 for equipment and material purchases and for improvements to its municipal water distribution system for fire suppression purposes.⁴⁹ The extension of the Town's utility service to the annexed area will require an additional \$1.2 million within the five-year period after annexation.⁵⁰ Town officials have indicated that

⁴⁷**Town Notice**, Tab "Town's Ability to Finance Annexation," Tables 1 and 3; and Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997. Smithfield officials have also indicated that net annual surplus of general fund revenues over expenses resulting from the proposed annexation will enable the Town to pay for the capital expenditures needed to extend general governmental services to the annexed area.

⁴⁸**Ibid.**; and Fred Westphal, Consultant, Town of Smithfield, memorandum to Carter Glass and John West, Feb. 15, 1997.

⁴⁹**Ibid.** The capital expenditures that will be completed within the first year following annexation and not financed with bonded indebtedness include the installation of water lines and fire hydrants to improve water service to the Smithfield Plaza Shopping Center, the addition of water meters in the Waterford Oaks development, and the payment of one-half of the cost to purchase a new truck and to construct a new building for the Town's Public Work's Department.

⁵⁰**Ibid.** The Town's utility capital improvement plan for the area proposed for annexation includes the installation of water and sewerage to serve the Battery Park Road/Rising Star Church community and the West Main Street Area. In addition, the Town also proposes to construct a new storage tank and to drill a new water well to improve service within its

the municipality anticipates utilizing reserves in its enterprise accounts and issuing bonds to fund these utility improvements.⁵¹

Second, the proposed annexation will also result initially in a reduction in the annual operating revenue of the Town's enterprise funds. Following the effective date of annexation, Smithfield's sewer customers in the area annexed will be relieved of paying the surcharge imposed by the Town on nonresidents.⁵² In addition, Smithfield will also experience a loss of operating revenue from the exchange of water and sewer lines between the Town and County.⁵³ As a consequence of this shortfall in sewer receipts, as well as the additional annual utility expenditures required to serve the annexed area, Town officials estimate that the net annual operating income of its enterprise funds will be reduced by a total of approximately \$61,000

enlarged boundaries.

⁵¹Stephenson, communication with staff of Commission on Local Government, Apr. 29, 1997.

⁵²The Town imposes a surcharge of 21% on all nonresident sewer customers. (**Town Notice**, Tab "Urban Services," p. 7.)

⁵³Section 2.06 of the proposed agreement calls for Smithfield to transfer ownership to the County all municipal sewerage that will be located beyond the borders of the enlarged Town. In return, the Town will receive title to all of the County's water lines located in the area proposed for annexation. As a result of this provision, approximately 290 sewer customers of Smithfield that are located outside of the area proposed for annexation will become the responsibility of the County, while the Town will add 397 water connections in the annexed area to its customer base. The net effect of the transfer during the first year following the effective date of the proposed annexation will increase the Town's water fund revenues by approximately \$5,000 while receipts to the municipal sewer fund will decrease by approximately \$23,500. (Westphal, memorandum to Carter Glass and John West, Feb. 15, 1997.) Town officials estimate that the reduction in annual sewer fund receipts as a result of the elimination of the nonresident surcharge will be offset by the seventh year following the effective date of annexation by additional utility customers resulting from the extension of sewerage to the annexed area.

for the five years following the proposed annexation.⁵⁴ Data presented by Smithfield indicate, however, the initial reduction in revenues, as well as the proposed capital expenditures for utility improvements, will not result in a deficit in the Town's water and sewer enterprise accounts.⁵⁵ Smithfield contends that it has sufficient financial reserve in these enterprise accounts to defray the cost of the anticipated capital needs for its utility system resulting from the proposed annexation.⁵⁶ Further, with the extension of water and sewer lines into the annexed area, Smithfield officials have indicated that the Town can anticipate receiving additional revenues from new connections.⁵⁷

In terms of Smithfield's fiscal projections relative to its enterprise funds, the Commission notes that the Town's methodology relies, to a significant degree, upon estimates of growth in revenues collected from its

⁵⁴Westphal, memorandum to Carter Glass and John West, Feb. 15, 1997. The Commission observes that \$30,000 of the additional annual utility fund operating expenditures Smithfield estimates that is needed to serve the annexed area is for the closing of the Town's sewage treatment plant and is not related to the proposed annexation.

⁵⁵*Ibid.* According to an estimate prepared by a consultant for Smithfield, in FY1995/96 the Town's enterprise fund receipts exceeded its operating expenses and capital and debt service expenditures by approximately \$400,000. That same estimate indicated that the first year following the effective date of the annexation, the total income to the Town's utility accounts would be reduced by approximately \$86,800, principally due to the removal of the nonresident sewer surcharge and the cost of initial capital improvements not financed by debt.

⁵⁶As of June 30, 1996 Smithfield enterprise funds had unreserved retained earnings of \$1.5 million. (**Town Audit Report, Year Ended June 30, 1996.**)

⁵⁷The Town estimates that the extension of utility lines into the annexed area, as well as water and sewer service to the two subdivisions under development in those areas, will result in approximately \$321,000 in additional revenue from connection and impact fees during the first five years following the proposed annexation. (Westphal, memorandum to Carter Glass and John West, Feb. 15, 1997.)

water and sewer connection fees and user charges, as well as assumptions concerning inflation rates which will affect actual capital expenditures.⁵⁸ While projections of this nature are not without their uncertainty and vulnerability, it is our judgment that Smithfield's estimates are reasonable and that, based on current data, the Town has the fiscal capacity to meet the utility needs of the area proposed for annexation. In sum, the proposed agreement will provide Smithfield with fiscal assets which will enable the Town to extend its general governmental services to the residents and business in the annexed area, and it will provide the Town with sufficient revenues to address, in a prompt manner, the utility needs of the additional territory incorporated into the municipality.

Other Provisions

Aside from the benefits that may accrue to the Town from the proposed annexation, there are two other components of the settlement agreement which affect the interests of Smithfield. First, the agreement contains a provision which commits the Town and County to collaborate on future development proposals in the Smithfield environs.⁵⁹ The joint land use review program established by the proposed agreement will offer the Town an opportunity to comment on the scope and nature of development that will occur in an area beyond its corporate limits, which is of major significance to Smithfield. Second, as noted above, the Town and County

⁵⁸For example, the Town projects that capital expenditures financed by debt assumes financing for 20 years, 6% interest, and level semi-annual payments of principle and interest. Further, a consultant for the Town projects that new residential development planned for the annexed area will add 222 connections to the municipal utility system in the first five years following the annexation. (**Ibid.**)

⁵⁹The agreement requires the County to solicit comments from Smithfield on all applications for rezoning, special use permits, and variances; requests for site plan review; and proposed amendments to the County's comprehensive plan that effect property located within one mile of the borders of the enlarged Town. (**Settlement Agreement**, Sec. 2.07.)

have agreed to exchange certain water and sewer lines that are currently located in the unincorporated territory adjacent to Smithfield.⁶⁰ Following that transfer, the Town will own all the water lines in the annexed area that were formerly the property of the County, the Isle of Wight Public Service Authority, or the Isle of Wight County School Board. The ownership of those water lines will permit the Town to plan and operate a unified utility system within the enlarged municipality and eliminate potential difficulties. In sum, these various provisions are features of the proposed agreement which are, in our judgment, in the best interest of the Town of Smithfield.

INTERESTS OF THE AREA PROPOSED FOR ANNEXATION

Community of Interest

One of the factors appropriate for consideration in the analysis of proposed voluntary settlements of this nature is the strength of the community of interest which joins the area proposed for annexation to the adjacent municipality. In this instance, the evidence suggests that there exists a significant degree of interdependence between the Town of Smithfield and the area proposed for annexation, as well as other communities adjacent to the municipality. First, the data reveal that the Town is the source of certain fundamental public services to the area proposed for annexation. The Town presently provides sewage collection service to a substantial number of residences and business establishments located in that area.⁶¹ Additionally, Smithfield sells water to the County for

⁶⁰Ibid., Sec. 2.06.

⁶¹Town sewerage serves 60 residential and 32 commercial connections in the area proposed for annexation and an additional 290 connections in other portions of Isle of Wight County. (**Town Notice**, Tab "Urban Services," p. 7; and Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.) The Commission notes that prior to the extension of Hampton Roads Sanitation District collection lines into the Smithfield area, the Town treated all of the effluent emanating from the area

distribution to residents and businesses in that area.⁶² Thus, the properties adjacent to Smithfield presently benefit directly or indirectly from major public services provided by the Town. Further, the presence in the Town of numerous public, semi-public, and other facilities serving the populace of the general area increases the community of interest between Smithfield and the property on its periphery. Such facilities include government agencies, schools, churches, a major medical center, and various offices for professional services, health care, and community organizations.⁶³

With respect to the strength and general nature of the community of interest between the Town of Smithfield and its adjacent areas, several additional points should be cited. First, U. S. Route 258 and State Route 10 constitute the principal "gateways" to the Town of Smithfield. The quality and nature of development along those thoroughfares, is of considerable significance to that municipality and the future development of those areas will affect the Town's viability. Second, the business establishments located in the area proposed for annexation are sustained, in part, by the patronage of Town residents.⁶⁴ Finally, the Town houses the volunteer fire department and rescue squad, which serve both Smithfield, the proposed annexation

proposed for annexation and other properties beyond that area.

⁶²**Town Notice**, Tab Urban Services," pp. 3-4. In addition, Smithfield sells water directly to 13 residential customers located along West Main Street and Waterworks Road in the western portion of the area proposed for annexation.

⁶³**Town Notice**, Tab "Community of Interest," pp. 3-13. The Smithfield Medical Center, which is located in the Town, is an important medical facility serving the residents of the general area. Also located within the Town is a branch of the Isle of Wight County Public Library and the County's Smithfield Middle School.

⁶⁴The Commission observes that the Smithfield Plaza Shopping Center located in the area proposed for annexation contains a grocery store and other commercial entities which serve the residents of the Town as well as those of the surrounding area.

area, and other territory in Isle of Wight County. On the basis of these various considerations, we have no difficulty concluding that there exists a strong relationship between the Town of Smithfield and its adjacent areas, constituting, in the aggregate, a significant community of interest.⁶⁵

Need for Urban Services

The 3.89 square miles of territory which is the subject of this annexation agreement is estimated to contain a population of 352 persons, giving the area, as noted previously, a population density of 90 persons per square mile. While approximately 87% of the area proposed for annexation is currently vacant or in agricultural use, that area does contain one existing and two planned residential subdivisions and a number of commercial entities. In terms of future development in areas adjacent to Smithfield, the current Isle of Wight County comprehensive plan, which is based upon an extensive analysis of the County's needs and anticipated growth, calls for development to occur in territory adjoining Smithfield.⁶⁶ Thus, the

⁶⁵Section 15.1-1167.1 of the Code of Virginia, the statute under which the current agreement has been negotiated, requires a municipality annexing under its provisions to redraw election districts and to hold elections if the annexation increases the population of the affected jurisdiction by more than five percent. Since it is likely that the annexation authorized by the proposed agreement will increase the Town's population by more than that percentage, the residents of the area annexed will become engaged quickly in the electoral affairs of the municipality.

⁶⁶County of Isle of Wight, Virginia, **Comprehensive Plan** (hereinafter cited as **County Comprehensive Plan**), pp. 2-7 - 2-9, and "Land Use Concept Plan." The County's comprehensive plan designates the unincorporated territory adjacent to the eastern boundaries of Smithfield as the "Northeastern Development Service District," and it includes all of the eastern portion of the area proposed for annexation as well as a major segment of the southern portion. The development that has occurred in areas adjacent to Smithfield over the past ten years has been within the County's Northeastern Development Service District, including the Smithfield Plaza Shopping Center, the Waterford Oaks mixed-use development, and the planned London Park and Cypress Creek subdivisions.

evidence indicates that much of the area subject to annexation by the Town will experience continued development and will increasingly need the urban services which can be better provided by the municipality.

Sewerage. The Town of Smithfield operates a sewage collection system which presently serves 2,335 connections, including 92 in the area proposed for annexation and 290 in other areas adjacent to the Town.⁶⁷ Sewage collected by the Town's system is treated by the Hampton Roads Sanitation District (HRSD) at a plant located in the City of Suffolk.⁶⁸ Smithfield, which is a member of the HRSD, has not been assigned a specific allocation of treatment capacity in the regional treatment facility, but the authority is required by contract to treat all wastewater emanating from the Town's collection system.⁶⁹ Currently, the Town discharges an average of 0.60 million gallons per day (MGD) of effluent to the HRSD plant for treatment.⁷⁰ Due to the age of the Town's collection lines, a portion of

All those existing or planned developments will be served by central utilities as called for by the County's comprehensive plan.

⁶⁷**Town Notice**, Tab "Urban Services," p. 7; and Stephenson, letter to the staff of the Commission on Local Government, Jan. 3, 1997. Under the terms of the proposed agreement, Smithfield will transfer ownership of all municipal sewerage located beyond its expanded boundaries to the County. (**Settlement Agreement**, Sec. 2.06.)

⁶⁸The HRSD treatment plant is currently being upgraded to a capacity of 30.0 million gallons per day. (Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.)

⁶⁹**ibid.**

⁷⁰**ibid.** In July 1996 the Town ceased operation of its treatment plant and began sending the effluent collected from municipal sewer customers to the HRSD through new transmission lines installed by the latter entity. Records indicate that prior to connecting to the HRSD system, the Town's wastewater treatment plant received and treated an average of 0.43 MGD. (**Town Notice**, Tab "Urban Services," p. 8.)

the effluent pumped to the HRSD treatment plant is the result of the infiltration of groundwater and the inflow of stormwater, but the Town has begun a program to eliminate these problems.⁷¹

It is important to note that the Town's sewerage system, which has served the northeastern portion of Isle of Wight County for many years, played a significant role in the development of the area proposed for annexation and other portions of the County.⁷² Until 1996 when Smithfield connected to the HRSD collection system, the Town-operated wastewater treatment plant was the only source of central sewage treatment available to serve those areas. The residents of those areas not served by Smithfield were dependent on individual septic tanks.

In terms of the impact of the proposed agreement on sewage service in the annexed area, incorporation of that area into Smithfield will have the effect of terminating surcharges on user fees and will, thereby, substantially reduce the cost of service to the residents and commercial entities located therein.⁷³ While the proposed agreement does not commit the Town to extend its collection lines to serve additional properties in the area to be annexed, Smithfield has, however, indicated its intention to install sewerage

⁷¹According to a Smithfield official, the Town is soliciting proposals from engineering consulting firms to develop a utility master plan to identify and eliminate the sources of infiltration and inflow into municipal collection lines. (Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.)

⁷²The Town's willingness to treat sewage emanating from beyond its corporate limits is responsible, in part, for the scope and density of the existing and proposed residential and commercial development in its environs.

⁷³**Town Notice**, Tab "Urban Services," p. 7. Although sewer user charges are 21% higher for nonresidents connected to municipal sewer lines, the Town does not place a surcharge on out-of-town sewer connection fees.

to serve the Battery Park Road/Rising Star Church community and West Main Street area.⁷⁴ In terms of the need for central sewerage service in those areas, records of the Isle of Wight County Health Department disclose a number of sanitation problems in the Battery Park Road/Rising Star Church community resulting from unfavorable soil conditions and seasonal high water tables in the area.⁷⁵ Moreover, those factors restrict the repair or replacement of septic tanks serving the residences in that community.⁷⁶ In sum, the proposed annexation will result in a reduction in the user charges for the residents and businesses in the annexed area and, based on intent expressed by Smithfield, an extension of the Town's sewerage to additional properties within that area.⁷⁷

Water Supply and Distribution. Smithfield obtains all of its water from five water wells and is permitted to pump collectively 1.17 MGD from those sources.⁷⁸ As of 1995, the Town's distribution system required 0.17 MGD,

⁷⁴Stephenson, letters to the Commission on Local Government, Jan. 3, 1997 and Jan. 17, 1997. The Town proposes to install approximately 7,000 feet of sewer collection lines at an estimated cost of \$457,000 within five years following the effective date of the annexation.

⁷⁵Jay Duell, Environmental Health Specialist, Isle of Wight County Health Department, communication with staff of Commission on Local Government, Apr. 22, 1997.

⁷⁶**Ibid.**

⁷⁷The Commission also notes that within the area proposed for annexation the County has rezoned property for the development of the Cypress Creek and London Park subdivisions that will contain collectively 700 dwelling units when both are ultimately completed. Under the terms of conditions proffered by the developers of those subdivisions and accepted by the County, sewerage serving those subdivisions will be installed by the developers and turned over to the Town for maintenance purposes.

⁷⁸Virginia Department of Health, Waterworks Operation Permit Number 3093640, Aug. 22, 1994. By virtue of its location in a State-designated Groundwater Management Area, Smithfield also has a permit

leaving the municipal system an unused reserve of approximately 1.0 MGD, or 85% of its permitted capacity.⁷⁹ With respect to its storage facilities, the Town owns four storage tanks which collectively hold 0.63 million gallons of water, or nearly four days supply.⁸⁰ The municipal distribution system currently serves 2,027 connections, with 13 of that number being located in the area proposed for annexation.⁸¹ In addition, Smithfield also sells bulk potable water to the County and the Isle of Wight Public Service Authority (IWPSA) to serve the areas immediately adjacent to the municipality.⁸²

from the Virginia Department of Environmental Quality, which authorizes the Town to withdraw a maximum of approximately 1.4 MGD from its wells. (Virginia Department of Environmental Quality, Permit to Withdraw Ground Water Number GW0031800, Dec. 1, 1996.) Neither the Virginia Department of Health nor the Virginia Department of Environmental Quality requires the Town to treat its groundwater prior to distribution.

⁷⁹**Town Notice**, Tab "Urban Services," pp. 1-2. Included in the amount of water distributed by Smithfield is approximately 0.11 MGD that the Town sells to the County and the Isle of Wight Public Service Authority under the terms of an interlocal agreement. That figure does not include, however, water used by the principal industry in the Town, Smithfield Packing, which is not connected to the municipal distribution system, but relies on its own wells. (**Ibid.**, p. 3.)

⁸⁰**Ibid.**, p. 2.

⁸¹**Ibid.**, p. 3; and Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997. The Town's water connections beyond its current boundaries are located in the western portion of the area proposed for annexation.

⁸²Since 1988 Smithfield has sold water wholesale to Isle of Wight County and the IWPSA for distribution within the unincorporated territory adjacent to the Town. Currently, water lines owned by the County or IWPSA serve almost all of the developed portions of the area proposed for annexation and additional connections located beyond that area, such as the Gatling Pointe and Gatling Pointe South subdivisions and the Smithfield High School.

In terms of the impact of the proposed annexation on water service in the area to be annexed, the settlement agreement calls for the County to transfer ownership of all water lines within that area to the Town.⁸³ Following the transfer of those lines to Smithfield, the Town will serve directly the 397 connections in the annexed area which will have the effect of reducing the user charges for those new municipal customers.⁸⁴ Further, while the proposed agreement does not commit the Town to extend its distribution lines within the area to be annexed, Smithfield has developed a plan to install approximately 4,600 feet of water mains in that area and to make other improvements to its distribution system within five years following the effective date of the annexation.⁸⁵ In sum, the proposed annexation will result in lower water rates for the customers in the annexed

⁸³**Settlement Agreement**, Sec. 2.06. In order to effect the transfer, the County will secure title to those lines in the area proposed for annexation that are owned by the IWPSA and the Isle of Wight County School Board. In return for receiving ownership of the water lines in the area proposed for annexation, the Town will transfer its sewerage in the Gatling Pointe and Gatling Pointe South subdivisions to the County.

⁸⁴**Town Notice**, Tab "Urban Services," p. 4. The monthly water rates for the former customers of the County and IWPSA will decrease by approximately 13% following the transfer of the lines to the Town. (Stephenson, communication with staff of Commission on Local Government, Apr. 22, 1997.) In addition, connection fees charged by the IWPSA are between 260% and 500% higher than those charged by the Town. (Barbara Chappell, Utility Billing Technician, County of Isle of Wight, communication with staff of Commission on Local Government, Apr. 22, 1997.)

⁸⁵Stephenson, letters to staff of Commission on Local Government, Jan. 3, 1997 and Jan. 17, 1997. Following the effective date of the annexation, Smithfield proposes to extend its water lines to serve the Battery Park Road/Rising Star Church community and the West Main Street area. In addition, the Town also plans to construct a new storage tank and to install a new well to improve water service to the area annexed. The Town estimates that the total cost of the proposed water system improvements will be approximately \$780,000.

area, according to the Town's plans, and the extension of municipal water service to additional connections in that area.⁸⁶

Solid Waste Collection and Disposal. The Town of Smithfield, utilizing the services of a private collector, provides its residents twice-weekly solid waste collection service financed with general fund revenues.⁸⁷ However, the Town does not provide refuse collection services to the business concerns. Those entities are required to utilize the services of private contractors for such services. In terms of disposal, the Town's contractor utilizes the Southeastern Public Service Authority's (SPSA) regional landfill, which is located in the City of Suffolk.⁸⁸

Isle of Wight County does not provide any on-site solid waste collection services to individual residences or business firms. County residents can, however, dispose of their household wastes at one of several transfer stations located within its jurisdiction.⁸⁹ Furthermore, County residents and commercial concerns, including those in the area proposed for annexation, have the option of contracting directly with private entities for collection

⁸⁶As in the case with sewerage, the developers of the Cypress Creek and London Park subdivisions will be responsible for the installation of water distribution lines within their respective developments. Those lines will be turned over to the Town for maintenance purposes.

⁸⁷**Town Notice**, Tab "Urban Services," p. 9-10. The Town pays its private contractor approximately \$111,000 per year to collect and dispose of municipal refuse. Twice-weekly pickup of recyclable materials is also provided at no cost to Town residents by the Southeast Public Service Authority.

⁸⁸**Ibid.** The SPSA's landfill is located approximately 25 miles southeast of Smithfield.

⁸⁹Refuse from the County's transfer stations is transported to the SPSA landfill for disposal.

services, with the cost of such services determined by the frequency of collection.⁹⁰

Following the effective date of the annexation, Smithfield will extend its solid waste collection services to the annexed area. The Town has indicated that it will renegotiate its contract with the private disposal firm to include the residences and businesses located in the area proposed for annexation.⁹¹ In our judgment, the general availability of publicly-financed solid waste collection services promotes the use of the services, reduces the incidence of illegal disposal, and has a salutary effect on the overall community.

Planning, Zoning, and Subdivision Regulation. The Town of Smithfield conducts its public planning efforts with the assistance of a planning commission and a comprehensive plan which was last revised and adopted in 1992.⁹² In terms of development control instruments, Smithfield utilizes a zoning ordinance which was initially adopted in 1978 and subjected to its last major revision in 1993.⁹³ The Town's ordinance contains provisions authorizing the use of conditional zoning which enables the municipality to

⁹⁰**Town Notice**, Tab "Urban Services," pp. 9-10. County residents who choose to contract for private hauling of their household waste pay between \$132 and \$144 per year in collection fees.

⁹¹ Stephenson, communication with staff of Commission on Local Government, Apr. 29, 1997. The Town estimates that the extension of its solid waste collection services to the area annexed will require an initial annual expenditure of \$8,000. (**Town Notice**, Tab "Town's Ability to Finance Annexation," Table 2.)

⁹²**Town Notice**, Tab "Urban Services," p. 14.

⁹³**Ibid.**, p. 12.

mitigate the impact of development on public resources and concerns.⁹⁴ Smithfield also administers a subdivision ordinance which was initially adopted in 1978 and last revised in 1993. Those regulations require developers to meet the standards of the Virginia Department of Transportation with respect to the construction of new roads, prohibit the development of private streets, and establish criteria for the installation of curbs, gutters, and sidewalks.⁹⁵ The Town is, at this time, preparing a formal five-year capital improvements plan, which will strengthen and integrate its overall fiscal and development control efforts.⁹⁶ The Town has a planner and a zoning administrator assigned on a full-time basis for the administration and application of its planning and development control instruments.⁹⁷

Isle of Wight County also has, consistent with statutory requirements, a planning commission and a recently revised comprehensive plan to guide its

⁹⁴Town of Smithfield, **Zoning Regulations for the Town of Smithfield, Virginia** (hereinafter cited as **Town Zoning Regulations**), Article 3, Section 7. The form of conditional zoning adopted by Smithfield authorizes the Town to accept proffered conditions related to on-site improvement only.

⁹⁵Town of Smithfield, **Land Subdivision Regulations for the Town of Smithfield, Virginia**, (hereinafter cited as **Town Subdivision Regulations**); and Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997. See for example **Town Land Subdivision Regulations**, Article 4, Section 3.

⁹⁶**Town Notice**, Tab "Urban Services," p. 14. Smithfield's 1992 comprehensive plan contained a brief capital improvements program that was adopted as part of the Town's plan. (**Town Comprehensive Plan**, p. 103.) There is no evidence, however, that the capital improvements program was revised and readopted subsequent to 1992.

⁹⁷**Town Notice**, Tab "Urban Services," p. 12. In addition, Isle of Wight County provides building inspection services within the Town. (**Ibid.**, p. 13.)

development.⁹⁸ The County also utilizes a zoning ordinance which was adopted initially in 1970 and last amended in 1996.⁹⁹ In addition, the County administers a subdivision ordinance first adopted in 1969 and last revised in 1995.¹⁰⁰ Although the County's subdivision ordinance contains elements similar to those of the Town, it does not require the installation of sidewalks or streetlights in new developments.¹⁰¹ Unlike the Town, Isle of Wight County currently has in place a formal capital improvements plan to coordinate its fiscal planning and land development control processes.¹⁰² Isle of Wight County maintains a staff of five persons for the administration and implementation of its various planning and development control instruments.¹⁰³

Following the effective date of annexation, the Town will extend its comprehensive planning and its other regulatory instruments to the annexed area. The application of the Town's planning instruments and policies, which are designed to address the needs of urban and urbanizing areas, should result in a more consistent and comprehensive approach to

⁹⁸**County Comprehensive Plan.** The County's current comprehensive plan was adopted in 1991 and updated in 1993.

⁹⁹County of Isle of Wight, **Isle of Wight County Zoning Ordinance.** The County has adopted a form of conditional zoning which authorizes it to accept proffers of cash payments.

¹⁰⁰County of Isle of Wight, **Isle of Wight County Subdivision Ordinance.**

¹⁰¹Like that of Smithfield, the County's subdivision ordinance does not allow private streets in new subdivisions. (David, communication with staff of Commission on Local Government, Apr. 21, 1997.)

¹⁰²H. Woodrow Crook, Jr., County Attorney, County of Isle of Wight, letter to staff of Commission on Local Government, Dec. 19, 1996.

¹⁰³David, communication with staff of Commission on Local Government, Apr. 21, 1997.

managing future growth and in protecting the distinctive features of the Smithfield area. There are, however, two concerns which should be noted with respect to the Town's current planning and development control instruments. First, since the proposed agreement will authorize the annexation of agricultural properties, the Town should have a zoning district which will appropriately protect such properties from the incursion of incompatible uses.¹⁰⁴ Second, the Town's comprehensive plan is now due for its statutorily prescribed review and should be revised to reflect current conditions.¹⁰⁵

Crime Prevention and Detection. Since law enforcement activities by towns augment those provided by a county's sheriff's department, the proposed annexation by the Town of Smithfield will have the effect of providing additional and intensified law enforcement services to the residents and commercial entities in the annexed area.¹⁰⁶ In terms of this municipal service, Smithfield's police department has a sworn personnel complement of 12 full-time officers, 10 of whom are assigned patrol

¹⁰⁴The stated intention of the Town's Rural Residential zoning district is to "provide for more spacious single-family residential areas and for areas not yet urban where agricultural uses are appropriate." (**Town Zoning Regulations**, Article 4, Section 1.)

¹⁰⁵Section 15.1-454 of the Code of Virginia requires comprehensive plans to be reviewed at least once every five years by the local planning commission.

¹⁰⁶Law enforcement services in the area proposed for annexation and in Isle of Wight County generally are provided by the County Sheriff's Department which maintains its headquarters in the community of Isle of Wight. The personnel complement of the Sheriff's Department includes 22 full-time sworn law enforcement officers, 15 of whom are assigned patrol responsibility. (**County Comprehensive Plan**, p. 6-16.)

responsibility.¹⁰⁷ This level of staffing is sufficient to maintain on duty an average of 2-3 patrol officers during a 24-hour period and to permit an average response time to calls for service of slightly more than 3 minutes.¹⁰⁸ The Town's law enforcement efforts are assisted, and will continue to be assisted throughout the enlarged municipality, by Isle of Wight County deputies who respond to calls for service from within the municipality when such assistance is needed.¹⁰⁹ Similarly, the Smithfield police respond to calls for service beyond municipal boundaries when requested to do so by the Sheriff's department.

While the Commission is unaware of any major crime problems in the area proposed for annexation, extension of the Town's law enforcement services to the annexed area on a regular and routine basis should benefit the residents and businesses of that area. In order to expand its law enforcement services to the area annexed, Smithfield proposes to add one additional patrol officer and to purchase an additional police cruiser.¹¹⁰

Public Works. The proposed annexation will result in the application of the Town's public works policies and procedures for the construction and maintenance of various public works in the annexed area. Those policies and procedures are, in our view, properly designed to meet the needs of

¹⁰⁷**Town Notice**, Tab "Urban Services," p. 15. The Town's police department also employs four full-time and one part-time dispatchers and two full-time administrative support personnel. In addition to providing emergency communications for Smithfield's police officers, the Town also provides dispatching services for the Smithfield Volunteer Fire Department and the Isle of Wight and Windsor Volunteer Rescue Squads.

¹⁰⁸**Ibid.**

¹⁰⁹**Ibid.**, pp. 17-18.

¹¹⁰**Ibid.**, Tab "Service Plan," p. 3.

urbanizing areas and should be increasingly beneficial to the area incorporated into the Town.

First, Smithfield will assume responsibility for the construction and maintenance of public thoroughfares in the annexed area. In our judgment, the ability of the Town to schedule and administer the maintenance of its public thoroughfares, as well as an apparent willingness to appropriate and expend local funds for that purpose, will benefit that area. With respect to the latter point, the data indicate that between and FY1990/91 and FY1994/95, the Town of Smithfield expended approximately \$408,345 in local funds to improve and maintain approximately 48 lane-miles of public roadway within its corporate boundaries.¹¹¹ The proposed annexation will add approximately 30 lane-miles of roadways to the Town's network of public thoroughfares, all of which will qualify for State maintenance payments. Smithfield has indicated that it is prepared to assume responsibility for the maintenance of all the public thoroughfares in the area annexed.¹¹²

Second, the Town will also assume responsibility for snow removal from public thoroughfares in the annexed area. With respect to this service, the Town adheres to a policy that gives priority to snow removal from major thoroughfares, with other areas receiving deferred treatment. Town officials

¹¹¹**Town Audit Reports, Year Ended June 30, 1991 through Year Ended June 30, 1995.** Within the Town the Virginia Department of Transportation maintains U. S. Route 258 and State Route 10 (Business and Bypass), which are part of the State's highway system.

¹¹²During the first year of annexation, the Town estimates that it will be required to employ three additional workers, purchase a truck for its Public Works Department, and expend an additional \$122,000 for the maintenance of streets in the annexed area. (**Town Notice**, Tab "Service Plan," p. 3; and Tab "Town's Ability to Finance Annexation," Table 2.) The Town will receive an additional \$108,000 from the State for street maintenance to assist with this activity.

have stated that upon annexation the municipality can extend appropriate snow removal services without purchasing additional equipment.¹¹³

Third, the Town of Smithfield adheres to a policy by which it arranges for the installation and operation of streetlights at public expense. At the present time, there are approximately 405 publicly funded streetlights within the Town's corporate limits.¹¹⁴ Smithfield considers requests from its citizens for additional streetlights, and where such are deemed appropriate and necessary for public safety and welfare, new lights are installed and operated at public expense.¹¹⁵ In order to extend this public service to the annexed area, the Town has developed an initial plan for the installation of streetlights at appropriate locations throughout the annexation area following the effective date of the agreement.¹¹⁶ In our judgment, the area proposed for annexation will benefit from the application of the Town's policies regarding the installation and operation of these facilities.

¹¹³Stephenson, communication with staff of Commission on Local Government, Apr. 29, 1997. The Town employs private contractors to remove snow from its public streets.

¹¹⁴**Town Notice**, Tab "Urban Services," p. 29.

¹¹⁵Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.

¹¹⁶**Town Notice**, Tab "Service Plan," p. 4. The Town proposes to install 18 streetlights on major roads and intersections throughout the annexed area where travel conditions make such lighting advisable. Additionally, the Town will consider making such lighting available in subdivisions and other areas when requested by residents. (**Ibid.**)

Other Service Considerations

The Commission notes that with respect to fire prevention and protection, residents of the area proposed for annexation will not experience any immediate change in the level of service as a result of their incorporation into Smithfield. In this regard, we observe that the Town and Isle of Wight County jointly support the Smithfield Volunteer Fire Department (VFD).¹¹⁷ That department, which has a complement of 40 volunteers, serves the Town and its environs, including the area proposed for annexation.¹¹⁸ The fire suppression capabilities of the Smithfield VFD and the Town's water distribution system are such that properties within the municipality, as well as those portions of the area proposed for annexation which are located within 1,000 feet of a fire hydrant, are classified "6" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss.¹¹⁹ Other properties in the area proposed for annexation more distant from a fire hydrant have an ISO classification of "9".¹²⁰ Future plans of the Town to extend its water distribution system

¹¹⁷Between FY1990/91 and FY1994/95, the Town contributed \$143,513 for capital and operating purposes to the Smithfield VFD. (Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.) During that same period, Isle of Wight County contributed \$126,705 to support the capital and operating costs of the VFD. (Crook, letter to staff of Commission on Local Government, Dec. 19, 1996.)

¹¹⁸**Town Notice**, Tab "Urban Services," p. 19. During the calendar 1995 the Smithfield VFD responded to 115 calls originating from within the Town's current boundaries and 135 calls from the area proposed for annexation and other portions of the department's service area.

¹¹⁹Within the area proposed for annexation there are 27 fire hydrants connected to publicly-owned water lines. (Stephenson, letter to staff of Commission on Local Government, Jan. 3, 1997.)

¹²⁰Jerry D. Vance, Senior Field Representative, ISO Commercial Risk Services, Inc, letter to Kenneth L. McLawhon, Manager of the Town of Smithfield, Jan. 15, 1996. As stated in earlier sections of this report, following the effective date of the proposed agreement the Town will

within the area to be annexed and to make other improvements to that system, should result in an improved ISO classification for the affected properties and, in some cases, in reduced fire insurance premiums.

INTERESTS OF THE COUNTY OF ISLE OF WIGHT

The annexation proposed in the agreement negotiated by the Town of Smithfield and Isle of Wight County will result initially in a minimal reduction in County revenue. Although the proposed annexation will not affect the County's receipts from any of its property taxes, it will constrict initially its collections from some of its secondary revenue sources.¹²¹ Estimates developed by Smithfield indicate that the proposed annexation will result in a reduction in the County's receipts during the first year after annexation of approximately \$96,000 in general fund revenue, or only 0.4% of the County's total general fund receipts during FY1994/95.¹²² Further,

assume ownership and control of all water lines and appurtenances located in the area annexed. The ISO classification is based on a scale of "1" to "10" for comparison with other municipal fire protection systems and represents an indication of a system's ability to defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is no or minimal protection. Protection class "1" represents a fire protection system of extreme capability. The principal features used by ISO in grading a community's fire system are water supply, fire department, fire communications, and fire safety control. [John L. Bryan and Raymond C. Picard, Managing Fire Services (Washington, DC: International City Management Association, 1979), p. 102.]

¹²¹**Town Notice**, Tab "Impact on County," Table 1. These revenue sources include local sales and use taxes, consumer utility taxes, business license taxes, motor vehicle license taxes, bank franchise taxes, and cable franchise taxes, as well as non-categorical aid from the State from ABC profits, wine taxes, and rolling stock taxes.

¹²²**Ibid**; and **County Audit Report, Year Ended June 30, 1995**. The County estimates that initially it will lose approximately \$114,000 in total general fund revenues due to the proposed annexation. (Robinson, Farmer, Cox Associates, **County of Isle of Wight, Virginia, Projected Loss of Revenue Due to Proposed Boundary Adjustment by the Town of Smithfield, For the Five Fiscal Years Ending June 30, 1997-2001**, Feb. 22, 1996.) The

even that modest reduction in County revenues will be partially offset by the provision in the proposed agreement which calls for Smithfield to return to the County one-half of all the consumer utility taxes collected by the Town from within the area proposed for annexation for ten years following the effective date of the annexation.¹²³ Smithfield estimates that the reimbursement component will provide the County with approximately \$15,500 during the first year following the annexation. Thus, the proposed Town payment would reduce the County's initial annual net loss to \$80,500.¹²⁴ Moreover, since the Town will assume responsibility for providing certain municipal services (such as law enforcement, planning, and zoning regulation) to the annexed area and, consequently, reduce to some degree County expenditures, the net revenue loss experienced by Isle of Wight County should be diminished further.

In terms of the overall and long-term impact on the County, the annexation called for in the agreement will permit the Town to benefit from an immediate infusion of fiscal resources, will provide the municipality land for future development, and will, accordingly, increase the Town's ability to serve the general area. Smithfield's enhanced capability for the provision of public services can be a positive factor in supporting and properly managing desirable development in its environs and in strengthening the economy of the County generally.

Commission notes that the principal difference between the County's estimate and that of the Town is the amount of revenue that the County would lose from voluntary cash proffers due from the development that is scheduled to occur in the area proposed for annexation.

¹²³**Settlement Agreement**, Sec. 2.08. Under the terms of the proposed agreement, Smithfield is not required to share with the County the consumer utility tax revenue the Town will collect for enhanced emergency telephone service.

¹²⁴**Town Notice**, Tab "Impact on County," Table 1.

Another component of the proposed agreement of significance to the County is the provision by which the Town agrees not to initiate any subsequent annexation for a ten-year period following the effective date of the currently proposed boundary expansion. That provision can be beneficial in allowing the County, as well as Smithfield, an opportunity to become acclimated to the extension of the Town's boundaries and ensures time for deliberate adjustment to changing circumstances.

There are three other elements of the proposed agreement which are, from our perspective, in the interest of the County. First, the proposed agreement calls for the Town to adopt a form of conditional zoning which permits it to accept proffers, such as cash contributions, the dedication of property, and the construction of off-site public improvements from an applicant for rezoning. That component of the agreement also addresses the allocation to the two jurisdictions of the proffered conditions associated with any property rezoned in the annexed area.¹²⁵ Second, the agreement requires Smithfield to solicit comments from the County on all applications for rezonings, variances, and special use permits; proposed site plans; and amendments to the Town's comprehensive plan affecting property within the annexed areas. Finally, as noted previously, the agreement includes a component which commits the Town to transferring to the County all municipal sewerage which will be located beyond the boundaries of the enlarged Town. In sum, these various provisions are features of the agreement which are, in the Commission's judgment, in the best interest of Isle of Wight County.

¹²⁵ **Settlement Agreement**, Sec. 2.07. The settlement accord commits the Town to pay the County all cash contributions due from property that had been rezoned by the County prior to the effective date of the annexation. Following the proposed annexation, Smithfield will also pass on to the County that portion of any cash contributions proffered for educational purposes by applicants for the rezoning property in the annexed areas.

INTERESTS OF THE COMMONWEALTH

The principal interest of the State in the resolution of this and all other interlocal issues subject to the Commission's review is, in our view, the preservation and promotion of the viability of the affected local governments. This proposed agreement contains a number of provisions which are promotive of the viability of the two affected jurisdictions. As previous sections of this report have indicated, the annexation provision in the proposed settlement agreement will provide the Town of Smithfield with an opportunity to extend its boundaries and to increase its demographic and fiscal resources. The increased viability of the Town of Smithfield, which has historically played a significant role in northeastern Isle of Wight County with its utilities and other urban services, will enhance its capacity to serve the general area. Moreover, the inclusion of provisions in the agreement which call for cooperation between the parties in planning and development is founded upon recognition of the social and economic interdependence of the Town and County. These elements of the settlement agreement are clearly in the best interest of the Commonwealth.

FINDINGS AND RECOMMENDATIONS

In the preceding sections of this report the Commission has reviewed a proposed agreement negotiated by the Town of Smithfield and Isle of Wight County addressing the interests of the two jurisdictions. Based on that review, we find the agreement promotive of the viability of both jurisdictions and consistent with the best interests of the Commonwealth. Accordingly, we recommend the court's approval of the agreement as presented.

While this Commission finds the proposed settlement compatible with the standard prerequisite for our endorsement, we are compelled to offer additional comment relative to the agreement. We note that two prominent

residential subdivisions located adjacent to the northeastern boundary of Smithfield, Gatling Pointe and Gatling Pointe South, have been excluded from the area proposed for annexation. A policy of excluding communities of this nature, size, and location from annexation by adjacent towns which have supported their development is both injurious and inequitable to those municipalities. Communities, such as Gatling Pointe and Gatling Pointe South, should contemplate the appropriateness and fundamental equity of their incorporation into an adjacent municipality which has facilitated their development and whose future is affected by their proximity.

The Commission notes that the development of both Gatling Pointe and Gatling Pointe South was predicated upon the availability of public water and sewage treatment provided by the Town of Smithfield, and we also observe that the volunteer fire department, the rescue squad, and other public and private entities in that municipality serve those communities. The residents of those two residential developments should be prepared and expected to become contributing members of the municipality which made possible the establishment of communities which they currently enjoy. Again, the systematic exclusion of proximate neighborhoods of this nature from small municipalities, which have nurtured their development, is fundamentally inequitable to the municipal residents and businesses which have hithertofore sustained those jurisdictions.

With respect to this issue, it is also relevant to note that Isle of Wight County's current comprehensive plan designates various geographic segments of the County as "Development Service Districts" and defines those districts as areas which generally "have served and are expected to continue to serve as the principal residential, commercial, and employment centers of the County."¹²⁶ Both Gatling Pointe and Gatling Pointe South are included in the Northeast Development Service District which is adjacent to the

¹²⁶County Comprehensive Plan, pp. 2-7.

Town of Smithfield. The County's comprehensive plan describes these various service districts as follows:

These areas comprise the most suitable locations for future growth and development. Growth in and around these areas will prevent the outward sprawl of development into other County areas, and concentrate future residential growth in areas where residents can be economically provided with utilities, services, and employment.¹²⁷

In brief, these Development Service Districts will be areas of concentrated development giving them an urban nature requiring urban services and it is the proximity of the Town of Smithfield which makes possible the economical provision of utilities and other services.

Virtually the totality of the portion of the Northeast Development Service District adjacent to Smithfield, with the exception of the two specified residential communities, is due for annexation to the Town pursuant to the proposed agreement. This Commission finds nothing which distinguishes those two residential communities from the other properties in the Northeast Development Service District due to be annexed, nor any public policy basis for their exclusion. The future viability of Smithfield and ultimately the County in general suggests that these two residential developments should be made, sooner or later, integral elements of the Town.

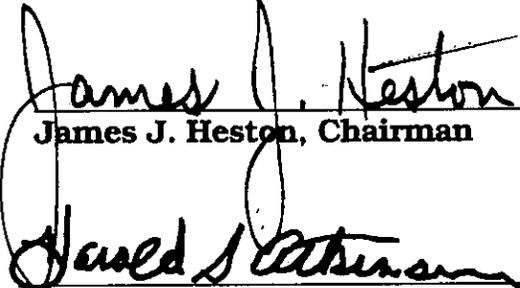
CONCLUDING COMMENT

The Commission on Local Government acknowledges the considerable effort devoted by officials of the Town of Smithfield and Isle of Wight County to the negotiation of the agreement before us. That agreement reflects a

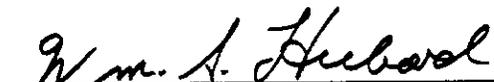
¹²⁷Ibid.

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. Moreover, the inclusion of provisions in the agreement which call for continued cooperation between the parties in the areas of utility operations, planning and land development control, and other endeavors is founded upon the recognition of the social and economic interdependence of the Town and County. We commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Respectfully submitted,


James J. Heston, Chairman


Harold S. Atkinson


William S. Hubbard


Frank Raflo

VOLUNTARY SETTLEMENT AGREEMENT

This AGREEMENT is made and entered into this 19th day of September, 1996, and executed in quintuplicate originals (each executed copy constituting an original) by and between the TOWN OF SMITHFIELD, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "Town"), and the COUNTY OF ISLE OF WIGHT, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County").

WHEREAS, the Town and the County have reached this Agreement, pursuant to Title 15.1, Chapter 26.1:1 of the Virginia Code, providing for the annexation of certain territory, the conveyance of certain water and sewer systems, and the joint advisory review of certain specified planning and zoning matters, and defining the County's immunity from annexation for ten (10) years from the effective date of annexation.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree with each other as follows:

SECTION 1.00 DEFINITIONS

The parties hereto agree that the following words, terms and abbreviations as used in this Agreement shall have the following defined meanings, unless the context clearly provides otherwise:

- 1.01 "Town" shall mean the Town of Smithfield, Virginia.
- 1.02 "Code" shall mean the Code of Virginia of 1950, as amended.
- 1.03 "Commission" shall mean the Commission on Local Government.
- 1.04 "County" shall mean the County of Isle of Wight, Virginia.

1.05 "Court" shall mean the Special Three-Judge Court appointed by the Supreme Court of Virginia pursuant to Title 15.1, Chapter 26.2, § 15.1-1168 of the Code.

1.06 "Section" or "subsection" refers to parts of this Agreement unless the context indicates that the reference is to parts of the Code.

SECTION 2.00 ANNEXATION TERMS AND CONDITIONS

2.01 Annexation Areas. The Town and County agree that the following areas (the "Annexation Areas") shall be annexed to the Town:

Area A - Southern Annexation Area: area south of the present Town boundary along Bypass 10, including the Waterford Oaks development and the area from the Smithfield Plaza Shopping Center on Route 10 to the intersection with Turner Drive, which contains approximately ____ acres.

Area B - Western Annexation Area: area west of the Town primarily north of Route 258, but extending a short distance south of Route 258 to the upper reaches of "Little Creek"; and,

Area C - Eastern Annexation Area: area around the Rising Star Community on Battery Park Road (Route 704).

2.02 Metes and Bounds and Survey of Annexation Areas. The Annexation Areas are fully described by metes and bounds in Exhibit No. 1 attached to this Agreement and are shown on a map attached to this Agreement as Exhibit No. 2. The Town shall cause the entire new boundary of the Town to be surveyed and shall provide the County with a copy of a map reflecting that survey. If the County does not object within a reasonable time, not to exceed 30 days, the map

reflecting the survey shall be submitted to the Court and shall be incorporated in the final order approving and implementing this Agreement.

2.03 Effective Date of Annexation. The annexation provided for in subsection 2.01 of this Agreement shall become effective at midnight on June 30, 1997. If the Court, pursuant to § 15.1-1167.1 of the Code, has not entered an order prior to June 30, 1997, approving and affirming this Agreement, then the annexation shall become effective at midnight on the 31st day of December or at midnight on the 30th day of June following the date of entry of such order, whichever date is earlier.

2.04 Extension of Municipal Services. The Town agrees that upon the effective date of the annexation provided for in subsection 2.02 of this Agreement, the Town will extend its general governmental services to the Annexation Areas (including, for example, police protection, solid waste collection, and subdivision and zoning controls) on the same basis and at the same level as such services are now or hereafter provided to the areas within its current corporate limits where like conditions exist.

2.05 Moratorium on Annexation. The Town covenants and agrees that it shall not (i) file any annexation notice against the County with the Commission or (ii) institute any court action or other proceeding for annexation against the County for a period of ten (10) years following the effective date of the annexation provided for in subsection 2.02 of this Agreement.

2.06 Water and Sewer Systems and Services.

(a) Upon the effective date of the annexation provided for by this Agreement, it is the intent of the Town and the County for the Town to own, operate and maintain all those public water and sewer lines and associated appurtenances located within the Town's new

corporate limits and for the County to own, operate and maintain those public water and sewer lines and associated appurtenances located outside the Town's new corporate limits which are currently connected to the Town's water and sewer systems.

(b) The Town represents that it owns all those public sewer lines and associated appurtenances (including, but not limited to, force mains, pump stations, and meters) located outside of the Town's current boundaries which are currently connected to the Town's sewage collection system. The County represents that those public water lines and associated appurtenances (including, but not limited to, fire hydrants and meters) located in the Annexation Areas and currently connected to the Town's distribution system are currently owned by the County, the Isle of Wight Public Service Authority, or the School Board of Isle of Wight County. The general location of such Town-owned and County-owned lines are shown on a map attached hereto as Exhibit 3.

(c) The County covenants and agrees to acquire fee simple interest in all said water lines and associated appurtenances in the Annexation Areas from the Isle Of Wight Public Service Authority and the School Board of Isle of Wight County prior to final Court approval pursuant to Section 4.00 of this Agreement. The Town and the County covenant and agree to convey fee simple interest in all water and sewer lines and associated appurtenances, and to transfer all land, rights of way or easements associated with such lines and systems, as of the effective date of the annexation provided for in subsection 2.02 of this Agreement.

(d) The Town and the County further covenant and agree that the existing Utilities Agreement between the Town and the County, dated March 1, 1988, will be null and void as of the effective date of the annexation provided for in subsection 2.02 of this Agreement.

(e) The Town and the County further covenant and agree to begin immediate negotiations on a new utilities agreement upon execution of this Agreement.

2.07 Planning and Zoning.

(a) The Town covenants and agrees to adopt conditional zoning, as provided for in Section 15.1-491.1 et seq. of the Code, including the acceptance of voluntary cash proffers, no later than the effective date of the annexation as provided for in Section 2.02 of this Agreement. The Town further covenants and agrees to pass through to the County all cash proffers heretofore made a part of conditional zoning within the Annexation Areas. The Town further covenants and agrees to pass through to the County a sum equal to that percentage of all future proffers made a part of conditional zoning within the Annexation Areas which matches that portion of the said proffers attributable to education as determined by the study of Tischler & Associates, Inc. (dated December, 1993 and prepared for the County), or any future study by Tischler & Associates or other consultant.

(b) The Town covenants and agrees to joint advisory review with the County of all rezoning applications, variance applications, special use permit applications, proposed site plans, and proposed amendments to the Town's comprehensive plan for property located within the Annexation Areas.

(c) The County covenants and agrees to joint advisory review with the Town of all rezoning applications, variance applications, special use permit applications, proposed site plans, and proposed amendments to the County's comprehensive plan for property located within a one mile radius outside the Town's new corporate limits as shown on the map attached hereto as Exhibit 4.

(d) The Town and the County agree that each jurisdiction shall notify the other within 5 business days of the filing or submission of any such application, plan or amendment, and that the jurisdiction so notified will provide comments, if any, no less than 5 business days before public hearings of the Planning Commission and the respective governing body and before final action is to be taken to approve or disapprove of such application, plan or amendment.

2.08 Revenue Sharing. The Town agrees to pay to the County one-half of all the consumer utility taxes provided for by Article 4, Chapter 38 of Title 58.1 of the Code of Virginia (except for any taxes collected for enhanced emergency telephone service) collected by the Town from consumers located within the Annexation Areas for ten (10) years following the effective date of the annexation provided for in subsection 2.02 of this Agreement. The Town agrees to make monthly payments to the County for its share of such taxes no more than fifteen (15) days after the Town receives the taxes from the various utility companies which collect the revenues.

SECTION 3.00 COMMISSION APPROVAL

3.01 The Town and the County agree to initiate the steps necessary and required by Title 15.1, Chapter 26.1:1 of the Code (in particular § 15.1-1167.1, paragraphs 3, 4, 5 and 6 of the Code) and Title 15.1, Chapter 19.1 of the Code (§ 15.1-945.1 et seq.) to obtain a review of this Agreement by the Commission.

SECTION 4.00 COURT APPROVAL

4.01 Following the issuance of the report of findings and recommendations by the Commission, the Town and the County agree that, regardless of the Commission's

recommendations, they will submit this Agreement in its present form to the Court for approval, as required by Title 15.1, Chapter 26.1:1 of the Code (in particular § 15.1-1167.1, paragraphs 3, 4, 5 and 6 of the Code), unless both parties agree to any change in this Agreement as hereinafter provided.

SECTION 5.00 REQUIREMENTS OF APPROVAL

5.01 The Town and County agree that if this Agreement is not affirmed without modification by the Court, this Agreement shall immediately terminate. However, the parties may waive termination by mutually agreeing to any recommended modifications.

SECTION 6.00 MISCELLANEOUS PROVISIONS

6.01 This Agreement shall be binding upon and inure to the benefit of the Town and the County, and each of the future governing bodies of the Town and the County, and upon any successor to either the Town or the County.

6.02 This Agreement may be amended, modified or supplemented, in whole or in part, by mutual consent of the Town and the County, by a written document of equal formality and dignity, duly executed by the authorized representative of the Town and the County.

6.03 This Agreement shall be enforceable only by the Court affirming and giving full force and effect to this Agreement or by any successor Court appointed pursuant to Title 15.1, Chapter 26.2, § 15.1-1168 of the Code, pursuant to an action, at law or in equity, initiated by either or both parties hereto to secure the performance of the covenants, conditions or terms herein contained or any order affirming and giving full force and effect to this Agreement.

WITNESS the following signatures and seals:

TOWN OF SMITHFIELD, VIRGINIA, a municipal corporation of
the Commonwealth of Virginia

By: *James F. Chapman*
Mayor

ATTEST:

Thomas S. Pittman
Clerk

COUNTY OF ISLE OF WIGHT, VIRGINIA, a political subdivision
of the Commonwealth of Virginia

By: *[Signature]*
Chairman

ATTEST:

W. Douglas Carter
Clerk

City/County of *Isle of Wight*
Commonwealth/State of *Virginia*
I hereby certify that the attached document is a true and exact
copy of a *Renewal Agreement* presented
before me this *16th* day of *October*, 19 *46*
Thomas S. Pittman, Notary Public
My commission expires *6-30-58*, 19 *48*

APPENDIX B

**STATISTICAL PROFILE OF THE TOWN OF SMITHFIELD,
THE COUNTY OF ISLE OF WIGHT, AND
THE AREA PROPOSED FOR ANNEXATION**

	<u>Town of Smithfield</u>	<u>County of Isle of Wight</u>	<u>Area Proposed for Annexation</u>
Population (1995)	5,315	27,600	352
Land Area (Square Miles)	6.13	319.0	3.89
Total Assessed Values (FY1995)	\$306,183,976	\$1,969,640,267	\$23,830,000
Real Estate Values*	\$228,194,750	\$1,311,297,931	\$21,873,100
Mobile Homes Values	N/A	\$18,955,585	N/A
Public Service Corporation Values	\$11,657,683	\$79,109,581	\$0
Personal Property Values	\$21,027,489	\$108,444,349	\$1,283,800
Boats Values	\$494,630	N/A	\$0
Machinery and Tools Values	\$44,809,424	\$451,832,821	\$0
Business Personal Property Values	N/A	N/A	\$673,100
Existing Land Use (Acres)			
Residential	993.7	N/A	138.9
Commercial	117.3	N/A	21.0
Industrial	129.9	N/A	64.9
Public and Semi-Public	104.3	N/A	32.3
Transportation	339.1	N/A	55.9
Agricultural, Wooded, or Vacant	2,240.7	N/A	2,171.4

NOTES:

* = Real Estate Values for the Town of Smithfield and the Area Proposed for Annexation include Mobile Homes Values.

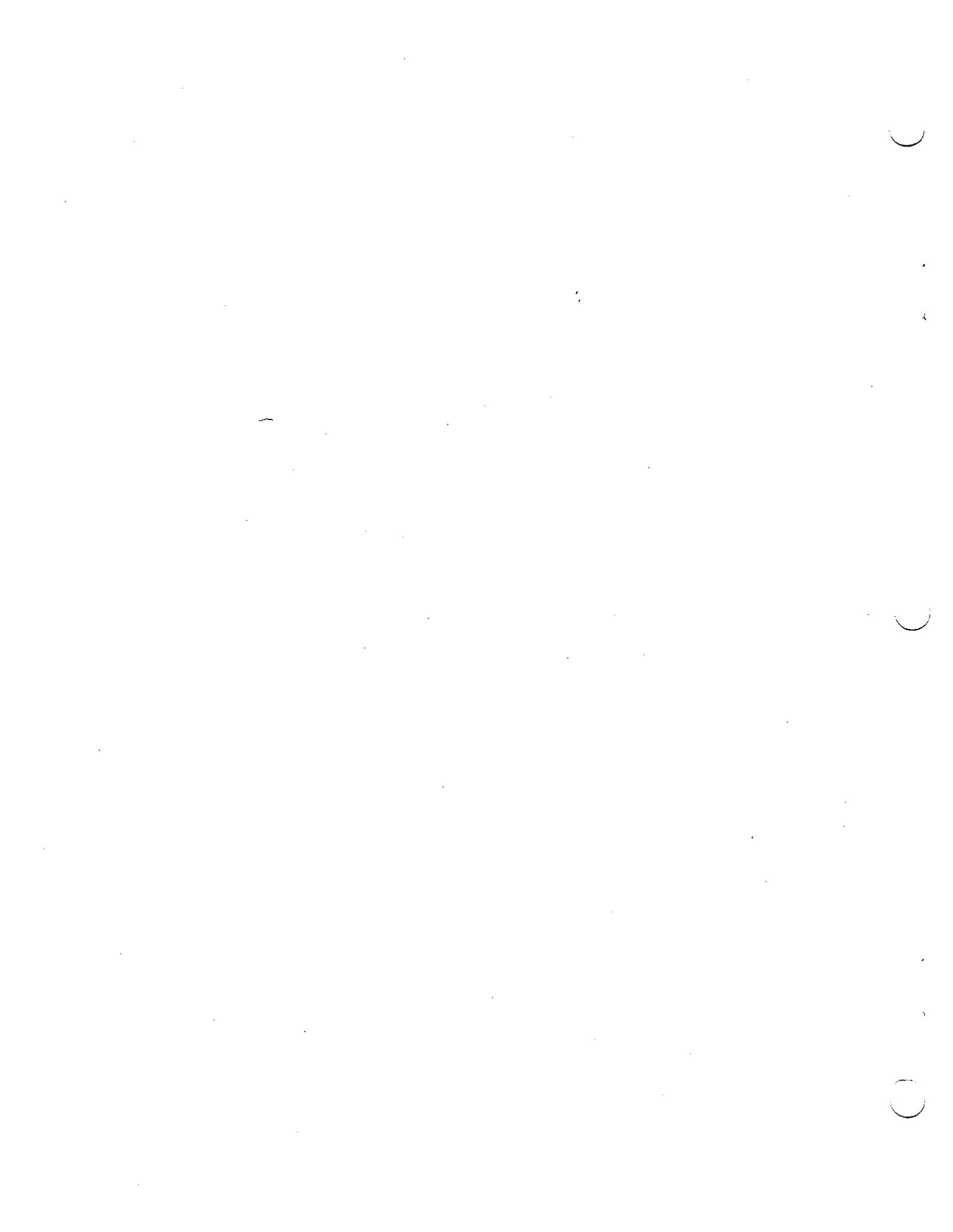
N/A = Not Available

Population Data for the County are Provisional Estimates.

SOURCES:

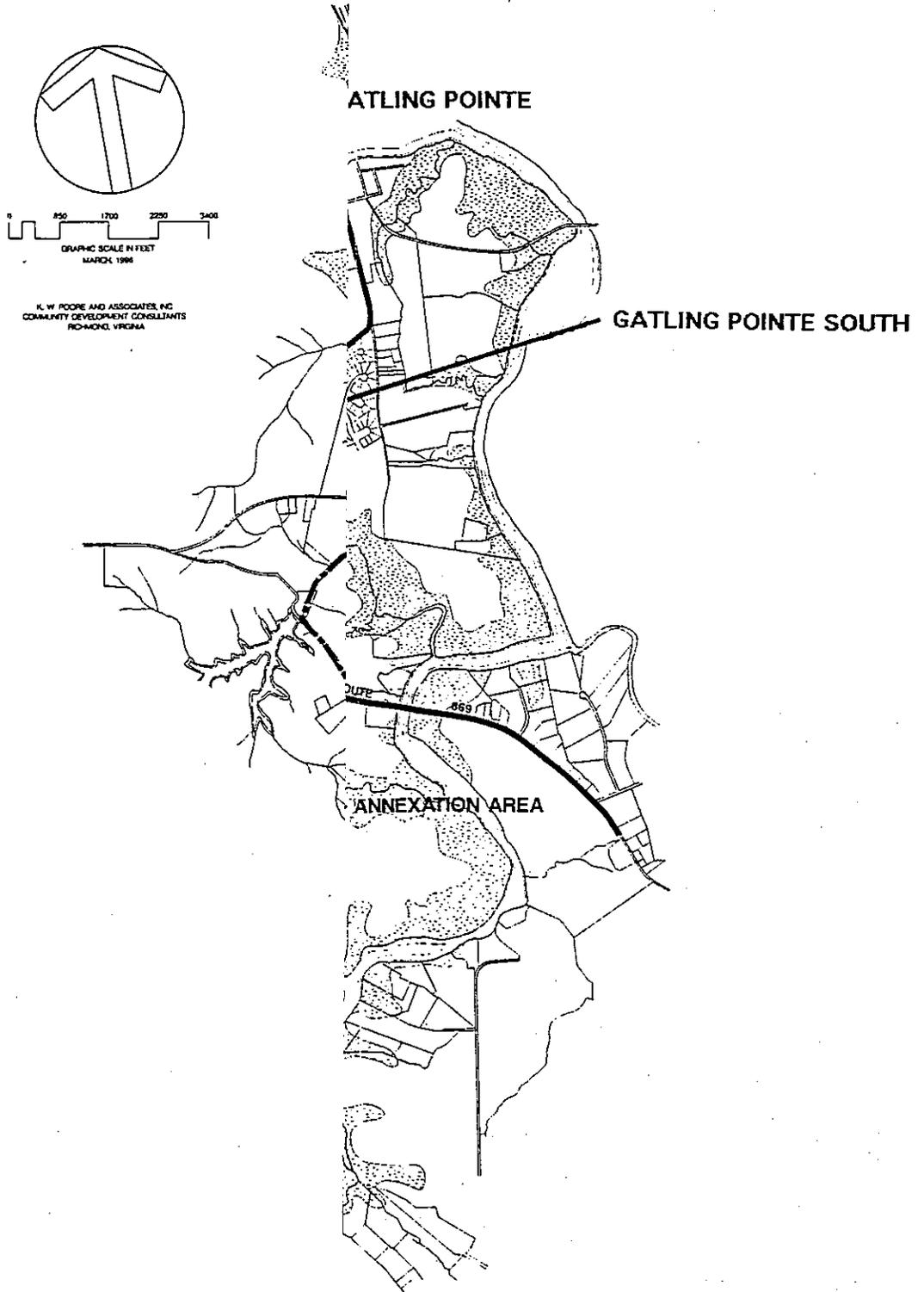
Town of Smithfield, Notice by the Town of Smithfield of its Intent to Petition for Approval of a Voluntary Settlement Agreement and Supporting Data.

Julia H. Martin and Donna J. Tolson, Virginia's Population: 1995 Estimates
(Charlottesville: Weldon Cooper Center for Public Service, University of Virginia, June 1996).



TOWN OF SMI

APPENDIX C



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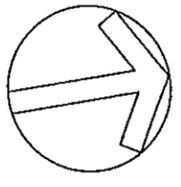
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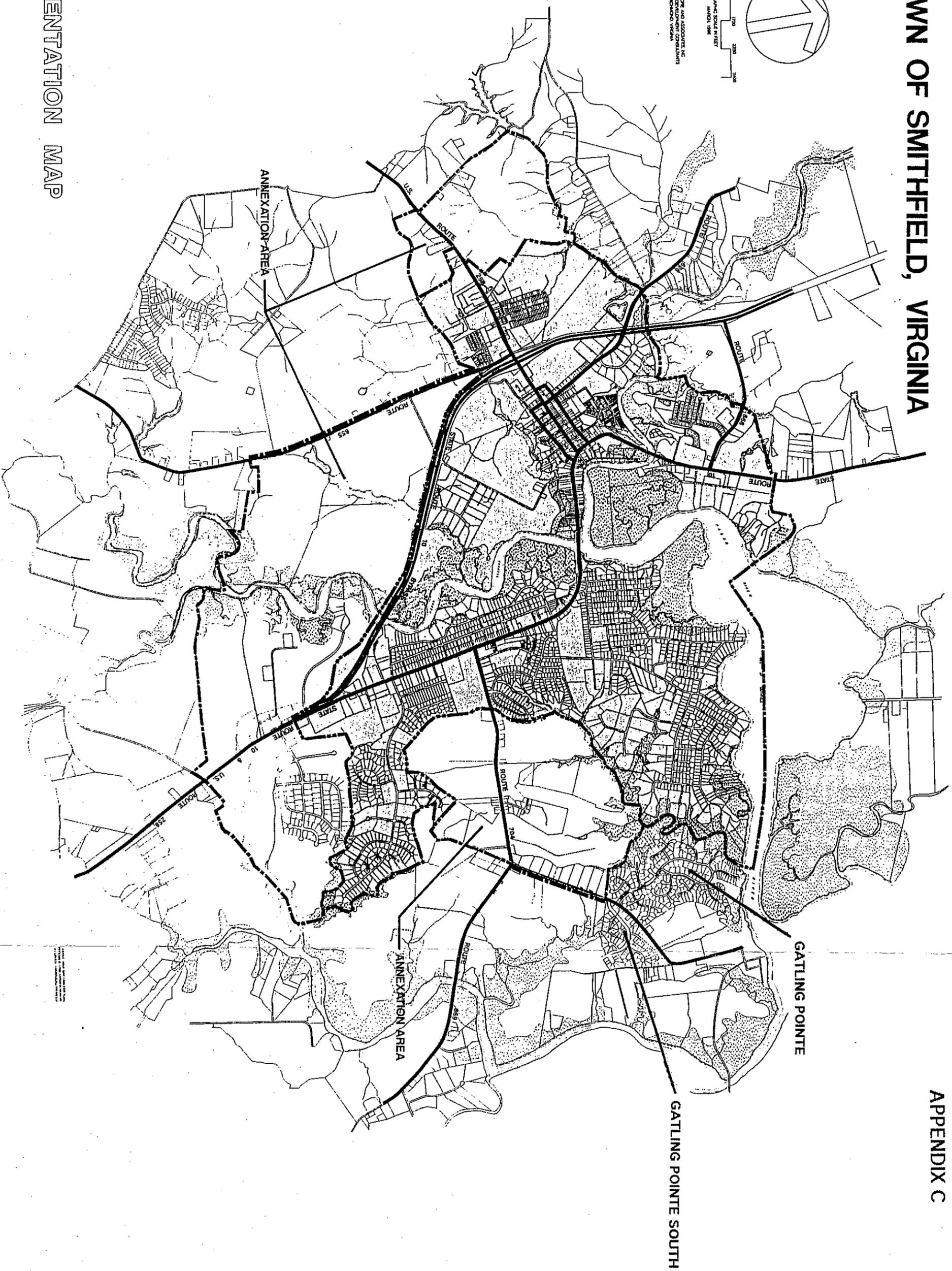
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TOWN OF SMITHFIELD, VIRGINIA

APPENDIX C



L. W. ROYER AND ASSOCIATES, INC.
CONSULTANT DEVELOPMENT CONSULTANTS
ROANOKE, VIRGINIA



ORIENTATION MAP

Scale: 1" = 1000'