

**Report on the
Town of Big Stone Gap - County of Wise
Annexation Action**



**Commission on Local Government
Commonwealth of Virginia**

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**REPORT ON THE
TOWN OF BIG STONE GAP - COUNTY OF WISE
ANNEXATION ACTION**

PROCEEDINGS OF THE COMMISSION

On November 13, 2001 the Town of Big Stone Gap filed notice with the Commission on Local Government, pursuant to the provisions of Section 15.2-2907 of the Code of Virginia, of its intention to petition the court for the annexation of approximately 2.34 square miles of territory in Wise County. Consistent with the Commission's Rules of Procedure, the Town's notice was accompanied by data supporting the annexation action.¹ Further, in accordance with statutory requirements, the Town concurrently gave notice of its proposed annexation to the County and 16 other localities with which it was contiguous or with which it shared functions, revenues, or tax sources.² In conjunction with its initiation of the annexation issue, the Town Council indicated that it would "continue to work toward an amicable resolution of [the] matter with the appropriate officials of Wise County."³

On November 14, 2001 the Commission met in Richmond for purposes of making preliminary arrangements for its formal review of the Town's annexation action and for offering mediation assistance to the parties in an endeavor to effect a negotiated settlement. At that meeting the Commission established a schedule which called for the submission of the County's material in response to the annexation action by March 22, 2002,

¹Town of Big Stone Gap, **Notice by the Town of Big Stone Gap of Its Intent to Petition for Annexation of Territory in Wise County and Supporting Data** (hereinafter cited as **Town Notice**).

²Sec. 15.2-2907, Code of Va.

³See the resolution adopted by the Town Council to initiate the annexation proceedings in **Town Notice**.

for oral presentations and a public hearing on the issue on April 22-23 2002, and for submission of the Commission's report by June 15, 2002.⁴

Consistent with its previously adopted schedule, the Commission toured relevant areas and facilities in the Town of Big Stone Gap and Wise County and received oral testimony from the parties on the annexation issue on April 22-23, 2002. In addition, the Commission solicited comment for other potentially affected political subdivisions and from the public. Each locality receiving notice of Big Stone Gap's annexation action was invited by the Commission to submit testimony for its consideration. Further, the Commission held a public hearing, which was advertised in accordance with the requirements of Section 15.2-2907 of the Code of Virginia, on the evening of April 22, 2002 at the Powell Valley High School. The public hearing was attended by approximately 300 persons and produced testimony from 36 individuals. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions from the public through May 6, 2002.⁵

SCOPE OF REVIEW

The Commission on Local Government is directed by statute to review proposed annexations and other local boundary change issues prior to their being presented to the courts for ultimate disposition. Upon receipt of notice of such a proposed action, the Commission is directed to "hold hearings, make investigations, analyze local needs" and to submit a report

⁴The report date was extended by agreement of the Town and County to August 15, 2002.

⁵Because of illness, Commissioner Heston did not participate in the Commission's review of the proposed agreement and, consequently, is not a signatory to this report.

containing findings of fact and recommendations to the affected local governments.⁶ The Commission's report on each proposed action must be based upon, as required by Section 15.2-2907 of the Code of Virginia, "the criteria and standards established by law" for consideration in such actions.

The criteria and standards prescribed for consideration in annexation issues are set forth in Chapter 32 of Title 15.2 of the Code of Virginia, principally in Section 15.2-3209. That statute directs the annexation court, and thus the Commission, to determine "the necessity for and expediency of annexation." As a guide in determining such "necessity and expediency," Section 15.2-3209 requires the reviewing entity to consider "the best interests of the people of the county and the [annexing municipality], services to be rendered and needs of the people of the area proposed to be annexed, the best interests of the people in the remaining portion of the county, and the best interests of the State in promoting strong and viable units of government." That statute also specifies a number of fiscal concerns, public service functions, community of interest factors, and State policies which are to be evaluated in considering the best interests of the parties and the State. Since municipalities are precluded by law from initiating annexation actions more than once in any ten-year period, the analysis of each proposed action must involve not only an appraisal of current circumstances, but also a reasonable projection of relevant conditions and concerns.

The analysis and recommendations which follow in this report are based upon the Commission's collective experience in local government administration and operations. It is the intention of the Commission to leave questions of law for appropriate resolution elsewhere. The Commission trusts that this report will be of assistance to the parties, the

⁶Sec. 15.2-2907, Code of Va.

court, the citizens of the area, and the Commonwealth generally in effecting an appropriate disposition of this annexation issue.

GENERAL CHARACTERISTICS OF THE TOWN, THE COUNTY AND THE AREA PROPOSED FOR ANNEXATION

TOWN OF BIG STONE GAP

The Town of Big Stone Gap was founded during the early 1800s and was incorporated as a town by the General Assembly in 1891.⁷ Located in the southwestern portion of Wise County, Big Stone Gap is the largest town in the County and is a retail trade and service center for its general area. Big Stone Gap, whose last major boundary expansion occurred in 1977, gained population during the previous decade, experiencing an increase in its population of 24.4% between 1990 and 2000.⁸ As of 2000 the Town of Big Stone Gap had a population of 5,906 persons and an area of 5.1 square

⁷Virginia Municipal League, **Virginia Date Book, Incorporation and Formation of Cities, Towns, and Counties**, p. 10. The Town was initially incorporated as Mineral City in 1882, but its name was changed to Big Stone Gap in 1888 prior to being granted a charter by the General Assembly.

⁸U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2; and **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Big Stone Gap town, Virginia**, Table DP-1. Due to a reporting error, the 2000 population of the Town was subsequently revised upward. [U. S. Department of Commerce, Bureau of the Census, "Corrected Census 2000 Total Population, Group Quarters Population, Total Housing Units, and Vacant Housing Unit County for Governmental Units, Virginia," March 15, 2002 (Available: http://www.ccps.virginia.edu/Demographics/2000_Census/CCPS_tables/Corrected_Co_unts.xls.)] The 1977 annexation increased the size of Big Stone Gap by 1.6 square miles and added approximately 119 persons to the Town's population. (**Town Notice**, Tab "Existing Conditions," p. 1.) The Commission notes, however, that in 1984 and again in 1990 the Town annexed by agreement with Wise County. Those boundary adjustments collectively resulted in the addition of approximately 48 acres and no population to the Town.

miles, giving the municipality a population density of 1,158 persons per square mile.⁹

It is significant to note that the growth in the Town's population during the decade of the 1990s would have been less significant if there had not been for the location of the Wallens Ridge State correctional facility in Big Stone Gap. Between 1990 and 2000 the number of incarcerated persons in Big Stone Gap increased from 0 to 1,021, while the other segment of the Town's population grew from 4,748 to 4,885 persons, or by only 2.9%.¹⁰

In terms of the nature of its population, the evidence reveals that the Town's populace is somewhat older and less affluent than that of the State as a whole. Data indicate that, as of 2000, the median age of Big Stone Gap's residents was 39.8 years, a statistic above that for the State overall (35.7 years).¹¹ Further, the percentage of the Town's 2000 population age 65 and over was 17.9%, or significantly in excess of the comparable figure for the

⁹**Town Notice**, Tab "Existing Conditions," Table B2b, p. 9. The Town's 2000 population represented 14.0% of Wise County's total population as of that date. See **Appendix A** for a statistical profile of the Town, the County, and the area proposed for annexation. See **Appendix B** for a map of the Town and the area proposed for annexation.

¹⁰**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 6 (Available: http://factfinder.census.gov/servlet/DTable?_ts=41436094223); and John T. Britton, Virginia Department of Corrections, communication with staff of COLG, Mar. 13, 2002.

¹¹**2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Big Stone Gap town, Virginia**, Table DP-1; and **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Virginia**, Table DP-1. Socio-economic data concerning Town residents do not reflect the revised 2000 Census count.

State generally (11.2%).¹² In terms of personal earnings, the data reveal that, as of 1999 (the latest year for which such data are available), the median family income in Big Stone Gap was \$34,306, or only 63.3% of the statistic for the Commonwealth as a whole (\$54,169).¹³

With respect to the Town's present physical development, 2000 land use data reveal that 21.0% of Big Stone Gap's total area is devoted to residential development, 3.2% to commercial enterprise, 1.4% to industrial activity, 11.7% to public or semi-public uses, 9.9% to transportation purposes, with 50.8% (1,645 acres) remaining undeveloped.¹⁴ Of this undeveloped land, however, 1,317 acres are situated on slopes greater than 18% or located within the 100-year floodplain. Exclusive of this land affected by environmental constraints, Big Stone Gap retains approximately 328 acres, or 10.1% of its total land area, vacant and suitable for development.¹⁵

In regard to Big Stone Gap's regional significance, it should be noted that the Town constitutes a major center of economic activity in Wise County. Due to its various public and commercial facilities, the Town provides significant employment opportunities within its boundaries. In 1997 (the most recent year for which data are available) the Town contained

¹²**Ibid.**

¹³**Ibid.**

¹⁴**Town Notice**, Tab "Existing Conditions," Table B2b, p. 9. In addition, 2.0% of the Town's total land area is comprised of streams and rivers.

¹⁵**Ibid.**, Tab "Vacant Land Analysis," Table C1, p. 3.

25.1% of the County's retail businesses and 26.5% of its service industries.¹⁶ Further, in 2001 the eight major employers located within the Town had approximately 1,170 positions, or almost 9% of the County's total nonagricultural wage and salary employment.¹⁷ Moreover, Big Stone Gap is also a source of urban services to a significant percentage of the County's population.

COUNTY OF WISE

Wise County was established by the General Assembly in 1856 from territory formerly part of Lee, Scott, and Russell Counties.¹⁸ Wise County experienced growth in its population during the decade of the 1990s, with

¹⁶U. S. Department of Commerce, Bureau of the Census, **1997 Economic Census, Retail Trade, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Health Care and Social Assistance, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Real Estate and Rental and Leasing, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Accommodation and Food Services, Geographic Area Series, Virginia**, Tables 3, 4; and **1997 Economic Census, Other Services (Except Public Administration), Geographic Area Series, Virginia**, Tables 3, 4. The Census Bureau defines retail trade as those establishments engaged in selling merchandise for personal and household consumption or to business and institutional clients as well as in rendering services to the sale of those goods.

¹⁷Carter Glass, IV, Special Counsel, Town of Wise, letter to staff of Commission on Local Government, Feb. 22, 2002; and Susan B. McIver, Economist Supervisor, Virginia Employment Commission, communication with staff of Commission on Local Government, May 20, 2002. The most recent annualized employment data available for Wise County is for the 2000 calendar year.

¹⁸Emily J. Salmon and Edward D. C. Campbell, Jr., eds, **The Hornbook of Virginia History**, (Richmond: The Library of Virginia, 1994), p. 171.

its populace increasing from 39,573 to 42,209 persons, or by 6.7%.¹⁹ On the basis of its revised 2000 population and an area of 404 square miles, Wise County has an overall population density of 104 persons per square mile.²⁰

As in the case of the Town, the population growth experienced by the County between 1990 and 2000 was largely due to the increase in the number of persons incarcerated in correctional institutions.²¹ During that decade, the number of prisoners living in such facilities located in the County increased from 46 to 2,045, or by more than 4,300%, while the remaining segment of the County's population increased by only 1.6%.²²

191990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 2; and **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Wise County, Virginia**, Table DP-1. As in the case of Big Stone Gap, the 2000 population statistic for the County reflects an upward adjustment made by the Census Bureau to the initially reported data. In addition to Big Stone Gap, there are four other incorporated towns (Appalachia, Coeburn, Pound, and Wise) and a portion of a fifth (St. Paul) in the County. The 2000 population of persons residing in the County's incorporated towns was 14,869. Between 1990 and 2000 the population of the unincorporated portion of Wise County increased by 6.6%.

²⁰U. S. Department of Commerce, Bureau of the Census, "Population Density For Virginia's Counties And Cities, 2000." (Available: http://www.ccps.virginia.edu/demographics/2000_Census/CCPS_tables/cdensity.xls.) Exclusive of the land area of the six incorporated towns and the population residing therein, the County's 2000 population density was 68 persons per square mile.

²¹In addition to the Wallens Ridge prison, the State's Red Onion correctional facility is located in Wise County.

²²U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Type of Group Quarters for All Persons Living in Group Quarters, Wise County, Virginia**, Table P40 (Available: http://www.ccps.virginia.edu/demographics/1990_Census/Tables_31-45/P040_Group_Quarters.xls); and Britton, communication with staff of COLG, Mar. 13, 2002.

With respect to the nature of its population, statistical indices disclose that the County's populace, like that of Big Stone Gap, is older and less affluent than that of the Commonwealth overall. As of 2000, the median age of residents of Wise County was 37.8 years, a figure less than that of the Town (39.8 years), but somewhat in excess of that of the State as a whole (35.7 years.)²³ Further, the data indicate that, as of 2000, 13.9% of the County's population was age 65 or over, a statistic less than that for Big Stone Gap (17.9%), but greater than the comparable statistic for the Commonwealth generally (11.2%).²⁴ In terms of earnings, the median family income for County residents in 1999 (the latest year for which such data are available) was \$32,898, less than that for Big Stone Gap (\$34,306) and only 60.7% of the comparable figure for the Commonwealth overall (\$54,169).²⁵

Unlike many of Virginia's counties, agricultural operations do not represent a major component of Wise County's economic base. In 1997 (the most recent year for which data are available) the average market value of agricultural products sold by a Wise County farm was \$9,228, a figure only

232000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Wise County, Virginia, Table DP-1; and 2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Virginia, Table DP-1. Socio-economic data concerning County residents do not reflect the revised 2000 Census count. Further, unless otherwise noted, all statistics cited for Wise County include those persons residing in the Towns of Appalachia, Big Stone Gap, Coeburn, Pound, Wise, and that portion of the Town of St. Paul which lies within the County.

24Ibid.

25Ibid.

16.2% of that for the State as a whole (\$57,027).²⁶ Further, slightly less than half (48.9%) of the farm operators in the County were employed for 200 days or more in nonfarm-related activities.²⁷ Moreover, 1992 data (the most recent available) disclosed that 178,114 acres (approximately 278 square miles) in Wise County continued to be classified as “timberland.”²⁸

The economy of Wise County is dependent to a large degree on the coal mining industry. In 2000 Wise County ranked first among Virginia's coal-producing counties in terms of tonnage of coal mined, with almost 44% of the coal produced in the Commonwealth emanating from the County.²⁹ Other nonagricultural commercial and industrial activities in Wise County also constitute an important part of the County's economic base. Statistics indicate that in 2000, there were 13,290 nonagricultural wage and salary positions within Wise County, with the retail trade and service industry

²⁶U. S. Department of Agriculture, National Agricultural Statistics Service, **1997 Census of Agriculture, Highlights of Agriculture, Wise County Virginia** (Available: <http://nass.usda.gov/census/census97/highlights/va/vac093.txt>); and **1997 Census of Agriculture, Highlights of Agriculture, Virginia** (Available: <http://nass.usda.gov/census/census97/highlights/va/vast.txt>).

²⁷**1997 Census of Agriculture, Highlights of Agriculture, Wise County Virginia.**

²⁸U. S. Department of Agriculture, Forest Service, **Forest Statistics for the Southern Mountains of Virginia, 1992**, Table 1, p. 14. In 1992, approximately 67 square miles of County territory were located in the Jefferson National Forest. (*Ibid.*, Table 2, p. 15.) 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 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.”

²⁹Virginia Center for Coal and Energy Research, **Virginia Coal 2000**. In 2000, there were 109 surface and underground coal mines located in Wise County which employed approximately 1,900 persons.

sectors employing 2,707 persons and 2,427 persons, respectively.³⁰ Most of the employment opportunities in Wise County, other than those in the mining sector, are concentrated within the boundaries of the County's incorporated towns. In sum, while Wise County has experienced population growth during the past decade, the County remains predominately rural with development generally confined to its incorporated communities and adjacent areas.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation by the Town of Big Stone Gap embraces five tracts – the Cadet tract, situated north of Big Stone Gap's present corporate limits; the Western tract, located west of the Town's municipal boundary and extending along U. S. Route 58 Alternate; Artesian Well Hollow, situated south of Big Stone Gap adjacent to U. S. Route 23 and containing the intersection of that major thoroughfare and U. S. Route 58 Alternate; the Beamantown tract, located east of the Town and also including a portion of U. S. Route 23; and the Southern parcel northeast of Big Stone Gap and constituting the largest segment of the area proposed for annexation.³¹ Those parcels collectively embrace 2.34 square miles of territory containing a 2002 estimated population of 1,537 persons and 2000 assessed property values of \$33.8 million.³² Those figures reveal that the

³⁰McIver, communication with staff of Commission on Local Government, May 20, 2002. Between 1990 and 2000 the number of retail and service sector employment positions in the County increased by 9.2% and 15.2%, respectively. Further, the presence of two prisons in the County was principally responsible for the 56.9% increase in State government employment during the decade of the 1990s.

³¹**Town Notice**, Tab "Existing Conditions," pp. 5-7.

³²**Town Notice**, Tab "Existing Conditions," Tables B2c - B2h, and Tab "Impact of Annexation," Table F10; and Town of Big Stone Gap, **Town of Big Stone Gap's Rebuttal Exhibits for the April 2002 Hearing Before the**

area proposed for annexation encompassed 0.6% of Wise County's total land area, 3.6% of its total 2000 Census population, and 2.4% of its FY1999/00 total assessed real estate and personal property public service corporation values.³³ Based on its area and the 2002 population estimate, the area proposed for annexation has a population density of 657 persons per square mile, or more than nine times that of the unincorporated portion of Wise County generally (68 persons per square mile).

The area proposed for annexation is traversed by two major arterial roadways - U. S. Routes 23 and 58 Alternate, that are major thoroughfares serving Southwestern Virginia. With respect to current development, the area contains several residential concentrations, a modest amount of scattered commercial activity, the Mountain Empire Community College, and the County's Powell Valley Primary, Middle and High Schools.³⁴ A majority of the territory is presently served by utility lines owned by the Town of Big Stone Gap. According to recent land use data, 19.8% of the area is devoted to residential development, 3.7% to commercial enterprise, 16.6 % to public and semi-public uses, with 49.9% (747 acres) remaining vacant, wooded, or engaged in agricultural purposes.³⁵ Data presented by the Town concerning the condition of this vacant land indicated that

Commission on Local Government (hereinafter cited as **Town Rebuttal Exhibits**), Exh. 7.

³³Larry D. Sturgill, P. C., **County of Wise, Virginia, Audit Report, June 30, 2000** (hereinafter cited as **County 2000 Audit Report**), Schedule 11. Data for Wise County include the assessed value of real estate, personal property, and public service corporation real estate and personal property.

³⁴**Town Notice**, Tab "Existing Conditions," pp. 5-7, and Tab "Community of Interest," Exh. E-1.

³⁵**Town Notice**, Tab "Existing Conditions," Table B2c. Approximately 0.1% of the land in the area proposed for annexation is devoted to industrial activity and 9.9% is located in road and railroad rights-of-way.

approximately 385 acres, or 51.5% of the total vacant land, are affected by environmental restrictions such as steep slopes or location in the floodplain. Thus, approximately 362 acres in the area proposed for annexation is vacant and generally suited for development.³⁶ In sum, although the area proposed for annexation contains a considerable amount of vacant land, it does contain several focal points of current and future development.³⁷

STANDARDS AND FACTORS FOR ANNEXATION

As noted previously, the Code of Virginia directs this Commission, and ultimately the court, to consider in each annexation issue the best interest of the municipality, the area proposed for annexation, the remaining portion of the county, and, in addition, the best interests of the Commonwealth in promoting strong and viable units of government. Further, the annexation statutes prescribe a series of factors for consideration in the evaluation of the best interests of each of the parties. The following sections of this report offer the Commission's analysis of these various considerations.

NEED OF THE TOWN TO EXPAND TAX RESOURCES

While the Town of Big Stone Gap remains an economically viable municipality which provides public services beyond its current boundaries, there are data to suggest that the Town does have a need to strengthen its fiscal base. Since the annexation law in Virginia essentially precludes a town from initiating an annexation action more than once a decade, an analysis of Big Stone Gap's need to expand its tax resources must include consideration

³⁶Glass, letter to staff of Commission on Local Government, Feb. 22, 2002.

³⁷The Commission notes that U. S. Routes 23 and 58 Alternate, as well as the proposed bypass of the latter thoroughfare, transit the area proposed for annexation. Further, major portions of both highways are served by Town water and sewer lines.

of not only current circumstances, but also prospective conditions.³⁸ In our judgment, both current circumstances and prospective conditions indicate a need for Big Stone Gap to increase its tax resources.

The data reveal that in recent years Big Stone Gap has not experienced growth in its real property tax base commensurate with that of Wise County generally. Based upon assessment at 100% of fair market value, real property values (exclusive of those of public service corporations) in Big Stone Gap increased from \$99.4 million in FY1990/91 to \$116.9 million in FY2000/01, or by only 17.6%.³⁹ During the same period, such values in Wise County increased from \$778.5 million to \$1,021.3 million, or by 31.2%.⁴⁰ In terms of the assessed value of real property per capita, a more divergent growth pattern is evident. The data reveal that between FY1990/91 and FY2000/01 the per capita assessed value of real property in the Town decreased from \$20,941 to \$19,790, or by 5.5%. In Wise County as a whole during that same period, such values increased from \$19,674 to \$24,197, or by 23.0%.⁴¹ As of 2001, the per capita value of real property in Big Stone Gap was only 81.8% of that in Wise County overall.

³⁸Sec. 15.2-3217, Code of Va. Even in instances where an annexation is totally denied, the ten-year moratorium on future town-initiated annexations would apply. A county, however, can waive the moratorium by agreement.

³⁹Thrower and Thrower, P. C., **Town of Big Stone Gap, Virginia, Comprehensive Annual Financial Report, Year Ended June 30, 1997** (hereinafter cited as **Town 1997 Financial Report**), Schedule 5; and Thrower, Livesay and Blanton, P. C., **Town of Big Stone Gap, Virginia, Comprehensive Annual Financial Report, Year Ended June 30, 2001** (hereinafter cited as **Town 2001 Financial Report**), Schedule 5.

⁴⁰**County 2000 Audit Report**, Schedule 11; and Larry D. Sturgill, P. C., **County of Wise, Virginia, Audit Report, June 30, 2001** (hereinafter cited as **County 2001 Audit Report**), Schedule 11.

⁴¹Revised 2000 Census population data was used to calculate the per capita assessed values for the Town and County.

In terms of local revenue derived from all properties subject to local taxation between FY1990/91 and FY2000/01, Big Stone Gap's receipts increased by 19.7% while those for Wise County from the same classes of property increased by 51.8%, a rate more than twice that of the Town.⁴² The Commission recognizes that tax receipts from property subject to local taxation are, in part, a function of the tax rates established by the governing bodies of the Town and the County, however, the data indicate that Big Stone Gap's local tax base as assessed by Wise County has not increased in proportion with that of the County.⁴³

The Town's diminished fiscal base is also indicated by data concerning revenues derived from all local sources. Between FY1990/91 and FY2000/01 Big Stone Gap's total local-source revenues increased by 27.8%, while during the same period, such revenues for the County grew by 36.6%.⁴⁴ Thus, neither the Town's principal tax base (i.e., real property

⁴²**Town 1997 Financial Report**, Schedule 3; **Town 2001 Financial Report**, Schedule 3; **County 2000 Audit Report**, Schedule 9; and **County 2001 Audit Report**, Schedule 9.

⁴³Between 1991 and 2001, the County increased its nominal tax rate on real estate by \$0.13 per \$100 of assessed value, while during the same period the Town's real estate tax rate remained unchanged. (County of Wise, **Wise County Tabular Exhibits** (hereinafter cited as **County Tabular Exhibits**), Table 2-I.) Wise County reassesses property every six years, with the last reassessment occurring in 1997. (John L. Knapp and Stephen Kulp, **2001 Tax Rates, Virginia's Cities, Counties, and Selected Towns**, 20th Edition (Charlottesville: Weldon Cooper Center for Public Service, University of Virginia.), p. 36.)

⁴⁴**Town 1997 Financial Report**, Schedule 3; **Town 2001 Financial Report**, Schedule 3; **County 2000 Audit Report**, Schedule 9; and **County 2001 Audit Report**, Schedule 9. Local source revenues of general government exclude payments from State and federal authorities, non-revenue receipts, and inter-fund transfers. Local-source revenues in the Town increased from \$1.8 million in FY1990/91 to \$2.3 million in FY2000/01, while during the same period, such revenues received by the County grew from \$20.4 million to \$27.8 million.

assessables) nor its total revenues extracted from all local sources grew over the last decade at a rate commensurate with that experienced by Wise County generally.

An examination of the real estate tax rate also provides some evidence of the relative fiscal burden borne by Big Stone Gap residents. Based upon the ratio between assessed property values and recorded sale prices in Wise County, as calculated by the Virginia Department of Taxation, the true real property tax rate in 1999 (the latest year for which such calculation has been made) in Big Stone Gap was \$0.34 per \$100, an amount more than twice the average of such tax rate paid by property owners in the 20 other towns in Virginia with populations of similar size (3,900 and 7,900).⁴⁵ The Town's true real property tax rate in 1999 was more than 75% of that of the County (\$0.45), resulting in Town residents bearing a real property tax burden more than 75% greater than that borne by other County residents.⁴⁶ In terms of total property taxes actually paid, in FY2000/01 Big Stone Gap residents contributed \$109.98 per capita to the Town, while contributing in conjunction with residents in Wise County generally, \$281.93 per capita in

⁴⁵Virginia Department of Taxation, **1999 Virginia Assessment/Sales Ratio Study**; and Virginia Department of Taxation, **Local Tax Rates, Tax Year - 1999**. The set of towns for this analysis was selected on the basis of their 2000 population. 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 ratio of the respective county. The average true real estate tax rate for the 20 towns in 1999 was \$0.15 per \$100 of assessed value, and the range was between a low of \$0.05 (Town of Vinton) and a high of \$0.34 (Town of Big Stone Gap).

⁴⁶**Ibid.** The aggregate average effective real property tax rate for the 20 towns was \$0.77, and the range was between \$0.56 (Town of Rocky Mount/Franklin County) and \$1.39 (Town of Dumfries/Prince William County).

such taxes to the County.⁴⁷ Thus, considering these taxes collectively, Big Stone Gap residents bore a per capita local property tax burden in FY2000/01 almost 40% greater than that of residents in the unincorporated portions of the County.

In this annexation issue, an analysis of the Town's fiscal condition would be incomplete without consideration of the potential economic impact of the construction of the U. S. Route 58 Alternate Bypass which is planned for the general area. The Virginia Department of Transportation has tentatively approved a route for the U. S. Route 58 Alternate Bypass which transits the southern portion of the Town as well as portions of the area proposed for annexation. In addition, the planned route calls for the construction of two intersections in that area, one in the Western community and the other at existing U. S. Route 23/U. S. Route 59 Alternate intersection east of Big Stone Gap in the Artesian Well Hollow tract.⁴⁸ While the prospective impact of this proposed road improvement cannot be forecast with certainty, there are observations which should be made concerning its potential ramifications for the Town of Big Stone Gap.

⁴⁷**Town 2001 Financial Report**, Schedule 1; and **County 2001 Audit Report**), Schedule 1. 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.

⁴⁸According to a Virginia Department of Transportation (VDOT) official, the U. S. Route 58 Alternate Bypass is still in the preliminary engineering stage of the construction process. (Richard S. Marano, Project Manager, Bristol District Design Section, Virginia Department of Transportation, communication with staff of Commission on Local Government, June 24, 2002.) The Commission also has been advised that while the recently adopted State six-year transportation plan for FY2002/03 - FY2007/08 includes the U. S. Route 58 Alternate Bypass, no funds have been included for that project. Thus, it is uncertain when construction will begin on the U. S. Route 58 Alternate Bypass. (**Ibid.**)

The completion of the proposed U. S. Route 58 Alternate Bypass will eventually provide a four-lane, limited access arterial thoroughfare which will offer an alternative route for both highway travelers and regional commuters, with the consequence that a significant percentage of the traffic currently traversing Big Stone Gap on U. S. Route 58 is expected, in future years, to circumvent the Town's major commercial area.⁴⁹ Further, it is reasonable to expect that the construction of the two interchanges to the proposed bypass in the area proposed for annexation will influence the location of businesses and industries which desire visibility from or access to the new thoroughfare.⁵⁰ It is reasonable to expect that the U. S. Route 58 Alternate Bypass will attract economic activity from Big Stone Gap's commercial areas.⁵¹ This situation will erode further the Town's commercial base and economic vitality.

Wise County has contended that the Town's claim of fiscal distress is subject to challenge on the grounds that Big Stone Gap has depleted the

⁴⁹Currently, approximately 3,000 vehicles per day utilize U. S. Route 58 Alternate through Big Stone Gap, but a study conducted in 1996 by VDOT projected that the traffic counts on that portion of the highway would increase to approximately 7,000 vehicles per day by 2018. (***Ibid.***) In addition, another study of a portion of the proposed U. S. Route 58 corridor estimated that traffic on that thoroughfare will increase by more than 70% once the improvements planned for the Big Stone Gap to Martinsville segment are completed. (Maguire Associates, Inc., **U. S. Route 58 Corridor, Study Area 3 Report, Big Stone Gap to Martinsville**, July 1991 Figures 5.3 - 5.10.)

⁵⁰The Commission notes that while Town water and sewerage is available at both planned interchanges of the U. S. Route 58 Alternate Bypass, environmental factors, such as steep slopes and location in the 100-year flood plain may limit the land suitable for development at those interchanges.

⁵¹It should be noted that the existing interchange of U. S. Route 23 and U. S. Route 58 Alternate in the area proposed for annexation fostered the development of a motel, restaurant and two gas stations/convenience stores.

surpluses in both its governmental and utility funds in recent years.⁵² In this regard, the Commission notes that between FY1996/97 and FY2000/01, Big Stone Gap's uncommitted balance of cash and investments in its general fund decreased from \$1.4 million to \$0.6 million, or by almost 140%, while the undesignated reserve in its enterprise funds declined from \$2.8 million to \$2.4 million, or by slightly more than 15%.⁵³ According to a Town official, however, during the period in question Big Stone Gap had earmarked its reserve balances for capital improvements and equipment and does not maintain a separate fund for such activities.⁵⁴ Indeed, Big Stone Gap's representative has noted that during the period in question, the Town employed a portion of the undesignated reserve in its general fund for downtown revitalization projects and the purchase of vehicles.⁵⁵

With respect to the County's contention that the Town has not conformed with traditional accounting procedures by which revenues are transferred periodically to a designated fund for the acquisition or construction of capital facilities, this Commission notes that in 2001 only 13

⁵²County of Wise, **Response By the County of Wise, Virginia, to the Notice By the Town of Big Stone Gap of Its Intent to Petition for Annexation of Territory of Wise County** (hereinafter cited as **County Response**), Tab 3-B, p. 3; and testimony of Walter Cox, Consultant, County of Wise, **Transcript of the Oral Presentations Before the Commission on Local Government** (hereinafter cited as **Transcript**), Apr. 23, 2002, pp. 139-140.

⁵³**County Tabular Exhibits**, Table 2-D.

⁵⁴Testimony of George Polly, Town Manager, Town of Big Stone Gap, **Transcript**, Apr. 23, 2002, p. 30.

⁵⁵**Ibid.**, pp. 5-6, 30. According to the Town's representative, between FY1996/97 and FY2000/01 Big Stone Gap expended from its general fund reserve \$500,000 for downtown revitalization, such as streetscape improvements, street lighting, and the development of a municipal parking lot, \$360,000 for the purchase of two fire trucks for the Big Stone Gap Volunteer Fire Department, and \$80,000 for the purchase of a solid waste collection vehicle.

of the 30 largest towns in Virginia maintained a discrete capital projects fund within their system of accounts.⁵⁶ Further, the decline of its uncommitted cash balances in recent years to fund capital facilities does not invalidate the Town's need for additional resources. To be sure, the reduction of the surpluses in Big Stone Gap's governmental and enterprise funds is one indication of stagnation in the Town's fiscal base.

In sum, the data reveal that when compared to Wise County, the Town of Big Stone Gap has experienced extremely modest growth in its real estate tax base over the past decade and that residents of the Town bear a comparatively high local tax burden. The evidence indicates, in our judgment, that the Town of Big Stone Gap does have fiscal concerns which would be alleviated by an extension of its boundaries.

NEED OF THE TOWN FOR LAND FOR DEVELOPMENT

As indicated previously, the Town of Big Stone Gap currently has within its boundaries approximately 1,645 acres of undeveloped land, with that acreage constituting 50.8% of the Town's land area.⁵⁷ Excluding from this total the property situated on slopes exceeding 18% or in the 100-year

⁵⁶Virginia Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures, Local Transmittal Files for Year Ended June 30, 2001. (CD-ROM). The number of towns that do not have a designated capital projects fund was also confirmed by the County. (C. Richard Cranwell, Special Counsel, County of Wise, letter to staff of Commission on Local Government, June 3, 2002.) In accordance with Section 15.2-2510 of Code of Virginia, only those towns "having a population of 3,500 persons or over" and those "constituting a separate school division regardless of their population" are required to report to the Auditor of Public Accounts for inclusion in the annual report. For the purposes of determining the frequency of town capital project funds in 2001, the Towns of Colonial Beach and West Point, which operate separate school divisions, were not included.

⁵⁷**Town Notice**, Tab "Existing Conditions," Table B2b.

floodplain, the Town has approximately 328 acres, or 10.1% of its total land area, vacant and amenable to development.⁵⁸ It is important to note, however, that a portion of this vacant land is limited in its development potential by parcel size, poor access to transportation facilities, land ownership patterns, or by adjacent land uses. While such factors are not absolute barriers to development, they constitute significant impediments which render vacant sites within the Town less attractive to prospective developers.⁵⁹ Based on such considerations, and for the reasons set forth below, the Commission concludes that the Town of Big Stone Gap does have a need for additional land for future development.

With respect to Big Stone Gap's prospects for future industrial development, the data reveal that the Town has approximately 57 acres of vacant property containing five or more acres and zoned for industrial purposes within the present municipal boundaries⁶⁰ Of this total, however,

⁵⁸**Ibid.**, Tab "Vacant Land Analysis," Table C1. The County has contended that Big Stone Gap improperly excluded undeveloped parcels located on slopes greater than 18% from calculations concerning the Town's need for vacant land for future development. (See **County Response**, Tab 3A, pp. 7-8; and testimony of Leonard Bogorad, Consultant, County of Wise, **Transcript**, Apr. 23, 2002, pp. 97-98.) A representative for the County has noted that approximately 25.4% of the urban or built-up development within the County has occurred on slopes exceeding 20% gradient. (**County Tabular Exhibits**, Table 1-D.) The Commission acknowledges that in those portions of the Commonwealth where mountainous terrain comprises the predominant land form, it may be appropriate to consider available for development vacant parcels located on slopes of 20% or less. We note, however, that environmental constraints imposed by steep slopes, such as soil stability, erosion problems, and the cost of grading and the installation of public infrastructure, are impediments which render such vacant properties less suitable for development.

⁵⁹**Town Notice**, Tab "Vacant Land Analysis," pp. 1-2, Table C2; and **Town Rebuttal Exhibits**, Exh. 28.

⁶⁰Glass, letter to staff of Commission on Local Government, Feb. 22, 2002; and **Town Rebuttal Exhibits**, Exh. 27, 28.

almost all of the property in question is located within the 100-year flood plain of the Powell River, and thus, are not environmentally suited for such development. Wise County has also identified approximately 110 acres of other vacant property within Big Stone Gap currently zoned for non-industrial uses that the Town could rezone for such purposes.⁶¹ The County's analysis of the development potential of those properties does not reflect consideration of the cost of overcoming environmental factors such as steep slopes or location in the flood plain, the compatibility of the proposed development with surrounding land uses, or the difficulty of seeking zoning changes and assembling tracts of land from multiple owners.

It should be noted that the Town has not experienced industrial growth in recent years commensurate with that which has occurred in Wise County overall. The data indicate that between 1991 and 2001 no new industrial concern has located within the Town.⁶² In contrast, Wise County issued 206 permits for such construction, valued at \$32.0 million, during the same span of years.⁶³ Furthermore, Wise County has devoted a portion of

⁶¹Cranwell, letter to staff of Commission on Local Government, June 3, 2002. The County also noted that while several of the tracts identified as being appropriate for rezoning to industrial uses are smaller than five acres, such property may be suitable for certain types of industrial operations not requiring a large parcel of land. The Commission observes, however, that modern day industrial developments often require large tracts of land to accommodate the principal structure, the ancillary facilities, and requisite parking.

⁶²Glass, letter to staff of Commission on Local Government, May 28, 2002.

⁶³Cranwell, letter to staff of Commission on Local Government, June 3, 2002. The County's classification of industrial building permits is based on the permitted uses authorized in its light and heavy industrial zoning districts. Some of the uses classified as "industrial" by Wise County's zoning ordinance may meet the criteria of "commercial" in other jurisdictions (e.g., cabinet shops and warehouses), and thus, may overstate the number of industrial building permits issued by the County. Further, data concerning building permits issued by the County also includes the expansion of existing

its resources to the development of two industrial parks in the central portion of the County, and the attractive attributes of those facilities place potential industrial sites within the Town of Big Stone Gap at a distinct disadvantage.⁶⁴

In terms of the Town's prospects for future commercial growth, data indicate that there are no vacant sites containing five or more acres within Big Stone Gap environmentally suited for commercial development.⁶⁵ The County has identified, however, 36 unoccupied facilities within the municipality, two of which contain collectively approximately 60,000 square

industrial operations. (Robert M. Mullins, Code Official/Zoning Administrator, County of Wise, communication with staff of Commission on Local Government, June, 6, 2002.)

64County COLG Response, pp. 2-3. Since June 2000 Wise County has invested approximately \$1.0 million in local funds to develop the 195-acre Lonesome Pine Regional Business and Technology Park which is located northeast of the Town of Wise and owned by the Wise County Industrial Development Authority (IDA). The overall investment in that facility and the structures and businesses located therein is estimated to be approximately \$9.1 million. (Carl Snodgrass, Project Coordinator, Wise County Industrial Development Authority, communication with staff of Commission on Local Government, June 24, 2002.) The park is located on a previously surface mined area with the property having slopes of no more than 5%. One commercial concern, which currently employs approximately 350 persons, recently began operation in the Lonesome Pine Industrial Park, and a second industrial building is under construction for prospective industrial clients. In addition, the Wise County IDA owns the Wise County Industrial Park, a 65-acre facility also adjacent to the Town of Wise. Located at that facility are two vacant industrial buildings. The availability of sites within both industrial parks are listed with the Virginia Economic Development Partnership, the State's business recruitment agency.

65Glass, letter to staff of Commission on Local Government, Feb. 22, 2002. The Town's land use survey revealed approximately 11 acres of vacant land appropriately zoned for commercial use.

feet of business space, as being presently available for commercial activity.⁶⁶ The Commission observes, however, that the vacant commercial properties identified by the County are often less attractive to potential developers due to costs associated with renovation or redevelopment.⁶⁷

The relative unattractiveness of vacant commercial property within Big Stone Gap is further illustrated by the fact that the last major retail facilities developed within the Town were on property which was annexed into the municipality by agreement with the County in 1984 and 1990.⁶⁸ Thus, despite an existing inventory of vacant land suitable for commercial development, the Town had to expand its boundaries twice in order to offer

⁶⁶County of Wise, **Wise County's Suggested Findings of Fact and Recommendations**, p. 5. An inventory of vacant commercial sites was also submitted to the Commission by a citizen at its public hearing on April 22, 2002. The Commission notes that the availability of one of the vacant commercial properties located in Big Stone Gap's central business district is listed with the Virginia Economic Development Partnership.

⁶⁷In its submittals to the Commission, Wise County has recommended that Big Stone Gap emulate the City of Norton and focus its resources on downtown redevelopment as a means of attracting new commercial concerns to the Town. While such activities by Norton are commendable, the Commission observes that all of the tax revenues derived from that City's economic development efforts remain within its jurisdiction and can be used to fund additional projects or to address other public needs. Wise County may want to consider assisting Big Stone Gap in economic development projects of a certain magnitude since the County would receive a significant share of the tax revenue generated by new businesses locating within the Town.

⁶⁸In 1984, the Town incorporated property on its southeastern boundary adjacent to the U. S. Highway 23 Business and Bypass interchange which became the site of the Big Stone Gap Plaza Shopping Center. The boundary adjustment in 1990 incorporated a tract adjacent to U. S. Highway 58 Alternate southwest of the Town for the development of a department store. That retail operation subsequently closed and the structure converted into a distribution warehouse. (**Town Notice**, Tab "Existing Conditions," p. 1; and Polly, communication with staff of Commission on Local Government, July 1, 2002.)

new businesses vacant sites of sufficient parcel size which had access to major highways in the area as well as visibility from those thoroughfares.

Recent development patterns can also be cited as evidence of the relative unattractiveness of Town sites for future commercial development. The data indicate that between 1991 and 2001 the Town issued 8 building permits for the construction of new commercial property valued collectively at approximately \$2.0 million, while during the same period the County issued 33 permits for the construction of such properties valued at \$8.8 million.⁶⁹ This disparity in development also suggests that commercial sites within the Town are at a competitive disadvantage with those beyond Big Stone Gap's present corporate limits.

Finally, with respect to the issue of the Town's need for land for future development, the Commission notes that Big Stone Gap contains 309 acres of vacant property environmentally suited for development and zoned for various categories of residential usage.⁷⁰ In terms of residential construction, statistics disclose that between 1991 and 2001 there were 134 permits issued for various forms of residential construction within the Town, while during the same span of years Wise County issued 466 permits for various categories of residential units in the unincorporated portions of

⁶⁹Glass, letter to staff of Commission on Local Government, May 28, 2002; Glass, letter to Cranwell, March 13, 2002; Glass, communication with staff of Commission on Local Government, June 24, 2002; and Cranwell, letter to staff of Commission on Local Government, June 3, 2002. The value of commercial building permits issued by the Town is understated because of the nonavailability of certain records. As indicated above, Wise County's record-keeping policies may also understate the number of commercial building permits issued by the County.

⁷⁰**Town Notice**, Tab "Vacant Land Analysis," Table C2.

the County.⁷¹ Thus, unlike the County, Big Stone Gap has experienced only a modest amount of residential construction during the past decade.

In regard to the significance of future residential construction in the Big Stone Gap area, we wish to observe, as we have done in previous reports, that the general viability of a community rests, in part, upon its capacity to attract and retain a heterogeneous population. A prerequisite for the retention of such a population is, in our judgment, a locality's ability to offer an array of housing alternatives to prospective residents. The absence of moderately priced single-family residential alternatives can result in the loss of young families which contribute significantly to a community's economic, social, and civic life. With respect to this concern, we note that during the decade of the 1990s the number of married couple families with children under the age of 18 in the Town decreased by 14.4%, while the number of such families in Wise County generally decreased during the same period by 20.6%.⁷² While the data available to the Commission indicated that residential construction in Big Stone Gap has been modest but relatively constant during the past decade, the scarcity of vacant land in the Town will adversely affect such continued construction.

⁷¹Glass, letter to staff of Commission on Local Government, May 28, 2002; Glass, communication with staff of Commission on Local Government, June 24, 2002; and Cranwell letter to staff of Commission on Local Government, June 3, 2002. Building permit data for residential construction in both localities include information for mobile homes.

⁷²U. S. Department of Commerce, Bureau of the Census, "Table P19: Household Type and Presence and Age of Children, Wise County, Virginia" (Available: http://www.ccps.virginia.edu/Demographics/1990_Census/Tables_15-30/P019Household_Type_kids.xls); "Table P19: Household Type and Presence and Age of Children, Big Stone Gap town, Virginia" (Available: http://factfinder.census.gov/servlet/DTable?_ts=42390409941); **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Big Stone Gap town, Virginia**, Table DP-1; **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Wise County, Virginia**, Table DP-1.

Wise County has contended, however, that the Town has sufficient land within its present boundaries to meet its current and prospective needs for industrial, commercial, and residential development.⁷³ Citing the vacant land identified by Big Stone Gap and past rates of development within the municipality, the County has asserted that the unoccupied land in the Town would be sufficient to accommodate approximately 126 acres of additional commercial or industrial development and approximately 760 new housing units.⁷⁴ The County also points to data which indicates that the coal-producing areas of the Commonwealth have experienced little or no growth in recent years which significantly reduces the demand for land for development within the region generally and Wise County specifically.⁷⁵

With respect to the analysis offered by Wise County, the Commission observes that the County's abstract calculations do not reflect and are not consistent with the actual development patterns which have occurred in the areas adjacent to the Town and the County generally in recent years. Even with land available for development in the Town, most of the industrial and commercial growth in the general area has occurred beyond Big Stone Gap's corporate limits. This strongly suggests that sites within the Town are at a competitive disadvantage with those on its periphery. Further, we note that the County's analysis addresses only the total quantity of land available and completely neglects to consider many of the important qualitative concerns which properly affect the development potential of localities. Absent from the calculations is consideration of the influence of adjacent development and location, attractiveness of the sites to potential developers, land

⁷³**County Response**, Tab 3A.

⁷⁴**County Tabular Exhibits**, Tables 1-F – 1-I.

⁷⁵**County Response**, Tab 3A, pp. 1-5. Some of the data cited by the County to support its contention that Wise County has not experienced growth during the preceding decade is based upon Census population data that was subsequently revised.

ownership patterns, and, as noted above, the cost of overcoming environmental factors.⁷⁶ Moreover, the County's analysis assumes that the land development process occurs in a rational manner and that past patterns of growth will continue into the foreseeable future. However, such is not the case in most jurisdictions. Indeed, Wise County's consultant has acknowledged that the County's own development policies have fostered excess capacity in both vacant industrial park acreage and vacant industrial buildings within its jurisdiction.⁷⁷

There is also additional evidence which indicates that despite contentions by Wise County, in recent years the County has experienced commercial and industrial growth. In addition to the data cited in previous sections of this report regarding increases in the County's population and economic base, between 1991 and 2001 approximately 239 new businesses located in Wise County or expanded their operations there.⁷⁸ That growth was responsible, in part, for the increase in the County's principal tax base during the 1990s. Statistics disclose that between 1990 and 1999 the per capita total true value of real estate and public service corporation property in the County grew by 30.8%, an increase more than twice the average for all

⁷⁶The County's calculations also assume that commercial and industrial development could occur anywhere within the Town without regard to zoning or other land development regulations.

⁷⁷Testimony of Bogorad, **Transcript**, Apr. 23, 2002, pp. 89-90; 117-118. The County has also noted that as the result of over-building by the lodging industry in the late 1990s, the Wise County-Norton area has too many hotel rooms. (**County Response**, Tab 3A, pp. 16-17). In addition, the calculations by Wise County's consultant do not account for the primary or secondary effects of major developments, such as the two prisons that are located in the County.

⁷⁸Cranwell, letter to staff of Commission on Local Government, June 3, 2002. During the same period, only 8 retail operations located within the Town.

Virginia counties (13.2%) and greater than that for the State overall (16.6%).⁷⁹

In summary, the evidence suggests that Big Stone Gap has not shared in the commercial or industrial development that has occurred in Wise County generally. While Big Stone Gap is presently a viable community, and remains a vital element of Wise County, the limited amount of vacant land suitable for development in the Town, as well as the prevalent development patterns in its area, lead this Commission to conclude that Big Stone Gap requires additional land for equitable industrial, commercial, and residential opportunities.

ADVERSE IMPACT ON THE COUNTY

The annexation proposed by the Town of Big Stone Gap would, if ultimately sanctioned by the court, have a modest adverse impact on Wise County. While all properties annexed by Big Stone Gap would remain subject to taxation by Wise County, the proposed annexation would diminish County receipts from some of its minor revenue sources. According to calculations by the County, the proposed annexation would result in a constriction of County annual tax revenues during FY2001/02 (both locally generated and intergovernmental aid) of approximately \$208,000.⁸⁰ Accepting as correct

⁷⁹Virginia Department of Taxation, **Assessment/Sales Ratio Study, 1990** and **Assessment/Sales Ratio Study, 1999**. Between 1990 and 1999, the total true value of real estate and public service corporation property in the County increase by 38.5%, in all counties considered collectively by 34.1%, and the State as a whole by 32.1%. Since a county can tax all forms of property located within a town, the increase in the true value of real estate and public service corporation property is an appropriate gauge of the growth occurring within such a locality. The 1999 official State population estimates were used to calculate the per capita assessed values.

⁸⁰**County Tabular Exhibits**, Table 4-D (Revised). County revenues affected by town annexations include those from sales, consumer utility, utility franchise, transient occupancy, mobile home titling, rolling stock, and

the County's estimate of revenue loss, the proposed annexation would have reduced Wise County's total general fund receipts for FY2000/01 (\$34.1 million) by 0.6%.⁸¹ Further, subsequent to annexation the Town would assume responsibility for the provision of certain urban services in the annexed area (e. g., law enforcement) and, thereby, lessen the County's liability for expenditure on behalf of that area. Assuming, however, that the County had an immediate shortfall in revenue of \$208,000, such an amount could be raised by an increase of slightly more than \$0.02 in its real property tax rate.⁸² Moreover, in terms of the larger and long-term interest of the area, the proposed annexation would permit the Town to benefit from an immediate infusion of fiscal resources, would assure it of land for future development, and will, accordingly, increase the Town's ability to serve the general area. Big Stone Gap's enhanced capability for the provision of public services can be a positive factor in supporting desirable development in its environs and in strengthening the economy of the County generally.

Wise County has asserted that because it is one of the Commonwealth's least prosperous localities, the reduction in local revenue resulting from the annexation proposed by Big Stone Gap will have a significant fiscal impact on the County. In support of this contention the County has cited Virginia

wine taxes, as well as those from motor vehicle licenses and ABC profits distributions.

⁸¹**County 2001 Audit Report**, Schedule 1. For FY2000/01, the County's total general government revenues from all sources were approximately \$81.5 million.

⁸²**Wise County's Suggested Findings of Fact and Recommendations**, p. 20. Based on the 2000 median assessed value of owner-occupied housing in Wise County (\$65,700) as reported by the U. S. Bureau of the Census, such an increase in the real property tax rate would raise the tax on such property by \$13.14 per year. (U. S. Department of Commerce, Bureau of the Census, **2000 Census of Population and Housing, Profiles of General Demographic Characteristics: 2000, Geographic area: Wise County, Virginia**, Table DP-4.)

Department of Education data which indicates that it has the second lowest fiscal capacity among Virginia's school divisions, according to the Composite Index of Local Ability to Pay for FY2002/04.⁸³ With respect to the County's concern, we note that the composite index gauges only the revenue capacity of a particular locality. The adequacy of a locality's revenue base, however, is not determined by its magnitude alone, but by its size in relation to the locality's fiscal needs. The latter measurement for a locality can be obtained by expressing the total of its actual tax levies and revenue collections as a percentage of its theoretical revenue capacity during a specified fiscal period. The resulting percentage for a specified locality is considered by this Commission as a measurement of the jurisdiction's "revenue effort."⁸⁴ Our calculations for FY1999/00, the most recent data available, indicate that Wise County raised taxes and imposed levies comparable to 93.1% of its theoretical revenue capacity.⁸⁵ The revenue effort of Wise County was

⁸³Virginia Department of Education, "Superintendent's Memo No. 168," Nov. 30, 2001. The FY2002/04 composite index was calculated using Statewide data for 1999, the most recent available. Since 1946, the measurement of local ability to pay has been used, in one form or another, to distribute State educational funding to local school divisions. In its current format, the composite index compares the size of three major locality tax bases (the true value of real property, adjusted gross income, and taxable retail sales) relative to the locality's population and its average daily school membership with the collective size of those three local tax sources relative to the Statewide population and average daily membership. (Joint Legislative Audit and Review Commission, **Review of Elementary and Secondary School Funding**, Feb. 6, 2002, p. 128.)

⁸⁴The revenue effort statistic calculated for a locality expresses the total of its revenue collections and levies as a percentage of its theoretical revenue capacity. Through this calculation the receipts which a locality derives from its various resource bases are, in essence, compared to the yield the jurisdiction could anticipate if its local revenue-raising efforts reflected the average rates of return for the State overall.

⁸⁵Commission on Local Government, **Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1999/2000**, Table 3.2. In FY1999/00 Wise County's revenue effort was exceeded by 17 counties and all 39 cities. (See **Appendix C**).

slightly less than the statewide figure for all of the Commonwealth's counties and cities considered collectively (96.0%), and it suggests that the County has the potential to manage fiscally the proposed annexation. More significantly, while the Commission acknowledges that there will be a constriction in the County's local revenue collections initially following the annexation proposed by Big Stone Gap, the record fails to disclose any instance where a county in Virginia has been fiscally incapacitated by the expansion of town boundaries.

URBAN SERVICE CONSIDERATIONS

The statutes governing municipal annexation in Virginia require consideration of the urban service needs of an area proposed for annexation, the level of services provided by the municipality proposing annexation and the affected county, and the relative ability of the two jurisdictions to serve the area in question. In this instance, the area proposed for annexation by the Town of Big Stone Gap contains 2.34 square miles of territory (0.6% of Wise County's total land area) and a 2000 population of 1,537 persons (3.6% of the County's population). These figures give the area a population density of 657 persons per square mile. This population density gives the area an urban character dissimilar to that of Wise County generally. Indeed, the current Wise County comprehensive plan, which was based upon a thorough analysis of the County's needs and anticipated growth, identifies much of the area proposed for annexation as being urban in nature.⁸⁶

Sewerage

The Town's sewage treatment plant, which was constructed in 1995 as a regional facility to serve Big Stone Gap, the Town of Appalachia and the

⁸⁶County of Wise, **Wise County Comprehensive Plan, Wise County 2020, Vision for the Future**, (hereinafter cited as **County Comprehensive Plan**), Plates 6, 10.

environs of both municipalities, has a rated capacity of 2.0 million gallons per day (MGD).⁸⁷ In 2001 the plant treated an average daily flow of 1.05 MGD, leaving an excess capacity of 0.95 MGD, or 47.5% of its permitted capacity.⁸⁸ The Town's present sewage collection system consists of approximately 20 miles of lines and 7 pump stations, which are located within and beyond Big Stone Gap's present boundaries.⁸⁹ That system currently serves 3,040 connections, with 437 being located in the area proposed for annexation and an additional 636 in other areas of the County.⁹⁰ Moreover, it should be noted that the Town of Big Stone Gap is the only source of centralized sewage treatment available to serve that

87Town Notice, Tab "Urban Services," p. 4. Wastewater from the Town of Appalachia is treated at Big Stone Gap's facility pursuant to an interlocal contract. Under the terms of that agreement, Appalachia funded 20% of the cost of the construction of the Big Stone Gap sewage treatment plant and is guaranteed 20% (0.4 MGD) of the capacity in that facility.

88Ibid. During 2001, Appalachia' usage was 0.25 MGD. (Glass, letter to staff of Commission on Local Government, Feb. 22, 2002.)

89Town Notice, Tab "Urban Services," p. 4. The Commission notes that the Town's sewerage system has experienced problems from the infiltration of groundwater and the inflow of stormwater resulting, in part, from the age of the collection lines. Town officials have informed the Commission that studies have been completed which identify the problem areas and that the Town has an ongoing program to address those concerns. (Glass, letter to staff of Commission on Local Government, Feb. 22, 2002.)

90Glass, letter to staff of Commission on Local Government, Mar. 1, 2002. According to Town officials, approximately 60 dwellings in Big Stone Gap are not connected to central sewerage and those residences utilize septic systems for the disposal of wastewater. (**Town Notice**, Tab "Urban Services," p. 4.)

area.⁹¹ Residents of the area not served by Big Stone Gap are dependent on individual septic tanks.

The presence of Town utilities in the area proposed for annexation has greatly reduced the threat of health hazards caused by failing septic tanks in that area. There is evidence to suggest, however, that portions of the area proposed for annexation will require the extension of public sewerage service in the future. In this regard, we note that there are approximately 130 residences in the area proposed for annexation, principally in the Southern and Cadet communities, that are not served by central sewerage.⁹² Lot size and unfavorable soil conditions in those neighborhoods, as well as other portions of the area proposed for annexation, restrict the installation of septic tank absorption fields.⁹³ Further, the soil characteristics of the

⁹¹Public sewage collection and treatment services to County residents are provided either by the six towns within the County directly or by the Wise County Public Service Authority (WCPSA). While the WCPSA does not provide sewage treatment services within the County, it does own and maintain on behalf of the County sewage collection lines in the Riverview community near the Town of Coeburn. (Cranwell, letter to staff of Commission on Local Government, June 3, 2002; and Edward R. Sealover, County Administrator, County of Wise, communication with staff of Commission on Local Government, June 21, 2002.) Further, Wise County has purchased a portion of the capacity in the Coeburn-Norton-Wise Regional Waste Treatment Plant. In addition, the County has received Community Development Block Grants to construct sewage collection lines and appurtenances that connect to existing municipal systems. (Sealover, communication with staff of Commission on Local Government, June 21, 2002.)

⁹²Testimony of Bobby R. Lane, Town Engineer, Town of Big Stone Gap, **Transcript**, Apr. 23, 2002, pp. 58-59. According to a representative for the Town, approximately 70% of the residences and businesses located in the area proposed for annexation have access to Town sewage collection lines.

⁹³**Ibid.**, pp. 46-51; and Emmett C. Wampler, Environmental Health Manager, Wise County Health Department, letter to staff of Commission on Local Government, June 21, 2002. A high seasonal water table in portions of the Southern community also limit the installation of on-site sewage disposal systems.

area also inhibit the repair or replacement of existing septic tank drainfields when such becomes necessary due to age or malfunctioning of the system.⁹⁴

In terms of the impact of the annexation on the area which the Town seeks to incorporate, Big Stone Gap proposes to rehabilitate approximately four miles of sewerage and to install approximately six miles of new sewage collections lines, force mains, and other appurtenances in that area, costing \$1.1 million, during the first eight years after annexation.⁹⁵ The Town's plans for the first two-year period after annexation include proposals to extend lines to portions of the Southern and Cadet communities not presently served by such facilities.⁹⁶ Further, since the Town places a surcharge on sewerage connection fees and user charges for nonresidents,

⁹⁴**County Comprehensive Plan**, Plate 4; and **Town Rebuttal Exhibits**, Exh. 36. Most of the soils in the area proposed for annexation have been rated by the U. S. Department of Agriculture's Soil Conservation Service as being "poor" or "unsuited" for the installation of on-site sewage disposal systems. According to a State official, however, it is difficult to generalize about the soils in Wise County since textures, stoniness, depth to seasonal water tables, and other restrictive characteristics can differ greatly over short distances. (Wampler, letter to staff of Commission on Local Government, June, 21, 2002.)

⁹⁵**Town Notice**, Tab "Impact of Annexation," pp. 5-6, Table F4. Collectively, the Town proposes to install 33,700 feet of new sewer lines and rehabilitate 18,500 feet of existing lines within the area proposed for annexation. The Town does not propose to make sewerage improvements in the Artesian Well Hollow, Beamantown, and Western communities until three to six years following the effective date of the annexation. Further, the Town anticipates issuing bonds and utilizing intergovernmental grants or loans to extend service to those areas, and to make other improvements to its sewerage system. In addition, Town officials have indicated that existing structures in the area annexed will not be required to connect to municipal sewerage lines unless existing septic tanks fail to function properly. (Testimony of Lane, **Transcript**, Apr. 23, 2002, p. 62.)

⁹⁶**Town Notice**, Tab "Impact of Annexation," pp. 5-6, Table F4.

the cost of municipal sewerage service would be reduced for residents and commercial entities in the areas annexed.⁹⁷

Since the only central sewage collection and treatment facility available to serve the area proposed for annexation is operated by the Town of Big Stone Gap, and considering the current ability of Big Stone Gap to provide such service to that area, the Commission concludes that the proposed annexation will be beneficial to the people of the area annexed in terms of the future extension of sewerage services and their costs.

Water Supply and Distribution

The Town of Big Stone Gap has as a raw water source the Big Cherry Reservoir which has a storage capacity of 410 million gallons (MG).⁹⁸ The

⁹⁷**Ibid.**, Tab "Urban Services," p. 5 Sewer connection fees imposed by Big Stone Gap are 63% greater for users located beyond the current corporate limits. In addition, user fees charged by the Town are approximately 86% higher for out-of-town customers. As a consequence of the elimination of the utility surcharge imposed by Big Stone Gap on nonresidents, Town officials estimate that the net annual operating income of its utility enterprise fund will be reduced by a total of approximately \$195,700 for the period immediately following the effective date of the proposed annexation. (**Town Rebuttal Exhibits**, Exh. 32.) Big Stone Gap contends that the reduction will be offset, in part, by additional revenues which the Town anticipates in receiving as a result of providing sewerage to the Wallens Ridge Prison, and new sewer customers in the area annexed. Moreover, a representative for Big Stone Gap has indicated that surplus general fund revenues could be transferred to its enterprise fund to reduce the anticipated deficits in that account. (Town of Big Stone Gap, **Proposed Findings and Conclusions By the Town of Big Stone Gap in Support of Its Annexation Notice**, May 22, 2002, pp. 42-44.)

⁹⁸Virginia Department of Health, Division of Water Supply Engineering, "Waterworks Operating Permit, The Town of Big Stone Gap," June 1, 1989. The Big Cherry Reservoir, which is located on the South Fork of the Powell River approximately 7 miles east of the Town, is scheduled for upgrading in the near future which will increase its storage capacity to 600 MG. The Town proposes to construct a new dam and to demolish the existing impoundment by 2004. The cost of the replacement facility is

water from the reservoir is treated at the Town's plant that has a rated capacity of 4.0 MGD.⁹⁹ Since the Town's present distribution system requires approximately 1.0 MGD, the system currently retains an unused reserve of 3.0 MGD, or 75% of its rated capacity.¹⁰⁰

With respect to its distribution and storage facilities, the Town owns and maintains approximately 25 miles of water lines, both within and beyond its corporate boundaries, and 12 storage facilities which collectively hold 4.8 million gallons of treated water.¹⁰¹ These facilities serve 2,032 connections within the Town's current borders and 622 in the area proposed for annexation.¹⁰² Inasmuch as Wise County does not operate a

approximately \$6.2 million and Big Stone Gap has received intergovernmental loans and grants for all but approximately \$500,000 for that project. (**Town Notice**, Tab "Urban Services," pp. 1-2; and Polly, communication with staff of Commission on Local Government, July 1, 2002.)

⁹⁹"Waterworks Operating Permit, The Town of Big Stone Gap."

¹⁰⁰**Town Notice**, Tab "Urban Services," p. 1.

¹⁰¹**Ibid.** p. 1; and Glass, letter to staff of Commission on Local Government, Feb. 22, 2002. In addition, the clearwell at the Town's water treatment plant stores approximately 1.0 MG of treated water.

¹⁰²Glass, letter to staff of Commission on Local Government, Mar. 1, 2002. Town water lines also serve 1,751 connections in the County beyond the area proposed for annexation. The Commission also notes that Big Stone Gap has signed intergovernmental agreements to provide water service to two communities in Lee County and to connect Town water lines to the City of Norton system for use in emergency drought situations. The Lee County project, which is currently under construction, will be funded entirely by that County. The Big Stone Gap-Norton water connection, which is estimated to cost approximately \$1.8 million, will be funded by intergovernmental grants as well as a 0% loan from the Commonwealth. That project will not be completed, however, until after the Big Cherry Dam has been replaced. (Polly, communication with staff of Commission on Local Government, July 1, 2002.)

public water system in the area proposed for annexation, service by the Town is the only public source of potable water available to the residents and businesses of that area.¹⁰³

The record clearly indicates that the Town of Big Stone Gap has addressed the public water needs of the area proposed for annexation, and thus, no portions of that area currently require an immediate extension of municipal water service.¹⁰⁴ While the Town has stated its intention to invest \$482,000 in the construction of approximately 1.7 miles of water lines and appurtenances to serve that area during the eight-year period subsequent to annexation, the improvements in the area it seeks to annex during the first two years following the annexation consist primarily of replacing undersized distribution facilities in the Cadet, Beamantown, and Southern communities.¹⁰⁵ Further, it should be noted that the proposed annexation will have the effect of substantially reducing the cost of Town water service to residential and commercial users in the areas annexed.

¹⁰³The Commission notes that while the WCPSA has a distribution system in other portions of the County, the service authority does not have any water facilities which could readily serve the area proposed for annexation. (**County COLG Response**, pp. 8-9; and Cranwell, letter to staff of Commission on Local Government, June 3, 2002.)

¹⁰⁴According to a representative for Big Stone Gap, almost all of the developed portions of the area proposed for annexation are served by Town water lines. (Testimony of Lane, **Transcript**, Apr. 23, 2002, p. 53.)

¹⁰⁵**Town Notice**, Tab "Impact of Annexation," pp. 5-7. The Town plans to replace water lines of two inches or less in portions of the area proposed for annexation in order to improve water pressure and fire flow in those areas. (Testimony of Lane, **Transcript**, Apr. 23, 2002, pp. 54-56.) In addition, Big Stone Gap proposes to seek Community Development Block Grant funds to construct a new water line to serve a portion of Artesian Well Hollow between the third and fifth year following the effective date of the annexation.

Since the Town imposes a surcharge on connection fees and service to nonresidents, the annexation would terminate those surcharges.¹⁰⁶

In sum, the area proposed for annexation is already heavily dependent upon the Town of Big Stone Gap for its water supply. Moreover, the Town's water system, which has served southwestern Wise County for almost 30 years, has the capability and should be expected to serve the areas on its periphery.

Solid Waste Collection and Disposal

The Town of Big Stone Gap provides its residents with weekly solid waste collection service and extends to its business concerns a schedule of collection dependent upon their needs.¹⁰⁷ The cost of this service for residential collection is \$10.00 per month.¹⁰⁸ Seasonal collection of leaves and yard debris is provided in residential areas for no additional charge.¹⁰⁹ Big Stone Gap disposes of its refuse at the Wise County landfill which is located in the Blackwood section of the County approximately eight miles

¹⁰⁶Big Stone Gap's water connection fees are 63% greater and its user fees 100% higher for nonresidents. (**Town Notice**, Tab "Urban Services," pp. 2.) As noted in the preceding section, the elimination of the nonresident surcharge for water service will result in a deficit in the Town's enterprise fund. Town officials note that the reduction of utility fund revenue will be offset by the increased water usage by the Wallens Ridge Prison as well as sale of potable water to Lee County and the City of Norton. (**Proposed Findings and Conclusions By the Town of Big Stone Gap in Support of Its Annexation Notice**, pp. 42-44.)

¹⁰⁷**Town Notice**, Tab "Urban Services," p. 6.

¹⁰⁸**Ibid.** The Town does not charge extra for more than one residential trash receptacle. Solid waste collection fees charged commercial customers varies with the frequency of collection.

¹⁰⁹**Ibid.**

northeast of the Town's current boundary.¹¹⁰ Although Big Stone Gap does not pay a tipping fee for the disposal of municipal refuse in the Wise County landfill, all County residents and businesses, including those within the Town, are assessed an annual fee to fund the operation of that facility.¹¹¹

Wise County does not provide any public solid waste collection services to its residents and business firms. County residents, including those in the area proposed for annexation, can dispose of their household wastes at the County landfill. In addition, the County offers a bulk container service, with both manned and unmanned sites being located throughout its territory for solid waste disposal purposes.¹¹² Although none of those facilities are located in the area proposed for annexation, the County operates a manned solid waste disposal center in the East Stone Gap community immediately east of the Beamantown community.¹¹³ Furthermore, some County residents and businesses, including those in the area proposed for annexation, also have the option of contracting directly with private entities for collection

¹¹⁰**County Response**, Tab 8, p. 18. The Commission notes that the County's landfill is expected to meet the solid waste disposal needs of the area until 2034.

¹¹¹Households are charged \$30 annually for the County's landfill. The fee for businesses and institutions, which range from \$50 to \$2,500 per year, vary according to type and size of establishment. (**County Tabular Exhibits**, Table 3-C.)

¹¹²County residents, including those of the six towns, are not charged for use of the solid waste disposal centers. (**County Response**, Tab 3C, pp. 8-10.)

¹¹³**Ibid.**

services, with the cost of such service determined by the frequency of collection.¹¹⁴

With respect to the operation of Wise County's landfill, the Commission notes that under the County's system of accounts the operation of that facility is carried as an enterprise fund. Despite the annual fee paid by all County residents and businesses to support the landfill, the County subsidizes that activity with an appropriation from its general fund. The County estimates that in FY2001/02 it will be required to transfer approximately \$2.0 million to address the shortfall in the landfill enterprise fund.¹¹⁵ As this Commission has observed in previous reports, the reliance on transfers from general fund reserves to supplement enterprise activities, which should be supported by user fees and charges, offers only an interim solution to a locality's fiscal concerns and appropriate steps should be made to have enterprise activities be self-supporting.

In terms of the impact of the proposed annexation on solid waste collection in the area proposed for annexation, the Town has indicated its intention to provide residences and businesses in that area with the same level of service and frequency of collection as it currently provides within

¹¹⁴Within the area proposed for annexation, the private solid waste contractor charges \$17 per month for one trash receptacle for curbside collection service, and \$27 per month for two trash receptacles. The County estimates that 73 residences and 15 businesses in that area are served by the private solid waste collector. (**County Response**, Tab 8, p. 20.)

¹¹⁵**County COLG Response**, pp. 9-10. The County acknowledges that its solid waste account is not operated as a "true" enterprise fund since the annual operating cost and debt service are not supported by user fees. Further, prior to FY2001-02, the solid waste account was used to receive transfers from the general fund to repay a loan from the Virginia Resource Authority for the Blackwood landfill.

the municipality.¹¹⁶ As a consequence, for those residences and businesses in areas annexed which currently receive solid waste collection services from a private contractor, the cost of such service would be reduced. Further, the extension of Big Stone Gap's service to that area will benefit the community generally through the encouragement of the proper disposal of refuse.¹¹⁷ The provision of regular and inexpensive municipal solid waste collection service does, in our judgment, facilitate improved waste management.¹¹⁸ As areas adjacent to Big Stone Gap increase in development, the Town's solid waste collection services will grow in significance.

Planning, Zoning, and Subdivision Regulation

The Town of Big Stone Gap conducts its public planning efforts with the assistance of a planning commission and a comprehensive plan which

¹¹⁶**Town Notice**, Tab "Impact of Annexation," p. 4. To extend its solid waste collection service to the area proposed for annexation, the Town proposes to hire two additional sanitation workers and to purchase an additional solid waste collection truck. While the additional vehicle will require a one-time capital purchase of approximately \$80,000, Big Stone Gap estimates that expenses related to solid waste collection and disposal will increase by approximately \$38,200 annually as a result of the expanded service. (**Ibid.**, p. 5.)

¹¹⁷Consistent with this perspective, a Big Stone Gap official has indicated that some nonresidents are placing their refuse in collection containers owned by businesses located within the Town. (Polly, **Transcript**, Apr. 23, 2002, p. 13.)

¹¹⁸A representative for the County has indicated that while illegal dumping and roadside littering are not major problems in the Big Stone Gap environs, the improper disposal of refuse is a concern in the more isolated portion of Wise County and along major commuter routes from adjacent localities and states. (Sealover, communication with staff of Commission on Local Government, June 21, 2002.)

was adopted in 1991 and last reviewed in 1997.¹¹⁹ The current comprehensive plan meets, in our judgment, the requirements established by the Code of Virginia for such basic planning instruments. The planning activities of the Town are supported by a staff of one full-time employee who also enforces Big Stone Gap's land development control ordinances. While Big Stone Gap has adopted a capital improvements plan, there is no evidence that the development of that instrument is coordinated with the Town's comprehensive planning process.¹²⁰

In terms of other development control instruments, the Commission notes that Big Stone Gap has had a zoning ordinance since 1972 and subjected that ordinance to its last major revision in 1991.¹²¹ The Town's ordinance establishes 11 discrete districts, with 7 permitting residential uses, and contains provisions requiring site plan review which enables Big Stone Gap to mitigate the impact of development on public resources and concerns.¹²²

The Town of Big Stone Gap also administers a subdivision ordinance which was originally adopted in 1972 and last revised in 1986, applies to

¹¹⁹**Town Notice**, Tab "Urban Services," p. 10. The Town Planning Commission formally reviewed Big Stone Gap's comprehensive plan in 1997, and as a result of that review, added a demographic addendum to the 1991 document.

¹²⁰The Town's one-page capital improvements plan does not meet the standards of Sec. 15.2-2239, Code of Va.

¹²¹**Town Notice**, Tab "Urban Services," p. 10.

¹²²Town of Big Stone Gap, **Big Stone Gap Town Code, Appendix A – Zoning Ordinance** (hereinafter cited as **Town Zoning Ordinance**), Sec. 5, Art. 6. The Town requires certain uses, such as shopping centers, motels, and townhouses, to undergo site plan review. Under Big Stone Gap's zoning ordinance the districts are generally pyramidal in application (i. e., zoning districts will allow any development of a lesser intensity).

the division of land into three or more parcels regardless of acreage.¹²³ Exempt from the provisions of the ordinance are subdivisions with parcels of three or more acres not requiring the creation of new streets.¹²⁴ The Town's subdivision regulations prohibit private streets, mandate connection to Town utilities, where available, require the installation of curbs and gutters in most circumstances, and establish street construction standards.¹²⁵

Wise County has an established planning commission and utilizes a comprehensive plan which was adopted in 1998.¹²⁶ This plan contains, in our judgment, all elements required in a comprehensive planning instrument by the Code of Virginia.¹²⁷ In addition, while the County, like the Town, has a five-year capital improvements plan, there is no evidence to suggest that its development is coordinated with the land development control process. Further, the County maintains a staff of five persons to assist in the administration and management of its building codes and planning and land development control instruments.¹²⁸

¹²³**Town Notice**, Tab "Urban Services," p. 11; and Town of Big Stone Gap, **Big Stone Gap Town Code, Appendix B – Subdivision Ordinance** (hereinafter cited as **Town Subdivision Ordinance**), Sec. 2-2.

¹²⁴**Ibid.**

¹²⁵**Town Subdivision Ordinance**, Secs. 2-8, 2-9(3), and 2-9 (7-8). Curbs, gutters, or other storm water drainage facilities are not required in subdivisions where the average lot size is one acre or more.

¹²⁶**County Response**, Tab 8, p. 22. The County's planning commission was established in 1967.

¹²⁷The County's comprehensive plan was prepared with the assistance of the LENWISCO Planning District Commission.

¹²⁸**County Response**, Tab 8, p. 22.

The County's current zoning ordinance, which was adopted in 1991 and last amended in 2000, establishes 8 districts, with residential uses being permitted in most of the districts under certain circumstances.¹²⁹ The Commission observes, however, that the County's agricultural-rural residential district, the stated intention of which is to encourage "agricultural, forestry, mineral extraction, open space, recreational and conservation activities as the primary uses...", is apparently open to a wide variety of development, with the consequence that the district may not be protected from intrusion and conversion.¹³⁰

The County's current subdivision regulations, which were adopted in 1976, applies, with certain exceptions, to all divisions of property.¹³¹ Subdivisions resulting in lots of three acres or more are exempt from the ordinance's provisions.¹³² Also, the ordinance does not apply to subdivisions

¹²⁹Certain residential uses are authorized in the County's two business zoning districts if the dwelling unit is contained within the permitted commercial structure. Further, the County's industrial zoning districts are also pyramidal in nature. The County zoning ordinance also establishes conservation-recreation, flood plain, and airport overlay districts.

¹³⁰County of Wise, **Zoning Ordinance, Wise County, Virginia** (hereinafter cited as **County Zoning Ordinance**) Sec. 4-1. The agricultural-rural residential district permits single family dwelling units, individual mobile homes, nursing homes, schools, and certain other government buildings. Further, since residential development can occur in this district on lots as small as one-half acre, the district can be subject to intensive residential development.

¹³¹**County Response**, Tab 8, p. 23. The division of parcels into two lots within a 12-month period may not be required to comply with all aspects of the County's zoning ordinance. (County of Wise, **Wise County Code, Appendix A, Subdivision Ordinance** (hereinafter cited as **County Subdivision Ordinance**), Art. IV.

¹³²Subdivisions with lots of three acres or more and requiring the establishment of a new street must meet the street construction standards contained in the County's subdivision ordinance. (**County Subdivision Ordinance**, Art. 4-6-C.)

of property for bona fide agricultural or forestal purposes and those for the creation of lots for family members.¹³³ Further, the County's subdivision ordinance contains provisions similar to those of the Town's with respect to the mandatory connection to public utility lines where available, prohibition of private streets, the installation of curbs and gutters in certain instance, and street construction standards.¹³⁴

In sum, the Commission finds that both the Town and the County have adopted an appropriate array of planning and land development control measures to regulate growth within their respective jurisdictions. In our view, however, the Town's planning and development control instruments are sound and effective measures for the management of urbanized and urbanizing areas. Further, the area proposed for annexation would substantially benefit from the application of the Town's development control instruments.

Crime Prevention and Detection

Since law enforcement activities in Virginia towns augment those provided by a county's Sheriff's department, the proposed annexation by the Town of Big Stone Gap will have the effect of providing additional and more intensive law enforcement services to the area's residents. The Town presently has 16 full-time, sworn law enforcement personnel, 11 of whom

¹³³**Ibid.**, Art. 4-6.

¹³⁴**Ibid.**, Art. 6-2, 6-5, 6-6, and 6-7. While the Virginia Department of Transportation may require the construction of curbs and gutters within new subdivisions, the County can exempt developers from the requirement to install sidewalks in such subdivisions.

are assigned patrol responsibility.¹³⁵ This number of patrol officers is sufficient to provide Big Stone Gap with one such officer for each 537 municipal residents.

In terms of patrol activity, the data indicate that the Town maintains patrols on its streets 24-hours per day, with an average of two patrol officer on duty at all times.¹³⁶ This assignment schedule provides the Town with an average geographic intensity of patrol equivalent to one officer for each 2.53 square miles of territory. A second measure of the intensity of patrol service in a locality is the number of "calls for service" being answered by each law enforcement position. The data indicate that during the 2000 calendar year each patrol officer in the Town was responsible for an average of 318 calls for service.¹³⁷ The Big Stone Gap police department responded to those calls for service on average of between two and four minutes.¹³⁸

Two other aspects of the Town's law enforcement activities should be noted. First, Big Stone Gap's criminal justice efforts are assisted by Wise County's provision of dispatch services and jail facilities, as well as by the County Sheriff's Department whose deputies respond to calls for service within Big Stone Gap during periods when such assistance is needed.¹³⁹ Finally, the Town's police department has initiated a crime prevention

¹³⁵**Town Notice**, Tab "Urban Services," pp. 13. The Town's police department also employs a chief of police, one lieutenant and three investigators.

¹³⁶**Ibid.**

¹³⁷**Ibid.** Big Stone Gap officials have indicated that Town police officers responded to approximately 50 calls for service in 2000 which originated within the area proposed for annexation.

¹³⁸**Ibid.**

¹³⁹**Ibid.**

program which includes presentations to schools on a variety of crime prevention topics, special residential patrols, and safety escorts for businesses to banks.¹⁴⁰

Law enforcement services in the area proposed for annexation and in Wise County generally are provided by the County Sheriff's Department. The personnel complement of the Sheriff's Department consists of 83, including 33 full-time sworn law enforcement officers.¹⁴¹ Of that number, 27 officers are assigned regular patrol responsibility.¹⁴² This level of staffing provides the County with one sworn patrol deputy for each 1,013 residents of the unincorporated portion of the County.

¹⁴⁰**Ibid.** There are no Police Department personnel assigned full-time responsibility to the crime prevention program.

¹⁴¹In addition, the Sheriff's Department employs 18 correctional officers, 13 court service officers, 10 dispatchers, and 9 support personnel. The sworn law enforcement complement includes the sheriff, 26 officers funded by the Compensation Board, and 6 officers funded by grants or the County Board of Supervisors. (James W. Matthews, Assistant Executive Secretary, Virginia Compensation Board, communication with staff of Commission on Local Government, June 4, 2002; and Gene Vanover, Major, Wise County Sheriff's Department, communication with staff of Commission on Local Government, June 4, 2002.) On July 1, 2002, the Virginia Compensation Board will fund an additional two law enforcement positions for the Sheriff's Department as a result of the adjustment in the 2000 Census population for the County due to the under-reporting of State prisoners within its jurisdiction. (Matthews, communication with staff of Commission on Local Government, June 4, 2002.)

¹⁴²**Ibid.** The Sheriff's Department also has four investigators. In addition, the County's law enforcement efforts are supplemented by 16 auxiliary deputies, and a total of 29 officers in the Towns of Appalachia, Coeburn, Pound, and Wise, as well as by the 5 officers employed by the Town of St. Paul who patrol the portion of that Town located in Wise County. (Virginia Department of State Police, **Crime in Virginia, 2001**, Table VII.)

The Wise County Sheriff's Department, unlike some other county law enforcement operations in Virginia, does not assign its patrol personnel to territorial districts. Rather, patrol routes are established based on an analysis of crime statistics, with an average of nine patrol officers on duty throughout the course of a day.¹⁴³ Thus, the unincorporated portion of the County generally has a geographic intensity of patrol service equivalent to approximately one officer for each 43.2 square miles of territory.¹⁴⁴ With respect to the relationship between staffing level and calls for service, data for the unincorporated portion of Wise County reveal that between 1997 and 2001 the County Sheriff's Department responded to an yearly average of 18,137 calls for service which were the initial responsibility of the officers assigned to patrol duties on a daily basis.¹⁴⁵ Thus, each patrol position responded to an average of 672 calls for service per year during that period, a workload more than twice that borne by Town police officers. Further, the response time to those calls for service by Sheriff's Department patrol personnel averaged between eight and ten minutes¹⁴⁶

In considering the breadth and quality of law enforcement services provided to the residents of Wise County, several additional points should be cited. First, the Sheriff's Department has recognized the need for an organized crime prevention program and has assigned both full-time and

¹⁴³**County COLG Response.** The patrol operations of the County Sheriff's Department is divided into three shifts during a 24-hour day, with one lieutenant and one sergeant investigator assigned to each shift.

¹⁴⁴This statistic is derived from dividing the land area of the unincorporated portion of the County (388.5 square miles) by the average number of deputies on duty (9).

¹⁴⁵**County Response**, Tab 8, Attachment #3.

¹⁴⁶**Ibid.**, Tab 8, p. 28.

part-time personnel to administer such activities.¹⁴⁷ The Department's efforts include community policing, the provision of school resource officers, and crime prevention presentations to civic and business groups and senior citizen organizations.¹⁴⁸ In addition, the Sheriff's Department has initiated a neighborhood watch program to augment its crime prevention activities, but none of the programs have been established in the area proposed for annexation.¹⁴⁹ Finally, the County Sheriff's Department operates an emergency operations center that provides 24-hour dispatching services for the County and the six towns within its jurisdiction, as well as the City of Norton.¹⁵⁰

In sum, the Commission concludes that the nature and character of development in the area proposed for annexation is such that the area would benefit from the more intensified law enforcement services which can be provided by the Town. As a result of staffing levels and the intensity of patrolling, we find the law enforcement services offered by the Town of Big Stone Gap are more appropriate for the area proposed for annexation. In order to extend these services to the area proposed for annexation, Big

¹⁴⁷The Sheriff's Department has received grants to fund four school resource officer positions and one domestic violence officer. (Vanover, communication with staff of Commission on Local Government, June 4, 2002.)

¹⁴⁸**County Response**, Tab 8, p. 26-27.

¹⁴⁹**County COLG Response**. According to County officials, only five neighborhood watches have been established by the Sheriff's Department.

¹⁵⁰**County Response**, Tab. 8, p. 25. The County's emergency operations center, which also provides dispatching services for the rescue squads and State police within Wise County, is manned by ten communication officers, five of which are locally funded.

Stone Gap has indicated its intention to employ and equip two additional patrol officers and to purchase two additional vehicles.¹⁵¹

Public Works

The annexation proposed by the Town of Big Stone Gap would result in changes in the policies and procedures by which various public works are provided in the area. The Town's policies and procedures are, in the Commission's judgment, better designed to meet the needs of urbanized areas than are those which have applied generally in Wise County. These changes governing the nature and extension of public works in the area proposed for annexation should be increasingly beneficial to that area.

Street Maintenance. The proposed annexation will result in the Town of Big Stone Gap assuming responsibility for the construction and maintenance of public thoroughfares in areas annexed. Currently, all public roads in the area proposed for annexation, and in Wise County generally, are maintained by the Virginia Department of Transportation (VDOT) in accordance with State-prescribed policies. While Big Stone Gap receives significant contributions from VDOT for the maintenance of the public thoroughfares within its corporate limits, the Town has shown a willingness to expend additional local funds to address its road needs. The data reveal that between FY1997/98 and FY2000/01 the Town expended a total of approximately \$1.5 million in local revenue to improve and maintain the 56.5 lane-miles of roadway within its corporate boundaries.¹⁵²

¹⁵¹**Town Notice**, Tab "Impact of Annexation," p. 4.

¹⁵²Virginia Auditor of Public Accounts, **Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 – June 30, 2001**, Exh. C-4. Expenditures by the Town for street maintenance include construction (e.g., the expansion of existing roads only), reconstruction, and maintenance (e.g., snow removal and curb and gutters). The Commission notes that during the period under review, the Town

The Commission is cognizant of data presented by a consultant for the County suggesting that over-spending by Big Stone Gap on street maintenance reflected poor fiscal management on the part of the Town.¹⁵³ We note that between FY1997/98 and FY2000/01, the annual average local expenditures for the maintenance of streets, bridges and sidewalks within Big Stone Gap was \$248.39 per capita, or 133.1% greater than the comparable figure for the 29 largest towns in Virginia (\$186.69).¹⁵⁴ Local governments in the coal-producing region of the Commonwealth, however, confront significantly higher costs for maintaining their thoroughfares due to inclement winter, steep topography, and the detrimental effects of heavy trucks hauling coal from the mines to processing facilities. In recognition of the extraordinary road maintenance requirement confronted by localities in Southwestern Virginia, the General Assembly has authorized certain counties and cities in that region to impose an additional levy on coal companies, with a portion of the receipts from that tax to be used

received approximately \$436,000 in coal road improvement tax revenues from Wise County. (**Town Financial Report, Year Ended June 30, 1998 – Year Ended June 30, 2001**, Schedule 1.)

¹⁵³**County Response**, Tab 3B, p. 5; and Testimony of Cox, **Transcript**, Apr. 23, 2002, pp. 143-146.

¹⁵⁴**Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 – June 30, 2001**, Exh. C-4. In determining average local expenditures for street maintenance, the Towns of Colonial Beach and West Point, which operate separate school divisions, and the Town of Altavista, whose 2000 population dropped below 3,500 persons, were not included. Further, the official 2000 population counts for each town was used to determine average per capita expenditures over the four-year period. The Commission notes, however, that in its calculations of average per capita street expenditures, Wise County used the unrevised Census statistic for Big Stone Gap. (Testimony of Cox, **Transcript**, Apr. 23, 2002, pp. 168-169.)

specifically to improve the public roadways within the affected localities.¹⁵⁵ Further, the data indicate that towns located in that portion of the State generally incurred above average costs for street maintenance in recent years. Between FY1997/98 and FY2000/01, the per capita expenditures for street maintenance by the Towns of Wise (\$321.27), Bluefield (\$284.22), and Richlands (\$270.43) were higher than such costs experienced by Big Stone Gap or the State's largest towns overall.¹⁵⁶

The proposed annexation would bring within the Town 10.8 lane miles of public-roads which will be the responsibility of Big Stone Gap to maintain.¹⁵⁷ While this Commission has no knowledge of any significant problems with the condition of those thoroughfare, we note that the County's Six-Year Secondary Road Improvement Plan calls for improvements

¹⁵⁵The revenues from the addition 1% license tax on the gross receipts of coal and gas companies are to be paid into a special fund of the affected county or city, known as the Coal and Gas Road Improvement Fund. One-half of those tax receipts are required to be used to maintain or upgrade the local roads within the eligible jurisdictions. (See Sec. 58.1-3713, Code of Va.) Further, under Section 58.1-3713.1 of the Code of Virginia, 20% of the license tax receipts collected by Wise County are to be distributed to the City of Norton and the six incorporated towns within the County. The distribution formula calls for 25% of the funds divided among the City and the towns based on the number of registered vehicles in each locality, and 75% divided equally among the seven jurisdictions. While there is no statutory requirement that the Wise County towns expend coal road improvement tax receipts on street construction and maintenance, a representative for Big Stone Gap has indicated that the Town uses those funds for the stated purposed, as well as for the installation of curbs, gutters, and sidewalks. (Polly, communication with staff of Commission on Local Government, June 19, 2002.)

¹⁵⁶**Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 – June 30, 2001**, Exh. C-4.

¹⁵⁷Glass, letter to staff of Commission on Local Government, Feb. 22, 2002.

to two public roads within in the area proposed for annexation.¹⁵⁸ Further, the Town proposes to make the necessary improvements to roadways in the Southern, Cadet, Artesian Well Hollow, and Beamantown communities within eight years following the effective date of the proposed annexation.¹⁵⁹ In the Commission's judgment, this commitment and Big Stone Gap's manifested willingness to expend significant local funds for maintenance of its public thoroughfares will benefit the area proposed for annexation.

Curbs, Gutters, Sidewalks, and Storm Drains. As noted previously, Big Stone Gap's subdivision ordinance mandates the installation of curbs, and gutters in most new developments. Further, the Town requires that storm drainage facilities be installed in all new developments.¹⁶⁰ While that ordinance does not address the installation of sidewalks, the Town does have a formal policy by which it will install those facilities, as well as curbs and gutters, in older residential sections of Big Stone Gap upon citizen request and upon their agreement to bear half of the construction cost.¹⁶¹

¹⁵⁸**Ibid.** The County's Secondary Road Plan calls for improvements to State Route 608 (Tom Williams Hollow) and State Route 610 (Powell Valley Road).

¹⁵⁹**Town Notice**, Tab "Impact of Annexation," pp. 3-4, 6-7. The Town's proposed road improvements within the area proposed for annexation are estimated to cost approximately \$335,000. The Town's plans call for the utilization of municipal funds to improve public roadways within the Southern community during the two years following the effective date of the annexation. Improvements to the thoroughfares in the Artesian Well Hollow, Beamantown, and Cadet communities during years three through eight following annexation will be undertaken with funds allocated to the Town under VDOT's annual urban construction program.

¹⁶⁰**Ibid.**, Tab "Urban Services," p. 20; and **Town Subdivision Ordinance**, Secs. 2-9(3). Curbs, gutters or other storm water drainage facilities are not required in subdivisions where the average lot size is one acre or more.

¹⁶¹**Town Notice**, Urban Services, p. 20.

Moreover, the Town adheres to a practice of installing storm drainage if the property owner agrees to pay for the necessary materials.¹⁶²

Wise County's regulations are similar to those of the Town with respect to requiring developers to install curbs, gutters, and sidewalks in new subdivisions.¹⁶³ Unlike Big Stone Gap, however, the County has not adhered to a practice of financially assisting property owners with the installation of these facilities where such is desired in existing developments. In terms of storm drains, the County's subdivision ordinance requires the installation of such facilities in all development subject to its provisions.¹⁶⁴ As with respect to the other types of improvements, however, the County does not have any policy providing financial assistance to property owners desiring the installation of drainage facilities abutting their premises.

This Commission has no knowledge of any major unaddressed problems resulting from inadequate curbs, gutters, sidewalks, or storm drains in the area proposed for annexation. Town's plans to serve that area, however, call for the expenditure of funds to improve storm drainage in the Artesian Well Hollow and Southern communities following the effective date of the proposed annexation.¹⁶⁵ Further, we find that Big Stone Gap's

¹⁶²**Ibid.**

¹⁶³**County Subdivision Ordinance**, Art. 6-4, and 6-7. While the Virginia Department of Transportation may require the construction of curbs and gutters within new subdivisions, the County can exempt developers from the requirement to install sidewalks in such subdivisions.

¹⁶⁴**Ibid.**, Art. 6-2-5 and 6-7.

¹⁶⁵**Town Notice**, Tab "Impact of Annexation," pp. 6-7. The Town indicates that it will seek approximately \$720,000 in Community Development Block Grant funds to install 7,200 feet of storm drains along Artesian Well Hollow Road and an additional 3,200 feet of storm drains in

policies with respect to the installation of curbs, gutters, sidewalks, and storm drains in existing developments will be beneficial in addressing problems which may occur in the future.

Streetlights. The Town of Big Stone Gap has a policy of funding the installation, maintenance, and operation of streetlights within its corporate limits.¹⁶⁶ Further, the Town will consider requests for additional streetlights from its citizens, and where such are deemed appropriate and necessary for public safety and welfare, new lights are installed and operated at public expense.¹⁶⁷ During FY2000/01 the Town expended \$55,300 for the operation of approximately 750 streetlights within its boundaries.¹⁶⁸

Wise County currently does not have a policy for the installation or operation of streetlights within its jurisdiction. The limited number of streetlights which do exist in the area proposed for annexation and in the County generally are, in the main, the responsibility of individual property owners.¹⁶⁹

The Town's policies with respect to the installation and operation of streetlights, as well as its policy for the consideration of citizen requests for additional lighting, would be beneficial to the area proposed for annexation.

the Southern community between the third and the fifth year following the effective date of the annexation.

¹⁶⁶**Ibid.**, Tab "Urban Services," p. 22. The Town adheres to a policy of installing streetlights at intervals of approximately 400 feet along streets within the developed portions of the municipality.

¹⁶⁷**Ibid.**

¹⁶⁸**Ibid.**; and **Town 2001 Financial Report**, Schedule 2.

¹⁶⁹**Town Notice**, Tab "Urban Services," p. 22.

Streetlights are, in our judgment, a positive factor in traffic control, pedestrian safety, and crime prevention. Those facilities will grow in significance in the area proposed for annexation as it develops. In order to serve properly the area proposed for annexation, Big Stone Gap proposes to install 63 streetlights at various locations in that area following the effective date of annexation.¹⁷⁰

Snow Removal. As with all other aspects of road-related work in Wise County, snow removal from public thoroughfares is the responsibility of the VDOT. Thus, snow removal services in the area proposed for annexation, and the County generally, are provided by a State agency and are performed pursuant to State-established policies. This activity is directed from the five offices which the VDOT maintains within the County, one of which is located in East Stone Gap near the area proposed for annexation. Those offices collectively have available State-owned equipment, as well as other leased vehicles, to provide snow removal services to the areas of their responsibility.

The Big Stone Gap Public Works Department is responsible for snow removal services within the Town. The Department has available three trucks with snowplows and salt spreaders, and two road graders.¹⁷¹ The Town's Public Works Department adheres to a snow removal policy that gives priority to major thoroughfares, streets leading to the hospital, and the central business district, with other areas receiving deferred treatment. Town officials have stated that upon annexation the municipality can extend

¹⁷⁰**Ibid.**, Tab "Impact of Annexation," p. 6.

¹⁷¹Polly, communication with staff of Commission on Local Government, July 1, 2002. The Town also has three backhoes to remove snow from parking areas.

appropriate snow removal services to the annexed area without purchasing additional equipment.¹⁷²

Based upon the data available to it, the Commission cannot conclude that the area proposed for annexation has a need for snow removal services exceeding those presently provided by the VDOT. While this Commission recognizes the advantages accruing to the Town from the ability to administer and perform directly its snow removal services, the State currently devotes considerable resources to snow removal in Wise County, with no evidence suggesting that Town responsibility for the administration of such services in the area proposed for annexation would result in improved conditions.

Public Recreational Facilities

The Town of Big Stone Gap has approximately 73 acres of parkland for recreational use of its residents and the general area. This acreage represents the combined area of seven recreational sites.¹⁷³ Located at the Town's recreational facilities are seven athletic fields, three basketball courts, four tennis courts, a community center, a junior olympic-size swimming pool, and picnic areas.¹⁷⁴ One of the notable Town facilities is the Big Cherry Reservoir, located approximately seven miles east of Big Stone Gap. The property surrounding this 2,200-acre lake provides residents of the general area with a wide variety of recreational

¹⁷²**Town Notice**, Tab "Impact of Annexation, pp. 3-4.

¹⁷³**Ibid.**, Tab "Urban Services," pp. 16-17.

¹⁷⁴**Ibid.** Big Stone Gap also secured a grant from VDOT to improve and expand a trail system with in the Town that connect neighborhoods with various recreational, cultural, and historical facilities.

opportunities, such as boating and fishing, hunting, and primitive camping.¹⁷⁵

For the conduct of its various recreational activities, Big Stone Gap employs two full-time personnel and a varying number of part-time and seasonal personnel.¹⁷⁶ The Town's recreational programs consist primarily of organized athletic leagues for adults and children, special events, and a limited number of instructional classes. Participation in these programs, as well as use of the Town's facilities, is open to all residents of the general area.¹⁷⁷ In terms of financial commitment to the provision of public recreational services, the Commission observes that between FY1997/98 and FY2000/01, the Town expended \$1.5 million, or \$261.04 per capita during that four-year period.¹⁷⁸

With the exception of sites which are the property of the Wise County School Board, the County does not own any public park facilities.¹⁷⁹ Within its borders, however, there are numerous facilities in the Jefferson National

¹⁷⁵**Ibid.**

¹⁷⁶**Ibid.**, p. 16.

¹⁷⁷Anyone using the facilities at the Big Cherry reservoir is required to purchase a use permit, and non-residents not connected to Town water lines are charged an additional \$5.00 fee for such a permit. (Glass, letter to staff of Commission on Local Government, Feb. 22, 2002.)

¹⁷⁸**Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 – June 30, 2001**, Exh. C-7. Per capita expenditures were calculated using the Town's corrected 2000 population.

¹⁷⁹Although Wise County constructed and maintains a community center in the Dorchester area which can be rented for civic or private functions, the County does not sponsor any recreational programs at that facility. (Sealover, communication with staff of Commission on Local Government, June 6, 2002.)

Forest, as well as private recreation sites, that are available to the residents of the general area.¹⁸⁰ Although Wise County has created a Recreation Authority to oversee such activities within its jurisdiction, the County relies on the recreational programs offered by civic groups, private entities, and the incorporated towns.¹⁸¹

With respect to overall financial support, Wise County has asserted that Big Stone Gap's current fiscal condition is due, in part, to Town expenditures for parks and recreation that significantly exceeded the average of such expenditures of other Virginia towns.¹⁸² The Commission notes that between FY1997/98 and FY2000/01, the Town expended a four-year average of \$261.04 per capita on its parks and recreational programs, or 13.5% more than the statistic for the 29 largest towns in the Commonwealth (\$230.07).¹⁸³ There is data to suggest, however, that this level of investment by the Town is in response to the absence of parks and recreation facilities and programs in the unincorporated portion of the County. In this regard, the evidence indicates that during the four-year period between FY1997/98 and FY2000/01 Wise County's average expenditures for parks and recreation was \$3.56 per capita, or only 2.5% of

¹⁸⁰**County Response**, Tab 8, p. 31.

¹⁸¹**Ibid.** The Wise County Recreation Authority distributes funds appropriated by the County to make annual donations to civic groups, community parks, and athletic leagues to improve recreational facilities and programs in the County. (Annette Underwood, Executive Secretary to the County Administrator, County of Wise, communication with staff of Commission on Local Government, June 6, 2002.)

¹⁸²**County Response**, Tab 3B, p. 3; and testimony of Cox, **Transcript**, Apr. 23, 2002, pp. 143-146.

¹⁸³**Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 - June 30, 2001**, Exh. C-7. The Town's corrected 2000 Census population was utilized to calculate per capita expenditures for parks and recreation.

such average per capita expenditures for all 95 counties (\$143.36).¹⁸⁴ Further, a 1995 survey conducted on behalf of Wise County for the most recent revision to its comprehensive plan cited the need for additional recreational facilities in the County.¹⁸⁵ Clearly, Big Stone Gap is responding to the needs of its general area for improved recreational services, and, in our judgment, its financial commitment to such programs and facilities is appropriate.

It is the Commission's view that in contemporary society recreational activities and parks have become more than amenities, and are elements vital to public life. While this Commission recognizes Wise County's commitment to the provision of recreational services to its citizen, it is required to conclude that the residents of the area proposed for annexation have a need for the recreational facilities and services provided by the Town of Big Stone Gap. The evidence reveals that the Town has invested substantially in the provision of recreational services to nonresidents, with many of the latter residing, in all probability, within the area proposed for annexation.¹⁸⁶

184Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1998 – June 30, 2001, Exh. C-7. The County's corrected 2000 Census population was utilized to calculate per capita expenditures for parks and recreation. Within the LENWISCO Planning District for the period in question, Lee County expended an average of \$72.85 per capita for parks and recreational services while Scott County's average four-year expenditures were \$53.19 per capita.

185County Comprehensive Plan, pp XVI-1 - XVI-2. Sixty percent of the respondents to that survey noted that the "...lack of recreational facilities was one of the three things least liked about living in Wise County." Further, the recreational facilities in the County were rated "good" or "excellent" by only 16% of the respondents to the survey.

186While Big Stone Gap does not propose any immediate expansion of its parks and recreational facilities as a result of the proposed annexation, the Town has indicated that it plans to construct a neighborhood park in the Southern community in the near future. (**Town Notice**, Tab "Urban

Library Service and Fire Protection

The Commission observes that two major public services (library services and fire protection) in the area proposed for annexation would be essentially unaffected by the incorporation of that area into Big Stone Gap. With respect to library services, the Town and Wise County jointly support the Lonesome Pine Regional Library System. A branch library of that system is located in Big Stone Gap and serves residents of the general area. The proposed annexation would effect no change in library services to residents of the area.

In terms of fire prevention and protection services, the annexation would not have any immediate impact on the residents of areas annexed. Currently the Big Stone Gap Volunteer Fire Department (VFD) serves the Town, the area proposed for annexation, and an additional portion of Wise County.¹⁸⁷ Both Big Stone Gap and Wise County financially support the operations of that volunteer fire company.¹⁸⁸ Big Stone Gap's water

Services," p. 18.)

¹⁸⁷The Town has continued a practice from the late 1970s of contracting with homeowners and businesses in unincorporated areas of the County served by municipal water lines to guarantee first-run fire response by the Big Stone Gap VFD. The cost of the contract is \$50 per year, and it was instituted to assure insurance companies that properties adjacent to the Town had adequate fire protection services. The Valley Volunteer Fire Department, which is located in the East Stone Gap community, responds to fire calls from those properties not contracting with the Town. (Polly, communication with staff of Commission on Local Government, June 19, 2002.)

¹⁸⁸Glass, letter to staff of Commission on Local Government, Feb. 22, 2002. Between FY1996/97 and FY2000/01, Big Stone Gap contributed approximately \$121,000 for the operating expenses of the Big Stone Gap VFD and approximately \$349,000 for capital equipment for that fire company. Approximately \$217,000 of the latter amount was for the purchase of two fire trucks. During the same period the County contributed approximately \$61,800 in local funds to support that volunteer entity. The

distribution system and the fire suppression capabilities of the Big Stone Gap VFD are such that properties within the Town and the area proposed for annexation within 1,000 feet of a municipal fire hydrant are classified “6” by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss.¹⁸⁹ Therefore, the level of fire prevention and protection services to the residents of the area proposed for annexation will not be immediately enhanced by their incorporation into the Town. Future plans of the Town to make improvements to its existing water system in the area proposed for annexation will enhance the fire protection services in that area.¹⁹⁰

Commission notes, however, that the County also appropriates local funds for seven other volunteer fire companies that operate within its jurisdiction. (**County Tabular Exhibits**, Table 3-N.)

¹⁸⁹Glass, letter to staff of Commission on Local Government, Mar. 1, 2002. There are 49 fire hydrants connected to Big Stone Gap's water lines that are located in the area proposed for annexation, and all but three hydrants in the Southern portion of that area were installed with Town funds. 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.]

¹⁹⁰As noted previously, the Town plans to replace undersized water lines of two inches or less in the Cadet, Beamantown, and Southern portions of the area proposed for annexation which will improve water pressure and fire flow in those communities. (Testimony of Lane, **Transcript**, Apr. 23, 2002, pp. 54-56.)

Summary of Service Considerations

In the preceding sections of this report the Commission has endeavored to consider the urban service needs of the area proposed for annexation and the relative ability of the Town and the County to meet those needs. At issue here are concerns which do not permit complete resolution by any known statistical measure. While the Commission has analyzed the statistical data which it considers relevant, such data are conditioned by our direct experience in local government concerns.

Although the Commission finds nothing to indicate any current major unmet service needs in the area proposed for annexation requiring immediate attention, the evidence clearly demonstrates that the existing development in areas adjacent to Big Stone Gap has been fostered and sustained by public utilities and other services provided by the Town. Further, in our judgment, in terms of solid waste collection, law enforcement, recreational services, street lighting, and maintenance of roadways, as well as the Town's policies with respect to curbs, gutters, sidewalks, and storm drainage, the proposed annexation would benefit the residents and businesses of the area annexed.

COMPLIANCE WITH APPLICABLE STATE POLICIES

Another factor prescribed for consideration in annexation issues is the extent to which the affected jurisdictions have made efforts to comply with applicable State policies with respect to environmental protection, public planning, education, public transportation, housing, or other State service policies promulgated by the General Assembly. In our judgment, there are three fundamental State policies which merit consideration in this report. The following sections review those State policies.

Public Planning

The Code of Virginia requires localities to establish a planning commission and to adopt a comprehensive plan and subdivision regulations to guide their development.¹⁹¹ Consistent with these statutory requirements, the Town of Big Stone Gap and Wise County have established planning commissions and have adopted such development control instruments. In addition, each jurisdiction has adopted a zoning ordinance which enhances its ability to regulate its future development. Since a previous section of this report has dealt extensively with each locality's public planning efforts, additional comment here is not required. In sum, we find that both jurisdictions have taken the required steps to comply with the State's concern for public planning.

Public Housing

By various statutory provisions the General Assembly has recognized that proper housing for the State's residents is a matter of "grave concern to the Commonwealth."¹⁹² The Commission notes that, consistent with this fundamental State concern, both the Town and the County have made notable efforts to attend to this basic need of their residents. The record discloses that Big Stone Gap has adopted and enforces a building maintenance code to prevent the neglect and deterioration of its housing stock.¹⁹³ Further, the Town established a redevelopment and housing

¹⁹¹Secs. 15.2-2210, 15.2-2223, and 15.2-2240, Code of Va.

¹⁹²Sec. 36-2, Code of Va. See also Sec. 36-55.25, Code of Va.

¹⁹³Testimony of Kenneth W. Poore, Consultant, Town of Wise, **Transcript**, Apr. 22, 2002, pp. 81-82; and Charles Miller, Building Official, Town of Big Stone Gap, communication with staff of Commission on Local Government, June 21, 2002. Only 16 other towns in the Commonwealth have adopted such a code. (Virginia Department of Housing and Community

authority that administers 56 subsidized housing units and manages another 130 housing units under the U. S. Department of Housing and Urban Development's (HUD) Section 8 Existing Rental Assistance Program.¹⁹⁴ Moreover, Big Stone Gap's housing authority has acquired sites and developed other property for the construction of housing for low and moderate income families.¹⁹⁵ Finally, the Town's housing authority has secured Community Development Block Grant funds which have been responsible for the revitalization of over 150 dwelling units within the Town and 13 such units in the Artesian Well Hollow community of the area proposed for annexation.¹⁹⁶

The evidence also suggests that Wise County is cognizant of the housing needs of its residents and has been responsive to those needs. The County Board of Supervisors established the Wise County Redevelopment and Housing Authority to administer various housing assistance programs

Development, Division of Building and Fire Regulation, "Official Directory and Mailing List," June 1, 2002.)

¹⁹⁴**Town Notice**, Tab "Urban Services," p. 24. The Commission notes that 40 of the Section 8 Rental Assistance units administered by the Big Stone Gap Redevelopment and Housing Authority are located in the unincorporated portion of the County, including the area proposed for annexation. According to records maintained by the Virginia Housing Development Authority, only three other towns in the Commonwealth have established a redevelopment and housing authority. (Virginia Housing Development Authority, **Virginia Housing Directory 2001.**)

¹⁹⁵**Town Notice**, Tab "Urban Services," p. 24. The Town's housing authority developed the Popular Ridge Subdivision which has 55 lots for the construction of housing for low and moderate income families and the Laurel Ridge Condominiums which has 12 low and moderate income units.

¹⁹⁶**Ibid.** The Town also administers an emergency housing assistance program which has served 30 households in the past.

throughout the County, including the six towns within its jurisdiction.¹⁹⁷ Those include the construction of more than 500 public housing units in projects financed by HUD, the U. S. Farmers Home Administration, and the Virginia Housing Development Authority.¹⁹⁸ Further, as of 1998 the County's housing authority administered approximately 500 housing units under the HUD Section 8 Existing Rental Assistance Program.¹⁹⁹ These efforts on the part of the Town of Big Stone Gap and Wise County to address directly the housing needs of low and moderate income residents are to be commended.²⁰⁰

Public Transportation

The General Assembly has expressed a concern for the provision of public transportation to residents of the State.²⁰¹ In this regard we note that both Wise County and Big Stone Gap support the operations of Mountain

¹⁹⁷**County Response**, Tab 4, pp. 1-2. The Wise County housing authority administers the 22-unit Monte Vista Apartments which are located within Big Stone Gap. (**Town Notice**, Tab "Urban Services," p. 24.) Wise County is only one of seven counties in the State that has established a redevelopment and housing authority. (**Virginia Housing Directory 2001**.)

¹⁹⁸**County Comprehensive Plan**, p. VII-2.

¹⁹⁹**Ibid**. According to Town officials, none of the County's Section 8 Rental Assistance units are located within the vicinity of Big Stone Gap. (**Town Notice**, Tab "Urban Services," p. 24.)

²⁰⁰The Commission notes, however, that Wise County's current comprehensive plan recommends that the County adopt and enforce a building maintenance code to preserve and enhance existing residential structures. (**County Comprehensive Plan**, p. XIV-5.)

²⁰¹Sec. 33.1-12 (9), Code of Va.

Empire Transit.²⁰² That public system, which is operated by Mountain Empire Older Citizens, Incorporated throughout the County, as well as other portions of the LENWISCO Planning District, operates fixed-route transportation services for senior citizens, as well as on-demand buses for the general public.²⁰³ In addition, Mountain Empire Transit also provides specialized services for Medicaid patients and human services transportation. Clearly, the financial support by both jurisdictions for this activity represents a significant effort to comply with the State's concern for public transportation.

COMMUNITY OF INTEREST

Another of the factors statutorily prescribed for consideration in the disposition of annexation issues directs this Commission and the reviewing court to consider the strength of the community of interest which ties the area proposed for annexation to the annexing municipality and that which joins that area to the remaining portion of the county. While analysis of the question of community of interest properly involves many elements, the most relevant considerations, from our perspective, are the public services, employment, and commercial bonds which create interdependency. Although not all of the factors which bear on the issue of community of interest are susceptible to quantification and precise measurement, there are data which do measure certain tangible aspects of such relationships. The following paragraphs review such data.

²⁰²**County COLG Response**, p. 7. During FY2000/01 Wise County contributed \$40,000 to the operation of Mountain Empire Transit, while Big Stone Gap appropriated \$1,000 and the Town of Coeburn \$500 to the transit system during the same period. The Commission notes that most of the funding for the operation of the transit system that serves Wise County and its towns is derived from State and federal subsidies. (Marilyn Maxwell, Executive Director, Mountain Empire Older Citizens, Inc., communication with staff of Commission on Local Government, June 25, 2002.)

²⁰³**County Comprehensive Plan**, p. X-2.

First, the evidence clearly reveals strong public service ties between the area proposed for annexation and the Town of Big Stone Gap. The Town is presently providing water and sewerage to almost all of the residential and commercial concentrations in the area proposed for annexation.²⁰⁴ Big Stone Gap is also the headquarters for the volunteer fire department and rescue squad serving the proposed annexation area. In addition, the Town's police department responds to emergency calls within that area.²⁰⁵ Moreover, the Town's redevelopment and housing authority has been active in addressing the low and moderate income housing needs of residents of the area proposed for annexation.²⁰⁶

Second, the data also suggests a strong commercial relationship between the proposed annexation area and the Town. As indicated previously, 1997 U. S. Bureau of the Census data revealed that, as of that year, the Town contained 26.5% of the County's service industries and 25.1% of its retail establishments.²⁰⁷ Further, although in 1997 the Town

²⁰⁴Town water lines serve 622 connections in the area proposed for annexation and Town sewerage also serve 437 connections in that area. (Glass, letter to staff of Commission on Local Government, Mar. 1, 2002.)

²⁰⁵**Town Notice**, Tab "Urban Services," pp. 13.

²⁰⁶**Ibid.** The Big Stone Gap Redevelopment and Housing Authority administers 40 HUD Section 8 Rental Assistance units within the unincorporated portion of the County, including the area proposed for annexation. In addition, that authority was responsible for the rehabilitation of 13 dwelling units in the Artesian Well Hollow community in that area.

²⁰⁷**1997 Economic Census, Retail Trade, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Health Care and Social Assistance, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Real Estate and Rental and Leasing, Geographic Area Series, Virginia**, Tables 3, 4; **1997 Economic Census, Accommodation and Food Services, Geographic Area Series, Virginia**, Tables 3, 4; and **1997 Economic Census, Other Services (Except Public Administration), Geographic Area Series, Virginia**, Tables 3, 4.

contained only 11.7% of the County's total population, retail sales in Big Stone Gap constituted 28.1% of the total of the retail sales of the entirety of Wise County, inclusive of its incorporated towns.²⁰⁸ It is reasonable to conclude, therefore, that a significant amount of the retail trade activity of County residents residing in close proximity to the Town of Big Stone Gap is presently conducted at establishments within the Town.²⁰⁹

Third, the presence of public and semi-public facilities in the Town and the area proposed for annexation increases the relationship between the municipality and the area on its periphery. Those facilities include a number of offices of various State and federal agencies, four schools (public and private), Mountain Empire Community College, 12 recreational facilities, and more than 22 churches.²¹⁰

The Town of Big Stone Gap is also the principal site of the medical, professional, and financial facilities which serve the general area. The location of the 60-bed Wellmont Lonesome Pine Hospital has fostered the development of a major center of medical facilities in the Town. The evidence indicates that, in addition to the hospital, there are 15 other

²⁰⁸**1997 Economic Census, Retail Trade, Geographic Area Series, Virginia**, Tables 3, 4; Weldon Cooper Center for Public Service, "Revised 1991-99 Estimates," (Available: http://www.ccps.virginia.edu/Demographics/estimates/city-co/Revised_Est.xls); and "Population Estimates for Places, Annual Time Series, July 1, 1990 to July 1, 1999, Virginia," (Available: <http://www.ccps.virginia.edu/Demographics/estimates/towns/towns.pdf>.)

²⁰⁹There are no significant retail operations located within the area proposed for annexation. (**Town Notice**, Tab "Existing Conditions," Table B2a.) A recent survey of persons residing in that area conducted on behalf of Wise County indicated that in terms of grocery shopping and car repair, the residents of the area proposed for annexation utilized, in the main, facilities in the Town of Big Stone Gap. (Harry L. Wilson, Consultant, County of Wise, letter to staff of Commission on Local Government, May 3, 2002.)

²¹⁰**Town Notice**, Tab "Community of Interest," Tables E1, E2.

medical or dental offices in Big Stone Gap.²¹¹ Further, within the Town's corporate limits there are 23 offices providing financial, insurance, real estate, or legal services.²¹² In addition, the Town is the site of three financial institutions which appear to provide the predominant share of the financial services required by the area's residents and businesses.²¹³

Finally, the Commission notes that the area proposed for annexation has a population density of 657 persons per square mile, considerably in excess of the 2000 density of the unincorporated portion of Wise County (68 persons per square mile).²¹⁴ This density of population gives the area proposed for annexation an urban character and service needs which more closely parallel those of the Town than those of the outlying portions of the County. With respect to urbanization in the area proposed for annexation, a number of developments and neighborhoods along the periphery of Big Stone Gap are clearly extensions of development patterns originating within the Town.²¹⁵

On the basis of these various considerations, we have no difficulty concluding that there exists strong and varied relationships which unite the

²¹¹**Ibid.**, Table E3.

²¹²**Ibid.**, Table E5.

²¹³**Ibid.** A recent survey of persons residing in the area proposed for annexation revealed that 76% of the survey's respondents utilized banking facilities located in the Town. (Wilson, letter to staff of Commission on Local Government, May 3, 2002.)

²¹⁴The population density in the County overall in 2000 was 105 persons per square mile.

²¹⁵The Commission notes that there are development patterns, as well as streets, in the Cadet, Western, Beamantown, and Southern portions of the area proposed for annexation that emanate from within Big Stone Gap. (**Town Rebuttal Exhibits**, Exhs. 3, 4.)

Town of Big Stone Gap and the areas generally which it seeks to annex, constituting, in the aggregate, a significant community of interest.

The Commission also recognizes the relationships between the area proposed for annexation and the County generally which create a community of interest. This community of interest rests principally upon schools and, to a lesser degree, governmental relationships and economic factors.

The Commission acknowledges that school attendance patterns create significant educational and social relationships between the area proposed for annexation, and other portions of Wise County. Within the proposed annexation area are a high school, a middle school, and an elementary school, which are attended by students of the Town, the area proposed for annexation, and other portions of the County. In addition, students of the areas adjacent to the Town, including the area proposed for annexation may attend classes at the County's vocational center located in the Town of Wise. While the Commission has recognized repeatedly that schools are often more than educational facilities for students and their families, school attendance zones are set and subject to change by school officials.

With respect to other bonds relating the area proposed for annexation to the rest of the County, the Commission notes that the Town of Wise, which is located approximately 12 miles northeast of Big Stone Gap, is the seat of Wise County government and within that Town the County maintains its courts, health, social services, law enforcement, and general governmental and school board offices. In addition, both the Town of Wise and the City of Norton constitute major centers of professional services and retail trade for the general area.²¹⁶ Further, in recent years the County has

²¹⁶The Commission notes that in many of its submittals, the County included data concerning the City of Norton. (See, for example, **County Response**, Tab 3A.) While we recognize that Norton is an integral component of the regional economy of Southwestern Virginia and is a factor

focused its economic development in and around the Town of Wise and Norton to the extent that that portion of Wise County has become a major center of employment for residents of the community at large. Finally, the Mountain Empire Community College, which is located in the area proposed for annexation, is a regional educational facility that serves a portion of Southwestern Virginia.

The Commission has also noted the substantial amount of data presented by Wise County evincing a community of interest that binds the area proposed for annexation and the remaining portions of Wise County. The County has asserted that the strength of the political, economic, and social ties between the residents of that area and the County generally is stronger than the community of interest that may exist between the Town and the area sought for annexation. This assertion is founded upon the responses to a recent survey of residents of the Town, the area proposed for annexation, and the remaining portion of Wise County.²¹⁷

With respect to that survey, three major factors should be noted. First, many of the responses to the questions in the survey confirmed that the economic, political, and social community of interest of residents of the area proposed for annexation was stronger with the Town than with the remainder of the County.²¹⁸ Second, we observe that only in response to a

in the community of interest in Wise County overall, the County derives no tax revenues from the property or commerce within that independent city.

²¹⁷**County Response**, Tab 5. Interviews were conducted of 129 households in the area proposed for annexation, 234 households in the Town, and 300 households in the remaining portion of Wise County.

²¹⁸In addition to the responses regarding grocery shopping, car repair, and banking cited previously, the County's survey found that the residents of the area proposed for annexation shared the same views on law enforcement and crime and the role of government in the regulation of development and taxes. In addition, the survey found that 45.7% of the

survey question administered solely in the area proposed for annexation regarding which locality - the Town of Big Stone Gap or Wise County - would be "best" for taking care of neighborhoods, providing police protection, road maintenance, and the collection of taxes did the respondents express a stronger preference for the County than the Town. In our judgment, however, that survey question is not a true measure of community of interest, but only gauged the desire of the respondents to be annexed into the Town.²¹⁹ Further, the question also implied that annexation of any areas by Big Stone Gap would supplant the County as a governmental entity, which is not the case.²²⁰ Finally, in terms of the utility of the survey generally, we concur in the conclusion reached by a representative for the County that:

Overall these [survey] results indicated more similarities than differences among the citizens of the Town, the proposed annexation area, and Wise County. Where there are differences, they tend not to be statistically significant.²²¹

respondents from the area proposed for annexation attended a church located in the Town. (Wilson, letter to staff of Commission on Local Government, May 3, 2002.)

²¹⁹The Commission also observes that many of the questions in the County's survey included vague and ambiguous terms (e.g., "most," "usually," "local issues," "household," etc.), as well as imprecise language (e.g., "...taking care of this neighborhood..."), that significantly diminishes the value of the responses for analytic purposes.

²²⁰Following annexation, residents incorporated into Big Stone Gap will continue to vote for members of the County's governing body and its constitutional officers. Further, the County will be responsible for the provision of public education; health; social services, mental health, mental retardation and substance abuse services; and tax collection services; as well as the judicial system for the residents of the enlarged Town.

²²¹**County Response**, Tab 5, p. 5.

In sum, while there are interests and relationships which establish a community of interest between the area proposed for annexation and the remaining portion of Wise County, we do not consider that community of interest equivalent to that which links the area proposed for annexation to the Town of Big Stone Gap. In terms of urban services, retail, medical and professional facilities, and development patterns, we consider the community of interest between Big Stone Gap and the area on its periphery to be significant, pervasive, and exceeding that between such area and the outlying portion of Wise County.

ARBITRARY REFUSAL TO COOPERATE

A further consideration in reviewing annexation issues is whether the affected localities have arbitrarily refused to cooperate in the provision of ". . . joint activities which would have benefitted citizens of both political subdivisions; . . ." ²²² The apparent intent of the General Assembly in directing consideration of this issue is to promote interlocal cooperation where such can be of mutual benefit to local governments and their residents. With respect to the annexation issue presently under review, this Commission is aware of no instance in which either jurisdiction has arbitrarily refused to cooperate in the provision of public services. Indeed, the Commission has noted significant areas of cooperation between the Town of Big Stone Gap and Wise County in the provision of services to their residents. The data reveal that the Town and County have cooperated in the provision of fire and rescue squad services, law enforcement, public housing, and solid waste disposal. Such collaborative efforts among local governments are vital to the State and should not be jeopardized by boundary change proceedings.

²²²Sec. 15.2-3209(5), Code of Va.

IMPACT ON AGRICULTURAL OPERATIONS

The State's annexation laws were amended in 1999 to direct the Commission and the reviewing court to consider the impact of annexation on agricultural operations in the area proposed to be incorporated into a municipality. As noted in a previous section of this report, agricultural operations are not a significant segment of the County's overall economy.²²³ Further, while the data indicate that approximately one-half (747 acres) of the area proposed for annexation is vacant or undeveloped, no information was presented as to how much of that acreage was actively devoted to agricultural production.

With respect to policies designed to protect agricultural properties, the Commission notes that neither Big Stone Gap nor Wise County has adopted a use value assessment program for agricultural, forestal, or horticultural properties.²²⁴ Further, while the Town and the County have specific zoning districts where farming is authorized, both of those districts also allow a variety of development that may be detrimental to the continuation of agricultural operations.²²⁵ Thus, active agricultural

²²³In 1997 (the most recent year for which data are available) there were only 137 farms in Wise County occupying a total of 25.3 square miles, or slightly more than 6% of the County's total land area. (**1997 Census of Agriculture, Highlights of Agriculture, Wise County Virginia.**)

²²⁴**2001 Tax Rates, Virginia's Cities, Counties, and Selected Towns,** pp. 71-79.

²²⁵The County's agricultural-rural residential district permits by right single family dwelling units, individual mobile homes, nursing homes, schools, and certain other government buildings. Further, since residential development can occur in the County's district on lots as small as one-half acre, agricultural areas can be subject to intensive residential development. (**County Zoning Ordinance**, Sec. 4-1.) While the Town's rural residential district also permits single family dwellings, individual mobile homes are prohibited, and nursing homes, hospitals, governmental buildings are only authorized by special use permit. In addition, the minimum lot area for

properties in the Town and the County confront a similar set of policies. In sum, there is no evidence to suggest that annexation by Big Stone Gap would impose an adverse impact on agricultural operations located in the area incorporated into the Town.

INTEREST OF THE STATE

Another of the factors prescribed by the Code of Virginia for consideration in local boundary change issues in the ". . . interest of the State in promoting strong and viable units of government."²²⁶ In the judgment of this Commission, the preservation and promotion of the viability of Virginia's local governments is the State's paramount concern in such issues. As previous sections of this report have indicated, the annexation proposed by Big Stone Gap will provide the Town with additional tax resources as well as a considerable amount of vacant land which can accommodate future commercial, industrial, and residential development. Further, the infusion of present and future tax resources into the Town's fiscal base as a consequence of this proposed annexation will not be accompanied by any major adverse effect on the County's fiscal condition. While Wise County will initially experience a modest reduction in some revenue categories because of the proposed annexation, all properties annexed by Big Stone Gap will remain subject to taxation by the County and all future development occurring in the enlarged Town will redound to be benefit of the County as well as the municipality. In sum, the Commission finds that the annexation proposed by the Town of Big Stone Gap consistent with the interest of the Commonwealth in promoting strong and viable units of local government.

single family dwellings in the Town's district is 1.5 acres. (**Town Zoning Ordinance**, Sec. 2.)

²²⁶Sec. 15.1-1041(b), Code of Va.

FINDINGS AND RECOMMENDATIONS

After a careful and extended analysis of the numerous considerations reviewed in the previous sections of this report, the Commission recommends that the Town of Big Stone Gap be granted the annexation which it has proposed. While the Commission's recommendations are founded upon the entirety of the data previously cited in this report, there are several considerations which should be reiterated here.

First, the Town of Big Stone Gap has facilitated a considerable portion of the development on its periphery through the construction of facilities serving the area beyond its present corporate boundaries. Data reveal that Big Stone Gap's utility systems currently serve approximately 437 sewer connections and 622 water connections within the area recommended for annexation.²²⁷ Moreover, there are properties within the Cadet and Southern communities in that area which are presently in need of sewerage which only Big Stone Gap can provide.

Second, the evidence reveals that the Town of Big Stone Gap has not experienced growth in its tax base comparable to that which occurred in Wise County. The Town's overall fiscal responsibilities will, moreover, be expanded by the annexation recommended herein. While the Town has estimated that the annexation award will result in an increase in Big Stone Gap's annual operational expenditures, short-term capital outlay, and debt service of approximately \$600,000, the area recommended for annexation is expected to generate initially approximately \$746,400 annually in additional

²²⁷In addition, the Town also directly serves 636 sewer connections and 1,751 water connections located in other portions of Wise County beyond the area recommended for annexation.

local-source revenues and State intergovernmental aid for the Town.²²⁸ In our judgment, the annexation recommended herein carries with it fiscal assets which should permit the Town to ameliorate its current fiscal burden and to meet the needs of the enlarged municipality.²²⁹

Third, statistics disclose that the Town of Big Stone Gap has not shared fully in the growth of its general area in recent years, and the current and prospective development patterns suggest that the Town does confront a need for additional land for development. The need for additional property is evident with respect to commercial and industrial development. While the amount of vacant land for such uses in the Town is limited, some of that property is severely restricted in its development potential by environmental factors, parcel size, the nature of adjacent development, and locational considerations. In our judgment, Big Stone Gap's ability to share in the commercial and industrial development of its general area rests upon an extension of the Town's corporate boundaries.

228Proposed Findings and Conclusions By the Town of Big Stone Gap in Support of Its Annexation Notice, pp. 41.

229Wise County has contended that Big Stone Gap substantially underestimated the expenditures required to extend Town services to the annexed area. The County's assertion is based upon the analysis of the average per capita cost for municipal services in towns with 2000 Census populations between 4,000 and 12,000 persons. [See, for example, testimony of Thomas Muller, Consultant, County of Wise, **Transcript**, Apr. 23, 2002, pp. 193-208, 230; and County of Wise, **Supplemental Response By the County of Wise, Virginia, to the Notice By the Town of Big Stone Gap of Its Intent to Petition for Annexation of Territory of Wise County**, Tables 2-V (Amended), 2-U.] The Commission notes, however, that it is preferable to estimate local expenditures through direct measurement of the incident of governmental facilities, services, and program clients within the Town as well as area recommended for annexation. Further, the County's calculations have the effect of disregarding regional variations in service levels, economies of scale, and other factors unique to the Town of Big Stone Gap and its environs.

Fourth, the data indicate that the properties recommended for annexation have a strong and pervasive community of interest with the Town of Big Stone Gap. This community of interest is founded upon urban service considerations, economic and social ties, and development patterns. With respect to the latter factor, several of the largest concentrations of population in the area recommended for annexation (Cadet, Beamantown, and Southern communities) are natural extensions of neighborhoods originating within the Town.

Finally, the evidence indicates that the annexation which we recommend will not significantly affect the viability of Wise County nor will it impair its ability to serve its residents. Indeed, the recommended annexation will, if approved by the court, result initially in a modest constriction of some County revenue sources. While this loss of revenue has been estimated by the County to be approximately \$208,000 in the first year after annexation, this amount represents only 0.6% of its total general fund receipts for the 2000/01 Fiscal Year. Further, the recommended annexation will not remove any property from the County's tax rolls. Moreover, Big Stone Gap's enhanced ability to continue to extend services and to support development in its environs will ultimately redound to the benefit of Wise County generally.

SERVICES AND POLICIES

As indicated previously, a significant majority of the residents in the area recommended for annexation receive services directly from the Town of Big Stone Gap (e. g., sewer and water) and from agencies located within the Town's present boundaries (e. g., volunteer fire department and branch of the regional library system). The Town's plans to serve the area sought for annexation call for the extension of public services, including sewerage, to the enlarged municipality. Given the presence or availability of existing

Town services and facilities in the area recommended for annexation, Big Stone Gap's proposed service plan appears to be appropriate to meet the needs of the area's residents and businesses. Therefore, the Commission recommends that the court endorse the Town's plans, as set forth in its various exhibits, to serve the area recommended for annexation.

FISCAL MANAGEMENT

The Commission is obliged to offer three brief comments on the Town of Big Stone Gap's fiscal procedures. First, the Town has indicated that it may address a portion of a projected deficit in its water and sewer enterprise accounts following the recommended annexation by transfers from its general fund. We recommend that if such should occur, the Town not adhere to this practice on a continuing basis, but that it take appropriate steps to have its enterprise activities be self-supporting. To that end, Big Stone Gap might consider gradual adjustments in its user charges and connection fees for both water and sewer, with an accompanying increase in the surcharge for nonresidents.

Second, the Commission also strongly recommends that Big Stone Gap adopt and annually revise a capital improvements plan as authorized by Section 15.2-2239 of the Code of Virginia.²³⁰ With the expansion of Big Stone Gap's boundaries and the extension of services into the annexed area underscore the need for the adoption and utilization of such a planning instrument.

²³⁰Section 15.2-2239, Code of Virginia authorizes local planning commissions to prepare and revise annually a five-year capital improvements program, based on the comprehensive plan of the locality, for submission to the governing body or chief administrative officer of the affected jurisdiction. The adoption of a capital improvements program assists localities in the proper implementation of their development control measures.

Finally, as noted in a previous section of this report, the Town does not conform with traditional accounting procedures by which a portion of its surplus balances in its governmental and utility funds are officially "designated" or "reserved" for capital projects. Rather, Big Stone Gap retains the excess funds in its governmental and utility accounts as uncommitted balances of cash and investments. We recommend that the Town institute a policy of officially reserving a portion of its undesignated governmental and enterprise funds in a discrete account for projects identified in the Town's capital improvements plan. In view of the increased fiscal responsibilities which will fall upon the Town as a consequence of the proposed annexation, such a policy will grow in significance.

Respectfully submitted,

_____/s/_____
Geline B. Williams, Chairman

_____/s/_____
Peter T. Way, Vice Chairman

_____/s/_____
James E. Kickler

_____/s/_____
Frank Raflo

ADDENDUM STATEMENT

PETER T. WAY

While I have signed the Commission's report indicating a general endorsement of the findings and recommendations contained therein, I am obliged to state my strong concern about the impact of annexation on the affected residents and businesses.

Respectively submitted,

_____/s/_____
Peter T. Way, Vice Chairman

APPENDIX A

STATISTICAL PROFILE OF THE TOWN OF BIG STONE GAP, COUNTY OF WISE, AND THE AREA PROPOSED FOR ANNEXATION

	<u>Town of Big Stone Gap</u>	<u>County of Wise</u>	<u>Area Proposed for Annexation</u>
Population (2000)	5,906	42,209	1,537
Land Area (Square Miles)	5.05	404.00	2.34
Total Assessed Values	\$151,852,772	\$1,657,021,890	\$33,805,637
Real Estate Values	\$116,881,213	\$1,021,324,286	\$26,864,795
Mobile Home Values	\$809,820	\$43,814,088	N/A
Public Service Corporation Values	\$10,495,292	\$78,304,968	\$192,248
Personal Property Values	\$23,446,822	\$294,640,505	\$6,748,594
Machinery and Tools Values	\$219,625	\$193,592,502	N/A
Merchants' Capital Values	N/A	\$25,345,541	N/A
Existing Land Use (Acres)			
Residential	676	N/A	296
Commercial	104	N/A	56
Industrial	45	N/A	2
Public and Semi-Public	380	N/A	249
Transportation and Utilities	320	N/A	147
Rivers and Streams	64		N/A
Agricultural, Wooded or Vacant	1,645	N/A	747

NOTES:

N/A=Not Available

County population, land area, and property value statistics include the Town of Big Stone Gap.

Data for the area proposed for annexation are estimated by the Town of Big Stone Gap.

Assessed valuation data for the Town and County are for FY2001. Such data for the area proposed for annexation are for FY2000.

SOURCE:

Town of Big Stone Gap, Notice by the Town of Big Stone Gap of Its Intent to Petition for Annexation of Territory in Wise County and Supporting Data.

Thrower, Livesay and Blanton, P.C., Town of Big Stone Gap, Virginia, Comprehensive Annual Financial Report, Year Ended June 30, 2001.

Larry D. Sturgill, P. C., County of Wise, Audit Report, June 30, 2001.

APPENDIX B

**Map of the Town of Big Stone Gap
and the
Area Proposed for Annexation
(Not Available in the Electronic Version)**

REVENUE EFFORT BY LOCALITY, 1999-2000

Rank Scores

1.0=Highest Effort 135.0=Lowest Effort

Relative Stress Scores

69.38=Highest Stress 47.76=Lowest Stress

Locality	Revenue Effort, 1999/2000	Rank Score	Relative Stress Score
Covington City	1.8625	1.0	69.38
Hopewell City	1.7967	2.0	68.34
Emporia City	1.7833	3.0	68.12
Norfolk City	1.7796	4.0	68.06
Portsmouth City	1.6206	5.0	65.53
Newport News City	1.5770	6.0	64.84
Bristol City	1.5398	7.0	64.24
Hampton City	1.4919	8.0	63.48
Lynchburg City	1.4909	9.0	63.46
Richmond City	1.4609	10.0	62.99
Greensville County	1.4518	11.0	62.84
Fredericksburg City	1.4499	12.0	62.81
Petersburg City	1.4267	13.0	62.44
Roanoke City	1.4172	14.0	62.29
Williamsburg City	1.4009	15.0	62.03
Waynesboro City	1.3930	16.0	61.90
Galax City	1.3785	17.0	61.67
Manassas Park City	1.3628	18.0	61.42
Salem City	1.3624	19.0	61.42
Clifton Forge City	1.3494	20.0	61.21
Buchanan County	1.3481	21.0	61.19
Martinsville City	1.3392	22.0	61.05
Charlottesville City	1.3163	23.0	60.68
Lexington City	1.3132	24.0	60.63
Buena Vista City	1.3107	25.0	60.59
Norton City	1.2906	26.0	60.27
Alleghany County	1.2840	27.0	60.17
Chesapeake City	1.2667	28.0	59.89
Colonial Heights City	1.2591	29.0	59.77
Bedford City	1.2571	30.0	59.74
Franklin City	1.2464	31.0	59.57
Staunton City	1.2418	32.0	59.50
King and Queen County	1.2211	33.0	59.16
Manassas City	1.1991	34.0	58.81
Fairfax City	1.1674	35.0	58.31
Virginia Beach City	1.1621	36.0	58.23
Prince William County	1.1450	37.0	57.95
Harrisonburg City	1.1437	38.0	57.93
King George County	1.1403	39.0	57.88
Danville City	1.1402	40.0	57.88
Charles City County	1.1153	41.0	57.48
Winchester City	1.1114	42.0	57.42
Alexandria City	1.0742	43.0	56.83
Falls Church City	1.0630	44.0	56.65

Source: Commission on Local Government, Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1999/2000.

REVENUE EFFORT BY LOCALITY, 1999-2000

Rank Scores

1.0=Highest Effort 135.0=Lowest Effort

Relative Stress Scores

69.38=Highest Stress 47.76=Lowest Stress

Locality	Revenue Effort, 1999/2000	Rank Score	Relative Stress Score
Suffolk City	1.0475	45.0	56.40
Sussex County	1.0335	46.0	56.18
Stafford County	0.9881	47.0	55.45
Arlington County	0.9852	48.0	55.41
Isle of Wight County	0.9829	49.0	55.37
Dickenson County	0.9811	50.0	55.34
Radford City	0.9723	51.0	55.20
York County	0.9660	52.0	55.10
Nelson County	0.9442	53.0	54.75
Fairfax County	0.9347	54.0	54.60
Chesterfield County	0.9333	55.0	54.58
Spotsylvania County	0.9329	56.0	54.57
Wise County	0.9306	57.0	54.54
James City County	0.9299	58.0	54.53
Frederick County	0.9285	59.0	54.50
Roanoke County	0.9231	60.0	54.42
Poquoson City	0.9085	61.0	54.19
Henrico County	0.8942	62.0	53.96
Greene County	0.8746	63.0	53.64
Gloucester County	0.8693	64.0	53.56
Wythe County	0.8570	65.0	53.37
Prince George County	0.8552	66.0	53.34
Rockingham County	0.8539	67.0	53.32
Loudoun County	0.8482	68.0	53.22
Culpeper County	0.8479	69.0	53.22
Charlotte County	0.8474	70.0	53.21
Richmond County	0.8390	71.0	53.08
Caroline County	0.8341	72.0	53.00
Northampton County	0.8291	73.0	52.92
Essex County	0.8290	74.0	52.92
Rockbridge County	0.8288	75.0	52.92
Westmoreland County	0.8225	76.0	52.81
Dinwiddie County	0.8214	77.0	52.80
Smyth County	0.8177	78.0	52.74
Lunenburg County	0.8145	79.0	52.69
Pulaski County	0.8076	80.0	52.58
Giles County	0.8065	81.0	52.56
Accomack County	0.8024	82.0	52.50
Warren County	0.8001	83.0	52.46
Prince Edward County	0.7979	84.0	52.42
Fauquier County	0.7974	85.0	52.42
Surry County	0.7907	86.0	52.31
Carroll County	0.7906	87.0	52.31
Southampton County	0.7868	88.0	52.25

Source: Commission on Local Government, Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1999/2000.

REVENUE EFFORT BY LOCALITY, 1999-2000

Rank Scores

1.0=Highest Effort 135.0=Lowest Effort

Relative Stress Scores

69.38=Highest Stress 47.76=Lowest Stress

Locality	Revenue Effort, 1999/2000	Rank Score	Relative Stress Score
Nottoway County	0.7823	89.0	52.17
Brunswick County	0.7796	90.0	52.13
Mathews County	0.7711	91.0	52.00
Orange County	0.7506	92.0	51.67
Cumberland County	0.7482	93.0	51.63
Albemarle County	0.7399	94.0	51.50
Louisa County	0.7371	95.0	51.45
Russell County	0.7328	96.0	51.39
Amelia County	0.7278	97.0	51.31
Campbell County	0.7268	98.0	51.29
Henry County	0.7236	99.0	51.24
Shenandoah County	0.7222	100.0	51.22
Hanover County	0.7173	101.0	51.14
Craig County	0.7168	102.0	51.13
New Kent County	0.7106	103.0	51.03
Amherst County	0.7056	104.0	50.95
Page County	0.6952	105.0	50.79
Fluvanna County	0.6949	106.0	50.78
Botetourt County	0.6933	107.0	50.76
Clarke County	0.6927	108.0	50.75
King William County	0.6923	109.0	50.74
Tazewell County	0.6847	110.0	50.62
Augusta County	0.6825	111.0	50.59
Patrick County	0.6813	112.0	50.57
Grayson County	0.6809	113.0	50.56
Lee County	0.6738	114.0	50.45
Powhatan County	0.6645	115.0	50.30
Bedford County	0.6631	116.0	50.28
Middlesex County	0.6561	117.0	50.16
Montgomery County	0.6534	118.0	50.12
Bland County	0.6503	119.0	50.07
Washington County	0.6481	120.0	50.04
Floyd County	0.6370	121.0	49.86
Appomattox County	0.6275	122.0	49.71
Madison County	0.6217	123.0	49.62
Buckingham County	0.6215	124.0	49.61
Scott County	0.5971	125.0	49.22
Goochland County	0.5854	126.0	49.04
Northumberland County	0.5831	127.0	49.00
Mecklenburg County	0.5786	128.0	48.93
Franklin County	0.5755	129.0	48.88
Pittsylvania County	0.5703	130.0	48.80
Highland County	0.5612	131.0	48.65
Rappahannock County	0.5569	132.0	48.58

Source: Commission on Local Government, Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1999/2000.

REVENUE EFFORT BY LOCALITY, 1999-2000

Rank Scores

1.0=Highest Effort 135.0=Lowest Effort

Relative Stress Scores

69.38=Highest Stress 47.76=Lowest Stress

Locality	Revenue Effort, 1999/2000	Rank Score	Relative Stress Score
Bath County	0.5567	133.0	48.58
Lancaster County	0.5359	134.0	48.25
Halifax County	0.5054	135.0	47.76