REPORT

ON THE

CITY OF COVINGTON–COUNTY OF ALLEGHANY

ANNEXATION ACTION

COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA

AUGUST 1984

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OF THE
COMMISSION ON LOCAL GOVERNMENT

CITY OF COVINGTON -- COUNTY OF ALLEGHANY
ANNEXATION CASE

PROCEEDINGS OF THE COMMISSION

On July 29, 1983 the City of Covington filed notice with the Commission on Local Government, pursuant to the provisions of Section 15.1-945.7 (A) of the Code of Virginia, of its intention to petition for the annexation of 3.7 square miles of territory in Alleghany County.[1] In accordance with the Commission's Rules of Procedure, the City's notice was accompanied by data and exhibits supporting the City's proposed annexation. Further, the City concurrently gave notice of its annexation action to Alleghany County and 34 other local governments with which it shared functions, revenue or tax resources.[2]

The City of Covington's notice to the Commission was preceded by more than two and one-half years of negotiations among representatives of that jurisdiction and the City of Clifton Forge and Alleghany County. Those negotiations were formally initiated under the Commission's auspices in early 1981 pursuant to a request from Alleghany County.[3] The local governments were assisted in their negotiations by an independent mediator designated by the Commission

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[1]City of Covington, Exhibits for Annexation, (hereinafter cited as City Exhibits), July 28, 1983.

[2]Sec. 15.1-945.7(A), Code of Virginia.

[3]The request from Alleghany County for Commission assistance with the analysis of interlocal concerns in the Alleghany Highlands was initiated by a resolution adopted by the Board of Supervisors on October 27, 1980. Alleghany County requested the Commission's assistance under the authority of Section 15.1-945.3 (H) and (I), Code of Virginia (Randal E. Arno, County Administrator, County of Alleghany, letter to staff of Commission on Local Government, October 28, 1980).

in February 1981.[4]

After several months of discussion among representatives of the Cities of Covington and Clifton Forge and Alleghany County, aided by the Commission's designated mediator, the parties concluded an agreement on August 4, 1981 which included provisions (a) calling for a study of various governmental restructuring options in the Alleghany Highlands area and alternative arrangements for the provision of public services, (b) establishing a Joint Steering Committee, consisting of elected and appointed officials of the three jurisdictions, to supervise the conduct of the study and any subsequent negotiations resulting from its recommendations, and (c) holding in abeyance any action for governmental consolidation or annexation during the period of the study, or until after the termination of any ensuing interlocal negotiations.[5] In March 1982, pursuant to the agreement and based on recommendations of the Joint Steering Committee, the Cities of Covington and Clifton Forge and Alleghany County contracted with a consulting firm for a study of various governmental restructuring options and public service alternatives. The study encompassed consideration of the political consolidation of two or more of the localities, the functional consolidation of certain public services, an economic growth-sharing arrangement, and a boundary adjustment between the City of Covington and Alleghany County. The consultant's

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The latter subsection empowers the Commission "[t]o conduct investigations, analyses, and determinations,. . . for the guidance of local governments in the conduct of their affairs" upon appropriate request. The term "Alleghany Highlands" as used in this report encompasses the jurisdictions of Alleghany County, the Cities of Covington and Clifton Forge and the Town of Iron Gate.

[4]The Commission designated, with the concurrence of the parties, Dr. Roger Richman of Old Dominion University as the independent mediator. Dr. Richman assisted the parties from February 1981 through early November 1983.

[5]The Town of Iron Gate was also invited to participate in the intergovernmental discussions, but that municipality did not take an active role in the negotiations.

report, which was issued in December 1982, formed the basis for continued negotiations under the auspices of the Commission's designated mediator.[6] The parties, however, were unable to reach an agreement in the ensuing negotiations, and the City of Covington filed its notice of proposed annexation in July 1983.

On September 19, 1983 the Commission met with representatives of the City of Covington and Alleghany County for purposes of scheduling its review of the City's annexation action.[7] At that meeting the Commission established a schedule which called for submission of the County's materials in response to the annexation action by November 7, 1983, oral presentations and a public hearing at the end of that month, and the submission of its report on March 1, 1984.[8] On November 1, 1983, however, representatives of the Cities of Covington and Clifton Forge and Alleghany County signed a second intergovernmental agreement which requested the Commission to postpone its scheduled review of Covington's annexation action for 90 days to allow the three jurisdictions additional time to endeavor to negotiate a settlement of that issue.[9] On November 2, 1983 the Commission met with representatives of the City of Covington and Alleghany County and agreed to delay its review of the City's annexation petition for the period

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[6]John McNair and Associates, Alleghany Highlands Governmental Study, Vols. I - III, December 1982.

[7]On September 14, 1983 the City of Clifton Forge gave notice of its desire to participate in the City of Covington's annexation proceedings as an affected party (James F. Stutts, Special Counsel, City of Clifton Forge, letter to staff of the Commission on Local Government, September 14, 1983).

[8]The parties agreed to an extension of the Commission's reporting deadline until March 1, 1984. The Commission is required by law to submit reports on actions filed with it within six months of the date of filing unless the parties agree otherwise, or unless the court grants an extension [Sec. 15.1-945.7(A), Code of Virginia].

[9]The agreements called for the resumption of negotiations to develop a plan for the political consolidation of the three governments or, alternatively, to discuss the issue of voluntary boundary

requested.[10]

On January 18, 1984 the City of Covington notified the Commission that the interlocal negotiations had terminated without resolution and requested that the Commission proceed with its hearings on the City's annexation petition. Accordingly, the Commission met with representatives of the Cities of Covington and Clifton Forge and Alleghany County on February 1, 1984 and rescheduled its hearings for mid-April 1984 and the release of its report on the proposed annexation for July 25, 1984.[11]

Consistent with its adopted schedule, the Commission toured relevant areas and facilities in the Cities of Covington and Clifton Forge and Alleghany County on April 14, 1984, and received oral testimony from the parties on April 16 and 17. In addition, the Commission solicited comment from other potentially affected political subdivisions and the public. Each political subdivision receiving notice of the proposed annexation from the City under the provisions of Section 15.1-945.7(A) was invited by the Commission to submit testimony on the proposed action for its consideration. Further, the Commission held a public hearing, advertised in accordance with the requirements of Section 15.1-945.7(B) of the Code of Virginia, on the evening of April 16, 1984 at the Alleghany High School in Lowmoor,

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adjustments for the two Cities.

[10]In response to a request from the three jurisdictions, on November 9, 1983 the Commission designated Dr. Beverly Yanich of Virginia Polytechnic Institute and State University as an independent mediator to assist in the renewed efforts to negotiate a settlement of the interlocal issue. Further, the parties agreed to a request by the Commission of an extension of the reporting deadline for approximately 90 days which the Commission established as a prerequisite for the deferral of its review.

[11]On February 13, 1984 the Concerned Citizens of the Alleghany Highlands, Inc., a citizens group interested in the consolidation of the three jurisdictions in the region, filed a petition for injunction seeking to halt the City's annexation action based upon the fact that a citizen-initiated effort to consolidate the Cities of Covington and Clifton Forge and Alleghany County had been instituted on October

Virginia.[12] The public hearing was attended by approximately 200 persons with testimony being offered by 49 individuals. For purposes of receiving additional public comment, the Commission agreed to keep open its record for the receipt of written submissions through May 16, 1984.

SCOPE OF REVIEW

The Commission's findings and recommendations relative to the City of Covington's proposed annexation have been based upon, as required by Section 15.1-945.7 (B) of the Code, "the criteria and standards established by law" for consideration in annexation cases. The criteria and standards by which municipal annexations are to be evaluated in the State are set forth in Chapter 25 of Title 15.1 of the Code, principally in Section 15.1-1041. This section directs the annexation court, and thus this Commission, to determine "the necessity for and expediency of annexation." In determining such "necessity and expediency," Section 15.1-1041 requires the reviewing entity to consider "the best interest of the people of the county and city . . ., 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." Additionally, this section identifies a number of fiscal concerns, public service functions, com-

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11, 1983 under the provisions of Sec. 15.1-1132 of the Code of Virginia and that the consolidation issue should be resolved prior to the commencement of annexation proceedings. On March 6, 1984 the County of Alleghany also filed suit seeking to enjoin the City of Covington and the Commission from proceeding with the review of the annexation issue until the resolution of the consolidation effort. On March 21, 1984 the Circuit Court of Alleghany County dismissed the separate suits for injunction instituted by the Concerned Citizens of the Alleghany Highlands and Alleghany County.

[12]At the request of the Commission all materials which had been submitted to it by the parties relative to the annexation action were made available for public review in the offices of both the City

munity of interest issues and State policies which are to be evaluated in considering the best interest of the parties and the State. Since the City of Covington will be essentially blocked under State law from initiating any subsequent annexation action for at least a decade after the institution of court review of this action, the analysis of this annexation must involve more than an appraisal of current circumstances and conditions. Accordingly, the Commission's recommendations on this or any other annexation should be founded, in part, upon a reasonable projection of relevant circumstances and conditions.

In the report which follows the Commission has endeavored to apply its collective experience in local governmental affairs and administration and to leave questions of law for appropriate resolution elsewhere. The Commission trusts that its recommendations relative to the protection and preservation of the viability of the local governments will assist the parties and the court in efforts to effect an appropriate and equitable resolution of their interlocal concerns.

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

CITY OF COVINGTON

The City of Covington, whose legal origins can be traced to 1819, was incorporated as a town in 1833 and was granted independent city status in 1952. In the latter year Covington experienced its last boundary expansion, bringing within its corporate limits 3.4 square miles of territory formerly within Alleghany County.[13] Like many other Virginia municipalities, the City of Covington experienced a population loss during the previous decade, with its population

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Manager of the City of Covington and the County Administrator of Alleghany County.

[13] City Exhibits, p. 7.

decreasing between 1970 and 1980 from 10,060 to 9,063 persons, or by 9.9%.[14] Official population estimates for 1982 indicate that the City's population had declined to 8,400 persons, a decrease of 7.3% during that two-year period.[15] Based on the population estimate for 1982 and its present land area of 4.39 square miles, the City has a population density of 1,913 persons per square mile.

With respect to the nature of its population, the evidence indicates that the City's populace is considerably older and has a lower average income than the State as a whole. Data reveal that as of 1980 the median age of Covington residents was 35.2 years, a statistic significantly greater than that for the State overall (29.8 years).[16] Further, the percentage of the City's 1980 population age 65 and over was 17.7%, or nearly double the comparable figure for the State generally (9.5%).[17] In terms of personal earnings, data reveal that as of 1983 the estimated median family income in Covington was $20,125, or 77.0% of the median family income figure for the Commonwealth as a whole.[18]

In terms of the City's present land use, 1983 data reveal that 30% of Covington's total area is devoted to residential development, 4% is engaged in commercial enterprise, 8% is committed to industrial acti-

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[14]U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Number of Inhabitants, Virginia, Number PC80-1-A48, Table 2.

[15]Julia H. Martin and Michael A. Spar, Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final) and July 1, 1982 (Provisional) (Charlottesville: Tayloe Murphy Institute, University of Virginia, December 1983), Table 2.

[16]U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Social and Economic Characteristics, Virginia, Number PC80-1-C48, Tables 6, 171.

[17]Ibid.

[18]John L. Knapp and Philip J. Grossman, Projected 1983 Median Family and Median Household Income in Virginia's Counties, Cities, MSAs, and Planning Districts (Charlottesville: Tayloe Murphy

vity, 6% is utilized for public or semi-public purposes and 36% is vacant.[19] The City contends that of the 1,014 acres of vacant land within its boundaries, only 774 acres are located on tracts of sufficient size to offer significant development potential. Of this vacant land, however, 580 acres are located on slopes exceeding 15% or are in the 100-year floodplain.[20] The exclusion of this environmentally restricted acreage leaves the City with only approximately 142 acres of vacant property zoned for residential, commercial, or industrial usage with significant development potential.

Finally, the City of Covington is a major center of the economic and corporate life of the Alleghany Highlands area. In 1980 business firms within the City provided employment opportunities for approximately 3,600 nonresidents.[21] Further, with its significant concentration of governmental, professional and retail facilities Covington plays a major role in many other aspects of the public life of its general area.

Institute, University of Virginia, September 1983).

[19]City of Covington, Annexation Notice, Vol. I (hereinafter cited as City Notice - I), March 1984, Exh. 7. Approximately 16% of the land within the City is used for road or railroad right-of-ways. The vacant land within the City's industrial park (50 acres) is not included in the vacant land category [Testimony of George A. Paxton, Expert Witness, City of Covington, Transcript of Oral Presentations before the Commission on Local Government (hereinafter cited as Transcript), Vol. I, pp. 240-241].

[20]City Notice - I, Exh. 8 (Revised). The total of 774 acres of vacant property includes all vacant property zoned for residential development and situated on sites of two acres or more (635 acres), all vacant property zoned for commercial activity and situated on sites of two acres or more (8 acres), all vacant property zoned for industrial usage and located on sites of five acres or more (79 acres), and vacant property zoned for conservation purposes (52 acres).

[21]U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Place of Work Destinations, Virginia, Summary Tape File 4, Documentation Supplement 1, p. 10.

COUNTY OF ALLEGHANY

The County of Alleghany was created in 1822 from territory formerly a part of Bath and Botetourt Counties and initially embracing property now a part of Monroe County, West Virginia.[22] Between 1970 and 1980 the County's population increased from 12,461 to 14,333 persons, or by 15.0%.[23] The official population estimate for 1982 places the County's population at 13,800, a decrease of 3.7% since the decennial census.[24] On the basis of the 1982 population estimate and an area of 444.4 square miles, the County has an overall population density of 31.1 persons per square mile.[25]

With respect to the nature of its population, various statistical indices disclose that the County's populace is somewhat older and, on the average, has a lower income than that of the State generally. Data indicate that as of 1980 the median age of residents of Alleghany County was 31.5 years, while that of the State as a whole was 29.8 years.[26] Further, statistics reveal that as of 1980 approximately 10.7% of the County's population was age 65 or over, while the percentage of that age category for the State overall was 9.5%.[27] In

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[22]J. Devereux Weeks, Dates of Origin Virginia Counties and Municipalities, (Charlottesville: Institute of Government, University of Virginia, 1967).

[23]1980 Census of Population, Number of Inhabitants, Virginia, Table 2.

[24]Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final) and July 1, 1982 (Provisional), Table 2.

[25]The exclusion of State and federal lands (223 square miles) and the persons residing on such land would alter the population density figures. Due to the uncertain number of persons residing on such property, a revised density figure based upon such exclusions is not available.

[26]1980 Census of Population, General Social and Economic Characteristics, Virginia, Tables 62, 171.

[27]Ibid.

terms of earnings, the estimated median family income for County residents in 1983 was $22,602, or only 86.4% of the comparable figure for the State ($26,153).[28]

Unlike most other counties in the State, agricultural operations are not a major component of the County's economic base because of topographic conditions and land ownership patterns. In 1982 the average market value of agricultural products sold per farm in Alleghany County was $7,438, a figure less than one-quarter that for the State as a whole ($31,005).[29] Further, more than half (56.6%) of the farm operators in the County were employed for 100 days or more in nonfarm-related activities.[30]

Forestal activities and associated industries, however, play a major role in the County's economic base. In 1977 data reveal that 392.6 square miles, or 88.3% of the County's total land area, was then producing, or capable of producing, wood for commercial purposes.[31] Further, in 1983 there were approximately 1,500 employment positions in Alleghany County engaged in the production of paper and allied products.[32]

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[28]Projected 1983 Median Family and Median Household Income in Virginia's Counties, Cities, MSAs, and Planning Districts.

[29]U. S. Department of Commerce, Bureau of the Census, 1982 Census of Agriculture, Preliminary Report, Alleghany County, Number AC82-A-51-005(P), December 1983, Table 2. The average size of a farm in Alleghany County (186 acres) exceeded that of the State as a whole (182 acres).

[30]Ibid.

[31]Virginia Division of Forestry, Forest Resource Data, Fifth Planning District, 1977, Table 2. In 1977 approximately 210 square miles of County territory was located in the George Washington National Forest.

[32]Virginia Employment Commission, Special Area by Industry Listing for Quarter 1-83, Area 005--Alleghany County.

The physical characteristics (slope and floodplains) of the land, as well as the fact that large tracts are under ownership of the State and federal governments, have influenced the development patterns in Alleghany County. Data indicate that as of 1979 less than 2.6% (11.7 square miles) of the County land was devoted to residential, commercial or industrial uses, while nearly 97.4% (433 square miles) remained agricultural, wooded or vacant.[33] Much of the developed land in the County is located in the valley of the Jackson River between the Cities of Covington and Clifton Forge. Thus, while Alleghany County has experienced population growth during the decade of the 1970's, it remains largely rural and sparsely populated.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation by the City of Covington consists of three subareas identified as the South (1.27 square miles), East (1.72 square miles), and West (0.73 square miles) Annexation Areas.[34] Each of these parcels is contiguous to the City, and they collectively represent an area of 3.75 square miles containing 2,270 persons, 490 students in average daily membership (ADM), and $40.7 million in total assessed property values subject to local taxation.[35] Based on these estimates, the area proposed for annexation contains 0.8% of Alleghany County's total land area, 16.5% of its estimated 1982 population, 13.1% of its 1982-83 public school ADM, and 17.2% of its total assessed property values subject to local taxation.

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[33]Fifth Planning District Commission, Comprehensive Land Use Plan, Alleghany County, 1979, pp. 8-9.

[34]City Exhibits, p. 9. See Appendix A for a statistical profile of the City of Covington, Alleghany County, and the area proposed for annexation. See Appendix B for a map of the area proposed for annexation.

[35]City Notice - I, Exh. 3 (Revised); County of Alleghany, Response to Covington Annexation Notice, Vol. I (hereinafter cited as County Response - I), March 1984, p. 42; and John H. OBrion, Jr.,

In terms of current land use, data submitted by the City of Covington indicate that approximately 19.0% of the area proposed for annexation is devoted to residential development, 2.1% is engaged in commercial enterprise, 10.5% is committed to public or semi-public usage, 6.6% is used for road or railroad rights-of-way, and 61.8% (1,477 acres) is classified as agricultural, wooded, or vacant.[36] No land in the area proposed for annexation is used for industrial purposes. Of the 1,477 acres of vacant land in the proposed annexation area, 1,095 acres are located on slopes exceeding 15% or are situated in the 100-year floodplain. Thus, only 382 acres, or 16.0% of the area proposed for annexation, are considered suitable for development.[37]

With respect to current development, the area proposed for annexation contains approximately eight residential subdivisions, a 108-unit multi-family assisted housing complex, and significant commercial development east of the City adjacent to Interstate Highway 64 and the U. S. Highways 60 and 220 interchange. This development includes Mallow Mall, a 161,000 square foot retail facility, and a Holiday Inn motel. The retail firms located in the area proposed for annexation generated approximately 77.3% of the County's total local sales tax

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Special Counsel, County of Alleghany, letter to James W. Jennings, Jr., Special Counsel, City of Covington, March 16, 1984. The City has presented data indicating that the area proposed for annexation had a public school ADM of 450 during the 1982-83 school year and total property values of $39.6 million in 1983 subject to local taxation [City Notice - I, Exh. 3 (Revised)].

[36] City Notice - I, Exh. 9. The City calculates that there are 225 acres of land in the area proposed for annexation located within the George Washington National Forest.

[37] Jennings, letter to staff of Commission on Local Government, March 26, 1984. The largest single tract of vacant land in the area proposed for annexation contains approximately 145 acres (Paxton, communication with staff of Commission on Local Government, May 25, 1984).

revenues in 1983.[38]

County-owned facilities in the area include two parks and numerous water and sewer lines and appurtenances. In addition, the City owns water and sewer lines in the South Annexation Area. In sum, while the proposed annexation area is, in terms of land use, largely vacant or engaged in agricultural or forestal activities, it contains significant pockets of development and a number of public facilities. Indeed, based on the City's 1982 estimate of the geographic size and population of the area, it has a population density of 605 persons per square mile, or almost 20 times that of Alleghany County generally.

STANDARDS AND FACTORS FOR ANNEXATION

As indicated previously, the statutes direct this Commission, and ultimately the court, to consider the best interests of the people of the city, the area proposed for annexation, and the remaining portions of the county, as well as the best interests of the State in the analysis of each annexation issue. Further, the law prescribes a series of factors for consideration in the evaluation of the best interests of these parties. The sections which follow in this report constitute the Commission's analysis of these various statutorily prescribed factors.

URBAN SERVICE CONSIDERATIONS

Sewage Treatment

Alleghany County began its involvment in the provision of sewage collection and treatment services to residents of the area proposed for annexation in 1956. Since that date, the County has invested a portion of the proceeds of four bond issues in the construction of

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[38] County Response - I, p. 81.

sewage facilities in the East and West Annexation Areas. Presently, those areas contain 41% of the County's collection lines and force mains (12.1 miles) and 48% of its sewer connections (581).[39] Sewage collected from the West Annexation Area is treated by the City of Covington's wastewater treatment plant, while that from the East Annexation Area is pumped to a lagoon located adjacent to Mallow Mall.[40] The County does not serve any of the South Annexation Area.

The Commission notes that the Mallow lagoon was designed to serve a population of 1,200 but is currently serving an area with a resident population of approximately 2,200 persons.[41] Efforts are currently underway to correct this problem and, with the completion of the construction of a pump station at the lagoon and other improvements, the wastewater from the East Annexation Area will be treated by the City's sewage treatment plant.[42]

The City of Covington, which currently treats a portion and will ultimately treat all the wastewater from both the West and East Annexation Areas, also serves directly approximately 170 connections

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[39]County Response - I, p. 15. The sewage collection systems serving the East and West Annexation Areas are not connected to the other County-owned systems.

[40]Ibid., pp. 10,13. The sewage from the West Annexation Area is treated by the City under the terms of an agreement signed by both jurisdictions on May 11, 1976. The City terminated the contract effective June 30, 1979 but continues to treat sewage from the County.

[41]Alleghany Highlands Governmental Study, Vol. I, p. 79; and testimony of Paxton, Transcript, Vol. I, p. 217.

[42]Testimony of Paxton, Transcript, Vol. I, pp. 217, 272-273. Construction of the pump station and the force main began in June 1984, and the project will be completed in April 1985. The total cost of the project will be approximately $550,000, with 25% of the funds coming from Alleghany County and the remainder from State and federal sources (Noel P. Beach, Director, Department of Public Works, County of Alleghany, communication with staff of Commission on Local Government, June 7, 1984).

in the South Annexation Area.[43] The effluent from the West and South Annexation Areas, and that collected from lines within the City, is treated at the City's sewage treatment plant which has a rated capacity of 3.0 million gallons per day (MGD). Since the plant currently has an average flow of 1.45 MGD, it has a reserve capacity of 1.55 MGD.[44]

With respect to its plan to serve the area proposed for annexation, the City has proposed to extend sewerage lines to the approximately 50 residences in the Westwood subdivision located in the West Annexation Area within four years after annexation. Studies of the City and its environs disclose a need for the extension of central sewerage to that subdivision.[45]

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[43]City of Covington, Supplement Number 1 to Exhibits for Annexation (hereinafter cited as City Supplement), September 2, 1983, p. 13; and Richard C. Flora, City Manager, City of Covington, communication with staff of Commission on Local Government, May 24, 1984.

[44]City Exhibits, p. 26. The City's plant only provides primary treatment to wastewater it receives. This is the lowest level of treatment and is less than State and federal regulations require. The City's plant is only one of four major treatment plants in the State providing only primary treatment [City of Clifton Forge, Response of the City of Clifton Forge, Covington Annexation Proceedings, Vol. I (hereinafter cited as Clifton Forge Response - I), pp. 30-31]. The existing sewage collection system is also subject to excessive inflow of stormwater and infiltration of groundwater which cause sewage to overflow into the Jackson River (City of Covington, Covington 201 Facilities Plan, July 1979, pp. 1-3). The City's treatment plant is scheduled to be upgraded to secondary treatment level in FY 1988-89. The total cost of the project will be $8.5 million. This figure includes funds not only for improvements at the treatment plant but also for the construction of a holding basin to alleviate infiltration and inflow problems, the upgrading of City pumping stations to eliminate sewage bypassing into the Jackson River and improvements to lines and appurtenances in the County. Under current guidelines, State and federal funds will provide approximately 55% of the total cost of the improvements (Flora, communication with staff of Commission on Local Government, June 7, 1984).

[45]Covington 201 Facilities Plan, p. V-7 and Appendix E. Surveys of the Westwood subdivision indicate that approximately 80% of the septic systems in the area have failed.

Despite the problems identified in the Westwood subdivision, the Commission concludes that a substantial majority of the residents of the area proposed for annexation are presently served by public sewerage facilities, and, thus, the extension of this utility service is not a pervasive need in the area.

Water Supply and Distribution

Since 1956 Alleghany County has devoted considerable public resources toward the development of the water systems that presently serves a significant portion of the area proposed for annexation. The County, through its Public Works Department, has caused to be installed in the East and West Annexation Areas approximately 12 miles of water mains which serve 719 metered water connections. These figures represent 32% of the County's total water lines and 45% of its connections.[46]

To serve the residents of the area proposed for annexation, the County has developed two separate water systems, each isolated from the other and not physically connected to the remainder of the County's water supply and distribution lines. The East Annexation Area is primarily served by the County system which has as its raw water source a spring located beyond the eastern boundary of the area proposed for annexation. The raw water from the spring is chlorinated and pumped to a 200,000 gallon storage tank located within the East Annexation Area.[47] In addition, the County purchases treated water from the City of Covington to serve an apartment complex which is located adjacent to the City's eastern borders. The County also purchases treated water from Covington to serve its customers in the West Annexation Area. Further, the County has constructed a 100,000 gallon storage tank in that area to insure adequate water pressure and

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[46]County Response - I, p. 15.

[47]Ibid., p. 10; and County of Alleghany, Response to Covington Annexation Notice, Vol. II, Map Exhibits (hereinafter cited as County Response - II), Exh. 6.

fire flow.[48]

The City of Covington, in addition to providing water service to its residents and selling bulk treated water to the County, serves directly most of the South Annexation Area. The City's water treatment plant, according to its rated capacity, can receive and treat 4.0 MGD from the Jackson River. Since the City's present water distribution system requires approximately 1.6 MGD, the system currently retains an unused reserve of 2.3 MGD.[49] The City has also developed supplemental water source from a forested watershed located along Mill Branch south of the present City boundaries which provides an additional 1.7 MGD.[50] In terms of storage capacity, the City has two reservoirs and four storage tanks which collectively hold 8.9 million gallons (MG) of treated water.[51] The City's distribution system consists of 50 miles of water lines serving approximately 3,500 connections, with 173 of these located in the South Annexation Area.[52]

While the Commission has been advised that there are no portions of the area proposed for annexation which currently require an extension of public water service, evidence suggests that there are some unmet needs in the area caused by inadequacies in both the County's and the City's existing water systems. Presently, the County's ability to maintain an adequate supply of water to the East Annexation Area is restricted because the spring serving that area has reached its capacity and must be pumped continually to meet periods of peak

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[48]Ibid. The City sells bulk water to the County under the terms of the 1976 water and sewer contract. In June 1979 the City terminated the contract but continues to provide water to the County.

[49]Testimony of Flora, Transcript, Vol. I, p. 38.

[50]Ibid.

[51]City Supplement, p. 17; and City of Covington, Report on Pitometer Water Waste Survey, 1979, p. 3.

[52]City Supplement, p. 17; and Flora, communication with staff of Commission on Local Government, May 24, 1984. The City does not meter any of its single-family residential water customers (Testimony

demand.[53] The City plans to correct this problem after annexation by serving the East Annexation Area through an existing connection between its system and the County's water system.[54] In addition, a portion of the South Annexation Area, which is served directly by the City, experiences problems in maintaining adequate pressure in the water distribution lines. If the annexation is granted, the City proposes to correct this problem by either constructing a storage tank in that area or installing a pneumatic system.[55] In sum, most of the residents of the area proposed for annexation are currently served by central water, with the County serving the East and West Annexation Areas, containing a predominant portion of the total population in the entire area proposed for annexation.

Solid Waste Collection and Disposal

Alleghany County personnel and equipment provide once-a-week curbside solid waste collection services to most of the County's residents and commercial firms. The cost of this public service is borne by general tax receipts and not supported by user charges.[56] Seasonal collection of leaves and brush are also provided in residential areas for no additional charge. Commercial firms desiring a greater frequency of collection by the County are charged according to their par-

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of Flora, Transcript, Vol. I, pp. 103-104).

[53]Alleghany Highlands Governmental Study, Vol. I, p. 76.

[54]Testimony of Paxton, Transcript, Vol. I, p. 215. The City's connection to the County's water system is located on Dolly Ann Drive in the East Annexation Area. The spring which currently serves that area will not be used after the City begins providing treated water to the proposed annexation area.

[55]Ibid.

[56]County Response - I, p. 17. The County collects waste from its rural areas once every two weeks. Approximately 20% of the County's property tax revenues go to the operation of the solid waste collection and disposal system (Fifth Planning District Commission, Refuse Collection in Alleghany County, 1983, p. 5).

ticular service requirements.[57] Industrial operations in the County are required to provide their own solid waste collection service or contract with a private collector. Alleghany County currently disposes of its solid waste at a private landfill located between the Cities of Covington and Clifton Forge.[58]

Once-a-week curbside residential collection is provided within Covington by City equipment and personnel for a monthly charge of $2.25. Leaf collection and spring and fall pick-ups are available for no additional charge.[59] The City also provides solid waste collection service to commercial firms based upon their particular needs, with the charges set accordingly. Industrial firms in the City, however, provide their own collection service.[60] The City operates a landfill located in the George Washington National Forest seven miles west of the present municipal boundaries for the disposal of solid waste.[61]

The Commission finds that the solid waste collection and disposal services provided the area proposed for annexation are generally adequate for the area's needs. Further, because the City of Covington and Alleghany County offer similar solid waste collection services within their respective areas, it is the Commission's judgment that the expansion of the City's boundaries will not improve the level of such service to the area proposed for annexation.

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[57]County Response - I, p. 17; and Refuse Collection in Alleghany County, p. 2.

[58]County Response - I, p. 17. Information provided by the Virginia Department of Health indicates that the estimated life span of the private landfill used by the County is approximately two years (Refuse Collection in Alleghany County, p. 13). Recently, the County and the City began discussions concerning the creation of a regional landfill (County Response - I, p. 17).

[59]City Exhibits, p. 31; and City Supplement, p. 28.

[60]Ibid.

[61]The City's permit to use a ten-acre site in the George

Public Planning, Zoning and Subdivision Regulation

Alleghany County established its planning commission in 1953 and adopted its current comprehensive plan in 1979. This plan, which was prepared with the assistance of the Fifth Planning District Commission (FPDC), contains the necessary elements required by the Code of Virginia.[62] Although the comprehensive planning program is not augmented by a capital improvement plan or by any separate housing, community facilities or transportation planning components, the County does have an adopted official map.[63] With respect to its planning resources, the County does not employ a planning staff but utilizes the planning expertise of the FPDC.

In terms of development controls, the County does not have a zoning ordinance, but it has subdivision regulations which were last revised in 1978.[64] Enforcement of the subdivision regulations is the responsibility of the County Administrator. Unlike most counties in the Commonwealth, Alleghany County actively seeks to involve its

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Washington National Forest as a landfill will expire in December 1984. In order to renew the permit the City must submit a plan to closeout properly the existing landfill and complete an environmental assessment of their solid waste disposal needs which must show that alternative sites on non-federal land were considered for the landfill. In addition, because of the National Forest Service's policy of only allowing regional landfills on its property, the federal government must be assured that the proposed City landfill, if it is ultimately located in the George Washington National Forest, will benefit more than one jurisdiction in the Alleghany Highlands (William B. Leichter, District Ranger, James River Ranger District, George Washington National Forest, communication with staff of Commission on Local Government, May 25, 1984).

[62]County Response - I, p. 18; and Sec. 15.1-447, Code of Virginia.

[63]County Response - I, p. 18. The plan was adopted in 1979.

[64]Ibid., p. 20. The County Planning Commission is currently reviewing a draft of a zoning ordinance prepared by the FPDC.

adjacent municipalities (e.g., City of Covington) in certain types of development decisions. The County, by virtue of a provision in its subdivision regulations, will formally request advisory comment from the City on any application for a variance to the County's ordinance for subdivisions which will be located within three miles of the City's corporate limits.[65] This measure enables the City to be aware of and to comment upon certain types of development occurring near its borders.

The City of Covington established its planning commission in 1954 and adopted the most recent revision to its comprehensive plan in 1977.[66] The City's comprehensive plan, which meets the criteria of State law, was also prepared by the FPDC.[67] The City's planning efforts are augmented by an adopted five-year capital improvement plan, as well as certain other planning components designed to foster the economic development of Covington.[68]

In terms of planning and development controls, the Commission notes that the City has had a zoning ordinance since 1957 and subjected that ordinance to its last major revision in 1983. The ordinance is atypical for a city the size of Covington in that it contains special provisions for the protection of natural areas, terrain with steep slopes and other environmentally sensitive lands.[69] The City

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[65]County of Alleghany, Subdivision Ordinance, Secs. 1-4--1-5. In addition, the County's regulations authorize the subdivision ordinance of the City of Clifton Forge to control development in County territory located within one and one-half miles of the corporate limits of that City.

[66]City Supplement, p. 29.

[67]City Exhibits, p. 33.

[68]Testimony of Flora, Transcript, Vol. I, p. 45.

[69]City of Covington, The Code of the City of Covington, Appendix B - Zoning, Article XIII.

has also had since 1965 a subdivision ordinance which places additional controls on development within Covington.[70] Although the City does not have a full-time planning staff, both the zoning and subdivision ordinances are enforced by the Building Inspections Department.

In summary, the Commission finds that both the City and the County have made commitments to the planning and regulation of development within their respective borders. Covington's zoning ordinance does give the City an effective instrument for the control of land use development not available to Alleghany County. While the lack of vacant developable land in the area proposed for annexation (382 acres or 16% of the total land area) may lessen the benefits which would normally accrue from the extension of municipal zoning control, in our judgment, the area proposed for annexation has a need generally for zoning and coordinated public planning which the City of Covington would provide.

Crime Prevention and Protection

Law enforcement services in the area proposed for annexation and Alleghany County generally are provided through the County Sheriff's Department. The personnel complement of the Sheriff's Department consists of 26 sworn officers, 8 of whom are assigned regular patrol responsibilities.[71] This level of staffing provides the County with one sworn patrol deputy for each 1,725 residents, based on the 1982

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[70] City Supplement, p. 29. The subdivision ordinance is currently undergoing revision.

[71] County Response - I, p. 21; OBrion, letter to staff of Commission on Local Government, March 29, 1984; and Leon P. Smith, Sheriff, County of Alleghany, communication with staff of Commission on Local Government, June 7, 1984. In addition, the Sheriff's Department has 14 support personnel, 11 of whom are sworn officers. These include 7 jailors, 2 process servers, and 4 dispatchers (County Response - I, p. 21). The Department has 13 vehicles used, in part, by its patrol deputies. The Town of Iron Gate also has one sworn officer who is partially responsible for law enforcement services to the residents of that community.

population estimates.[72]

One of the measures of the level of a community's law enforcement services is the geographic intensity of its patrol activity. Unlike many county law enforcement operations in the State, the Alleghany County Sheriff's Department does not assign its patrol personnel to territorial districts because of topographic features and patterns of development. Rather, each patrolling deputy has County-wide responsibilities. Patrolling activities are conducted with a varying number of deputies on duty during the course of a day. Two deputies are assigned to each of the 8:00 a.m. - 4:00 p.m. and 4:00 p.m. - 12:00 a.m. shifts, with one deputy on duty during the remainder of the 24-hour day.[73] Since the County has on duty during the periods with the greatest potential for criminal activity a total of two deputies, it receives an average geographic intensity of service equivalent to one deputy per 222 square miles during these time intervals.[74]

Another means of measuring the intensity of patrol service in a locality is to consider the number of "calls for service" being

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[72]The Commission notes that there are ten State Police officers stationed within the County. These officers are primarily assigned to traffic regulation and accident investigation functions and do not normally respond to minor criminal concerns or other noncriminal matters. Further, local law enforcement agencies cannot assign "calls for service" to the State Police nor can they direct their patrolling patterns. Crime statistics for 1983 reveal that of the 263 major crime incidents reported in the County, only nine, or 3.4% of that total, were handled by the State Police (Virginia Department of State Police, Crime in Virginia, 1983, p. 40). The category of "major crime" consists of murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny and motor vehicle theft (Ibid.).

[73]Smith, communication with staff of Commission on Local Government, June 7, 1984; and Arno, communication with staff of Commission on Local Government, June 4, 1984.

[74]Three Sheriff's deputies reside in the area proposed for annexation and two live in the City. These deputies are assigned vehicles which they can take to their residences when not on duty (OBrion, letter to staff of Commission on Local Government, May 11, 1984).

answered by each law enforcement position serving such area.[75] With respect to Alleghany County generally, data indicate that during the 1983 calendar year there were a total of 3,042 calls for service which were the initial responsibility of the eight law enforcement positions assigned to patrol duties on a daily basis.[76] Thus, each patrol position responded to an average of 380 calls for service during that calendar year.

In terms of crime prevention activity, the evidence indicates that the Sheriff's Department has recognized a need for such and, in many instances, has cooperated with the Covington Police Department in initiating various programs serving the Alleghany Highlands area generally. The County's crime prevention efforts are directed toward the neighborhood watch program and presentations on drug prevention, automobile theft, bicycle safety and other topics to schools, businesses and civic and social groups.[77] Such programs have proven to be effective instruments in crime control in other areas of the country.

In considering the level of the law enforcement services provided the residents of Alleghany County, several additional points should be cited. First, any attempt to measure the quality of law enforcement services in a community should include consideration of the training of the personnel engaged in the provision of those services. The Commission notes that each new deputy joining the Alleghany County Sheriff's Department is required to attend the basic training program

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[75]The term "calls for service" in the law enforcement context includes everything from response to major crimes (which constitutes a small part of the total demands on law enforcement agencies) to noncriminal requests for assistance (e. g., missing child, cattle on the highway).

[76]OBrion, letter to staff of Commission on Local Government, May 11, 1984.

[77]County Response - I, p. 22-23. There are no Sheriff's deputies assigned to crime prevention projects on a full-time basis.

offered at the Central Shenandoah Criminal Justice Training Center (CSCJTC) in Waynesboro. The County also utilizes the CSCJTC for the State mandated in-service training programs for each of its law enforcement officers are required to attend.[78] With respect to advanced specialized training, records indicate tht the law enforcement personnel of the County Sheriff's Department have attended a number of courses beyond those mandated by the State, which enhance the crime prevention and protection services available to the residents of Alleghany County.[79] Second, the County Sheriff's Department operates an alarm system which is utilized directly by a number of commercial firms, including 11 in the area proposed for annexation.[80]

Finally, the Commission contends that any analysis of law enforcement services, as well as many other public services, requires consideration of the fiscal resources committed to their provision. In this instance, the Commission notes that during FY 1982-83 a total of $424,599, or $30.77 per capita based on 1982 population estimates, was expended for law enforcement services provided by the County Sheriff's Department.[81]

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[78]Ibid., p. 22. The State requires all full-time law enforcement officers to complete 229 hours of basic training and to complete 40 hours of in-service training plus additional firearms training every two years (Virginia Criminal Justice Services Commission, "Rules Relating to Compulsory Minimum and In-Service Training Standards for Law Enforcement Officers").

[79]OBrion, letter to staff of Commission on Local Government, March 29, 1984. The Commission's review of training records submitted by the Alleghany County Sheriff's Department revealed that the law enforcement personnel of that Department had taken collectively during the course of their careers approximately 27 classes in specialized instruction exclusive of firearms training.

[80]County Response - I, p. 23; and OBrion, letter to staff of Commission on Local Government, May 11, 1984.

[81]Auditor of Public Accounts, "Alleghany County Comparative Reporting Transmittal Forms," December 8, 1983.

Law enforcement services within the City of Covington are provided principally through the City's Police Department. This Department has a total of 14 full-time sworn law enforcement personnel, 12 of whom are assigned patrol responsibility.[82] This number of patrol officers is sufficient to provide Covington with one such officer for each 700 City residents, a level of patrol staffing more than twice that of Alleghany County (one patrol deputy per 1,725 residents).

In terms of patrol activity, the evidence indicates that the City maintains patrols on its streets 24 hours per day, with a minimum of three patrol officers on duty at all times.[83] This assignment pattern provides the City with a geographic intensity of patrol equivalent to one officer for each 1.46 square miles of the City, an intensity of service far surpassing that in Alleghany County (one officer per 222 square miles). With respect to the relationship between staffing levels and "calls for service" the data indicate, however, that during the years 1978 to 1982 each patrol officer in the City of Covington was responsible for an average of 533 "calls for service," a workload per position considerably in excess of that borne by County deputies.[84] Despite this workload, the City's overall level of patrol staffing allowed it to respond, according to City calculations, during the previous five years to emergency calls in an average of 2.2 minutes.[85]

Several other aspects of the City's law enforcement activities should be noted. First, records indicate that the City's Police

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[82] City Supplement, p. 36. The Police Department has available five vehicles to assist it in the discharge of its law enforcement responsibilities (Ibid., p. 37).

[83] Ibid., p. 42.

[84] Ibid., p. 50.

[85] Ibid.

Department initiated its crime prevention program in 1979 and subsequently expanded its activities in cooperation with the County Sheriff's Department. The City's crime prevention activities include the neighborhood watch program, radio and television presentations on a variety of crime prevention topics, and lectures to schools and civic organizations.[86] Second, although the City utilizes the resources of the CSCJTC to conduct the basic training for new officers, the Covington Police Department has two State-certified instructors who teach the State-mandated in-service training directly to its law enforcement personnel, as well as to those of other jurisdictions.[87] With respect to non-mandated training, Police Department training records reveal that City law enforcement officers have received advanced specialized training in a variety of subjects.[88] Moreover, it is significant to note that two officers of the Covington Police Department have earned associate degrees from institutions of higher learning.[89] Advanced training and professional education is encouraged by the City through the use of salary supplements for personnel successfully completing such courses.[90] Finally, data indi-

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[86]Jennings, letter to staff of Commission on Local Government, June 14, 1984. There are no Police Department personnel assigned full-time responsibility for the crime prevention program.

[87]Charles E. Tyler, Assistant Director, Central Shenandoah Criminal Justice Training Center, communication with staff of Commission on Local Government, April 9, 1984. The courses taught by the instructors of the Covington Police Department are approved in advance by the State and are monitored during the period of instruction.

[88]Jennings, letter to staff of Commission on Local Government, June 14, 1984. Training records of the Police Department reveal that law enforcement personnel have taken collectively 1,148 hours of advanced and specialized instruction during the course of their career.

[89]Ibid. Records indicate that one additional officer is currently enrolled in a program leading to an associate degree in criminal justice.

[90]City of Covington, Departmental Responses to Alleghany

cate that for FY 1982-83 the City expended a total of $428,401 in support of its law enforcement activities, or $51.00 per capita, a per capita contribution greater than that provided by Alleghany County ($30.77).[91]

On the basis of staffing levels, intensity of patrolling and the level of financial support, the Commission finds that the law enforcement services offered by the City of Covington surpass those presently provided through the Alleghany County Sheriff's Department. The Commission also 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 City of Covington. In order to extend its law enforcement services to the area proposed for annexation, the City proposes to employ three additional officers and to purchase and equip one additional police vehicle.[92]

Public Recreational Facilities

With the exception of two parks located in the East Annexation Area, Alleghany County does not own any public park facilities.[93]

County Exhibits to Covington Annexation (hereinafter cited as City Depart-mental Responses), pp. 14-15. The City provides a $5.00 a month salary supplement for each completion of three college credit hours and $2.00 a month for the first 40 hours of police or seminar training and $1.00 a month for each additional 20 hours.

[91]Auditor of Public Accounts, "City of Covington Comparative Reporting Transmittal Forms," November 14, 1983. The City reported receiving $124,120 in State law enforcement assistance funds during that period. It might be observed here that Alleghany County provides certain basic support functions, such as jail and court services and criminal prosecution, for the City (County Response - I, pp. 21-22). The City reimburses the County for such services.

[92]City Exhibits - I, Exhs. 10, 11.

[93]Alleghany Highlands Governmental Study, Vol. II, p. 302; and OBrion, letter to staff of Commission on Local Government, March 29, 1984. The County's Altamont park, which is eight acres in size, contains a softball field, and its Brentwood facility, approximately

The County, however, does lease a softball field in the Town of Iron Gate and utilizes portions of the 96 acres of School Board property in the County for recreational purposes.[94]

For purposes of promoting an active recreational program, the County formed a Joint Recreation Department with the City of Clifton Forge in 1980.[95] This Department, which is administered by the County, currently employs a full-time director and a part-time recreational supervisor to oversee its activities. Seasonal employees and instructors are also utilized as needed.[96] With this staff and through the use of various school and community college facilities, the County offers its residents a variety of athletic programs and a limited number of instructional classes and special events.[97] In terms of finanical commitment, the data reveal that during FY 1982-83 the County expended $58,884 for support of the Joint Recreation Department and for other recreational services, or $4.27 per capita.[98]

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three acres in size, has an outdoor basketball court and playground.

[94]Ibid. The County also uses the facilities at the Dabney S. Lancaster Community College in Lowmoor for certain recreational activities.

[95]County Response - I, pp. 27-28. No written agreement exists between the County and Clifton Forge concerning the division of administration and responsibilities (OBrion, letter to staff of Commission on Local Government, April 9, 1984). According to past practices, each locality is responsible for maintaining the parks within its boundaries.

[96]County Response - I, p. 28. The County and Clifton Forge also maintain a joint senior citizens program which employs four full-time and two part-time personnel.

[97]Ibid.; and OBrion, letter to staff of Commission on Local Government, April 9, 1984. Approximately 3,500 people participated in the activities of the Joint Recreation Department in 1982 (County Response - I, p. 28).

[98]Auditor of Public Accounts, County of Alleghany, Report on

The Commission notes that both the County-owned park facilities are located in in the area proposed for annexation. The evidence indicates, however, that these facilities are not used by the Joint Recreation Department for any of its active recreational programs.[99] There are programs offered at nearby School Board facilities which help meet the recreational needs of the residents of the area proposed for annexation.[100]

The City of Covington has a total of 38.8 acres of parkland for the recreational use of its residents. Further, the City has available for public recreational purposes another 37 acres of school-related property. This acreage represents the combined area of 9 parks, 4 schools, and the City Armory.[101] Covington's major outdoor recreational facility is the six-acre City Playground complex which contains a swimming pool, softball and football fields, outdoor basketball court, and a playground area. Further, the City has 6 softball/ baseball fields, 7 basketball courts, and 4 tennis courts.[102]

Covington employs 6 full-time personnel and 16 part-time workers

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Audit for the Fiscal Year Ended June 30, 1983, January 1984, Schedule 2.

[99]OBrion, letter to staff of Commission on Local Government, April 9, 1984; and City Departmental Responses, p. 3.

[100]The School Board sites closest to the area proposed for annexation and used for recreational programs are those at the Alleghany High School and Central Elementary School in Lowmoor. Those sites are 4 and 6 miles respectively from the area proposed for annexation.

[101]City Supplement, pp. 60-61; and Alleghany Highlands Governmental Study, Vol. II, p. 305. The City owns 26.2 acres of parkland and leases an additional 12.6 acres. Of this amount, only 36 acres is currently devoted to recreational use.

[102]Ibid.

for the supervision of its facilities and for the operation of its recreational services.[103] The City's recreational program, like that of Alleghany County, consists primarily of organized athletic leagues for adults and children and a limited number of instructional classes.[104] In terms of financial commitment, the Commission observes that during FY 1982-83, the City expended $126,430, or $15.05 per capita, for recreational services, a level of support three times that of Alleghany County ($4.27).[105]

The data presented to the Commission show that there is considerable cooperation between the City's Recreation Department and the Joint Recreation Department in program offering.[106] Each department is responsible, by informal agreement, for certain organized athletic leagues, and the residents of the three jurisdictions can participate in these jointly sponsored activities without the payment of additional fees. In addition, most of the other programs offered by each department are open to participation by nonresidents.[107] With respect to such nonresident participation, the evidence reveals that during 1982 the City of Covington expended approximately $21,000 more for nonresident recreation services than did Alleghany County and the City of Clifton Forge. While this statistic might suggest an inappropriate dependence on Covington's recreational resources by

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[103]City Supplement, p. 61. For the operation of its senior citizens program the City employs two additional full-time employees.

[104]Ibid., p. 62.

[105]Auditor of Public Accounts, City of Covington, Report on Audit for the Fiscal Year Ended June 30, 1983, December 1983, Schedule 2. The City expended an additional $34,666 for the operation of its Senior Center during that fiscal year.

[106]City Departmental Responses, pp. 2, 4-10.

[107]Certain programs of either the City or Joint Recreation Department, such as little league footall and cheerleading, are not open to nonresidents (Ibid., p. 8; and Alleghany Highlands Governmental Study, p. 298).

nonresidents, steps have been proposed to equalize the situation.[108]

While this Commission recognizes Alleghany County's growing commitment to the provision of recreational services to its citizens, it is required to conclude that the residents of the area proposed for annexation currently have a need for additional services which the City of Covington could meet through its varied and extensive facilities and greater level of financial support. As stated previously, although the proposed annexation area contains the only County-owned facilities, the evidence indicates that none of the Joint Recreation Department programs are offered at these sites. Further, the evidence reveals that the City has accepted a greater financial burden by providing recreational services to nonresidents, with many of those nonresidents probably residing within the area proposed for annexation. Finally, it should be noted that in an endeavor to increase the public rereational opportunities to residents in the area proposed for annexation, the City proposes to construct a new park at a cost estimated at $60,000 in the East Annexation Area within four years after the effective date of annexation, if such is ultimately granted.[109]

Curbs, Gutters, Sidewalks and Storm Drains

The County's subdivision ordinance does not require the installation of curbs, gutters, or sidewalks. Further, the County has no program for financially assisting property owners with the installation of these facilities where such is desired.[110] The curbs, gutters, and sidewalks which are present in the County have been installed by individual developers or by the Virginia Department of

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[108] City Departmental Responses, p. 5. The cost per nonresident participant was computed from records of the City and the Joint Recreation Department.

[109] City Notice - I, Exh. 12.

[110] Subdivision Ordinance, Sec. 5-5.

Highways and Transportation (VDH&T). In terms of storm drains, the County's subdivision ordinance requires the installation of such facilities in all developments subject to its provisions and specifies that those facilities must meet standards prescribed by the VDH&T.[111] The County does not have any policy providing financial assistance to property owners desiring the installation of drainage facilities abutting their premises. The evidence does not reveal, however, any major unaddressed drainage problems in the area proposed for annexation.[112]

As in the case of Alleghany County, the City's subdivision ordinance does not require the installation of curbs, gutters, or sidewalks. The City will, however, install such facilities, within the limit of available funds, upon request of 75% of the property owners in a particular area and upon their agreement to pay 50% of the cost of the installation.[113] The record indicates that the most recent installation of such facilities at citizen request occurred in 1979 and 1980 when the City installed 2,651 linear feet of curb and gutter.[114] The data does reveal, however, that almost all of the curb, gutter and sidewalk currently within the City are located within Covington's pre-1951 boundaries.[115]

With respect to stormwater management, the City's subdivision ordinance requires the installation of storm drainage facilities in all new developments. In terms of addressing existing drainage

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[111] Ibid., Sec. 5-4.

[112] City Supplement, p. 69.

[113] Code of the City of Covington, Sec. 28-77 and 28-56. The City will install these facilities and also pay 50% of the cost.

[114] City Supplement, p. 69.

[115] City of Covington, Annexation Exhibits, Vol. II, Map Exhibits (hereinafter cited as City Exhibits - II), Exhs. C-10, C-11.

problems in its older areas, the City will install storm drains upon request of property owners if they agree to reimburse the City for the total cost of such work.[116] The Commission notes that, while Covington has endeavored to correct stormwater management problems within its borders, there are a number of areas within the City that continue to have a need for improved storm drainage facilities.[117]

Based on the data available to it, the Commission cannot find that the City's policies for the installation of curbs, gutters, sidewalks and storm drains are likely to have a substantial impact on the area proposed for annexation. The Commission notes the absence of curbs, gutters and sidewalks both within the City and the area proposed for annexation which is due, in part, to the lack of any regulation of either the City or the County requiring such. While the City's policies with respect to the installation of such facilities, as well as with respect to the installation of storm drains, in existing developments could benefit the proposed annexation area, certain requirements of these policies could make property owners reluctant to avail themselves of the programs. Further, the evidence does not reveal any conspicuous storm drainage needs in the area proposed for annexation that would be alleviated by the incorporation of that area into the City. Finally, the City's plans to serve the area proposed for annexation do not call for the expenditure of funds to install curbs, gutters, sidewalks or storm drains for the benefit of the area's residents. Thus, the Commission cannot conclude that the proposed annexation will have a substantial impact on the availability of these facilities in the area sought for annexation.

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[116] Flora, letter to staff of Commission on Local Government, April 17, 1984.

[117] City Supplement, p. 69. In 1980 the City spent $4,100 for storm drainage improvements.

Street Maintenance

All public thoroughfares in the area proposed for annexation and in the County generally are owned and maintained by the State of Virginia. Thus, the 17.0 linear miles of public thoroughfares within the area proposed for annexation, consisting of approximately 1.0 linear miles of interstate highway, 2.2 linear miles of primary roadway and 13.8 linear miles of secondary roads, are maintained by a State agency in accordance with State-prescribed policies.[118] In terms of State support for the maintenance of public roads in the County generally, the evidence indicates that during FY1982-83 the VDH&T expended $686,202 for primary thoroughfares and $787,403 for secondary roads.[119] Based on these expenditure figures and the road mileage in the County during that fiscal year, the State provided $8,749 and $2,994 per linear mile for the maintenance of the County's primary and secondary roads respectively.

With respect to the nature and quality of the roads in the area proposed for annexation, several other points merit note. First, evidence indicates that there is approximately one-half mile of roadway in the area which has not been accepted into the State's secondary system. This segment, thus, is dependent upon private efforts for its maintenance.[120] Second, data disclose that approximately 2.67 linear miles of secondary roadway in that area are classified by the State as "nontolerable", denoting characteristics requiring improvement.[121] This "nontolerable" mileage represents 19.3% of the total

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[118]Virginia Department of Highways and Transportation, General Highway Maps, Alleghany County (with supplement), January 1, 1981.

[119]L. G. Ferris, Resident Engineer, Lexington Residency, Virginia Department of Highways and Transportation, letter to staff of Commission on Local Government, April 4, 1984. The amount for maintenance includes funds for snow removal.

[120]City Exhibits - II, Exh. C-16; and testimony of Paxton, Transcript, Vol. I, p. 225.

[121]Virginia Department of Highways and Transportation, "Road

secondary roadway in the area proposed for annexation. Further, the record reveals that several bridges in the area proposed for annexation are in need of replacement.[122] While these factors are not unfailing measures of the quality of road maintenance in the area proposed for annexation, they are, however, indicators that point to certain unmet thoroughfare needs in that area.

The City of Covington bears full responsibility for the construction and maintenance for all non-interstate public roads within its jurisdiction. The City's Public Works Department, which has a staff of 15 and a broad array of equipment, is charged with the responsibility for the maintenance of the approximately 76 lane-miles of streets and roads within the City.[123] In terms of the nature and quality of the City's public thoroughfares, the Commission notes that 9.64 lane-miles of Covington's public roads (12.7% of the total) fail to meet State standards and, thus, do not qualify for State maintenance assistance.[124] The data reveal, however, that during FY1982-83 the City expended a total of $466,933, or $6,144 per lane-mile, for the maintenance of its road system. Of this amount,

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Inventory, Mileage Record, System Nontolerable, Alleghany County," December 31, 1983. The State defines "nontolerable roads" as those which do not have the capability of providing a reasonable level of service based on pavement width or strength, alignment or gradient (Virginia Department of Highways and Transportation, Guide for Secondary Road Improvements, p. 14).

[122]Virginia Department of Highways and Transportation, "Bridge Replacement and Rehabilitation Selection List, Staunton District," January 5, 1984. Two bridges within the area proposed for annexation and two others on the boundary of that area are identified by the State as needing attention.

[123]City Supplement, p. 68. The City also owns an asphalt plant which is used for various street construction and resurfacing projects (Testimony of Flora, Transcript, Vol. I, p. 48).

[124]City Supplement, p. 68.

$188,350, or 40.3% of the total, was from local sources.[125]

Upon annexation Covington would assume full responsibility for the construction and maintenance of all of the roadways in the area with the exception of the interstate system. In addition, the City has proposed to study the feasibility of upgrading the approximately one-half mile of roadway that is presently being maintained by private resources.[126]

While this Commission recognizes that the comparative analysis of the quality and adequacy of the public roads in two jurisdictions requires consideration of many variables, there are two points which bear emphasis here. First, the City of Covington has local responsibility for the administration and management of its public roads, giving it a latitude of operation not available to Alleghany County. Second, the City does expend substantially more per linear-mile for the maintenance of its roads than does the State for the upkeep of secondary roads in the County. Covington's level of investment in the maintenance of its roads is evidence that the City of Covington is prepared to make a significant financial commitment to the proper upkeep of its roadways. On the basis of these considerations, the Commission concludes that the City of Covington's acceptance of responsibility for the construction, maintenance, and administration of the public thoroughfares in the area proposed for annexation would be of considerable benefit to that area and its residents.

Snow Removal

As with other aspects of road-related work in Alleghany County, snow removal from public thoroughfares is the responsibility of the VDH&T. Thus, snow removal services in the County are provided by a State agency and are performed pursuant to State-established policies.

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[125] Ibid.

[126] Testimony of Paxton, Transcript, Vol. I, pp. 225-226.

In order to perform this service, VDH&T maintains two area offices within the boundaries of the County, one of which is located in the East Annexation Area near the intersection of U. S. Highways 220 and 60 and Interstate Highway 64. To attend to the snow removal requirements on the approximately 850 lane-miles of public roads in the County, VDH&T has available a variety of equipment, including 13 trucks with snowplows and spreaders, 2 graders and 2 loaders.[127]

In undertaking snow clearance work VDH&T assigns priority to various road segments and areas. Within the area proposed for annexation, VDH&T has assigned Priority 1 (highest priority) to Interstate 64 and U. S. Highways 60 and 220. Priority 2 has been assigned to State Routes 18, 625, 647, 648 and 1104. In both categories of priority, however, VDH&T endeavors to make roads suitable for travel without chains within 24 hours after the end of the inclement weather.[128] It should be noted that during FY1982-83 the State allocated $395,004 for snow clearance services in the County generally, or approximately $465 per lane-mile.[129]

The Covington Public Works Department is responsible for snow removal services within the City. This Department has available 4 snowplows (2 of which are equipped with spreaders), 1 grader, 3 loaders and 4 dump trucks.[130] As done by the VDH&T, the City establishes priorities for snow removal services, with primary atten-

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[127]Ferris, letter to staff of Commission on Local Government, April 4, 1984. In order to augment its equipment in times of need, VDH&T has available 17 pieces of leased, contractor-operated equipment for snow removal purposes.

[128]Ibid.; and Virginia Department of Highways and Transportation, Policy Manual, Maintenance Division, pp. 11-1-- 11-2.

[129]Ferris, letter to staff of Commission on Local Government, April 4, 1984.

[130]City Supplement, p. 68.

tion focused on main thoroughfares and school bus routes. Unlike VDH&T, the City will assign snowplows to escort emergency service vehicles if conditions warrant. Further, the City has a policy of loading and removing snow from the central business district.[131] With respect to the City's direct expenditures for snow removal services, the data reveal that during FY1982-83 the City expended a total of $7,226 for such services, or approximately $95 per lane-mile of roadway.[132]

Based on 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 VDH&T. While this Commission acknowledges the advantages accruing to the City from the ability to administer and perform directly its snow removal services, the evidence reveals that the State has devoted considerable resources to snow removal in the County, exceeding on a lane-mile basis expenditures by the City for similar services.

Street Lighting

Alleghany County currently does not have any policy for the installation, maintenance, or operation of streetlights within its jurisdiction. Prior to 1981, however, the County did assume the responsibiity for the total cost of street light service but because of financial considerations chose to divest itself of this public service.[133] As a result, the existing streetlights in the County

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[131]Flora, letter to staff of Commission on Local Government, April 17, 1984; and testimony of Flora, Transcript, Vol. I, pp. 47-48.

[132]Flora, letter to staff of Commission on Local Government, April 17, 1984. Because the amount expended for snow removal does not include normal expenses for personnel or equipment, comparison with data on State expenditures for such services is difficult.

[133]Philip B. Morris, Special Counsel, County of Alleghany, letter to staff of Commission on Local Government, May 18, 1984.

either became the responsibility of individual property owners or were removed by the electric utility serving the area. In order to assist those property owners who retained their streetlights, the County serves as the central billing agent for the monthly operating fees, thereby enabling its citizens to take advantage of the reduced electricity rate charged public jurisdictions in the State.[134] Presently, there are 63 streetlights operated at private expense within the area proposed for annexation.[135] In 1982, however, there were 48 additional lights which were subsequently removed when the County ceased payment for their operation.[136]

It is the policy of the City of Covington to pay for the installation, maintenance and operation of streetlights within its boundaries. In addition, the City has developed a procedure for receiving and reviewing requests from its residents for the installation of additional streetlights. Upon a determination of need, additional lights will be installed and operated at municipal expense.[137] During FY1982-83 the City expended a total of $24,369 for the operation of 1,097 streetlights within its boundaries.[138]

The Commission finds that the City's policies with respect to its public support for the installation and operation of streetlights, as well as its policy for the consideration of citizen requests for these facilities, would benefit the area proposed for annexation. It should be noted that the City proposes to replace the 48 streetlights that

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[134] County Response - I, p. 34.

[135] City Supplement, p. 70.

[136] City of Covington, Proposed Findings of Fact and Conclusions of Law by the City of Covington, p. 15.

[137] City Supplement, p. 70.

[138] Ibid.; and City of Covington, Report on Audit for the Fiscal Year Ended June 30, 1983, Schedule 2.

were removed in 1982 from the area proposed for annexation and install 28 additional lights in that area, if the annexation is granted.[139]

Fire Protection and Library Services

The Commission notes that two major public services in the area proposed for annexation will not be affected by the incorporation of that area into the City of Covington. In terms of fire prevention and protection, the annexation will have little or no immediate impact on the residents of the area to be annexed. Covington and the County jointly support the Covington Volunteer Fire Department which serves the City, the area proposed for annexation and an additional portion of central Alleghany County.[140] The Department's fire suppression capabilities are such that residential properties within the City and the area proposed for annexation are rated "5" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss.[141] 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 City of Covington. With respect to library service, the City and Alleghany County have jointly supported a regional library since 1951. The

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[139] Proposed Findings of Fact and Conclusions of Law by the City of Covington, p. 15.

[140] County Response - I, p. 24. The contract, which was signed in 1977, also includes rescue squad protection to the area proposed for annexation. The formula for determining the cost to the County for fire and rescue squad services is stated in the contract as being equal to the total City budget for such services, including capital outlay but less debt service, multiplied by the ratio that the assessed value of buildings and improvements to be protected in the County (less the value of the Westvaco Corporation properties) bears to the assessed value of building and improvements to be protected in the City and the County (less the value of the properties of the Westvaco and Hercules Corporations) (OBrion, letter to staff of Commission on Local Government, April 9, 1984).

[141] City Supplement, pp. 51-52. The ISO rating 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

central library, which is located in the City, offers a full range of services to the residents of both jurisdictions.[142]
While the annexation will assign to the City the continuing responsibility to meet the fire suppression and library needs in the area annexed, Covington does not propose any modification of these services as a result of the proposed annexation.

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 City and the County to meet those needs. At issue here are concerns which do not permit complete resolution by any known statistical measures and which are not always completely free from subjective judgment. While the Commission has analyzed the statistical data which it considered relevant, such data have been conditioned by our direct experience in local government.

Although the Commission finds no evidence of any current major unmet service needs in the area proposed for annexation requiring immediate attention, the Commission does conclude that portions of the area proposed for annexation would benefit from the higher level of certain urban services provided by the City of Covington. In terms of

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defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is usually 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, D. C.: International City Management Association, 1979), p. 102].
Residential properties located more than five road-miles from a fire station are automatically assigned a protection class of "10" by the ISO.

[142]City Exhibits, p. 50.

law enforcement, street maintenance and management, street lighting, and recreational services, as well as by the application of City zoning controls, the proposed annexation would benefit the residents of the area annexed.

NEED OF CITY TO EXPAND TAX RESOURCES

While the evidence indicates that the City of Covington remains a vigorous and economically viable municipality, there are data to suggest that the City does have a need to strengthen its fiscal base. The data indicate that between 1970 and 1980 the total true value of real estate and public service corporation property in the City of Covington rose from $65.1 million to $217.1 million, or by 233.5%. During the same span of years the true value of such property in the County increased from $76.1 million to $242.8 million, or by 219.1%.[143] As of 1980, the per capita true value of real estate and public service corporation property in the City ($23,856) was significantly greater than that in Alleghany County ($16,973).[144] Of concern, however, are more recent data indicating that between 1980 and 1982, the total true value of real estate and public service corporation property in the City declined by $17.6 million, or by 8.1%, while that in the County increased by $20.5 million, or by 8.5%.[145] This decline in the City's property tax base is due in part to the Westvaco Corporation's demolition of 190 structures (totalling $4.2 million in assessed values) within Covington in order to create a

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[143]Virginia Department of Taxation, Estimated True (Full) Value of Locally Taxed Property in the Several Counties and Cities of Virginia -- 1970, June 1971; and Virginia Assessment/Sales Ratio Study, 1980, March 1982, Table 6.

[144]Ibid. In 1970 the per capita value of real estate and public service corporation properties in the City was $6,468 while that in the County was $6,107.

[145]Virginia Assessment/Sales Ratio Study, 1982, Table 6.

buffer area between its industrial facilities and existing City residential areas.[146] However, as the data indicate, the demolition of these structures is responsible for only a portion of the general decline in the real estate and public service corporation properties which has occurred within the City since 1980.

In terms of taxable sales, the data reveal a somewhat different growth pattern for the City and the County during the previous decade. Between 1970 and 1980 total taxable sales in the City increased from $22 million to $51.2 million, or by 132.7%. During the same period the value of such sales in the County increased from $4.3 million to $18.6 million, or by 332.6%. When these taxable sales values are standardized by population, the disparity in growth rates remains significant. During the decade of the 1970's the per capita taxable sales in the City increased from $2,191 to $5,649 (157.8%), while that in the County rose from $343 to $1,296 (277.8%).[147] The greater percentage increase in the County's taxable sales is due, in part, to the modest base from which the increase is calculated, and it reflects a desirable and appropriate growth in commercial activity in the County. Further, recent data reveal that between 1980 and 1983 the total taxable sales in the City of Covington increased by only 5.0%, while those in the County increased by 50.0%.[148]

With respect to relative local tax burden, statistics suggest that City residents do bear a higher per capita fiscal burden than do those of the County. Excluding receipts from the local 1% sales tax, City residents paid $343.38 per capita in local taxes in 1983, while County residents bore a per capita local tax burden of only $235.62.[149] In

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[146]Jennings, letter to staff of Commission on Local Government, May 10, 1984.

[147]Virginia Department of Taxation, Taxable Sales, Quarterly Reports, 1970; and Annual Report, 1980.

[148]Taxable Sales, Annual Report, 1980 and 1983.

[149]"City of Covington Comparative Reporting Transmittal Forms;"

terms of the ratio between total local taxes and total personal income, data for 1981 reveal that such taxes in Covington represented 3.8% of the City's total personal income, while the comparable statistic for Alleghany County was 3.7%.[150] However, these calculations do not include the higher utility charges borne by County residents. The inclusion of these and other non-tax charges produces a different measure of local fiscal exertion.

Although the evidence indicates that per capita local taxes in the City exceed those in the County, several fiscal indices mitigate the Commission's concern for Covington's immediate future. First, the disparity in the total local per capita tax burden is not reflected in the real property tax rates of the two jurisdictions. With respect to this point, the State Department of Taxation has calculated that, based upon its study of the ratio between the sales and assessed values in the City of Covington and Alleghany County, the true real property tax rate in 1982 (the latest year for which such calculation has been made) in the City was $.50 per $100 of assessed value, while the comparable statistic for the County was $.61 per $100 of assessed value.[151] According to State calculations, Covington's 1982 true real property tax rate was the lowest for any city in the

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and "County of Alleghany Comparative Reporting Transmittal Forms." The taxes included in the calculation are local taxes on all forms of property, bank stock, recordations, consumer utility usage and various other minor sources. The inclusion of sales taxes would overstate the tax burden of City residents, for it is reasonable to expect that a significant percentage of the City's sales tax collections are derived from the purchases of County residents.

[150] Ibid.; and John L. Knapp, "Total and Per Capita Income, 1979-1981" (Charlottesville: Tayloe Murphy Institute, University of Virginia). The calculations for the City and the County are based on 1981 per capita income and 1983 total local taxes. The estimates for per capita income correspond to jurisdictional boundaries.

[151] Virginia Assessment/Sales Ratio Study, 1982, Table 5.

Commonwealth. The true real property tax rate for Alleghany County in 1982 was exceeded by only 15 of Virginia's 95 counties. Second, as of June 30, 1982, the City had a per capita net outstanding debt of $13, substantially less than that in Alleghany County ($313).[152] The per capita debt statistic for the City was the fourth lowest in the State for all cities and counties in 1982.

In terms of fiscal need, several indices might be noted. First, the data reveal that as of 1979 (the latest year for which such data are available) the City had a higher percentage of its families with incomes below the federally established poverty level than did the County. As of that year, 9.0% of all City families and 8.0% of all County families were considered to be below that poverty level, while the comparable statistic for the State generally was 10.1%.[153] Second, in 1983 the estimated median income of families within the City of Covington was $20,125, while families residing in the County had a median income of $22,602.[154] Third, the evidence indicates that as of 1983 the City had a greater number of its residents receiving welfare payments than did the County. As of that year, an average of 311 persons within the City received regular aid to dependent children payments, while 282 persons received such payments in

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[152]Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1982, Exh. G. As of June 30, 1982 the average per capita net debt for all Virginia cities considered collectively was $669, while that for Virginia counties was $394.

[153]1980 Census of Population, General Social and Economic Characteristics, Tables 62, 181. Ten years previously in 1969, 11.8% of City families and 14.7% of County families were determined to be below the existing poverty level (U. S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Characteristics of the Population, Virginia, Table 124).

[154]Projected 1983 Median Family and Median Household Income in Virginia's Counties, Cities, MSAs, and Planning Districts. The comparable figure for the State was $26,153.

the County.[155] The concentration of low income and disadvantaged persons in a community can and generally does add substantially to a locality's expenditures and revenue needs.

The Commission is aware of the City's plans, under consideration since 1980 to retrofit the U. S. Army Corps of Engineers' Gathright Dam on the Jackson River for hydroelectric generation. Although the City has recently received permission from the Federal Energy Regulatory Commission to proceed with the project, the decision to construct ultimately the facility will depend on its financial feasibility. If the project is completed as presently scheduled and under the financial conditions curently envisioned, the City could receive between $100,000 and $250,000 annually from the sale of electricity by late 1986. Since the City's plans remain subject to significant external economic and regulatory factors, the prospect that such a facility would be built cannot affect the resolution of the issue at hand.[156]

In summary, the evidence indicates that the City of Covington has not experienced in recent years growth in its real and public service corporation tax base comparable to that which has occurred in the County. Indeed, the latest State compilation of property values discloses a decline in this major component of the City's fiscal base. Further the data reveal that Covington does have a comparatively older and less affluent population than that of Alleghany County, with City residents bearing a greater local tax burden. While the evidence does not indicate that the City of Covington is presently confronting major fiscal concerns, nor that its residents currently bear an inordinate fiscal burden, the Commission does conclude that the City has an emerging need to expand its tax resources.

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[155]Virginia Department of Social Services, Public Welfare Statistics, reports for months of March, June, September and December 1983. The statistics cited represent an average of reported cases for the last month of each quarter.

[156]City Supplement, pp. 31-34; Flora, letter to John L. Walker,

NEED OF CITY FOR LAND FOR DEVELOPMENT

As indicated previously, the City of Covington currently contains approximately 1,014 acres of vacant land, constituting 36% of its total land area.[157] Of this amount, the City contends that only 774 acres are suitable for development due to their location in tracts of proper zoning and sufficient size (defined by the City as tracts of two acres or more for residential or commercial development or tracts of five acres of more for industrial usage). Further, excluding from this total property situated on slopes exceeding 15% or lying in the 100-year floodplain (580 acres), the City has only 142 acres (5.0% of its total area) of vacant land suitable for development.[158] For the reasons set forth below, the Commission holds that while Covington has experienced industrial, commercial and residential growth during the past decade and while there remains limited pockets of vacant developable land within its current borders, the City has a need for additional land for new developments.

In terms of Covington's potential for future industrial development, data reveal that the City has only 36 acres of vacant property within its boundaries which are free from major environmental constraints, zoned for industrial purposes and located on sites containing five acres or more.[159] Not included in this amount, however, are two existing industrial properties within Covington, one of which

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Jr., Special Counsel, City of Covington; and Howard M. Hickey, Jr., President, Noah Corporation, Agent for City of Covington, communication with staff of Commission on Local Government, June 7, 1984.

[157] City Notice - I, Exh. 7.

[158] Ibid., Exh. 8 (Revised). An additional 52 acres of vacant land is located within the City's Conservation zoning classification. Its suitability for development is constrained by environmental considerations.

[159] Ibid.

is the City's Industrial Park. This industrial park, which has been placed on file with the State's Division of Industrial Development, is located on a 60-acre site at the intersection of Interstate Highway 64 and South Durant Road.[160] This property is considered to be one of the most attractive sites for industrial development in the Alleghany Highlands region.[161] The other existing industrial property within Covington is a 297,000 square foot vacant building presently owned by the Hercules Company.[162] Its suitability for future development, however, is constrained by the building's configuration, its location adjacent to the current operations of the Hercules Company and a consequent concern for the compatibility of the prospective industrial activity.

With respect to the industrial development potential of Alleghany County, the record discloses that the County has five sites within its boundaries listed with the State's primary development agency. Those five sites collectively contain 661 acres of property and range in size from 2.4 acres to 600 acres.[163] While these sites certainly do not constitute the entirety of the available industrial properties in Alleghany County, the County's potential for such development is

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[160]County of Alleghany, Covington Industrial Park. Approximately ten acres of the site are constrained by environmental conditions.

[161]Testimony of Garland L. Page, Jr., Expert Witness, County of Alleghany, Transcript, Vol. II, p. 41. In addition to being located adjacent to an interchange of Interstate Highway 64, the industrial park has access to all public utilities and the Chesapeake and Ohio Railroad. Currently one firm is constructing a warehouse operation on 2.5 acres of the property, and another business has announced that it will occupy a 7.2 acre site within the park.

[162]City Supplement, p. 75. The building, which is on a 6.7 acre site, was the location of the Hercules Corporation's synthetic fibers operation. The interior of the building was damaged by a fire in 1980.

[163]Virginia Division of Industrial Development, "Industrial Site Listings for Alleghany County." Only four sites, containing collectively 61 acres, have access to water and/or sewer service. In

limited. This condition is revealed by the fact that, unlike many other areas of the Commonwealth, Alleghany County has not experienced industrial growth in recent years substantially surpassing that of adjoining cities. Indeed, between 1978 and 1982 only four building permits were issued for the construction or improvement of industrial properties in both Covington and the County, with two being issued by each jurisdiction.[164]

With respect to the City's need for additional land for commercial development, the data indicate that the City contains eight acres of vacant property on tracts of two acres or more which are presently zoned for commercial usage. Excluding from that total properties affected by major environmental constraints, Covington is left with only three acres of commercially zoned property on tracts of two acres or more.[165] Other City exhibits have, however, identified eight sites (including some on tracts smaller than two acres) containing collectively approximately four acres and 48,000 square feet of business space as being presently available for commercial enterprise within Covington's corporate limits.[166] As evidence of the lack of suitable commercial properties in the City, municipal officials have asserted that since 1970 seven businesses have moved from Covington to locations in the County.[167]

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addition, one of the potential industrial properties contains a 17,000 square foot building. None of the sites listed with the Division of Industrial Development is located in the area proposed for annexation.

[164]City Supplement, p. 30; and OBrion, letter to staff of Commission on Local Government, May 11, 1984. Between 1978 and 1982 the City issued two permits for industrial construction totalling $440,800. During the same period the County issued two permits for industrial projects with a total value of $693,000.

[165]City Notice - I, Exh. 8 (Revised).

[166]City Supplement, p. 75.

[167]Jennings, letter to staff of Commission on Local Government, May 10, 1984.

Alleghany County has presented evidence, however, showing that the City presently benefits from the predominant share of the general area's commercial activity. The County asserts that such fact mitigates the City's need for additional land for commercial development. City data do reveal that the value of building permits issued between 1978 and 1982 for new commercial construction in the City (primarily in the central business district and the Sunnymeade area) have exceeded $3.0 million, while during the same period the value for such permits in the area proposed for annexation have totalled only $1.2 million.[168] It should be noted that although the area proposed for annexation contains the County's only major concentration of retail activity (the Mallow Mall area), there has been significant business development in other portions of Alleghany County, primarily in the corridor between the Cities of Covington and Clifton Forge.[169] This commercial development, however, has not been of a retail nature.

Finally, with respect to the issue of Covington's overall need for land for development, the Commission considers it important to note that the general viability of all jurisdictions within the Commonwealth rests, in part, upon the ability of a community to attract and retain a heterogeneous population. A prerequisite for such is a community's ability to offer a number of housing alternatives to prospective residents. While the data available to this Commission indicate that Covington has benefited from a modest degree of residential construction in recent years, the scarcity of vacant land in the City can be expected to affect adversely such continued development. It should be noted that between 1977 and 1982, the City issued only 99 permits for residential construction, while during the same span of years the County issued 546 residential building

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[168]Christopher H. Sinclair, Consultant, County of Alleghany, letter to staff of Commission on Local Government, May 29, 1984.

[169]Between 1978 and the first three months of 1984 the County issued permits for commercial construction outside of the area proposed for annexation totalling $6.2 million (OBrion, letter to staff

permits.[170] Moreover, by 1983 the City had only 103 acres of vacant property zoned for residential use and located in tracts of two acres or more which were not affected by major environmental constraints.[171]

Examination of several demographic statistics also suggest that the City, in relation to Alleghany County, is already experiencing a loss of its younger residents. First, the City's population between 1970 and 1980 declined due to the out-migration of 1,108 persons.[172] Second, during the same decade the City's population aged more rapidly than did that of the County or that of the State as a whole. Between 1970 and 1980 the percentage of the City's population age 65 and over increased from 11.4% to 17.7%, while that in the County rose from 8.5% to 10.6%.[173] Further, during the decade of the 1970's, the number of married families with children under 18 years of age decreased in the City by 29.6%, while the number of such families in Alleghany

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of Commission on Local Government, May 11, 1983).

[170]Michael A. Spar and Julia H. Martin, Housing Units Authorized in Virginia's Planning Districts, Counties and Cities, reports for years 1977-82 (Charlottesville: Tayloe Murphy Institute, University of Virginia). Approximately 57% of the new housing units authorized in the City were mobile homes while such facilities constituted 33% of new housing units in the County.

[171]City Notice - I, Exh. 8 (Revised).

[172]Julia H. Martin and Michael A. Spar, Growth in Virginia, 1970-1980 (Charlottesville: Tayloe Murphy Institute, University of Virginia, June 1981). The City's outmigration was offset in part by natural population growth such that the total population decrease in Covington during the decade was only 997 persons.

[173]1970 Census of Population, Characteristics of the Population, Virginia, Tables 20, 35; and U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Summary Characteristics for Governmental Units and Standard Metropolitan Statistical Areas, Virginia, Number PHC80-3-48, Table 1. As of 1980 the percentage of persons age 65 and over in all Virginia cities considered collectively was 10.1%, while that for Virginia counties was 9.0% (U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Virginia, Number

County increased during the same period by 7.6%.[174] The evidence clearly discloses that during the previous decade the City experienced a significant out-migration of its population and that various demographic changes have left Covington with a higher concentration of elderly persons. The absence of suitable land for residential development within Covington is a major factor in the City's ability to retain the youthful component of its population. In sum, the Commission finds that the City of Covington does need land for development, particularly for industrial and residential purposes. While Covington remains a strong and economically viable community, the limited amount of vacant land for development in the City does constitute a matter of increasing concern.

ADVERSE IMPACT ON COUNTY OF LOSS OF TAX RESOURCES, LAND FOR DEVELOPMENT AND PUBLIC FACILITIES

The annexation proposed by the City of Covington would result in the transfer to the City of 16.4% of the County's estimated 1982 population, 13.1% of its 1982-83 public school ADM, 0.8% of its area, and 17.2% of its total 1983 assessed property values.[175] This annexation, as all other city annexations in Virginia, involve the transfer of both assets and liabilities from one jurisdiction to another, and State statutes require their appropriate reconciliation. The annexation laws of Virginia empower the court, in balancing the equities in a case to require the annexing city (a) to assume a just proportion of

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PC80-1-B48, Table 45).

[174] 1970 Census of Population, Characteristics of the Population, Virginia, Table 36; and 1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173.

[175] City Notice - I, Exh. 3 (Revised); County Response - I, p. 42; and OBrion, letter to Jennings, March 16, 1984.

the county's existing debt and (b) to compensate the county for its prospective loss of net tax revenue for as long as five years following annexation.[176] These legal provisions provide the court with the means of assisting a county during a period of adjustment after an annexation.

With respect to a county's long-range needs, it is necessary to consider the impact of the proposed annexation on the county's prospects for future economic growth and its capacity to serve its remaining residents. Alleghany County's continued viability beyond the end of the court-ordered period of financial adjustment will depend, in part, on the County's ability to attract future development to replace the assessed values annexed by the City of Covington. The Commission notes that there are approximately 431 square miles of vacant land in the County. Of this vacant land, 223 square miles are controlled by the State and federal governments, and an additional 184 square miles are located on slopes exceeding 15% or are situated in the 100-year flood plain. The exclusion of State and federal lands and environmentally restricted acreage leaves the County with approximately 24 square miles (5.4% of its total land area) of vacant property.[177] In the Commission's view, however, the suitability of this vacant land for prospective development must also include a consideration of the historical patterns of growth in the County, the surrounding land uses, and access to public utilities and transportation facilities. Such factors would substantially reduce the attractiveness of portions of the remaining vacant land in Alleghany County.

In this instance, the City of Covington proposes to annex an area which encompasses a significant porton of the County's commercial

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[176]Sec. 15.1-1042, Code of Virginia.

[177]Clifton Forge Response - I, p. 17.

base, containing businesses which have approximately 76% of the County's retail employment and which in 1983 provided 77.3% of its sales tax revenues.[178] Further, given the magnitude of the existing retail operations in the Cities of Covington and Clifton Forge and the limited amount of land outside of the area proposed for annexation appropriate for future commercial development, the County cannot be expected to recoup in the foreseeable future its loss of sales tax resources to the City.[179]

In terms of the impact of the City's proposed annexation on the existing and prospective industrial base in Alleghany County, there are several points that should be noted. First, the annexation proposed by the City will not bring into the municipality any of the County's existing industrial base.[180] Second, none of the County's five sites (containing a total of 661 acres of property) listed with the State's Division of Industrial Development are located within the area proposed for annexation.[181] Thus, the County would retain

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[178] County Response - I, p. 81; and Special Area by Industry Listing for Quarter 1-83, Area 005 - Alleghany County. In 1983 the County reported that its total local sales tax collections were $234,578 (County Response - I, p. 81).

[179] In 1983 taxable sales in Covington and Clifton Forge totalled $73 million which represented approximately 72% of such sales in the Alleghany Highlands (Taxable Sales, Annual Report, 1983). Further, State records reveal that there were approximately 234 retail, financial, insurance, real estate and service establishments in the two Cities in 1983, while the County only contained 74 such establishments at that time (Virginia Employment Commission, "Covered Wages and Employment in Virginia for Quarter Ending June 30, 1983"). Covington's proposed annexation would substantially reduce the total taxable sales and the number of business firms in the County.

[180] In 1983 manufacturing operations provided 46.8% of the employment positions in Alleghany County. (Special Area by Industry Listing for Quarter 1-83, Area 005 - Alleghany County).

[181] "Industrial Site Listings for Alleghany County."

potential industrial sites ranging from 2 acres to 600 acres, with most of these sites having water, sewerage, and access to the interstate highway system.[182] Finally, the Commission notes that the Westvaco Corporation, the largest employer in the Alleghany Highlands, has recently announced plans for a two-phase expansion of its operations in the City and the County. The first phase of the expansion, the funds for which have been appropriated by the Corporation, will result in corporate expenditures of approximately $180 million, with $170 million being invested in the County and $10 million being devoted to development in the City. Work on this portion of the expansion is currently underway and is scheduled to be completed in April 1986.[183] Construction of the second phase, the funds for which have not been authorized by the Corporation, is scheduled to begin simultaneously with the end of the first phase and will entail a $160 million expenditure for facilities in the City and $15 million for construction in the County.[184] The Commission observes that, despite the firm's announced plans, the Westvaco expansion remains largely prospective, and it may be the end of the decade before the expansion is completed and the impact is fully known.

In regard to the effect of the proposed annexation on County-owned facilities, the annexation would bring within the City's boundaries a major portion of the County's water and sewer facilities. According to County calculations, the proposed annexation would encompass approximately 32% of all County water mains and 46% of its water

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[182] Ibid. The largest of the potential industrial sites (600 acres) does not have access to central water and sewer services.

[183] Testimony of Flora, Transcript, Vol. I, pp. 54-55, 59-61; and A. E. Dreszer, Public Relations Manager, Westvaco Corporation, communication with staff of Commission on Local Government, March 27 and June 13, 1984.

[184] Ibid.

customers. In addition, the County has advised that 41% of its sewage collection lines and force mains and 48% of its sewer customers are located in the proposed area.[185] Since the State's annexation law empowers a court to require the City to provide just compensation to the County for its loss of public facilities, and since the City's acquisitions of these facilities would not affect the capacity of the County to serve its remaining utility customers, the proposed annexation should not have a major impact on County utility services.

In analyzing the aggregate effect of the proposed annexation on Alleghany County, several salient concerns demand consideration. First, both the Commission's physical tour of portions of Alleghany County and topograhical data disclose the County's limited potential for future development. Based in part on this limited potential for development, demographic projections for the entire Alleghany Highlands area predict an increase of only 3% in the area's population during the last two decades of this century.[186] Second, given these conditions, the County's loss of population and commercial base which would result from the proposed annexation would not soon be restored by future growth. To be sure, the expansion plans of Westvaco Corporation do promise an economic stimulus for the general area, but the full fiscal and demographic ramifications of those development plans remain speculative. Finally, while the financial settlement provisions in the State's annexation statutes can be expected to provide reasonable financial assistance to the County during a period of transition, they are not sufficient to address the long-term needs of the County. In sum, the Commission is concerned that notwithstanding the recognized needs of the City of Covington, the adverse effect of the proposed annexation on the County would be, at this time, too severe.

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[185] County Response - I, p. 15.

[186] Virginia Department of Planning and Budget, Virginia Population Projections 2000, January 1983.

COMMUNITY OF INTEREST

Another of the factors which is prescribed by the State's statutes for consideration in annexation cases is the strength of the community of interest which ties the area proposed for annexation to the municipality seeking to annex, as opposed to that which unites the area to the remaining portion of the County. While analysis of this factor involves the consideration of some issues and attachments which cannot be quantified or statistically reviewed, there are data which do measure certain tangible aspects of interdependence of the affected areas.

The evidence clearly reveals strong economic ties between the area proposed for annexation and the City of Covington. First, the City is the site of employment for a significant number of nonresidents. The data indicate that in 1980, there were 2,974 County residents age 16 and over employed in the City.[187] While the area proposed for annexation contains a significant center of retail employment, it is reasonable to conclude that a large number of the residents of the areas adjacent to the City commute to Covington for employment.[188]

Second, the City of Covington is clearly the financial center of the Alleghany Highlands, with its institutions providing the predominant share of the financial services required by the area's residents. As of 1982, the City had a total of four commercial bank offices, while only one such banking facility was located in the entirety of Alleghany County.[189] The relative significance of these banking facilities is revealed by the fact that deposits in City banks as of 1982 totalled $100 million, while those in the County were only $6

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[187] 1980 Census of Population, Place of Work Destinations, Virginia, p. 10.

[188] Approximately 380 retail employment positions were located in the area proposed for annexation in 1983 (Special Area by Industry Listing for Quarter 1-83, Area 005 - Alleghany County).

[189] Charlotte H. Scott and John Alexander, 1982 Deposit Statistics for Banks and Thrift Institutions in Virginia Communities

million.[190]

Third, the evidence discloses that the City remains a retail sales center serving residents of the general area. As of 1983 the City had 80 business establishments which collectively accounted for approximately $54 million in taxable sales. During that same period there were 41 retail outlets in the entirety of Alleghany County, with total taxable sales of $28 million.[191]

Fourth, the City of Covington is also the site of a significant collection of State and federal offices and other public facilities which promote and maintain relationships between the municipality and the residents of the adjoining areas. Within Covington's boundaries are such State facilities as those of the Department of Motor Vehicles, Alcoholic Beverage Control Commission, Virginia Employment Commission, Virginia Cooperative Extension Service, and the Virginia National Guard. Also, within the City are a number of federal offices, including those of the Agricultural Stabilization and Conservation Service, Social Security Administration, Soil Conservation Service, U. S. Forest Service, and the U. S. Army Reserve.[192]

Additional evidence may be cited with respect to the community of interest between the City and its adjacent areas. The City is the source for treated water in the West and South Annexation Areas, with

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(Charlottesville: Tayloe Murphy Institute, University of Virginia, June 1983), Table 7. In addition, there was one savings and loan company and two credit unions located in the City while none were located in the County.

[190] Ibid., Table 5.

[191] "Covered Wages and Employment in Virginia for Quarter Ending June 30, 1983;" and Taxable Sales, Annual Report, 1983. Business establishments in the City accounted for 53.4% of the taxable sales in the Alleghany Highlands in 1983.

[192] Clifton Forge - Waynesboro Telephone Company, Clifton Forge-Covington-Potts Creek Telephone Directory, August 1983.

the residents in the latter area being directly served by the City. In addition, the City is currently treating the sewage from both those areas and will assume responsibility for treating the wastewater from the East Annexation Area upon completion of a project at the County's Mallow lagoon. Further, in terms of certain professional services, the data disclose that within the City's corporate limits are the offices of 13 attorneys and 4 accountants, while the areas adjacent to the City contain the office of only one accounting firm.[193]

Finally, the Commission observes that the area proposed for annexation has a population density of approximately 605 persons per square mile, considerably in excess of the County's overall population density of 31 persons per square mile. This density of population gives the area proposed for annexation an urban nature and service needs which more closely parallel those of the City than those of the County generally. With respect to such urbanization in the area, it should be observed that a number of developments along U. S. Highways 60 and 220 and Dolly Ann Drive (S. R. 625) are extensions of development patterns within the City. Based upon the data cited previously, the Commission has no difficulty concluding that there exists strong and varied bonds between the City and the areas generally which it seeks to annex constituting a significant community of interest.

The Commission is also cognizant of the relationships between the area proposed for annexation and the County generally which create a community of interests. This community of interest rests principally upon schools, economic interdependence and medical service considerations.

The Commission acknowledges that school attendance patterns do create significant educational and social relationships between the area proposed for annexation and other portions of Alleghany County. County data for the 1982-83 school year indicate that approximately

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[193] Ibid.

490 students in ADM living in the area proposed for annexation attended schools in outlying portions of the County.[194] While the Commission agrees that schools are often more than educational facilities for students and their families, it should be noted that school attendance zones are set and are subject to change by school officials and do not necessarily reflect basic or fundamental ties between areas.

With respect to economic relationships, the Commission notes that the County is the location of a significant number of employment positions within its boundaries, with notable concentrations of such positions in that area of the County adjacent to Covington not sought for annexation and in the corridor between the Cities of Covington and Clifton Forge.[195] With 1980 data indicating, however, that only 16.7% of Alleghany County's workers were employed within its borders, it is reasonable to infer that a significant percentage of County residents adjacent to Covington found employment within that City.[196] With regard to commercial activity, the location of the County's principal retail center (Mallow Mall and adjacent firms) in the East Annexation Area creates an economic tie between that area and the remainder of the County, as well as between that area and the City

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[194] County Response - I, p. 42. During the 1982-83 school year, approximately 73 County students attended City schools on a tuition-free basis. Of this number, 43 students resided in the area proposed for annexation (City Supplement, pp. 70-71). During the same period, 41 City students attended County schools for which no tuition was charged (John L. Walker, Jr., Special Counsel, City of Covington, letter to Arno, October 22, 1983).

[195] In 1983, there were approximately 4,400 employment positions in Alleghany County. It is estimated that 400 such positions were located in the area proposed for annexation (Special Area by Industry Listing for Quarter 1-83, Area 005 - Alleghany County).

[196] 1980 Census of Population, Place of Work Destinations, Virginia, p. 1.

of Covington.[197]

In terms of medical services, the location of the 200-bed Alleghany Regional Hospital between the Cities of Covington and Clifton Forge has fostered the development of a major center for medical facilities in that area. The evidence indicates that, in addition to the hospital, 18 physicians and surgeons have established offices in the area, while only five maintain offices in the City of Covington.[198]

In sum, while the Commission recognizes the elements which constitute ties between the area proposed for annexation and the remaining portion of the County, it is our judgment that various employment, financial, commercial, and public service factors collectively create a community of interest between the City of Covington and the area proposed for annexation far more pervasive and substantial than that which exists between that area and outlying portions of Alleghany County.

It is appropriate to note here that the Commission is cognizant of the substantial evidence introduced by Alleghany County and the City of Clifton Forge evincing the presence of a regional community of interest between the County and the two Cities in the Alleghany Highlands. Both localities have asserted that the strength of this regional community of interest is such that it supercedes any local community of interest which may exist between the City of Covington and the area proposed for annexation. The data presented by the County and Clifton Forge seek to demonstrate that the region is

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[197]The East Annexation Area contains approximately 16 business firms including 3 restaurants, a national chain grocery store, a department store, a motel, and a building supply firm (City Supplement, p. 76; OBrion, letter to staff of Commission on Local Government, May 11, 1984; and Special Area by Industry Listing for Quarter 1-83, Area 005 - Alleghany County).

[198]Clifton Forge-Covington-Potts Creek Telephone Directory.

united because of geographic isolation, topographic conditions, homogeneous population characteristics, and the lack of diversity in the area's economic base (based upon the notable absence of agricultural operations in the County, the concentration of employment in a few basic industries, the similarity of occupations among residents of the three jurisdictions, and the fact that most of the workers in the Alleghany Highlands hold employment positions within that region). The Commission recognizes that the evidence does suggest a regional community interest in the Alleghany Highlands which is atypical of that found elsewhere in the State, and it acknowledges such as constituting a strong bond among all jurisdictions in the area. This regional bond, however, does not supplant the pervasive and fundamental ties between the City of Covington and the area it proposes to annex, nor nullify our finding that such ties constitute a community of interest exceeding that between the area proposed for annexation and the County generally.

COMPLIANCE WITH APPLICABLE STATE POLICIES

Another of the factors prescribed for consideration in annexation issues is the extent to which the affected jurisdictions have made efforts to comply with applicable State policies. In this instance there are, in our view, three applicable policies which merit consideration. The following sections of this report review those State policies.

Public Planning

The Code of Virginia requires all local jurisdictions in the Commonwealth to establish a planning commission and to adopt a comprehensive plan and subdivision regulations to guide their future development.[199] Consistent with these statutory requirements, Alleghany County has established a planning commission and has adopted

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[199]Secs. 15.1-427.1, 15.1-446.1, and 15.1-465, Code of Virginia. See also the statement of legislative intent as set forth in Sec. 15.1-427, Code of Virginia.

both a comprehensive plan and subdivision regulations.[200] With respect to the adequacy of the County's public planning documents, however, the Commission notes two deficiencies. First, the County has not augmented its comprehensive plan since 1979 by the adoption of other detailed components dealing with specific public concerns such as community facilities, housing or public recreation. Second, the County has never adopted a capital improvement plan or zoning ordinance, both of which are important instruments to implement the comprehensive plan.[201]

The City of Covington has also, consistent with State policies, established a planning commission and adopted both a comprehensive plan and subdivision regulations. Further, the City has also adopted a zoning ordinance and annually approves a capital improvement plan to support its comprehensive planning efforts.[202] As with the County, there are deficiencies in the City's planning efforts. The Commission observes that despite the fact that the City has adopted a number of auxiliary plans focusing on specific functional areas (e. g., industrial development), the Covington comprehensive plan has not been updated since 1977. The absence of a current comprehensive plan is an impediment to an integrated and concerted planning effort.

In sum, both jurisdictions have, in our view, complied with minimum State requirements relative to the adoption of public planning instruments.

Housing

There is a fundamental human need for adequate housing and the

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[200] County Response - I, p. 18.

[201] Both instruments were recommended for adoption by the County in its comprehensive plan (Comprehensive Land Use Plan, Alleghany County, pp. 17, 18, 22, 23, 26, 28, 29). The County is currently reviewing a draft of a zoning ordinance prepared by the FPDC.

[202] Testimony of Flora, Transcript, Vol. I, p. 45.

absence of such may well have a pervasive and adverse impact on a community. In recognition of this need, the General Assembly has declared that proper housing for all the State's residents is a matter of grave concern to the Commonwealth.[203] The evidence suggests that neither the City of Covington nor Alleghany County have taken active steps to increase the stock of housing for its low and moderate income residents. While both the City and the County have facilitated the construction of subsidized housing within their respective boundaries by various means, the publicly assisted housing within those jurisdictions is principally the result of private initiative. It should be noted that the City has asserted that it plans to place before the electorate in the near future the question of establishing a redevelopment and housing authority to address its housing concerns.[204] Such efforts to address directly the housing needs of the low and moderate income residents are to be commended.

Public Education

By both constitutional provisions and general law the State of Virginia has declared that public education is a fundamental concern of the Commonwealth.[205] These various legal provisions prescribe a set of minimum standards for public education which must be met by each local school division in the Commonwealth. The evidence indicates that the school divisions serving both Alleghany County and the City of Covington are in substantial compliance with these State

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[203]Sec. 36-2, Code of Virginia. See also Sec. 36-120, Code of Virginia.

[204]Testimony of Flora, Transcript, Vol. I, pp. 50-51. Sec. 36-4, Code of Virginia requires that the question of the need for a housing authority in a particular jurisdiction be approved in a local referendum.

[205]Article VII, Sec. 1, Constitution of Virginia; and Chapter 578, Acts of Assembly, 1982.

prescribed minimum standards.[206]

With respect to public educational services in the City of Covington, the data reveal that the City's school system operates a total of four educational facilities (two elementary schools, one middle school and one high school) which served an ADM of 1,363 students during the 1982-83 school year.[207] All of the City's schools are accredited by the State, and the high school has received further accredication by the Southern Association of Colleges and Schools.[208] In addition, the City's school system offers free bus transportation to all of its students.[209]

Public educational services in the County are provided by the Alleghany Highlands School System which was formed in July 1982 by the

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[206]Jack D. Eades, Supervisor, Administrative Review Section, Virginia Department of Education, communication with staff of Commission on Local Government, July 3, 1984. Information on compliance with State educational standards is derived from the annual report of each school division, direct reports to the Department of Education from the school and classroom level in each division, and reports of on-site reviews of various school systems (Virginia Board of Education, Report on Public Education in Virginia, 1982-83, November 1983).

[207]City Exhibits, p. 53; and testimony of N. Andrew Overstreet, Superintendent, City of Covington Schools, Transcript, Vol. I, p. 181. As of the 1983-84 school year, the City's school facilities were calculated to have a capacity to serve an additional 525 students (Testimony of Overstreet, Transcript, Vol. I, pp. 172-173, 204).

[208]Testimony of Overstreet, Transcript, Vol. I, p. 160. Accreditation by the Southern Association of Colleges and Schools involves a self-study of each school based on regional standards and criteria as well as an on-site visit by a committee of educators from outside the particular school division. Efforts to obtain accreditation by the Southern Asociation of Colleges and Schools are initiated at the volition of a school division (Bernard R. Taylor, Director, Division of Sciences and Elementary Administration, communication with staff of Commission on Local Government, January 23, 1984).

[209]Testimony of Overstreet, Transcript, Vol. I, p. 170.

consolidation of the Alleghany County and Clifton Forge school divisions.[210] The Alleghany Highlands School System operates six elementary schools, one middle school and one high school which during the 1982-83 school year served an ADM of 3,741 students.[211] As in the case of Covington, all of the schools operated by the Alleghany Highlands School System are accredited by the State, and its high school has also received accreditation from the Southern Association of Colleges and Schools.[212] In addition, the consolidated school system offers free bus transportation to all of its students.[213]

A few statistical indices provide some added measure of the public educational programs offered by the two school systems. Data for school year 1982-83, the latest year for which such data are available, indicate the following:[214]

	City of Covington	Alleghany Highlands	State
Pupil-Teacher Ratio			
Elementary	15.0:1	15.6:1	17.0:1
Secondary	14.5:1	15.2:1	14.5:1
Total Instructional Personnel per 1,000 Students in ADM	70.1	67.1	64.1

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[210]Everett M. Pace, Superintendent, Alleghany Highlands Schools, communication with staff of Commission on Local Government, June 20, 1984. The secondary level student bodies (grades 8-12) did not consolidate until the 1983-84 school year.

[211]County Response - I, p. 41. The middle school contains only the eighth grade.

[212]Pace, communication with staff of Commission on Local Government, June 20, 1984.

[213]County Response - I, p. 40.

[214]Virginia Department of Education, Facing-Up 18, Statistical Data on Virginia Public Schools, 1982-83 School Year.

	City of Covington	Alleghany Highlands	State
Local Expenditures Per Pupil for Operations	$1,226	$777	$1,254
Total Expenditures Per Pupil for Operations	$2,477	$2,256	$2,580
Percent of Graduates Continuing Education	54.9	62.2	60.2
Percent of Graduates Not Continuing Education but Having Marketable Skills	64.7	58.2	82.2

In sum, while various statistical measures reflect a greater financial investment by the City in support of its educational services and slightly higher staffing levels during the 1982-83 school year, the record indicates that both school systems have made appropriate efforts to respond to the State's concern for public education.

It is appropriate to note here that the Commission is aware of the considerable evidence introduced by the City of Clifton Forge indicating that Covington's proposed annexation would have a substantial impact on Clifton Forge's ability to remain a part of the Alleghany Highlands School System. Data presented by that City revealed that under the formula contained in the school contract with Alleghany County, Covington's proposed annexation, if granted would increase Clifton Forge's share of the consolidated school system's budget by $335,016 the first year following annexation and by larger amounts in succeeding years.[215] Testimony by a witness for the City of Clifton Forge indicated that such an increase in the City's portion of the school system's operating budget could cause a concurrent increase in the real property tax rate from $1.15 to $1.68 per $100 of assessed

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[215]City of Clifton Forge, Proposed Findings and Recommendations by the City of Clifton Forge, Covington Annexation Proceedings, p. 10; and Response of the City of Clifton Forge, Covington Annexation Proceedings, Vol. II (hereinafter cited as Clifton Forge Response - II, Vol. II, Table 15. Concurrently, Alleghany County's share of the

value.[216] The Mayor of Clifton Forge has advised that such a financial impact on the City could force Clifton Forge to withdraw from the consolidated school system, or, at a minimum, require the City to seek a renegotiation of the school contract with Alleghany County.[217]

While the Commission considers the establishment of the consolidated school system a notable and meritorious achievement, and while any threat to the functioning of that system is a source of concern, the Commission cannot conclude that the nature of the school funding contract between Clifton Forge and Alleghany County can be accepted as a legitimate bar to Covington's exercise of a statutorily granted prerogative.

ARBITRARY REFUSAL TO COOPERATE

Another factor prescribed by statute for consideration in annexation actions is whether a locality has arbitrarily refused to cooperate in the joint provision of public services. The intent of this provision is to promote interlocal cooperation where such can be of mutual benefit to local governments and their residents. Recognizing that the State's boundary change laws have inadvertently in the past created barriers to mutually beneficial interlocal cooperation, the General Assembly, by means of this provision, has endeavored to remove such barriers and to give impetus to collaboration among local governments.

In this case, the Commission notes a significant degree of interlocal cooperation which, from our perspective, reflects favorably

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consolidated school system's operating budget would be reduced by $118,865 the first year after annexation.

[216]Testimony of Walter Cox, Expert Witness, City of Clifton Forge, Transcript, Vol. II, p. 299.

[217]Testimony of George R. Goode, Mayor, City of Clifton Forge, Transcript, Vol. II, pp. 318, 320, 324-326.

on the City and the County. While not contending that our list is all encompassing, we count no less than 30 major activities in which both jurisdictions jointly participate.[218] These activities include such general areas of public concern as social services, health, fire and emergency medical services, law enforcement, judicial administration, youth and adult detention facilities and public utilities. In addition to the above, the Commission recognizes that there are yet other areas of public concern where cooperation with the City of Clifton Forge is also present. Such joint participation by the three jurisdictions in the Alleghany Highlands is found in the areas of mental health, education, juvenile probation, recreation, planning, and industrial development. These cooperative efforts and programs should not be jeopardized by any prospective boundary change action.

The City of Covington's decision not to pursue funding from the Virginia State Water Control Board (SWCB) to complete the necessary plans and specifications to upgrade the City's sewage treatment plant has been cited as an instance in which that City arbitrarily refused to cooperate for the provision of a public service. The record indicates that in 1979 the City and Alleghany County concluded an agreement concerning the use of the City's treatment plant as a regional facility to serve Covington and its environs.[219] In 1980, because of pending changes in federal regulations which would have increased the local share of the cost of constructing sewage treatment plant improvements from 25% to 45%, the SWCB encouraged Covington to use local funds to complete the plans for improvements to the treatment plant. Once the required plans had been completed, the City could have applied to the SWCB for federal funds to begin construction on a portion of the plant expansion in order to remain eligible to

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[218]County of Alleghany, Report on Alleghany Highlands Area Local Government Relations, October 1980, pp. 18-19.

[219]The contract between the City and the County was required by the U. S. Environmental Protection Agency as a prerequisite for the receipt of funds to upgrade the City's sewage treatment plant. Under

receive grants for 75% of the total project cost.[220] The City, however, declined to complete the plans using only local funds.[221]

City officials have offered several reasons for not pursuing the course of action recommended by the SWCB. First, City officials have asserted that Covington was given no assurances from State or federal officials that if the City completed the necessary plans it would have received construction funds from the SWCB to begin the project. Second, City officials have pointed to the fact that in June 1980 both the Hercules Corporation and the Virginia Electric and Power Company, two major employers, announced that they were terminating approximately 2,700 employment positions in the area because of uncertain economic conditions.[222] The resulting increase in local unemployment and its consequent impact on Covington's finances, City officials stated, would have greatly affected the municipality's ability to

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the terms of the contract the County agreed to purchase wastewater treatment services from the City and the City agreed to allocate a portion of the plant's capacity to the County. (See agreement between the City of Covington and Alleghany County dated September 18, 1979).

[220]Under revised federal regulations only a portion of the design costs would be reimbursed by the SWCB (Communication with Ralph J. Mayer, Regional Grants Coordinator, Roanoke Regional Office, Virginia State Water Control Board, communication with staff of Commission on Local Government, April 13, 1983). Previously, the City had declined to pursue a grant for approximately $500,000 to prepare the plans for the anticipated plant improvements because City officials feared that the plans would become obsolete by the time State and federal construction funds were available (Ibid.). These design funds were ultimately awarded to the City and the County to make interim improvements to sewer facilities within their respective jurisdictions.

[221]Since 1977 the City had been operating its sewage treatment plant under a consent order which acknowledges that the plant is violating federal water quality standards [Testimony of George W. Nester, Town Manager, Town of Vinton (former City Manager, City of Covington), Transcript, Vol. I, pp. 126-127].

[222]A fire at the Hercules Corporation's synthetic fibers plant forced the company to close a portion of its operation in the City with the resulting loss of approximately 700 positions. The cessation

undertake the completion of the necessary plans for improvements to the sewage treatment plant without assurances that federal construction funds for the project would be immediately forthcoming.[223] The concerns expressed by Covington officials appear reasonable. The Commission, therefore, is unable to conclude that the City's action constituted an arbitrary refusal to cooperate.

RECOMMENDATIONS

In the preceding sections of this report the Commission concluded that the City of Covington has a need for additional land for development and an emerging need to augment its tax base. Viewed in isolation, the data with respect to those needs would support, in our judgment, an expansion of the boundaries of the City of Covington. However, the needs of that municipality must be considered in relation to the current and prospective viability of Alleghany County.

In terms of the City's current condition and needs, the Commission notes that Covington, which has not benefited from any territorial growth since 1952, experienced a population decline of 9.9% between 1970 and 1980, and witnessed an additional loss of 7.3% of its residents during the first two years of the present decade. With respect to the nature of Covington's population, 1980 data reveal that, as of that date, the median age of City residents was 35.2 years, exceeding that of residents of Alleghany County (31.5 years) and far surpassing that of residents of the State generally (29.8 years). Further, the comparative age of the City's population is suggested by the fact that as of 1980 approximately 17.7% of Covington's populace was age 65 or over, an elderly component of population substantially greater than

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of work on the Virginia Electric and Power Company's Back Creek hydroelecric project in Bath County idled approximately 2,000 workers (Testimony of Nester, Transcript, Vol. I, pp. 122-123).

[223]To undertake the preparation of the plans for the sewage treatment plant the City calculated that it would have had to increase

that in Alleghany County (10.7%) and nearly twice that in the State overall (9.5%). The aging nature of Covington's population is further revealed by U. S. Bureau of the Census data which indicate that between 1970 and 1980 the number of married couples with children under 18 years of age residing in the City decreased by 29.6%, while the number of such families in the County increased moderately (7.6%) during the same decade. Finally, in terms of the personal wealth of residents, 1983 estimates place the median family income in Covington at $20,125, or 89.0% of the comparable statistic in Alleghany County and only 77.0% of that for the Commonwealth generally. In sum, these data do reveal that the City has experienced in recent years a significant population loss, with its remaining populace being older and poorer in relation to residents of the neighboring County and to those of the State generally.

With respect to the City's need for land for development, data presented to the Commission disclose that, while Covington retains over 1,000 acres of vacant land within its boundaries, only 142 acres of that property are free of major environmental constraints (e. g., floodplain, steep slopes) and are located on parcels of sufficent size to offer significant development opportunity. The Commission is cognizant of the fact, however, that these 142 acres do not include the undeveloped property in Covington's industrial park (50 acres) nor the site (6.7 acres) currently vacant on property owned by the Hercules Corporation. While the Commission has concluded that Covington does have a need for land for industrial development, these latter properties do provide the City with significant opportunities for industrial growth. Further, the City's still dominant position with respect to commercial activity in the general area diminishes Covington's immediate need for additional land for commercial develop-

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sewer rates by 50% (Testimony of Nester, Transcript, Vol. I, pp. 123-124).

ment. The previously cited demographic data suggest to this Commission that Covington's most immediate need for land for development is based upon residential considerations - the importance of arresting its population decline and maintaining a heterogeneous community. The City of Covington's concerns regarding its population are well-founded and acknowledged by this Commission.

Data relative to the City's fiscal condition point to an emerging need for Covington to augment its tax base. While the true value of real and public service corporation property increased by virtually the same percentage in Covington and Alleghany County between 1970 and 1980, data for the first two years of the current decade are a source of some concern regarding the City's fiscal future. Between 1980 and 1982 the total true value of real and public service corporation property in Covington decreased by $17.6 million, or by 8.1%, while that in Alleghany County increased by $20.5 million, or by 8.5%. It is significant to this Commission, however, that by the latter date the per capita true value of such property in the City ($23,749) still significantly exceeded that in the County ($19,082). Recent sales tax data for the Alleghany Highlands area do reflect a modest degree of commercial growth in the City of Covington. Between 1980 and 1983 the total value of taxable retail sales in the City rose by $2.6 million, or by 5.0%. The value of such sales in the County increased during the same period by $9.3 million, or by 50%. Despite this disparity in the growth of retail sales, however, as of 1983 the per capita value of such sales in the City ($6,400) remained more than three times that in the County ($2,018).

In terms of the relative local fiscal burden borne by residents of the City of Covington and Alleghany County, several statistics might be cited. First, according to data published by the State's Auditor of Public Accounts, the per capita local fiscal tax burden in Covington during FY 1982-83 was $343.38, or 45.7% greater than that borne by residents of Alleghany County during the same fiscal year

($235.62).[224] Second, a recent study published by the State's Joint Legislative Audit and Review Commission (JLARC) also suggests that residents of the City of Covington bear a greater local fiscal burden than do those of Alleghany County. That JLARC study calculated that for FY 1980-81 the City of Covington raised, on a per capita basis, revenue from local sources equal to 86% of its theoretical local revenue capacity, while the comparable statistic for Alleghany County during the same fiscal year was 78%.[225] Neither of these calculations, however, can be considered as complete and precise measures of the total local fiscal burden borne by residents of the two jurisdictions, for neither includes utility charges nor the cost to City residents for garbage collection. It is quite significant to note that City tabulations indicate that the inclusion of such charges and costs discloses a substantially greater annual local fiscal burden for the average County resident than for his City counterpart.[226]

As noted in a previous section of this report, the annexation proposed by the City of Covington would bring within the City's boun-

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[224]"City of Covington Comparative Reporting Transmittal Forms;" and "County of Alleghany Comparative Reporting Transmittal Forms." The taxes included in the calculation are local taxes on all forms of property, bank stock, recordations, consumer utility usage and various other minor sources. Local sales taxes are not included.

[225]Virginia General Assembly, Joint Legislative Audit and Review Commission, State Mandates on Local Governments and Local Financial Resources, House Document No. 15 (1984), Appendix E. The theoretical revenue capacity calculated for local governments in this study was determined on the basis of each locality's assessed real property values, assessed tangible personal property values, the number of locally registered motor vehicles, taxable retail sales, and total personal income (used as a surrogate for other local revenue sources) multiplied by the Statewide average tax rate for each revenue source. A tax effort measure was calculated for each county and city by dividing each jurisdiction's per capita locally produced revenue by its theoretical per capita local revenue base (See Ibid., pp. 68-74).

[226]City Notice - I, Exh. 6.

daries 2,270 persons (16.4% of the County's 1982 estimated population), 490 public school students (13.1% of the County's 1982-83 public school ADM), 3.75 square miles (0.8% of the County's total land area), $40.7 million in assessed property values (17.2% of the County's total 1983 assessed property values), and commercial facilities which generated $181,000 in local sales tax receipts in 1983 (77.3% of Alleghany County's total local sales tax receipts for that year). While the area proposed for annexation contains no industry, it is the site of the County's largest concentration of commercial activity and a number of significant residential developments. Although a large percentage of the area proposed for annexation is vacant, this vacant property is not considered to have significant potential for commercial or industrial development.

In reviewing this proposed annexation, the Commission has given considerable attention to the topography and future development potential of the County generally. The Commission is aware that nearly 50% of the County's land area is presently located in State or federal land preserves and that the predominant portion of the remaining territory is constrained in its development potential by environmental considerations (e. g., steep slopes or floodplain). Further, the Commission notes that present population projections for the Alleghany Highlands area forecast growth of only 3% in the number of inhabitants in the area during the last two decades of this century. No recommendations regarding Covington's proposed annexation can be made without consideration being given to these facts.

With respect to the County's prospective loss of its commercial area east of Covington, the Commission finds no evidence to suggest that other significant commercial development will occur in the County for the foreseeable future. While events may occur which radically change the demographic and economic forecasts for the area, they are not evident to this Commission at this time. Based on these current conditions, the Commission cannot recommend that Covington be granted an annexation encompassing Mallow Mall and the adjacent commercial

areas east of the City.

In terms of the City's proposed annexation of other areas, there are a number of factors requiring consideration. First, the Commission notes with considerable concern that 1982 population estimates reveal that Alleghany County has, like the City of Covington, experienced a population decline since the beginning of the current decade. Those population estimates report that between 1980 and 1982 the County witnessed a loss of approximately 500 residents, a 3.7% decline in populace during the two-year period. While the County's population decline has not been as prolonged nor as precipitous as that of the City, it is a factor which requires recognition. Second, the most recently published real estate, public service corporation, and sales tax data, as well as the previously mentioned JLARC study, indicate that the City of Covington continues to benefit from a local revenue base stronger than that available to Alleghany County. While the data regarding comparative local fiscal burden (i.e., the degree to which the local revenue base is taxed or utilized) are mixed, the Commission cannot conclude that Covington residents bear an inordinate fiscal burden which, at this time, can be addressed equitably by annexation. Third, while the proposed annexation would extend certain service benefits to the area annexed, the Commission fails to find any serious or conspicuous service problems which would be rectified immediately by the proposed expansion of the City's boundaries. Based on these considerations, the Commission recommends against the annexation of any of the areas proposed by the City of Covington at this time.

It should be stated again, however, that while the data continue to indicate that Covington's fiscal capacity exceeds that of the County, recent statistics do reflect a constriction of the City's fiscal base. With respect to future conditions in the Alleghany Highlands area, the Commission was presented with considerable evidence regarding proposals for major industrial expansion in both the County and the City, as well as testimony on Covington's proposal to develop an energy generating facility at the Gathright Dam. These

various developments remain, in our view, prospective with uncertain ramifications. Such major developments, however, could substantially affect the interlocal issues in the Alleghany Highlands when their scope and impact are more fully known and understood. These prospective developments cannot, in our judgment, affect the resolution of the present annexation issue.

While the Commission is unable to recommend the annexation of any of the areas sought by the City of Covington at this time, it is appropriate, we believe, to address again briefly in these recommendations the issue of the impact of the proposed annexation on the consolidated school system serving Alleghany County and the City of Clifton Forge. The consolidated educational system recently established by Alleghany County and the City of Clifton Forge is, the Commission recognizes, a significant achievement which promises substantial benefits to the area. It is far from clear to this Commission, however, that the City of Covington could be denied the lawful exercise of a basic governmental prerogative by virtue of the impact of such an action on a funding contract between neighboring jurisdictions. To permit contractual arrangements between two jurisdictions to deny a third jurisdiction the authority to exercise a prerogative bestowed by law would, we believe, be unwise public policy. It appears to this Commission that the inherent value of the consolidated school system is such that appropriate and equitable adjustments could be made in the funding contract between Alleghany County and the City of Clifton Forge to assure the survival of that system, if an annexation by the City of Covington were eventually to be decreed by the court.

CONCLUDING COMMENT

As an adjunct to this report, and in consideration of current circumstances in the Alleghany Highlands area, the Commission wishes to observe that the one annexation alternative which could be found con-

sistent with statutory standards is that which would encompass the entirety of Alleghany County and which could result in the political integration of the four governments presently serving the area. With respect to the latter point, it should be noted that an annexation embracing the entirety of Alleghany County would of necessity include the Town of Iron Gate.[227] Further, while present law does not appear to provide a means by which such an annexation might encompass the City of Clifton Forge, the General Assembly appears to have the authority to establish such a means. The General Assembly might amend the State's annexation laws to permit small cities (e.g., those less than 5,000 in population) to decide by referendum to be included within an annexation encompassing totally an adjoining county. Legislation authorizing this alternative should, in our view, require the reviewing court to hold in abeyance the issuance of its final order decreeing the annexation of an entire county to permit a vote for inclusion by the adjoining municipality (e. g., Clifton Forge). The annexation could then, assuming a favorable vote by the municipality, encompass the adjoining city at the time of its effective date. Such legislation would leave to the voters of the city the option of being included in the proposed annexation and would require their determination of this issue prior to the entry of the court's final order.[228]

Such a political integration, accomplished by annexation, would have the effect of bringing under one municipal government the four jurisdictions presently serving the area. The resulting governmental arrangement would place the area's total fiscal assets and public resources in the service of the community generally. It should be noted that the annexation suggested herein would remove from consideration the financial settlement issues which are typically a part

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[227]Sec. 15.1-1057, Code of Virginia.

[228]Chapter 20.1, Title 15.1 of the Code of Virginia establishes a general law process whereby certain cities shall revert to town status. The reversion of a city to town status would enable the former

of annexation cases. To be sure, an annexation of an entire county and including former municipalities will raise new and perhaps intricate concerns which will require careful analysis. However, the Commission cannot foresee any concerns which would not be amenable to resolution.[229] In our view, the concerns of the Alleghany Highlands are unique, with the optimal solution being the total political integration of the area.

While the Commission proposes consideration of the integration of the area through annexation, it is not unmindful of the governmental consolidation effort which has already been initiated in the Alleghany Highlands area. As a result of petitions filed with the Circuit Court of Alleghany County in 1983, citizen committees may be appointed as early as October 1984 for the development of a consolidation plan for submission to the voters. This route of governmental integration permits representatives of all jurisdictions to participate in the development of a plan of consolidation which could be fashioned to meet the peculiar circumstances and needs of the area.

Moreover, if residents of the area favor something less than complete political consolidation, the governmental reorganization plan currently being considered by residents of the City of Staunton and Augusta County might be reviewed. That plan, while effecting a degree of governmental consolidation, preserves the constituent governments as strong and active political entities. As we have indicated in a previous report, the proposed City of Staunton - Augusta County con-

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city to be included automatically in an annexation of the parent county. As presently drawn, however, the existing general law reversion process does not appear to be available for use by the City of Clifton Forge. Even if the existing law were amended to permit the City of Clifton Forge to revert to town status, the reversion process may well be too cumbersome and lengthy for its timely use in conjunction with an annexation action.

[229]Sec. 33.1-43 of the Code of Virginia would appear to authorize the VDH&T to provide maintenance funds to the City of Covington for all public thoroughfares in Alleghany County if the entire County were annexed. Based upon the Commission's calculations

solidation plan has much to commend it.[230]

Some form of political integration of the area promises benefits to the residents of the Alleghany Highlands.

If no form of governmental integration can be achieved in the Alleghany Highlands area, the Commission recommends that the local governments in the area vigorously pursue increased collaboration and cooperation in the provision of public services. It is evident that there is a distinct need for increased governmental cooperation to derive maximum benefit from the area's limited fiscal resources. The technical study previously commissioned by the local governments in the Alleghany Highlands area has revealed a number of functional areas where the further integration of public services would be beneficial. While the Commission has not undertaken a critical analysis of all data adduced nor the various methodologies employed in that study and, thus, cannot endorse unequivocally all findings of that comprehensive undertaking, we accept generally the following statement included therein:

> When the public services in the region are considered on a service-by-service basis, the apparent optimal solutions for service delivery vary somewhat from service to service. Considering services together, however, it is quite clear that the greatest opportunities for improving quality and reducing long-term cost are associated with increasing levels of merger of these services.[231]

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such State aid would substantially exceed State expenditures for road maintenance in the County during FY1983-84.

[230]If the consolidation plan being considered by Augusta County and the City of Staunton is of interest to officials and residents of the Alleghany Highlands, amendments must be sought in the law lowering the requisite population for tier-city status (currently 15,000 persons). See Sec. 1-13.28:1, Code of Virginia.

[231]Alleghany Highlands Governmental Study, Vol. III, p. 143.

From our experience, the thesis advanced in the above statement is fundamentally correct. If some form of political integration cannot be effected, the Commission strongly recommends that the jurisdictions in the Alleghany Highlands pursue vigorously the merger of appropriate public service functions. After several years of intensive negotiation and analysis of their interlocal issues, the local governments in Alleghany Highlands now have an environment, which may not always exist, to make significant and beneficial changes in their governmental arrangements. The opportunities should be carefully considered.

Respectfully submitted,

Wendell D. Hensley, Chairman

Harold S. Atkinson, Vice-Chairman

Edward A. Beck

William S. Hubard

Benjamin L. Susman, III

ADDENDUM STATEMENT

Although I have joined the majority in signing the Commission's report, I take exception to the "Concluding Comment" in that the suggestions included therein go beyond the proposal submitted to this body. In my judgment, the evidence presented has not been sufficient to permit the Commission to endorse the alternatives which have been proposed. While the members of the Commission, as individuals, may see possible merit in the political integration of all the local governments in the Alleghany Highlands area, there are many ramifications which require, in my view, further analysis. Given the complexity and uncertain ramifications of some of the alternatives raised by the Commission for consideration, I would prefer that the political integration of the area be effected by choice of the electorate.

Like other members of the Commission, I do foresee the need for prompt and possibly extreme action to strengthen local government in the Alleghany Highlands area. There is a need for all the parties to determine a strategy for accomplishing this goal and to provide leadership in meeting such a challenge. It may well be, as some have suggested, that the local governments in the area should be integrated into an enlarged City of Covington, but it may be found equally appropriate for Alleghany County to encompass its two adjoining Cities. Again, in my view, the choice should be left to the local electorate.

Edward A. Beck

ADDENDUM STATEMENT

I concur with the recommendations as set forth in the report, that based on the many considerations involved, the Commission recommends against the annexation of any of the areas proposed by the City of Covington at this time. Therefore, I have signed the report as submitted.

However, I do differ with the other members of the Commission in its "Concluding Comments." I feel that the alternatives that have been set forth in this section are dealt with too broadly and that one alternative should be endorsed rather than the several that are mentioned.

The Alleghany Highlands issue is unique, and it is my feeling that the area's problems will never be solved until the four governments presently serving the area become one. (The area involved includes the City of Covington, the City of Clifton Forge, Alleghany County and the Town of Iron Gate, which is presently a part of the County.) Therefore, it would be my recommendation that the City of Covington be granted annexation of the entirety of Alleghany County, resulting in the political integration of the four governments presently serving the area.

In order to achieve the above, the annexation court could grant total annexation of the County of Alleghany to Covington (assuming the City of Covington chooses to pursue this alternative) holding in abeyance the effective date of annexation until the following steps are taken:

1. The General Assembly amends the State's annexation laws to permit small cities (e. g., those less than 5,000 in population) to decide by referendum to be included within an annexation encompassing an adjoining county. (The City of Clifton Forge would have to pursue such legislation in the 1985 session of the General Assembly if it wanted to become a part of the City of Covington);
2. The City of Clifton Forge would then hold its referendum

prior to the effective date of annexation; and

3. If the City of Clifton Forge voted favorably in said referendum, and assuming the annexation court had approved such annexation, the court would then enter its final order establishing the date of the annexation.

My reason for the above recommendation is that if the entire area is not brought under one government, the Alleghany Highlands area will suffer for years to come. It is my belief that it will take many years to resolve the many issues that confront this area, and the time for decisive action has arrived. The above-mentioned process for politically integrating the area will expedite the inevitable.

As the report has acknowledged, the annexation of an entire county and an adjoining municipality will raise new and possibly difficult questions. These questions and concerns, however, can be properly addressed. A plan for representation on the new City Council would have to be developed. The court could ask that the existing governing bodies propose a plan that could be judicially reviewed.

Harold S. Atkinson

Harold S. Atkinson, Vice-Chairman

APPENDIX A

Statistical Profile of the City of Covington, County of Alleghany and the Area Proposed for Annexation.

	City of Covington	County of Alleghany	Area Proposed for Annexation
Population (1982)	8,400	13,800	2,270
Land Area (Square Miles)	4.39	444.44	3.75
School Average Daily Membership (1982-83)	1,436	3,741	490
Total Assessed Values (1983)	$160,561,087	$237,419,274	$40,734,454
Real Estate Values (1983)	$128,095,515	$189,615,370	$36,415,735
Public Service Corporation Values (1983)	$10,807,502	$24,484,116	$2,571,816
Personal Property Values (1983)	$8,134,780	$9,400,198	$1,690,600
Machinery and Tools Values (1983)	$13,523,290	$11,164,705	$950
Mobile Home Values (1983)	N/A	$2,754,885	$55,353
Total Taxable Sales (1983)	$53,756,428	$27,845,796	N/A
Existing Land Use (Acres)			
Residential	859	N/A	455
Commercial	101	N/A	50
Industrial	235	N/A	-
Public and Semi-public	168	N/A	252
Agricultural, Wooded, or Vacant	1,014	N/A	1,477
Roads or Railroads	443	N/A	159

NOTES:

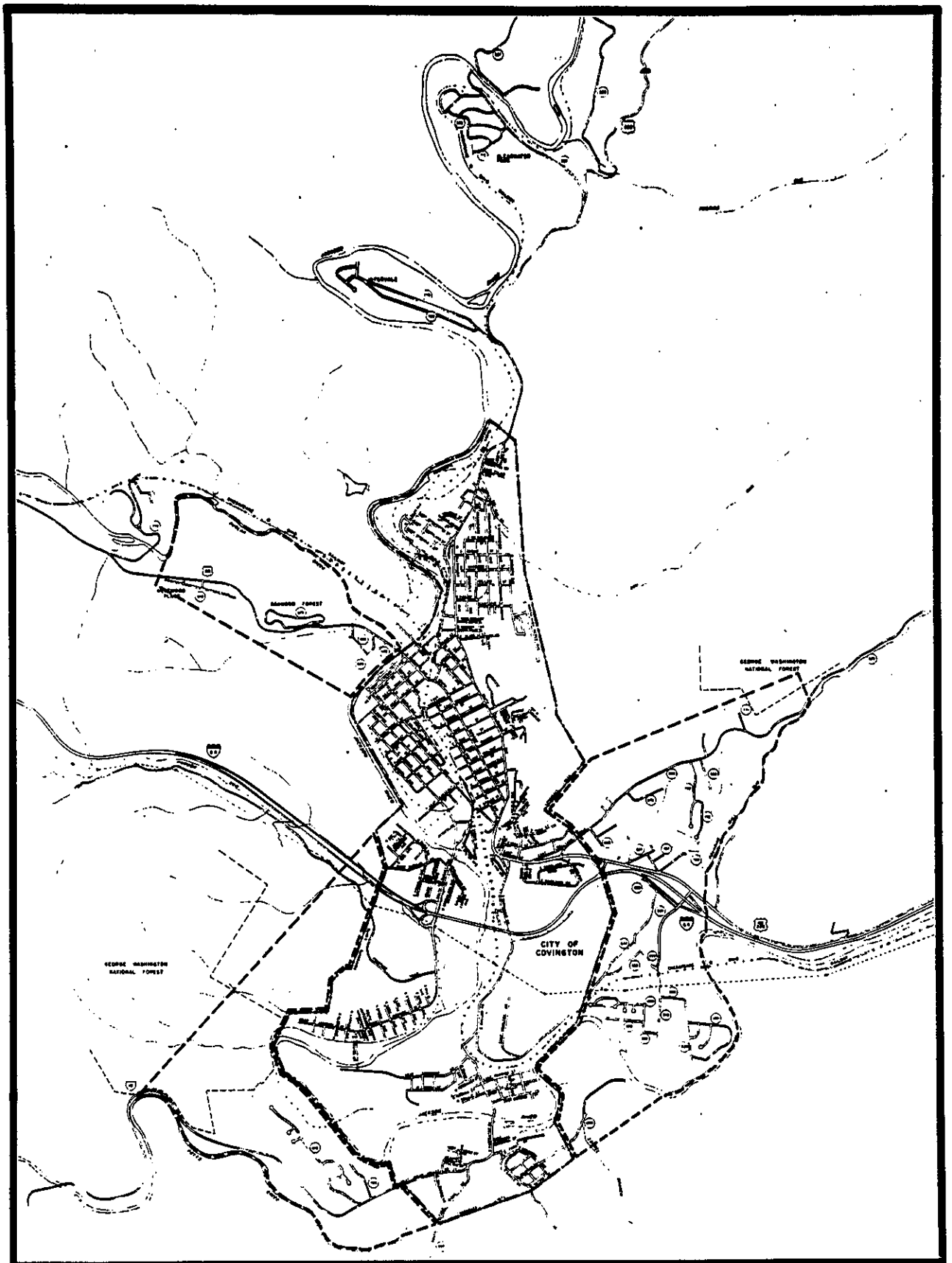
N/A - Not available

SOURCES:

City of Covington, Annexation Notice, Vol. I, March 1984.

John H. OBrion, Jr., Special Counsel, County of Alleghany, letter to James W. Jennings, Jr., Special Counsel, City of Covington, March 16, 1984.

County of Alleghany, Response to Covington Annexation Notice, Vol. I, March 1984.



GENERAL LEGEND

CITY OF COVINGTON CORPORATE LIMITS

PROPOSED ANNEXATION LINE

MAP OF THE

CITY OF COVINGTON, VA.

AND ENVIRONS

PREPARED BY

R STUART ROYER & ASSOCIATES, INC.

RICHMOND, VIRGINIA

MARCH, 1984

APPENDIX B