

REPORT
ON THE
CITY OF DANVILLE ANNEXATION ACTION
AND
COUNTY OF PITTSYLVANIA PARTIAL IMMUNITY ACTION



COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA

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REPORT
OF THE
COMMISSION ON LOCAL GOVERNMENT

CITY OF DANVILLE ANNEXATION ACTION
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COUNTY OF PITTSYLVANIA IMMUNITY ACTION

PROCEEDINGS OF THE COMMISSION

On March 1, 1983 the City of Danville 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 intentions to petition for the annexation of approximately 29.66 square miles of territory in Pittsylvania 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, consistent with statutory requirements, the City concurrently gave notice of its annexation action to Pittsylvania County and to twelve other local governments with which it shared functions, revenue, or tax sources.² The City's notice to the Commission also invoked Section 15.1-945.7(E) of the Code of Virginia and expressed the desire to negotiate a settlement of the annexation action with Pittsylvania County with the assistance of an independent mediator designated by the Commission.

On March 8, 1983 the Commission met with representatives of the City of Danville and Pittsylvania County for purposes of scheduling its review of the City's annexation action and responding to the request for mediation assistance. At this

¹City of Danville, City of Danville Annexation Notice and Supporting Data, Vol. I (hereinafter cited as City Annexation Notice - I), February 1983.

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

meeting with the parties the County requested the Commission to postpone its hearings on the City's proposed annexation, which would normally be held approximately ninety days after the filing of an action, in order that it might have additional time to prepare its defense. Pursuant to the County's request, the Commission deferred its hearings on the annexation action until late July 1983 and obtained agreement from both parties that the date for the submission of its report would be postponed a comparable period, or until November 1, 1983.³ In response to the City's request for mediation assistance, and with the concurrence of both parties, on April 14, 1983 the Commission designated Dr. Richard C. Collins of the University of Virginia as an independent mediator to assist in efforts to negotiate a settlement of the interlocal issue.

On May 17, 1983 Pittsylvania County filed notice with the Commission, pursuant to the provisions of Section 15.1-945.7(A) of the Code, of its intention to petition for the immunization of approximately 23.41 square miles of territory within its boundaries (including major portions of the area the City sought to annex) from city-initiated annexation and from the incorporation of new cities therein.⁴ This notice, which was accompanied by the requisite supporting data and exhibits, was also given concurrently to the City of Danville and, consistent with statutory requirements, to nine other local governments with which the County was contiguous or with which it shared

³The 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].

⁴County of Pittsylvania, Partial Immunity Notice, Vol. I (hereinafter cited as County Immunity Notice - I), May 17, 1983. On April 1, 1983 the County and the

functions, revenue, or tax sources. Pittsylvania County's notice to the Commission also stated that the County would continue to seek a negotiated settlement of the issues with the City of Danville under the auspices of the previously designated mediator.

The Commission met with representatives of the City and the County on May 24 in order to schedule its review of the County's immunity action. Over the objection of the City, the Commission decided to consolidate its review of the annexation and immunity actions and to conduct joint hearings and to issue a joint report on the two issues. Since the City of Danville would not agree to a further extension of the date for the submission of the Commission's report on its annexation action, the Commission scheduled its joint hearings on the two issues for late July and the release of its joint report for November 1, 1983.⁵

However, at the request of both parties subsequent postponements of the Commission review were granted to allow additional time for interlocal negotiations between the City and the County and for the resolution of the legal issues which had been raised by both jurisdictions. Finally, at its meeting on September 19, 1983, the Commission rescheduled its hearings for late October 1983 and the release of its

Pittsylvania County Service Authority filed suit in the Circuit Court of Pittsylvania County against the City seeking to enjoin the City's annexation action on the basis of certain provisions in a 1972 water and sewer agreement between the jurisdictions (County of Pittsylvania and Pittsylvania County Service Authority v. City of Danville, Chancery Number 90).

⁵On June 23, 1983 the City of Danville filed suit in the Circuit Court of Pittsylvania County seeking to enjoin the Commission's consolidated review of the annexation and partial immunity issues. The City's action asked the court to grant temporary and permanent injunctive relief restraining any further action by the County or the Commission with respect to the immunity issue "until the annexa-

joint report for February 6, 1984.⁶

Consistent with its adopted schedule, the Commission toured relevant areas and facilities in the City and the County on October 29 and received oral testimony from the parties on October 31 and November 1, 2, and 3, 1983. In addition to its review of written submissions from the City of Danville and Pittsylvania County and its receipt of oral testimony from the parties, the Commission solicited comment from all other potentially affected local governments which qualified for notice from either the City or the County under the provisions of Section 15.1-945.7(A). 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, in Danville on the evening of November 1, 1983.⁷ This public hearing was attended by approximately 400 persons and produced testimony from approximately 65 persons. In order to permit the receipt of additional public comment, the Commission agreed to hold open its

tion proceeding before the Commission is concluded" (City of Danville v. Commission on Local Government and County of Pittsylvania, Chancery Number 175).

⁶The schedule adopted by the Commission on September 19 was contingent upon the resolution of all pending legal issues affecting the Commission's review in time for the commencement of the hearing on October 31. On October 19 the special three-judge court, appointed pursuant to Secs. 15.1-1038 and 15.1-1168, Code of Virginia, dismissed the separate suits for injunction instituted by Pittsylvania County and the City of Danville seeking to restrain the annexation and immunity actions initiated by the other. The court's action on October 19 permitted the Commission to proceed with its scheduled hearings on October 31, 1983. Due to a delay in the availability of portions of the transcript of the oral presentations, the parties and the Commission subsequently agreed to an extension of the reporting deadline until February 13, 1984.

⁷At the request of the Commission all materials which had been submitted to it by the parties relative to

record for written submissions from the public through December 5, 1983.

SCOPE OF REVIEW

The law establishing the Commission on Local Government states that the General Assembly's fundamental purpose in creating such a body was to provide a mechanism to "help ensure that all of [the Commonwealth's] counties, cities, and towns are maintained as viable communities in which their citizens can live."⁸ Guided by this expression of fundamental legislative intent, the Commission is charged with reviewing a variety of local boundary change and governmental transition issues before such proposed actions are presented to the courts for ultimate disposition. In undertaking such reviews the Commission is required to "investigate, analyze, and make findings of fact, as directed by law, as to the probable effect on the people" residing in the areas affected by the proposed action.⁹ While the Code of Virginia directs that the Commission's findings and recommendations be based upon the criteria and standards prescribed by law for the disposition of such issue, the Commission is also cognizant of the fact that its analyses must be guided by the legislatively decreed concern for the preservation of the viability of all the Commonwealth's localities.¹⁰

the annexation and immunity actions were made available for public review in the offices of both the City Manager of the City of Danville and the County Administrator of Pittsylvania County.

⁸Sec. 15.1-945.1, Code of Virginia.

⁹Sec. 15.1-945.3, Code of Virginia.

¹⁰Sec. 15.1-945.7(B), Code of Virginia.

In this report the Commission will review both an annexation action initiated by the City of Danville on March 1, 1983 and a partial immunity action instituted by Pittsylvania County on May 17, 1983. As stated previously, the City seeks to annex 29.66 square miles of territory in Pittsylvania County, while the latter jurisdiction proposes the immunization from city-initiated annexation of approximately 23.41 square miles of its territory, including major portions of the area the City seeks to annex. Due to the fact that the court established to resolve these conflicting actions is required to decide first the immunity issue raised by Pittsylvania County, the Commission will in this report, notwithstanding the prior filing of the annexation action, address initially the immunity issue.¹¹

The order in which these separate but interrelated issues are to be considered is of more than procedural significance, for the criteria and standards which are statutorily prescribed for the resolution of these issues differ. The Commission notes that the law governing the review of partial immunity actions, while requiring that cities of less than 100,000 persons be left with an opportunity for future growth, directs that primary attention be focused on the type and level of urban-type services in the area proposed for immunity and not on the current needs of the affected city.¹² The law governing the review of annexation actions, on the other hand, requires analysis not only of urban service issues, but explicitly mandates consideration of the current needs of the municipality for

¹¹Sec. 15.1-977.20, Code of Virginia.

¹²Sec. 15.1-977.22:1, Code of Virginia. As will be noted, this section of the Code of Virginia also requires consideration of other factors, including the county's effort to comply with various State service policies and the strength of the community of interest between the area pro-

developable land and tax resources.¹³ This Commission recognizes the statutorily established priority given timely filed partial immunity actions before a court over previously instituted annexation proceedings and is fully cognizant of the distinction between the criteria and standards governing the resolution of those issues.

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. We trust that this report will be of assistance to the citizens and elected leadership of the affected jurisdictions and to the Commonwealth generally with respect to the protection and preservation of the viability of its local governments.

GENERAL CHARACTERISTICS OF THE CITY, COUNTY, AND RELEVANT AREAS

CITY OF DANVILLE

The City of Danville is situated on the Dan River in the Piedmont section of Virginia not far from the North Carolina border. A community was first established on the present-day site of Danville in 1793. This community was incorporated as a town in 1833 and granted city status in 1890.¹⁴ Danville has grown through a series of annexations to its present size of 17.07 square miles.¹⁵ Between 1955 and 1978 the City experienced a total of eleven

posed for immunity and the remaining portion of the county.

¹³Sec. 15.1-1041, Code of Virginia.

¹⁴City Annexation Notice - I, pp. 33-34.

¹⁵Ibid., p. 40.

annexations, initiated by citizen petition, which collectively resulted in the addition of 1.09 square miles of territory to Danville's area. The City's last major annexation, however, occurred in 1951, more than thirty years ago, when 9.69 square miles of territory were added to its boundaries.¹⁶

Like many other Virginia municipalities, the City of Danville experienced a population loss during the previous decade, with the number of its residents decreasing between 1970 and 1980 from 46,391 to 45,642, or by 1.6%.¹⁷ Based on its 1980 population and its area of 17.07 square miles, the City had a population density of 2,674 persons per square mile.

With respect to the nature of its population, the evidence indicates that the City's populace is considerably older and somewhat poorer than the State as a whole. Data reveal that as of 1980 the median age of Danville residents was 34.5 years, notably greater than that for the State as a whole (29.8 years).¹⁸ Further, the percentage of the City's population age 65 and over was 15.4%, also conspicuously greater than the comparable figure for the State generally (9.5%).¹⁹ In terms of personal wealth, data disclose that as of 1980 per capita personal income in Danville was \$8,716, or 92.7% of the per capita income

¹⁶Ibid., p. 44

¹⁷U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Number of Inhabitants, Virginia, Number PC80-1-A48, Table 2.

¹⁸U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Social and Economic Characteristics, Virginia, Number PC80-1-C48, Table 62; and Table 171.

¹⁹U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Summary Characteristics

figure for the Commonwealth generally.²⁰

In terms of the present utilization of land within the City's corporate boundaries, 1983 data reveal that 45.1% of Danville's total area is devoted to residential development, 13.1% is committed to public or semi-public usage, 7.7% is engaged in commercial enterprise, 4.5% is utilized for industrial activity, 3.1% is covered by bodies of water, with 26.5% remaining vacant.²¹ Of the total vacant land in the City (2,861 acres), 423 acres are located on slopes exceeding 20% and another 320 acres are situated within the 100-year floodplain. Excluding this acreage on steep slopes or in the floodplain which has severely restricted development potential, Danville retains 2,118 acres of vacant land, 19.4% of its total area, free from major environmental constraints on its development potential.²²

The City of Danville clearly is the economic and social center of its general area. While the City's civilian labor force in 1982 totaled 23,092 persons, there were 26,770 positions of nonagricultural wage and salary employment located within its corporate boundaries. Despite Danville's loss of 441 positions in manufacturing employment between 1977 and 1982, that five-year period witnessed an overall increase of 1,181 positions in nonagricultural wage and

for Governmental Units and Standard Metropolitan Statistical Areas, Virginia, Number PHC80-3-48, Table 1.

²⁰John L. Knapp, Personal Income Estimates for Virginia Counties and Cities, 1980 (Charlottesville: Tayloe Murphy Institute, 1982), Table 1.

²¹City Annexation Notice - I, p. 223.

²²Ibid. Dan River Mills, Inc. owns approximately 494 acres of vacant property in the City or 17.3% of Danville's gross vacant land.

salary employment in the City.²³ The City of Danville is also the site of such facilities as Averett College, Danville Community College, Danville Memorial Hospital, and a notable concentration of the area's professional and commercial services. In sum, while the City did experience a modest population decline during the previous decade, it continues to play a prominent role in the corporate life of the general area.

PITTSYLVANIA COUNTY

Pittsylvania County was formed in 1767 from territory formerly a part of Halifax County. Having an area of 1,012 square miles, Pittsylvania County is the largest county in Virginia in terms of geographic size. Approximately 5.9 square miles of County territory is located within the boundaries of Pittsylvania County's three incorporated towns -- Hurt, Gretna, and Chatham.²⁴ The Town of Chatham, located in the central portion of the County approximately 12 miles north of Danville, is the County seat and the site of Pittsylvania County's principal administrative offices.

Between 1970 and 1980 the County's population increased from 58,789 to 66,147, or by 12.5%. This population growth was only slightly less than that experienced by the State as a whole (14.9%) during the same period.²⁵ It should be noted that all of the population growth experienced by the

²³Virginia Employment Commission, Population and Labor Force Data, 1977 and 1982 (Revised).

²⁴County of Pittsylvania, County of Pittsylvania, Annexation Proceedings, Vol. I (hereinafter cited as County Annexation Response - I), July 1983, p. 1.

²⁵1980 Census of Population, Number of Inhabitants, Virginia, Table 2.

County during the previous decade occurred in unincorporated areas, with the total population living within the boundaries of the County's three incorporated towns actually decreasing during the period from 4,221 to 4,126 persons.²⁶ As of 1980, Pittsylvania County was the seventh largest county in the Commonwealth in terms of population. Based on its land area and 1980 population, the County had an overall population density of 65.4 persons per square mile.²⁷

With respect to the nature of its population, various statistical measures disclose that the County's populace is slightly older and, on the average, significantly poorer than that of the State as a whole. Data indicate that as of 1980 the median age of residents of Pittsylvania County was 30.8 years, while that of the State as a whole was 29.8 years.²⁸ Further, statistics reveal that as of 1980 approximately 10.8% of the County's population was age 65 or over, while the percentage of that age category for the State generally was 9.5%.²⁹ In terms of individual wealth, per capita income for County residents in 1980 was \$5,942, or only 63% of the comparable figure for the State overall (\$9,406).³⁰

²⁶Ibid., Table 4.

²⁷Excluding the land and population within the boundaries of its incorporated towns as of 1980, Pittsylvania County would have a population density of 61.6 persons per square mile.

²⁸1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 62; and Table 171.

²⁹1980 Census of Population, Summary Characteristics for Governmental Units and Standard Metropolitan Statistical Areas, Virginia, Table 1.

³⁰Personal Income Estimates for Virginia Counties and Cities, 1980, Table 1.

Pittsylvania County, like numerous other Virginia counties, has begun to experience in recent years growth and diversification in its economic base. Such growth and diversification are evidenced by the increase in nonagricultural wage and salary employment in the County which has occurred since 1977. The data indicate that between 1977 and 1982 nonagricultural wage and salary employment in the County increased from 12,631 to 13,895 positions, or by 10.0%. Of the 1,223 new employment positions created in the County during that period, 344 (approximately 28% of the total) were in the manufacturing sector with the remaining positions in various other areas of economic activity.³¹ Despite the recent growth in nonagricultural employment opportunity in the County, most of the County's labor force is still engaged in agricultural production or required to seek employment beyond the County's boundaries, many in the City of Danville.³² As of 1982 the County's total civilian labor force was 33,334 persons, while Pittsylvania County as a whole was the site of only 13,895 positions in nonagricultural wage and salary employment.³³

The evidence does suggest, however, that agriculture and forestal activity remain major economic bases of the County. According to 1978 data, Pittsylvania County ranked second amongst all Virginia localities in terms of the value of

³¹Population and Labor Force Data, 1977 and 1982 (Revised).

³²According to 1980 data 11,256 County residents age 16 and over were employed in the City of Danville (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. 7).

³³Population and Labor Force Data, 1982 (Revised).

agricultural products sold.³⁴ As of 1978, the County contained over 330,285 acres of property classified as farmland (over 50% of its total land area), with 2,126 farms actively engaged in agricultural production.³⁵ Further, 1977 data reveal that 392,910 acres of land within Pittsylvania County was then producing, or was capable of producing, wood for industrial purposes.³⁶

In terms of land use in the County, 1972 data (the last year for which such information was compiled) indicate that less than 1% (5.6 square miles) of County land was devoted to residential development, only 0.2% (1.7 square miles) was engaged in commercial or industrial activity, while nearly 98% (992 square miles) remained agricultural, wooded, or vacant.³⁷ While clearly the last ten years has seen further residential, commercial, and industrial development, Pittsylvania County remains largely rural and sparsely populated.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation by the City of Danville in its notice to the Commission on March 1, 1983 consists of seven subareas identified as Parcels A, B, C, D, E, F,

³⁴U. S. Department of Commerce, Bureau of the Census, 1978 Census of Agriculture, Virginia, Number AC78-A-46, Table 10. The County ranked first among all Virginia localities in the market value of crops sold.

³⁵ibid., Table 1. The average size of farms in Pittsylvania County was 155 acres.

³⁶Virginia Division of Forestry, Forest Resource Data, West Piedmont Planning District, 1977, Table 2.

³⁷West Piedmont Planning District Commission, Pittsylvania County Comprehensive Land Use Plan, 1973, Table 17.

and G.³⁸ Each of these parcels is contiguous to the City and range in area from 18.5 square miles (Parcel D) to 0.01 square mile (Parcel C).³⁹ In the aggregate, these parcels, according to County calculations, total 29.66 square miles and contain a 1983 population of 10,669 persons, 1,987 public school students in average daily membership (ADM) as of the 1982-83 school year, and \$259.3 million in 1982 total property values subject to local taxation.⁴⁰ While the City's estimates of the area's population, public school ADM, and property values differ from those of the County to some degree, these variations will not affect the substantive issues raised by this annexation action nor require reconciliation at this point.⁴¹ Assuming the correctness of the County's calculations, the area proposed for annexation contains 2.9% of Pittsylvania County's total land area, 16.2% of its estimated 1983 population, 15.8% of its 1982-83 public school ADM, and 21.4% of its total assessed property values subject to local taxation.⁴²

³⁸See Appendix A for a map of the area proposed for annexation.

³⁹See Appendix B for a statistical profile of the City, the County, and the area proposed for annexation.

⁴⁰County of Pittsylvania, County of Pittsylvania Annexation Proceedings, Vol. II, Financial Exhibits (hereinafter cited as County Annexation Response - II), July 1983, pp. 1-4.

⁴¹The City has presented data indicating that the area proposed for annexation had a 1980 population of 11,653, a public school ADM of 1,990 during the 1981-82 school year, and total property values of \$238.4 million in 1982 subject to local taxation (City Annexation Notice - I, pp. 40-42).

⁴²County Annexation Response - II, pp. 1-3.

In terms of current land use, data submitted by the City of Danville indicate that approximately 13.5% of the area proposed for annexation is currently devoted to residential development, 16.9% is committed to public or semi-public usage, 5.9% is engaged in industrial activity, 1.2% is devoted to commercial enterprise, 1.1% is covered by bodies of water, and 61.4% (18.2 square miles) is classified as agricultural, wooded, or vacant.⁴³ Based on the County's 1983 population estimate, the area proposed for annexation has a population density of 359.7 persons per square mile, considerably in excess of the County's overall population density of 65.4 persons per square mile.

With respect to current development, the area proposed for annexation contains numerous residential areas and subdivisions (concentrated in Parcels A and B), a number of publicly-owned facilities, and a major portion of the County's industrial base. City-owned public facilities in area proposed for annexation include an airport, prison farm, landfill, two sewage treatment plants, and utility lines (water, sewer, gas and electric).⁴⁴ County-owned facilities in the area include three elementary schools (Glenwood, Mt. Hermon, and Coates), a branch library, and

⁴³City Annexation Notice - I, p. 225. With respect to the future development of the area, it should be noted that portions of the vacant land in the area proposed for annexation are affected, as is vacant land in the City, by environmental constraints. The amount of net developable land in the area proposed for annexation is certainly appreciably less than the 18.2 square miles of undeveloped land in the area.

⁴⁴City of Danville, City of Danville Annexation Notice and Supporting Data, Vol. II, Maps (hereinafter cited as City Annexation Notice - II), February 1983, Exhs. D-3, D-8 and D-9; and City of Danville Annexation Proceeding, Supplemental Data, Vol. II, Maps (hereinafter cited as City Supplemental Data - II), October 1983, Exhs. D-21, D-23.

refuse receptacles and compactor stations.⁴⁵ The area also contains water lines owned by the Pittsylvania County Service Authority (PCSA), with sewer lines presently being constructed by that entity.⁴⁶ Further, the area also contains two volunteer fire stations which serve the area's residents.

As noted above, the area proposed for annexation also holds a major portion of the County's industrial base (concentrated principally in Parcel D south and east of Danville). Industrial firms in the area include those operated by the Goodyear Tire and Rubber Company, Corning Glass Works, Disston, Inc., U. S. Gypsum Co., Dibrell Bros. Inc., Brockway Glass Containers, Inc., and Lorillard. The firms in the area proposed for annexation provide approximately 50% of the County's industrial employment and contain machinery and tools which generated more than 84% of the County's total tax levy from such property in 1982.⁴⁷

In sum, the area proposed for annexation is a relatively densely populated and urbanizing area of the County adjoining the City of Danville. It has a major concentration of the County's industrial base and vacant areas suitable for further industrial development.

AREA PROPOSED FOR IMMUNITY

The area proposed for immunity by Pittsylvania County in its notice to the Commission on May 17, 1983 consists of five geographic segments identified by the County as Areas

⁴⁵County Annexation Response - I, Exhs. 6, 20.

⁴⁶Ibid., Exhs. 3, 4.

⁴⁷Virginia Employment Commission, Special Area by Industry Listing for Quarter 1-82, Area 143 -- Pittsylvania County; and County Annexation Response - II, Exh. 1R.

A, B, C, D, and E.⁴⁸ Each of these areas adjoins and radiates from the City's boundaries. The areas range in size from 7.56 square miles (Area A) to 0.1 square miles (Area E) and collectively total 23.41 square miles with a population (based on 1980 data) of 9,010 persons.⁴⁹ In terms of land use, the total area proposed for immunity is predominantly vacant and agricultural, but it does contain significant residential and industrial development as well as scattered commercial activity.⁵⁰ Overall, the area proposed for immunity has a population density of approximately 349 persons per square mile, more than five times greater than that of the County as a whole.

Area A extends west of the City encompassing both sides of U. S. Highway 58 and State Route 51 to their intersection approximately four miles west of Danville's corporate limits. This area, the largest for which immunity is sought, contains 7.56 square miles and a population of 3,755, giving that area a population density of 497 persons per square mile. Area A embraces the Westover Hills residential community and a number of public facilities including the Coates Elementary School, a branch library, a refuse compactor station, some PCSA utility lines, and a volunteer fire station.

Area B extends northward from the City of Danville encompassing territory on the western side of U. S. Highway 29, to a point two miles north of the municipal boundary, and embracing both sides of State Route 41. Area B contains

⁴⁸See Appendix A for a map of the area proposed for immunity.

⁴⁹See Appendix B for selected data on the area proposed for immunity.

⁵⁰County of Pittsylvania, Partial Immunity Notice, Vol. II (hereinafter cited as County Immunity Notice - II), May 1983, Exhs. 5, 17.

7.02 square miles with a population of 2,766, giving the area a population density of 394 persons per square mile. Included within this proposed immunity area is the Mt. Hermon residential community and public facilities such as the Mt. Hermon Elementary School, a refuse compactor station, some PCSA utility lines, and a volunteer fire station.

Area C extends east of Danville encompassing both sides of U. S. Highway 58 for a distance of approximately one mile. The area is comprised of 6.24 square miles containing a population of 2,457, resulting in population density of 394 persons per square mile. Area C is the site of the Glenwood residential community and several public facilities including the Glenwood Elementary School and utility lines owned by both the City and the PCSA. It should be noted that this area also includes the Brockway Glass Containers, Inc. facility and the Ringgold Industrial Park.

Area D extends southeast from the City embracing segments of State Routes 736 and 737. This area contains 2.49 square miles and 32 persons, giving it a population density of only 13 persons per square mile. The only publicly-owned facilities in this area are City water and sewer lines. Both the Goodyear Tire and Rubber Co. facility and the U. S. Gypsum Co. plant are situated in this proposed immunity area.

Area E is a small parcel of land located at the southwestern extremity of the City, adjacent to U. S. Highway 29, and extending to the North Carolina boundary. This area, which consists of only 0.1 square mile, has no resident population. The only significant development in the area is Corning Glass Works plant, and the only publicly-owned facilities within the area are City utility lines.

In summary, the total area proposed for immunity contains significant residential development, giving the area

population density five times that of the County as a whole, and a major portion of the County's industrial base. Further, given present development patterns and road network, the evidence suggests that the proposed immunity areas will collectively encompass the predominant portion of all future growth in the Danville environs.

IMMUNITY

The standards and factors which are to be considered by this Commission, and ultimately by the court, in the analysis of partial immunity actions are set forth in Section 15.1-977.22:1 of the Code of Virginia. That statutory provision requires that a grant of immunity rest upon a determination, inter alia, that appropriate urban-type services are being provided in the areas for which the county seeks immunity comparable to the type and level of such services furnished in the affected city. In the analysis of appropriate urban-type services this Commission and the court are directed to use as a guide the list of services set forth for consideration in annexation cases by Section 15.1-1041(b1)(i) of the Code of Virginia. The immunity statute states that a county shall be given credit for services provided its residents through "cooperative agreement" with a city, but not for services "provided by a city."

In addition to the analysis of comparability of appropriate urban-type services, the Commission and the court are required to consider (1) whether the county seeking partial immunity has made efforts to comply with applicable State policies with respect to environmental protection, public planning, education, public transportation, housing, and other service policies promulgated by the General Assembly; (2) whether the community of interest which exists between

those areas of the county for which immunity is sought and the remainder of the county is greater than that between such areas and the adjoining city; and (3) whether the county or the affected city has arbitrarily refused to cooperate in the joint provision of services. If the court concludes that the county has within the areas for which it seeks immunity appropriate urban-type services comparable to the type and level provided by the adjoining city and that the other conditions are met, it is directed to enter an order establishing such immunity. The court is denied, however, the authority to grant partial immunity to any county where such would have the consequence of "substantially foreclosing" the opportunity of a city or less than 100,000 persons to extend its boundaries by annexation. This restriction regarding grants of immunity reveals, in our judgment, the intent of the General Assembly that cities of less than 100,000 in population be afforded an opportunity for growth pursuant to the requirements of the State's annexation law.⁵¹ The following sections of this report offer the Commission's analyses and findings with respect to the application of these statutorily prescribed standards and factors to Pittsylvania County's action for partial immunity.

COMPARABILITY OF APPROPRIATE URBAN-TYPE SERVICES

An analysis of the comparability of appropriate urban-type services, as required in partial immunity actions, necessitates at the outset consideration of several basic issues. The resolution of these issues has a fundamental impact upon any findings of fact which are rendered on this standard. First, the partial immunity statute directs the

⁵¹With the defeat of the omnibus local boundary change and governmental transition bill (HB855) in 1977, the Virginia Municipal League and the Virginia Association of

consideration of "appropriate urban-type services." A reviewing agency must determine whether the phrase is intended to denote (1) a predetermined set of services which are generally required to serve urban areas, or (2) a varying set of services whose composition and nature change with the needs of the people and the physical characteristics of the area in question. The Commission notes that the General Assembly has prescribed a list of services to be used as a guide in partial immunity actions, indicating, in our judgment, an expectation that grants of immunity should be founded upon the general presence or availability of such services. On pragmatic grounds, the Commission considers it consistent with the interests of an area and of the Commonwealth to require that grants of permanent immunity from annexation rest upon the current availability of an administrative structure and matrix of services suitable for addressing the broad range of needs of urban communities.

Second, the partial immunity statute requires that for immunity to be granted an area, a determination must be made that appropriate urban-type services are provided in such area "comparable" to the type and level of services provided in the affected city. A reviewing agency is confronted with

Counties established a joint task force to develop a series of compromise amendments to the legislation which would facilitate its subsequent passage. One of the proposed amendments emanating from that task force which was added to the legislation and subsequently enacted into law was the provision for partial immunity. It is significant to note that the State's total immunity provision permits a grant of total immunity to densely populated and urbanized counties merely on the basis of their total population and overall population density, while the partial immunity process is available to all counties but carries a significant burden of proof with respect to service provision, community of interest, and the other factors cited in this section.

a question as to whether the term "comparable" means equal, approximately equal, or allows some greater degree of disparity in services. While this term is susceptible to a variety of interpretations, it does, in our judgment, have a distinct meaning within the context of the State's partial immunity statute. Our analysis proceeds on the judgment that, in the context of the partial immunity statute, in order for services in an area of a county to be found "comparable" to those in an adjoining city, they must approximate those within the municipality. A grant of immunity, which is bestowed in perpetuity, should require assurance that the county areas in question have available a range of appropriate services of a type and level sufficient to address the broad needs of an urban community.

Finally, a reviewing agency must confront the question as to whether a grant of partial immunity must be founded exclusively upon services provided directly by the county government, or whether such may be based, at least in part, upon services provided by other public or private entities. Assuming, as we do, that the concern of the Commonwealth is with the level and quality of services and not their origin, we deem it appropriate to include in our analysis consideration of services from all sources. A locality may opt, where such is consistent with law, to provide certain services within its boundaries "by" means of other public or private entities; however, it appears to this Commission that whatever inherent deficiencies or liabilities attend to reliance on nonlocal or nonpublic entities for such services require recognition and consideration in partial immunity actions. With these premises in mind, the Commission offers the following analysis.

Water Supply and Distribution

Proposed Immunity Areas. The County began the initial planning for its water system in the Danville area in 1968 and established the PCSA in 1973 as the mechanism by which its public water concerns would be addressed.⁵² The creation of the PCSA was prompted in large part by a determination in 1972 by the State Department of Health that several communities in the County confronted health hazards. Such health hazards were found to exist in the Westover Hills, Mt. Hermon, and Glenwood communities (Immunity areas A, B, and C respectively) resulting from failing septic tanks which were contaminating water supplies.⁵³ In 1977 the PCSA began major construction work to address the water problems in those areas.

At the present time the PCSA does not have any raw water sources serving the proposed immunity areas.⁵⁴ Further, the PCSA does not have a water treatment plant, but purchases treated water from the City of Danville under the terms of a

⁵²County Annexation Response - I, p. 15.

⁵³Mack I. Shanholtz, State Health Commissioner, letters to E. T. Jensen, Executive Secretary, State Water Control Board, December 12, 1973 and May 28, 1974; and J. B. Kegley, Director, Pittsylvania County Health Department letter to D. C. Prager, Area Representative, State Water Control Board, May 15, 1972; and letter to Walter E. Mather, Executive Director, West Piedmont Planning District Commission, August 1, 1972; in City of Danville, City of Danville Annexation Proceeding, Supplemental Data, Vol. I (hereinafter cited as City Supplemental Data - I), October 1983, pp. 12-24. Surveys by the State Health Department found that 40% of the residents in the Glenwood area had individual water supplies that were physically unprotected and that areas of Westover Hills and Mt. Hermon had failing septic tanks which could endanger individual water supplies.

⁵⁴The Pittsylvania County Service Authority does own four wells in the central and northern portions of the County which are available to serve residents of those areas.

1972 agreement.⁵⁵ Under the provisions of that agreement, the PCSA is authorized to purchase up to 1.3 million gallons per day (MGD) of treated water from the City. Since data indicate that the PCSA's average daily consumption during the period of 1982-83 was 0.27 MGD, the Authority retains a reserve capacity of 1.03 MGD under the terms of the contract with the City to meet its future needs.⁵⁶

The PCSA presently has available a storage capacity of 1.02 million gallons (MG) for the retention of treated water. Given the PCSA's rate of consumption of treated water, the Authority maintains nearly a four-day supply for emergency conditions. The PCSA maintains its reserve of treated water by means of a 0.75 MG tank outside proposed immunity Area A and by the City's commitment of 0.27 MG of its stored water for the Authority's use.⁵⁷ The Authority is currently constructing an additional storage tank with a capacity of 0.2 MG in the Mt. Hermon area, and this facility was originally due for completion in December 1983.⁵⁸

⁵⁵In 1972 the City of Danville and Pittsylvania County entered into a comprehensive agreement, commonly referred to and hereinafter identified as the "City - County Water and Sewer Agreement," by which the County was assured of treated water and wastewater treatment services from City-owned facilities. This comprehensive utility agreement was signed by the two jurisdictions as a prerequisite established by the federal government for the City's receipt of grant funds to construct its Northside Water Pollution Control Facility.

⁵⁶County Annexation Response - I, p. 15.

⁵⁷Ibid., p. 16; County Immunity Notice - II, Exh. 7; and City Annexation Notice - I, pp. 68-69. There is no formal agreement between the City and County concerning the storage of water in City facilities for use by the County (Sarah Hopkins Finley, Special Counsel, City of Danville, communications with staff of Commission on Local Government, December 5, 1983).

⁵⁸Myron C. Smith, Special Counsel, County of

In terms of a distribution system, evidence submitted by the County indicates that the PCSA has in place approximately 35.3 miles of water lines throughout the area proposed for immunity serving 1,474 residential connections. The extent of these lines and the number of connections served in the five segments of the proposed immunity area are as follows:⁵⁹

<u>Area</u>	<u>Lines (miles)</u>	<u>Total County Residential Connections</u>	<u>Percent of Population Served</u>
A	14	615	43.1%
B	12.6	535	61.1%
C	8.7	324	36.3%
D	0	0	0
E	0	0	0

The County asserts that PCSA water lines are within 200 feet of the residences of 70% of the population of Area A, 80% of the population of Area B, and 49% of the population of Area C.⁶⁰ The County does not invoke its mandatory connection policy requiring adjacent property owners to connect to PCSA water lines until 51 percent of the property owners abutting a street containing PCSA lines have petitioned for service

Pittsylvania, letter to Carter Glass, IV, Special Counsel, City of Danville, June 30, 1983. The construction of the tank is being funded by the Farmers Home Administration.

⁵⁹County of Pittsylvania, Partial Immunity Notice, Vol. I (hereinafter cited as County Immunity Notice - I), May 1983, pp. 29-32; and Smith, letter to staff of Commission on Local Government, December 2, 1983 and December 28, 1983. PCSA lines also serve a number of commercial and industrial connections in these areas.

⁶⁰Smith, letter to staff of Commission on Local Government, December 2, 1983.

or have agreed to connect to the lines.⁶¹

It is significant to note that the County has provided the PCSA with approximately \$1.7 million (comprised mostly of loans) since 1973 to address the County's utility needs. Of those funds, \$125,000 was provided the PCSA for organizational costs, while all but \$168,000 of the remaining funds were expended for water and sewer projects serving those areas subject to the present immunity or annexation actions.⁶²

City of Danville. The City of Danville utilizes the Dan River as its source of raw water. That river has been calculated to have an average daily flow of 1.6 billion gallons, with a minimum daily flow of 174 million gallons.⁶³ The City treats its raw water at a facility which has a design capacity of 15 MGD. Based on the City's average daily water consumption of 8.2 MGD during 1981-82, Danville's plant has an excess treatment capacity of 6.8 MGD, or more than 45% of the plant's design capacity.⁶⁴ In addition, the City operates an industrial water treatment facility to provide the Goodyear Tire and Rubber Company with water suitable for industrial use. This plant, constructed in 1966, has a design capacity of 3.0 MGD and an average daily usage of 0.9

⁶¹Pittsylvania County Service Authority, Rules and Regulations and By-Laws and Construction Specifications and Standards, March 1980, p. 2-1.

⁶²Smith, letter to staff of Commission on Local Government, November 28, 1983.

⁶³City Annexation Notice - I, p. 68.

⁶⁴Ibid., p. 67. The Commission has been advised that if the City's water treatment plant serves at its maximum capacity for an extended period of time more intensive monitoring and a higher level of performance may be necessary to prevent problems with hydraulic capacity and with turbidity in the treated water. The quality of the raw

MGD. 65

With respect to its storage of potable water, the City has a municipal reservoir capable of retaining 8 MG of water and seven storage tanks with a combined storage capacity of 3.1 MG.⁶⁶ Based upon the City average daily water consumption in 1981-82, Danville's combined storage capacity of 11.1 MG provides the City with stored water sufficient to meet municipal needs for 1.4 days.⁶⁷

Danville's water distribution system contains approximately 245 miles of lines serving the City and certain adja-

water taken from the Dan River varies due mainly to upstream erosion. This variance in raw water quality necessitates careful monitoring at the plant generally (Marion J. Haley, Regional Director, Division of Water Programs, State Department of Health, communication with staff of Commission on Local Government, December 15, 1983).

⁶⁵City Annexation Notice - I, pp. 71-72. Since charges for the industrial water provided to Goodyear Tire and Rubber Company are fixed by agreement, and since the charges do not meet the total operating cost of the plant, the City has subsidized the operation of the plant since its construction. During FY 1981-82 that subsidy amounted to \$59,000. A small percentage of the industrial water plant's output is used by the City's two sewage treatment plants (Ibid).

⁶⁶Ibid., pp. 68-69. Two of the storage tanks are located in the area proposed for immunity. The City has a 0.5 MG storage tank located near the Goodyear Tire and Rubber Company plant and a 0.3 MG facility in the Glenwood area.

⁶⁷State Health Department regulations require that minimum finished water storage for domestic purposes be not less than 200 gallons per equivalent residential connection (State Board of Health, Waterworks Regulations, February 1982, Sec. 7.06.02). In addition, a certain minimum storage based upon the need of the individual community is required for fire flow purposes (Insurance Services Office, Fire Suppression Rating Schedule, 1980).

cent County areas.⁶⁸ The City's water distribution system covers every section of the municipality and serves 15,734 connections within the corporate limits.⁶⁹ In addition, City lines serve directly 253 connections in the various areas proposed for immunity, with 43 of those connections providing water to industrial customers.⁷⁰ As a result of 1981 amendments to the 1972 City-County Water and Sewer Agreement, City water service is now confined to certain designated areas adjacent to Danville. Any extension of the City's lines beyond those designated areas is now contingent upon County approval.⁷¹

Comparability of Service. On the basis of the data previously reviewed the Commission is unable to conclude that the water service extended to residents of the areas proposed for immunity is comparable to that provided within the City of Danville. While the Commission commends the County for its response to the public water needs of the residents, with only approximately half the total residential population of the areas served, we cannot find such service presently comparable to that provided within the City's corporate limits.

⁶⁸City Annexation Notice - I, p. 72.

⁶⁹Finley, letter to staff of Commission on Local Government, August 2, 1983; and testimony of Charles F. Church, City Manager, City of Danville, Transcript of Proceedings, City of Danville v. County of Pittsylvania before Commission on Local Government (hereinafter cited as Transcript), Vol. I, p. 77.

⁷⁰Finley, letter to staff of Commission on Local Government, August 2, 1983. The total number of City connections in the County is approximately 750 (Ibid.). City lines serve directly all industrial operations in the County areas adjacent to Danville with the exception of Brockway Glass Containers, Inc. (City Annexation Notice - I, p. 74).

⁷¹Amendments to the 1972 City-County Water and Sewer

Sewage Collection and Treatment

Proposed Immunity Areas. The 1972 City-County Water and Sewer Agreement allocated to Pittsylvania County an unspecified portion of the treatment capacity of the City's Northside Water Pollution Control Facility. As indicated previously, the agreement was signed by the two localities as a prerequisite established by the federal government for Danville's receipt of grant funds for the construction of its Northside Plant.⁷² In 1973 the County established the PCSA and assigned to that entity its utility rights under the interlocal agreement. The City's plant receives and processes all sewage collected by PCSA lines.

Since its founding, the PCSA's sewerage planning has focused on addressing the needs of three County communities which were identified by the State Department of Health in 1972 as confronting health hazards.⁷³ Those three communities, Westover Hills, Mt. Hermon, and Glenwood, are located within the proposed immunity Areas A, B, and C respectively. Studies by the State Department of Health in 1972 revealed a pervasive problem in those communities with failing septic tanks, unsatisfactory pit privies, and open

Agreement were approved by the City and County on December 30, 1980 and by the Board of Supervisors on January 5, 1981.

⁷²The total cost of the Northside Water Pollution Control Facility was \$9 million, with \$7.7 million provided by the State and federal governments and with the remaining portion provided by the City (Glass, letter to Robert C. Fitzgerald, Special Counsel, County of Pittsylvania, June 13, 1983).

⁷³State Health Department regulations in effect in 1972 identified an area as having a health hazard on the basis of a number of factors. Those factors included the percentage of contaminated and unapproved wells, the availability of a central water system, the percentage of septic tank failures, and local concern for the problem (Virginia Department of Health, Criteria for Determination of a Health Hazard as Relates to the Water Control Board, January

sink drains.⁷⁴ While these studies were completed in 1972, substantial sanitary concerns remain in those areas.

The PCSA has planned major sewerage projects involving approximately 70 miles of collector lines to meet the needs of the three areas. However, at the present time the PCSA has less than four miles of sewer mains in operation, serving only 106 connectors. The following table indicates the PCSA's plans and current sewerage service in each of the areas proposed for immunity:⁷⁵

<u>Area</u>	<u>Proposed County System (miles)</u>	<u>Current County System (miles)</u>	<u>Current Connections</u>
A (Westover Hills)	35	0.5	17
B (Mt. Hermon)	17.2	0	0
C (Glenwood)	17.2	3.0	89
D	0	0	0
E	0	0	0

With respect to the completion of the proposed sewerage system in Area A, it should be noted that PCSA is scheduled to receive federal grant funding during Fiscal Year (FY) 1983-84 of approximately \$3.7 million. The PCSA is currently seeking to obtain the required "local" match for that grant by means of a loan from the Farmers Home Administration.⁷⁶ The County asserts that this project, which is

27, 1976).

⁷⁴See State Department of Health letters in City Supplemental Data - I, pp. 12-24. The area south of the current City boundary has also been identified as having isolated sanitary problems (Testimony of John B. Steadman, Expert Witness, City of Danville, Transcript, Vol. II, p. 29). See also City Supplemental Data - II, Exh. D-34.

⁷⁵County Immunity Notice - I, pp. 22-24; and Smith, letter to Glass, June 30, 1983.

⁷⁶County Immunity Notice - I, p. 19.

due for completion in 1987, will serve 1,100 residential connections when fully operational.⁷⁷ The PCSA has no funds earmarked for addressing the sewerage problems in Area B and has established no date for the commencement of that project.⁷⁸ With respect to the sewerage need in Area C, the PCSA obtained approximately \$1.6 million in federal grant funds during FY 1982-83 toward completion of the proposed 17.2 mile system designed to serve that area. The "local" match for those federal funds has been obtained through a \$666,000 Community Development Block Grant originating with the U. S. Department of Housing and Urban Development and other funds provided by the Farmers Home Administration.⁷⁹ This project is currently due for completion in 1985 and is expected to serve 795 residential connections.⁸⁰ No County or PCSA sewerage service is provided or currently planned for Areas D and E.

It should be stated again that Pittsylvania County has supported the work of the PCSA by the provision of \$1.7 million in loans and grants for various activities, with approximately \$1.5 million of the total being designated for projects within the proposed immunity areas.⁸¹

City of Danville. The City of Danville operates two wastewater treatment plants, with one being located on each

⁷⁷Smith, letter to Glass, June 30, 1983; and Smith, letter to staff of Commission on Local Government, December 2, 1983.

⁷⁸County Immunity Notice - I, p. 23.

⁷⁹Ibid., p. 19.

⁸⁰Smith, letter to staff of Commission on Local Government, December 2, 1983.

⁸¹Smith, letter to staff of Commission on Local Government, November 28, 1983. The County has provided \$1,125,000 to PCSA in loans for various activities and

side of the Dan River east of the City's boundaries. The City's Southside Water Pollution Control Facility was originally constructed in 1959 and expanded in 1970 to provide secondary treatment. This facility, which has a design treatment capacity of 15 MGD, has been downrated by State authorities to a permitted capacity of 7.5 MGD. At the present time the Southside plant is not treating any waste due to the fact that the City's Northside Water Pollution Control Facility is treating all effluent and operating well under its design capacity. The Southside plant is used by Danville for initial receipt of raw sewage, which is subsequently pumped to Northside plant for treatment, and for the storage of sludge.⁸² The City has asserted that the Southside plant could be reactivated for treatment purposes within one month at a cost of only \$40,000.⁸³

The City's Northside plant, which was constructed as a regional facility in 1973 with commitments to serve both Danville and Pittsylvania County, became operational in 1976.⁸⁴ This facility, has a design capacity of 24 MGD, with the City's two treatment plants providing Danville a

\$570,000 in grants to PCSA to extend water and sewer service to Brockway Glass Containers, Inc. (Smith, letter to Glass, June 30, 1983).

⁸²City Annexation Notice - I, pp. 61-63.

⁸³Finley, letter to staff of Commission on Local Government, August 2, 1983. The Commission has been advised by the State Water Control Board that the Southside Sewage Treatment Plant could be reactivated with little difficulty within the parameters of a conceptual plan previously submitted to that State agency (Robert K. Johnson, Pollution Control Specialist, West Central Regional Office, Virginia State Water Control Board, communication with staff of Commission on Local Government, November 11, 1983).

⁸⁴City Annexation Notice - I, pp. 62-63. Considerable impetus for the construction of this plant emanated from the need to provide treatment for the industrial wastes

combined sewage treatment capacity of 31.5 MGD.⁸⁵ Since the current average daily flow into the City's sewerage system for treatment is 15.55 MGD, Danville has a reserve treatment capacity of 15.95 MGD, or more than half of the total capacity available.⁸⁶

Danville's sewage collection system is comprised of 280 miles of lines which serve the City and surrounding areas and eight pumping stations.⁸⁷ The City's system serves 15,740 connections within the municipal boundaries (representing approximately 99% of Danville's population) and 237 connections in Pittsylvania County, with 96 of those County connections being within the area proposed for immunity. City lines serve all major industries within the area proposed for immunity with the exception of Brockway Glass Containers, Inc., which is served by PCSA lines, and U. S. Gypsum Co. which treats its own industrial waste.⁸⁸ As in the case of City water service to County areas, amendments to the interlocal agreement between the two jurisdictions in 1981 now confine the City's sewerage lines to designated County areas adjacent to Danville.⁸⁹ Extension of City lines into other areas of Pittsylvania County cannot, in the future, be undertaken except by County consent.

from Dan River Mills, Inc. The company was under the mandate from the State Water Control Board to upgrade its existing waste treatment plant (Testimony of Church, Transcript, Vol. I, pp. 63; 212-213).

⁸⁵City Annexation Notice - I, p. 62.

⁸⁶Ibid.

⁸⁷Ibid., p. 59.

⁸⁸Ibid.; and Finley, letter to Smith, July 22, 1983.

⁸⁹See Map Exhibit entitled "City Service Areas in County-Sewer" filed as an attachment to Finley, letter to staff of Commission on Local Government, November 23, 1983.

Several other facets of City's sanitary sewerage system merit note. First Danville's collection and treatment system is operated and maintained by the City's Public Works Department which has a staff of approximately 50 employees for the discharge of its various responsibilities.⁹⁰ Second, the City's sewerage system does experience, as do most others, an inflow and infiltration problem, but due to its considerable excess treatment capacity the problem is of no immediate concern.⁹¹ Finally, City officials acknowledge the continued existence of approximately 25-30 privies and an unknown number of septic tanks in the City, but they assert that corrective action is taken where any of these facilities malfunction or create health concern.⁹² The Commission is aware of no sanitary health problems in the City resulting from sewage concerns which are not being addressed.⁹³

Comparability of Service. On the basis of our preceding analysis the Commission cannot conclude that the sewerage service offered by the PCSA in the areas proposed for immunity is currently comparable to that provided within the City. The Commission notes that the PCSA has embarked on major projects to address the needs of Areas A and C. At this time, however, even the systems planned for those areas, while under construction, remain prospective. In our

⁹⁰City Annexation Notice - I, p. 60.

⁹¹Finley, letter to staff of Commission on Local Government, August 2, 1983. The City advises that the infiltration and inflow problems are being addressed incrementally.

⁹²Testimony of Church, Transcript, Vol. I, pp. 58-59.

⁹³Henry F. Swiggett, Sanitarian Manager, Danville - Pittsylvania Health Department, communication with staff of Commission on Local Government, January 12, 1983.

view, no grant of permanent immunity from annexation should rest upon the prospective provision of services, but, rather should require their present availability.

Solid Waste Collection and Disposal

Proposed Immunity Areas. Pittsylvania County does not provide any public solid waste collection service to individual residences. All such service in the areas proposed for immunity and in the County generally is provided by private collectors. These private haulers serve most of the populated sections of the areas proposed for immunity, collecting refuse from approximately 800 residences in the areas adjacent to Danville, at charges ranging from \$4 to \$8 per month for weekly curbside collections. These private contractors also serve commercial and industrial firms in the areas proposed for immunity.⁹⁴

Pittsylvania County does license its private refuse collectors and has adopted an ordinance which is intended to regulate certain aspects of their work, including collection practices and proper disposal procedures.⁹⁵ However, the Commission has been advised by County officials that this ordinance is not vigorously enforced.⁹⁶

As an alternative or supplement to the use of private haulers, Pittsylvania County began in 1974 the installation of refuse collection receptacles (i. e., greenboxes) throughout the County and now has approximately 70 such receptacles at approximately 28 sites within the areas pro-

⁹⁴County Annexation Response - I, p. 21, Exh. 6.

⁹⁵County of Pittsylvania, "Solid Waste Disposal Ordinance," Chapter 17, Code of Ordinances of Pittsylvania County.

⁹⁶Testimony of William D. Sleeper, County Administrator, County of Pittsylvania, Transcript, Vol. III, pp. 267-268.

posed for immunity.⁹⁷ This system is augmented by mini-transfer compactor stations in Areas A and B. County-owned vehicles serve these receptacles as well as those on school property and some belonging to private firms.⁹⁸

It is significant to this Commission that the County undertook a critical review of its solid waste collection needs and facilities in 1980. This study disclosed a number of problems with the County's system, including the poor condition of the containers, their overloading, and the unsanitary condition of container sites.⁹⁹ While the County has yet to implement all of the 1980 study's proposals, and continues to have solid waste problems, it should be noted that the County has taken remedial action pursuant to the study (e. g., the provision of compactor stations to reduce the overloading and overflow at certain locations) and proposes additional improvements.¹⁰⁰

With respect to solid waste disposal, the County owns a landfill near the community of Dry Fork north of Danville. While the current landfill has a remaining useful life estimated to be only one year, the County is now in the process of acquiring 365 acres of land adjacent to the present

⁹⁷County Annexation Response - I, Exh. 6. These facilities are concentrated in the Glenwood community (Area C) and south of Danville.

⁹⁸Ibid., p. 20. The County does not charge for service to commercial firms if the businesses allow the County to place general-use receptacles on their property (Ibid., p. 21). The County fee for regular commercial service is \$10 to \$12 a month depending on the size of the container (Testimony of Sleeper, Transcript, Vol. III, p. 191).

⁹⁹Dewberry and Davis, Inc., Pittsylvania County Solid Waste Study, February 1980, pp. 3-4--3-5.

¹⁰⁰County Annexation Response - I, pp. 21-22.

facility for its future solid waste disposal needs. This additional acreage is expected to be available for use in the fall of 1984.¹⁰¹ This enlargement of the landfill, for which the County has already appropriated \$146,000 for both acquisition and development, is expected to serve Pittsylvania County for at least 40 years.¹⁰² The County's landfill is available without charge to individual County residents; however, firms providing solid waste collection service in the County are required to pay \$.50 per cubic yard of refuse disposed.¹⁰³ The Commission has been advised that the County's landfill is operated and maintained consistent with all State requirements.¹⁰⁴

City of Danville. The City provides its residents with once-a-week solid waste collection service, with collections being made from the backyard of each residence. This service is provided by general fund expenditure and, thus, does not result in a separate service charge. The City also provides through general tax revenues monthly collections of brush and large items and, in addition, an annual collection of leaves.¹⁰⁵ Danville also provides municipal collection service to commercial and industrial firms in the City but imposes a special charge for this service. Fees for commer-

¹⁰¹Ibid., p. 22.

¹⁰²Smith, letter to staff of Commission on Local Government, August 5, 1983; and Hurt and Profitt, Inc., Soils Investigation, Proposed Pittsylvania County Landfill Site, January 1983, p. 1.

¹⁰³Smith, letter to Glass, June 30, 1983.

¹⁰⁴County Annexation Response - I, p. 22.

¹⁰⁵City Annexation Notice - I, p. 82.

cial and industrial collections currently range from \$2.65 to \$41.60 per month depending upon the frequency of service (which can extend up to six days per week).¹⁰⁶ The City also licenses private collectors to serve commercial and industrial firms within its corporate limits.¹⁰⁷

In terms of solid waste disposal, the City operates a landfill on municipal property in the Glenwood area (Area C). While the present facility has a remaining useful life estimated at three years, the City has additional land available to expand the landfill sufficiently to serve Danville for a minimum of 30 years. City residents are permitted to use the landfill at no charge, but nonresidents and private collectors are charged a fee for its use.¹⁰⁸ State Department of Health officials advise that the City's landfill is being operated and maintained consistent with all State requirements.¹⁰⁹

Comparability of Service. As the Commission has stated in other reports, we consider the use of private contractors as an entirely appropriate means of meeting a community's solid waste collection needs, provided such is accompanied by reasonable public oversight. The paramount considerations in the analysis of this service, or any other, are its

¹⁰⁶City of Danville, Response to Pittsylvania County Partial Immunity Notice, Vol. I (hereinafter cited as City Immunity Response - I), pp. 31-32.

¹⁰⁷City of Danville, "Commercial Refuse Collection," July 1, 1983.

¹⁰⁸City Immunity Response - I, pp. 32-33. Fees for use of the City's landfill range from \$0.50 to \$1.00 per vehicle load, with vehicles larger than pick-up trucks paying \$1.00 per ton.

¹⁰⁹City Immunity Response - I, p. 32.

cost, accessibility, and quality. With respect to the solid waste collection services offered by private contractors, there is a need, based on our experience, for reasonable public regulation of collection routes and schedules, the equipment utilized, the training of operators, the rate structure, certain performance standards, and the proper disposal of collections. Such public regulation of private solid waste collectors appears to be generally absent in Pittsylvania County. Further, the Commission does not consider the provision of "greenboxes" as significant a service as regular residential collections. On the basis of the above considerations, the Commission cannot conclude that the solid waste collection and disposal services in the areas proposed for immunity are comparable to those provided within the City of Danville.

Public Planning, Zoning, and Subdivision Regulation

Proposed Immunity Areas. Pittsylvania County established its planning commission in 1955 and adopted its first comprehensive plan in 1978. This plan, which was prepared by the staff of the West Piedmont Planning District Commission (WPPDC), is a relatively brief document and does not contain any recommendations for the implementation of its provisions which are required by law.¹¹⁰ The County's comprehensive plan is not augmented by any separate housing, community facilities, transportation, recreation, or open space planning components. The County's staff did prepare and the Board of Supervisors did consider, but not adopt, a capital improvement plan for FYS 1983-88.¹¹¹

¹¹⁰West Piedmont Planning District Commission, Pittsylvania County Comprehensive Plan, 1977-1990, May 1978, pp. 71-72. The requirement that comprehensive plans contain recommended "methods of implementation" is set forth in Sec. 15.1-447, Code of Virginia.

¹¹¹County of Pittsylvania, Capital Improvements Plan,

It should be observed that the staff of the WPPDC currently is in the process of revising the County's comprehensive plan, but no date has been set for the public release of the proposed revision.¹¹² With respect to its planning resources, the County does not employ a planning staff but utilizes the planning expertise of the WPPDC.¹¹³

In terms of development controls, the County does not have a zoning ordinance, but it has subdivision regulations which were initially adopted in 1965 and are now under review for possible revision.¹¹⁴ The County's subdivision regulations, while extensive and detailed, omit from their coverage all subdivisions of less than four parcels unless a new street is proposed.¹¹⁵ This exemption could severely constrict the reach and effect of this basic development control measure. Enforcement of the County's subdivision regulations is the responsibility of the County Administrator.¹¹⁶

City of Danville. The City of Danville established its first planning commission in 1946 and adopted a comprehen-

1983-1988, January 1983; and testimony of Sleeper, Transcript, Vol. III, pp. 269-270.

¹¹²Sleeper, letter to staff of Commission on Local Government, November 3, 1983.

¹¹³County Annexation Response - I, p. 23.

¹¹⁴Ibid., p.24.

¹¹⁵County of Pittsylvania, Subdivision Ordinance, October 1965, Sec. 2-28-1.

¹¹⁶County Annexation Response - I, p. 24.

sive plan in 1956. While the City's comprehensive plan itself has not been amended since its adoption more than a quarter-century ago, Danville has since officially approved a number of major supporting planning instruments, including those dealing with transportation, parks and recreation, library facilities, housing, and neighborhood improvement. Further, the City updated its land use map in 1977 and supports its long-range planning efforts through the annual adoption of a capital improvement plan. Furthermore, the City has advised that it has retained consultants who are presently in the process of revising its comprehensive plan.¹¹⁷

For purposes of administering its long-range planning efforts, the City has a planning staff of three persons (including two professional planners) and the six-member staff of the Department of Community Development and Engineering, which focuses its attention on community development and housing concerns. It might also be observed that the City has established and utilizes a Commission on Architectural Review which oversees changes affecting the architectural and aesthetic character of the City's historic districts.¹¹⁸

In terms of development controls, the City of Danville has both a zoning ordinance adopted in the 1930's and subdivision regulations officially approved in 1956.¹¹⁹ The City's zoning ordinance, which was extensively revised in

¹¹⁷City Immunity Response - I, pp. 37-38; Finley, letter to staff of Commission on Local Government, August 2, 1983; and Finley, letter to Smith, August 4, 1983.

¹¹⁸City Immunity Response - I, pp. 36, 41-42.

¹¹⁹Ibid., pp. 38-40.

1956 and amended numerous times since then, is a pyramidal device which allows any lesser intensive use in areas zoned for more intensive development.¹²⁰ The City of Danville has indicated that it plans a complete review and revision of its zoning ordinance in the immediate future.¹²¹

The City's subdivision regulations apply to any division of land, except that for agricultural purposes, giving those regulations a breadth of coverage exceeding that of the County's.¹²² Enforcement of the City's subdivision regulations is the responsibility of the Department of Community Development and Engineering.¹²³

Comparability of Service. The Commission notes deficiencies in the comprehensive plans of both the City and the County. While the City has adopted a number of significant supplemental planning instruments, its comprehensive plan is sorely out of date. The County's comprehensive plan lacks sufficient specificity to give that instrument the ability to provide meaningful guidance for the County's future development. Danville's zoning ordinance and more comprehensive subdivision regulations give the City instruments for the effective control of land use development exceeding those available to the County. On the basis of the County's absence of a planning staff, its failure to adopt a zoning ordinance, and the more limited reach of its subdivision

¹²⁰City of Danville, "Zoning Ordinance," Chapter 34, Danville City Code. See Secs. 34-14, 34-19, 34-24, 34-29, 34-34, 34-39 and 34-44.

¹²¹City Immunity Response - I, pp. 38-39.

¹²²City of Danville, "Land Subdivision", Chapter 14.1, Danville City Code, Sec. 14.1-1.

¹²³City Immunity Response - I, p. 40.

regulations, the Commission cannot find that the public planning and development control instruments in the areas proposed for immunity are comparable to those in the City.

Crime Prevention and Protection

Proposed Immunity Areas. Law enforcement services in Pittsylvania County are provided primarily by the County Sheriff's Department which is located in the Town of Chatham approximately 12 miles north of the City of Danville.¹²⁴ While there are 22 State Police officers assigned responsibility within the County's boundaries, these State officers devote their energies largely to traffic regulation and accident investigation and do not normally respond to minor criminal concerns or to the other numerous noncriminal matters (e. g., missing child) which consume a large percentage of the time and resources of local law enforcement agencies time.¹²⁵ Further, local law enforcement agencies cannot assign calls for service to the State Police nor can they direct their patrolling patterns or activities. Thus, in our view, it is inappropriate to consider State Police as being generally available to assist with routine law enforcement problems in the County.

The personnel complement of Pittsylvania County Sheriff's Department consists of 58 sworn officers, 22 of whom are classified as field deputies and bear principal responsibility for patrol work and the initial response to calls for service. The Department has available a fleet of 45 vehicles to serve its needs, with one vehicle being assigned

¹²⁴The Towns of Chatham, Gretna and Hurt collectively employ 11 law enforcement officers who serve principally within the boundaries of those municipalities (County Annexation Response - I, p. 25).

¹²⁵Ibid. Crime statistics reveal that of the 1,283 incidents of reported major crime in the County in 1982, only 33 or 2.6% of the total were handled by the State

to each field deputy.¹²⁶ This level of staffing provides the County with one sworn officer for each 1,140 residents, based on 1980 population figures.

A significant index of the level of a community's law enforcement services is the intensity of its patrol activity. For patrol purposes the County has been divided by the Sheriff's Department into five districts, with three of those districts radiating from the City of Danville and including all the areas proposed for immunity and annexation.¹²⁷ The three districts encompassing the proposed immunity and annexation areas contain in the aggregate approximately 488 square miles. Patrolling activities in the County are conducted during two shifts, one extending from 8:00 a.m. to 6:00 p.m., with the second commencing at 6:00 p.m. and continuing until 4:00 a.m. The County Sheriff's Department does not provide any regular patrol activity between 4:00 a.m. and 8:00 a.m.¹²⁸ Since the County, on the average, has on duty at any one time within the three patrol districts adjoining Danville a total of 5 deputies, those areas receive an average geographic intensity of service equivalent to one deputy per 97 square

Police (Virginia Department of State Police, Crime in Virginia, 1982, p. 45). The category of "major crime" consists of murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny and motor vehicle theft (Ibid.).

¹²⁶Sleeper, letter to staff of Commission on Local Government, November 3, 1983; and Smith, letter to Glass, June 30, 1983.

¹²⁷County Annexation Response - I, Exhs. 9, 10.

¹²⁸Ibid., p. 26; and testimony of Sleeper, Transcript, Vol. III, pp. 284-285, 290.

miles of territory.¹²⁹

Another means of measuring the intensity of patrol service in an area is to consider the number of "calls for service" being borne by each law enforcement position serving such area.¹³⁰ With respect to the three patrol districts surrounding Danville and encompassing the areas proposed for immunity and annexation, County data indicate that during calendar year 1982 those districts generated a total of 4,212 calls for service which were the initial responsibility of the 10 law enforcement positions generally assigned on a daily basis to those areas.¹³¹ Thus, each patrol position serving those areas on a regular basis was responsible for responding to an average of 421 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 has assigned four officers to the activity on a part-time basis. The County's crime prevention efforts are focused upon neighborhood watch programs which have been instituted in a number of communities throughout the proposed immunity and annexation areas, including the Westover Hills and Mt. Hermon areas.¹³² Such neighborhood watch

¹²⁹Smith, letter to staff of Commission on Local Government, January 16, 1984.

¹³⁰The 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).

¹³¹Smith, letter to staff of Commission on Local Government, January 16, 1984.

¹³²Testimony of Sleeper, Transcript, Vol. III, pp. 218-221, 291; and County Annexation Response - I, Exh. 10.

programs have proven to be effective instruments in crime control in other areas of the country.

Two other facets of the County's law enforcement operations should be noted. First, despite the fact that the Sheriff's Department has established and operates at all times a central dispatching office, testimony from County officials indicates that the Sheriff's Department does have communications problems with deputies in the field.¹³³ Due to the frequencies used by the Sheriff's Department in its radio transmissions, these communications are subject to topographic impediment, interference from atmospheric conditions, and the intrusion of other transmissions on the same frequencies. Such communication problems can severely diminish the efficiency of law enforcement agencies. Second, the Sheriff's Department has never adopted a procedures manual for the guidance of its personnel. Such manuals provide needed parameters to guide criminal justice personnel in dealing with a wide array of situations, and they can bring needed consistency to law enforcement operations.¹³⁴

Any attempt to measure the quality of law enforcement services in a community should include consideration of the education and training provided those entrusted with the provision of such services. Few public activities require the knowledge, training, and maturity as are required in law enforcement service. The County Sheriff's Department

¹³³County Annexation Response - I, p. 25; and testimony of Sleeper, Transcript, Vol. III, pp. 286-287. The County's capital improvements plan describes the need to purchase new high-band police radio communication equipment as "desperate" (Capital Improvements Plan, p. 23). The plan has not been adopted.

¹³⁴Smith, letter to Glass, June 30, 1983.

requires all of its new personnel to attend a nine-week basic training course at the New River Regional Police Training Academy.¹³⁵ The Sheriff's Department, however, unlike many local law enforcement agencies in Virginia does not augment this academic training with any formal field program. County training records do disclose that between 1978 and 1982 the present personnel in the Sheriff's Department have averaged more than 27 hours per person of training beyond that mandated by the State.¹³⁶

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. While we readily acknowledge that expenditure levels do not totally govern the quality of a public service, we do assert that the absence of fiscal support for a public service does impose real and significant limits on the scope and nature of that service. The Commission observes that during FY 1981-82 a total of \$743,866, or \$11.25 per capita, based on 1980 population data, was expended for services provided by the County Sheriff's Department. Of that total, approximately \$9,450, or \$0.14 per capita, was provided by the County from local funds.¹³⁷

¹³⁵County Annexation Response - I, p. 25.

¹³⁶Smith, letter to staff of Commission on Local Government, August 5, 1983. 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").

¹³⁷Auditor of Public Accounts, "Pittsylvania County Comparative Reporting Transmittal Forms," December 3, 1982. The County reported receiving \$734,416 from the State for

City of Danville. Law enforcement services in the City of Danville are provided primarily by the City's Police Department. This agency has a personnel complement which includes 84 full-time sworn personnel, 56 of whom are assigned patrol responsibility.¹³⁸ This level of staffing is sufficient to provide Danville with one sworn officer for each 543 City residents, or twice that of Pittsylvania County (one sworn officer per 1,140 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 12 patrol officers on duty at all times.¹³⁹ The City's patrolling arrangements provide Danville with a 24-hour geographic intensity of service of one officer for each 1.4 square miles of City territory. With respect to the relationship between staffing levels and "calls for service," the data indicate that the City has maintained a minimum of 36 patrol officers on duty during the course of each day, with those patrol positions being required to respond to a total of 21,864 "calls for service" during calendar year 1982.¹⁴⁰ Thus, each patrol position was required to respond during that year to an average of

law enforcement assistance in FY 1981-82.

¹³⁸City Annexation Notice - I, pp. 94-96. The City's Police Department is aided in its work by 15 auxiliary police officers who are used primarily on weekends and during special events or emergencies.

¹³⁹Ibid., p. 100. The City's Police Department has four patrol platoons comprised of 15 officers, with each platoon having assigned to it a crime scene technician and a K-9 officer (Ibid., p. 96). The Department has available a fleet of 18 vehicles to assist it in the discharge of its responsibilities (Ibid., p. 98).

¹⁴⁰Ibid., p. 100.

607 "calls for service," a workload per position significantly in excess of that borne by County deputies serving the areas adjacent to the City of Danville. The City's overall level of patrol staffing, however, permitted it to respond during the three-year period ending in June 1983, according to City calculations, to emergency calls in an average of 3-5 minutes and to non-emergency calls in an average of 6.0 minutes.¹⁴¹

The City's Police Department initiated its crime prevention program in 1972 and now has 14 officers assigned part-time to such activity.¹⁴² The City's crime prevention efforts, as are the County's, are focused on the neighborhood watch program which now has been established in approximately 25 City neighborhoods.¹⁴³ Data submitted to the Commission indicate that the City has invested considerable resources in its crime prevention efforts, with City police officers giving a total of 136 crime prevention presentations to approximately 10,660 persons during the 12-month period ending in October 1982.¹⁴⁴ Crime prevention programs, in our view, constitute one of the more promising aspects of law enforcement activities and represent an important element in any community's overall criminal justice efforts.

Several other aspects of the City's law enforcement

¹⁴¹Finley, letter to staff of Commission on Local Government, August 2, 1983. These response times are well within limits deemed acceptable by law enforcement officials.

¹⁴²City Annexation Notice - I, pp. 98-100.

¹⁴³Finley, letter to staff of Commission on Local Government, August 2, 1983.

¹⁴⁴City Annexation Notice - I, p. 99.

activities should be noted. First, the City's emergency services (police, fire, and rescue) have an integrated, centralized dispatch network which has utilized the "911" emergency phone system since August 1983.¹⁴⁵ Second, the City's Police Department operates an alarm system which is utilized directly by commercial firms, including three in the area proposed for annexation.¹⁴⁶ Third, Danville's Police Department has developed a procedures manual as a guide for its personnel and for the standardization of departmental operations.¹⁴⁷

In terms of training, the City's Police Department has a structured and extensive program for the acclimation and training of new recruits. A new recruit is given a six-week orientation with a veteran officer, and this period is followed by a seven-week basic training program. These sessions are followed by an additional 8 to 12-month training period in the field with an experienced officer.¹⁴⁸ Thus, the City's overall orientation and training program for new recruits can exceed a full year.

The City's Police Department has shown a marked commitment to continued training. City training records indicate that during the five-year period ending in 1982, officers of the Danville Police Department averaged over 110 hours per person of State-mandated training and 20 hours per person of nonmandated instruction.¹⁴⁹ Further, it is exceedingly

¹⁴⁵Ibid., pp. 97-98.

¹⁴⁶City Immunity Response - I, p. 50.

¹⁴⁷City Annexation Notice - I, p. 96.

¹⁴⁸Ibid., pp. 94-95.

¹⁴⁹Ibid., p. 105.

noteworthy that 87% of the City's police officers hold either associate or bachelor's degrees bestowed by institutions of higher learning, with 95% of those degrees being in the field of law enforcement.¹⁵⁰

Finally, with respect to Danville's financial investment in its law enforcement services, the data reveal that during FY 1981-82 the City expended a total of \$2,581,723, or \$56.56 per capita in support of its Police Department. Of that total, \$1,886,509 or \$41.33 per capita were appropriated from local funds.¹⁵¹

Comparability of Service. On the basis of the intensity of patrolling, communications systems, formally established law enforcement guidelines, training and professional education, and the level of financial support, the Commission finds that law enforcement services within the City of Danville exceed such services presently provided within the areas proposed for immunity. The Commission cannot conclude that the crime prevention and detection services in any of the areas proposed for immunity are comparable to the type and level of such services in the City of Danville.

Fire Prevention and Protection

Proposed Immunity Areas. Fire prevention and protection services throughout Pittsylvania County generally are provided by 17 volunteer fire departments which are staffed by a total of 438 volunteers and which collectively own and operate approximately 50 pieces of fire fighting equip-

¹⁵⁰Ibid., pp. 95-96.

¹⁵¹Auditor of Public Accounts "City of Danville Comparative Reporting Transmittal Forms," December 9, 1982. The City reported receiving \$647,718 in State law enforcement assistance funds and \$47,496 from federal grants and charges for service.

ment.¹⁵² The areas proposed for immunity are served on a first-call basis by six of those volunteer fire departments, two of which, the Westover Hills Volunteer Fire Department (VFD) and the Mt. Hermon VFD, are actually located within those areas. The various VFD's serving the areas proposed for immunity, as well as the areas adjacent to Danville proposed for annexation, are staffed by 174 volunteers and have available to them a total of 15 pieces of firefighting equipment.¹⁵³

Immunity Area A is served on a first-call basis principally by the Westover Hills VFD which is located on State Route 51 near the center of that area.¹⁵⁴ This department is staffed by 33 volunteers and has available five pieces of equipment for its fire suppression work. The evidence indicates that response times by this department to fire calls in Area A have ranged from 4 to 7 minutes.¹⁵⁵ The Mt. Cross VFD which is located on State Route 750 west of the City and approximately two miles beyond the boundaries of Immunity Area A, also serves a small portion of that

¹⁵²See County Immunity Notice - I, pp. 46-48 for a listing of the personnel and equipment of all of the volunteer fire departments in Pittsylvania County.

¹⁵³Ibid., p. 44; and testimony of Jerome Cook, Assistant Chief, Mt. Hermon Volunteer Fire Department, Transcript, Vol. IVA, p. 11

¹⁵⁴County Annexation Response - I, Exh. 4: This exhibit shows the location of the VFD's serving the area proposed for immunity.

¹⁵⁵Ibid., Exh. 12. This exhibit shows (a) first-call areas of each VFD serving a portion of Pittsylvania County adjacent to Danville, and (b) response times recorded by each company within their areas of service. Note that the Westover Hills VFD also has first-call responsibility for most of that portion of the proposed annexation area identified as Parcel A.

area.¹⁵⁶ This department is staffed by 25 volunteers and operates two pieces of equipment. Records indicate that this department has been able to respond to fire calls originating in Immunity Area A within seven minutes. The Bachelors Hall VFD, located on State Route 863 approximately one mile beyond Immunity Area A, also serves on a first-call basis a very small portion of the extreme western end of that area.¹⁵⁷ This department has a small staff of 15 volunteers and has available two pieces of apparatus for its fire suppression work.

Immunity Area B is served principally by the Mt. Hermon VFD which is located at the northern extremity of that proposed immunity area on State Route 41.¹⁵⁸ The 36 volunteers who serve this unit have available three pieces of apparatus for use. County records indicate that this department has been able to respond to calls within the portion of its first-call service district in Immunity Area B within 2 to 4 minutes. The Blairs VFD, which is located on U. S. Highway 29 less than one mile north of the proposed Immunity Area B, also serves on a first-call basis a small portion of the southeastern section of that area.¹⁵⁹ The Blair VFD is staffed by 27 volunteers and owns and main-

¹⁵⁶The Mt. Cross VFD first-call service area includes a significant portion of Parcel A proposed for annexation by the City.

¹⁵⁷Bachelors Hall VFD does not serve any portion of the area proposed for annexation on a first-call basis.

¹⁵⁸Mt. Hermon VFD also serves on a first-call basis portions of Parcel A and the predominant part of Parcel B proposed for annexation by Danville.

¹⁵⁹Blairs VFD also serves a portion of Parcel B of the area proposed for annexation.

tains three pieces of fire suppression equipment. The data reveal that this department has been able to respond to fire calls within its first-call service district in Immunity Area B within 5 to 6 minutes.

Immunity Area C is served exclusively on a first-call basis by the Ringgold VFD which operates two stations. Ringgold VFD Station No. 1 is situated just east of Immunity Area C on U. S. Highway 58, while Station No. 2 is located on State Route 726 approximately three miles north of that proposed immunity area.¹⁶⁰ These two stations are jointly staffed by 53 volunteers and have available five pieces of equipment for fire suppression purposes. County data indicate that the Ringgold VFD, operating from Station No. 1, has been able to respond to fire calls emanating from Immunity Area C within a 4 to 7 minute time period, with calls from areas closest to the City's corporate limits requiring the greater period of time.

Immunity Areas D and E are served on a first-call basis by the Westover Hills VFD which, as noted previously, is located west of the City of Danville on State Route 51.¹⁶¹ Due to the distances involved, this department has required up to ten minutes to respond to calls from Immunity Area D, and up to 14 minutes to respond to other calls in its first-call service area south of Danville. The only direct routes by which the Westover Hills VFD can reach Immunity Areas D and E are through the City of Danville.

The County relies totally on the volunteer fire departments and their equipment for fire prevention and protection.

¹⁶⁰Station Number 1 of the Ringgold VFD also serves on a first-call basis the portion of Parcel D of the proposed annexation area which is northeast of the Dan River.

¹⁶¹Westover Hills VFD has first-call responsibility for the portion of Parcel D southeast of the Dan River and Parcels E, F, and G of the proposed annexation area.

services within its jurisdiction. The County employs no firefighters and owns no fire fighting apparatus. While the County Administrator has been designated by the Board of Supervisors as Pittsylvania County's Emergency Services Coordinator, which includes responsibility for coordinating the work of the volunteer fire departments, those departments are essentially independent units which largely govern their own affairs and activities.¹⁶² Pittsylvania County does, however, financially support the work of the volunteer fire units by providing up to \$1,500 in matching grant funds to each unit and by bearing the costs for the operation of their equipment (e. g., gas and oil), for electricity for station operations, and for insurance on the volunteers and their equipment.¹⁶³ During FY 1981-82 the County expended a total of \$131,503, or \$1.99 per capita, in support of the fire prevention and protection services of its volunteer fire departments.¹⁶⁴

Any attempt to analyze the fire services of a locality should include consideration of the training and professional development of those engaged in the provision of those services. With respect to the training and professional status of the volunteers serving Pittsylvania County several points merit note. First, the County has no central training facility available to train its volunteers in all aspects of fire fighting activity. While each volunteer station may provide limited in-house training on its prem-

¹⁶²County Immunity Notice - I, p. 44.

¹⁶³Ibid., The \$1,500 grant provided the VFD's is contingent upon a department's raising of at least an equivalent amount through its own fund-raising efforts.

¹⁶⁴Ibid.

ises, those stations cannot provide the breadth of fire suppression training which should be available at a properly designed and situated central training facility. The County does sponsor an annual training program for its volunteer units at the Chatham High School. This annual program, which the volunteer fire departments require their members to attend, usually consists of 16 to 18 hours of training and includes State-certified instruction in a variety of fire prevention and protection areas.¹⁶⁵ The data indicate that each of Pittsylvania County's volunteer firefighters receive a minimum of 18 hours of formal training per year through County-sponsored training programs.¹⁶⁶ However, the evidence reveals that only 15 of the County's volunteers have had sufficient formal training for State certification, with nine of those individuals being paid City firefighters serving volunteer units in the County during their off-duty hours.¹⁶⁷

Several other aspects of the County's overall fire prevention and protection services require comment. First, the Commission notes that there presently is no central dispatch mechanism for the dispatching and direction of the fire suppression units serving the County. Calls for service are made either to individual stations directly or are made to the Sheriff's Department which then relays the calls to the proper contact. This arrangement can result in delays in the dispatching of units, particularly where equipment in an area is already committed to service and, thus, necessi-

¹⁶⁵Testimony of Cook, Transcript, Vol. IVA, p. 8.

¹⁶⁶County Immunity Notice - I, pp. 44-45.

¹⁶⁷Testimony of Cook, Transcript, Vol. IVA, pp. 9, 11-12, 26. Certification by the State as a Firefighter I requires 60 hours of specified training offered through certified training programs and completed within approximately one year. In addition, the designation requires recer-

tating notification of adjacent units.¹⁶⁸ Second, the County has not adopted a fire prevention code which can be enforced for the prevention and elimination of fire hazards.¹⁶⁹ The volunteer units do, however, endeavor to promote fire prevention activities through the distribution of pamphlets and by other means. Third, the various VFD in Pittsylvania County have not developed a "back-up" plan by which a department will automatically provide assistance in emergency situations outside its first-call service area. While such assistance is provided it is done randomly and not by virtue of any established plan. Further, there appears to be an absence of any significant pre-fire planning activity in the County for dealing with major fires which could be encountered at major public buildings or facilities. While the Commission recognizes that this type of activity is not easily undertaken by volunteer fire-fighting units which confront limits on the time which they can give to public service, such pre-fire planning is generally considered to be an important element in a community's fire protection services. Finally, the Commission notes that no portion of any of the areas proposed for immunity has an Insurance Services Office (ISO) rating better than "9," with the largest part of the areas rated "10."¹⁷⁰ Those sections of the areas proposed for immu-

tification every five years (Virginia Department of Fire Programs, Fire Services Training, pp. 4-7).

¹⁶⁸Testimony of Cook, Transcript, Vol. IVA, pp. 27, 29, 36.

¹⁶⁹Smith, letter to Glass, June 30, 1983. The County, however, employs a part-time fire marshall (Testimony of Cook, Transcript, Vol. IVA, p. 46).

¹⁷⁰Testimony of Cook, Transcript, Vol. IVA, p. 34; and City Annexation Notice - I, p. 116. The ISO rating is based on a scale of "1" to "10" for comparison with other

nity having an ISO rating of "9" are those located within five road miles of a volunteer fire station.¹⁷¹

City of Danville. Fire prevention and protection services in the City of Danville are provided through the City's Fire Department which is staffed by 90 full-time paid personnel who function under the direction of a professional fire chief.¹⁷² This department maintains and operates five fire stations geographically spread throughout the City to minimize response time.¹⁷³ The department has available for its fire suppression work eight pumpers, two aerial ladders (including a 100 foot unit), and other support vehicles.¹⁷⁴ With its facilities and personnel, the

municipal fire protection systems and represents an indication of a system's ability to defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is 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.

¹⁷¹County Immunity Notice - I, p. 44. There are 246 fire hydrants now serving the proposed immunity areas. These hydrants are concentrated in Immunity Areas A, B, and C. The last ISO rating in the areas proposed for immunity was undertaken prior to the installation of these hydrants (Testimony of Cook, Transcript, Vol. IVA, p. 34).

¹⁷²City Annexation Notice - I, p. 106.

¹⁷³See City Annexation Notice - II, Exh. D-17 for the location of the stations within the City.

¹⁷⁴City Annexation Notice - I, pp. 109-110.

City's Fire Department was able to respond to fire calls in an average of 2.28 minutes during calendar year 1982.¹⁷⁵

To assist with its fire suppression activities the City has available within its municipal boundaries a total of 1,372 fire hydrants.¹⁷⁶ The City has advised that all residential, commercial, and industrial properties within its corporate limits are within 1,000 feet of a fire hydrant, with most of those properties being located within 500 feet of such facilities.¹⁷⁷ Danville's fire suppression forces and facilities generally have been sufficient to award the City an ISO rating of "3."¹⁷⁸

As stated previously, an important consideration in the measurement of the quality of any locality's fire services is the training and professional development of the staff responsible for such services. With respect to the extent of training provided City firefighters, the Commission observes that Danville has developed and maintains its own central training facilities which enable the City's Fire Department to provide comprehensive training to its personnel.¹⁷⁹ For the coordination of its training program the City employs a full-time training officer who

¹⁷⁵Ibid., p. 115. The City maintains a staff of 29 personnel on duty at all times for service at its five stations (Ibid., p. 106).

¹⁷⁶Finley, communication with staff of Commission on Local Government, December 13, 1982. The City also owns and maintains 13 hydrants within the area proposed for annexation.

¹⁷⁷City Annexation Notice - I, p. 114.

¹⁷⁸Ibid., pp. 115-116. Only one other locality in the State has an ISO rating that is as good or better than Danville's.

¹⁷⁹Ibid., p. 111. The City's training facility includes a smokehouse, training tower, flammable liquid pit, and classrooms.

has earned State certification as Fire Instructor IV.¹⁸⁰ City training records indicate that each member of Danville's Fire Department receives a minimum of 225 hours of formal training per year, with the members of the department having collectively received over 100 various State certifications. Further, approximately 15 members of the department are seeking an associate degree in Fire Sciences through the State's community college system.¹⁸¹ The training efforts and accomplishments of the personnel of Danville's Fire Department suggest that the City possesses a well-trained and professionally competent fire services staff.

With respect to Danville's fire prevention efforts, several elements of the City's program merit note. First, the City does have an officially adopted fire prevention code which permits it to deal effectively with potential fire hazards within its boundaries. For enforcement purposes the City has two full-time fire inspectors who during the 12-month period ending in September 1982 made a total of 3,093 inspections which revealed 517 violations of the fire code. Second, the City's Fire Department also promotes fire safety in Danville by means of an annual home fire safety inspection program (with 3,320 homes participating in 1981 and 1982) and by educational efforts through its public

¹⁸⁰Ibid. Certification as a Fire Instructor IV requires that personnel must have previously attained the three preceding levels of instructor certification involving 72 hours of class time, hold a management-level position in a fire department training program, and have completed 16 hours of additional specified courses. Recertification as a Fire Instructor IV is required every two years. (Fire Services Training, pp. 3-1 --3-2).

¹⁸¹City Annexation Notice - I, pp. 111-112.

school system and various civic groups.¹⁸²

Several other aspects of the City's overall fire services facilities and activities require comment. First, the City's Department of Fire has invested considerable resources in pre-fire planning for dealing with fire emergencies at all major public facilities within the City's corporate limits. This effort has resulted in a written manual for guidance in responding to such emergencies. Second, the City's Department of Fire does have a centralized communications network, operated by the Police Department, which is used to dispatch all fire equipment.¹⁸³ Third, the City has provided fire suppression service to firms and residents in Pittsylvania County, with five industries located within the areas proposed for immunity connected to the City's automatic fire alarm system, and with City personnel and equipment responding to a total of 42 fire calls in the proposed immunity areas during the five-year period between 1978 and 1982.¹⁸⁴ Finally, the City invested \$2,043,133 in support of its Fire Department and rescue squad operations in FY 1981-82, or \$44.76 per capita.¹⁸⁵ This level of per capita investment was many times that provided by Pittsylvania County (\$1.99).

¹⁸²Ibid., pp. 113-114.

¹⁸³Ibid., p. 109.

¹⁸⁴Finley, letter to staff of Commission on Local Government, August 2, 1983. The City responded to 98 fire calls in the County generally during the 1978-82 period. Danville does charge for responding to such calls in the County with the fee based on the distance and time involved. The City asserts, however, that such fees only cover a fraction of its costs for the provision of this service (City Annexation Notice - I, p. 108).

¹⁸⁵"City of Danville Comparative Reporting Transmittal Forms." The City contributed approximately \$20,000 during FY 1981-82 to the Danville Life Saving Crew.

Comparability of Service. Based upon the City's integrated management of its fire services, the training of its personnel, its ISO rating, its average response time to fire calls, the adoption of a fire prevention code and vigorous enforcement efforts, and its significant financial support for its fire services generally, the Commission cannot conclude that the fire prevention and protection services in any of the areas in Pittsylvania County proposed for immunity are comparable to such services in the City of Danville.

Public Recreation Facilities

Proposed Immunity Areas. With the exception of school facilities and property, Pittsylvania County does not own or operate any public recreational facilities within the areas proposed for immunity, nor within the other areas adjacent to the City of Danville.¹⁸⁶ Public recreational opportunities are provided to residents in the areas proposed for immunity through the facilities and grounds of three elementary schools -- Coates (10 acres in Immunity Area A), Mt. Hermon (17 acres in Immunity Area B), and Glenwood (8 acres in Immunity Area C).¹⁸⁷ Each of these educational facilities has an auditorium/gymnasium, three athletic fields, an outdoor basketball court, and playground equipment.¹⁸⁸ In addition, there are five other County schools located near Immunity Areas B and C offering similar recreational oppor-

¹⁸⁶The County only owns one park in its entire jurisdiction. This park is a 54-acre facility located near the Town of Hurt approximately 30 miles north of the City (Testimony of Sleeper, Transcript, Vol. III, pp. 310-311).

¹⁸⁷Ibid.; and Smith, letter to staff of Commission on Local Government, August 5, 1983.

¹⁸⁸Smith, letter to staff of Commission on Local Government, August 5, 1983. Several of the athletic facilities at Coates Elementary School are lighted permitting

tunities which can be utilized by the residents of those areas.¹⁸⁹ The Commission notes that the areas of Pittsylvania County adjacent to Danville contain a number of privately owned recreational facilities which are used by some area residents.¹⁹⁰ While such private facilities do meet the recreational needs of portions of a community, they do not supplant the need for publicly owned and operated recreational facilities.

In terms of recreational programs, Pittsylvania County does not employ any full-time staff for such services, but it does appropriate funds for the school board's employment of approximately 40 part-time seasonal personnel for summer programs provided through County school facilities. These summer programs which utilize the facilities and grounds of all County schools extend for a six -- eight week period. Recreational activities are conducted at each school for approximately six hours per day, with the emphasis placed upon organized athletic programs.¹⁹¹ While the County's direct expenditure for public recreational services have been modest (totaling \$4,500 in FY 1981-82) the Pittsylvania County School Board has augmented that effort from its

evening events.

¹⁸⁹See County Annexation Response - I, Exh. 20.

¹⁹⁰Smith, letter to staff of Commission on Local Government, November 28, 1983. Approximately 79 acres of private facilities are located in the area proposed for immunity including a skeet and gun club, recreation area at a trailer park and the Goodyear Tire and Rubber Company employee recreation area.

¹⁹¹County Annexation Response - I, p. 33; and Smith, letter to staff of Commission on Local Government, August 5, 1983. Hours of operation at each school vary so that various facilities are operating daily from 9:00 a.m. to 9:00 p.m. Educational and instructional programs are offered through the County school system and the agricultural extension service (Testimony of Eugene M. Gallaher,

fiscal allocations.¹⁹²

City of Danville. The City of Danville has developed an extensive array of recreational facilities to serve its residents. Exclusive of the 28 acres of athletic fields owned by the City's school board and available for public recreational purposes, Danville owns 245 acres of parkland comprised of 18 neighborhood and 6 community parks.¹⁹³ Further, the City's recreational facilities include eight recreation centers and seven tennis courts, exclusive of similar facilities on school property.¹⁹⁴ The City's most significant recreation facility is Ballou Park, which contains on its 97-acre site, a recreation center, a lighted athletic field, four-lighted tennis courts, a playground for

Jr., Assistant Superintendent, Pittsylvania County Schools, Transcript, Vol. III, p. 384; and testimony of Sleeper, Transcript, Vol. III, p. 345).

¹⁹²"County of Pittsylvania Comparative Reporting Transmittal Forms." During FY 1981-82 the County's school board did not contribute financially to the provision of public recreational services due to constrictions in its budget, but school personnel continued to operate the summer program. The school board did, however, contribute \$50,000 per year in FY 1978-79 and FY 1979-80 and approximately \$42,000 in FY 1982-83 (Smith, letter to staff of Commission on Local Government, February 1, 1984).

¹⁹³City Annexation Notice - I, pp. 138-140. The Virginia Commission on Outdoor Recreation defines a community park as a facility designed to serve two or more neighborhoods and to provide a reasonable diversity of recreational opportunities for people of all ages. Neighborhood parks are conventionally defined as those facilities of five acres or less located within reasonable walking distance of the primary users (Virginia Commission on Outdoor Recreation, Outdoor Recreation Planning Standards for Virginia, pp. 2, 4).

¹⁹⁴City Annexation Notice - I, p. 126. Two of the recreation centers have programs designed for senior citizens and the handicapped.

handicapped children, and an outdoor theater.¹⁹⁵

The City employs 34 full-time personnel and approximately 100 part-time workers for the operation of a 12-month recreational program.¹⁹⁶ Danville's public recreational offerings are extensive and varied. Activities sponsored or undertaken by the City include organized competitive leagues, instructional classes, city-wide special events, and an assortment of recreational programs, with a number designed for special populations. City programs for special populations have included sculpture for the blind, horseback riding for the handicapped, and homebound recreation for senior citizens.¹⁹⁷ The breadth of the City's recreational offerings adds to the attractiveness of the overall program and to its significance to Danville residents. It is relevant to note that City records indicate that during FY 1981-82 more than 600 County residents paid nonresident fees to utilize Danville's recreational facilities and to participate in its programs.¹⁹⁸

Finally, the Commission observes that during FY 1981-82 the City expended a total of \$1,299,906, or \$28.48 per capita, for recreational services.¹⁹⁹ This level of investment in public recreational services was many times in excess of that provided by Pittsylvania County.

¹⁹⁵Ibid., p. 128.

¹⁹⁶Ibid., p. 121. These personnel totals exclude class instructors and sports officials (Ibid., p. 137).

¹⁹⁷Ibid., pp. 122-134.

¹⁹⁸Ibid., p. 135. See also City Supplemental Data - I, pp. 40-42.

¹⁹⁹"City of Danville Comparative Reporting Transmittal Forms."

Comparability of Service. On the basis of the extent and variety of Danville's public recreational facilities, the number and breadth of its programs, and its level of financial commitment to public recreation services, the Commission is unable to conclude that the public recreational facilities and services in the areas of Pittsylvania County proposed for immunity are comparable to those in the City of Danville.

Library Facilities

Proposed Immunity Areas. Public library services are provided in Pittsylvania County through three branch facilities and a bookmobile. The County's principal library facility is located in the Town of Chatham with a second branch in the Town of Gretna and with the third (Westover Hills Branch Library) located on State Route 51 west of the City of Danville in Immunity Area A.²⁰⁰ According to Virginia State Library data, as of the end of the FY 1982-83 the County's three facilities collectively had available 50,084 books, a floor space of 5,030 square feet, and a staff of 10.7 full-time equivalent personnel to serve the 16,094 registered borrowers using the County's system.²⁰¹ On each of these three dimensions of library services (books, floor-space, and staffing) the County's facilities were substantially under the minimum standards recommended by the Virginia State Library for local libraries serving jurisdictions the size of Pittsylvania County. The County's total book holdings were approximately 25% of the Virginia State Library's recommended minimum standard, while the total floor-space of its three facilities represented less than

²⁰⁰County Annexation Response - I, p. 35.

²⁰¹County of Pittsylvania, Virginia Public Library Statistical Report for Fiscal Year Ending June 30, 1983, Pittsylvania County Public Library. The County system had a

13% of the proposed minimum standard on facility size.²⁰²

As suggested above, the only branch facility located within the proposed immunity areas, and the only County facility reasonably accessible to the areas' residents, is the Westover Hills Branch Library located in Immunity Area A. This library facility is open to the public 40 hours per week and is staffed by two full-time employees.²⁰³

The Westover Hills facility, which was opened in 1981, has a floor area of 1,000 square feet, seating sufficient for 4 adults and 6 children, and approximately 7,800 books.²⁰⁴

Additional library service within the areas proposed for immunity is provided by means of the County's bookmobile. This bookmobile operates on nine separate routes throughout the County generally, encompassing collectively approximately 300 stops. Each of these routes is traveled once in each three-week period.²⁰⁵ During its coverage of these routes the bookmobile makes 11 stops within the proposed immunity areas, 9 in Area B and 2 in Area C. No bookmobile

total nonbook collection of 926 items as of June 30, 1983. Nonbook material include audio recordings, films, filmstrips and videotapes, vertical file items, microforms, and computer software.

²⁰²In order to meet the minimum standards recommended by the Virginia State Library, the County library facilities would have required 198,000 books, a total floor area of 39,700 square feet and 19.5 full-time equivalent positions. See Virginia State Library, Recommended Minimum Standards for Virginia Public Libraries, October 31, 1977.

²⁰³Smith, letter to Glass, June 30, 1983.

²⁰⁴County Annexation Response - I, p. 35.

²⁰⁵Ibid.; and Smith, letter to Glass, June 30, 1983. The average time spent by the bookmobile at each individual stop has been approximately 11 minutes.

service is provided in Areas A, D, or E.²⁰⁶

Several other facets of Pittsylvania County's library services merit comment. First, the County's library system has sponsored a continuing education program which has brought a number of regionally and nationally known figures to the County for public presentations. Second, the system has established a computer-based information retrieval capability for the facilitation of research efforts and is one of the few systems in the State to have developed such a capacity.²⁰⁷ Third, the County's library system has established a program designed to provide pre-school age children with an appreciation of books and to introduce them to certain pre-reading skills.²⁰⁸ In our judgment, these various programs manifest an active concern on the part of the County's library staff to make library services and facilities relevant to the community's needs. Finally, with respect to the financial resources supporting Pittsylvania County's library services, the data indicate that during FY 1981-82, the County expended a total of \$178,191, or \$2.69 per capita in the provision of such services.²⁰⁹

City of Danville. Public library services are provided in the City of Danville by one central facility located in

²⁰⁶County Annexation Response - I, Exh. 14.

²⁰⁷Moreover, the librarian is in the process of adapting a standard library computer record for use with micro-computers serving small systems. Once operational, the adapted program could have general application and could have a revolutionary effort on small libraries (Laura E. Cram, Regional Consultant, Virginia State Library, communication with staff of Commission on Local Government, January 18, 1984).

²⁰⁸Ibid., pp. 35-36.

²⁰⁹"Pittsylvania County Comparative Reporting Transmittal Forms." Of the total expended, \$133,451 was provided

the downtown business district adjacent to the City Hall. This facility, which was opened to the public in 1973, has a floor area of 23,648 square feet, seating sufficient for 108 persons (exclusive of the library's 64-seat auditorium), and, as of June 30, 1983, 83,918 books.²¹⁰ The City's library, which is staffed by 15 full-time personnel and one part-time employee, is open to the public 60 hours per week and serves 16,220 registered borrowers.²¹¹ As in the case of Pittsylvania County's system, the City's library falls beneath the State recommended minimum standards on book-holdings, floor-space, and staffing for communities of its size. The City's library does, however, come far closer to meeting those State recommended minima, having over 61% of the recommended bookholdings and over 86% of the proposed floorspace.²¹²

The evidence reveals that the City's library conducts several notable children's programs. The Danville Public Library employs an American Library Association-accredited children's librarian for the organization and management of programs for children. Such programs include not only activities within the library but visits to nursery schools and day care centers as well to introduce these children to stories and books. In addition, the City's library offers

from local funds.

²¹⁰City Annexation Notice - I, p. 144; and City of Danville, Virginia Public Library Statistical Report for Fiscal Year Ending June 30, 1983, Danville Public Library. The City's library held 6,078 nonbook items, or 6 times the nonbook holdings of the County system.

²¹¹City Annexation Notice - I, pp. 145, 147; and Virginia Public Library Statistical Report for Fiscal Year Ending June 30, 1983, Danville Public Library.

²¹²In order to meet the Virginia State Library's recommended minimum standards, the City's library would require 26.5 full-time equivalent personnel, 27,400 square

special summer reading programs which have attracted upwards of 300 children a year.²¹³

Several other points with respect to the City's library facilities and services should be noted. First, the Danville library contains an auditorium which is capable of seating 64 persons and which gives that facility an added dimension and increased public utility.²¹⁴ Second, Danville has opened its library at no charge to both residents and nonresidents, and, during the 12-month period ending in January 1, 1982, 20% of the borrowers at the City library were nonresidents.²¹⁵ Third, the City has, unlike the County, officially adopted a five-year library plan which has identified deficiencies in City facilities and services and has made recommendations for corrective action.²¹⁶ While not all the identified deficiencies have been addressed, the City Council's formal adoption of the library plan signifies recognition of deficiencies in the City's library services and a commitment to alleviate them.²¹⁷ Finally, the Commission notes that during FY 1981-82 the City expended a total of \$330,962, or \$7.25 per capita in support of its library system.²¹⁸ This level of

feet of floor space, and 136,900 books.

²¹³City Annexation Notice - I, pp. 149-150.

²¹⁴Ibid., p. 144.

²¹⁵Ibid., p. 149.

²¹⁶City of Danville, Danville Library Five-Year Plan, 1980; and Five Year Plan Update, August 1982.

²¹⁷The City has addressed some of the identified deficiencies by instituting a volunteer program, purchasing additional equipment, and hiring additional staff (Five Year Plan Update).

²¹⁸"City of Danville Comparative Reporting Transmittal Forms." Of the total amount expended for library ser-

financial support per capita was nearly three times that provided for library services in Pittsylvania County (\$2.69).

Comparability of Service. Based on the size and nature of facilities, their hours of operation, the number of books available, staffing levels, and the level of financial support, the Commission is unable to conclude that the library services available to residents in the areas proposed for immunity are comparable to those provided residents in the City of Danville. While the Commission commends the County for its efforts to extend library services to its residents, the one small County facility located in the proposed immunity areas (and the only County facility reasonably accessible to the residents of those areas) and nine book-mobile stops served once every three weeks do not provide library services comparable to those provided through the City's large central facility.

Curbs, Gutters, Sidewalks, and Storm Drains

Proposed Immunity Areas. 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 their installation where such is desired.²¹⁹ Curbs and gutters do exist in the areas proposed for immunity along U. S. Highway 29 north of the City (Immunity Area B) and along State Route 51 west of Danville (Immunity Area A), with sidewalks also existing

vices in the City in FY 81-82, \$257,999 was provided from local funds.

²¹⁹County Annexation Response - I, p. 41. During the previous five-year period the County did not expend any funds for the installation of these facilities (Testimony of Sleeper, Transcript, Vol. III, p. 314).

along a segment of the latter route.²²⁰ These facilities along these two main thoroughfares were installed pursuant to policies of the Virginia Department of Highways and Transportation (VDH&T) and totally at the expense of that agency.

The County's subdivision ordinance does require the installation of storm drainage facilities in developments subject to its provisions and specifies that those facilities must meet standards prescribed by the Virginia Department of Highways and Transportation.²²¹ In recent years the County has expended \$20,000 in local funds for drainage work in conjunction with its receipt and use of a Community Development Block Grant awarded by the federal government.²²² Pittsylvania County does not, however, have any policy of providing assistance generally to property owners desiring the installation of drainage facilities.

City of Danville. As in the case of Pittsylvania County, the City's subdivision ordinance does not require the installation of curbs and gutters, but the City does have a policy of reimbursing developers for the construction of those facilities in their new developments. This policy

²²⁰City Supplemental Data - II, Exh. D-17; and C. T. Crowder, Assistant Resident Engineer, Chatham Residency, Virginia Department of Highways and Transportation, communication with staff of Commission on Local Government, December 6, 1983. There is also a small amount of curbs and gutters in the Mt. Hermon area.

²²¹Subdivision Ordinance, Sec. 5-5-2. The County's ordinance covers only development resulting in the division of land into 4 or more parts.

²²²Testimony of Sleeper, Transcript, Vol. III, pp. 34-35.

calls for the City's drafting of bidding documents for the facilities and for the actual selection of contractors to perform the work. This municipal policy has resulted in the installation of curbs and gutters in virtually all new development in the City.²²³ With respect to the provision of these facilities in older existing sections of Danville, the City will accept requests from residents for their construction and, where such is deemed feasible and funds are available, the City will install these facilities at municipal expense.²²⁴ Further, the City's policy has been to include in all street reconstruction projects provisions calling for the installation of curbs and gutters.²²⁵ A City survey conducted in 1982 revealed that approximately 75% of Danville's thoroughfares had full curb and gutter.²²⁶

The City's subdivision ordinance does not require the construction of sidewalks in new developments. The City does construct sidewalks in the central business district and on streets adjacent to public schools.²²⁷ In addition, Danville will, at municipal expense, install sidewalks in other areas of the City upon request and upon agreement by the property owner to purchase the necessary

²²³City Annexation Notice - I, p. 161.

²²⁴Ibid., p. 162.

²²⁵Testimony of Church, Transcript, Vol. I, p. 114.

²²⁶City Annexation Notice - I, p. 161. U. S. Highway 58 through the City, a four-lane divided highway with paved shoulders, represents approximately one-half of the thoroughfare mileage lacking curbs and gutters.

²²⁷Ibid., p. 162; and testimony of Church, Transcript, Vol. I, p. 115.

materials.²²⁸ Further, Danville has an ongoing program for the maintenance and replacement of sidewalks and, during the three-year period ending in June 1983, expended approximately \$34,000 for such purposes. As a result of its various policies and programs the City of Danville currently has approximately 51 miles of sidewalks within its corporate limits.²²⁹

As in the case of the other facilities mentioned above, the City's subdivision ordinance does not require the installation of storm drains in new developments, but the City does, however, also have a policy of reimbursing developers for their provision. Further, utilizing its own personnel and equipment, the City bears full responsibility for the construction and maintenance of all drainage facilities within the right-of-way of its public thoroughfares. Furthermore, the City has a policy of replacing surface drains with underground drainage facilities during the course of its street reconstruction.²³⁰ In sum, the City has a number of policies and active programs for the provision and improvement of drainage facilities within its corporate limits.

Comparability of Service. Based upon the distinction between the policies of the City and County with respect to the provision of curbs, gutters, sidewalks, and storm drains and the extent to which such facilities exist in Danville

²²⁸City Annexation Notice - I, p. 162; and testimony of Church, Transcript, Vol. I, p. 116.

²²⁹Finley, letter to staff of Commission on Local Government, August 2, 1983.

²³⁰City Annexation Notice - I, p. 162; and testimony of Church, Transcript, Vol. I, p. 116.

and the County areas adjacent thereto, the Commission is unable to conclude that the residents of the areas proposed for immunity are served by such facilities as are residents of the City of Danville.

Street Lighting

Proposed Immunity Areas. Pittsylvania County does not have any policy for the installation, maintenance, or operation of street lights within its jurisdiction. No public expenditure is made by the County for the provision of such facilities, and any lighting systems installed in the County must be provided solely at private expense.²³¹ While the various areas proposed for immunity do contain some lighting systems on private property for private security purposes, there are no street lights located in those areas at the present time.²³²

City of Danville. The City of Danville has a policy of installing, maintaining and operating street lights at public expense within its boundaries.²³³ While the City gives priority in its public lighting services to thoroughfares with pronounced needs and to areas identified by its Police Department as requiring such due to vandalism or public nuisance, street lights do exist generally throughout

²³¹County Immunity Notice - I, p. 61; and Smith, letter to Glass, June 30, 1983.

²³²Finley, communication with staff of Commission on Local Government, December 14, 1983. Private security lights do not, by virtue of their location and intensity, supplant the need for street lights. See Illuminating Engineering Society of North America, American National Standard Practice for Roadway Lighting, IES RP-8, 1983.

²³³City Annexation Notice - I, p. 164.

Danville's corporate limits. Further, the City has asserted that it accepts requests from its residents for additional street lights, and, if study reveals that such lights have public utility, they are installed, maintained, and operated at municipal expense.²³⁴ As of January 1983 City records indicated that there existed 5,242 street lights within Danville's corporate limits.²³⁵

Comparability of Services. Based upon the level of the City's financial support for street lighting services and the extent to which street lights are currently provided within the City, the Commission cannot conclude that street lighting services in the areas proposed for immunity are comparable to such services provided within Danville's corporate limits.

Street Maintenance

Proposed Immunity Areas. Pittsylvania County relies totally on the VDH&T for road and street maintenance work within its jurisdiction. While the County did appropriate \$50,000 of locally raised revenue in the late-1970's for road improvement work in conjunction with its receipt of \$503,000 in federal grant assistance, it is the VDH&T which bears general responsibility for the funding and accomplishment of all improvements and all maintenance work on the County's road network.²³⁶ Thus, the 84.75 linear miles of public thoroughfares within the areas proposed for immunity, consisting of 13.75 linear miles of "primary" roadway and

²³⁴Finley, letter to staff of Commission on Local Government, August 2, 1983.

²³⁵City Annexation Notice - I, pp. 165-166; and City Supplemental Data - II, Exh. D-18.

²³⁶Smith, letter to Glass, June 30, 1983; and Smith, letter to staff of Commission on Local Government, December

71.0 linear miles of "secondary" roads, are maintained by a State agency in accordance with State-prescribed policies.²³⁷ In terms of State support for the maintenance of public roads in the County, the evidence indicates that during FY 1982-83 VDH&T expended a total of \$4,736,793 for such activity, or \$1,369 per lane-mile of thoroughfare.²³⁸

With respect to the nature and condition of the public road network within the areas proposed for immunity several points should be noted. First, the record discloses that the predominant portion of that road network meets State standards, with only approximately 9.0 linear miles of secondary roadway within those areas (12.7% of the total) being classified by the State as "nontolerable" due to deficiencies.²³⁹ Moreover, only one bridge within the areas proposed for immunity has been identified by the VDH&T as

2, 1983. None of the road improvements undertaken with the local funds and federal grant assistance was performed in the area proposed for immunity. However, four road segments in the area proposed for annexation were improved through expenditures of \$120,361 in County and federal funds (Smith, letter to staff of Commission on Local Government, August 5, 1983 and December 2, 1983).

²³⁷Data calculated from Virginia Department of Highways and Transportation, General Highway Maps, Pittsylvania County (with supplements), January 1, 1981.

²³⁸Crowder, letter to staff of Commission on Local Government, November 29, 1983. These expenditures include approximately \$253,000 for snow removal purposes.

²³⁹Virginia Department of Highways and Transportation, "Road Inventory, Mileage Records, System Nontolerable, Pittsylvania County," December 31, 1982. 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). The general condition of the public road network in the areas adjacent to

being in need of replacement.²⁴⁰ Second, the County's subdivision regulations prescribe significant road standards, exceeding in some respects those established by the VDH&T and the City of Danville (e. g., minimum right-of-way). While the County's subdivision regulations allow minimum pavement widths of 22 feet, it requires a minimum right-of-way of 60 feet even on minor streets, thereby preserving the County's ability to meet future concerns. Further, the Commission notes that the County's ordinance contains a prohibition on the construction of private streets, which prohibition serves to avoid the spread of substandard thoroughfares which plague many communities.²⁴¹

City of Danville. The City of Danville bears full responsibility for the construction and maintenance of all public thoroughfares within its corporate limits. A division of the City's Department of Public Works, which has a staff of 50 employees and a broad array of equipment, is charged with responsibility for the maintenance of the approximately 207 linear miles of streets and roads within

Danville is suggested by the fact that only 2.81 linear miles of the public roads within the areas proposed for annexation remain unpaved (Finley, communication with staff of Commission on Local Government, January 18, 1984). Based upon the Commission's experience in prior annexation and immunity cases, this amount of unpaved roadways is unusually small.

²⁴⁰Virginia Department of Highways and Transportation, "Bridge Replacement and Rehabilitation Selection List, Lynchburg District," October 13, 1983. The structure designated for replacement is the bridge on State Route 730 over the Southern Railway tracks in Immunity Area C.

²⁴¹Subdivision Ordinance, Secs. 5-22.2, 5-22.3, 5-26, and Appendix A.

the City's corporate limits.²⁴² In terms of Danville's investment in the maintenance of its public thoroughfares, data reveal that during FY 1982-83 the City expended a total of \$1,700,499, or \$3,934 per lane-mile (approximately three times the level of investment provided in the County) for the upkeep of its streets and roads. This Commission notes that of the funds expended for the maintenance of Danville's public thoroughfares in FY 1982-83 all but \$38,000, or 97.8% of the total, was provided by intergovernmental aid.²⁴³

With respect to the general adequacy and serviceability of the City's public road network, several additional points merit note. First, the Commission is advised that all public thoroughfares in the City of Danville qualify for State maintenance assistance by virtue of the pavement and right-of-way width prescribed by the Code of Virginia.²⁴⁴ Second, the City's subdivision ordinance requires a minimum right-of-way width of 50 feet and a minimum pavement width of 35 feet.²⁴⁵ Third, the evidence indicates that the condition of public bridges within the City is such that four such structures are presently considered to be in need of replacement.²⁴⁶

²⁴²City Annexation Notice - I, pp. 155-160. The employees of the Division of Public Works Maintenance are also responsible for the maintenance of the City's sewer lines. The extension of "primary" routes through the City comprises approximately 21% of Danville's road network.

²⁴³Finley, communication with staff of Commission on Local Government, January 9, 1984.

²⁴⁴Finley, letter to staff of Commission on Local Government, August 12, 1983.

²⁴⁵City Annexation Notice - I, p. 157.

²⁴⁶Finley, communication with staff of Commission on Local Government, January 9, 1984. The four bridges in

Comparability of Services. While this Commission recognizes the benefits and advantages of the City's ability to plan and conduct its street maintenance work with its own personnel and equipment, and while it also recognizes the substantially greater financial investment made by the City in the maintenance of its public thoroughfares, we find no basis for concluding that the road network in the areas proposed for immunity lacks comparability to the City's public thoroughfare system. The small amount of unpaved roads in those areas and the small percentage of that road network considered "nontolerable" by the State, the standards established by the County's subdivision regulations for road construction, and the prohibition against private streets reflect favorably on the quality of the public thoroughfares in the areas proposed for immunity.

Snow Removal

Proposed Immunity Areas. As with all other aspects of the maintenance and care of public thoroughfares in Pittsylvania County, the clearance of snow from roads in the County is the responsibility of the VDH&T. Thus, snow removal services in the County are provided by a State agency and are undertaken pursuant to State-established policies. In order to discharge its various road responsibilities in Pittsylvania County, including its snow removal services, the Department maintains a residency office and five area offices within the boundaries of the County. Two of the area offices are located near Danville and in reasonably close proximity to the areas proposed for immunity. One of these area offices is located west of Danville on U. S. Highway 58 approximately four miles beyond Immunity Area A,

question all cross the Dan River.

and the other is located north of Danville on State Route 726 approximately four miles outside Immunity Area B.²⁴⁷

In order to perform its snow removal services on the approximately 1,657 linear miles of public roads in the County, VDH&T has available a variety of equipment, including 33 trucks, 11 graders, 7 loaders, and 28 spreaders. The 84.75 linear miles of roadway within the areas proposed for immunity are served principally by the two area offices near Danville.²⁴⁸

In undertaking snow clearance work VDH&T assigns priority to various road segments and areas. Within the areas proposed for immunity VDH&T has assigned Priority 1 (the highest priority) to U. S. Highways 29 and 58 and to State Routes 41, 86, and 265. Priority 2 has been assigned to U. S. Highway 360 and to State Routes 51, 655, 729, 737 (serving the Goodyear facility), and 750. 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.²⁴⁹ It should be noted that during FY 1982-83 the State allocated \$253,471 for snow clearance services in the County generally, or approximately

²⁴⁷Testimony of Crowder, Transcript, Vol. IVA, pp. 56-57.

²⁴⁸Ibid., p. 52. In order to augment its equipment in times of need, VDH&T will contract with private firms for snow removal assistance. The two VDH&T offices located near Danville have available 30 pieces of State-owned equipment and 7 pieces of leased, contractor-operated equipment for snow removal purposes (Crowder, letter to staff of Commission on Local Government, January 18, 1984).

²⁴⁹Crowder, letter to staff of Commission on Local Government, November 29, 1983; and Virginia Department of Highways and Transportation, Policy Manual, Maintenance Division, pp. 11-1--11-2.

\$153 per linear mile.²⁵⁰

City of Danville. Snow removal services in the City of Danville are provided by the City's Department of Public Works. This Department has available 12 truck-mounted snow plows, 3 graders, and 6 sand spreaders to clear the City's 207 linear miles of public thoroughfares. As is done by the VDH&T, the City establishes priorities for snow removal services, with primary attention focused on the main thoroughfares and bus routes. Unlike VDH&T, which limits its snow removal services to the clearance of snow from thoroughfares, the City's staff is required to actually load and remove snow from some highly congested areas of the City, principally the central business district. While snow clearance is more difficult in built-up areas having parking lanes and other obstacles, the City has asserted that it does endeavor to plow or treat each of its streets within 24 hours following the termination of a storm. With respect to the City's direct expenditures for snow removal services, the data reveal that during FY 1982-83 the City expended a total of \$96,348 for such services, or approximately \$465 per linear mile of roadway.²⁵¹

Comparability of Service. While the Commission acknowledges the advantages accruing to the City from the ability to administer and perform directly its snow removal services, and while it notes the City's greater investment of public funds in support of those services, we are unable to conclude that snow removal services in the City are

²⁵⁰Crowder, letter to staff of Commission on Local Government, November 29, 1983.

²⁵¹City Immunity Response - I, p. 119.

significantly better than those in the areas proposed for immunity. Based in part upon our recognition of the fact that snow removal services in rural and less developed areas are often easier and quicker to provide, the Commission finds the snow removal services within the areas proposed for immunity comparable to such services in the City of Danville.

General Comparability of Appropriate Urban-Type Services

In the previous sections of this report the Commission has endeavored to determine whether there exist in the various areas of Pittsylvania County proposed for immunity urban-type services comparable to the type and level of such services provided within the City of Danville. In accordance with statutory direction the Commission has analyzed specifically those urban-type services set forth in Section 15.1-1041 of the Code of Virginia.²⁵² While the Commission acknowledges that the type and level of certain services in the areas proposed for immunity can be found comparable to that in the City of Danville, it is unable to find that such comparability exists generally across the spectrum of urban-type services. Clearly, with respect to public water distribution, sewage collection, crime prevention and detection, fire prevention and protection, public planning, recreation, library, solid waste collection, street lighting, and curbs, gutters, sidewalks, and storm drainage, the services provided residents of the areas proposed for immunity lack comparability to the type and level of such services furnished within the City of Danville.

As this Commission has stated in other reports, there are no indices which are capable of quantifying and

²⁵²Sec. 15.1-977.22:1, Code of Virginia, directs the court, and thus the Commission to use as a guide in the analysis of partial immunity issues the list of services by

measuring with precision all attributes and qualities of public services. We acknowledge that the quality of some public services can be substantially affected by factors, such as the commitment and dedication of public employees which are not amenable to quantification and comparative analysis. However, utilizing the indices which are available and relevant, as well as our own collective experience in local government, the Commission has no difficulty concluding that the urban-type services in areas proposed for immunity generally lack comparability to the type and level of such services in the City of Danville.

COMPLIANCE WITH APPLICABLE STATE POLICIES

A second factor prescribed for consideration in both partial immunity and annexation issues is the extent to which the affected jurisdictions have made efforts to comply with applicable State policies. There are, it appears to this Commission, several applicable State policies which merit consideration in this report. The following sections of this report review those applicable State policies.

Public Education

By both constitutional provision and general law the State of Virginia has declared that public education is a fundamental concern of the Commonwealth.²⁵³ 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 Pittsylvania County and

statute for consideration in annexation issues.

²⁵³Article VII, Sec. 1, Constitution of Virginia; and Chapter 578, Acts of the Assembly, 1982.

the City of Danville are in full compliance with these State prescribed minimum standards.²⁵⁴

Since public education is one of the most significant public services undertaken by Pittsylvania County and the City of Danville, and one subject to major impact by local boundary change, a few additional comments on the public educational services of the two jurisdictions are appropriate: With respect to the breadth and nature of the County's public educational program, the Commission notes that Pittsylvania County's school system operates a total of 26 facilities (19 elementary schools, 2 junior high schools, 4 senior high schools, and a vocational technical center) which during the 1982-83 school year served an average daily membership (ADM) of 12,606 students.²⁵⁵ All of the County's schools have been accredited by the Southern Association of Colleges and Schools.²⁵⁶ The Commission has been advised that the County's school system has received recognition for its programs for the gifted and talented, for the pre-school handicapped, for autistic children, and for its computer-oriented training and plane-

²⁵⁴Jack D. Eades, Supervisor, Administrative Review Section, Virginia Department of Education, communication with staff of Commission on Local Government, January 11, 1983.

²⁵⁵County Annexation Response - I, p. 46; and County Annexation Response - II, Exh. 1. Three of the County's facilities (Coates, Mt. Hermon, and Glenwood Elementary Schools) are located within the boundaries of the areas proposed for annexation and immunity.

²⁵⁶Accreditation 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 Association of Colleges and Schools are initiated at the volition of a school division (Bernard R. Taylor, Director, Division of Sciences and Elementary

tarium.²⁵⁷ In addition, the County's school system offers free bus transportation to all its students, including the provision of after school activity buses.²⁵⁸

With respect to public educational services in the City of Danville, the data reveal that the City's school system operates a total of 14 educational facilities (8 elementary schools, 3 middle schools, 2 junior high schools, and 1 senior high school) which served an ADM of 7,396 students during the 1981-82 school year.²⁵⁹ All of the City's schools were also accredited by the Southern Association of Colleges and Schools.²⁶⁰ As in the case of the Pittsylvania County school system, the educational services in the City of Danville has features which merit specific comment. The City has cited as notable components of its educational services its provision of guidance counselors and full-time physical education instructors at its elementary schools, its in-school suspension program, and its maintenance of an alternative educational program for students unable to adjust to the normal school environment.²⁶¹ The City's school system also provides a system

Administration, communication with staff of Commission on Local Government, January 23, 1984).

²⁵⁷Testimony of Gallagher, Transcript, Vol. III, pp. 365 ff. The County's program for autistic children is one of only four in the State.

²⁵⁸County Annexation Response - I, p. 46.

²⁵⁹City Annexation Notice - I, pp. 41, 192. As of the 1982-83 school year, the City's school facilities were calculated to have a capacity sufficient to serve an additional 3,591 students (Ibid., p. 206).

²⁶⁰Ibid., p. 192.

²⁶¹Ibid., pp. 193-198.

of free transportation to all students who are transported for racial balance pursuant to federal court order, and it has available a separate system of transportation for other students requiring such. The latter system is available to all students at a cost of \$.35 per ride.²⁶²

A few statistical indices provide some added measure of the public educational programs offered by the two jurisdictions. Data for school year 1981-82, the latest year for which such data are available, indicate the following:²⁶³

	<u>City of Danville</u>	<u>Pittsylvania County</u>	<u>State</u>
Pupil-Teacher Ratio			
Elementary	15.9:1	18.7:1	17.0:1
Secondary	13.0:1	16.9:1	14.5:1
Total Instructional Personnel per 1,000 Students in ADM	67.5	57.8	63.8
Local Expenditures Per pupil for Operations	\$964	\$373	\$1,127
Total Expenditures per Pupil for Operations	\$2,152	\$1,759	\$2,321
Percent of Graduates Continuing Education	52.7	51.0	60.0
Percent of Graduates Not Continuing Education but Having Marketable Skills	100.0	85.9	88.8

These data reveal that the City of Danville provided better staffing levels and greater financial support for its educa-

²⁶²Testimony of Church, Transcript, Vol. I, p. 147.

²⁶³Virginia Department of Education, Facing-Up 17, Statistical Data on Virginia Public Schools, 1981-82 School Year, March 1983.

tional program then did Pittsylvania County.

In sum, while various statistical measures reflect a greater financial investment by the City in support of its educational services, the record indicates that both jurisdictions have made appropriate efforts to respond to the State's concern for public education.

Housing

There is a fundamental human need for adequate housing and the absence of such can, in our view, have a pervasive and adverse impact on a community. In recognition of this reality, the General Assembly has declared that proper housing for all of its residents is a matter "of grave concern to the Commonwealth."²⁶⁴

The evidence suggests that Pittsylvania County has taken little or no active steps to increase the stock of housing for its low and moderate income residents. While a 1981 survey did reveal that there then existed 281 units of multi-family and 1,840 units of single-family assisted housing in Pittsylvania County, those units were not the result of any County initiative.²⁶⁵ Indeed, Pittsylvania County by formal action of its governing body has expressed its opposition to the establishment of a local or regional housing authority which could have served as a major instru-

²⁶⁴Sec. 36-2, Code of Virginia. See also Sec. 36-120, Code of Virginia.

²⁶⁵Working Committee on Housing of the Virginia Rural Development and Capacity Building Advisory Council, Characteristics of Households and Housing in Virginia, Part II, Selected Data for Counties and Cities, December 1981, Tables 11, 12. Approximately 80% of the single-family assisted units were subsidized by Farmers Home Administration programs.

ment in addressing the housing concerns of the area.²⁶⁶ The evidence does suggest, moreover, that Pittsylvania County does have unmet housing needs. A 1978 survey undertaken by the County and subsequently approved by the U. S. Department of Housing and Urban Development (HUD) found that 32.8% of the occupied dwelling units in the County were substandard.²⁶⁷ A study published the following year determined that there were 3,580 lower income households (1,010 owner-occupied and 2,570 renter-occupied) in the County with housing needs.²⁶⁸ It should also be noted that Pittsylvania County does not have a housing maintenance code to promote the preservation and improvement of its existing housing stock.

In contrast to Pittsylvania County, the City of Danville has actively responded to the housing needs of its residents. The City established a housing authority in 1941, and this agency with its current staff of 23 employees is presently involved in the promotion and administration of a variety of housing programs. The City's housing authority owns and administers 619 units of public housing located in five separate projects. The authority is also involved in the direct administration of rental assistance for another 246 dwelling units and of rehabilitation assistance for 50

²⁶⁶See motion passed at June 3, 1974 meeting of Pittsylvania County Board of Supervisors.

²⁶⁷City Supplemental Data - I, p. 36. "Substandard" dwelling units were defined by the County as those units in dilapidated condition and lacking adequate plumbing.

²⁶⁸West Piedmont Planning District Commission, Housing Needs and Opportunities, June 1979; Table A-20, p. 217. The definition of "need" approved by HUD for use in the survey included those households which had a family income at or below 80% of the area's median income (adjusted for family size) and which lived in a substandard or overcrowded dwelling unit and/or paid over 25% of their income for shelter (Ibid., p. 15). Although the County did

other units of residential property.²⁶⁹ Danville also has within its boundaries 382 other units of assisted residential property which exists by virtue of private initiative, with an additional 275 units of such assisted housing currently under construction.²⁷⁰ Further, the Commission notes that the City also has a housing maintenance code designed to protect and improve its housing stock.²⁷¹ Moreover, the City's active concern with the housing of its residents is also reflected by its provision of a housing inspection program funded through the local health department.²⁷²

While the Commission recognizes that the City of Danville still has significant housing concerns, with a 1983 survey indicating that 21.8% of its housing units were substandard, it also recognizes that the City has made substantial efforts to address its housing needs and, indeed, the needs of residents of the general area.²⁷³

not adopt the regional housing study, the document was used by Pittsylvania County to obtain Community Development Block Grant funds (Testimony of Sleeper, Transcript, Vol. III, pp. 325-326).

²⁶⁹City Annexation Notice - I, pp. 180, 183-187.

²⁷⁰Ibid., pp. 183-187. The City was also given credit by the U. S. Department of Housing and Urban Development toward meeting its housing assistance goals for a portion (192 units) of the 294 units of the Purdum Woods and North Hills assisted housing complexes located in the County adjacent to the City. Such credit for the units assists the City in meeting its housing goals which will affect HUD's review of future grant applications.

²⁷¹Finley, letter to staff of Commission on Local Government, August 2, 1983.

²⁷²City Annexation Notice - I, p. 190.

²⁷³City Supplemental Data - I, p. 36.

With respect to the latter point, the evidence indicates that 312 former County residents currently live in the City's public or publicly assisted housing units, while the waiting list for such housing includes approximately 130 County families.²⁷⁴ In our view, the City of Danville has made a notable effort to comply with the State's concern for the housing needs of its citizens.

Public Transportation

By means of several legislative enactments the General Assembly of Virginia has indicated its concern for the provision of public transportation services to the residents of the State.²⁷⁵ Like most Virginia counties with dispersed population and lack of urban concentrations, Pittsylvania County has not established nor financially supported any system of public transportation for its residents.²⁷⁶ The City of Danville, on the other hand, has deemed it appropriate to maintain and operate such a system of public transportation.

In 1977 the City of Danville purchased from a private firm the public transit system which it now operates. This system currently serves five fixed routes with a fleet of 12 buses. Four of these routes operate six days per week (Monday - Saturday) from 6:30 a. m. until 6:00 p.m., while the fifth route operates every day, but only from 10:15 p.m. until 12:10 a. m. in order to serve persons employed at the

²⁷⁴Testimony of Church, Transcript, Vol. I, p. 139.

²⁷⁵Sec. 33.1-12(9), Code of Virginia. See also Sec. 33.1-391, Code of Virginia.

²⁷⁶Some counties in the Commonwealth have deemed it appropriate to invest funds in public transportation services. Such counties include James City, Henrico, Fairfax, Arlington, and Albemarle.

Dan River Mills, Inc. facility in the City.²⁷⁷ The City's transit routes are designed generally to serve the major employment and shopping centers, hospitals, other public facilities, and residential concentrations. None of these routes extend beyond the City's corporate boundaries.²⁷⁸

The City's transit system also operates one of the two transportation services available to City students. The City's transit system utilizes 15 vehicles in the provision of this service and charges students \$.35 per ride. The other transportation system serving the City's schools, as previously stated, is operated directly by the school board and provides free transportation to all students who are transported in accordance with a federal court's desegregation order.²⁷⁹

During FY 1981-82 the City's transit system incurred total operating expenses of \$521,642, of which amount \$381,691 (73.2% of the total) were raised by rider fares.²⁸⁰ The operating deficit (\$139,951) was met in part by a combination of State aid (\$36,644) and City

²⁷⁷City Annexation Notice - I, p. 169; and SG Associates, Inc. and Transportation Behavior Consultants, Marketing Routes and Schedules Study for Danville, Virginia, December 1982, pp. 5-12.

²⁷⁸Marketing Routes and Schedules for Danville, Virginia, pp. 5-12. The City has stated that it has received in the past requests for extension of service into Westover Hills area (Testimony of Church, Transcript, Vol. I, p. 127).

²⁷⁹City Annexation Notice - I, p. 169; and Finley, communication with staff of Commission on Local Government, December 28, 1983. Approximately 13,000 students were transported during the 1982-83 school year in accordance with the federal court order.

²⁸⁰City Annexation Notice - I, pp. 170, 171. Regular fares are \$.70 per ride, but discount fares are available to the elderly. (Ibid., p. 170; and testimony of Church, Transcript, Vol. I, p. 126).

appropriations from its general fund (\$86,500).²⁸¹

As has been stated in other reports, the Commission considers public transportation to be a vital service to segments of our population. To some population groups public transportation is not an amenity, but a prerequisite for employment and self-sufficiency.²⁸²

Public Planning

The General Assembly of Virginia has expressed its concern for the adequacy of local public planning in Virginia by requiring, inter alia, each county and city in the Commonwealth to establish a planning commission and to adopt a comprehensive plan and subdivision regulations to guide their future development.²⁸³ Consistent with these statutory requirements, Pittsylvania County has established a planning commission and has adopted both a comprehensive plan and subdivision regulations.²⁸⁴ With respect to the adequacy of the County's public planning instruments, however, the Commission notes several deficiencies. First, the County's current comprehensive plan, adopted in 1978, is a brief document which lacks important elements. The

²⁸¹City Annexation Notice - I, p. 171; and "City of Danville Comparative Reporting Transmittal Forms." The City has received considerable grant assistance from the State for capital and operating expenses in recent years. During FY 1981-82, the City received approximately \$672,000 from the State in such aid for its transit system.

²⁸²Total ridership on the City's system during 1981-82 averaged 32,400 persons per month (City Annexation Notice - I, p. 169).

²⁸³Secs. 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.

²⁸⁴County Annexation Response - I, pp. 23-24.

County's comprehensive plan does not, we observe, contain any recommendations regarding "methods of implementation" as required by statute.²⁸⁵ Further, the County has not augmented its basic planning instrument since 1978 by the adoption of other plans dealing with specific public concerns such as transportation, community facilities, and housing. Second, the County has never adopted a capital improvement plan or a zoning ordinance, both of which constitute significant instruments to implement the provisions of a comprehensive plan.²⁸⁶

The City of Danville has also, consistent with State requirements, 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 long-range planning efforts.²⁸⁷ As with the County, there are deficiencies, however, in the City's planning efforts. The Commission notes that Danville's comprehensive plan has not been updated since its adoption in 1956, with the result that that instrument is now conspicuously dated. Despite the fact that since 1956 the City has adopted a number of separate, auxiliary planning instruments focusing on speci-

²⁸⁵Sec. 15.1-447, Code of Virginia. The County considered in 1973 a draft of a comprehensive plan which did include approximately five pages of recommendations for implementation. The draft plan was not adopted.

²⁸⁶The County is presently considering a capital improvements plan covering the period 1983-1988. This draft plan does not appear to be guided by nor shows any strong relationship to the general recommendations contained in the County's 1978 comprehensive plan (Capital Improvements Plan, 1983-1988).

²⁸⁷City Annexation Notice - I, pp. 86 ff.

fic public concerns (e. g., transportation, community facilities, parks and recreation, and housing), the absence of a current comprehensive plan is an impediment to a well integrated and concerted public planning effort. While the City's planning efforts have been greater and the planning instruments more extensive than those of the County, there remains the need for an updated comprehensive plan for that municipality.²⁸⁸

Agricultural Land Preservation

Various sections of the Code of Virginia indicate that it is the policy of the General Assembly to protect and preserve the State's agricultural lands.²⁸⁹ One method authorized by State law for the achievement of this goal is use value assessment. This system permits, at the discretion of local governing bodies, qualifying properties to be assessed for tax purposes at their "use" value rather than at their "fair market" value. Pittsylvania County adopted use value taxation in 1981 for qualifying agricultural, forestal, horticultural, and open space properties in order to lessen the economic pressure for their conversion. Data indicate that for tax year 1983 there were 3,336 parcels of property in the County, containing an aggregate of 288,136 acres, which qualified for use value assessment.²⁹⁰ While such assessment programs are far from perfect instruments for the protection of agricultural properties, the County's adoption of such a program denotes an effort by Pittsylvania

²⁸⁸The City has advised that consultants are currently working on a new comprehensive plan (Ibid., p. 88).

²⁸⁹See, for example, Sec. 15.1-1507, Code of Virginia.

²⁹⁰Smith, letter to staff of Commission on Local Government, August 5, 1983. The City of Danville does not

County to protect such properties consistent with the State's interest in such. The Commission considers it appropriate to note, however, that the County's failure to adopt a zoning ordinance opens its agricultural areas to conflicting development and to the potential for their premature and unnecessary conversion.

COMMUNITY OF INTEREST

The law governing the disposition of both partial immunity and annexation issues directs this Commission and the reviewing court to consider the relative strength of the community of interest which ties the areas proposed for immunity or annexation to the remaining portion of the parent county and that which binds such areas to the affected city.²⁹¹ The legislature, thus, has expressed its view that such communities of interest are important considerations and should bear upon the resolution of both immunity and annexation actions. Analyses of the relative strength of the various communities of interest among areas and selected jurisdictions should include consideration of such intangible factors as historical bonds and emotional attachments, but they must also, from our perspective, give full and appropriate recognition to the tangible and fundamental economic, commercial, professional and public service concerns which create interdependency. While this Commission readily acknowledges that not all factors which bear on the issue of community of interest are susceptible to precise measurement and quantification, there are

presently have a program for use value assessment, but it has indicated its intention to adopt such a program if it is ultimately granted an annexation (City Annexation Notice - I, p. 241).

²⁹¹The relevant statutory provisions appear to establish a somewhat different standard with respect to partial immunity and annexation issues. In immunity issues

measures and statistical indices which can assist in such analyses. The measures and indices which are available provide significant evidence as to the relative strength of the communities of interest at issue in this instance.

Proposed Immunity and Annexation Areas - Pittsylvania County

There are a number of factors which contribute to the community of interest between those areas adjacent to Danville proposed for immunity and/or annexation and the remaining portion of Pittsylvania County. Those factors are principally employment opportunities, governmental facilities, and public services.

In terms of employment opportunity, the data indicate that the areas adjacent to Danville affected by the proposed immunity and annexation actions contain a significant concentration of the County's nonagricultural wage and salary employment. While those areas do not contain any significant commercial enterprise, they do embrace a number of major industries which collectively provide approximately 50% of the County's entire manufacturing employment.²⁹² It is evident that these areas are the site of employment for many residents living in the outlying portions of Pittsylvania County.

Various public and community facilities also create and sustain interaction between the areas affected by the pro-

the reviewing agency is directed to consider whether the community of interest between areas proposed for immunity and the remainder of the county is "greater" than that between such areas and the affected city (Sec. 15.1-977.22:1, Code of Virginia). In annexation actions the reviewing agency is merely directed to "consider" the community of interest between the area proposed for annexation and the remaining portion of the county and the city (Sec. 15.1-1041, Code of Virginia).

²⁹²Special Area by Industry Listing for Quarter 1-82.
Six firms (Goodyear Tire and Rubber Co., Corning Glass

posed immunity and annexation actions and the County generally. The County offices in Chatham, including Pittsylvania County's administrative complex, its courts, social service facilities, school system offices, the library facility, and the Sheriff's Department contribute to the community of interest between those areas and the remaining portion of the County.²⁹³ In addition, the location of several federal offices in Chatham (e. g., Farmers Home Administration, Soil Conservation Service, Agricultural Stabilization and Conservation Committee) further the contact and ties between those areas and the County generally.²⁹⁴

Various service facilities also establish meaningful links between the areas affected by the proposed immunity and annexation areas and other portions of the County. The Commission notes that five volunteer fire departments have service areas encompassing portions of the areas proposed for immunity and/or annexation and other segments of the County.²⁹⁵ Further, the utility lines owned and operated by the PCSA, the Westover Branch Library, and other public service facilities create a degree of service interdependency.²⁹⁶ Furthermore, school attendance zones and school

Works, Disston, Inc., Dibrell Bros., Inc., Brockway Glass Containers, Inc. and Lorillard) provide upwards of 4,000 positions alone.

²⁹³Chesapeake and Potomac Telephone Company of Virginia, Danville Area Telephone Directory, August 1983.

²⁹⁴Ibid.

²⁹⁵County Immunity Notice - II, Exh. 11.

²⁹⁶Ibid., Exhs. 6-8, 13; and County Annexation Response - I, Exh. 19-20.

facilities promote interaction and a community of interest between the affected areas and the County generally. Eight different County schools serve students from the proposed immunity and annexation areas, and from other segments of the County.²⁹⁷ The Commission acknowledges that, while school attendance zones can be changed by school board decree and while a pupil's attendance at any school is a transitory experience, schools often are a focus of community activities and do contribute to a community of interest.

Finally, the evidence indicates that there is a variety of religious and social entities which also create bonds between residents of the areas adjacent to Danville and outlying portions of the County. While such bonds defy measurement, we acknowledge their reality and significance.²⁹⁸

Proposed Immunity and Annexation Areas - City of Danville

The evidence available to the Commission reveals that there exists a number of tangible and pervasive bonds which collectively establish a strong and fundamental community of interest between the areas proposed for immunity and annexation and the City of Danville.

First, and perhaps most significantly, the City is the major employment center of the general area. According to 1980 U. S. Census data, the City of Danville was the site of employment for 11,256 County residents, or 38.4% of Pittsylvania County's total work force.²⁹⁹ It should be noted

²⁹⁷County Immunity Notice - II, Exhs. 14-16.

²⁹⁸Records disclose that the area proposed for immunity contains approximately 19 churches whose membership comes from the area generally (Ibid., Exh. 17).

²⁹⁹1980 Census of Population, Place of Work Destinations, Virginia.

that of the County's total work force in 1980, a larger number worked in Danville than in Pittsylvania County itself (9,465). It is reasonable to conclude that of the County residents who worked within Danville's corporate limits, a significant percentage lived in the residential areas adjacent to the City.

Second, the City of Danville is clearly the financial center of the area, 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 23 commercial bank offices, while only two such facilities were located in the County areas adjacent to Danville.³⁰⁰ The relative significance of these banking facilities is revealed by the fact that deposits in City banks as of 1982 were four times that of all the banking facilities in Pittsylvania County generally.³⁰¹ The role of the City as the financial center of the area is also underscored by the fact that all five of the savings and loan offices in the Danville area are located within the City's corporate limits.³⁰²

Third, it is evident also that the City of Danville is the focal point of the general area's retail and wholesale

³⁰⁰Charlotte H. Scott and John Alexander, 1982 Deposit Statistics for Banks and Thrift Institutions in Virginia Communities (Charlottesville: Tayloe Murphy Institute, University of Virginia, June 1983), Table 7. Throughout the County generally there existed only seven banking facilities in 1982.

³⁰¹Ibid., Table 5. Deposits in City banks totaled \$392 million while those in banks in the County totaled \$96 million.

³⁰²Ibid., Table 7. Only two such offices were located throughout the County generally.

trade. In terms of retail trade, the data indicate that as of 1981 the City had 4,192 persons employed within its boundaries in retail outlets which collectively accounted for approximately \$91 million in general merchandise, apparel, and furniture and appliance sales. The comparative significance of the City as a retail center is revealed by the fact that during the same year (1981) all the retail outlets in the entirety of Pittsylvania County employed only 865 persons and generated only \$14.1 million in similar sales (general merchandise, apparel, and furniture and appliances).³⁰³ Data for wholesale trade activity is indicative of a similarly prominent role for the City. In 1981 the number of persons engaged in wholesale trade activity in the City (921) was more than four times that in Pittsylvania County as a whole (222).³⁰⁴ The evidence strongly supports the conclusion that residents of the areas adjacent to Danville went predominantly to the City to conduct their commercial transactions.

Fourth, the City of Danville is clearly the medical and professional center of the region. Within the City's corporate limits are the Danville Memorial Hospital, an array of ancillary medical facilities, the offices of 80 physicians and 36 dentists, and 19 pharmacies.³⁰⁵ As far as this Commission can determine the County areas adjacent to the City contain no significant medical facilities, no phar-

³⁰³U. S. Department of Commerce, Bureau of the Census, County Business Patterns, 1981, Virginia, Number CBP-81-48, June 1983, Table 2; and Eleanor G. May, Retail Sales in Virginia, 1981 (Charlottesville: Tayloe Murphy Institute, May 1982).

³⁰⁴County Business Patterns, 1981, Virginia, Table 2.

³⁰⁵City Immunity Response - I, pp. 151-153.

macies, nor any offices maintained by physicians or dentists. In terms of other professional services, the available data disclose that within the City's corporate limits are the offices of 56 attorneys, 22 accountants, and 3 architects, while the areas adjacent to the City contain the office of only one attorney.³⁰⁶

Fifth, the City of Danville is also the site of a significant collection of State and federal offices and other public facilities which promote and maintain the relationship between the municipality and the residents of the adjoining areas. Within Danville's boundaries are three Alcoholic Beverage Control stores and such State offices as those of the Department of Motor Vehicles, Virginia Employment Commission, Department of Labor and Industry, State Police, Department of Taxation, Department of the Visually Handicapped, and the Virginia National Guard. Also within the City are a number of federal offices, including those of the Agricultural Marketing Service, the Federal Bureau of Investigation, the Social Security Administration, and the federal district court. In terms of other community facilities, the City is the site of both the Danville Community College and Averett College. The City of Danville, thus, is the site of a wide variety of public and community facilities, many exempt from local taxation, which serve the needs of residents of the general area.³⁰⁷

Additional evidence may be cited with respect to the community of interest between the City and its adjacent areas. The City has extended its utilities (electricity,

³⁰⁶Ibid., p. 151; and Danville Area Telephone Directory.

³⁰⁷City Immunity Response - I, pp. 154-156; and Danville Area Telephone Directory.

gas, water, and sewerage) to certain industries beyond its boundaries. This extension of City utilities has clearly stimulated a growth which may not otherwise have occurred and has contributed to the community of interest which binds Danville and its adjacent areas.³⁰⁸ Further, the data also disclose that County residents use to a notable degree a number of City facilities and services. City records indicate that during 1981-82, 573 County residents purchased nonresident cards for the use of City recreational facilities or for participation in its recreational programs, more than 3,000 County residents sought and received cards for use of the City's library, and 112 County pupils paid tuition to attend City schools.³⁰⁹ With respect to the use of City facilities and services by County residents, it should be observed that the areas adjacent to the City are far more densely populated and urbanized than the County generally.³¹⁰ Such areas can be expected to have a need and interest in services which more closely parallel those provided by the City than those offered by the County.

Finally, the record reveals that there exists within the City of Danville approximately 58 different service organizations whose memberships and activities are areawide in

³⁰⁸City Immunity Response - I, pp. 126-131. City lines provide water service to all the major industries in the areas proposed for annexation and immunity with the exception of Brockway Glass Containers, Inc., and they provide the sewer service to the same industries with the exception of U. S. Gypsum, Inc. and Brockway Glass Containers, Inc.

³⁰⁹Ibid., p. 148.

³¹⁰In 1980 the population density of the area proposed for immunity was 348.9 persons per square mile, while (based on 1983 population estimates) that in the area proposed for annexation was 359.7 persons per square mile. The County generally had a population density of 65.5 persons per square mile (County Immunity Notice - I, p. 161; and

nature.³¹¹ The existence of these groups establishes additional ties between the City and its surrounding areas.

Relative Strength of Communities of Interest

While the Commission is fully cognizant of the bonds which establish ties between the various areas proposed for immunity and annexation and the County generally, it does not consider those bonds to approach in significance the employment, financial, commercial, medical and professional, and public service factors which collectively constitute a broad and fundamental community of interest between those areas and the City of Danville. From our perspective, both historically and in contemporary circumstances the City has promoted and nurtured the growth of its general region and, not surprisingly, maintains a strong and pervasive community of interest with the areas on its periphery.

ARBITRARY REFUSAL TO COOPERATE

Another factor prescribed for consideration in both immunity and annexation actions is whether either of the affected parties has arbitrarily refused to cooperate in the joint provision of public services. The intent of the legislature in directing consideration of this issue, it appears, 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 in the past inadvertently created barriers to interlocal cooperation, the General Assembly has sought, by this provision, to remove such impediments and to promote

County Annexation Response - II, p. 1).

³¹¹City Annexation Notice - I, pp. 216-218.

increased collaboration among the Commonwealth's units of local government.

With respect to the issues presently before us, the Commission notes a significant amount of interlocal cooperation between the City of Danville and Pittsylvania County. Such cooperation exists with respect to public health services, rescue squad operations, water and sewerage service, and economic development. In terms of cooperation in the latter category, this Commission notes that by agreement signed in December 1967, the County agreed to repay the City of Danville one-half the funds which the City had expended to attract the Goodyear Tire and Rubber Company to build its plant in Pittsylvania County. Under the terms of that agreement the County committed itself to repaying Danville \$1.5 million in annual installments equal to 50% of the local tax revenues derived from the Goodyear site and facility each year.³¹² While the County has now ceased payments to the City under that contract, citing a clause in the agreement authorizing termination upon the City's institution of annexation proceeding affecting the Goodyear property, the agreement did constitute an example of interlocal cooperation.

In terms of other interlocal cooperation, it should be observed that between 1953 and 1978 the City of Danville experienced 11 annexations initiated by citizen petition with the County not interposing an objection to any of those annexations actions.³¹³ It is significant that the last

³¹²See agreement between the City of Danville and the County of Pittsylvania dated December 5, 1967. The agreement also called for the County's payment of 4% interest per annum on the unpaid portion of the \$1.5 million commitment.

³¹³See County exhibit entitled "Areas Annexed by Cooperative Agreement Since 1953" (no date).

of that series of annexations brought into the City property which is currently being developed as a regional mall and that, by agreement of the City and the County, both the property and sales tax revenues generated by that commercial facility will be shared by the two jurisdictions.³¹⁴

The County has contended, however, that a recent City Council resolution, adopted on June 10, 1983, announcing the City's decision to terminate the 1972 City - County Water and Sewer Agreement between the two jurisdictions is an instance of arbitrary refusal to cooperate.³¹⁵ The City's resolution terminating the 1972 agreement cited a provision in that instrument (Section VI) which contained a clause stating that "this Agreement shall be automatically continued for successive five-year periods unless either party has given to the other, at least three years prior to such expiration date, written notice that it does not desire to renew the Agreement." The City's resolution was based upon this requirement to give advance notice of termination.

In response to the City's resolution, and what was perceived to be an attempt by the City to terminate the water and sewer agreement as early as 1987, the County reminded Danville officials that the 1972 agreement also contained provisions which stated that the agreement "shall continue in effect for the period of issue of the revenue bonds sold by the City or the County, or the assigns of the County, to

³¹⁴City Annexation Notice - I, pp. 233-234. The sales tax receipts from new businesses locating in the mall will be divided between the two jurisdictions with the City receiving a 75% share and the County receiving a 25% share. If a business currently located within the City moves to the mall then only the increased sales tax receipts resulting from the relocation will be subject to the 75%/25% sharing plan (Testimony of Church, Transcript, Vol. I, pp. 48-49).

³¹⁵This 1972 agreement for regional cooperation in utility matters met a condition established by the Virginia State Water Control Board and the U. S. Environmental

pay the cost of the systems, interceptors, wastewater treatment plant, and proposed systems."³¹⁶ The County Board of Supervisors' response to the City advised that revenue bonds which had been issued to build facilities premised on the agreement, would not be fully redeemed until the year 2020 at the earliest. Accordingly, the County asserted that any termination of the water and sewer agreement prior to that date would be invalid.

Whatever the original expectation of the City officials relative to the date on which the resolution of June 10, 1983 would terminate the water and sewer agreement, subsequent City actions reflected recognition and acceptance of the fact that the 1972 agreement would remain in full force until the retirement of all the then outstanding revenue bonds which had been issued to construct facilities covered by that agreement.³¹⁷ With acknowledgment of this fact, the City insisted, it had not acted arbitrarily nor contrary to contractual provisions, but merely had exercised in a prescribed manner an option granted it by the agreement itself.

Any effort to determine whether or not the City's

Protection Agency for the awarding of grant funds to the City for the construction of the Northside Sewage Treatment Facility.

³¹⁶Dr. Claude S. Whitehead, Jr., Chairman, Pittsylvania County Board of Supervisors, letter to Charles H. Harris, Mayor, City of Danville, June 29, 1983. The cross-examination of the Danville City Manager Charles F. Church by Pittsylvania County Special Counsel suggests the County's concern that the City sought to terminate the agreement in 1987. (See testimony of Church, Transcript, Vol. I, p. 236).

³¹⁷Harris, letter to Whitehead, July 15 and July 22, 1983.

resolution of June 10, 1983 constituted an instance of an arbitrary refusal to cooperate with Pittsylvania County requires, in our judgment, consideration of the motivation prompting the resolution. In communicating the June 10, 1983 resolution to the County, the City stated (1) that the termination of the 1972 agreement was but a preliminary step in its intention to negotiate a new utility agreement with the County which would permit the City to extend its utility services into areas which might be annexed and (2) that the termination of the current agreement would not affect the City's continued provision of water and sewage treatment services to the County.³¹⁸ Thus, the City contended that the termination of the 1972 agreement, while necessary to negotiate terms which would enable the City to serve areas which might be annexed, would not result in the denial of utility service to County residents served by existing PCSA lines. Further, the City Manager asserted that an announcement of the City's decision in June 1983 to terminate the agreement was prompted by the fact that Danville was then contemplating the issuance of revenue bonds to extend sewerage to Piedmont Mall. The issuance of those bonds, he stated, if undertaken prior to the City's announced termination of the agreement, would extend the agreement through the period required to retire such bonds.³¹⁹ In

³¹⁸Harris, letter to Whitehead, June 10, 1983. Amendments were made in 1981 to the 1972 agreement whereby the City agreed to restrict its water and sewer service in the County to delineated areas. Mayor Harris' letter to Dr. Whitehead on June 10, 1983 stated that the City sought "a new utility agreement containing revised service areas and other modifications that will give the parties the most expedient and satisfactory arrangements for the provision of these [water and sewer] services within the enlarged City and remaining portions of the County."

³¹⁹Testimony of Church, Transcript, Vol. I, p. 237.

sum, City officials offered several reasons which they considered to be justifiable grounds for the termination of the 1972 water and sewer agreement.

At issue here is the City's exercise of a specific legal right (i. e., termination of the water and sewer agreement) reserved to it by express provision. Whatever the original belief of City officials regarding the effective date for the termination of that agreement, the City has acknowledged, consistent with the County's interpretation, that the agreement continues in effect until the retirement of all existing indebtedness incurred for the construction of the existing system. Regardless of the legal ramifications of the City's June 10, 1983 resolution, and those ramifications may be quite severe, the Commission cannot classify the City's action as arbitrary.

SUBSTANTIAL FORECLOSURE OF ANNEXATION

The Code of Virginia states that partial immunity shall not be granted to county areas where such would substantially foreclose the opportunity of cities of less than 100,000 persons to grow by annexation. Since the City of Danville currently has a population of less than half that figure, the question of such substantial foreclosure is relevant in this case. However, in view of the fact that the Commission will be unable to recommend a grant of immunity to any of the areas proposed for such by Pittsylvania County, the issue of substantial foreclosure does not require extended and detailed consideration in this report. The Commission does consider it appropriate, however, to offer a few general observations with respect to the substantial foreclosure issue.

It might be contended that the issue of substantial foreclosure of a city's annexation opportunities can be

determined merely on the basis of the percentage of a city's boundary left open to expansion subsequent to an immunity action. This contention would assert that if a certain percentage of a city's boundary (e. g., 50%) was unaffected by a grant of immunity, such immunity could not constitute the substantial foreclosure of that city's growth opportunities. From our perspective, while the percentage of a city's boundary left open to expansion is indeed a significant statistic, that statistic alone is not a definitive answer to the substantial foreclosure issue.

It appears to this Commission that a full and proper analysis of the substantial foreclosure question requires consideration of other concerns, principally the legal and pragmatic impediments which would affect a city's ability to annex the territory left eligible for such and the extent to which such territory would provide the City with a meaningful opportunity to share in the growth of its general area. Certainly, the intent of the legislature in requiring the preservation of the annexation option of cities of less than 100,000 persons was to maintain the ability of such cities to share in the economic and population growth of their areas, not merely to increase in geographic size. Such future growth by annexation, however, would continue to rest upon a city's showing of the necessity and expediency of such, pursuant to a court's consideration of all statutorily prescribed factors.

In considering the substantial foreclosure issue, it is important to note that there is a series of legal considerations which will affect a city's ability to annex the properties which would remain eligible for such pursuant to a grant of immunity. Among the statutory provisions which could restrict annexations are those which require (a) that any property annexed be "adapted to city improvements" or

needed "in the reasonably near future for development" and (b) that it form "a reasonably compact body of land."³²⁰ Further, an annexing city must be prepared to extend facilities and services into an annexed area in a prompt and equitable manner.³²¹ Thus, an annexation carries service liabilities which must, in our view, be accompanied by equitable fiscal assets. These legal considerations affect the annexation options of cities and must be recognized in the analysis of the substantial foreclosure question.

As indicated above, the Commission believes it essential in the analysis of the substantial foreclosure question to consider not only the amount of land left open for annexation, but the qualitative aspects of that property as well. Included in such qualitative considerations must be relevant environmental concerns (e. g., slope gradients, flood plain areas), transportation corridors and facilities, the cost of utility extension, and historical and prospective growth patterns. Where a partial immunity action would remove from annexation all major road corridors, all areas free from major environmental constraints, and all areas of past and prospective development, it would essentially constitute, in our judgment, the substantial foreclosure of a city's annexation option, even though sizeable geographic area were left legally available for annexation. Again, we construe the law governing partial immunity actions to require that cities having a population of less than 100,000 persons be permitted to retain an opportunity to share meaningfully in the growth of their area.

³²⁰Sec. 15.1-1042(a), Code of Virginia.

³²¹Sec. 15.1-1042(f), Code of Virginia.

SUMMARY OF FINDINGS AND RECOMMENDATIONS REGARDING IMMUNITY

For reasons set forth in the previous sections of this report the Commission is unable to recommend a grant of immunity to any of the areas in Pittsylvania County for which such has been proposed. The Commission cannot conclude that the areas proposed for immunity are presently served by urban-type services of a type and level comparable to the services provided within the City of Danville. Further, the Commission is unable to find that the areas proposed for immunity have a community of interest with the remaining portion of Pittsylvania County which is greater than that which they share with the City of Danville. Indeed, the Commission finds that the community of interest between the areas adjacent to Danville generally and the City is far stronger and more pervasive than that which exists between those areas and the outlying portions of Pittsylvania County. Furthermore, with respect to compliance with applicable State policies, the Commission has concluded that there do exist housing concerns in Pittsylvania County which could be more actively addressed by County initiative. The City of Danville, on the other hand, merits particular recognition for its efforts with respect to both housing and public transportation.

ANNEXATION

In the analysis of annexation actions the law directs this Commission, and subsequently the court, to consider the best interest of the people of the municipality, of the area proposed for annexation, and of the remaining portion of the County, as well as the best interest of the State in promoting strong and viable units of government.³²² The law

³²²Sec. 15.1-1041, Code of Virginia.

also prescribes a number of factors for consideration in the evaluation of the interests of the various parties. Some of these factors (e. g., compliance with applicable State policies, community of interest, and arbitrary refusal to cooperate) have been reviewed fully in previous sections of this report and do not require extensive additional comment. The following sections give principal consideration to the other factors bearing on the interests of the parties and, thus, on the resolution of annexation issues.

NEED OF CITY TO EXPAND TAX RESOURCES

While the record clearly discloses that the City of Danville remains a vigorous and economically viable municipality, there are data to suggest that the City does have a need to strengthen its fiscal base. Since the annexation law in Virginia essentially precludes a city from initiating an annexation action more than once a decade, an analysis of Danville's need to expand its tax resources must include consideration not only of current circumstances, but also prospective conditions.³²³ In our judgment, both current circumstances and prospective conditions indicate a need for the City of Danville to increase its tax resources.

The data reveal that between 1970 and 1980 the total true value of real estate and public service corporation property in the City of Danville rose from \$247.4 million to \$670.6 million, or by 171%. During the same span of years the true value of such property in the County increased from \$332.3 million to \$997.2 million, or by 200%.³²⁴ As of

³²³Sec. 15.1-1055, Code of Virginia. Even in instances where an annexation is totally denied, the ten-year moratorium on future city-initiated annexations would apply. A county, however, can waive the moratorium by agreement.

³²⁴Virginia Department of Taxation, Estimated True (Full) Value of Locally Taxed Property in the Several Counties and Cities of Virginia -- 1970, June 1971; and

1980, the per capita true value of real estate and public service corporation property in the City (\$14,694) was slightly less than that in Pittsylvania County (\$15,075).³²⁵ Of greater concern, however, are more recent data indicating that by the succeeding year (1981) the total true value of real estate and public service corporation property in the City had declined by \$12.8 million, or by nearly 2%, while that in the County had increased by \$103.3 million, or by over 10%.³²⁶

In contrast to the trend in property values, however, are data with respect to taxable sales. The evidence discloses that between 1970 and 1980 the total value of taxable sales in the City increased from \$109.1 million to \$244.5 million, or by 124%. The value of such sales in the County increased during the same period from \$31.0 million to \$76.1 million, or by 145%.³²⁷ As of the latter date, however, the per capita value of taxable sales in the County (\$1,150) remained only 21.5% of that in the City (\$5,358). Moreover, the data reveal that between 1980 and 1982, the total value of taxable sales in the City rose more rapidly (7.6%) than did that in Pittsylvania County (5.2%).³²⁸ While the 1% local sales tax does not constitute a source of

Virginia Assessment/Sales Ratio Study, 1980, March 1982, Table 6.

³²⁵In 1970 the per capita value of real estate and public service corporation properties in the City was \$5,334 while that in the County was \$5,652.

³²⁶Virginia Assessment/Sales Ratio Study, 1981, Table 6.

³²⁷Virginia Department of Taxation, Taxable Sales, Quarterly Reports, 1970; and Annual Report, 1980.

³²⁸The total value of taxable sales in the City in 1982 was \$263.0 million, while that in the County was \$80.1 million. The new Piedmont Mall when fully open will affect

local revenue comparable to real property in most jurisdictions, sales tax revenues do represent a significant component of Danville's fiscal base.³²⁹

With respect to the aggregate impact of local taxes, the evidence reveals that City residents are required to bear a substantially greater burden than residents of the County. Excluding receipts from the local 1% sales tax, City residents paid \$180.13 per capita in local taxes in 1982, while County residents bore a per capita local tax burden of only \$82.49.³³⁰ Further, when the same local 1982 tax collections are compared to total local personal income in 1980 (the latest year for which the statistic is available), the calculation reveals that those taxes constituted a considerably larger percentage of total personal income in the City (2.0%) than they did in Pittsylvania County (1.4%).³³¹ Thus, considered either on a per capita basis or as a percentage of total personal income, the local tax

the sales tax receipts for both communities by virtue of the revenue sharing agreement approved by the two jurisdictions.

³²⁹During FY 1981-82 the sales tax revenues in the City totaled \$2.8 million, or 14.5% of Danville's total local revenues. Real property tax collections for the same year totaled \$3.7 million or 19.1% of the City's total local revenues ("City of Danville Comparative Reporting Transmittal Forms").

³³⁰Ibid. The taxes included in the calculation are local taxes on all forms of property, motor vehicles, business and franchise licenses, bank stock, recordations 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.

³³¹Ibid.; and Personal Income Estimates for Virginia Counties and Cities, 1980, Table 1.

burden in the City was substantially greater than that in Pittsylvania County.

In terms of fiscal need, several indices might be noted. First, as of June 30, 1982 the City had a per capita net outstanding debt of \$508, far in excess of that in Pittsylvania County (\$32).³³² Second, the data reveal that the City, as well as the County, had in 1979 (the latest year for which such data are available) a higher percentage of its families with incomes below the federally established poverty level than did the State as a whole. As of that year, 9.9% of all City families and 11.9% of all County families were considered to be below that poverty level, while the comparable statistic for the State generally was 6.3%.³³³ The concentration of low income and disadvantaged persons in a community can add substantially to a locality's expenditures and tax burden. Such an additional burden is evidenced by data for FY 1982-83 which disclose total public expenditures in the City of \$1.9 million (\$42.55 per capita) for health and various welfare programs, and total expenditures in the County of \$1.3 million (\$19.51 per capita) for similar programs.³³⁴ It

³³²Auditor 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. Only four counties in the Commonwealth had a lower per capita net debt than Pittsylvania County as of that date.

³³³1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 181. Ten years previously, in 1969, 11.8% of City families and 19.9% 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).

³³⁴Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1982, Exh. C-5; and

should be noted that during the same fiscal year the City expended a total of \$10.4 million (\$231.24 per capita) for all its local general governmental operations, a fiscal effort substantially greater than that borne by Pittsylvania County the same year for similar general governmental programs (\$2.5 million or \$37.93 per capita).³³⁵ Finally, the disparity in local tax rates can be used as a general index of the fiscal pressure on a locality's tax base. 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 of property in the City of Danville and Pittsylvania County, the true real property tax rate in 1981 (the latest year for which such calculation has been made) in the City was \$.60 per \$100 of assessed value, or twice that in the County (\$.31 per \$100 of assessed value).³³⁶

In summary, the evidence indicates that the City of

Julia H. Martin and Michael A. Spar, Estimates of the Population of Virginia Counties and Cities, Final report, July 1, 1981 and Provisional report, July 1, 1982 (Charlottesville: Tayloe Murphy Institute, December 1983). The expenditure totals represent investment in a variety of welfare, public health, mental health and related programs. Local expenditures per capita for the same period were \$12.48 in the City and \$7.72 in the County.

³³⁵"City of Danville Comparative Reporting Transmittal Forms"; "Pittsylvania County Comparative Reporting Transmittal Forms"; and Estimates of the Population of Virginia Counties and Cities, Final report, July 1, 1984 and Provisional report, July 1, 1982. These expenditure figures represent all operational expenditures of the local governments except those for education, street maintenance, and utilities. The figures are adjusted for intergovernmental aid, local matching funds and charges for service.

³³⁶Virginia Assessment/Sales Ratio, 1981, Table 5.

Danville has not experienced in recent years a growth in its real and public service corporation property tax base comparable to that which has occurred in the County. Indeed, the latest State compilation of property values discloses an actual decrease in this major component of the City's fiscal base. Further, the data also reveal that City taxpayers bear a substantially higher local tax burden, whether measured on a per capita basis or as a percentage of total personal income, than do those in the County. The Commission finds that the City has a need to expand its tax resources.

NEED OF CITY FOR LAND FOR DEVELOPMENT

As stated previously in this report, the City of Danville currently contains 2,861 acres of vacant property or approximately 26.5% of its total land area.³³⁷ Of this total amount of vacant land, however, only 2,118 acres are free of major environmental constraints (e. g., steep slopes, floodplain) and suitable for development.³³⁸ Some of this vacant property which is free of major environmental constraint is affected in its development potential by other factors such as parcel size, proximity to transportation arteries, adjacent development, and zoning restrictions. For reasons described below, the Commission holds that the City of Danville does have a need for additional land for development.

³³⁷City Annexation Notice - I, p. 223. Dan River Mills, Inc. owns approximately 494 acres of this vacant property, or 17.3% of the total. Thus, nearly one-fifth of this property is subject to the intentions and discretion of one corporate owner (Finley, letter to staff of Commission on Local Government, November 23, 1983).

³³⁸City Annexation Notice - I, p. 223.

In terms of Danville's potential for future industrial growth, data reveal that the City has only 83 acres of vacant property within its boundaries on sites containing five acres or more which are zoned for industrial use.³³⁹ Moreover, the records of the State's Division of Industrial Development disclose that only one four-acre site within the City's boundaries is currently listed with that State agency which assumes a responsibility for maintaining a comprehensive compilation of attractive industrial sites throughout the Commonwealth.³⁴⁰ In contrast, the area proposed for annexation by the City contains 11 sites (and a portion of another) listed with the State's primary development agency. Those 11 sites collectively contain 2,307 acres of property and range in size from 7 to 1,200 acres.³⁴¹ With respect to the City's general development potential, a credit analysis issued by Moody's Investors Service in November 1982 stated that the City confronted "[l]imited economic growth potential due to the lack of available city property for

³³⁹Smith, letter to staff of Commission on Local Government, December 2, 1983. The largest site available in the City zoned for industrial use contains 23 acres.

³⁴⁰Scott Eubanks, Director, Virginia Division of Industrial Development, letter to staff of Commission on Local Government, December 20, 1983. There are also on file with the Division of Industrial Development 11 industrial buildings in the City with a total floor area of 516,000 square feet. A recent survey by the City of these facilities has revealed that seven of the buildings (402,000 square feet) are now occupied and one (23,700 square feet) is partially located in the flood plain (Finley, letter to staff of Commission on Local Government, January 25, 1984).

³⁴¹Eubanks, letter to staff of Commission on Local Government, December 20, 1983. The Division of Industrial Development's files also contain the listing for one vacant industrial building located in the Ringgold Industrial Park in the area proposed for annexation.

: development. . . ."342

The lack of attractive sites for industrial growth in the City is reflected in historical data. City officials have calculated that since 1960 a total of 27 industrial firms have moved into or relocated within the greater Danville area, with 21 of those firms selecting sites in the County and only six choosing locations in the City.³⁴³ City officials have also stated that only one new industry has located in the City since 1972.³⁴⁴

In terms of future commercial development, the data reveal that Danville currently has only 49 acres of vacant property on sites of five acres or more which are zoned for commercial activity.³⁴⁵ While this commercial acreage is certainly not large, the evidence indicates that the City presently benefits from the predominant share of the general area's commercial activity. Further, records disclose that between 1978 and June 1983 the City issued 63 permits for

³⁴²Moody's Investor Service, Municipal Credit Report, "Danville (Pittsylvania County), Virginia," November 23, 1982. As a result of this 1982 review Moody's Investor Service revised the City's bond rating downward from "Aa" to "A1." The report also stated, "Limited growth potential within current city boundaries, along with below average wealth levels and relatively static economic trends are factors in rating revision despite good financial operations and below average debt burden."

³⁴³Testimony of Church, Transcript, Vol. I, p. 152. Only three of the six firms employ more than 50 persons. It is significant to note that of the industries now located in Ringgold Industrial Park, all except one was previously located in the City.

³⁴⁴Ibid. The industry employs between 25 and 50 persons.

³⁴⁵Smith, letter to staff of Commission on Local Government, December 2, 1983.

commercial construction having a total value of \$13.7 million, while during the same period of time the County issued only nine permits for the construction of commercial establishments in area proposed for annexation having an aggregate value of \$616,500.³⁴⁶ Furthermore, the City's commercial base includes the new Piedmont Mall which is yet to open fully. Given the City's recent commercial development and its dominant share of the region's commercial base, the Commission cannot find that the City has a current need for additional land for commercial growth.

With respect to the City's need for additional land for residential development, the data indicate that the City contains 885 acres of vacant property on tracts of five acres or more which are presently zoned for residential usage. Excluding properties affected by major environmental constraints (381 acres), Danville is left with 503 acres of such property suitable for development.³⁴⁷ The Commission notes that residential building permits issued between 1979 and June 1983 reflect the fact that during that period residential development in the Danville area was concentrated within the corporate limits of the City. During the period in question the City issued 958 residential building permits for construction totaling \$27.2 million, while within the same span of years the County issued 274 permits for residential construction in the area proposed for annexation having an aggregate value of \$9.0 million.³⁴⁸ The Commission notes, however, that of the residential permits issued by the City during this period 686, or 71.6% of the

³⁴⁶County Annexation Response - I, Table 1R-1.

³⁴⁷Smith, letter to staff of Commission on Local Government, December 2, 1983.

³⁴⁸County Annexation Response - I, Table 1R-1. The totals do not include the number of permits issued for

total, were issued for multi-family units, with 554 of those being granted for either publicly-owned or publicly-assisted housing units.³⁴⁹ In terms of single-family residential units, the number of permits issued during the period by the City (272) was only slightly in excess of those issued by the County for development within the area proposed for annexation (246).³⁵⁰

The County contends that the City has sufficient developable land within its current boundaries to meet its current and prospective residential needs. The County asserts that, excluding property affected by environmental impediments and assuming lot sizes of 6,000 square feet (the minimum allowed for single-family units under the City's zoning ordinance), vacant land in the City currently zoned for residential usage would yield 3,650 single-family residential units.³⁵¹ While such abstract calculations will produce such a result, the Commission does not find that the City has the requisite vacant land to permit it to offer a variety of housing opportunities and lifestyles to prospective residents. In our view, it is important for a com-

mobile homes. It might be noted that mobile homes have constituted a majority of new housing units authorized in the County in recent years. Between 1979 and 1982 mobile homes represented 64.6% of all new housing units authorized in the County, while the comparable statistic for the City of Danville during the same period was 5.0% [Michael A. Spar and Julia H. Martin, Housing Units Authorized in Virginia's Planning Districts, Counties, and Cities, reports for years 1979-82 (Charlottesville: Tayloe Murphy Institute)].

³⁴⁹County Annexation Response - I, Table 1R-1.

³⁵⁰Ibid.

³⁵¹Smith, letter to staff of Commission on Local Government, December 2, 1983.

munity to be able to offer a breadth of housing opportunities in order to attract and retain a heterogeneous population. The gradual loss of young families can deprive a community of an important source of civic leadership.

In regard to such demographic concerns, several points should be noted. First, the City's population between 1970 and 1980 declined slightly due to the out-migration of 1,816 persons.³⁵² Second, during the same decade the City's population aged more rapidly than did that of the County and the State as a whole. Between 1970 and 1980 the percentage of the City's population age 65 and over increased from 11.3% to 15.4%, while that in the County rose from 8.6% to 10.8%.³⁵³ As of 1980 the median age of City residents was 34.5 years, while that of residents of Pittsylvania County was 30.6 years.³⁵⁴ The evidence clearly discloses that during the previous decade the City experienced a limited but significant out-migration of population and that the various demographic changes have left Danville with a higher concentration of elderly persons. The Commission considers it important that the City of Danville have available land

³⁵²Julia H. Martin and Michael A. Spar, Growth in Virginia, 1970-1980 (Charlottesville: Tayloe Murphy Institute, June 1981). The City's out-migration was offset in part by natural population growth such that the total population decrease in Danville during the decade was only 749 persons.

³⁵³1970 Census of Population, Characteristics of the Population, Virginia, Tables 20, 35; and 1980 Census of Population, Summary Characteristics for Governmental Units and Standard Metropolitan Statistical Areas, Virginia, Table 1. As of the 1980 Census, 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% (1980 Census of Population, General Population Characteristics, Virginia, Table 45).

³⁵⁴1980 Census of Population, Summary Characteristics for Governmental Units and Standard Metropolitan Statistical

permitting it to offer prospective residents a broad array of housing alternatives in order that it might continue to attract all age groups.³⁵⁵

In sum, the Commission finds that the City does have a need for additional land both for industrial and residential growth opportunity.

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

The annexation proposed by the City of Danville would transfer to the City 16.2% of the County's estimated 1983 population, 15.8% of its 1982-83 public school ADM, 2.9% of its total area, and 21.1% of its total 1982 assessed property values.³⁵⁶ This annexation, as all other city annexations in Virginia, involves the transfer of both assets and liabilities from one jurisdiction to another and

Areas, Virginia, Table 1. The median age of all residents of the State in 1980 was 29.8 years.

³⁵⁵The Commission notes the County's contention that the increase in the total number of households in the City between 1970 and 1980 suggests that adequate residential opportunities are available in Danville (County of Pittsylvania, Argument and Proposed Findings of Fact in Support of Petition for Partial Immunity and Defense to Annexation). With respect to this point, the Commission observes that during the decade of the 1970's, the number of married couple families with their own children under 18 years of age decreased in the City by 19.3% while the number of such families in Pittsylvania County increased during the same period by 8.5% (1970 Census of Population, Characteristics of the Population, Virginia, Table 36; and 1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173). The data suggest that the increase in households has not been sufficient for the City to attract and retain the younger segment of the population.

³⁵⁶County Annexation Response - II, pp. 1-4.

requires their appropriate reconciliation.

In terms of the adverse impact upon a county resulting from the loss of tax resources, the annexation laws of the State empower the court, in balancing the equities in the case, to require the annexing city (a) to assume a just proportion of 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 the annexation.³⁵⁷ These legal provisions provide the court with the means of assisting a county during a period of adjustment subsequent to annexation. With respect to a county's long-range needs, it is necessary to consider the impact of a proposed annexation on the county's development potential and prospects for future economic growth. In this instance, the City of Danville proposes to annex an area which encompasses a major portion of the County's industrial base, containing firms which provided in 1982 approximately 60% of all the County's manufacturing employment.³⁵⁸ Further, the State's Division of Industrial Development has advised that of the 30 sites (containing a total of 5,990 acres) in Pittsylvania County listed with that agency for purposes of promoting their sale and development, 11 (containing 2,307 acres) are concentrated within the area proposed for annexation. It is significant to note that ten of those sites are currently served by water and seven by sewer.³⁵⁹

Of the 19 sites in Pittsylvania County listed with the Division of Industrial Development which are outside the

³⁵⁷Sec. 15.1-1041, Code of Virginia.

³⁵⁸Special Area by Industry Listing for Quarter 1-82.

³⁵⁹Eubanks, letter to staff of Commission on Local Government, December 20, 1983.

area proposed for annexation, five are in the general Danville vicinity. None of these five sites is currently served by water or sewer.³⁶⁰ In regard to the future development potential of the County generally, the City has submitted to the Commission a list of 36 sites in Pittsylvania County located beyond the area proposed for annexation which have been identified as available and suitable for industrial development.³⁶¹ While this Commission would acknowledge that the approximately 980 square miles of territory which would remain in the County, if the proposed annexation is granted, contain numerous sites with development potential, we find that, at this time, the most attractive industrial sites in Pittsylvania County are those located within the area proposed for annexation.³⁶²

Although the area proposed for annexation does not contain any conspicuous concentration of commercial activity, it does generate a significant portion of the County's total sales tax receipts.³⁶³ While Danville's proposed boundary

³⁶⁰Ibid. Division of Industrial Development files indicate that the County does have three industrial sites in the Chatham area and one in the Gretna area having both water and sewer.

³⁶¹City Supplemental Data - I, pp. 71-72. The City cites as its source for the compilation of industrial sites the Danville Chamber of Commerce, Virginia Division of Industrial Development, Southern Railway, Virginia Electric and Power Company, and local governments.

³⁶²The Virginia Division of Industrial Development has also expressed the judgment that the sites within the proposed annexation area have a greater potential for development than others presently available in the County (Eubanks, letter to staff of Commission on Local Government, December 20, 1983).

³⁶³The County estimated that for the 1983-84 Fiscal Year approximately 20.8% of its sales tax receipts would come from commercial activity in the area proposed for

expansion would bring within the boundaries of the municipality areas with commercial significance, Pittsylvania County would retain a vast opportunity for commercial growth along its major thoroughfares as well as areas in and adjacent to its incorporated towns. In terms of the County's ability overall to sustain an annexation by the City of Danville, it should be recalled that according to State Department of Taxation calculations for 1981 (the latest year for which calculations have been made) Pittsylvania County had an average effective true tax rate on its real property of \$.31 per \$100 of value, with only 11 of Virginia's 95 counties having a lower such rate at that time.³⁶⁴

In regard to the impact of the proposed annexation on County-owned facilities, the evidence indicates that the annexation would bring within the City's boundaries three elementary schools, a branch library, and two solid waste compactor/transfer stations.³⁶⁵ 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, the proposed annexation should not have a prolonged or major disruptive impact on County services.

Also affected, however, by the proposed annexation are the properties of the Pittsylvania County Public Service Authority (PCSA). The proposed annexation would bring within the boundaries of the City 37.7 miles of the PCSA's water lines serving 1,200 connections and 3.5 miles of sewer lines providing service to 105 connections. Further, the PCSA currently has under construction an additional 17.2

annexation (County Annexation Response - II, p. 6).

³⁶⁴Assessment/Sales Ratio Study, 1981.

³⁶⁵County Annexation Response - I, Exh. 20. The City's proposed annexation would also bring into Danville two volunteer stations.

miles of sewer line (expected to serve 795 residential connections) and has authorized the future installation of yet another 35 miles of sewer line in that area.³⁶⁶ According to County calculations, the proposed annexation would extend City boundaries to embrace approximately 70% of all PCSA water and sewerage lines (including those existing and under construction), 80% of its customers, and 90% of its sources of revenue.³⁶⁷ While the Code of Virginia permits the PCSA "to continue to do business, exercise its jurisdiction over its properties and facilities" in an annexed area "as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force . . .," the proposed annexation may have the effect, under one construction of the law, of restricting the future extension of PCSA lines within the annexed areas.³⁶⁸ The Commission, thus, notes that the proposed annexation does affect PCSA property, but it also observes that the legislature has, by the means of the cited statute, provided the protection it deems appropriate for such property.³⁶⁹ The breadth of the protection provided by that statute must be left for judicial determination.

In summary, the Commission finds that the provisions of the annexation law which enable the court to require the City (a) to assume a just proportion of the County's debt,

³⁶⁶Smith, letter to Glass, June 30, 1983; and Smith, letter to staff of Commission on Local Government, December 2, 1983. The total value of these lines (existing, under construction, and approved for funding) has been estimated to be \$13.7 million.

³⁶⁷Testimony of William A. Berkey, Expert Witness, County of Pittsylvania, Transcript, Vol. IVB, p. 430.

³⁶⁸Sec. 15.1-1250(n), Code of Virginia.

³⁶⁹The inclusion of PCSA facilities and operations in the City will pose some practical problems for City offi-

(b) to compensate the County for its prospective loss of net tax revenue for as long as a five-year period, and (c) to pay the County for any loss of public improvements, can provide, in the aggregate, reasonable financial assistance to aid the County during a period of transition. The Commission does conclude, however, that the annexation, as proposed by the City, will deprive the County of too great a proportion of its current industrial base and of its growth opportunities in the Danville area. While the current tax burden in Pittsylvania County is far from severe, and while the economic growth surrounding Danville has been spawned in large part by the presence and efforts of that municipality, a grant of the City's annexation as proposed would, in our view, deny the County an opportunity to share equitably in the growth of the Danville area and to sustain its own development.

URBAN SERVICE NEEDS OF AREA PROPOSED FOR ANNEXATION

Included in the factors prescribed for consideration in annexation issues are the urban service needs of the area proposed for annexation, the relative level of services provided by the municipality proposing to annex and the affected county, and the ability of the two jurisdictions to serve the area in question. The relative level of urban services provided by the City of Danville and Pittsylvania County has been reviewed in considerable detail in earlier sections of this report and does not require further extensive comment. It is necessary, however, to discuss the ser-

cials. In recognition of this fact, City officials have expressed an interest in acquiring any PCSA lines which would be brought within municipal boundaries by an annexation award (Testimony of Church, Transcript, Vol. I, pp. 71-72).

vice needs of the area proposed for annexation in relation to the breadth and level of urban services offered by the two jurisdictions.

As previously stated, the area proposed for annexation has a population density of 359.7 persons per square mile, giving the area a density of population more than five times that of Pittsylvania County generally (65.4 persons per square mile).³⁷⁰ While that area does contain a large amount of vacant land (61.4% of the total), it also encompasses significant pockets of residential development and major industrial facilities.³⁷¹ Both current and prospective development within the area create urban service needs which are dissimilar to those of the County generally. The following sections of this report review briefly relevant urban service considerations.

Water

The evidence indicates that the area proposed for annexation is already served to a major degree by water lines of the PCSA and the City. PCSA lines are concentrated in the Westover Hills (Parcel A), the Mt. Hermon (Parcel B), and a portion of the Glenwood (Parcel D) areas. While those lines currently serve only approximately 36% of the residents of the three areas, the County has advised that they are within 200 feet of the residences of the vast majority of the area's total population.³⁷² City water lines serve a number of locations adjacent to the municipal boundaries but are concentrated in the Glenwood and South Danville

³⁷⁰Density calculations are based on 1983 population estimates.

³⁷¹City Annexation Notice - I, p. 225.

³⁷²County Annexation Response - I, pp. 16-19, Exh. 4. It should be recalled that the City has segmented the area proposed for annexation into seven discrete subareas

areas (Parcel D).³⁷³ The various City lines serve a total of 531 connections in the area proposed for annexation, including all the major industries except Brockway Glass Containers, Inc.³⁷⁴ Either the PCSA or City lines currently make water service available to most locations of need within the proposed annexation area.

While the proposed annexation would not immediately affect water service in the area proposed for annexation, the City of Danville does propose to expend \$3.2 million for the extension of water lines in South Danville (Parcel D) commencing the fourth year following annexation.³⁷⁵ In view of provisions in the water and sewer agreement between the two jurisdictions, the proposed extension of City water lines would be contingent upon the concurrence of the parties or upon the annexation court's modification of the contractual provisions restricting such extensions.

Sewerage

The PCSA presently has in operation a total of approximately 3.5 miles of sewer lines within the area proposed for annexation. These operational facilities include approximately 0.5 mile of lines serving 17 connections in the Westover area (Parcel A) and 3.0 miles of lines serving 89 connections in the Glenwood area (Parcel D).³⁷⁶ The PCSA

(Parcels A, B, C, D, E, F, and G).

³⁷³City Annexation Notice - II, Exh. D-8.

³⁷⁴Finley, letter to staff of Commission on Local Government, August 2, 1983.

³⁷⁵City Supplemental Data - I, p. 74.

³⁷⁶County Annexation Response - I, pp. 11-13; and Smith, letter to Glass, June 30, 1983.

also has under construction, or funded and scheduled for construction, an additional 35 miles of sewer lines in the Westover area (Parcel A and beyond) which are expected to serve 1,100 residential customers, and 17.2 miles of lines in the Glenwood area (Parcel D) expected to serve 795 residential connections.³⁷⁷ The system planned for the Westover Hills area is due for completion in 1987, while that in the Glenwood area is expected to be operational by 1985.³⁷⁸ The County has stated that the completion of the sewerage systems now funded in Westover Hills and Glenwood will largely meet the needs of those areas. The evidence indicates that the County has no funds earmarked nor any construction schedule established for the extension of sewerage into the Mt. Hermon area (Parcel B) or into the South Danville area (Parcel D).³⁷⁹

Sewerage service is also provided by the City within the area proposed for annexation. While such City lines extend into the area proposed for annexation at numerous points, they are largely concentrated in the areas east and south of Danville (Parcel D) and serve the major industries in those areas.³⁸⁰ City sewerage lines provide service to a total of 202 connections throughout the area proposed for annexation.³⁸¹

In terms of its proposed service to the area sought for

³⁷⁷County Annexation Response - I, pp. 11-13.

³⁷⁸Ibid.; and Smith, letter to Glass, June 30, 1983.

³⁷⁹County Annexation Response - I, pp. 11-13.

³⁸⁰City Annexation Notice - II, Exh. D-9.

³⁸¹Finley, letter to staff of Commission on Local Government, August 2, 1983.

annexation, the City has stated that it intends to expend approximately \$3.3 million in the Westover Hills area and \$183 thousand in the Bradley Road area for the installation of sewerage facilities within the first four years following annexation.³⁸² The City also proposes an additional \$5.7 million expenditure for the further construction of sewerage lines in the area proposed for annexation, principally in the Mt. Hermon community (Parcel B), commencing the fourth year following annexation. The proposed extension of City sewer lines, however, will be contingent upon the concurrence of the parties or upon court order modifying the terms of the existing interlocal utility agreement.

In summary, the proposed construction of PCSA sewerage lines, if completed as planned, will largely meet the sewerage needs of the Westover Hills and Glenwood areas. The most significant remaining sewage problem in the annexation area exists in the Mt. Hermon community (Parcel B). There remains a clear and long-recognized need for the extension of sewerage service to that community.

Solid Waste Collection and Disposal

While Pittsylvania County has established a system of greenboxes for refuse disposal, it does not offer any residential solid waste collection services. In contrast, the City of Danville provides at public expense weekly refuse collections from each residence and monthly collections of brush and large items. The City funds such activity from its general tax levies and does not impose any additional charge for the service. This type of regular collection service facilitates the proper and timely disposal of refuse and contributes to the sanitary quality of an area. The

³⁸²City Supplemental Data - I, pp. 75-76. The Bradley Road area is located east of the City and north of Parcel D. While the Bradley Road area is not proposed for

Commission finds that portions of the area proposed for annexation have a need for the City's solid waste collection and disposal services. In order to provide the area which it seeks to annex with appropriate solid waste collection and disposal services, the City proposes to hire 18 additional personnel and to purchase additional equipment.³⁸³

Public Planning, Zoning, and Subdivision Regulation

Pittsylvania County does not have a zoning ordinance nor any in-house planning staff to provide direct and continuous assistance in the County's efforts to guide and control its development. In our judgment, the area proposed for annexation has a need generally for zoning and improved public planning. The City of Danville can properly provide such services to that area. Danville has indicated its intention to employ five additional personnel in order to provide the area proposed for annexation with appropriate planning and development control services.³⁸⁴

Crime Prevention and Protection

Crime prevention and protection services in the area proposed for annexation and in Pittsylvania County generally are provided principally by the County Sheriff's Department and its 58 sworn officers. This personnel complement includes 22 officers who are classified as field deputies and who bear principal responsibility for patrol work and response

annexation by the City, it is within a City service area delineated by the water and sewer agreement between the two jurisdictions.

³⁸³City Annexation Notice - I, pp. 236, 249; and City Supplemental Data - I, pp. 80-81.

³⁸⁴City Annexation Notice - I, pp. 236-237; and City Supplemental Data - I, pp. 80-81.

to calls for service throughout the entirety of Pittsylvania County. With the limited personnel and fiscal resources available to it, the Sheriff's Department is unable to provide the intensity and breadth of law enforcement service as is provided by the City of Danville through its police department. The Commission finds that portions of the area proposed for annexation would benefit from a higher level of law enforcement service. On the basis of its staffing levels, the training and professional education of its personnel, and the general level of financial support which it receives, the Commission concludes that the City's police department can meet the needs of that area. In order to serve properly the area it seeks to annex the City proposes to employ an additional 19 police officers and to provide them with the requisite equipment.³⁸⁵

Fire Prevention and Protection

Fire prevention and protection services in the area proposed for annexation and throughout Pittsylvania County generally are provided by volunteer fire departments with limited County support and without benefit of integrated management. While the Commission fully recognizes the significant role of the volunteer in the nation's fire-fighting efforts, it is also cognizant of the real limits imposed on volunteer service by the vocational and personal obligations which confront each volunteer. The Commission finds that the area proposed for annexation generally has a present and growing need for broader and more intensified fire prevention and protection services. The City of Danville can meet that need. The integrated management of

³⁸⁵City Annexation Notice - I, pp. 237, 248; and City Supplemental Data - I, pp. 80-81.

the City's fire service, its full-time and well-trained personnel, its pre-fire planning, its vigorous fire prevention efforts, its response times to fire calls, and the general level of financial support provided the City's fire prevention and suppression activities, give those services a quality and breadth which are needed generally in the area proposed for annexation. Further, the extension of the City's ISO rating to annexed areas should result in reduced fire insurance costs to residents of those areas. The City has proposed to employ an additional 30 personnel and to construct two new fire stations (in the Westover Hills and Glenwood communities) to meet the needs of the area proposed for annexation within four years following the effective date of annexation.³⁸⁶

Public Recreational Facilities

The only public recreational facilities and services within the area proposed for annexation are those owned and provided by the Pittsylvania County School Board. Those recreational facilities consist only of the buildings and grounds of the three elementary schools in the area, while the organized recreational program is largely confined to summer months. While public school facilities have recreational attributes and potential which should be utilized, they do not supplant the need for parks and other specially designed recreational facilities. The evidence, which indicates that during FY 1981-82 more than 600 County residents paid nonresident fees to participate in various City recreational activities or to use City facilities, does suggest an unmet need in the area proposed for annexation.

³⁸⁶City Annexation Notice - I, pp. 237-238, 248-249; and City Supplemental Data - 1, pp. 80-81. The City plans to relocate at a later date two existing fire stations to serve better the enlarged City.

tion.³⁸⁷

The City of Danville is committed to a broad and comprehensive public recreation program, including the provision of community and neighborhood parks and indoor recreation centers. Further, the City also supports a year-round recreation program designed for a variety of population groups. In our judgment, residents of the area proposed for annexation have a need for expanded recreational facilities and activities, and the City of Danville can meet that need. From our experience in local government, the time has passed when public recreational facilities are amenities; they have become important components of urban life. The proposed annexation will extend to the residents of the affected area an opportunity to use Danville's existing facilities under the same conditions as the City's current residents, and it will result in the provision of enhanced recreational services in that area. The City has indicated its intention to employ nine additional personnel (six part-time) and to expend approximately \$230,000 during the first four years after annexation to improve the recreational facilities at the Coates and Glenwood Elementary Schools. The City also proposes, in later years, to construct a major park in the Mt. Hermon area north of Danville at a cost now estimated at \$400,000.³⁸⁸

³⁸⁷City Annexation Notice - I, p. 135; and City Supplemental Data - I, pp. 40-42.

³⁸⁸City Annexation Notice - I, pp. 238, 251-252; and City Supplemental Data - I, pp. 80-81.

Library Facilities

Public library services in the area proposed for annexation are provided by the Westover Hills Branch Library (Parcel A) and by the County's bookmobile which serves eight stops throughout the area (six in Parcel B and two in Parcel D).³⁸⁹ The Westover Hills Branch Library has a seating capacity sufficient to accommodate approximately ten persons and houses 7,800 books.³⁹⁰ The County's bookmobile, which presumably has access to all books in the County's library system (50,084 volumes), serves each stop only once in each three-week period.³⁹¹ The Commission does not consider this level of library service sufficient for the area.

The City of Danville extends its public library services through a large central facility, constructed in 1973, which has a seating capacity sufficient for 108 persons (exclusive of its 64-seat auditorium) and book holdings totaling 83,918 volumes.³⁹² The City has made its library facilities open at no cost to residents and nonresidents alike, and during calendar year 1981 approximately 20% of the borrowers at the City's library were nonresidents.³⁹³ This frequency of use by nonresidents, reflects in our judgment, the need for expanded library services in areas adjacent to the City. The Commission finds that residential communities in the area proposed for annexation have a need

³⁸⁹County Annexation Response - I, Exh. 14.

³⁹⁰Ibid., p. 35.

³⁹¹Ibid; and Smith, letter to Glass, June 30, 1983.

³⁹²City Annexation Notice - I, pp. 144, 146.

³⁹³Ibid., p. 149-150.

for expanded library services and that the City of Danville's facilities and commitment to quality library services can meet that need.

Curbs, Gutters, Sidewalks, and Storm Drains

Neither the subdivision ordinance of Pittsylvania County nor that of the City of Danville requires the installation of curbs, gutters or sidewalks. With the exception of the segments of U. S. Highway 29 north of the City (Parcel B) and State Route 51 west of Danville (Parcel A), the area proposed for annexation is generally without curbs, gutters, and sidewalks. The City, unlike the County, does have a policy of reimbursing developers for their installation of curbs and gutters and also expends funds for the construction of those facilities, as well as for sidewalks in older sections of the City. While the Commission has no evidence indicating any pervasive, unmet need for those facilities in the area proposed for annexation, the further urbanization and development of that area will result in such need. The City's policies with respect to the reimbursement of developers and public expenditure for their installation outside of new subdivisions would meet such need.

The County's subdivision ordinance does require the installation of storm drains and specifies that those storm water management facilities must meet the standards prescribed by the Virginia Department of Highways and Transportation (VDH&T). Drainage facilities along all public thoroughfares in the area proposed for annexation are the responsibility of that State agency. The Commission has no evidence indicating any major unmet need for improved drainage facilities within the area proposed for annexation at this time.

Street Lighting

Pittsylvania County does not have any policy for the

installation, maintenance, or operation of street lights. The County expends no funds for street lighting services, and, according to evidence submitted to the Commission, no street lights presently exist within the area proposed for annexation.³⁹⁴ The City of Danville does have a policy by which it will install, maintain, and operate at public expense street lights and, as of January 1983, 5,242 such lights existed within its corporate limits.³⁹⁵ In our judgment, portions of the area proposed for annexation have a current and growing need for street lighting, and that need can be met by the City of Danville. In order to extend appropriate service to the area sought for annexation, the City proposes to install approximately 1,770 street lights at a cost of \$222,000 during the first four years following annexation.³⁹⁶

Street Maintenance

The construction and maintenance of all public thoroughfares in the area proposed for annexation, and in Pittsylvania County generally, are the responsibility of the VDH&T. The evidence does not reveal any major problems with the current adequacy and maintenance of that road network. Further, the County's subdivision ordinance, while permitting pavement widths as narrow as 22 feet, does require the preservation of broad right-of-ways and prohibits the

³⁹⁴County Immunity Notice - I, p. 61; and Smith, letter to Glass, June 30, 1983.

³⁹⁵Finley, letter to staff of Commission on Local Government, August 2, 1983; and City Annexation Notice - I, pp. 165-166. A number of private security lights do exist in the area proposed for annexation to serve private interests.

³⁹⁶City Annexation Notice - I, p. 240.

construction of all private streets. These requirements have operated to promote the adequacy of roads in the area proposed for annexation.

The Commission would assert, however, that the City's ability to plan, administer, and maintain its public road network with its own personnel and equipment has advantages which would benefit areas brought within the City's jurisdiction. Further, it should be noted that in order to serve the area it seeks to annex the City proposes to employ ten additional personnel for street maintenance work and to make various improvements to 7.9 miles of secondary roads in that area during the first four years following annexation at a cost of \$605,800. Furthermore, the City proposes improvements to another 11.3 miles of such roadway in the ensuing six-year period at a cost of \$887,000.³⁹⁷

Snow Removal

As with all other road-related activities in Pittsylvania County, snow removal services are the responsibility of the VDH&T. That State agency utilizes its own personnel and equipment and that of private contractors to provide snow removal services in the area proposed for annexation and throughout Pittsylvania County generally. The Commission has no evidence of any need for improved snow removal services in the area proposed for annexation.

Summary of Urban Service Considerations

For reasons set forth in the preceding sections of the report the Commission finds that the area proposed for annexation generally has a need for improved solid waste collection and disposal, public planning and development

³⁹⁷City Supplemental Data - I, pp. 78-81.

control, crime prevention and detection, fire prevention and protection, public recreational facilities, library facilities, and street lighting services. Further, the Commission finds that the City of Danville can, with its proposed augmentation of staff, equipment, and facilities, meet such needs of the area.

EFFORTS TO COMPLY WITH STATE POLICIES

The Commission has previously reviewed in considerable detail the efforts by the two jurisdictions to comply with applicable State policies. While our previous comments need not be repeated here in their entirety, it is appropriate to note again, within the context of the annexation issue, the significant efforts by the City to address the State's concern with public transportation and housing. The proposed annexation, if granted, would have the effect of permitting the City to extend its public transportation and housing efforts to additional areas and residents.

With respect to public transportation, the City has stated its intention to extend service to areas annexed. In order to extend this service, the City proposes to purchase an additional bus and to hire additional drivers.³⁹⁸ The availability of public transportation to portions of the area proposed for annexation will provide, in our judgment, the residents of those communities with a significant service.

In terms of housing, the extension of City policies and programs into the area proposed for annexation can have a pervasive and beneficial impact. In this regard, the following statement in a 1973 study undertaken by the West Piedmont Planning District Commission is noteworthy:

³⁹⁸City Annexation Notice - I, pp. 241, 250.

In Danville, housing has been treated as a major area of political decision making, and the City's planning department has considered housing as a part of the City's total administrative responsibility. Housing development within Danville has stemmed from comprehensive planning, neighborhood redevelopment efforts, a public housing program, housing code enforcement, and a favorable policy covering permanent improvements in approved subdivisions. However, the lack of vacant residential land within the City has recently caused curtailment of efforts to provide residential development opportunities for both public and private initiative.³⁹⁹

This Commission is cognizant of the City's comprehensive housing efforts and recognizes that the proposed annexation would give added opportunity for those efforts to affect the lives of additional residents in the general area.

COMMUNITY OF INTERESTS

The relative strength of the communities of interests which tie the area proposed for annexation to the City and the County have also been considered previously in this report and do not require further extended comment. It is appropriate, however, to restate our judgment, within the context of this annexation issue, that various employment, financial, commercial, medical and professional, and public service factors collectively create a community of interest between the City and the area proposed for annexation far more pervasive and substantial than that which exists between that area and the outlying portions of Pittsylvania County.

ARBITRARY REFUSAL TO COOPERATE

As stated previously, the Commission finds no instance where either jurisdiction has arbitrarily refused to

³⁹⁹West Piedmont Planning District Commission, Housing Plan, Housing District Formula, Fiscal Year 1973, p. 273; in City Supplemental Data - I, p. 33.

cooperate for the provision of public services for the mutual benefit of their residents. Indeed, the evidence available to the Commission reflects a considerable amount of interlocal cooperation between the two jurisdictions.

RECOMMENDATIONS REGARDING ANNEXATION

AREA RECOMMENDED FOR ANNEXATION

The County has submitted to the Commission several exhibits which divide the area proposed for annexation, as well as other areas adjacent to the City, into discrete components (labeled "Study Areas") facilitating a detailed examination of each.⁴⁰⁰ In reference to those exhibits and the delineated geographic components, the Commission recommends that the City of Danville be granted an annexation to consist of:

Study Areas 1 - 17 inclusive;
 Study Area 18 west of the unnamed tributary of Pumpkin Creek located east of State Route 86 and flowing in a southwesterly direction;
 Study Areas 19 - 27 inclusive;
 Study Areas 32 - 34 inclusive;
 Study Areas 36 - 38 inclusive;
 Study Area 48;
 Study Area A; and, in addition,
 Areas west of Danville to include all properties embraced within a line extending westward from Study Area 38 along the Sandy River to the western right-of-way of State Route 863, then south along the western right-of-way of State Route 863
 (extended westward at the point of the PCSA water

⁴⁰⁰ See County of Pittsylvania, County of Pittsylvania, Annexation Proceedings, Study Areas (hereinafter cited as County Study Areas), July, 1983; and County

storage tank to include that facility and its appurtenances), to the southern right-of-way of U. S. Highway 58, then eastward along the southern right-of-way of U. S. Highway 58 to the western right-of-way of State Route 870, then southwestward along the western right-of-way of State Route 870 approximately 1,500 feet to its intersection with an unnamed creek, then southeastward along that creekbed to the Dan River, and then eastward along the Dan River to the southwestern boundaries of Study Area 36 (hereinafter identified as Westover Hills Extended).⁴⁰¹

These various areas recommended for annexation comprise collectively approximately 26.01 square miles of territory and contain an estimated 10,100 persons, 1,700 public school students in average daily membership (ADM), and \$196.8 million in 1982 local property tax assessables (exclusive of the assessed value of public service corporation property).⁴⁰² Thus, the recommended award would transfer to the City, assuming the correctness of the preceding estimates, approximately 2.6% of the County's total area, 15.3% of its current population, 13.6% of its 1982-83 public school ADM, and 17.8% of its total 1982 assessed property values (exclusive of public service corporation property)

of Pittsylvania, "General Pertinent Data: Study Area A," and "General Pertinent Data: Study Area B," submitted to Commission on Local Government, October 24, 1983.

⁴⁰¹ See Appendix C for a map of the County study areas. The map also shows the various physical features that constitute the boundary of the Westover Hills Extended area.

⁴⁰² County Study Areas. This exhibit provides data (other than public service corporation property values) for each study area. The Commission's division of Study Area 18 and its inclusion of the Westover Hills Extended area in the

subject to local taxation.⁴⁰³

The preceding recommendation is based upon consideration of the service needs of the area, the level and breadth of services currently offered by the City and the County, the City's need for additional land for industrial and residential growth, Danville's past and prospective role in the economic growth of the general area, and the need of the County to maintain and preserve its own viability. While these various considerations have been analyzed in detail throughout the extent of this report; there are several additional and summary comments which are appropriate here.

The Commission has recommended the inclusion of Study Area A in the annexation award, despite the fact that the City did not request such, due to that area's conspicuous need for improved public facilities and services.⁴⁰⁴

While several physical tours of that area by members of the Commission revealed pervasive needs, those visual findings are reinforced by a number of statistical measures. First, 1980 U. S. Bureau of the Census data has revealed significant housing problems, with 101 units in the area being reported as lacking complete plumbing for exclusive use.⁴⁰⁵ Further, the value of owner-occupied housing in

recommended award necessitate our approximation of the totals. These approximations have been carefully made, and any variance actual figures would not be of sufficient magnitude to affect our recommendations.

⁴⁰³ The recommended award includes 19.1 square miles of territory proposed for annexation by the City (with approximately 2.9 square miles of that total presently owned by the municipality) and an additional 6.9 square miles of other territory.

⁴⁰⁴ Study Area A contains an area of 3.44 square miles and a population of 1,215 ("General Pertinent Data: Study Area A").

⁴⁰⁵ U. S. Department of Commerce, Bureau of the

that area, as estimated by property owners during the 1980 Census survey, ranged only from \$11,100 to \$29,800, with the average estimated value being \$18,500.⁴⁰⁶ Second, while a major City sewer line presently traverses the area, most area residents remain without sewerage service.⁴⁰⁷ In terms of other service needs, a City witness has estimated that capital expenditure requirements in that area for roads and schools alone could exceed \$1 million.⁴⁰⁸ With respect to the area's fiscal resources and development potential, it should be observed that the area contains only one industry (Smith-Douglass Co.) and that the per capita assessed value of all property in the area as of 1982 was \$10,227, while that in the County generally was \$18,632.⁴⁰⁹ Moreover, a portion of Study Area A is located in the floodplain and, consequently, is severely restricted in its development opportunity. The proposed annexation of Study Area A, which this Commission recommends, carries service liabilities which outweigh its

Census, 1980 Census of Population and Housing, Block Statistics, Danville, Virginia, Number PHC80-1-133.

⁴⁰⁶Ibid. Study Area A is located in two magisterial districts, Blairs and Dan River. In 1980 the average value of owner-occupied housing as specified by the owner, in the Blairs district was \$31,200 while that in the Dan River district was \$25,600 (U. S. Department of Commerce, Bureau of the Census, 1980 Census of Housing, General Housing Characteristics, Virginia, Number HC80-1-A48, August 1982, Table 45).

⁴⁰⁷A portion of Study Area A is currently within a City service area delineated by the water and sewer agreement between the two jurisdictions.

⁴⁰⁸Testimony of L. Preston Wade, Expert Witness, City of Danville, Transcript, Vol. II, p. 366.

⁴⁰⁹"General Pertinent Data: Study Area A." The area had total 1982 property assessables of \$12.4 million. The assessed values included in this total and in the per capita

current fiscal assets.

The Commission's recommendation that the City of Danville be awarded the area which we have identified as Westover Hills Extended rests upon several considerations. First, that area constitutes in many respects a community integrated with Parcel A (proposed for annexation by the City) in terms of topography, nature of development, and service needs. This combined area reflects a pattern of continuous and similar growth extending westward from the City's current boundaries. Second, the inclusion of Westover Hills Extended in the annexation award would bring virtually all of the presently constructed or proposed PCSA water and sewerage facilities in that general area within Danville's boundaries. This situation could, and should, facilitate an appropriate exchange of facilities and an adjustment of utility service areas between the PCSA and the City. Third, the inclusion of Westover Hills Extended would provide the City with a substantial area for future residential growth, lessening the need for the City to annex residential areas to the north.⁴¹⁰

In terms of the other components of the recommended award (Study Areas 1 - 17, the western portion of 18, 19-27, 32-34, 36-38, and 48), the Commission finds that the annexation of those areas would have several beneficial consequences and, coupled with Study Area A and Westover Hills Extended, provide the City with a reasonably balanced set of

calculations consist of real estate, machinery and tools, personal property, mobile homes, and merchants capital.

⁴¹⁰The areas adjacent to Danville contain only two major residential areas with significant growth potential - Westover Hills and Mt. Hermon. If the City is to obtain a significant opportunity for future residential growth, an annexation award must include one or the other.

fiscal assets and public service responsibilities.⁴¹¹ First, the annexation of these study areas would bring within Danville's boundaries a number of City-owned facilities including the airport, the prison farm, and the Northside sewage treatment plant thereby enabling the City to exercise control over surrounding and possibly conflicting development.

Second, the recommended award would assign to the City the responsibility for the provision of services in the South Danville area. This area is more accessible to the City's public service personnel and can be more economically administered and served by Danville. In this regard it should be noted that the current extension of County services to this area generally requires passage through the City of Danville.

Third, the annexation of the specified study areas by the City would enable Danville to augment and diversify its industrial base and would provide it with sites for future industrial development. The recommended annexation would bring within the corporate limits of the City the existing facilities of Corning Glass Works, Disston Inc., and the various industries located in the Ringgold Industrial Park.⁴¹² All of those industries have been served for a number of years, antedating the 1981 amendments to the water and sewer agreement between the two jurisdictions, by City utilities. Moreover, it might be noted that all but one of

⁴¹¹These numbered study areas collectively contain 19.1 square miles, 7,881 persons and \$149.3 million in total 1982 property values. These estimates are based on County data provided in County Study Areas. Adjustments have been made to reflect the omission of the eastern portion of Study Area 18.

⁴¹²The relative significance of the annexation of these industries on Pittsylvania County is indicated by the fact they they collectively constitute approximately 22% of

the industries in the Ringgold Industrial Park were formerly located within the City of Danville. With respect to future industrial growth, the areas recommended for annexation include seven sites, and portions of two others, which are listed with the State's Division of Industrial Development, and other sites, which with appropriate improvements, may be made attractive for industrial purposes.

In terms of the impact of the recommended annexation on the County, several points merit note. First, while the recommended annexation would transfer to the City a significant percentage of the County's fiscal assets (approximately 17.8% of its total 1982 property tax assessables), it would also relieve the County of areas presently in need of a higher level of public services, particularly Study Area A, and permit the County to focus its resources on meeting needs in other areas (e. g., Mt. Hermon).⁴¹³ Second, as suggested previously, the recommended annexation, encompassing the Westover Hills Extended area, directs the City's residential growth principally to the west preserving for the County (with the exception of Study Areas 1 and 24) the development to the north. With respect to this point it should be observed that the development in the Mt. Hermon area is not the result of spillover growth extending from the City, but rather it is discrete development separated from Danville by intervening open space. We recommend that the area north of the City, which reaches toward the County's seat at Chatham, be retained for County development and service.

the County's 1982 machinery and tools assessables (County Study Areas).

⁴¹³The Mt. Hermon area does have unmet sewerage needs which the County should address in the immediate future.

Third, the recommended award would leave with the County several of its most prominent industries in the Danville area -- U. S. Gypsum Co., Brockway Glass Containers, Inc., and Goodyear Tire and Rubber Company. These three industries alone accounted for 62.7% of the County's total 1982 machinery and tools assessables.⁴¹⁴ The award recommended by the Commission would also leave in Pittsylvania County four industrial sites, and a portion of two others, in the Danville vicinity which are listed with the State's Division of Industrial Development.⁴¹⁵

In regard to the omission of the Goodyear Tire and Rubber Company facility from the recommended award, the Commission is fully aware of the efforts by the City (including the expenditure of \$3 million in local funds for site preparation, the extension of utilities, and other improvements) to attract that plant to its present site in Pittsylvania County.⁴¹⁶ However, the recommended annexation of the industries and industrial sites discussed above removes, in our view, the necessity for the City's annexation of the Goodyear facility. The areas recommended for annexation provide Danville with a desirable diversification of its industrial base and adequate resources, prompting our recommendation for the exclusion of the Goodyear plant.⁴¹⁷

⁴¹⁴County Study Areas.

⁴¹⁵In addition there are 19 other sites listed with the Division of Industrial Development throughout Pittsylvania County generally.

⁴¹⁶As mentioned previously, in 1967 Pittsylvania County agreed to compensate the City for one-half its expenditures to improve and to extend services to the site of the Goodyear Tire and Rubber Company plant. The County, thus, committed itself to compensating the City a total of \$1.5 million with annual payments equal to 50% of each year's tax receipts from the Goodyear facility.

⁴¹⁷The Goodyear Tire and Rubber Company facility

Further, it is also significant to the Commission that the Goodyear facility is located some distance from the City, and unlike the Ringgold Industrial Park and other existing industries recommended for annexation, is not connected to Danville by intervening development.

In summary, the Commission has recommended for annexation an area which imposes upon the City increased public service responsibilities (particularly in Study Area A), provides it with a significant opportunity for further residential growth, affords it an expanded and more diversified industrial base as well as sites for future industrial growth, and strengthens the City's ability to continue to be a source of public services and an impetus for the economic development of the general area. Further, the recommended award would relieve the County of some of its more pressing urban service obligations in areas immediately adjacent to Danville and would enable the County to concentrate its resources on unmet needs in other areas. Furthermore, the recommended annexation would also leave the County its largest industry and a number of industrial sites in the Danville area. The recommended award is, in our judgment, an appropriate reconciliation of the interests of all parties.

FINANCIAL SETTLEMENT PROVISIONS

In balancing the equities in an annexation case a court is given broad authority. Based upon the size and nature of the area awarded to a city, the court is empowered to

generated \$464 thousand in local tax resources during 1982 (County Annexation Response - II, Exh. 17R). The inclusion of this property is an annexation award along with other properties recommended for annexation would have, in our view, a very severe fiscal impact on the County.

require equitable adjustments regarding a county's indebtedness, relative to county-owned improvements affected by the annexation, and with respect to a county's prospective loss of net tax revenue during the years immediately following an annexation. In anticipation of the court's addressing these issues, the City of Danville and Pittsylvania County have submitted financial data relative to these concerns to the Commission for review and comment. The data presented to the Commission, however, are based upon the area proposed for annexation by the City (29.66 square miles) and are not amenable to adaptation to conform to the area which this Commission has recommended as an award. While this Commission does not have available, nor can it obtain such within the time allowed for the submission of this report, data permitting it to offer precise quantitative recommendations with respect to the various financial settlement concerns, it does desire to address in principle several of the major issues which are presented.

Assumption of Debt by City

The Code of Virginia authorizes an annexation court to require a city to assume "a just proportion of any existing debt of the county" in recognition of the fact that an annexation will impair the county's ability to retire such indebtedness.⁴¹⁸ Two major points have been raised in this case, as in previous ones, with respect to this debt assumption issue which the Commission wishes to confront.

Percent of Debt to be Assumed. Pittsylvania County and the City of Danville have proposed different methodologies for use in determining the portion of the County's debt to

⁴¹⁸Sec. 15.1-1042(b), Code of Virginia.

be assumed by the City. The County has contended that the portion of its debt appropriate for assumption by the City would be that equal to the percentage of the County's total local revenues annexed by the municipality. According to County calculations, and based upon the area proposed for annexation by the City, that percentage would be 25.3%.⁴¹⁹ Alternatively, the City has proposed that it assume a percentage of the County's outstanding indebtedness equal to the percentage of local property assessables which it would annex. Based on City calculations, and on the area which Danville proposes to annex, such percentage would be 19.15%.⁴²⁰ The Commission recommends that the percentage of Pittsylvania County's debt to be assumed by the City of Danville be equal to the percentage of the County's total local tax revenues (as that term has been defined by the Virginia Supreme Court) which is annexed.⁴²¹

While the Commission is cognizant of the fact that this recommendation deviates from the past practice in Virginia of basing a city's debt assumption upon the percentage of a county's total assessed property values (or, in instances, solely upon the percentage of assessed real property values) annexed, the current and growing significance on nonproperty tax revenue in many Virginia counties requires this recommendation for a change in that practice. Moreover, it is frequently true that the urban areas of counties adjacent to cities and, consequently, subject to annexation generate a disproportionate share of a county's sales, consumer utility, business and professional license, and other nonpro-

⁴¹⁹County Annexation Response - II, Exh. 4.

⁴²⁰City Annexation Notice - I, pp. 258-259.

⁴²¹See County of Rockingham v. City of Harrisonburg, 224, VA. 62, 89. This definition of local tax revenues would exclude some revenues (e. g., fines and forfeitures,

perty tax receipts. The loss of such nonproperty tax revenues should, in our view, be included in the determination of the percentage of debt to be assumed by a city.

Debt Base. Pittsylvania County has argued that its debt base, from which would be calculated the amount of debt to be assumed by the City, should include the currently determined amount of its unfunded past service liability resulting from its participation in the Virginia Supplemental Retirement System (VSRS). This unfunded past service liability was calculated to be, as of June 30, 1981, approximately \$1.7 million.⁴²² The City does not consider this VSRS liability as properly a part of the County's debt base subject to the provisions of the State's annexation laws.⁴²³ With respect to this point and the nature of the VSRS liability, the State's Auditor of Public Accounts has recently stated:

. . . , it is the position of this office that unfunded accrued liability is not properly recognizable as long-term indebtedness of a locality in that a legal liability does not presently exist for the payment of the actuarially estimated amount.⁴²⁴

While the above statement from the Auditor of Public Accounts may well be adequate to dispose of this issue, it might be added that Pittsylvania County's VSRS unfunded past service liability is not current debt owed, but, rather, it

proceeds from use of money and property, service charges, et cetera) which have been proposed for inclusion in the debt assumption calculations by Pittsylvania County.

⁴²²County Annexation Response - II, Exh. 4.

⁴²³City Annexation Notice - I, p. 259.

⁴²⁴Charles K. Tribble, Auditor of Public Accounts, Commonwealth of Virginia, letter to Sarah H. Finley, Special Counsel, City of Waynesboro (now Special Counsel to City of

is a potential expense projected on the basis of a number of actuarial assumptions, including those regarding mortality rates, retirement ages, and the interest to be earned on VSRS investments. As these actuarial assumptions change, as they are certain to do, the amount of the County's projected unfunded past service liability will also change, making that statistic a volatile figure fluctuating with time and circumstances. Further, it is significant to observe that the personnel services for which this unfunded actuarial liability has been calculated have already been performed on behalf of Pittsylvania County, and we consider it inappropriate for the City of Danville to be required to bear any portion of such past service costs. The Commission recommends that the County's unfunded past service liability not be considered as part of the County's debt base from which would be determined an appropriate amount for City assumption.

Compensation for County-Owned Public Improvements

The annexation laws of the State empower the court to require a city "to compensate the county for the value of public improvements . . . owned and maintained by the county" which would become the property of the city as a result of boundary expansion.⁴²⁵ In this annexation case the only major public facilities which would be affected, if the Commission's recommendations are endorsed by the court, are the Coates and Glenwood Elementary Schools.⁴²⁶ The County has had these schools appraised and, on the basis of such, is requesting compensation in the amount of

Danville), January 20, 1983.

⁴²⁵Sec. 15.1-1042(c), Code of Virginia.

⁴²⁶The area proposed for annexation contains two solid waste transfer stations. The County, however, has not

\$890,000 for the Coates Elementary School and \$1,255,000 for the Glenwood facility.⁴²⁷ The City has proposed to compensate the County for these educational facilities based upon their recorded 1982 assessed value, thus offering to pay Pittsylvania County \$921,000 and \$855,600 for the Coates and Glenwood Elementary Schools respectively.⁴²⁸ The Commission recommends that compensation for the two schools be based upon the present value of the two facilities, assuming their use for public educational purposes. If the parties are unable to agree upon the appropriate compensation, the Commission recommends that the compensation for the two educational facilities be established by use of the generally accepted practice, whereby the value is determined by a team of appraisers, with one member being appointed by each jurisdiction and with a third selected by the two appraisers appointed by the parties.

Prospective Loss of Net Tax Revenue

The third component of the financial settlement provisions applicable to city annexation cases is that authorizing compensation to a county for its prospective loss of net tax revenue (LNTR) resulting from its loss of "taxable values." The law permits an annexation court to direct a city's payment of LNTR sufficient to cover the five-year period following annexation "to such extent as the

listed these facilities, which are moveable and subject to relocation, for purposes of compensation by the City.

⁴²⁷See "Appraisal Report of Coates Elementary School" and "Appraisal Report of Glenwood Elementary School," prepared by Robert Gentry and Associates, Lynchburg, Virginia, August 26, 1983.

⁴²⁸City Annexation Notice - I, p. 261.

court in its discretion may determine" is appropriate. The court may permit the city's payment of LNTR in annual installments over the five-year period.⁴²⁹ While the Commission does not have available revenue and expenditure data for the area it recommends for annexation sufficient to permit it to recommend a specific LNTR award, it does wish to offer several comments relative to the methodologies which might be used in the determination of this compensation. As the Commission has noted in previous reports, parties to annexation cases have often invested significant resources in the compilation of data and in the development of conflicting methodologies for the determination of LNTR compensation. The Commission believes that the parties in annexation cases should be induced to move toward the utilization of a standardized, simple, and equitable methodology for the calculation of LNTR. To the extent that such can be accomplished, the length and cost of annexation proceedings can be reduced. With this fundamental premise in mind, the Commission offers the following recommendations regarding principles for use in the determination of LNTR compensation.

Calculation of LNTR for Initial Year. With respect to the data base to be utilized in the determination of a county's prospective LNTR for the initial year, the Commission recommends that the court require the utilization of audited data for the fiscal year ending June 30 prior to the effective date of annexation. While preliminary calculations may be required prior to the availability of audited data for such fiscal year, and while the parties may agree on estimated revenue and expenditure figures obviating the need to

⁴²⁹Sec. 15.1-1042(c), Code of Virginia.

refer to an accepted data base, the establishment of such an accepted data base should facilitate the resolution of initial year LNTR calculations.

In terms of a county's revenue loss which is subject to compensation under the State's annexation law, the Virginia Supreme Court recently provided clear guidance. Referring to Section 15.1-1042(c) of the Code of Virginia and county revenues eligible for compensation, the Court stated in a 1982 opinion:

The loss this statute addresses is a county's loss of prospective "tax revenue" resulting from "annexation of taxable values." We construe this language to mean monies a county collects from taxes it levies upon assets, transactions, and privileges within its taxing jurisdiction. If the General Assembly had intended compensation awards to extend to all types of budgetary receipts, it would have said so. Since it did not, we hold that the funds a county hopes to derive from State and federal appropriations are not prospective "tax revenues" within the contemplation of Code, Section 15.1-1042(c).⁴³⁰

This judicial statement should largely end, it appears to us, the discussion of what revenues are appropriate for inclusion in LNTR calculations. With respect to the determination of the actual revenue loss in each eligible category, the Commission considers such losses to be susceptible to direct measurement in virtually every major tax category.

In the above mentioned opinion the Supreme Court stated that the LNTR experienced by a county required a determination of the difference between a county's loss of local tax revenue and "the amount of budgetary expenditures annexation saves a county."⁴³¹ Thus, a proper deter-

⁴³⁰County of Rockingham v. City of Harrisonburg, 224, Va. 62, 89 (note omitted).

⁴³¹Ibid., 89n.

mination of LNTR requires also a calculation of local expenditure reductions effected by an annexation. The Commission recommends that, to the extent practical, the expenditure savings to a county resulting from an annexation be based upon a direct measurement of the incidence of facilities, services, and program clients within the area proposed for annexation. Further, as we have stated in previous reports, it is essential that data provided this Commission, and subsequently the annexation court, be presented in a format such that each party's derivation of local expenditures in the area proposed for annexation can be determined. This format should indicate the total expenditures for each public function or service in the area, the amount of each such expenditure provided by intergovernmental aid and charges/fees, and the net local expenditure for each function or service. Such detailed presentations, offered in the same format, should facilitate the identification of major variances in the parties' estimates, an understanding of the causes of such variances, and judgment regarding the merits of the various expenditure calculations.

Projection of LNTR. The County has proposed that its loss of LNTR during the five-year period following annexation be projected to increase annually based (a) upon the County's revenue and operating and debt service expenditure growth rates between 1978 and 1984 or (b) upon rates of change in the Consumer Price Index (CPI) for various historical periods.⁴³² Either methodological approach entails a presumption that past growth patterns, as measured by historical changes in the County's revenue and expen-

⁴³²County Annexation Response - II, Exhs. 12, 14R, 15R, and 16.

diture totals or by historical changes in the CPI, can and should be used to forecast future circumstances. Use of either of these methodologies in this case projects a growth in LNTR during the five years following annexation, and depending upon the particular projection factors chosen (and accepting the County's calculation of the LNTR for the initial year and the annexation of the area originally proposed by the City), results in five-year aggregate LNTR compensation ranging from \$9.3 million to \$9.8 million.⁴³³

The City, on the other hand, has proposed that the aggregate five-year LNTR compensation be determined by multiplying the first year LNTR calculation by a factor of "5."⁴³⁴ This City-proffered methodology rests upon the assumption that, while local revenues and expenditures may change annually within the area annexed, the annual loss of net tax revenue is likely to remain relatively constant during the five-year period following annexation.

With respect to the calculations of LNTR over a period of years, the Commission notes that numerous factors will have a bearing on that statistic and that all projections will be hazardous. To be sure, both local tax revenues from the area and the local expenditures required to serve it will change, but the extent of their change is far from certain. Obviously, changes in local revenues and expenditures in the area will depend upon the extent and nature of future development, population growth, land use decisions, changes in property values, and the policies adopted by the Board of Supervisors with respect to tax rates and service levels. While revenue growth in an area will not always exceed the

⁴³³Ibid., Exh. 15.

⁴³⁴City Annexation Notice - I, p. 254.

increase in public expenditures required to serve it, the evidence available to the Commission does suggest that the area recommended for annexation by the Commission in this case would, if remaining under County governance, yield an annual increase in net tax revenue in the years immediately ahead. The precise determination of such growth in net tax revenue, however, is fraught with considerable difficulty.

The Commission recommends that compensation paid to the County for its aggregate LNTR during the five-year period after annexation be determined by multiplying the first year LNTR calculation by the factor "5," with full payment required prior to the effective date of annexation. Alternatively, the Commission recommends that the City be permitted to pay this determined amount in annual installments with interest being charged on the unpaid balance and compounded annually. The interest charged the City on the unpaid balance should be the interest yield on U. S. Treasury five-year notes as of a specified time prior to the effective date of annexation. Such interest rate is an appropriate measure of the investment opportunity lost by the County as a result of the City's selection of the annual payment alternative. These recommendations rest upon our judgment that the proposed prepayment of LNTR, or, alternatively, the City's payment of interest on the unpaid balance, provide the County with a financial adjustment which equitably offsets any prospective growth in its net tax revenue lost by annexation.

The financial settlement provisions in the annexation statutes are intended, it appears to us, to promote an equitable transfer of assets and liabilities from one jurisdiction to another and to assist the affected county during a period of transition. These statutory provisions need not, from our perspective, result in intricate efforts at

the calculation of measures which are inherently incapable of precise measurement. In our view, the public interest is served by the development and utilization of standard and simple measures for determining the terms of settlement in annexation cases. The Commission's recommendations relative to the calculation of LNTR is offered with this premise in mind.

Summary Comment

The Commission is prepared to assist the court, if such is deemed appropriate, by the development of specific recommendations regarding the financial settlement provisions subsequent to a determination of the area to be annexed.

OTHER TERMS AND CONDITIONS

There are several additional aspects of the proposed annexation which the Commission wishes to address. The following sections present our comments on these various concerns.

Land Use Assessment

The City of Danville has proposed to adopt a program of use value assessment thereby enabling qualifying properties to continue to benefit from such tax concessions which the County has previously provided.⁴³⁵ The Commission endorses this City proposal and considers the adoption of such a program as an appropriate means for the protection of agricultural, forestal, horticultural, and open space properties embraced within an annexation award.

Fire Services

The Commission notes that the area recommended for

⁴³⁵City Annexation Notice - I, p. 241.

annexation contains the Westover Hills Volunteer Fire Department. If this department desires to continue to occupy its present quarters subsequent to annexation and to continue to serve the public from that site, the Commission recommends that the City endeavor to develop a working relationship with that volunteer unit in order to maximize its contribution to the general area. While such a relationship should require that the volunteer unit function under the administrative control and management of the City's fire chief when operating within municipal boundaries, the unit could continue to serve County areas in accordance with past practice. The establishment of such a working relationship could be mutually beneficial. Further, and more significantly, the Commission recommends that the City and the County endeavor to develop a comprehensive program for mutual aid with respect to fire services. Such a program, whereby the fire suppression resources of each locality would be made available to assist the other, should redound to the benefit of the general area.

Library Services

The Commission recommends that the City include in its service plan for the area to be annexed, which will ultimately be presented to the court, provisions enabling a more direct extension of library services to outlying residential communities. Such services might be extended through the construction of branch facilities or by regular and frequent bookmobile service. While the Commission notes that County residents are presently utilizing the City's facilities to a notable degree, there is a need for increased library services to population groups in the area recommended for annexation which do not have easy and convenient access to the central City facility.

Recreation Services

In its submissions to the Commission, the City originally indicated its intention to use the Coates and Glenwood Elementary Schools for public recreation purposes. In later testimony the City suggested that one of these facilities might have to be retained for public school use.⁴³⁶ If such a determination is made, the Commission recommends that the City develop plans for presentation to the annexation court containing specific provisions for the extension of adequate recreational facilities and services to those communities. There is a need for improved recreational services in the Westover Hills, Glenwood, and Bradley Road areas which the City's annexation plan should address.

Water and Sewerage Service

The Commission recognizes the difficulties which can result from the annexation of PCSA lines and customers. In recognition of such difficulties the Commission recommends that the City and the PCSA endeavor to arrange for the equitable transfer of Authority lines in the Danville area to the municipality in accordance with conditions proposed in our supplemental statement attached to this report.

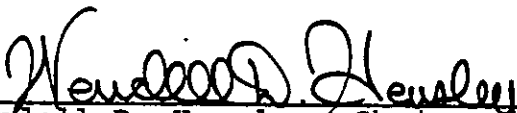
CONCLUDING COMMENT

The recommendations contained in this report reflect the Commission's efforts to reconcile the interests of the parties and that of the State in the preservation of the viability of its local governments. The contending values and concerns raised in this, and all other local boundary change issues, are far too broad and intricate to permit their suc-

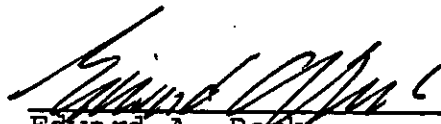
⁴³⁶The City has indicated that the use of the Glenwood Elementary School as a City educational facility "could best serve the needs of those students in that

cinct summarization here. We would, however, like to note in this concluding comment that, in a larger sense, the interests of the parties are inextricably related -- that the social and economic health of one jurisdiction affects the social and economic health of the other. Future public policy in the Danville -- Pittsylvania County area should be guided, we believe, by an awareness of such interdependence and by recognition of the need for general collaborative action in addressing the area's public service concerns.

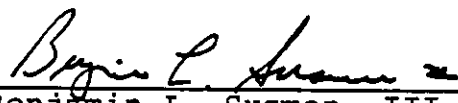
Respectfully submitted,


Wendell D. Hensley, Chairman


Harold S. Atkinson, Vice-Chairman


Edward A. Beck


William S. Hubard


Benjamin L. Susman, III

SUPPLEMENTAL STATEMENT ON UTILITIES

On every occasion where a portion of a county is brought within the boundaries of a city by annexation, adjustments must be made in the provision of governmental services. One service area where adjustments may be extremely difficult is that regarding public utilities. Appropriate adjustments in this functional area may have even added complexity where utility services in the area annexed are being provided by a public service authority.

In order for a public service authority to provide an area with water and sewerage service, it must borrow large sums to construct the capital intensive utility systems which are required. The traditional, and only feasible, way for an authority to construct such a system is through the sale of revenue bonds. In order to market such bonds, the facilities which are to be constructed must be pledged to redeem those obligations. The bondholders are willing to accept the risk that the demand for water and sewer service may not meet projections, but they require liens on the lines which constitute the source of revenues enabling redemption of their bonds. The bondholders will insist that their security in the capital assets be absolute and continue until the obligations which they hold are fully redeemed.

Given these conditions, when a portion of the territory served by an authority providing water and sewerage service is annexed into a city, an instant and intricate conflict is created. It would be appropriate for residents of the annexed area to be assimilated fully into their new city, receiving services in the same manner and at the same cost as other residents of the municipality. However, these newly annexed residents have been customers of the public

service authority and, as such, have contributed to the revenues of that entity and, thus, the means by which the authority's indebtedness is being retired. If, however, the annexed residents continue to be served by the public service authority, they are often confronted with higher utility rates than other residents of the City. Such a situation raises questions of equity, since the newly annexed residents will generally experience a significant increase in their real property taxes subsequent to annexation. In the case presently before the Commission, the utility rates of the Pittsylvania County Service Authority (PCSA) are approximately 67% higher than those imposed by the City of Danville on its water and sewer customers. Thus, if the court in this instance ultimately sanctions an annexation involving property containing PCSA lines and customers, the dilemma discussed above will be presented.

The experience confronted by the City of Roanoke and Roanoke County in the late 1970's is illustrative of the above-cited problem and suggests one means by which this issue can be addressed. On January 1, 1976 a number of public service authority customers in Roanoke County were brought within the boundaries of the City of Roanoke by annexation. The annexation court had previously concluded that there existed no feasible way for it to provide for the City's acquisition of the public service authority's lines nor for the City's subsequent provision of water and sewerage service to the authority's customers who were annexed. In recognition of this fact, the court left the parties to settle this matter as best they could at a subsequent time. The authority's customers who were annexed into the City vehemently protested the disparity in utility rates which they were required to endure and refused to pay their utility bills. This confrontation continued for over

three and one half years during which time the authority contemplated its alternatives, including the termination of water and sewerage service to its nonpaying customers. The Roanoke City Council received continuous pleas from its annexed residents that they be relieved of the higher utility rates which they were required to bear. Among the suggested remedies proposed by the newly annexed residents was a proposal that the City of Roanoke subsidize the utility service from the authority to such that the annexed residents water and sewerage rates would be placed on par with that of other City residents. The Roanoke City Council concluded, however, that it was unable to subsidize the utility service of the newly annexed residents, for such would constitute a discriminatory use of public resources. This utility issue resulting from the City of Roanoke's annexation involved approximately 600 water customers and 3,000 sewer customers with the variance in the authority's utility charges to the affected residents from that which would have been imposed by the City for comparable service totaling collectively over \$750,000. This confrontation was finally resolved when Roanoke County redeemed the authority's indebtedness, acquired its assets, and liquidated that entity. Subsequent to this action, all of the utility lines formerly owned by the authority were sold to the City, and all former authority customers became recipients of service from the City of Roanoke.

The Commission notes that the City of Danville is one of only a limited number of Virginia cities which operate either a gas or an electric system, and it is the only Virginia city which operates both. While the Commission has undertaken no detailed study of this matter, our lengthy review of City operations during our consideration of the annexation and immunity issues leads us to conclude that the

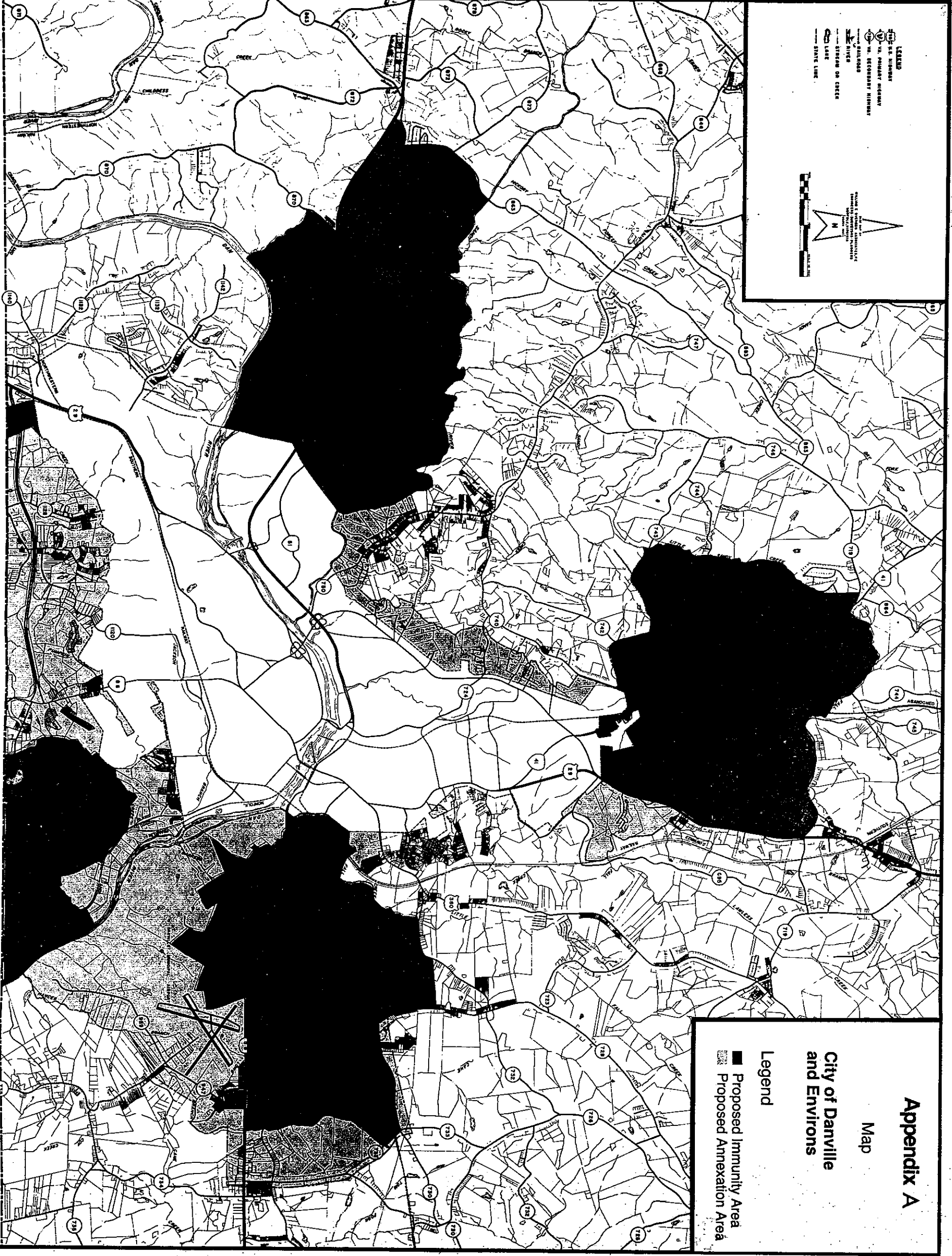
City of Danville is quite proficient in the operation of its utilities. The Commission is unaware of any deficiency in the City's delivery of gas or electric service, either within or without its corporate boundaries. Since water and sewerage services are less sophisticated, Danville should be equally capable of extending such services not only to the area which it seeks to annex, but to all areas in the southern portion of Pittsylvania County requiring such. Presently, the City of Danville provides water and sewerage service to portions of the area which it proposes to annex, and it does so at the same rates which it imposes upon its own residents. The Commission notes that this parity of rates is most unusual, since cities commonly charge their nonresident utility customers a rate double that imposed upon municipal residents. Similarly, the City of Danville presently charges all its gas and electric customers, resident and nonresident alike, identical rates.

While recognizing the statutory provisions which apply to an authority's utility operations in annexed territories, the Commission recommends that the court encourage the parties in this case to effect the transfer of all of the Pittsylvania County Service Authority's water and sewerage lines in the Danville vicinity to the City and that utility rates be made identical to all customers of the City's enlarged system. Further, the Commission recommends that any agreement developed to effect the transfer of these utility facilities include provisions which would exclude water and sewerage services from consideration in any future annexation issue.

In our judgment, the City of Danville has demonstrated, perhaps better than any other Virginia city, that it is capable of delivering utility services on an economical and reliable basis both within and beyond its corporate boun-


daries. If the City of Danville is given the responsibility of serving fully the annexed area and adjacent portions of the County, such an arrangement would avoid one of the more complex public service issues raised by annexation.

N O R T H C A R O L I N A



LEGEND

- U.S. HIGHWAY
- PA. PRIMARY HIGHWAY
- N.C. SECONDARY HIGHWAY
- RAILROAD
- RIVER
- STREAM OR CREEK
- LAKE
- STATE LINE



 NORTH
 STATE OF NORTH CAROLINA
 GEOGRAPHICAL SURVEY
 1:50,000

Appendix A

Map

**City of Danville
and Environs**

Legend

- Proposed Immunity Area
- ▨ Proposed Annexation Area

APPENDIX B

Statistical Profile of the City of Danville, County of Pittsylvania,
The Area Proposed for Annexation, and the Area Proposed for Immunity

	City of Danville	Pittsylvania County	Area Proposed for Annexation by City of Danville	Area Proposed for Immunity by Pittsylvania County
Population (1980)	45,642	66,147	10,669 ¹	A: 3,755 B: 2,766 C: 2,457 D: 32 E: 0 Total 9,010
Land Area (Square Miles)	17.07	1,012.27	29.66	A: 7.56 B: 7.02 C: 6.24 D: 2.49 E: 0.10 Total 23.41
School Age Population (1983)	11,193 ²	14,657	2,399	N/A
School Average Daily Membership (1982-83)	7,396 ³	12,606	1,987	N/A
Total Taxable Values (1982)	\$597,501,012	\$1,229,819,889	\$259,315,076	N/A
Real Estate Values (1982)	\$498,174,580	\$1,013,431,925	\$217,362,160	N/A
Mobile Homes Values (1982)	\$755,542	\$41,084,661	\$5,141,100	N/A
Tangible Personal Property Values (1982)	\$59,696,187	\$25,782,940	\$6,400,956	N/A
Machinery and Tools Values (1982)	\$16,141,985	\$23,258,120	\$19,600,660	N/A
Merchants Capital Values (1982)	N/A	\$3,195,574	\$858,200	N/A
Public Service Corporation Values (1982)	\$22,732,718	\$123,066,669	\$9,952,000	N/A
Local 1% Sales Tax Receipts (1981-82)	\$2,785,618	\$804,369	166,797 ⁴	N/A
Existing Land Use (Acres) (1983) ⁵				
Residential	4,927	3,577	2,565	N/A
Commercial	843	424	231	N/A
Industrial	495	640	1,128	N/A
Public and Semi-public	1,427	4,752	3,206	N/A
Vacant, Agricultural, Wooded and Rivers	3,233	638,287	11,850	N/A

NOTES:

N/A = Not Available

1. 1983 County Estimate
2. 1981-82 City Estimate
3. 1981-82 City Estimate
4. 1983-84 County Estimate
5. 1972 Estimate

Sources:

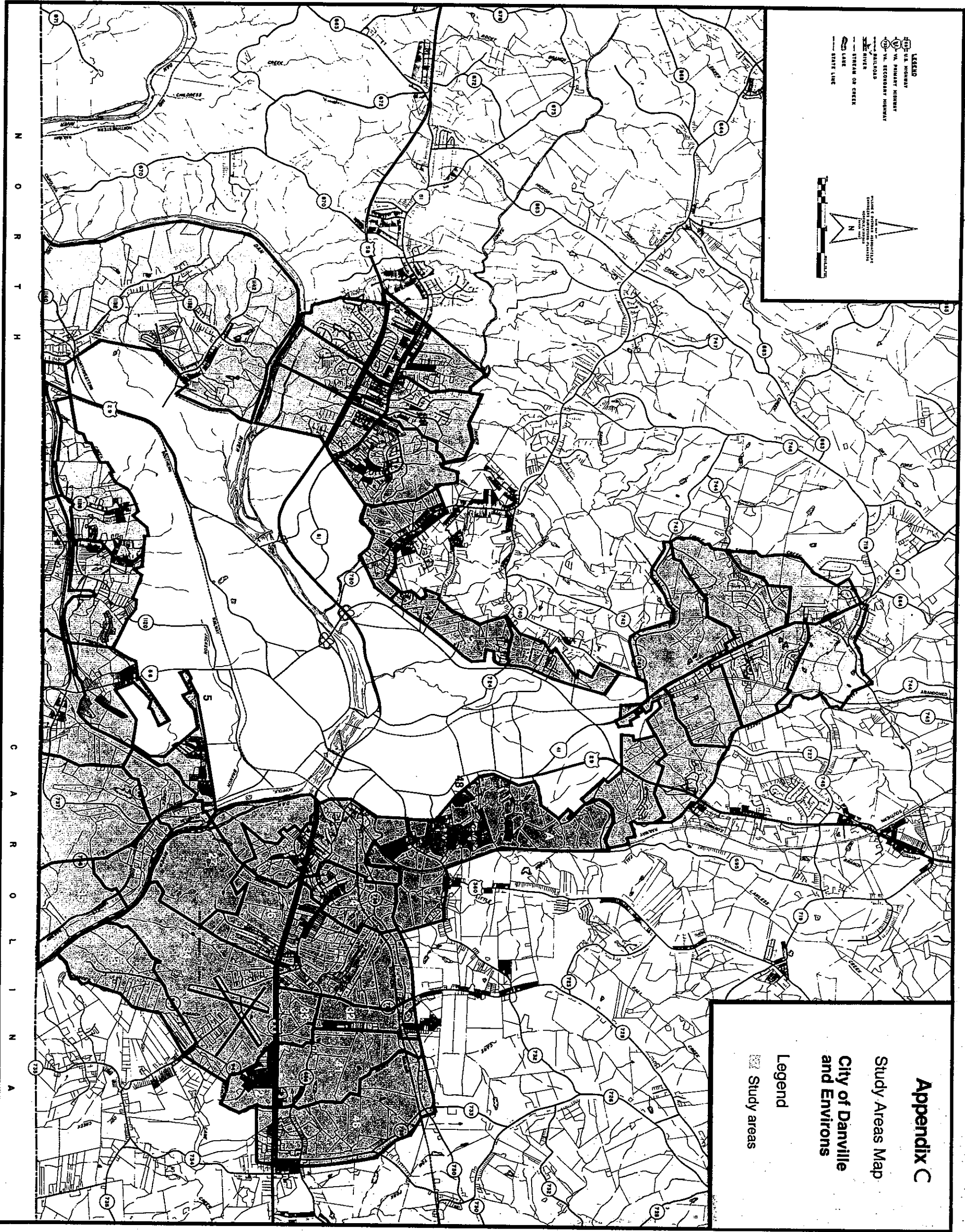
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City of Danville, "Comparative Report Transmittal Forms", December 9, 1982.

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County of Pittsylvania, Annexation Proceedings, Vol. II, Financial Exhibits, 1983.

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LEGEND

- US HIGHWAY
- VA. PRIMARY HIGHWAY
- VA. SECONDARY HIGHWAY
- RAILROADS
- RIVERS
- STREAMS OR CREEKS
- LAKES
- STATE LINE

UNITED STATES GEOLOGICAL SURVEY
WASHINGTON, D. C.

Scale: 1 inch = 1 mile

Appendix C
Study Areas Map
City of Danville
and Environs

Legend
Study areas

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