

REPORT
ON THE
CITY OF LEXINGTON-COUNTY OF ROCKBRIDGE
VOLUNTARY SETTLEMENT
OF
ANNEXATION AND IMMUNITY



COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA

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REPORT
ON THE
CITY OF LEXINGTON - COUNTY OF ROCKBRIDGE
PROCEEDINGS OF THE COMMISSION

On December 19, 1983, the Council of the City of Lexington 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 intent to petition for the annexation of 6.82 square miles of territory in Rockbridge County. Consistent with the Commission's Rules of Procedure, the City's notice was accompanied by data and materials supporting the annexation action.¹ Further, in accordance with statutory requirements, the City concurrently gave notice of its proposed annexation to 22 other political subdivisions with which it was contiguous or with which it shared functions, revenues, or tax sources.² The City's notice also requested the Commission to promote negotiations between the City and Rockbridge County with respect to the proposed annexation.

On January 10, 1984, the Commission met with representatives of the City of Lexington and Rockbridge County for purposes of making preliminary arrangements for its formal review of the City's annexation action and providing appropriate mediation assistance. At that meeting the Commission established a schedule which called for submission of County's materials in response to the annexation action by April 16, 1984 and for oral presentations and a public hearing on the issue during the last week of June 1984. The Commission's report on the annexation action was scheduled for submission in October 1984. The Commission also, with the concurrence of the City and the County, designated Dr. Roger Richman of Old Dominion University to assist the parties in negotiations relative to the annexation action, pursuant to

¹City of Lexington, City of Lexington Annexation Notice and Supporting Data (hereinafter cited as City Annexation Notice), Vol. I, Dec. 1, 1983.

²Sec. 15.1-945.7(A), Code of Va.

appropriate request from both jurisdictions.³

On May 8, 1984, the County of Rockbridge filed notice with the Commission on Local Government, pursuant to the provisions of Sec. 15.1-945.7(A) of the Code of Virginia, of its intention to petition for the immunization of approximately 3.35 square miles of its territory from city-initiated annexation and from the incorporation of new cities.⁴ Consistent with the Commission's Rules of Procedure, the County's notice was accompanied by data and materials supportive of its immunity action. Further, in accordance with statutory requirements, the County concurrently gave notice of its immunity action to 25 other local governments with which it was contiguous or with which it shared functions, revenues, or tax sources.

The County's immunity action, coupled with the City's previously filed annexation action, became the subject of negotiations between the parties, aided by Dr. Richman, in April 1984. On May 23, 1984, after numerous negotiating sessions, the parties executed a statement of intent to enter into a voluntary settlement of their respective issues pursuant to Sec. 15.1-1167.1 of the Code of Virginia. The proposed settlement agreement contained provisions relative to (1) revenue sharing, (2) a waiver by the City of its annexation rights, (3) a waiver by the County of its immunity rights, and (4) the joint provision of services. On May 25, 1984 the Commission was notified of the statement of intent by the parties to settle voluntarily their respective actions. Pursuant to the requirements of Sec. 15.1-1167.1 of the

³At the January 10, 1984 meeting the County indicated that it was not prepared to begin negotiations with the City at that time. In view of this fact, the Commission authorized its Chairman to initiate Dr. Richman's services at a later date upon appropriate request from the localities. Pursuant to such authority, and based upon an appropriate request from the City and the County, the Chairman initiated Dr. Richman's services on April 6, 1984.

⁴County of Rockbridge, Partial Immunity Notice and Petition, (hereinafter cited as Rockbridge Immunity Notice), Vol. I, May 8, 1984.

Code of Virginia, on July 10, 1984, the City of Lexington and the County of Rockbridge formally submitted to the Commission a Notice of Petition for Affirmation of the Voluntary Settlement requesting the Commission's review of the negotiated agreement.⁵ The City and County concurrently gave notice of their proposed agreement to 25 other local governments with which they were contiguous or with which they shared functions, revenues, or tax sources.

Adhering to a schedule previously adopted for review of the proposed annexation action, on July 16, 1984, the Commission toured relevant areas and facilities in the Lexington area and, on the following day, received oral testimony from City and County representatives regarding the proposed agreement.⁶ In addition to its receipt and consideration of material and testimony from Rockbridge County and the City of Lexington, the Commission also solicited comments on the proposed settlement from other potentially affected local governments and from the public. Each locality receiving notice of the proposed agreement was invited by the Commission to submit testimony for its consideration. Further, the Commission held a public hearing, which was advertised in accordance with the requirements of Sec. 15.1-945.7(B) of the Code of Virginia, on July 16, 1984 at the Rockbridge County Courthouse in the City of Lexington. The public hearing was attended by approximately 100 people and produced testimony from eight individuals.⁷ In order to permit receipt of additional comments, the Commission agreed to keep open its record for written submission from the public through August 17, 1984.

⁵County of Rockbridge and City of Lexington, Notice and Petition for Affirmation, July 10, 1984. See Appendix A for the complete text of the Voluntary Settlement.

⁶The City and County jointly advised the Commission on May 25 of their pending submission of the settlement agreement for review and requested the Commission to hold the hearings on the proposed settlement on the dates previously established for review of the City's annexation action.

⁷Due to the death of a close personal friend, Commissioner William S. Hubbard was required to leave Lexington following the tour

SCOPE OF REVIEW

The Commission on Local Government is directed by law to review proposed annexations, petitions for partial county immunity, other local boundary change and transition issues, and negotiated agreements settling such concerns prior to their being presented to the courts for ultimate disposition. Upon receipt of notice of such a proposed action or agreement, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations to the affected local governments.⁸ With respect to a proposed agreement negotiated under the authority of Sec. 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

It is evident that the General Assembly encourages local governments to attempt to negotiate settlement of interlocal boundary change and transition issues. Indeed, one of the responsibilities of this Commission is to assist local governments in such efforts, and the agreement currently before us is the product of interlocal negotiations which were assisted by a Commission-designated mediator. In view of such legislative intent, the Commission believes that interlocal agreements, such as that negotiated by the City of Lexington and Rockbridge County, should be approached with respect and a presumption of their compatibility with applicable statutory standards.

The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Sec. 15.1-1167.1 of the Code of Virginia must be reviewed by this body prior to their final adoption by the local governing bodies.

on July 16 and, consequently, missed the oral presentations and public hearing. In view of this fact, Mr. Hubbard is not a signatory of this report.

⁸Sec. 15.1-945.7(A), Code of Va.

Subsequent to such a review, the Commission is required to determine whether a proposed agreement is "in the best interest of the Commonwealth." We are obliged to conclude, therefore, that while interlocal agreements negotiated for purposes of resolving boundary change issues are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption can not be permitted to render our review pro forma endorsement of any proposed settlement. Our responsibility to the Commonwealth and to the affected localities requires more.

GENERAL CHARACTERISTICS OF THE CITY, THE COUNTY, AND THE URBANIZED
AREA SURROUNDING THE CITY

CITY OF LEXINGTON

The City of Lexington, which was originally incorporated in 1778 as the Town of Lexington, takes its name from the Massachusetts village where the battle that triggered the American Revolution took place. It is one of the Commonwealth's historic cities, with roots commencing with this nation's independence, and currently it is the site of two of the Commonwealth's most distinguished institutions of higher learning, Washington and Lee University and Virginia Military Institute.

Demographic data indicate that, like many other Virginia municipalities, the City of Lexington experienced a population loss during the previous decade, with its populace decreasing between 1970 and 1980 from 7,597 to 7,292 persons, or by 4.0%.⁹ Official demographic estimates for 1982 place the City's population at 7,100 persons, a further decrease of 3.0% during the two-year period since the decennial Census.¹⁰

It is significant to note that the City's population decrease

⁹U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Number of Inhabitants, Virginia, Table 2. See Appendix B for a statistical profile for the City and the County.

¹⁰Julia H. Martin and Michael A. Spar, Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final) and

during the decade of the 1970's would have been much greater if there had not been an increase in the number of students residing in college dormitories located within Lexington. Between 1970 and 1980 the number of dormitory residents increased from 1,580 to 2,105 persons, or by 33.2%, while the City's nondormitory population declined from 6,017 to 5,187 persons, or by 13.8%.¹¹

With respect to the nature of its population, the evidence indicates that the City's populace is considerably older than that of the State as a whole. Data reveal that as of 1980, the percentage of the City's population age 65 and over was 12.3%, a statistic greater than that for the State's population generally (9.5%).¹² This elderly component statistic, however, is not reflected by the median age of City residents, a measure which is influenced heavily by the City's large student population. As of 1980, the median age of Lexington residents was 23.3 years, or significantly less than the comparable figure for the State as a whole (29.8 years).¹³ In terms of college-age population, 1980 Census data reveal that persons age 18 to 24 years comprise approximately 30% of Lexington's total population, while the similar age group in Rockbridge County constitutes only 7% of that jurisdiction's population.¹⁴ Finally, the evidence discloses that the City has experienced a significant decline in an important component of its population base. Between 1970 and 1980 the

July 1, 1982 (Provisional) (Charlottesville: Tayloe Murphy Institute, University of Virginia, Dec. 1983), Table 2.

¹¹U. S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Characteristics of Population, Virginia, Table 120; and 1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173.

¹²1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 14.

¹³Ibid.

¹⁴U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Virginia, Table 45.

number of married families with children under 18 years of age in the City decreased by 21.1%, while the number of such families in Rockbridge County increased during the same period by 5.5%.¹⁵

In terms of geographic considerations, the City of Lexington presently has an area of approximately 2.48 square miles. Of that total area, 37.7% is devoted to institutional, public or semi-public usage, 40.8% is utilized for residential purposes, 4.7% is committed to commercial enterprise, 16.8% is agricultural, wooded or vacant.¹⁶ While approximately 16.8% (266.35 acres) of Lexington's present area is undeveloped, the City has advised that 17.7% of this total (47.05 acres), contains excessive slopes, sinkholes, rock outcroppings, or is within the 100-year floodplain and, therefore, has limited development potential.¹⁷ Thus, according to City data, less than 14% of the City's area, or approximately 219 acres, is vacant and unfettered in its development potential by environmental constraints.¹⁸

While the City of Lexington remains the center of commercial activity in its general area, its commercial prominence has decreased in recent years. Between 1970 and 1983 the City's share of the total taxable sales in the Lexington - Buena Vista - Rockbridge County area decreased from 46.4% to 33.4%.¹⁹ The City's continuing economic role in the area is revealed, however, by data indicating that as of the second quarter of 1983 there were 3,457 positions of nonagricultural wage and salary employment within its corporate boundaries. The largest sectors of such employment were those of service activity

¹⁵1970 Census of Population, Characteristics of the Population, Virginia, Table 36; and 1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173.

¹⁶City Annexation Notice, Vol. I, p. 10-4, Table 10-2.

¹⁷Ibid., p. 10-5, Table 10-3.

¹⁸Ibid.

¹⁹Virginia Department of Taxation, Taxable Sales, Quarterly Reports, 1970; and Taxable Sales, Annual Report, 1983. Between 1970 and 1983 Rockbridge County's share of the taxable sales in the three

(1,430 positions), government (863 positions), and wholesale and retail trade (797 positions).²⁰

COUNTY OF ROCKBRIDGE

Rockbridge County was formed in 1778 from portions of Augusta and Boutetourt Counties. In its formative years the County's agricultural economy was augmented by iron ore production. While agriculture today remains a major component of the County's economy, there is an emergence of manufacturing activity, principally related to textiles.

While Rockbridge County has experienced some population growth in recent years, that growth has been significantly less than that experienced by the State as a whole. Between 1970 and 1980 the County's population increased from 16,637 to 17,911, or by 7.7%, while during the same decade, the State's populace grew by 14.9%.²¹

The State's official population estimates for 1982 indicate that the the County has continued to experience modest growth, with its population increasing since the decennial Census to 18,000 persons, or by 0.5%.²²

Employment data for recent years reveal that the County has also experienced an increase in its commercial and industrial base. Statistics disclose that between 1978 and 1983 the number of nonagricultural wage and salary employment positions in the County increased from 4,022 to 4,671, or by approximately 16%.²³

jurisdictions increased from 28.9% to 46.0%.

²⁰Virginia Employment Commission, Covered Employment and Wages in Virginia for Quarter Ending Sept. 30, 1983 - City of Lexington. Employment positions associated with Washington and Lee University and Virginia Military Institute constituted approximately 1,200 jobs, or 34.7% of the City's total employment. (Ibid.)

²¹1980 Census of Population, Number of Inhabitants, Virginia, Table 2.

²²Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final) and July 1, 1982 (Provisional), Table 2.

²³Virginia Employment Commission, Population and Labor Force

As stated previously, agricultural and forestal activities remain major components of the County's economic base. As of 1982 there were 711 farms in Rockbridge County occupying a total of 158,186 acres, with the raising of livestock constituting the major agricultural activity.²⁴ In addition to this farming activity, 1977 data disclosed that 249,091 acres, or 64.2% of the County's total land area, was producing, or capable of producing wood for industrial usage.²⁵ The continuing rural character of Rockbridge County is further revealed by the fact that, as of 1976, approximately 95.3% of the County's land was classified as agricultural, wooded, or vacant.²⁶

One of the major focal points of recent development in Rockbridge County has been the area surrounding the City of Lexington. This urbanizing sector (embracing generally the territory bounded by Interstate 64 to the north, Interstate Highway 81 to the east, State Route 251 to the south, and Walters Creek and the Maury River to the west) has an area of approximately 10 square miles and contains almost 1000 persons.

Recent demographic data reveal the degree of growth in this area during the past decade. U. S. Bureau of the Census data for

Data, 1975; and Covered Employment and Wages in Virginia for Quarter Ending September 30, 1983 - Rockbridge County. As of 1983, the County's largest employment sectors were manufacturing (2,105 positions), government (891 positions) and retail trade (819 positions).

²⁴U. S. Department of Commerce, Bureau of the Census, 1982 Census of Agriculture, Virginia, Table 4. Rockbridge County ranked ninth in the State in total inventory of cattle and calves. (Ibid., Table 11.)

²⁵Virginia Division of Forestry, Forestry Resource Data, Central Shenandoah Planning District, 1977, Table 2. Land devoted to forestry is also included in the Bureau of the Census' definition of farmland.

²⁶County of Rockbridge, Comprehensive Plan, Volume I, p. 205.

Rockbridge County show that between 1970 and 1980 the two Census enumeration districts which encompass the U. S. Highway 11 - State Route 251 corridor received most of the County's increases in population.²⁷ Collectively, these two districts had a population increase of 35.8% during the decade of the 1970's, a growth rate more than five times that of the County as a whole.

Land use data for the urbanizing area adjacent to Lexington reveal that, although much of the land is vacant or engaged in agricultural or forestal production, there are presently significant concentrations of residential and commercial development adjoining the major arterial roads. This development includes approximately six residential subdivisions located southwest of the City off State Routes 687 and 251 and a concentration of commercial activity along U. S. Highway 11 north to the Interstate Highway 64 interchange. This commercial corridor consists of highway-oriented businesses, such as motels and service stations, as well as the College Square Shopping Center which contains grocery, department and drug stores, and other retail establishments. Further, approximately 300 nonagricultural wage and salary employment positions, or 6% of the County's total of such employment, are located within this urbanizing area.²⁸

The growth of the area adjacent to Lexington has been facilitated by the presence of public facilities. These facilities include City-maintained water and sewer lines, utility lines and related facilities owned and operated by the Rockbridge County Public Service Authority (RCPSA), a water treatment plant operated by the Maury Service Authority, and one County elementary school. The significance of the area to Rockbridge County is suggested by the fact that the RCPSA derives a large part of its revenue from connections served therein.

²⁷City of Lexington, Lexington Comprehensive Plan (Draft) August 1983, p. 21.

²⁸Virginia Employment Commission, Special Area by Industry for Quarter 1-83, Area 163 -- Rockbridge County.

Anticipated future land uses in the area adjacent to Lexington, as delineated by County plans, emphasize the continued expansion of residential development, as well as moderate increases in industrial and commercial activity.²⁹ Consistent with those plans, present zoning regulations encourage commercial and industrial development along the major thoroughfares in the area.³⁰ Other elements that will affect the future development potential of the area include both natural features (e. g., soil suitability, slope, flood hazard, and the presence of sinkholes) and man-made factors (e. g., availability of utilities, transportation facilities, and other urban services.) Based upon consideration of those elements, the area surrounding the City contains substantial amounts of land suitable for intensive development. Specifically, the U. S. Highway 11 corridor to the northeast of the City and the State Route 251 corridor to the southwest are the portions of the urbanizing area most suitable for intensive development.³¹

STANDARD FOR REVIEW

As indicated previously, the Commission on Local Government is charged with reviewing interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia for purposes of determining whether such agreements are "in the best interest of the Commonwealth." In our judgment, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general fiscal and social viability of the

²⁹County of Rockbridge, Partial Immunity Proceedings, Map Exhibits, 1984, Exh. 3.

³⁰Data taken from a map provided staff of Commission on Local Government by Don G. Austin, County Administrator, County of Rockbridge, November 1984.

³¹County of Rockbridge, Comprehensive Plan, Vol.II, pp. 33-71.

affected localities. In this instance the Commission is confronted with a task never before, to our knowledge, undertaken by any state judicial or administrative body in the nation - namely, a critical review of a proposed economic growth-sharing agreement between a city and a county, accompanied by the municipality's agreement to relinquish permanently its authority to institute any future annexation actions involving that county.³² An appropriate analysis of the City of Lexington - Rockbridge County agreement requires, obviously, consideration of the fiscal impact of the proposed economic growth-sharing agreement on both jurisdictions and the ramifications of the permanent foreclosure of the City's annexation authority. It is appropriate to acknowledge here this Commission's full awareness of the fact that the projection of future events is always hazardous and that a precise determination of future circumstances is beyond human capacity. The comments which we offer in the succeeding sections of this report are premised on this understanding.

CITY OF LEXINGTON

The proposed agreement would bar the City of Lexington in perpetuity from initiating annexation actions involving territory in Rockbridge County. Thus, the agreement would foreclose this means of bringing additional land, population, and tax resources within the City's corporate limits. In lieu of such foreclosure, the agreement would establish an economic growth-sharing plan under which the County would make an annual revenue payment to the City. This annual payment would be equal to the revenue which would be generated by a tax of \$.07 per \$100 of the assessed value, based on the previous year's assessment, of all taxable real estate in the County (exclusive of

³²See Voluntary Settlement of Annexation and Immunity (hereinafter cited as Voluntary Settlement), Secs. 2.00, 3.00. The agreement also calls for the City to refrain from either supporting or resisting annexation actions initiated by County residents under the authority of Sec. 15.1-1034 of the Code of Virginia.

public service corporation property).³³ The agreement would limit any annual increase in the County's payment to 6% except during a year of reassessment when the payment to Lexington would be unconstrained.³⁴ The City has calculated that the proposed economic growth-sharing plan would provide Lexington approximately \$227,000 in FY1984-85, if the agreement were in effect.³⁵ Such a payment would represent approximately 3.9% of the City's total budgetary needs for the fiscal year.³⁶ According to City projections, the County payment will increase to between \$446,000 and \$527,000, depending on the assumptions which are used, by FY2004-05.³⁷

It is significant to note that the City's most conservative estimate of revenue yield under the economic growth-sharing plan is based upon the assumption of a 1% annual growth in the County's locally assessed property values, with a 15% increase occurring each reassessment year (now every sixth year). In contrast, the County has projected the growth of its real property assessables (exclusive of public service corporation properties) by 2% annually over the next

³³Voluntary Settlement, Sec. 3.01. The payment by the County would be calculated on use-value assessments.

³⁴Ibid., Sec. 3.01(3).

³⁵T. C. Imeson, Councilman, City of Lexington, memorandum to John V. Doane, City Manager, City of Lexington, June 25, 1984. This memorandum sets forth two sets of projections regarding future growth in the County's assessed values and in the annual payment to the City. One set of projections (Case A) assumes an annual increase in the County's assessed values of 4.3%, and a second set (Case B) assumes a 1% annual increase in assessed values for non-reassessment years and a 15% increase during each reassessment year (currently every sixth year). Case A would generate, in time, substantially greater payments to the City. For the projections of Case A to be realized, however, the County would have to adopt a program of annual reassessment.

³⁶Doane, memorandum to Commission on Local Government, July 12, 1984.

³⁷Imeson, memorandum to Doane, June 25, 1984.

several decades, and by 15% during reassessment years.³⁸ If the County's projections prove correct, as of January 2005 locally assessed real property in Rockbridge County would exceed the City's estimate by \$52.3 million, making the prospective payment to Lexington for that fiscal year \$563,447, or \$36,600 in excess of the City's largest projected receipt.

As stated previously, the proposed economic growth-sharing plan excludes from consideration the public service corporation assessables in the County. As of 1983, such assessables constituted approximately 10% of Rockbridge County's combined real estate and public service corporation values. Between 1973 and 1982 the true value of public service corporation property in Rockbridge County increased at a rate, according to County calculations, of 6.45% annually. Based upon this historical trend and other considerations, the County projects the growth of the assessed value of its public service corporation property to be 5% annually through the next quarter-century.³⁹ Thus, public service corporation properties are expected to have a rate of growth more than double that of the County's locally assessed real property.

While conclusive data are certainly not available, projections do suggest that even assisted by the proposed economic growth-sharing plan the City will confront financial difficulty in meeting its anticipated revenue needs. The City has submitted data to the Commission indicating that its expenditures will substantially outstrip its revenues during the forthcoming twenty-year period. Assuming the continued availability of its current revenue sources and the continued application of the City's current (1984) tax rates, projections suggest that Lexington's revenue shortfall during FY1994-95 might

³⁸County of Rockbridge, Supplemental Exhibits of Rockbridge County (hereinafter cited as County Supplemental Exhibits), Sept. 21, 1984, Exh. B.

³⁹Ibid. The exclusion of the assessed values resulting from Vepco's cross-County electric transmission line would reduce the average annual growth in public service corporation values during the

range between \$779,071 and \$2.2 million and during FY2004-05 between \$1.5 million and \$6.6 million.⁴⁰ Thus, for FY1994-95, acceptance of the City's most conservative deficit projection (\$779,071), and acceptance of its most optimistic projected payment from the County (\$346,000), Lexington's unmet revenue needs for that fiscal year would be approximately \$433,000. If this revenue shortfall (\$433,000) was met solely from the City's projected taxable real property assessables for tax year 1995 (\$176.2 million), an increase of \$.25 in Lexington's real property tax rates would be required.⁴¹

To be sure, the City of Lexington may well be able to generate additional funds from other revenue sources, but there are, however, real constraints that will restrict such opportunity. First, the evidence indicates that in terms of personal property, a major alternative source of local revenue, the City of Lexington already has one of the highest tax rates among the cities of the State. As of 1983, Lexington's nominal tax rate on tangible personal property (\$4.80 per \$100 of assessed value), was exceeded by that in only nine of Virginia's 41 cities.⁴² Moreover, with respect to the application of that 1983 tax to motor vehicles (the largest component of taxable

1973-82 period to 4.61%. It should be noted that the growth in public service corporation values is not subject to extraordinary changes resulting from reassessments.

⁴⁰Data and projections submitted to the Commission on Local Government as attachments to letter from Doane, Sept. 26, 1984 (hereinafter cited as City Data and Projections), Tables 2A, 2B.

⁴¹Assuming a deficit in City revenues of \$2.2 million in FY 1994-95 and receipt from the County of \$346,000, Lexington would confront a net revenue shortfall of approximately \$1.9 million during that fiscal year. If this net revenue shortfall was met solely from real property taxes, an increase of \$1.08 in the City's real property tax rates, based upon Lexington's taxable projected taxable real property assessables at that time would be required.

⁴²Virginia Department of Taxation, Local Tax Rates, Tax Year - 1983, Table 2.

personal property), Lexington's effective tax rate (\$4.56) was greater than that in all but four Virginia cities, and it exceeded the average for all the Commonwealth's cities (\$3.13) by 46%.⁴³ Both the City's current tax rate on personal property and its diminished prospects for any significant increase in its personal property tax base restrict, it appears to us, the growth potential of this revenue source.

Second, the evidence suggests that future growth in the City's local sales tax receipts may be limited. With respect to this point, the Commission notes that while Lexington's local sales tax receipts increased from \$265,767 to \$306,916 between 1978 and 1983, during that period the annual increase diminished each year.⁴⁴ With respect to the latter point, it is significant that the increase in the City's sales tax receipts from 1982 to 1983 was only 0.9%. On the basis of this recent experience, and given the limited amount of property available for new commercial development in the City, the Commission has considerable difficulty anticipating any significant and sustained growth in Lexington's local sales tax collections.

Third, with respect to the City's consumer utility taxes, the record discloses that Lexington's rates are presently at the maxima prescribed by law.⁴⁵ Given this fact and the limited opportunity for significant new development in the City, the future growth of this revenue source in Lexington is likely to be modest. Consistent with this view, the City projects a growth of only 0.1% annually in receipts from this revenue source in future years.⁴⁶

⁴³Albert W. Spengler, Tax Rates in Virginia's Cities, Counties and Selected Towns: 1983 (Charlottesville: Institute of Government, University of Virginia, 1983), Appendix C.

⁴⁴Taxable Sales, Annual Report, 1978-83. The City projects a growth in its local sales and use tax receipts between 4% and 7% per year during the next several decades. (See City Data and Projections, Tables 4A, 4B.)

⁴⁵See Secs. 58-587.1 and 58-617.2, Code of Va.

⁴⁶City Data and Projections, Tables 4A, 4B.

Fourth, in terms of the City's business, professional, and occupational license taxes, the data suggest that only a modest increase in revenue from this source may be expected in future years. We note, for example, that Lexington issued 391 business, professional, and occupational licenses in 1981, while the number issued in 1984 (through November 27, 1984) has totaled only 390. Revenue from these licenses was \$145,532 in 1981 and \$156,956 in 1984 (through November 27, 1984).⁴⁷ These figures do not reflect a significantly expanding revenue source. Moreover, the City's tax rate in each of the license categories is presently at the maximum prescribed by law.⁴⁸ Again, it is difficult for the Commission to anticipate any significant growth in the City's receipts from business, professional, and occupational license taxes. The limited opportunity for new commercial development in the City can be expected to restrict the growth of this as well as other business-related revenues (e. g., bank stock taxes).⁴⁹

The City of Lexington, like other Virginia localities, is not required to rely totally on locally produced revenues, for its fiscal needs are also met in part by intergovernmental aid. For FY1981-82, the data reveal that 29.46% of the City's general government revenues was derived from various State aid programs, and another 7.7% of the total came from direct federal assistance.⁵⁰ It is important to observe here that a number of intergovernmental aid programs distri-

⁴⁷Courtney P. Baker, Commissioner of Revenue, City of Lexington, letter to staff Commission on Local Government, Nov. 29, 1984.

⁴⁸Ibid. The maximum rates are established by Sec. 58-266.1, Code of Va.

⁴⁹Bank stock tax collections by the City of Lexington totaled \$33,709 in FY 1978-79 and \$32,094 in FY 1982-83. (City of Lexington, Finances of the City of Lexington, Virginia, reports for fiscal years ending June 30, 1979 and June 30, 1983.)

⁵⁰Virginia Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures Year Ended June 30, 1982, Exh. A.

bute assistance based on various population indices, with the consequence that a declining or static population in a locality will restrict revenue yields. State aid for education, for example, is affected by a locality's school-age population and by the number of students enrolled in its public school system. With respect to such statistics, the data indicate that between 1980 and 1983 Lexington's school-age population decreased from 953 to 820, or by 14.0%, while the average daily membership (ADM) in the City's public schools decreased from 918 in school-year 1978-79 to 778 in school-year 1982-83, or by 15.3%.⁵¹ These statistics do not necessarily foreshadow an absolute decrease in State educational aid for the City of Lexington, for other factors affect the level of such assistance, but they do, however, affect the future growth of such assistance.

Another form of State assistance which is affected by a locality's population size is the distribution of profits from the Commonwealth's sale of alcoholic beverages. It is appropriate to note that between 1978 and 1983 the City's receipts from this State assistance program decreased from \$29,929 to \$25,994.⁵² While the distribution of profits from the sale of alcoholic beverages provides Lexington with only modest revenue, this State aid program is an example of another revenue source which will be affected by Lexington's lack of population growth. It is not clear to the Commission that Lexington will benefit from the 2% annual growth in receipts from this revenue source which the City has projected for future years.⁵³

Moreover, any analysis of Lexington's fiscal future must allow for the possibility of the further constriction, or even termination, of

⁵¹Virginia Department of Education, Virginia School Census, 1980 and 1983; and Facing Up, Statistical Data on Virginia's Public Schools, 1978-79 and 1982-83 school years, Table 3.

⁵²Finances of the City of Lexington, Virginia, reports for fiscal years ending June 30, 1978 and June 30, 1983.

⁵³City Data and Projections, Tables 4A, 4B.

some existing intergovernmental aid programs. Federal deficits may reasonably be expected to increase political pressures to reduce further federal assistance programs. Direct federal assistance to the City of Lexington comes totally at this time from the General Revenue Sharing (GRS) program. It is relevant to note that the City's receipts under this program have diminished in recent years from \$211,084 in FY1977-78 to \$186,046 in FY1982-83.⁵⁴ By the latter date, GRS funds still constituted, however, approximately 6.4% of the City's total general government revenue. While the City's revenue projections for the next several decades assume the continued availability of GRS receipts (at \$196,000 per year), the current GRS program, it must be observed, is due to expire in September 1986.⁵⁵ Despite the popularity of this federal aid program, the continued existence of the program beyond September 1986 is in doubt.

Proceeds from utility operations constitute an additional revenue source for some localities. The City of Lexington, however, has adhered to a municipal policy of having all utility revenues reinvested in its utility operations. Moreover, an analysis of Lexington's water and sewer rates reveals that, in relation to cities of comparable size, the City's utility charges are already relatively high. This fact would inhibit any effort by Lexington to have its utility operations contribute to the support of general government operations.⁵⁶

The future fiscal health of the City of Lexington will also be affected by the City's expenditures for public services. The City projects a general increase in its expenditures between 4% and 7% per year over the next quarter-century. A growth of the City's expenditures occurring at any rate within that range is projected to result

⁵⁴Finances of the City of Lexington, Virginia, reports for fiscal years ending June 30, 1978 and June 30, 1983.

⁵⁵City Data and Projections, Tables 4A, 4B.

⁵⁶An analysis of utility rates in the Cities of Lexington, Buena Vista, Franklin, Galax, South Boston, and Manassas Park indica-

in growing deficits for the City based upon its anticipated revenue.⁵⁷ While all projections are speculative, and few conform precisely with future reality, the current data do suggest that Lexington will confront a growing revenue shortfall in future years.

With respect to the issue of the City's future expenditures, the Commission notes that Lexington provides a considerable number of its public services through cooperative agreements with neighboring jurisdictions. Under the terms of a Joint Services Contract, the City and Rockbridge County cooperate in the provision of a variety of judicial, public safety, utility, and recreational services. Further, the City and the County also have jointly constructed and operate a high school to serve their students. Moreover, the two jurisdictions, in collaboration with other localities, participate in a wide variety of other public activities (e. g., solid waste disposal, mental health and mental retardation services, criminal justice training, library services, and economic development).⁵⁸ Such cooperative action in the provision of public services may restrain the growth of Lexington's expenditures in the years ahead. Since many of these jointly provided services are funded on the basis of population size or incidence of use, Lexington's projected limited growth may also be expected to restrain the increase in future City expenditures.⁵⁹

In terms of Lexington's anticipated future capital needs, the City projects total expenditures of approximately \$6.1 million through

tes that only the latter municipality had in 1983 a combined rate for water and sewerage services exceeding that in the City of Lexington. (Virginia Municipal League, 1983 Water and Sewer Rates in Virginia Cities, Towns and Urban Counties.)

⁵⁷City Data and Projections, Tables 2A, 2B.

⁵⁸See City Annexation Notice, Vol. I, pp. 9-1--9-5; and Rockbridge Immunity Notice, Vol. III. The latter document contains copies of the major public service contracts between the City of Lexington and Rockbridge County.

⁵⁹Based on audited data, total City expenditures increased by 1.7% from FY1980-81 to FY1981-82 but decreased by 3.1% from FY1981-82 to FY1982-83. (City Data and Projections, Table 2A.)

the year 2010 for various facilities, with \$4.8 million of that total expected to come from local sources.⁶⁰ It should be noted that approximately \$3.4 million (all local funds) of the anticipated capital expenditures are earmarked for water and sewer improvements. Presumably, these costs would be recovered through connection fees and user charges and would not impact the local tax structure.⁶¹ Thus, over the next quarter-century only \$1.4 million may be required from general fund sources to meet the City's future capital needs.⁶²

In sum, there is reason to believe that Lexington's future expenditure growth may be constrained to a modest level. If the City's expenditures are so constrained, future fiscal pressures on Lexington would be reduced accordingly.

The Commission does, nevertheless, have concern for the fiscal future of the City of Lexington. We note that based upon the City's estimated 1982 population and its total local tax collections for FY1982-83, residents of the City of Lexington bore a local per capita tax burden of \$248.08, or 25% more than the comparable figure for residents of Rockbridge County (\$198.18).⁶³ Moreover, the inclusion of a large number of students in Lexington's population figure produces a per capita local tax statistic which probably understates the

⁶⁰"Lexington Projected Capital Needs 1985-2010," table prepared by staff of City of Lexington, Sept. 14, 1984, submitted to the Commission on Local Government as an attachment to letter from Doane, Sept. 26, 1984. The City staff has cautioned that the capital needs estimates may vary by as much as 50%.

⁶¹It might also be observed that some of the proposed sewer improvements (e. g., the infiltration/inflow line replacement program) could result in increasing the capacity of the City's sewage treatment plant, thereby possibly permitting Lexington to "sell" more treatment service to the County. Further, the proposed water line improvements could result in less water loss, thereby reducing the City's water purchases from the Maury Service Authority.

⁶²No school improvements are listed in the City's projected capital needs through the year 2010.

⁶³Virginia Auditor of Public Accounts, "City of Lexington Comparative Reporting Transmittal Forms for the Year Ending June 30,

actual local tax burden borne by the permanent Lexington resident.⁶⁴ Further, in terms of Lexington's general fiscal health, a comprehensive analysis of all Virginia's counties and cities (136 in total) recently concluded that, based upon consideration of five separate and equally weighted indices, the fiscal stress borne by the City of Lexington was exceeded only by that experienced in six other localities.⁶⁵

In addressing the City's future fiscal needs, the evidence indicates that due to Lexington's limited potential for new business and commercial development, the City will be largely required to meet such needs through dependence on its existing tax base. Supporting this view is the fact that, according to City calculations, Lexington contains only 219 acres of vacant property which are unfettered in their development potential by serious environmental constraints (e. g.,

1983"; and Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final), and July 1, 1982 (Provisional), Table 2. The tax totals used in this calculation exclude collections from sales and use, transient lodging, and restaurant taxes which are, to a significant degree, borne by nonresidents.

⁶⁴While the residence of all students attending the institutions of higher learning in the area cannot be precisely determined, the predominant portion of the total apparently resides in the City. The 1980 Census lists 2,105 persons living in college dormitories as comprising part of the City's population, while the County's population total included no persons in such residential facilities. (1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173.) The significance of college students as a component of the City's total population, and some evidence of the fiscal ramifications of this fact, is revealed by data indicating that for Tax Year 1981 the number of persons submitting State tax returns in Lexington comprised only 34% of the City's population, while the comparable figure for the State as a whole was 47.8%. (Virginia Department of Taxation, Annual Report --1982-1983, Table 1.5)

⁶⁵Joint Legislative Audit and Review Commission, Virginia General Assembly, State Mandates on Local Governments and Local Financial Resources, House Document No. 15, 1984, Appendix G. The indices measured in this calculation (identified in the study as Method 2) were those of revenue capacity, the change in revenue capacity between 1977-81, tax effort, the change in tax effort between 1977-81, and the incidence and severity of population poverty.

slopes in excess of 20%, floodplain, rock outcroppings).⁶⁶ Of this net developable vacant land, 147.5 acres (67.1% of the total) are currently zoned for one-family or two-family residential development, while another 69.2 acres (31% of the total) are zoned for other forms of residential usage (e. g., multi-family, high rise).⁶⁷ Only 1.78 acres of vacant developable land in the City are located in districts zoned primarily for commercial activity, with another 1.2 acres of such land being situated in districts zoned for mixed development.⁶⁸ Thus, at the present time the City has only approximately three acres of land zoned for some form of commercial activity which are vacant and environmentally suited for development.

Recent sales tax data point, as noted before, to Lexington's diminishing role in the retail activity of the general area. In 1970 retail sales in the City constituted 46.4% of the total for the area (encompassing Rockbridge County, the City of Lexington, and the City of Buena Vista), while by 1983 the City's percentage of the total had decreased to 33.4%.⁶⁹ While on a per capita basis the City's taxable sales in 1980 (\$3,911) remained nearly double that in the County (\$2,068), the disparity in the growth rate of such per capita sales during the preceding decade in the two jurisdictions (74.8% in the

⁶⁶City Annexation Notice, Vol. I, p. 10-5.

⁶⁷Lexington Comprehensive Plan (Draft), Table 32. Calculations indicate that 19.3% (57) of all vacant lots in the City (296) as of 1983 contained less than 6,000 square feet and, therefore, under Lexington's zoning ordinance were too small to permit the erection of any structure. Moreover, the City's draft comprehensive plan states that several of the largest vacant parcels in Lexington are probably unavailable for development due to the nature of their estate or trust ownership. (Ibid., p. 129.)

⁶⁸Ibid., Table 32. Virtually all of the vacant acreage in the primary commercial zones is in the City's historic district which imposes added restrictions on development for purposes of protecting the City's historic heritage.

⁶⁹Taxable Sales, Quarterly Reports, 1970; and Taxable Sales, Annual Report, 1983. An analysis of data for the second quarter of 1984 reveals that Lexington's share of the total taxable sales in the

City, 224.7% in the County) suggests a rapidly changing retail trade pattern. Also supporting our concern for Lexington's future commercial growth are employment data for recent years. Statistics indicate that between 1978 and the second quarter of 1983 the number of nonagricultural wage and salary employment positions in the City increased only by approximately 4%, while Rockbridge County experienced a growth in such employment during the period of over 16%.⁷⁰ Thus, based on an analysis of developable land, retail sales patterns, and employment data, it is difficult to project any significant future commercial growth within the City of Lexington.

Given the above-cited data, the evidence suggests that the City of Lexington will be required to generate its future local revenue primarily from its existing tax base, principally its real and public service corporation properties. With respect to such a necessity, it is significant to note that the true value of real and public service corporation properties in the City has grown substantially less than that in Rockbridge County. Between 1970 and 1980 the true value of such property in the City increased from \$40.7 million to \$105.0 million, or by 158%, while during the same period such values rose in the County from \$120.4 million to \$430.3 million, or by 257%.⁷¹ Contrary to that pattern, however, between 1980 and 1982 the rate of growth in the true value of real estate and public service corporation property in Lexington and Rockbridge County was virtually the same (11.9% and 12.0% respectively).⁷² Nevertheless, by the latter data

area had dropped during that quarter to 32.8%. Taxable Sales, Quarterly Report, April-June 1984.)

⁷⁰Population and Labor Force Data, 1978; and Covered Employment and Wages for Quarter Ending September 30, 1983 - City of Lexington.

⁷¹Virginia Department of Taxation, Estimated True (Full) Value of Locally Taxed Property in the Several Counties and Cities of Virginia - 1970, June 1971; and Virginia Assessment/Sales Ratio Study, 1980, March 1982.

⁷²Virginia Assessment/Sales Ratio Study, 1982, March 1984.

(1982) the per capita true value of such property in the City (\$16,554) was only 61.9% of that in the County (\$26,763). While the future growth of such values in the City and the County remains speculative, recent data support the view that such growth in Lexington will be more modest than that in Rockbridge County.

In considering the City's need to rely principally on its real and public service corporation properties to meet its future revenue needs, it must be observed that, based on 1984 data, 55.9% of Lexington's total assessment is exempt from local property taxation. Thus, the remaining 44.1% of the City's total assessment was required to bear the City's entire real property tax burden. Moreover, since 65.7% of the City's 1984 taxable assessment was derived from single-family residential property, the real property tax burden in Lexington was largely being carried by such property.⁷³ While future events may, indeed, see the establishment of new or expanded revenue sources available to Virginia localities or the expansion of intergovernmental aid programs, Lexington's most realistic prospect for meeting its future fiscal needs entails increased reliance on its existing real property tax base.⁷⁴

ROCKBRIDGE COUNTY

The Commission has reason to be optimistic regarding the fiscal future of Rockbridge County. In recent years the County has experi-

⁷³Baker, communication with staff of Commission on Local Government, Dec. 3, 1984. It might be noted here that while both the Virginia Military Institute and Washington and Lee University have plans for further physical growth within the City, those plans apparently will not, based upon comments offered by officials of those institutions, result in much additional property being taken off the City's tax rolls. The Commission has been advised that 11.7% of the total assessed real property values in Rockbridge County in 1984 was tax exempt. (Patricia Self, Deputy Commissioner of Revenue, Rockbridge County, communication with staff of Commission on Local Government, Dec. 10, 1984.)

⁷⁴The last major State aid program was initiated in July 1980 with the enactment of a measure providing assistance to local governments which maintained police departments. The proceeds from that

enced a modest population growth, an incipient diversification of its economy, and a steady accretion in property values. Further, the County's road network, expanding utility operations, and extensive developable land suggest that the County is capable of attracting additional development in the years ahead.

In terms of recent development, we have previously noted that between 1970 and 1980 the County's population increased from 16,637 to 17,910 persons, or by 7.7%.⁷⁵ Further, population projections forecast a County populace of 20,100 persons by the year 2000.⁷⁶ Thus, unlike the City of Lexington, Rockbridge County can contemplate a modest population growth in the forthcoming decades.

With respect to the diversification of its economy, and as observe earlier, the data reveal that between 1978 and the third quarter of 1983 the number of nonagricultural wage and salary employment positions in the County increased from 4,022 to 4,671, or by 16.1%, with the largest increases in new employment being in the construction and trade categories.⁷⁷ The diversification of Rockbridge County's economy is also suggested by the fact that total taxable sales within the

program to the City of Lexington have grown modestly from \$98,145 in FY1980-91 to \$105,549 in FY1983-84. The City's receipts from this State aid program will decrease to \$100,579 during FY1984-85, but they will increase to \$111,180 during the ensuing fiscal year. (Richard D. Brown, Virginia Department of Planning and Budget, communication with staff of Commission on Local Government, Nov. 29, 1984.) Given the fact that population is a major determinant in the distribution formula used in this program, Lexington's static population will restrain any growth in its future receipts from this revenue source.

⁷⁵1980 Census of Population, Number of Inhabitants, Virginia,
Table 2.

⁷⁶Virginia Department of Planning and Budget, Virginia
Population Projections 2000. These projections will be affected to some degree by the Buena Vista annexation which took effect January 1, 1984. That annexation was estimated to reduce initially the County's population by 214 persons and its area by 3.6 square miles.

⁷⁷Population and Labor Force Data, 1978; and Covered Employment
and Wages for Quarter Ending September 30, 1983 - Rockbridge County.

County rose from \$10.6 million to \$37.0 million between 1970 and 1980, an increase of 249.6%. Further, the total value of such sales increased to \$46.0 million by 1983, a growth in excess of 24% during that three-year period.⁷⁸ From 1970 through 1983 Rockbridge County's portion of the total taxable retail sales in the general area (encompassing the Cities of and Buena Vista and Rockbridge County) grew from 28.9% to 46.0%.⁷⁹ Thus, the evidence reveals a diversification of the County's economy and a growing retail sales base.

Also, as noted earlier, recent growth in the true value of the County's real and public service corporation properties reflects favorably on the County's general economic condition. The data reveal that between 1970 and 1980 the estimated true value of such property in the County rose from \$120.4 million to \$430.3 million, or by 257.3%.⁸⁰ During the ensuing two years (1980-82) the value of such property in the County grew to \$481.7 million, or by an additional 12.0%.⁸¹ As of 1982, the per capita true value of real and public

These data may contain some error due to the methodology utilized by the Virginia Employment Commission. Some employment positions in the County may be included in the totals for the City of Lexington due to reliance on mailing addresses in the tabulation process. The "trade" category includes wholesale and retail businesses. Further, the total number of employment positions in the County was reduced by the annexation of three manufacturing firms by the City of Buena Vista on January 1, 1984.

⁷⁸Taxable Sales, Quarterly Reports, 1970; and Taxable Sales Annual Report, 1980.

⁷⁹Taxable Sales, Annual Report, 1983. Data for the second quarter of 1984 indicate that the County's percentage of the total taxable retail sales in the area had risen to 47.2%. (Taxable Sales, Quarterly Report, April - June 1984.)

⁸⁰Estimated True (Full) Value of Locally Taxed Property in the Several Counties and Cities of Virginia - 1970, June 1971; and Virginia Assessment/Sales Ratio Study, 1980, March 1982.

⁸¹Virginia Assessment/Sales Ratio Study, 1982, March 1984.

service corporation property in the County was \$26,763, or 97.2% the comparable figure for the State as a whole (\$27,526).

With regard to the current general fiscal health of Rockbridge County, several additional statistics might be observed. First, based on the County's total local tax collections in FY1982-83 and its estimated 1982 population, residents of Rockbridge County paid per capita local taxes of \$198.18, substantially less than the local per capita tax burden borne by residents of Lexington during the same year (\$248.08).⁸² Second, a recent study commissioned by the General Assembly found that Rockbridge County (based on consideration of its revenue capacity, tax effort, and the incidence of poverty) experienced a degree of fiscal stress only slightly greater than the state-wide average for all Virginia's counties and cities.⁸³ These data support the conclusion, that Rockbridge County presently enjoys relatively good fiscal health, with prospects for reasonable economic growth in the future.

At the request of this Commission, the County has projected its future revenues and expenditures for the next quarter-century. Recognizing again the inherent limitations of such projections, it is significant to note, nevertheless, that those revenue and expenditure projections suggest the persistence of a positive balance in

⁸²Virginia Auditor of Public Accounts, "County of Rockbridge Comparative Reporting Transmittal Forms for the Year Ending June 30, 1983"; and Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final), and July 1, 1982 (Provisional), Table 2. The tax totals exclude the local 1% sales and use tax receipts and, in the case of Lexington, the transient lodging and restaurant tax collections, which are borne to a significant degree by nonresidents. The per capita local tax burden for the State as a whole in FY1981-82 was \$360.31.

⁸³State Mandates on Local Governments and Local Financial Resources, 1984, Appendix G. This analysis established several numerical scales of fiscal stress, with higher values signifying, in each instance, a greater degree of such stress. On the scale which gave equal weight to all factors (Method 2), Rockbridge County received a rating of 23.00, while the State average for all counties and cities was 22.87. The City of Lexington's rating on this scale was 30.50, which was exceeded by ratings in only six of the State's

Rockbridge County's combined accounts during the period covered.⁸⁴ While the County's expenditure forecast does not include the proposed annual payment to the City of Lexington, it does not indicate that such payments will place an inordinate fiscal burden on Rockbridge County.⁸⁵ Barring extraordinary events, it would appear that Rockbridge County can properly address the needs of its residents and support its proposed economic growth-sharing agreement with the City of Lexington without threatening its future economic viability.

FINDINGS AND RECOMMENDATIONS

The previous sections of this report have endeavored to consider the potential ramifications of an agreement negotiated by the City of Lexington and Rockbridge County by which the City would relinquish in perpetuity its authority to initiate annexation actions and by which the City would share in the growth of locally assessed real property values in Rockbridge County. In accordance with the statutory direction, the Commission has reviewed the proposed agreement for purposes of determining whether it is in "the best interest of the Commonwealth." We have approached this undertaking with the view that the interest of the State in this and other interlocal agreements is, fundamentally, the protection and preservation of the viability of the affected local governments.

Neither this proposed agreement, nor any other, can be analyzed in the abstract. Such interlocal agreements must be considered on the basis of the characteristics of the affected jurisdictions and on the basis of the conditions which prevail in their general area. In this instance, and with respect to the latter point, it is important to note that while the Lexington - Rockbridge area has in recent years

136 counties and cities.

⁸⁴County Supplemental Exhibits, Exh. A.

⁸⁵The County's average effective true tax rate of \$.37 per \$100 of assessed value in 1982 would appear to give the County some latitude in addressing its future revenue needs. (Virginia)

experienced population and economic growth, that growth has not been pronounced, nor equal to that in the Commonwealth generally. The relative significance of development in the Lexington - Rockbridge area (defined to include only the two jurisdictions) in recent years may be determined by comparison with certain statewide data. With respect to population growth, and in terms of increases in nonagricultural wage and salary employment, taxable retail sales, and the true value of real and public service corporation property values, the data reveal that between 1970 and 1982 such growth in the Lexington - Rockbridge area was 3.6%, 14.4%, 163.0%, and 271.9% respectively, while the comparable growth rates for the State as a whole were 17.8%, 41.3%, 203.7%, and 327.4%.⁸⁶ Further, demographic projections for the Lexington - Rockbridge area through the end of the century do not forecast any major population growth, which is both a factor in and a product of economic development. Any analysis of the proposed City of Lexington - Rockbridge County agreement must be conditioned by an awareness of these circumstances.

As noted previously, according to City calculations the proposed agreement would provide Lexington with approximately \$227,000 in fiscal assistance from the County during FY1984-85. Data indicate that, depending upon the assumptions which are used regarding the growth of the County's locally assessed real property, the City's receipts under the proposed economic growth-sharing plan would increase gradually and range between \$272,000 - \$280,000 in FY1989-90, \$325,000 - \$346,000 in FY 1994-95, \$389,000 - \$427,000 in FY1999-2000,

Assessment/Sales Ratio Study, 1982.) In 1982 twenty-four counties in Virginia had an average effective true tax rate less than \$.37 per \$100 of assessed value.

⁸⁶Julia H. Martin and Michael A. Spar, Growth in Virginia, 1970--1980 (Charlottesville: Tayloe Murphy Institute, University of Virginia, 1981), Table 1; Estimates of the Population of Virginia Counties and Cities: July 1, 1981 (Final) and July 1, 1982 (Provisional); Population and Labor Force Data, 1978, 1982; Taxable Sales, Annual Report, 1978, 1982; and Virginia Assessment/Sales Ratio Study, 1978, 1982.

and \$466,000 - \$527,000 in FY2004-05.⁸⁷ Calculations disclose that the County's proposed payment to the City in FY1984-85 (\$227,000) would constitute 3.93% of Lexington's total budgeted expenditures for that fiscal year. Assuming the lowest projection of County payments, and the lowest projection of the City's future expenditure requirements, Rockbridge County's contribution would represent 3.76% of Lexington's total budgetary needs in FY1989-90, 3.72% in FY1994-95, 3.69% in FY1999-2000, and 3.66% in FY2004-05. Alternatively, assuming the highest projection of County payments, and the highest projection of the City's future expenditure needs, the County's payment would constitute 3.39% of the City's total budgetary needs in FY1989-90, 3.02% in FY1994-95, 2.6% in FY1999-2000, and 2.50% in FY2004-05.⁸⁸

In terms of the impact on the County of the annual payments to the City, the data reveal that for FY1984-85 the proposed payment (\$227,000) would constitute 3.73% of Rockbridge County's total anticipated local revenue collections. Assuming the highest projected growth in the annual payments to the City, such payments would constitute 2.91% of the County's projected total local revenues in FY1989-90, 2.21% in FY1994-95, 1.9% in FY1999-2000, and 1.63% in FY2004-05.⁸⁹ The decreasing significance of these annual payments as a percentage of the County's total locally produced revenue is due, in part, to the more rapid growth of nonproperty taxes in the County. With respect to

⁸⁷Imeson, memorandum to Doane, June 25, 1984.

⁸⁸Ibid.; and City Data and Projections, Tables 2A, 2B. The City projects its future expenditure requirements based on a 4% annual inflationary rate in the national economy (Table 2A) and on a 7% annual national inflationary rate (Table 2B). It would be inappropriate to assume the lower range of County payments and at the same time the higher range of City expenditure needs, or vice versa, because economic factors will affect the growth rate of both County property values and the cost of City services in similar manner (i. e., the factors which produce a more rapid increase in property values also prompt a more rapid increase in the cost of public services).

⁸⁹County Supplemental Exhibits, Exh. A. The local revenue totals utilized in these calculations exclude the proceeds of bond

this point, Rockbridge County projections indicate that nonproperty tax collections are anticipated to grow by 15% per year through FY1994-95.⁹⁰

In sum, the economic growth-sharing formula proposed by the City of Lexington and Rockbridge County will, projections indicate, generate revenues which will become increasingly less fiscally significant to both the City and the County. While such projections bode well for Rockbridge County, they are less reassuring with respect to the fiscal future of the City of Lexington.⁹¹

After extended and careful consideration of the data presented in this report, the Commission is unable to conclude that the proposed agreement, as presently drawn, is in the best interest of the Commonwealth. While the proposed agreement will, we believe, preserve the viability of both jurisdictions in the immediate future, it is far from clear to us that the economic growth-sharing provisions will adequately meet Lexington's long-term fiscal needs and sufficiently support the City's continued economic viability. For this reason the Commission is required to recommend that the proposed agreement be modified to address this concern.

As suggested throughout the previous sections of this report, the scarcity of developable land within the City of Lexington makes it virtually certain that future population growth in the area will occur predominantly beyond the City's corporate boundaries. This new population growth will doubtless be accompanied by a migration of commercial and service enterprise which, according to historical pattern, will seek to locate in close proximity to the changing population center. Such a development pattern can be expected to affect adversely the City's future sales tax receipts, as well as its future reve-

issues.

⁹⁰Ibid.

⁹¹The City's projected receipts from the County under the proposed economic growth-sharing plan in FY1984-85 would represent, based on 1982 estimated population (7,200), a per capita payment of \$31.53.

nues from other commercial and business related activities. Moreover, as noted earlier, the City's projected static population will constrict the growth, or perhaps even decrease, Lexington's receipts from a number of intergovernmental aid programs where distributions are made on the basis of demographic factors. In brief, such prospective revenue losses will partially nullify the beneficial impact of the proposed economic growth-sharing plan with the County.

The Commission has given extended and critical consideration to a number of specific amendments which might be proffered with respect to the proposed economic growth-sharing plan. After due deliberation, however, we elect to offer several general recommendations in the belief that such can provide an appropriate framework within which the City and the County can fashion suitable specific amendments designed to increase the agreement's capability of preserving and promoting the long-term viability of both jurisdictions. These general recommendations are offered below.

First, the Commission recommends that the proposed agreement be amended to require a review of the economic growth-sharing plan by the parties five years after the effective date of the agreement. This review should be for the purpose of examining the City's fiscal condition and for assuring that both the City and the County are equitably sharing in all aspects of the economic growth in the area. Any future revision of the economic growth-sharing plan should endeavor to create a mechanism by which future financial aid to the City will be predicated on the need, tax effort, and fiscal ability of both jurisdictions. While there are numerous means and formulas by which this end could be accomplished, the recently adopted City of Charlottesville -

For purposes of comparison, it might be observed that the City of Charlottesville, under the terms of its economic growth-sharing agreement with Albemarle County, will receive \$39.20 per capita during FY1984-85. (Gwen Bradley - Jackson, Program Analyst, City of Charlottesville, letter to staff of Commission on Local Government, Nov. 29, 1984.)

Albemarle County agreement provides one alternative which might be considered.⁹²

Second, the Commission recommends that the agreement be amended to permit the City, at any time subsequent to the five-year review proposed above, to revert to town status, to consolidate with the County, or to terminate the agreement. The Commission recommends that the alternatives of reversion to town status or consolidation be made available for the City's unilateral implementation (i. e., that such reversion or consolidation require only approval by the City). To be sure, this proposed amendment to the agreement would require the establishment of certain prerequisites (e. g., residents of the former City would be required to bear full responsibility for the retirement of all of Lexington's outstanding indebtedness) governing reversion or consolidation. Further, since general law does not presently permit such reversion to town status nor unilateral consolidation, the inclusion of these alternatives in the agreement should be accompanied by a commitment by both parties to seek requisite enabling legislation.⁹³

With respect to any possible future political integration of the two jurisdictions, the Commission has noted the extent to which the City and the County currently collaborate in the provision of public services. Even in terms of public education, often a source of considerable conflict between localities within the same school division, Lexington and Rockbridge County have been able to consolidate significant components of their programs. The degree of existing cooperation and collaboration between the City and the County provides a foundation

⁹²The City of Charlottesville - Albemarle County economic growth-sharing agreement calls for each locality to contribute annually to a revenue pool a sum based upon its total locally assessed real property values. From this pool distributions are made annually based upon each locality's relative population size and its relative true real property tax rate (as calculated by the State Department of Taxation following its annual review of the relationship between the assessment and sale value of property in each locality).


⁹³The Commission recognizes that there are federal constitutional concerns that must be addressed in the development of legislation which would permit the City's reversion to town status or its

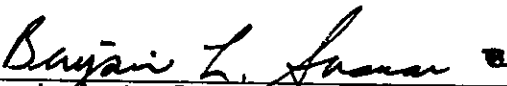
which should facilitate consideration of further governmental consolidation. Moreover, the economic interdependence of the two jurisdictions and the currently limited fiscal resources in the area available to support local governmental activities should be added inducement for consideration of this alternative.

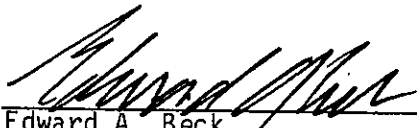
Adoption of the amendments recommended above would add, in our judgment, needed flexibility to the proposed City of Lexington - Rockbridge County agreement. These amendments would help ensure that the agreement will protect the future viability of both jurisdictions, consistent with the best interest of the Commonwealth. The Commission is prepared to assist the parties in their consideration of these recommendations and in their negotiation of appropriate amendments.

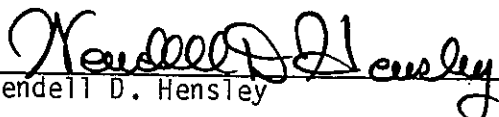
consolidation with Rockbridge County. [See, for example, Baldwin v. City of Winston Salem, N.C., 710 F. 2d132 (4th Cir. 1983); cert. denied, 104 S. Ct. 536.]

Respectfully submitted,


Harold S. Atkinson, Chairman


Benjamin L. Susman, III, Vice Chairman


Edward A. Beck


Wendell D. Hensley

APPENDIX A

VOLUNTARY SETTLEMENT
OF
ANNEXATION AND IMMUNITY

This AGREEMENT made and entered this 2nd day of July, 1984, and executed in quintuplicate originals (each executed copy constituting an original) by and between the CITY OF LEXINGTON, an incorporated city of the Commonwealth of Virginia (City) and the COUNTY OF ROCKBRIDGE, a county of the Commonwealth of Virginia (County).

WHEREAS, the City of Lexington has filed a Petition for Annexation of a part of Rockbridge County pursuant to Title 15.1, Chapter 25 of the Virginia Code Annotated, and

WHEREAS, the County has filed a Petition for Partial Immunity from city-initiated annexation and incorporation of new cities pursuant to Title 15.1, Chapter 21.2 of the Virginia Code Annotated, and

WHEREAS, the City and the County have reached this Agreement, pursuant to Title 15.1, Chapter 26.1:1 of the Virginia Code Annotated, defining the City's annexation limitations in the future, defining the County's immunity limitations in the future, providing the dedication of a portion of the tax revenues of Rockbridge County to revenue and economic growth sharing, and agreeing to the joint provision of various public services, as defined in a separate agreement, which said agreement is a part of the consideration for this Agreement.

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

SECTION 1.00 DEFINITIONS

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

1.01 "City" shall mean the City of Lexington.

1.02 "Code" shall mean the Code of Virginia of 1950, as amended. Reference to Code provision shall mean those particular Code provisions, or similar provisions if the Code is amended after the execution of this Agreement.

1.03 "Commission" shall mean the Commission on Local Government.

1.04 "County" shall mean the County of Rockbridge.

1.05 "Court" shall mean the special three judge Court appointed by the Supreme Court of Virginia pursuant to Title 15.1, Chapter 26.2 of the Virginia Code Annotated.

1.06 "Section" or "Subsection" refers to parts of this Agreement unless the context provides that "section" refers to parts of the Virginia Code Annotated.

SECTION 2.00 ANNEXATION AND IMMUNITY RIGHTS DEFINED

2.01 The City waives in whole all statutory rights for its benefit under Title 15.1, Chapter 25 (§15.1-1032, et seq.) as such rights pertain to the County and not as they pertain to any other political subdivision of the Commonwealth.

2.01(1) The City agrees that it will not initiate or institute any proceeding to annex all or any portion of the County.

2.01(2) In the event annexation proceedings are instituted by property owners or qualified voters, pursuant to §15.1-1034 of the

Virginia Code Annotated, or any statute similar thereto, the City agrees that it will neither support nor resist such proceedings but will remain neutral throughout the same. The City specifically agrees not to provide any legal assistance, engineering assistance, financial aid, or any other aid or assistance to the property owners or qualified voters petitioning for annexation.

2.02 The County waives in whole all statutory rights for its benefit under Title 15.1, Chapter 21.2 of the Virginia Code Annotated (§15.1-977.19:1 et seq.) as such rights pertain to the City, but only as they pertain to the City and not as they pertain to any other political subdivision of the Commonwealth.

2.02(1) The County agrees that it will not initiate or institute any proceedings to have all or any parts of the County declared immune from annexation initiated by the City.

SECTION 3.00 ECONOMIC AND GROWTH SHARING

3.01 The County shall annually pay the City a sum equal to seven cents (7¢) per one hundred dollars (\$100.00) of the assessed valuation of all of its taxable real estate based on the previous years' assessment. This means all taxable real estate segregated by law for local taxation only, and as shown on the land books used by the Commissioner of Revenue of Rockbridge County prescribed by §58-804 of the Virginia Code Annotated. The assessed valuation means the final valuation after adjustments by the Commissioner of Revenue of Rockbridge County to recognize special assessments, provided for in Title 58, Chapter 15, Article 1.1 of the Virginia Code Annotated, Special Assessments for Agricultural, Horticultural, Forest, Open Space or Newly Annexed Real Estate.

3.01(1) The annual payment provided in Subsection 3.01 shall continue during the term of this Agreement or until modified, changed or extinguished by mutual agreement of the parties, or otherwise terminated.

3.01(2) The first annual payment shall be made in two installments with the first installment due January 1, 1985, or on the date that this Agreement becomes effective; the second payment will be due July 1, 1985. Thereafter, the entire annual payment shall be due and payable on January 1 or the first business day thereafter.

3.01(3) Any increase in the County's annual payment to the City over the preceding year shall be and it is hereby limited to the lesser of (i) the actual percent increase in the assessed valuation of all taxable real estate over the preceding year as adjusted for special assessments pursuant to Title 58, Chapter 15, Article 1.1 of the Virginia Code Annotated or (ii) six percent (6%). In no year should the increase exceed six percent (6%), except during the year following a general reassessment by the County, pursuant to Title 58, Chapter 15, Article 3 of the Virginia Code Annotated. During such year, the increase may exceed the six percent (6%) cap herein provided.

SECTION 4.00 COUNTY CITIZEN APPROVAL

4.01 The City and County agree that to validate this Agreement, and specifically authorize the annual payment by the County to the City as provided in Section 3.00, an election must be held in the County.

4.01(1) The City and County agree the election must comply with the provisions of Article VII, Section 10, of the Constitution of

Virginia (1971). The question on contracting for the annual payment must be (i) submitted to the qualified voters of the County, in an election, (ii) for approval or rejection by a majority of the qualified voters voting in the election on the question of contracting such debt, and (iii) such approval is a prerequisite to contracting such annual payment.

4.01(2) It is the intent of the City and County to submit such question to qualified voters of the County at the general election held in November of 1984 or to place the question on the ballot of a special election after all legal requirements have been fulfilled to permit the placing of such question on the ballot.

4.01(3) The City and the County agree to request and support any and all legislative changes in the general law of the Commonwealth that may be necessary to have the question referred to in Subsection 4.01 submitted to the qualified voters in the County.

SECTION 5.00 COMMISSION AND COURT APPROVAL

5.01 The City and County agree to initiate the steps necessary and required by Title 15.1, Chapter 26.1:1 of the Virginia Code Annotated (in particular §15.1-1167.1, Subparagraphs 3, 4, 5 and 6 of the Virginia Code Annotated) to obtain affirmation of this Agreement by the Commission and Court.

SECTION 6.00 REQUIREMENTS OF APPROVAL

6.01 The City and County agree that in the event the citizen approval required in Section 4.00 is not obtained this Agreement is null and void.

6.02 The City and County agree that if the Court does not affirm this Agreement without modification, this Agreement shall immediately terminate. However, the parties may waive termination by mutually agreeing to the recommended modifications.

6.03 In the event the approvals required in Subsection 6.01 and 6.02 are not obtained, or this Agreement is not implemented by April 30, 1985, the City and County shall be returned to the Commission in their respective positions as of May 23, 1984.

SECTION 7.00 MISCELLANEOUS PROVISIONS

7.01 The City and County agree that the waiver of their respective rights under Title 15.1, Chapter 25 (§15.1032 et seq.) of the Virginia Code Annotated and Title 15.1, Chapter 21.2 (§15.1-977.19:1 et seq.) of the Virginia Code Annotated shall be in perpetuity unless modified, or changed by mutual agreement or by operation of law.

7.02 This Agreement shall become effective on January 1, 1985 provided it has been (i) approved by the qualified voters of the County, (ii) approved by the Court, (iii) fully executed by the City and County, and (iv) the Joint Service Contract of July 1978, and the Water and Sewer Contracts dated January 1, 1973, June 25, 1974 and June 25, 1974 have been modified to the mutual satisfaction of the City and County. If on January 1, 1985 the above requirements have not been fulfilled, this Agreement shall become effective when the above mentioned conditions precedent have been fulfilled.


7.03 This Agreement shall be binding upon and inure to the benefit of the parties hereto, their assignees, and upon any successor of the City and/or County.

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


7.05 This Agreement shall be enforceable in any Court of competent jurisdiction, by any of the parties hereto, by any appropriate action at law, or in equity to secure the performance of the covenants herein contained.

WITNESS the following signatures and seals:

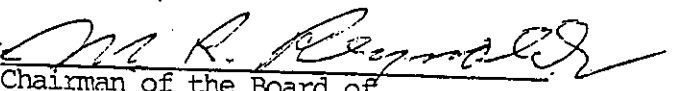
CITY OF LEXINGTON

By 
City Manager

ATTEST:


City Clerk

COUNTY OF ROCKBRIDGE

By 
Chairman of the Board of
Supervisors

ATTEST:


Board Clerk

STATE OF VIRGINIA AT LARGE

City of Lexington, to-wit:

The foregoing Agreement was acknowledged before me this the
2nd day of July, 1984, by John V. Doane, City Manager, and
Sandra Stuart, City Clerk for the City of Lexington, Virginia.

My commission expires April 18, 1985.

Margaret M. Buckley
Notary Public

STATE OF VIRGINIA AT LARGE

County of Rockbridge, to-wit:

The foregoing Agreement was acknowledged before me this the
25th day of June, 1984, by Maynard R. Reynolds, Chairman of the
Board of Supervisors, and Donald G. Austin, Clerk of the Board of
Supervisors of Rockbridge County, Virginia.

My commission expires 11/29/85.

Annella L. ...
Notary Public

APPENDIX B

STATISTICAL PROFILE OF THE
CITY OF LEXINGTON AND THE COUNTY OF ROCKBRIDGE

	<u>City of Lexington</u>	<u>Percent Increase (Decrease)¹</u>	<u>County of Rockbridge</u>	<u>Percent Increase (Decrease)¹</u>
Population				
1970	7,597	-	16,637	-
1980	7,292	(4.0)	17,910	7.7
1982	7,100	(3.0)	18,000	0.5
Population Residing in College Dormitories				
1970	1,580	-	0	-
1980	2,105	33.2	0	-
Percent of the Population Age 18-21 Years				
1980	29.3	-	6.6	-
Families with Children Under Age 18 Years				
1970	711	-	2,311	-
1980	561	(21.1)	2,439	5.5
True Value of Real and Public Service Corporation Properties				
1970	\$40,677,000	-	\$120,420,000	-
1982	\$117,534,000	188.9	\$481,739,000	300.1
Percent of Total Assessed Value that is Tax Exempt				
1984	55.9	-	11.7	-
Taxable Sales				
1970	\$17,007,378	-	\$10,592,552	-
1982	\$27,949,114	64.3	\$44,650,902	321.5

APPENDIX B (continued)

Land Area (Square Miles)	2.5	601.6
Land Use (Acres) ²		
Residential	647	2,114
Commercial	75	3,896
Industrial	0	6,688
Public, Semi-Public and Institutional	599	N/A
Agricultural, Wooded or Vacant	266	372,339

NOTES:

N/A = Not Available

- 1 = Percentage increase or (decrease) is based upon change from previously listed year.
- 2 = Land use estimates were calculated for the City in 1983 and in 1978 for the County.

SOURCES:

U. S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Characteristics of the Population, Virginia, Tables 36, 120; and 1980 Census of Population, General Social and Economic Characteristics, Virginia, Table 173; General Population Characteristics, Virginia, Table 45; and Number of Inhabitants, Virginia, Table 4.

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

City of Lexington, Comprehensive Plan (Draft), August 1983, Table 27.

County of Rockbridge, Comprehensive Plan, Vol. I, July 1978.

Courtney S. Baker, Commissioner of Revenue, City of Lexington, communication with staff of Commission on Local Government, December 3, 1984.

Patricia Self, Deputy Commissioner of Revenue, County of Rockbridge, communication with staff of Commission on Local Government, December 10, 1984.