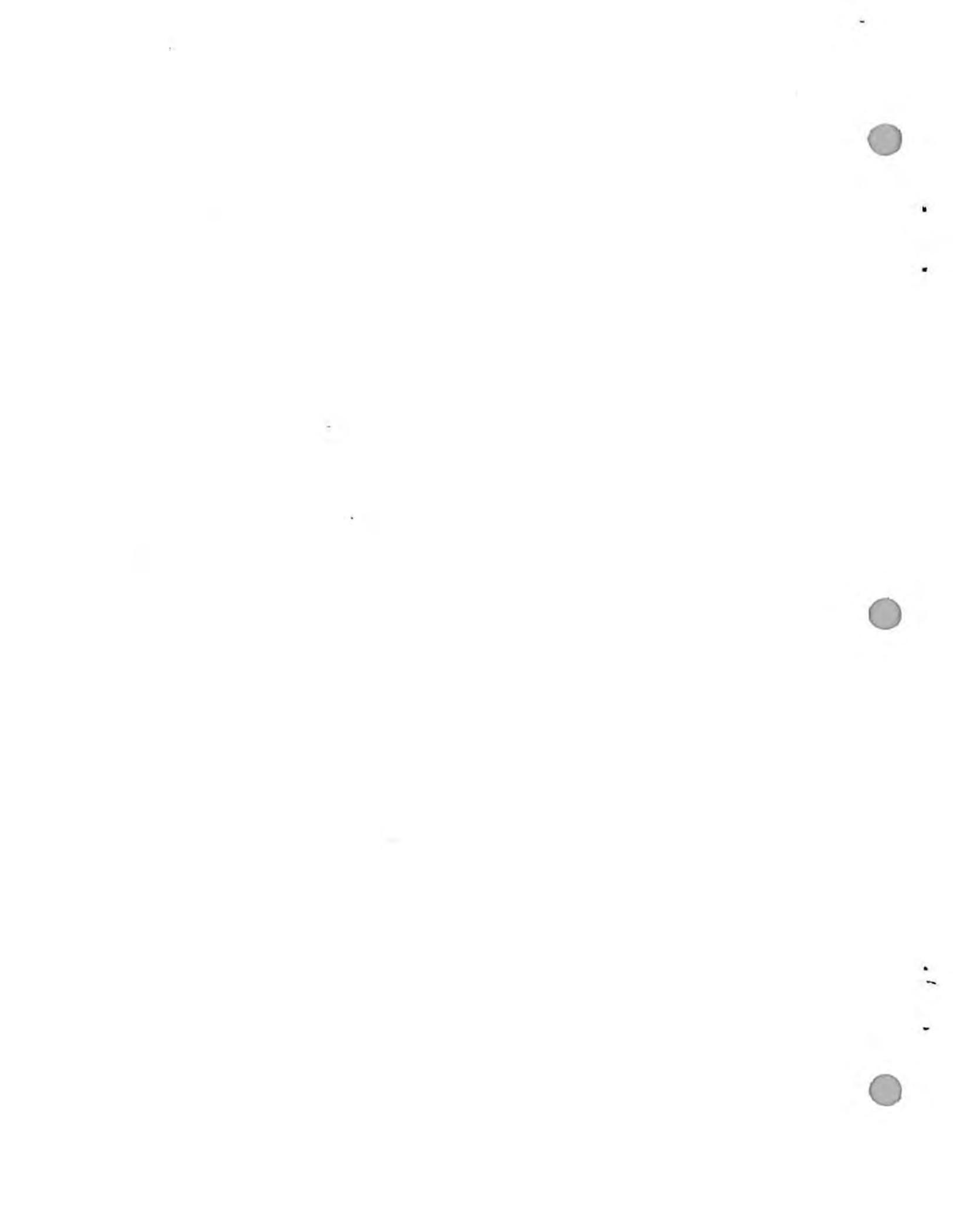


**Report on the  
Town of Amherst - County of Amherst  
Voluntary Settlement Agreement**



**Commission on Local Government  
Commonwealth of Virginia**

**August 1993**



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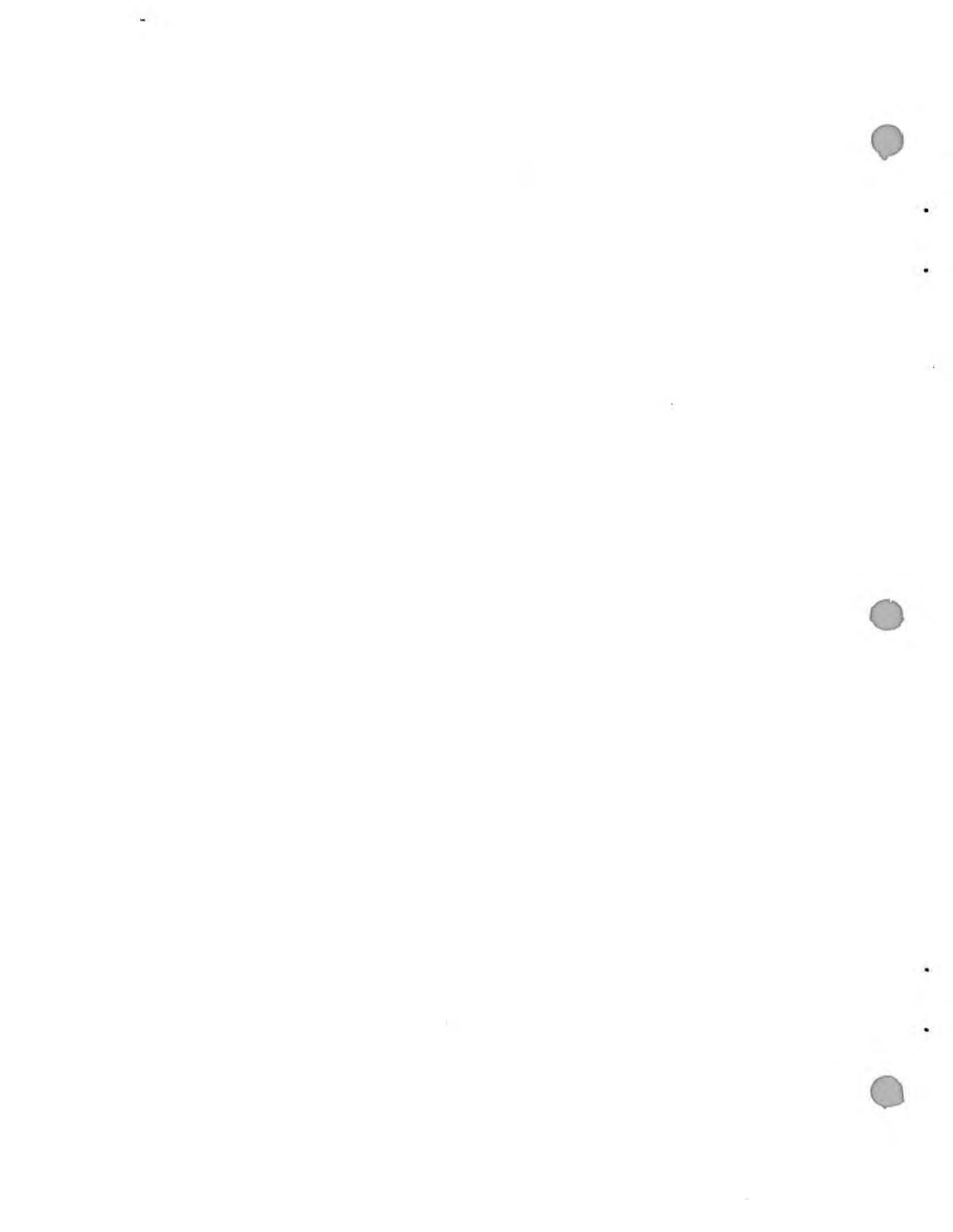
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**REPORT ON THE  
TOWN OF AMHERST - COUNTY OF AMHERST  
VOLUNTARY SETTLEMENT AGREEMENT**

**PROCEEDINGS OF THE COMMISSION**

On December 20, 1991 the Town of Amherst filed notice with the Commission on Local Government, pursuant to the provisions of Section 15.1-945.7(A) of the Code of Virginia, of its intention to petition the court for the annexation of approximately 6.44 square miles of territory in Amherst County. Consistent with the Commission's Rules of Procedure, the Town's notice was accompanied by data and materials supporting the annexation action.<sup>1</sup> Further, in accordance with statutory requirements, the Town concurrently gave notice of the proposed annexation to Amherst County and to nine other political subdivisions with which it is contiguous or with which it shares functions, revenues, or tax sources.<sup>2</sup> Furthermore, the Town's notice to the Commission advised that the municipality would continue to work toward an amicable resolution of this matter with the appropriate officials of Amherst County.<sup>3</sup>

Ensuing negotiations between representatives of the Town and the County resulted in an interlocal agreement being reached by the jurisdictions and being presented to the Commission for review on April 8, 1993.<sup>4</sup> The proposed agreement contained provisions which would (1) grant the Town an annexation of 3.51 square miles of territory in

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<sup>1</sup>Town of Amherst, Notice of the Town of Amherst of Its Intent to Petition for Annexation of Territory in Amherst County and Supporting Data (hereinafter cited as Town Annexation Notice).

<sup>2</sup>Sec. 15.1-945.7(A), Code of Va.

<sup>3</sup>Resolution, adopted by the Town Council, Town of Amherst, Dec. 19, 1991. The resolution accompanied the Town's initial notice to the Commission. (Carter Glass, IV, Special Counsel, Town of Amherst, letter to staff of Commission on Local Government, Dec. 20, 1991.)

<sup>4</sup>Town of Amherst, Notice by the Town of Amherst of Its Intent to Petition for Approval of a Voluntary Settlement with the County of Amherst (hereinafter cited as Town Settlement Notice). The proposed agreement was submitted for review to the Commission pursuant to Sec. 15.1-1167.1 of the Code of Virginia.

Amherst County, (2) establish a moratorium on further Town-initiated annexations for a period of ten years subsequent to the effective date of the specified annexation, (3) commit the Town to the construction of certain public improvements to serve the area proposed for annexation during the ten-year period following the effective date of the annexation, and (4) engage the Town and County in collaborative efforts with respect to industrial development and water utility activities.<sup>5</sup> In support of the negotiated settlement, the Town filed revised materials and exhibits.<sup>6</sup>

In conjunction with their review of the interlocal settlement, on May 11, 1993 the members of the Commission toured the area proposed for annexation and other relevant areas and facilities in the Town and County and on May 12 received oral presentations from the parties.<sup>7</sup> In addition to its receipt and consideration of materials and testimony from the Town and County, the Commission solicited comment from other potentially affected local governments and from the public. Each locality qualifying for notice of the proposed agreement under the provisions of Section 15.1-945.7(A) of the Code of Virginia was invited by the Commission to submit testimony for consideration. Further, the Commission held a public hearing, which was advertised in accordance with Section 15.1-945.7(B) of the Code of Virginia, on the evening of May 12, 1993 in Amherst. The public hearing was attended by approximately 30 persons and produced testimony from 8 individuals. In order to permit the receipt of additional comment, the Commission agreed to keep open its record for written submissions from the public through June 12, 1993.

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<sup>5</sup>Voluntary Settlement of Annexation and Immunity between the Town of Amherst and the County of Amherst (hereinafter cited as Voluntary Settlement). See Appendix A for a complete text of the Voluntary Settlement.

**<sup>6</sup>Town Settlement Notice.**

<sup>7</sup>Due to business concerns, Chairman Layton R. Fairchild, Jr. did not take part in the May 11-12, 1993 proceedings and was not a participant in the discussions, deliberations, drafting, or approval of the Commission's report on this settlement agreement.

## 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, as well as negotiated agreements settling such matters prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such proposed action or agreement, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.<sup>8</sup> With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

As we have noted in previous reports, it is evident that the General Assembly encourages local governments to attempt to negotiate settlements of their interlocal concerns. Indeed, one of the statutory responsibilities of this Commission is to assist local governments in such efforts. In view of this legislative intent, the Commission believes that proposed interlocal agreements, such as that negotiated by the Town of Amherst and Amherst County, should be approached with respect and a presumption of their compatibility with applicable statutory standards.

The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia be reviewed by this body prior to their final adoption by the local governing bodies. We are obliged to conclude, therefore, that while interlocal agreements are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption cannot be permitted to render our review a pro forma endorsement of any proposed

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<sup>8</sup>Sec. 15.1-945.7(A), Code of Va.

settlement. Our responsibility to the Commonwealth and to the affected localities requires more.

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

**TOWN OF AMHERST**

The Town of Amherst, which was incorporated by the General Assembly in 1910, and the community which preceded it have served as the seat of county government since 1807.<sup>9</sup> Although the Town continues to play a significant role in the corporate life of Amherst County, it has experienced population decline in recent years, with its populace decreasing between 1980 and 1990 from 1,135 to 1,060 persons, or by 6.6%.<sup>10</sup> Based on its land area of 1.56 square miles and its 1990 population, the Town has a population density of 680 persons per square mile.<sup>11</sup>

With respect to the nature of its population, the evidence indicates that the Town's populace is significantly older than that of the State overall. Data reveal that, as of 1990, the median age of Town

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<sup>9</sup>J. Devereux Weeks, Dates of Origin of Virginia Counties and Municipalities (Charlottesville: Institute of Government, University of Virginia, 1967); and Town of Amherst, Comprehensive Plan for Future Land Use, 1987-2006, p. 1.

<sup>10</sup>U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Virginia, Table 14; and 1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1. The Town's 1990 population represented 3.6% of Amherst County's total population as of that date. Between 1950 and 1980 the Town's population increased from 1,038 to 1,135, or by 9.3%. (U. S. Department of Commerce, Bureau of the Census, 1960 Census of Population, Vol. I, Part 48, pp. 18-19; and 1980 Census of Population, General Population Characteristics, Virginia, Table 14.)

<sup>11</sup>Town Settlement Notice, p. 1. The Town's last boundary expansion occurred in 1927. (Town Annexation Notice, p. 95.) See Appendix B for a statistical profile of the Town, the County, and the area proposed for annexation. See Appendix C for a map of the Town and the area proposed for annexation.

residents was 41.3 years, a statistic markedly greater than that for the Commonwealth generally (32.6 years).<sup>12</sup> Further, as of 1990 the percentage of the Town's population age 65 years and older was 27.0%, a figure nearly triple that for the State overall (10.4%).<sup>13</sup>

In terms of the Town's physical development, recent land use data indicate that 32.9% of the municipality's total area is devoted to residential development; 4.6% to commercial enterprise; 3.0% to industrial activity; 6.5% to institutional, public, or semi-public uses; 18.2% to transportation or utility purposes; with 34.8% (350 acres) remaining undeveloped.<sup>14</sup> Of the undeveloped property, however, 195 acres are situated on slopes 20% or greater or are located in the floodplain. Exclusive of this land affected by environmental constraints, the Town retains approximately 155 acres, or 15.4% of its total land area, vacant and suitable for development.<sup>15</sup> Much of that acreage, however, has development limitations imposed by locational concerns, parcel size, access to utilities or public arterials, or other appropriate land use considerations.<sup>16</sup>

#### COUNTY OF AMHERST

The County of Amherst was created by the Virginia General Assembly in 1761 from territory formerly part of Albemarle County.<sup>17</sup> The County has experienced an almost constant growth in population since mid-century, with its 1990 populace reflecting an increase of 40.6% since

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<sup>12</sup>1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1.

<sup>13</sup>Ibid.

<sup>14</sup>Town Annexation Notice, p. 100.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid., p. 95.

<sup>17</sup>Dates of Origin of Virginia Counties and Municipalities.

1950.<sup>18</sup> Between 1980 and 1990, however, the County's population decreased from 29,122 to 28,578 persons, or by 1.7%.<sup>19</sup> Based on its land area (470 square miles) and 1990 population, the County has an overall population density of 62 persons per square mile.<sup>20</sup>

With respect to the nature of its population, statistical indices disclose that the County's populace, like that of the Town, is older than that of the Commonwealth generally. Data indicate that, as of 1990, the median age of residents of Amherst County was 35.0 years, a figure less than that of the Town (41.3 years), but slightly in excess of that of the State as a whole (32.6 years).<sup>21</sup> Further, as of 1990, approximately 12.3% of the County population was age 65 or over, a statistic less than half that for the Town (27.0%), but slightly larger than that for the State overall (10.7%).<sup>22</sup> Thus, these data, as those for the Town of Amherst, reflect a population older than that of the Commonwealth as a whole.

In terms of the nature of its economy, data indicate that Amherst County experienced steady growth in its economic base during the preceding decade. Between 1980 and 1990 the number of non-agricultural wage and salary employment positions in the County grew from 7,646 to

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<sup>18</sup>U. S. Department of Commerce, Bureau of the Census, 1950 Census of Population, Vol. II, Part 46, pp. 10-11; and 1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1.

<sup>19</sup>1980 Census of Population, General Population Characteristics, Virginia, Table 14; and 1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1.

<sup>20</sup>Virginia Department of Highways and Transportation, "Area in Square Miles of Virginia's Counties and Incorporated Towns." The 1990 population density of the unincorporated portion of Amherst County was 59 persons per square mile.

<sup>21</sup>1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1. The data for Amherst County include that for the residents of the Town of Amherst.

<sup>22</sup>Ibid.

9,249, or by 21.0%.<sup>23</sup> Despite the significant increase in Amherst County's non-agricultural wage and salary employment during the previous decade, as of 1990 almost one-third of the County's total labor force (13,160 persons) either continued to be engaged in agricultural and forestal activity, was required to seek employment outside Amherst County, or was unemployed.<sup>24</sup> Indeed, the evidence suggests that agricultural and forestal activities remain significant components of the County's economy. As of 1987 (the latest year for which the data are available), there were 408 farms in the County occupying a total of 93,860 acres (approximately 147 square miles), with the average market value of their agricultural products being \$10,616.<sup>25</sup> Further, 1992 data disclose that 224,549 acres (approximately 350 square miles) in Amherst County continue to be classified as "timberland."<sup>26</sup>

In sum, while Amherst County experienced substantial growth in non-agricultural wage and salary employment during the past decade, principally in or adjacent to incorporated communities, the County remains predominantly rural.<sup>27</sup>

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<sup>23</sup>Virginia Employment Commission, "ES-202 Covered Employment and Wages File, Annual Average Employment," (unpublished data for 1980 and 1990), Apr. 1992.

<sup>24</sup>The annualized average civilian labor force for 1990 was computed from data published in Virginia Employment Commission, Labor Market Review, Vol. 3, Nos. 1-12.

<sup>25</sup>U. S. Department of Commerce, Bureau of the Census, 1987 Census of Agriculture, Virginia, Table 1, p. 140. In 1987 the average market value of agricultural products sold by farms in the State collectively was \$35,464, or more than three times that for farms in Amherst County.

<sup>26</sup>U. S. Department of Agriculture, Forest Service, Forest Statistics for the Northern Piedmont of Virginia, 1992, Table 1. In 1992 approximately 25.6% of the timberland in Amherst County was located within the George Washington National Forest. The Forest Service defines "timberland" as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for non-forest use, capable of producing 20 cubic feet of industrial wood per acre per year, and not withdrawn from timber utilization by legislative action. Such property may also be included in the Census Bureau's definition of "farm land."

<sup>27</sup>The evidence indicates that a significant portion of the residential and commercial development which occurred in the County between 1986 and 1991 took place in the southern portion of the County

**AREA PROPOSED FOR ANNEXATION**

The area proposed for annexation in the agreement between the Town of Amherst and Amherst County contains 3.51 square miles of territory, 911 persons, and, based on FY1991/92 assessment data, \$33.7 million in total assessed property values subject to local taxation.<sup>28</sup> Thus, the area contains approximately 0.7% of the County's total land area, 3.1% of its population, and 3.6% of its total FY1991/92 assessed property values subject to local taxation.<sup>29</sup> Based on its area and the 1993 population estimate, the area proposed for annexation has a population density of 260 persons per square miles, or more than four times that of the unincorporated portion of Amherst County (59 persons per square mile).

In terms of current development, the area contains five major residential areas, two multi-family developments, a shopping center as well as other commercial establishments, and several public facilities.<sup>30</sup> According to the most recent land use data, 23.5% of the

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adjacent to the City of Lynchburg. County of Amherst, County of Amherst's Defense to Town of Amherst's Intent to Petition for Annexation (hereinafter cited as County Annexation Defense), Tab 4, Table 1. This document, which contains data relevant to this review, was submitted by the County in preparation for adversarial proceedings which were obviated by the negotiated settlement.

<sup>28</sup>Town Settlement Notice, Tab 6, pp. 1,3. Assessed values for the area proposed for annexation do not include those for merchants' capital, since the Town does not tax this classification of property.

<sup>29</sup>Ibid.; and County Annexation Defense, Tab 3. Although Amherst County has adopted use value assessment for qualifying properties, data on total assessed property values are based on the fair market value of its real estate. In addition, County merchants' capital assessed values are not included.

<sup>30</sup>Commercial facilities in the area proposed for annexation include the Ambriar Shopping Center southwest of the Town. Also located in the proposed annexation area is the Amherst County High School, the Virginia Department of Transportation's Residency Office and Area Headquarters, and several facilities owned by the Town. (Town Annexation Notice, pp. 84-93.)

area proposed for annexation is devoted to residential development, 4.9% to commercial enterprise, 2.0% to industrial activity, 11.2% to public and semi-public uses, 7.4% to transportation and utility purposes, with 51.0% of the area (1,145 acres) remaining vacant or engaged in agricultural production.<sup>31</sup> Exclusive of land restricted in its development potential due to environmental constraints (either covered by water, located in the floodplain, or situated on slopes greater than 20%), the area proposed for annexation contains 774 acres of vacant land generally suitable for development.<sup>32</sup> In sum, although the area proposed for annexation is predominantly vacant, it does contain significant focal points of development.

#### STANDARDS FOR REVIEW

As a previous section of this report has noted, the Commission on Local Government is charged with reviewing proposed interlocal settlements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia to determine whether such settlements are "in the best interest of the Commonwealth." In our judgement, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this instance the Commission is required to review an interlocal agreement which provides for (1) an annexation by the Town of Amherst of 3.51 square miles of territory in Amherst County, (2) the waiver by the Town of its authority to initiate succeeding annexation actions for a period of ten years following the effective date of the proposed annexation, (3) the Town's construction of specified public facilities during the ten-year period subsequent to the effective date of the annexation; and (4) a Town-County collaborative effort with respect to industrial development and water utility activities. A proper analysis of the proposed Town of Amherst - County of Amherst

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<sup>31</sup>Town Settlement Notice, Tab 6, p. 5.

<sup>32</sup>Ibid.

settlement agreement, as mandated by statute, requires consideration of the ramifications of these provisions with respect to the future viability of the two jurisdictions.

## INTERESTS OF THE TOWN OF AMHERST

### Land for Development

As noted previously, the Town of Amherst currently has within its boundaries approximately 350 acres of undeveloped land, constituting 34.8% of the Town's total land area.<sup>33</sup> Excluding from this total, however, property situated on slopes greater than 20% or located in the floodplain, the Town has 155 acres (15.4% of its total land area) generally suited for various forms of development. Town officials have advised, however, that much of that vacant land is limited in its development potential by parcel size, multiple ownership, access to major transportation thoroughfares, or other appropriate land use considerations.<sup>34</sup> While such factors are not absolute barriers to the development of land, they do render sites less attractive to potential commercial, industrial, and residential developers, and can constitute major impediments to development.

The comparative quality of the development potential of the sites available within the Town is revealed by the differential rates of growth which have occurred in the area in recent years. Between 1986 and 1990 the Town issued only 15 building permits for new construction, while during that same span of years the County issued 248 such permits within the magisterial district encompassing the area proposed for annexation and adjacent unincorporated territory in the County.<sup>35</sup> This

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<sup>33</sup>Town Annexation Notice, p. 100.

<sup>34</sup>Ibid., p. 95.

<sup>35</sup>Ibid., p. 104; and County Annexation Defense, Tab 4, Table 1. Of the 15 building permits that were issued within the Town between 1986 and 1990, seven were for new residential units and eight for non-

pattern of development reflects the Town's inability to share in the economic growth of its area and manifests, in our judgment, its need for additional land for development.

The proposed annexation would bring within the Town of Amherst approximately 774 acres of vacant land generally suited for development and with access to major thoroughfares and to Town water and sewage services. The development potential of the area proposed for annexation is suggested by its proximity to the growth currently occurring south and east of the Town.<sup>36</sup> The proposed annexation, in our view, would provide the Town of Amherst with a significant amount of vacant land with considerable development potential and would, thereby, enhance its viability.

#### Fiscal Assets and Public Service Liabilities

Fiscal Assets. The Town of Amherst, which is situated at a focal point of development in the central portion of Amherst County, has experienced in recent years growth in its fiscal base commensurate with that in the County generally. Between FY1984/85 and FY1990/91 the assessed value of real estate in the Town grew from \$19.0 million to \$31.0 million, or by 68.0%. During the same span of years, such values in Amherst County overall increased from \$423.7 million to \$707.0

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residential structures. With respect to that non-residential development, three of the building permits issued by the Town were for County-owned facilities which are tax-exempt properties. (Town Annexation Notice, p. 104.) The Commission notes, however, that in 1991 the Town issued 57 building permits for new residential construction, including a 48-unit low and moderate income multi-family housing complex.

<sup>36</sup>Ibid., p. 95, and Map Exh. 3. The Commission notes that since the mid-1980s significant commercial development has occurred at the Ambriar Shopping Center, which is located southwest of the Town and adjacent to U. S. Highway 29 (Business). In addition, Town officials have advised that a 130-unit residential development with golf course is planned for that portion of the area proposed for annexation adjacent to U. S. Highway 60 east of the Town. (Glass, letter to staff of Commission on Local Government, June 21, 1993.)

million, or by 66.9%.<sup>37</sup> However, with respect to revenues derived from local sources, the data indicate that during the period in question the Town's total local-source revenue increased by 104.9%, while that of the County grew by only 66.5%.<sup>38</sup> Thus, while the Town's real estate values grew in recent years at a rate only marginally in excess of those of the County overall, the municipality substantially exceeded the County in the rate in increase in total revenue extracted from all local sources. The greater increase in Town revenues is due principally to the municipality's adoption of consumer utility, food, and transient occupancy taxes during the period.<sup>39</sup>

The proposed agreement will permit the Town to annex an area containing approximately \$33.7 million in FY1991/92 assessed values. Thus, according to 1991/92 assessment data, the annexation will increase the Town's total assessed property values by approximately 82.8%.<sup>40</sup> Based on current assessment data, tax rates, and fee structure, the area proposed for annexation is expected to generate initially approximately \$207,000 annually in additional local-source revenue for the Town.<sup>41</sup> The additional receipts would represent an increase of 86.3% over the Town's 1991/92 total local-source revenue collections.

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<sup>37</sup>Town Annexation Notice, p. 27. The assessed values for Amherst County include those for properties located within the boundaries of the Town of Amherst. Further, the real estate property values for the both the Town and the County reflect use value assessment for qualifying properties.

<sup>38</sup>Ibid., pp. 36-37.

<sup>39</sup>The Town imposed a consumer utility tax in FY1988/89 and food and transient occupancy taxes in FY1990/91. (Ibid.)

<sup>40</sup>Town Settlement Notice, Tab 1, pp. 2-3.

<sup>41</sup>Ibid., Tab 9, p. 3. In tax year 1992 the nominal real estate tax rate for the Town was \$0.14 per \$100 of assessed value. (Virginia Department of Taxation, Local Tax Rates, Tax Year 1992.) The estimate of local-source revenues from the area proposed for annexation does not include receipts from the Town's water, sewer, or solid waste enterprise activities. The Town also estimates that the area proposed for annexation will also generate approximately \$6,000 in additional State categorical aid for the municipality.

**Public Service Liabilities.** While the proposed annexation will provide the Town of Amherst with additional revenues and the potential for future economic growth, it will concurrently present the municipality with increased public service responsibilities. The proposed settlement will require the Town to extend its general governmental services to the citizens in areas annexed at the same level as currently provided within the municipality. In addition, the proposed agreement will require the Town to construct certain water and sewer facilities during the ten-year period following the effective date of the annexation.<sup>42</sup> In terms of these additional public service liabilities, the Town estimates that it will be required to expend \$100,800 annually from both its general and enterprise funds for operational purposes and an additional \$1.9 million within a ten-year period for various capital improvements.<sup>43</sup> The Town proposes to issue bonds, utilize excess general fund revenues, or increase its water and sewer service charges to fund the necessary utility improvements.<sup>44</sup>

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<sup>42</sup>Ibid., Tab 8, pp. 7-8.

<sup>43</sup>Ibid., Tab 8, pp. 7-8, Tab 9, pp. 5-6; and Glass, letter to staff of Commission on Local Government, Apr. 28, 1993. Under the terms of the agreement, the Town's ten-year plan for capital improvements following the effective date of the annexation includes the extension of 10,200 feet of water line, the construction of a 16,200 foot of sewer outfall line, the installation or replacement of 20 fire hydrants, improvements to the Town's sewage treatment plant, and expansion of its water treatment plant. With respect to the latter project, the proposed agreement also calls for the Town and County to fund jointly an engineering study to determine the feasibility of interconnecting the water systems of the two localities. (See Voluntary Settlement, Secs. 3.07-3.09.) If the study results in the interconnection of the two systems, the Town may not confront the need to expand its water treatment facility.

<sup>44</sup>As of June 30, 1992 the Town had no outstanding general obligation or revenue bond debt. (Town of Amherst, Financial Report for the Year Ended June 30, 1992.) A representative of the Town has indicated that the municipality has secured a low interest loan from the Farmers Home Administration to fund all the water system improvements prescribed in the proposed agreement. In addition, the Town has been advised that monies are available from the Virginia Resources Authority's Water Facilities Revolving Loan Fund to make the necessary improvements to the Town's sewerage system required by the settlement agreement. (Bernard C. Proctor, Consultant, Town of Amherst, testimony

With respect to the impact of the proposed annexation on the Town's enterprise funds, several points merit note. First, following the effective date of annexation the Town's utility customers in the annexed area will not be required to pay the surcharge imposed on non-residents receiving such service from the municipality.<sup>45</sup> As a consequence, Town officials estimate that annual receipts by the Town's enterprise funds will be reduced by approximately \$30,520 during the first five years following the effective date of the annexation.<sup>46</sup> That reduction in revenues and the projected ten-year capital expenditures for utility purposes prescribed in the proposed agreement (\$1.9 million) are projected to result in an annual deficit in the Town's water and sewer enterprise funds of approximately \$172,400.<sup>47</sup> As a consequence, representatives for the Town have indicated that the municipality may confront the necessity of increasing its water and sewer rates by approximately 47% and 41%, respectively, to address that projected annual deficit.<sup>48</sup> However, the proposed agreement calls for the County

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before Commission on Local Government, May 12, 1993; and communication with staff of Commission on Local Government, May 26, 1993.)

<sup>45</sup>Residences and business firms that are located in the area proposed for annexation and connected to the Town's water and sewer systems pay a monthly surcharge of 55% and 48%, respectively. (Jack Hobbs, Town Manager, Town of Amherst, communication with staff of Commission on Local Government, June 8, 1993.) In addition, all water utility customers of the Town located outside its present boundaries receive solid waste collection services from that municipality, with the surcharge for that service being 33%. (Town Annexation Notice, p. 57.)

<sup>46</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993.

<sup>47</sup>Ibid. An official for the Town of Amherst has indicated that, while the Town does not currently transfer monies from the water and sewer fund to its general fund to recover fully the administrative costs for utility billing and similar services, the municipality may charge its enterprise accounts for those services in the near future. (Hobbs, testimony before Commission on Local Government, May 12, 1993.) The Commission observes that while the application of such a policy reflects sound governmental accounting practices, it also will place an additional annual obligation on the Town's utility funds.

<sup>48</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993.

to pay the Town \$100,000 to assist the municipality in funding the utility improvements required by the proposed settlement, and that payment would defray a portion of the projected shortfall in water and sewer revenues.<sup>49</sup> In addition, Town officials have indicated that surplus general fund revenues could be transferred to the water and sewer funds to reduce the anticipated deficits in those accounts.<sup>50</sup>

While the extension of general governmental services and the utility improvements proposed for the area to be annexed will place an immediate and substantial burden on the Town, the proposed annexation will, in our view, bring within the municipality fiscal assets which will enable it to meet its increased financial responsibilities.

#### INTERESTS OF THE AREA PROPOSED FOR ANNEXATION

##### Community of Interest

One of the factors appropriate for consideration in any annexation issue is the strength of the community of interest which joins the area proposed for annexation to the adjacent municipality. In this instance, the evidence suggests that there exists a significant degree of interdependence between the area proposed for annexation and the Town of Amherst. First, data reveal that the Town of Amherst is the source of certain public services to that area. The Commission notes that the Town is presently providing water and sewer services to a substantial

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<sup>49</sup>See Voluntary Settlement, Sec. 4.07.

<sup>50</sup>Hobbs, testimony before Commission on Local Government, May 12, 1993. The Commission notes that the elimination of the surcharge for non-resident solid waste collection services will result initially in a loss of approximately \$6,400 annually to the Town's solid waste enterprise fund. The Town has indicated its intent to transfer monies from the general fund to the solid waste fund to defray the shortfall in the latter account. (Town Settlement Notice, Tab 9, p. 7.)

number of the area's population and business establishments.<sup>51</sup> Further, all residences and business concerns in the area proposed for annexation that are connected to the Town's water system receive solid waste collection services from that municipality.<sup>52</sup> Moreover, the Town's police department routinely responds to emergency calls within that area.<sup>53</sup> Second, the presence of approximately 25 public and semi-public facilities in the Town serving the general populace increases the relationship between the municipality and the area on its periphery. Those facilities within the Town include government offices, an elementary school, and nine churches.<sup>54</sup> Third, the area proposed for annexation has an urban character and service needs which more closely parallel those of the Town than those of the outlying portions of Amherst County. With respect to urbanization in the area proposed for annexation, a number of developments radiating from the Town along the primary and secondary highways are, in our judgement, essentially extensions of development patterns originating within the municipality.<sup>55</sup> In sum, a variety of factors contributes to the significant interdependence between the Town of Amherst and the area it seeks to annex.<sup>56</sup>

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<sup>51</sup>Two apartment complexes and the residences and businesses located along U. S. Highway 29 (Business) south of the Town, including the Ambriar Shopping Center, currently receive both water and sewer services from the Town. (Town Annexation Notice, Map Exhs. M-4, M-5.) Further, Town water service is available to most other developed portions of the proposed annexation area. The evidence suggests that the presence of Town utilities facilitated the development of those high-density residential tracts as well as the commercial and industrial enterprises in the general area.

<sup>52</sup>Ibid, p. 57.

<sup>53</sup>Hobbs, testimony before Commission on Local Government, May 12, 1993; and Glass, letter to staff of Commission on Local Government, Apr. 28, 1993.

<sup>54</sup>Town Annexation Notice, pp. 84-90.

<sup>55</sup>Ibid., Map Exh. M-3. These development patterns include those along U. S. Highway 29 (Business), Waugh's Ferry Road, and Sunset, Ridge, and Grandview Drives.

<sup>56</sup>In 1990 Section 15.1-1167.1 of the Code of Virginia, the statute under which the current agreement has been negotiated, was amended to require a municipality annexing under its provisions to redraw election districts and to hold elections if the annexation increased the

### Need for Urban Services

The 3.51 square miles of territory proposed for annexation by the Town of Amherst are estimated to contain a population of 911 persons, giving the area a population density of 260 persons per square mile. While slightly more than 50% of the area proposed for annexation is currently vacant or in agricultural use, the area does contain five significant residential concentrations, two apartment complexes, a shopping center, and a number of public and semi-public sites. With respect to its prospective future conditions, the current Amherst County comprehensive plan, which was based upon an in-depth analysis of the County's needs and projected growth, calls for development to occur in the areas immediately adjacent to the Town where municipal water and sewer utility services are presently available or where they will be available in the near future.<sup>57</sup> Thus, the evidence indicates that the area proposed for annexation will experience development and will increasingly need urban services.

Water Supply and Distribution. The Town of Amherst is the only source of treated water currently available to the residents of the area proposed for annexation.<sup>58</sup> The Town's water treatment plant utilizes

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population of the affected jurisdiction by more than five percent. Since the annexation authorized by the proposed agreement will increase the Town's population by approximately 86.0%, the residents of the area annexed will become engaged quickly in the electoral affairs of the municipality.

<sup>57</sup>County of Amherst, Amherst County Comprehensive Plan: An Update, Sep. 1983, p. 70; and Amherst County Comprehensive Plan, Update, July 1989. The future land use map contained in the 1983 comprehensive plan identified the Town and adjacent areas as a focal point for development in the County, and that recommendation was not changed in the 1989 revision to that document.

<sup>58</sup>Public water service to County residents is provided either by the Town directly or by the Amherst County Service Authority (ACSA), which was formed in 1987. (County Annexation Defense, Tab 10.) The ACSA operates a 2.0 million gallon per day (MGD) water treatment plant and a distribution system which primarily serves the southern portion of the County. (Amherst County Comprehensive Plan, Update; and Dan E.

the Buffalo River as its raw water source and, according to its rated capacity, can receive and treat 0.50 million gallons per day (MGD).<sup>59</sup> The Town's water distribution system currently serves 1,041 connections, with 348 of those connections being located in the area proposed for annexation.<sup>60</sup> The municipal distribution system required, as of 1992, approximately 0.325 MGD, leaving the system an unused capacity of 0.175 MGD.<sup>61</sup> Due to recent increases in requests for water service and the projected future growth within the general area, the Town currently is reviewing alternatives to expand its treated water supply.<sup>62</sup> Those alternatives include increasing the capacity of the Town's water treatment plant to 1.0 MGD or inter-connecting its water system with that operated by the Amherst County Service Authority (ACSA).<sup>63</sup>

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French, Director of Public Utilities, Amherst County Service Authority, letter to Stewart E. Shaner, County Administrator, County of Amherst, May 26, 1993.) The closest ACSA facility to the area proposed for annexation is a water main and storage tank located approximately four miles south of the Town of Amherst.

<sup>59</sup>Town Annexation Notice, p. 45. The Town's water treatment plant is located in the area proposed for annexation.

<sup>60</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993. Almost all of the developed portions of the area proposed for annexation are served by Town water lines. Further, municipal water mains serve 130 connections in other areas of the County, including the County's Zane Snead Industrial Park and residential areas located west of the Town. (Town Annexation Notice, Map Exh. M-5.) The Town's water distribution system is supported by a 1.0 million gallon storage tank.

<sup>61</sup>Ibid., p. 45; and Proctor, testimony before Commission on Local Government, May 12, 1993.

<sup>62</sup>In January 1992 a major industrial concern located in the Zane Snead Industrial Park was connected to the Town's water system. That industrial operation has become the Town's largest single water customer, requiring approximately 15,000 gallons per day for its manufacturing processes. (Hobbs, communication with staff of Commission on Local Government, June 8, 1993.) In order to meet the demands placed on the municipal water system, the Town's treatment facility has been required in recent months to operate at its maximum rated capacity of 0.50 MGD. (Ibid.)

<sup>63</sup>The Town has completed a preliminary engineering study to upgrade and expand its water treatment facility, and the jointly funded feasibility study of inter-connecting the water systems of the Town and County, which is called for in the proposed agreement, is currently

In terms of the impact of the proposed annexation on water service in the area to be annexed, the settlement agreement requires the Town to install new water lines in that area within ten years following its incorporation into the municipality.<sup>64</sup> Further, since the Town places a surcharge on its availability fees and water rates for non-resident customers, the proposed annexation will result in reduced charges for water services for those residents and businesses in the annexed area.<sup>65</sup> In sum, the proposed annexation will result in the extension of water service to additional connections in the annexed area and a reduction of water rates for the area's residents.

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underway. (Town Annexation Notice, p. 45; and Proctor, testimony before Commission on Local Government, May 12, 1993.) If the Town elects to expand the capacity of its treatment plant, the municipality will be required to get a permit from the Virginia Water Control Board to withdraw additional raw water from the Buffalo River. (Proctor, testimony before Commission on Local Government, May 12, 1993.) The inter-connection of the two water systems would permit the Town to purchase treated water from the ACSA to serve all existing and future municipal water customers and could provide both entities with an emergency backup water supply. Even if the two water systems are inter-connected, however, the Town may elect to expand its water treatment plant to ensure that it will have adequate water supplies to meet future needs. (Town Settlement Notice, Tab. 8, pp. 1-2.)

<sup>64</sup>Ibid., Tab 8, pp. 7-8. The proposed agreement requires the Town to replace approximately 4,600 feet of undersized water line and install approximately 2,000 feet of new mains at an estimated cost of \$168,000 within five years of the effective date of the annexation. During the subsequent five-year period, the agreement requires the Town to install an additional 3,600 feet of water lines at an estimated cost of \$171,000. Concurrent with the extension or replacement of those facilities, the Town will also install 20 fire hydrants at a total cost of approximately \$30,000. The water utility improvements called for in the proposed agreement will be installed within the Town's current boundaries as well as the area to be annexed.

<sup>65</sup>Ibid., p. 1. For non-residents, the availability fee is 50% greater and the water rates are 55% greater than those applicable to Town residents. The Town also imposes a fee to connect customers to municipal water mains. The charge for that service to both residents and non-residents is based on the actual cost to the Town in terms of personnel time and materials. (Hobbs, communication with staff of Commission on Local Government, June 8, 1993.)

**Sewage Treatment.** The Town's sewage treatment plant, which was constructed in 1974, has a rated capacity of 0.40 MGD and presently receives an average daily flow of 0.235 MGD, leaving an excess capacity of 0.165 MGD.<sup>66</sup> The Town is prevented, however, from utilizing fully this reserve as a result of action taken by the Virginia Water Control Board in 1988 imposing stricter standards on the nature of effluent discharged through the plant's outfall into Rutledge Creek.<sup>67</sup> As a consequence of that State-imposed limit and requests for new sewer service from the general area, the proposed agreement requires the Town to make improvements to its sewage treatment plant within five years following the effective date of the annexation.<sup>68</sup> Those improvements will make available the unused capacity in the treatment facility to meet the needs of the enlarged Town for the foreseeable future.<sup>69</sup>

The Town's present sewage collection system consists of approximately 20 miles of gravity lines and force mains located within

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<sup>66</sup>Town Annexation Notice, p. 52; and Proctor, testimony before Commission on Local Government, May 12, 1993.

<sup>67</sup>Ibid.

<sup>68</sup>Under the terms of the proposed agreement, the Town will install two new sludge drying beds at the treatment facility and will construct a new effluent outfall line from the existing plant to the Buffalo River. (See Voluntary Settlement, Sec. 4.04.) Preliminary engineering studies have indicated that the planned improvements will permit the Town's sewage treatment plant to meet the State's discharge standards for that facility. (Proctor, testimony before Commission on Local Government, May 12, 1993.) The Town is also studying other alternatives to increase the plant's treatment capacity. (Town Settlement Notice, Tab. 8, p. 3.)

<sup>69</sup>Within the past year the Town has implemented a program to reduce the infiltration of groundwater and inflow of stormwater into its sewer lines, and that effort will have the effect of increasing the effluent which can be treated by the Town's facility. (Town Annexation Notice, p. 53; and Proctor, testimony before Commission on Local Government, May 12, 1993.)

and beyond the municipality's present boundaries.<sup>70</sup> The Town's collection system provides service to 757 connections, including 205 in the area proposed for annexation.<sup>71</sup> The Town is the only public source of sewage treatment presently available to serve the area proposed for annexation.<sup>72</sup> Residents of that area not served by the Town are dependent on individual septic tanks.<sup>73</sup>

With respect to the impact of the proposed agreement on sewerage service in the area annexed, its incorporation into the Town will have the effect of terminating the surcharges on connection fees and water rates and will, thereby, substantially reduce the cost of service to the area's residents.<sup>74</sup> The proposed agreement does not require the Town

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<sup>70</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993. Approximately nine miles of gravity lines and force mains are located in the area proposed for annexation, primarily in the eastern and southern portions of that area. (Town Annexation Notice, Map Exh. M-4.)

<sup>71</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993. The Town also serves five non-residential sewer connections in other areas of the County as well as Sweet Briar College, which is located beyond the area proposed for annexation. When the Town's treatment plant was constructed in 1974, the college purchased approximately 15% of the capacity of that facility. (Proctor, testimony before Commission on Local Government, May 12, 1993.)

<sup>72</sup>The ACSA operates a sewage collection system located primarily in the Madison Heights portion of the County adjacent to the City of Lynchburg. The effluent collected by the ACSA system is treated at Lynchburg's regional treatment plant or at two package treatment plants owned by the authority. (County Annexation Defense, Tab 10; and Amherst County Comprehensive Plan, Update.)

<sup>73</sup>Residences along Waugh's Ferry Road and Sunset, Ridge, and Grandview Drives are served primarily by septic tanks.

<sup>74</sup>For residents of the area proposed for annexation, the availability fee is 100% greater and the sewer rates are 48% greater than for Town residents. (Town Annexation Notice, p. 54; and Hobbs, communication with staff of Commission on Local Government, June 8, 1993.) The Commission notes, however, that the Town recently increased its sewer availability fee. The new fee schedule imposes an availability fee of \$1,900 on new sewer customers located in the Town while residents and businesses located outside the Town will be required

to extend its sewage collection lines in the area to be annexed. If residents of the annexed area experience a high incidence of septic tank failure, the Town proposes to install sewer lines upon agreement of the property owner to bear 100% of the cost.<sup>75</sup>

With respect to the immediacy of any need to extend sewerage to the area proposed for annexation, the County's most recent comprehensive plan indicates the prevalence of favorable soil conditions for the disposal of effluent from septic tank drain fields in a predominant portion of the County, including the area proposed for annexation.<sup>76</sup> Consistent with the evaluation offered in that planning instrument, records of the Amherst County Health Department reveal no unusual problems related to septic tank failures within the environs of the Town.<sup>77</sup> In the Commission's judgment, the Town, pursuant to the requirements of the proposed agreement, will establish the requisite capacity to extend appropriate sewer service to the area proposed for annexation as the need arises.

**Solid Waste Collection and Disposal.** The Town of Amherst, utilizing the services of a private contractor, provides on a fee basis solid waste collection services to those residences and businesses connected to the municipal water system.<sup>78</sup> Similarly, 347 water customers of the Town in the area proposed for annexation receive solid

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to pay an availability fee of \$2,850. (Hobbs, communication with staff of Commission on Local Government, June 8, 1993.)

<sup>75</sup>Town Settlement Notice, Tab 8, p. 3; and Hobbs, communication with staff of Commission on Local Government, June 8, 1993.

<sup>76</sup>Amherst County Comprehensive Plan, Update.

<sup>77</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993.

<sup>78</sup>According to Town officials, the municipality's policy of providing solid waste collection services only to its water utility customers simplifies billing procedures and ensures that refuse fees are paid. (Glass, letter to staff of Commission on Local Government, June 14, 1993.)

waste collection and disposal services from the municipality.<sup>79</sup> Residences in the Town are charged \$6.25 per month for weekly collection service, with the fee for non-residents being approximately 28% greater.<sup>80</sup> Business concerns are provided a schedule of collections dependent on their needs.<sup>81</sup> In terms of the disposal of refuse, the Town's contractor utilizes the County's landfill, which is located approximately 12 miles southeast of the municipality.

Since Amherst County does not provide any solid waste collection service from individual residences or business firms, the service offered by the municipality is of particular benefit to the urbanized areas on its periphery.<sup>82</sup> Moreover, since the Town places a surcharge on refuse collection for customers located beyond its corporate limits, the annexation will substantially reduce the cost of solid waste collection to those residents and businesses in that area subscribing to the municipal service.<sup>83</sup>

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<sup>79</sup>Town Annexation Notice, p. 57. The Town's solid waste customers in the area proposed for annexation represent almost all of the businesses and approximately 75% of the residences in that area. The Town also provides refuse collection services to 129 residential and non-residential customers located in other areas of the County. (Glass, letter to staff of Commission on Local Government, Apr. 26, 1993.)

<sup>80</sup>Hobbs, testimony before Commission on Local Government, May 12, 1993. The Town's contractor also provides periodic collections of leaves and large and bulky items for no additional charge.

<sup>81</sup>Ibid. Businesses and industries receiving solid waste collection services from the Town contractor either receive curbside pick-up or are provided dumpsters for the disposal of refuse.

<sup>82</sup>The County does offer its residents a bulk container disposal service, with 13 dumpsters being located throughout the County. [(Town Annexation Notice)], pp. 57-58. None of the County's refuse containers are located within the area proposed for annexation.

<sup>83</sup>Glass, letter to staff of Commission on Local Government, June 14, 1993. Since the Town's solid waste collection service is provided only to residences and businesses connected to municipal water lines, the Town will not offer immediate extension of its refuse collection services following the effective date of the annexation.

**Planning, Zoning and Subdivision Regulation.** The Town of Amherst conducts its public planning efforts with the assistance of a planning commission and a comprehensive plan which was last amended in 1988.<sup>84</sup> In addition, the Town has subdivision and zoning ordinances, both of which were revised in 1989, to assist in the management of its physical development.<sup>85</sup> The Town's current subdivision ordinance requires developers to meet the standards of the Virginia Department of Transportation with respect to the construction of new roads in subdivisions, but generally does not require the installation of sidewalks and curbs and gutters.<sup>86</sup> Further, the Commission notes that the Town has adopted a five-year capital improvements program as part of its comprehensive planning process.<sup>87</sup> At the present time the Town has no staff assigned full-time to the administration and application of its planning and development control instruments, primarily due to the paucity of development in the Town in recent years.<sup>88</sup>

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<sup>84</sup>Ibid., p. 63. The plan was prepared with the assistance of the Central Virginia Planning District Commission.

<sup>85</sup>Ibid. Amherst County also has a planning commission, a comprehensive plan which was revised in 1989, and zoning and subdivision ordinances. (County Annexation Defense, Tab. 11.)

<sup>86</sup>Town of Amherst, Zoning and Subdivision Ordinances, Sec. 1302.03. With respect to the installation of curbs, gutters, and sidewalks in existing developments, the Town will install those facilities at the request of property owners upon their agreement to bear 50% of the cost of installation. (Town Annexation Notice, p. 76.) Following the effective date of the annexation, the Town proposes to expend approximately \$10,000 annually to install curbs, gutters, and sidewalks within the enlarged municipality. (Town Settlement Notice, Tab 8, p. 6, and Tab 9, p. 5.)

<sup>87</sup>The Town's current capital improvements plan, which only addresses improvements in the municipality's utility systems, was adopted in 1991.

<sup>88</sup>The Town manager is primarily responsible for the administration and enforcement of the planning and development control ordinances. (Town Annexation Notice, pp. 63-64.)

Following the effective date of the annexation, the Town will extend its zoning and subdivision regulations, as well as its comprehensive planning, to the areas annexed.<sup>89</sup> The settlement agreement calls for the Town to amend its zoning ordinance to include an agricultural district for utilization in appropriate areas within the boundaries of the expanded Town.<sup>90</sup> Once the Town's planning instruments and land development regulations are revised and extended to the area proposed for annexation, the application of its policies should result in a more consistent and comprehensive approach to managing future growth and to protecting the distinctive features of the Town and its environs.

**Crime Prevention and Detection.** Since the law enforcement activities of Virginia towns augment those provided by a county's Sheriff's department, the proposed annexation by the Town of Amherst will have the effect of providing additional and more intensive law enforcement services to residents of the area annexed.<sup>91</sup> The Town presently has four full-time, sworn law enforcement personnel, three of whom are assigned patrol responsibility.<sup>92</sup> This staffing level is sufficient to give the Town one patrol officer per 353 municipal

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<sup>89</sup>Town Settlement Notice, Tab 8, p. 4.

<sup>90</sup>Voluntary Settlement, Sec. 4.01. The Town's planning commission has approved an amendment to the Town's zoning ordinance which adds an agricultural zoning district to that ordinance. The Town Council's public hearing on that proposed amendment was held in August 1993. (Hobbs, communication with staff of Commission on Local Government, Aug. 4, 1993.)

<sup>91</sup>The County Sheriff's department currently has a complement of 19 sworn officers who provide certain law enforcement services for all County residents, and of that number, 12 are assigned patrol responsibility. (County Annexation Defense, Tab 12.)

<sup>92</sup>Town Annexation Notice, pp. 65-66. In addition to the patrol officers, the Town's police department has ten auxiliary police officers and one part-time secretary/dispatcher. During 1992 the department answered 636 calls for service, or 212 calls per patrol officer. (Glass, letter to staff of Commission on Local Government, Apr. 28, 1993.)

residents, to maintain on duty a minimum of one patrol officer per eight-hour shift, and to permit an average response time to emergency calls of between two and five minutes.<sup>93</sup> While the Town does not propose to add initially any additional law enforcement personnel for purposes of extending services to the annexed area, the Town police department currently patrols that area on a regular basis and assists the County's Sheriff's department in answering calls for service in that area when requested to do so.<sup>94</sup> The extension of the Town's law enforcement services should be of added benefit to the area proposed for annexation as further development occurs.

**Streetlighting.** The Town of Amherst adheres to a policy by which it will install, maintain, and operate streetlights at public expense.<sup>95</sup> At the present time there are 174 publicly funded streetlights within the Town's corporate limits.<sup>96</sup> Following the effective date of the annexation, the Town proposes to install and operate, at public expense, nine streetlights along the major thoroughfares in the annexed area, and it anticipates installing as many as 25 streetlights annually along secondary roads in that area as circumstances warrant.<sup>97</sup> In our judgment, the area proposed for

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<sup>93</sup>Town Annexation Notice, pp. 66, 68.

<sup>94</sup>Ibid., p. 66. At the present time, Town police officers are responsible for patrolling the entire Town and one-mile beyond the current corporate limits. During 1992, the Town's police department responded to approximately 100 calls for service from the area proposed for annexation. The proposed annexation will change the ratio of Town police officers to municipal residents to one per 657.

<sup>95</sup>The Town's policy is to install 22,000-lumen streetlights at major intersections and along principal thoroughfares and to place 9,500-lumen lights along subdivision streets. (Town Annexation Notice, p. 78.)

<sup>96</sup>Ibid. There are no publicly funded streetlights within the area proposed for annexation. (County Annexation Defense, Tab 19.)

<sup>97</sup>Town Settlement Notice, Tab 8, p. 6. The Town proposes to install streetlights along public roads within residential subdivisions, upon request and approval of the Town Council, and has included

annexation will benefit from the application of the Town's policy regarding the installation and operation of these facilities.

**Other Service Considerations.** The Commission notes that with respect to two other principal public concerns -- fire protection and street maintenance -- residents of the area proposed for annexation will not experience any immediate change in service level as a result of their incorporation into the Town of Amherst. With regard to fire protection, the Town and Amherst County jointly support the Amherst Fire Department (AFD).<sup>98</sup> That department, which has a complement of 25 volunteers, serves the Town and its environs, including the area proposed for annexation.<sup>99</sup> The fire suppression capabilities of the AFD and the Town's water distribution system are such that properties within the municipality, as well as those within the area proposed for annexation, are currently classified "7" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss.<sup>100</sup>

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approximately \$8,000 annually in its operating budget for that purpose.

<sup>98</sup>**Town Annexation Notice**, p. 75. Between FY 1986/87 and FY1990/91, the Town contributed \$37,370 to the operation of the AFD. [Town of Amherst, **Financial Report** (hereinafter cited as **Town Financial Report**), for the fiscal years indicated.] During that same period, the County contributed approximately \$96,400 to the AFD. (County of Amherst, **Financial Report**, for the fiscal years indicated.) In recent years the Town has instituted a policy whereby 15% of its automobile license decal revenues are earmarked for the AFD. Further, since FY1987/88 the Town has received annually a \$3,000 grant from the Virginia Department of Fire Programs which is designated for the operation of the AFD. (**Town Annexation Notice**, p. 75.)

<sup>99</sup>**Ibid.** The activities of the AFD are managed by a part-time fire chief.

<sup>100</sup>Glass, letter to staff of Commission on Local Government, Apr. 26, 1993. The ISO classification is based on a scale of "1" to "10" for comparison with other municipal fire protection systems and represents an indication of a system's ability to defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is no or minimal protection. Protection class "1" represents a fire protection system of extreme capability. The principal features used by ISO in grading a community's fire system are water supply, fire department, fire communications, and fire safety

Thus, the Town already contributes to the fire protection services available to residents of the area proposed for annexation.

With respect to street maintenance, all of the public roads in the Town, in the area proposed for annexation, and in the County generally are maintained by the Virginia Department of Transportation (VDOT) in accordance with State-prescribed policies. While the State bears total financial responsibility for the maintenance of the qualifying public roadway in the Town, the municipality has invested local funds to improve and maintain other roadway within its corporate limits. The data reveal that between FY1984/85 and FY1991/92, the Town expended a total of approximately \$11,000 in local revenue to improve and maintain the 1.0 lane-mile of roadway within its corporate boundaries which is not part of the State system.<sup>101</sup> This municipal policy of augmenting State expenditures for street and road maintenance will benefit the area annexed by the Town, in terms of addressing both its immediate and prospective needs.<sup>102</sup>

While the proposed annexation will not immediately affect the level of fire suppression and street maintenance services in the area annexed, the Town's commitment to such services and programs will increasingly benefit that area as it develops.

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control. [John L. Bryan and Raymond C. Picard, Managing Fire Services (Washington, DC: International City Management Association, 1979), p. 102.]

<sup>101</sup>Town Financial Report, for the fiscal years indicated; and Glass, letter to Commission on Local Government, Apr. 26, 1993. Town personnel furnish minor maintenance services, such as removing snow, patching pot holes, and adding gravel, to those streets within its current boundaries that are not part of the State secondary road system. In addition, the Town has expended public funds to make necessary improvements to bring non-qualifying roadway up to the standard required for the receipt of State maintenance. (Town Annexation Notice, p. 77.)

<sup>102</sup>Currently there is less than one lane-mile of roadway in the area proposed for annexation which is not maintained by VDOT. (Glass, letter to Commission on Local Government, Apr. 26, 1993.)

### Summary of Service Needs

In the preceding sections of this report the Commission has endeavored to analyze the existing and prospective urban service needs of the area proposed for annexation and the ability of the Town of Amherst to meet those needs. On the basis of the data previously cited, the Commission finds that the area proposed for annexation will benefit from the extension of Town services and policies. Further, the Town is capable, in our judgment, of meeting the future need of that area as it develops.

### INTERESTS OF THE COUNTY OF AMHERST

While the annexation proposed in the agreement negotiated by the Town of Amherst and Amherst County will result initially in a modest constriction of County revenues, the annexation will have, in our judgment, a long-term positive impact on both jurisdictions. Although the proposed annexation will not affect any of the County's property taxes, it will reduce its receipts from some of its minor revenue sources. Estimates developed by the Town indicate that the proposed agreement will result in the County's loss during the first year after annexation of approximately \$142,650 in general fund revenues.<sup>103</sup> That estimated revenue loss constitutes 0.5% of the County's budgeted general fund revenue collections for FY1992/93.<sup>104</sup> Moreover, following annexation the Town will assume responsibility for providing certain municipal services to the annexed area, such as law enforcement, planning, and development control, which should reduce to some degree the demand on the County's staff and resources. In addition, the proposed annexation will permit the Town to benefit from an immediate infusion of fiscal resources, will assure it of land for future development, and will, accordingly, increase the Town's ability to serve

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<sup>103</sup>Town Settlement Notice, Tab 7, pp. 2-3.

<sup>104</sup>Ibid.

the general area. In brief, the enhanced fiscal viability of the Town will be a positive factor in strengthening the economy of the area, with economic benefits accruing to the citizens of Amherst County generally.

Aside from the proposed annexation, there are other elements of the proposed agreement which affect the interests of the County. First, the agreement contains a provision by which the Town agrees not to initiate any subsequent annexation for a ten-year period following the effective date of the currently proposed boundary expansion. This provision allows the County, as well as the Town, an opportunity to become acclimated to the presently proposed extension of the municipal boundaries without undue restraint on the future growth potential of the Town. Second, various provisions of the proposed settlement promote collaborative efforts between the Town and the County in such areas as industrial development and water utility service which will benefit both jurisdictions.<sup>105</sup> These various provisions in the proposed agreement, coupled with the long-term positive impact of the proposed annexation, are features of the settlement which are, in our judgment, in the best interests of Amherst County.

#### INTERESTS OF THE COMMONWEALTH

The paramount interest of the State in the resolution of this and all other interlocal issues subject to the Commission's review is, in our judgment, the preservation and promotion of the viability of the affected local governments. As previous sections of this report have indicated, the annexation proposed in the settlement agreement will

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<sup>105</sup>See Voluntary Settlement, Sec. 3.00. Provisions in the proposed agreement establish a joint advisory committee comprised of residents of the Town and the County to improve communication between the governing bodies of both jurisdictions and to recommend cooperative efforts to enhance efficiencies in government and service delivery. Further, the settlement also calls for the Town's industrial development authority to become a joint entity serving both jurisdictions and for the joint funding of an engineering study to determine the feasibility of connecting the water systems of the two localities.

provide the Town with additional fiscal resources and will afford the Town vacant land for future development while concurrently contributing to the social and economic vitality of Amherst County. Accordingly, the Commission finds that the proposed agreement is consistent with the interest of the Commonwealth in the promotion and preservation of the viability of Virginia's local governments.

### FINDINGS AND RECOMMENDATIONS

Based upon our consideration of the evidence previously reviewed, the Commission finds the proposed agreement in the best interest of the Commonwealth. Accordingly, we recommend the court's approval of the proposed agreement. While finding the agreement, as amended by the County and Town pursuant to resolutions adopted on August 3, 1993 and August 11, 1993, respectively, in the best interest of the Commonwealth, there are two relevant issues which should be addressed in this report.

#### BOUNDARIES OF THE AREA PROPOSED FOR ANNEXATION

During the course of our review, the Commission received expressions of concern from residents of two portions of the area proposed for annexation, the Rosecliff Farms subdivision and the Edgehill property, that the new municipal boundary line inappropriately divided those tracts and should be revised. Residents of those tracts requested that their properties be excluded from the area to be annexed to the Town.

Subsequent to those expressions of concern, the Town and County have advised the Commission of their agreement to revise the proposed settlement to exclude from the area to be annexed by the Town the entire Rosecliff Farms subdivision.<sup>106</sup> We consider that change appropriate, and we endorse the proposed modification of the area to be annexed.

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<sup>106</sup>Hobbs, letter to staff of Commission on Local Government, Aug. 12, 1993. On August 3, 1993 the Amherst County Board of Supervisors adopted a resolution which amended the proposed agreement to exclude the Rosecliff Farms subdivision from the area proposed for annexation. The Amherst Town Council adopted a similar resolution on August 11, 1993.

With respect to the above-cited change in the boundary line, we note that the Rosecliff Farms subdivision, which was approved by the County in December 1991, is located at the extreme western-end of the area proposed for annexation. The subdivision is comprised of 29 lots of five acres or more, with the initially proposed boundary extension bringing all or a portion of 14 lots within the Town.<sup>107</sup> Consistent with provisions of the County's current subdivision ordinance, Rosecliff Farms is served by a private road, with only a portion of that thoroughfare being currently constructed.<sup>108</sup> In addition, there are no Town water and sewer lines serving, nor located in close proximity to Rosecliff Farms, and the residents of that subdivision are totally dependent on individual wells and septic tanks. Further, the Town has no plans to extend public water and sewer services to Rosecliff Farms during the ten-year period following the effective date of the annexation.<sup>109</sup> Furthermore, the residents of that subdivision would not receive refuse collection service from the Town under its current policy of providing such service only to those properties connected to municipal water lines. Moreover, since Rosecliff Farms is served by a private road, the Town does not propose to install any publicly-funded

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<sup>107</sup>The initial phase of that subdivision contains six lots, only one of which is divided by the proposed boundary line. Only three homes have been built to date in the initial phase of development. (Glass, letter to staff of Commission on Local Government, June 14, 1993.) The initially proposed boundary line through Rosecliff Farms would have placed 8 lots entirely within the Town, left 15 parcels within the unincorporated portion of the County, and divided 6 lots between the jurisdictions.

<sup>108</sup>The County's subdivision ordinance permits developments in its "agricultural" and "conservation" zoning districts to be served by private roads not constructed to State standards, if the subdivision has a minimum average lot size of five acres or more and no public water and sewerage is available. In addition, the private thoroughfares are to be maintained by an association of property owners residing within the affected subdivision. (County of Amherst, Code of Ordinances, Appendix A, "Zoning and Subdivisions," Secs. 1301.07 and 1301.08.)

<sup>109</sup>Town Settlement Notice, Tab 8, pp. 7-8.

streetlights within that subdivision.<sup>110</sup> Accordingly, we concur with the decision of the two jurisdictions to exclude Rosecliff Farms from the area to be annexed.

With respect to the Edgehill property, the proposed new municipal boundary line would similarly bisect that tract. The Edgehill property is a 79-acre parcel located east of the current Town limits at the intersection of Sunset Drive (State Route 663) and Kenmore Road (State Route 643).<sup>111</sup> The parcel, which is predominantly agricultural, does contain a residence which currently receives water and solid waste collection services from the Town of Amherst.<sup>112</sup> The proposed annexation would bring within the municipality approximately ten acres of the Edgehill tract, including the residence, while the balance of the property, containing only farm structures and pastureland, would remain in the County. Representatives for the Town and the County have indicated that the proposed bisection of the Edgehill property was purposely drawn in such a manner to exclude that portion of the property which is devoted exclusively to agricultural uses.<sup>113</sup>

After extensive consideration of the property owner's request that the Edgehill tract be excluded totally from the area to be annexed by the Town, the Commission is unable to find any appropriate basis for recommending such a modification of the proposed boundary line. The

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<sup>110</sup>The presence of the private road serving the Rosecliff Farms subdivision would also be a barrier of the expenditure of public funds by the Town to install curbs, gutters, or sidewalks within that development.

<sup>111</sup>Glass, letter to staff of Commission on Local Government, June 14, 1993.

<sup>112</sup>Hobbs, communication with staff of Commission on Local Government, July 30, 1993. Further, Town police officers have responded to a non-emergency call for service from the Edgehill property in recent years.

<sup>113</sup>Hobbs, testimony before Commission on Local Government, May 12, 1993.

portion of the parcel that will be incorporated into the Town of Amherst has no unique features which distinguish it from other properties which will be annexed by that municipality. In our judgment, the proposed bifurcation of the Edgehill property is justifiable and appropriate in light of the urban services that area currently receives from the Town.<sup>114</sup>

### FISCAL MANAGEMENT

The Commission is obliged to offer brief comment on the prospective impact of the proposed annexation on the Town's water and sewer enterprise funds. As noted in a previous section of this report, the Town has estimated that during the first five years following the annexation, those two enterprise funds will experience collectively an annual deficit of approximately \$172,400.<sup>115</sup> Representatives of the Town have indicated that the municipal water and sewer revenues will have to increase by approximately 47% and 41%, respectively, to address that projected annual deficit. While a portion of the shortfall in those enterprise funds may be defrayed by revenue from other sources, the Town's projections indicate that its utility customers potentially confront a significant increase in user fees in the years following the annexation.<sup>116</sup>

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<sup>114</sup>The Commission notes that although the Edgehill property is zoned by the County for residential use, the entire parcel qualifies for use value assessment under the County's program. (Hobbs, testimony before Commission on Local Government, May 12, 1993; and Hobbs, communication with staff of Commission on Local Government, Aug. 2, 1993.) Under the terms of the proposed agreement the Town is required to adopt a use value assessment program. Such action on the part of the Town will reduce the development pressures on Edgehill and other qualifying properties incorporated into the municipality.

<sup>115</sup>The projected shortfall would increase further if the Town instituted a policy of transferring monies from its enterprise funds to the general fund to recover costs borne by the general fund for the administration of enterprise activity.

<sup>116</sup>A representative for the Town has indicated that the estimated shortfall in water and sewer revenues could be reduced in part, by the County's one-time payment to the Town of \$100,000 to assist with the utility improvements called for in the proposed settlement, or the

In evaluating the relative significance of the prospective increases in the Amherst rates, the Commission has examined the utility rate structure in other Virginia municipalities of comparable size. In relation to the aggregate monthly water and sewer fees charged by the Virginia towns with populations between 560 and 2,470 persons, as of May 1992 the combined rate for the Town of Amherst (\$18.05) placed that municipality in the lower end of the spectrum of residential rates reported in a recent survey.<sup>117</sup> Even the 1993 increase in Amherst's utility rates raised that municipality's combined monthly residential rate only to \$26.50, an amount slightly below the 1992 average of such rates for the other 33 towns (\$26.52) included in the survey.<sup>118</sup> If the Town is required to impose additional rate increases following the proposed annexation to address enterprise fund shortfalls, such action would result in the municipality having an aggregate monthly water and sewer rate in the upper end of the range of combined utility fees charged by the other 33 municipalities in the specified population group. Moreover, further increases in the Town's water and sewer rates could restrict the flexibility of the municipality in meeting future

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transfer of surplus general fund revenues to the water and sewer fund. (Hobbs, testimony before Commission on Local Government, May 12, 1993.)

<sup>117</sup>Draper Aden Associates, Virginia Association of Counties, and Virginia Municipal League, "1992 Virginia Water & Sewer Rate Report"; and Town Annexation Notice, pp. 47, 54. The utility rates cited are the aggregate cost for 5,000 gallons per month of water and sewer service to residential customers located within the subject jurisdictions. The towns used for this analysis ranged in size from 500 persons below the population of Amherst before annexation (1,060) to 500 persons above the estimated population of that municipality following the annexation (1,971). While not all towns within that population bracket with public water and sewer systems responded to the cited survey, the sample size is sufficient for comparative purposes and is the only source of such data available.

<sup>118</sup>"1992 Virginia Water & Sewer Rate Report"; and Hobbs, communication with staff of Commission on Local Government, Aug. 31, 1993. On July 1, 1993 the Town of Amherst also instituted a new utility rate structure, and increased to 100% the surcharge on usage fees paid by residences and businesses which will be located beyond the boundaries of the enlarged Town and connected to the municipality's water and sewer systems.

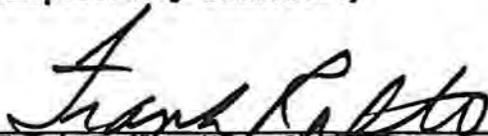
fiscal needs of its utility systems resulting from regulatory changes or essential repairs.

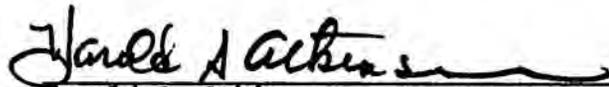
There is a practical limit to the extent to which the Town of Amherst can rely on its resident water and sewer customers to defray anticipated deficits in its utility funds. Accordingly, we reluctantly endorse the proposal put forth by the Town to reduce the deficits in its enterprise accounts by transfers from the general fund. Reliance on general fund transfers to supplement services which should be supported by user fees and charges should, in our view, constitute only an interim solution to a locality's fiscal concerns. In this instance, such action might appropriately allow a more gradual adjustment in the Town's utility rate structure following the proposed annexation.

#### **CONCLUDING COMMENT**

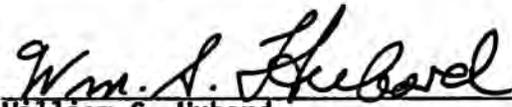
The Commission on Local Government acknowledges the considerable effort devoted by the officials of the Town of Amherst and Amherst County to the negotiation of the agreement before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. Moreover, the inclusion of provisions in the agreement which call for continued cooperation between the parties in the areas of industrial development, utility operations, and other endeavors is founded upon recognition of the social and economic interdependence of the Town and County. We commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Respectfully submitted,

  
Frank Raflo, Vice Chairman

  
Harold S. Atkinson

  
Mary Sherwood Holt

  
William S. Hubbard



## VOLUNTARY SETTLEMENT OF ANNEXATION AND IMMUNITY

THIS VOLUNTARY SETTLEMENT AGREEMENT is made and entered into this 12<sup>th</sup> day of January, 1993, and executed in quintuplicate originals (each executed copy constituting an original) by and between the TOWN OF AMHERST, a municipal corporation of the Commonwealth of Virginia (Town), acting by and through its governing body, the Amherst Town Council (Council); and AMHERST COUNTY, a County of the Commonwealth of Virginia (County), acting by and through its governing body, the Amherst County Board of Supervisors (Board).

WHEREAS, the Town filed a Notice with the Commission on Local Government on May 6, 1992, stating its intention to petition the Circuit Court of Amherst County for the annexation of part of Amherst County pursuant to Chapter 19.1 and Chapter 25 of Title 15.1 of the Virginia Code Annotated, and

WHEREAS, the County filed a Defense on September 10, 1992, asking the Commission on Local Government to recommend against the annexation, and

WHEREAS, the Town and County have entered into negotiations pursuant to Title 15.1, Chapters 26.1:1 and 19.1 of the Code of Virginia Annotated and have reached this Voluntary Settlement Agreement (hereinafter "Agreement").

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

SECTION 1.00 DEFINITIONS.

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

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

1.03. "County" shall mean County of Amherst.

1.04. "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.

1.05. "Section" or "subsection" refers to parts of this Agreement, unless the context provides that "section" refers to parts of the Virginia Code Annotated.

1.06. "Town" shall mean the Town of Amherst. It shall also mean a city of Amherst in the event that the Town shall, at any time during the existence of this agreement or any extension or modification hereto, seek city status under any provision of Virginia law existing or hereafter enacted, or by means of any modification or amendment of the Town Charter by the General Assembly of Virginia. The rights, duties and obligations and responsibilities hereunder imposed on or available to the town shall be deemed continuing rights, duties and obligations of any city comprising all, or substantially all, of the territory of the Town of Amherst as it is determined hereby, unless agreed to by separate written mutual agreement of the parties.

SECTION 2.00 ANNEXATION AND IMMUNITY RIGHTS DEFINED.

2.01. The Town agrees it will not initiate or institute, other than as herein specifically provided, any proceedings to annex all or any portion of the County pursuant to Title 15.1, Chapter 25 (Section 15.1-1032 et seq.) of the Code for a period of ten (10) years following the effective date of annexation of the area ordered to be annexed to the Town pursuant to this Agreement.

2.02. In the event annexation proceedings are instituted by property owners or qualified voters pursuant to Section 15.1-1034 of the Code, or any statute similar thereto, within a period of ten (10) years from the date of any annexation by order of the Court affirming and giving full force and effect to this Agreement, the County agrees that it will not oppose any such petition.

2.03. The County agrees to the annexation by the Town of the area described by metes and bounds on Exhibit A and outlined in blue on the map designated as Exhibit B, on the terms and conditions provided in this Agreement. The Town shall cause its corporate boundaries, as modified by the annexation of such territory, to be surveyed and appropriately monumented. A copy of the survey description and a map reflecting that survey description shall be submitted to the Court and shall be incorporated in the final order approving and implementing this Agreement.

2.04. The effective date of the annexation provided for in Section 2.03 shall be at midnight on December 31, 1993. If

the Court has not entered an order prior to December 31, 1993 approving and affirming this Agreement, then the annexation shall become effective at midnight on the 31st day of December following the date of entry of such order.

2.05. The Town agrees to comply with the provisions of the Voting Rights Act of 1965 by obtaining preclearance of the voting changes incident to the annexation of County territory.

2.06. The Town and County agree that should the Commission on Local Government or the Court change the boundary lines of the area of annexation agreed upon in subsection 2.03, and the Town and County fail to mutually agree by written instrument to such change, then this Agreement shall immediately terminate and become null and void.

#### SECTION 3.00 COOPERATION.

3.01. The Town and County agree to establish an advisory joint committee to be known as the Joint Committee on Cooperation (hereinafter "Committee") consisting of six (6) citizens, three (3) to be appointed by the Town and three (3) by the County. The citizens appointed by the Town may include residents of the area to be annexed by the Town.

3.02. The initial Committee members shall be appointed on or before January 1, 1993, and the Town and the County shall each select one member for a one-year term of office, one member for a two-year term of office, and one member for a three-year term of office. Thereafter, Committee members shall be appointed for staggered three-year terms.

3.03. The Committee shall be responsible for:

(a) Assisting the County and the Town in creating better communications to provide free and open discussion between the governing bodies of the Town and the County.

(b) Providing recommendations to be considered by the Town and the County for cooperative joint purchasing efforts and combined bidding on service contracts, including but not limited to, solid waste disposal.

(c) Recommending other general cooperative efforts designed to create efficiencies in government and savings to the citizens as well as increasing the level of service available to all citizens of the Town and County.

3.04. The Town and County agree that the existing Industrial Development Authority of the Town shall be and become a joint industrial development authority pursuant to the provisions of Virginia Code Sections 15.1-21 and 15.1-1387 and, to that end, the parties agree to enact, pursuant to Section 15.1-1376 of the Code, the appropriate ordinance modifying the existing industrial development authority of the Town to create a joint authority. In the event the existing Industrial Development Authority of the Town may not be converted into a joint authority under the provisions of the Virginia Code, then a new industrial development authority shall be jointly created by the Town and the County, in which case it is the parties' intention that the existing Industrial Development Authority of the Town would not issue any additional industrial revenue bonds.

3.05. The Town and County further agree that the jointly created authority shall be governed by a board of directors of three (3) members from the Town and four (4) members from the County. The directors for the Town shall be appointed by the governing body of the Town and the board of directors for the County shall be appointed by the Board of Supervisors of the County. The directors appointed by the Town may include residents of the area to be annexed to the Town.

3.06. The Town and County further agree that the joint industrial development authority shall be governed pursuant to the statutory provisions of Chapter 33, Title 15.1 of the Virginia Code known as the "Industrial Development and Revenue Bond Act."

3.07. The Town and County agree to fund an engineering study to determine the feasibility of inter-connecting the water systems of the Town and County. The study of the inter-connecting of the two systems shall focus on methods to provide a backup emergency system or supply of water for the Town and County. The study should also focus on the enhancement and availability of water supply to the Town by the creation of an inter-connection that would permit the County to become a wholesale vendor and the Town to become a wholesale purchaser of water from the County. The study should further recommend a fee or rate structure for such wholesale bulk sale of water by the County to the Town.

3.08. The Town and County recognize the wisdom of a combined water system because such system would enhance the

economies of scale through volume production, and allow the Town and the County to share in the cost savings of combined storage facilities.

3.09. The Town and County, in a spirit of cooperation, pledge their future cooperative efforts to see that the recommendations from the study on inter-connection of the two systems become a reality to promote the health and welfare of the citizens of the Town and the County. If the study recommends an inter-connection of the water systems and if the Town and the County agree with the recommendations, then such an inter-connection will be implemented upon execution by the Town and the County of a utility agreement specifying the details of such an arrangement.

3.10. The County agrees to make a good faith effort to construct a new industrial park within the corporate limits of the Town or at a site within close proximity of the Town where it will be economically feasible to extend Town utilities. Upon the extension of the Town utilities to the site, the County agrees to enter into voluntary boundary adjustment proceedings with the Town to ensure that the industrial park will be within the corporate limits of the Town.

3.11. The Town agrees that it will serve any new industrial park, established pursuant to subsection 3.10, with Town water and Town wastewater treatment and will pay the cost of the installation of all water and sewer lines to the park.

3.12. If the availability fees for connections for water and sewer services of the Town become an obstacle to the

location of industry in the new industrial park, the Town agrees that it will abide by the recommendations of the Joint Committee on Cooperation on methods of how to remove that cost as an obstacle to the location of any industry in the proposed new industrial park.

SECTION 4.00 TERMS AND CONDITIONS OF ANNEXATION.

4.01. The Town agrees that it will modify its zoning ordinance to provide within the limits of the Town agricultural zoning districts for those areas deemed appropriate by the Town Planning Commission and the Town Council. Such districts shall have conditions and requirements similar to those in the agricultural zoning district of the County.

4.02. The Town agrees to adopt an ordinance establishing a land use taxation program, pursuant to Title 58.1, Chapter 32, Article 4 of the Code, similar to the County's land use taxation program which shall be used by the Town as long as the County maintains such a program.

4.03. The Town agrees to adopt ordinances establishing, providing for and permitting hunting rights and privileges within the corporate limits of the Town that are consistent with Title 29.1, Chapter 5, Articles 1 and 2 of the Code.

4.04. The Town agrees that the annexation provided in subsection 2.03 shall be subject to the following terms and conditions regarding the construction of certain utility improvements:

(a) The following water capital projects are to be completed within one to five years of the effective date of the annexation provided for in subsection 2.03 of this Agreement.

(1) <u>Water Treatment Plant</u>	<u>Estimated Project Cost</u>
Upgrade (expand the capacity to 1 MGD)	\$722,350.00

Provided, however, that this project may be postponed in the event the parties undertake the engineering study of the possible inter-connecting of the Town and the County water systems. If the study results in the interconnection of the systems, then the Town may, in its discretion, eliminate this project. If the study does not result in the interconnection of the systems, then the Town shall complete the upgrade of its water treatment plant within five years following the completion of the engineering study.

(2) <u>Ridge Drive (T 1103)</u>	
Waterline Replacement from Route 29 Business	
(1) 3,000 feet of 8-inch	
(2) 1,600 feet of 6-inch	
(3) 2 new and 3 replaced hydrants	130,000.00
(3) <u>Loch Lane</u>	
Waterline Extension to Whitehead Drive	
(1) 2,000 feet of 6 or 8-inch	
(2) 3 new hydrants	50,000.00

(4) Fire Hydrant Additions

- (1) 8 new hydrants (\$1,500/ea.)  
(2) Units: Locations:

3 Waughs Ferry Road  
1 Route 1139  
2 Route 29 Business  
2 Depot St (Route 659) 12,000.00

\$914,350.00

(b) The following sewer capital improvements are to be completed within one to five years of the effective date of the annexation provided for in subsection 2.03 of this Agreement.

(1) Sewerage Treatment Plant

Upgrade Addition

- (1) 2 new Sludge Drying Beds \$ 89,250.00

(2) Effluent Outfall Line

To Buffalo River

- (1) 16,200 feet of 10-inch Gravity 710,550.00
- \$799,800.00

(c) The following capital improvement is to be completed within six to ten years of the effective date of the annexation provided for in subsection 2.03 of this Agreement.

(1) Route 60 East

Waterline Extension from  
Whitehead Drive to Rutledge Inn area

- (1) 3,600 feet of 10-inch  
(2) 4 new hydrants \$177,000.00

CAPITAL IMPROVEMENTS AND EQUIPMENT  
PURCHASES GRAND TOTAL:

\$1,891,150.00

4.05. The Town agrees, upon the effective date of annexation, that it will extend its municipal services to the

areas annexed to the Town at the same level as such services are now or hereafter provided to the areas currently within its corporate limits where like conditions exist.

4.06 The Town and County agree that should future extensions or improvements of the utility system of the Town occur outside the boundaries of the Town, that in such event, the Town may request financial assistance from the County where such extensions are in the best interests of both governments and their citizens. Such request will be reviewed on a case-by-case basis by the County.

4.07 The County agrees to pay to the Town the sum of One Hundred Thousand Dollars (\$100,000.00) on or before June 30, 1993, to assist with the capital improvements set out in Section 4.00 of this Agreement. In the event the Court has not entered an order approving and affirming this Agreement prior to June 30, 1993, the County agrees to pay this sum to the Town within 30 days following the date of entry of such order.

**SECTION 5.00 FURTHER ASSURANCES.**

5.01. Each party hereto agrees to make a good faith effort to effectuate the intent of this Agreement and to execute and deliver to the other such documents or other instruments as may appear appropriate or desirable to clarify or carry out the provisions hereof.

**SECTION 6.00 COMMISSION AND COURT APPROVAL.**

6.01. The Town and County agree to initiate the steps necessary and required by Title 15.1, Chapters 19.1 and

26.1:1 of the Code to obtain affirmation of this Agreement by the Commission and Court.

6.02. The Town and County agree that if the Commission 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 by execution of an agreement embodying such modifications.

6.03. The Town 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 by execution of an agreement embodying such modifications.

#### SECTION 7.00 MISCELLANEOUS PROVISIONS.

7.01. This Agreement shall become effective when it has been affirmed and given full force and effect by a Court appointed pursuant to Chapter 26.2 of Title 15.1 of the Code. The effective date of annexation shall be as set forth in subsection 2.04 of this Agreement.

7.02. This Agreement when affirmed by the Court, shall be binding: (i) upon the Town and the County, (ii) upon the future governing bodies of the Town and County, (iii) upon their assigns and, upon any successors of the County and/or Town and (iv) have full force and effect, all as provided pursuant to Chapter 26.1:1 of Title 15.1 of the Code.

7.03. This Agreement may be amended, modified or supplemented, in whole or in part, by mutual agreement of the Town and County, by written document of equal formality and dignity duly executed by authorized representatives of the Town and County and affirmed pursuant to Chapter 26.1:1 of Title 15.1 of the Code, provided, however, any future amendments, modifications, or supplements need not be referred to the Commission on Local Government for review, but may be reviewed by a Special Three-Judge Court convened pursuant to Chapters 26.1 of Title 15.1 of the Code. The County shall, and the Town may, conduct such public hearings on the amendment of the Agreement as their governing bodies deem appropriate.

7.04. If the Special Three-Judge Court reviewing this Agreement pursuant to Chapters 26.1 and 26.2 of Title 15.1 of the Code fails to approve all provisions of this Agreement, then the entire Agreement is null and void, unless the parties mutually agree otherwise.

7.05. The parties agree that in addition to the Joint Committee on Cooperation herein established, the parties shall continue good faith discussions on other issues of mutual interest, and will conduct themselves toward one another in the responsible and cooperative manner befitting sovereign jurisdictions in the Commonwealth.

7.06. This Agreement shall be enforceable only by the Court affirming and giving full force and effect to this Agreement or by any successor Court appointed pursuant to Title 15.1, Chapter 26.2, § 15.1-1168 of the Code, pursuant to an

action, at law or in equity, initiated by either or both parties hereto to secure the performance of the covenants, conditions or terms herein contained or any order affirming and giving full force and effect to this Agreement.

WITNESS the following signatures and seals:

TOWN OF AMHERST

By: *N. Roger Buddin*  
Mayor

Attest:

*Jack Hobbs*

COUNTY OF AMHERST

By: *Stanley C. Quinn*  
Chairman, Board of Supervisors

Attest:

*Shirley A. Quinn*

## APPENDIX B

### STATISTICAL PROFILE OF THE TOWN OF AMHERST, COUNTY OF AMHERST, AND THE AREA PROPOSED FOR ANNEXATION

	<u>Town of Amherst</u>	<u>County of Amherst</u>	<u>Area Proposed for Annexation</u>
Population (1990)	1,060	28,578	911
Land Area (Square Miles)	1.56	470.00	3.51
Total Assessed Values (FY1992)	\$40,676,835	\$500,446,380	\$17,409,401
Real Estate Values	\$32,506,180	\$721,984,599	\$28,958,370
Mobile Home Values	\$143,720	\$11,953,772	\$45,500
Public Service Corporation Values	\$3,534,178	\$55,912,798	\$1,575,109
Personal Property Values	\$4,398,060	\$77,907,933	\$2,564,628
Machinery and Tools Values	\$94,700	\$19,997,129	\$38,410
Merchants' Capital Values	N/A	\$4,345,224	N/A
Existing Land Use (Acres)			
Residential	331	N/A	527
Commercial	47	N/A	109
Industrial	30	N/A	45
Public and Semi-Public	65	N/A	252
Transportation and Utilities	183	N/A	166
Agricultural, Wooded or Vacant	350	N/A	1,145

**NOTES:**

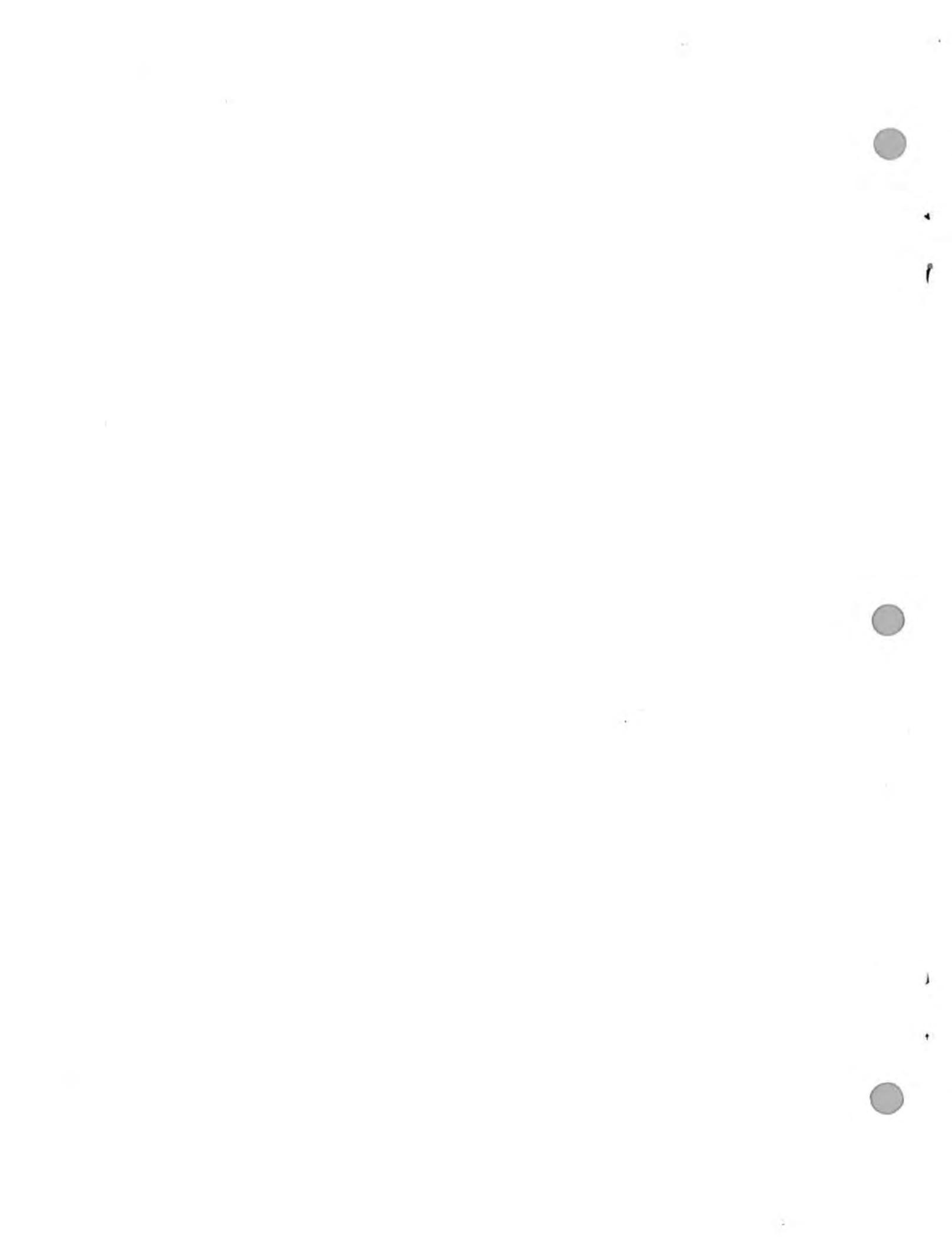
N/A=Not Available

County population, land area, and property value statistics include the Town of Amherst.

Real property values reflect use value assessment.

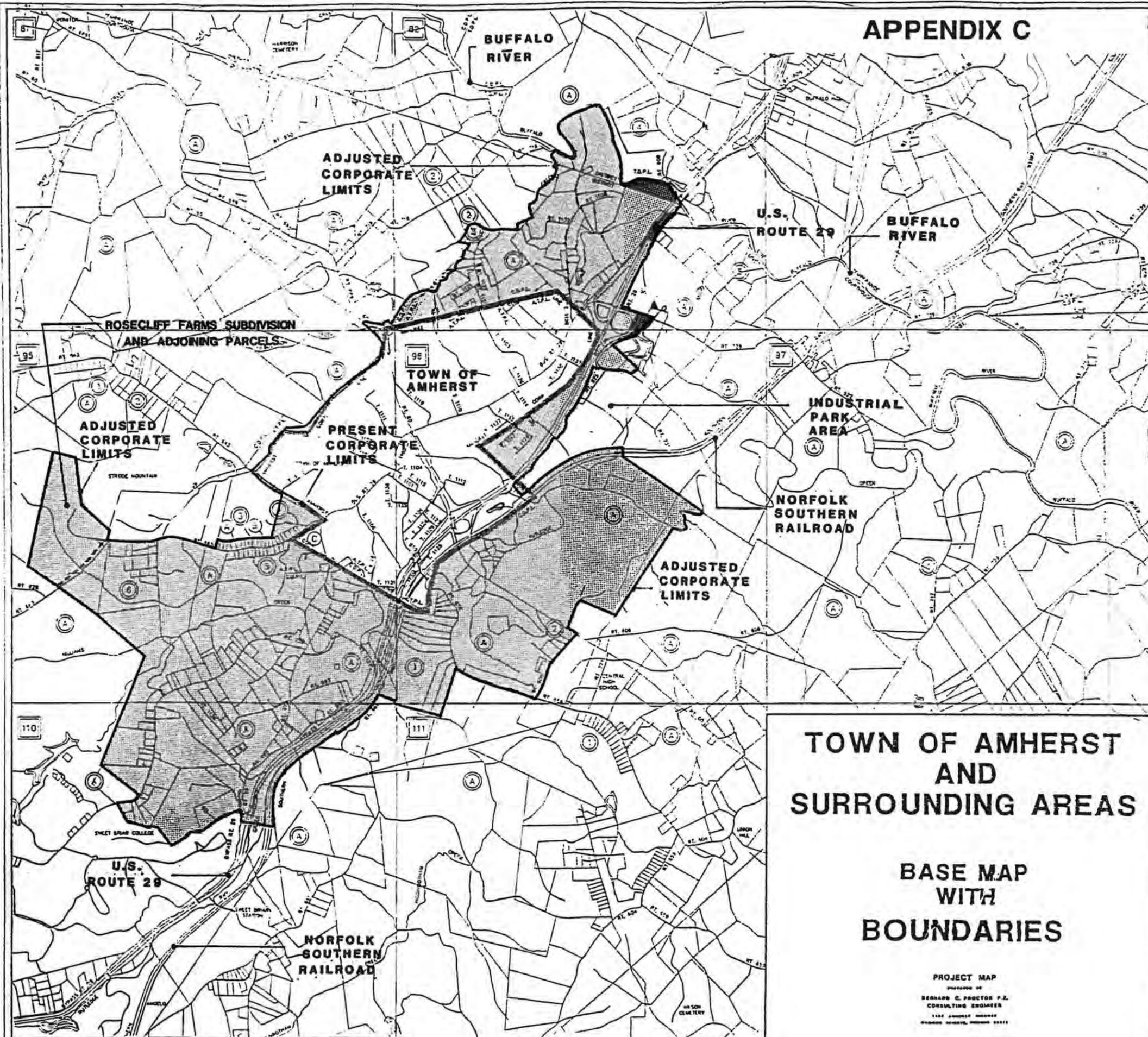
**SOURCES:**

Town of Amherst, Notice by the Town of Amherst of Its Intent to Petition for Approval of Voluntary Settlement with the County of Amherst.



APPENDIX C

LEGEND

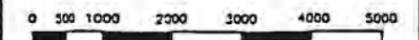
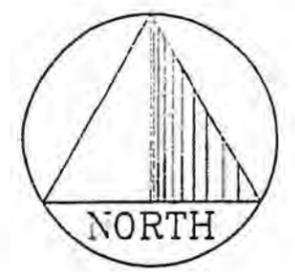


PRESENT CORPORATE LIMITS ————  
 ADJUSTED CORPORATE LIMITS ————

**TOWN OF AMHERST  
 AND  
 SURROUNDING AREAS**

**BASE MAP  
 WITH  
 BOUNDARIES**

PROJECT MAP  
 PREPARED BY  
 BERNARD C. PROCTOR P.E.  
 CONSULTING ENGINEER  
 1102 JAMES ST. HUNTER  
 HUNTER, VIRGINIA 22081



APRIL, 1993