

**Report on the  
Town of Elkton – County of Rockingham  
Agreement Defining Town  
Annexation Rights**



**Commission on Local Government  
Commonwealth of Virginia**

**November 2003**

**Respectfully submitted,**

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**James J. Heston, Chairman**

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**REPORT ON THE  
TOWN OF ELKTON – COUNTY OF ROCKINGHAM  
AGREEMENT DEFINING TOWN ANNEXATION RIGHTS**

**PROCEEDINGS OF THE COMMISSION**

On May 30, 2003 the Town of Elkton and Rockingham County submitted to this Commission for review a proposed agreement defining the Town's future annexation rights that had been negotiated under the authority of Article 2, Chapter 32 of Title 15.2 of the Code of Virginia. Consistent with the Commission's Rules of Procedure, the Town also submitted data and other material to assist this body in its review of the proposed agreement and concurrently gave notice of the submission to 12 local governments in Virginia with which they were contiguous or with which they shared functions, revenue, or tax sources.<sup>1</sup>

Following its receipt of the proposed agreement, the Commission met in Elkton on July 28, 2003 to tour the Town and relevant areas in Rockingham County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing for the purposes of receiving public comment. The public hearing, which was advertised in accordance with Section 15.2-2905.7(B) of the Code of Virginia, was attended by approximately 98 individuals and produced testimony from 10 persons.<sup>2</sup> In order to permit the receipt of additional public comment, the Commission agreed to keep open its record for written submissions through August 29, 2003.

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<sup>1</sup> Town of Elkton, Virginia and County of Rockingham, **Proposed Annexation Agreement, Submission to the Virginia Commission on Local Government**, (hereinafter cited as **Joint Submission**), Volumes One and Two, May 30, 2003.

<sup>2</sup> In accordance with Sec. 15.2-3232 (B), Code of Va., the Town also gave written notice of the Commission's public hearing to the owner, owners, or the agent of each parcel of land included in the area proposed for annexation.

## SCOPE OF REVIEW

In 1979 the General Assembly amended the Commonwealth's annexation laws to authorize towns to negotiate agreements with their counties by which a municipality is permitted to annex, in accordance with conditions specified in such agreements, merely by the adoption of a town ordinance.<sup>3</sup> Thus, where town annexations are pursued under such agreements, the State's general annexation procedure whereby proposed boundary changes are decided by the courts subsequent to Commission review is supplanted by the simple and direct process of annexation by a town ordinance. The formal and final adoption of such an agreement by a town and county, however, divests the town permanently of its authority to seek city status.

While the Code of Virginia grants broad authority to towns and counties to fashion such annexation agreements to meet their peculiar needs and circumstances, there are certain statutorily prescribed criteria which must be met in their development. Based upon those statutory criteria, this Commission is directed to determine in its review:

...whether the proposed agreement provided for the orderly and regular growth of the town and county together, for an equitable sharing of resources and liabilities of the town and county, and whether the agreement is in the best interest of the community at large ....<sup>4</sup>

It should be noted here that whatever the findings and recommendations of this Commission regarding an agreement negotiated under the previously referenced statutory authority, the local governing bodies are free to adopt or reject the proposed agreement as they see fit. If, however, the Commission's review of an agreement of this nature is "unfavorable," the local governing bodies may not adopt the agreement until after they have jointly held an advertised public hearing on the issue.

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<sup>3</sup> Article 2, Chapter 32, Title 15.2, Code of Va.

<sup>4</sup> Sec. 15.2-3232(A), Code of Va.

## EVALUATION OF THE AGREEMENT

In brief, the principal provisions of the proposed agreement negotiated by the Town of Elkton and Rockingham County would:

1. require the Town to renounce permanently its authority to become an independent city;
2. authorize the Town to annex by municipal ordinance a specified area of the County, designated as Phase I, as soon as practicable after the execution of the agreement by the parties;
3. authorize the Town to annex additional contiguous land in a specified area covered by the agreement, designated as Phase II, one year following the effective date of the annexation of the Phase I area;
4. require the Town to take measures to protect agricultural properties which might be annexed under the agreement;
5. require the Town, simultaneously with the execution of the agreement by the parties, to equalize water and sewer rates charged municipal customers within the Phase I and Phase II areas with those rates charged customers within Elkton's current boundaries; and
6. commit the Town not to seek to annex any other areas of the County until the entire Phase II area is annexed.<sup>5</sup>

As previously indicated, the Commission is required to determine in its review whether a proposed agreement defining town annexation rights (1) provides for the orderly and regular growth of Elkton and Rockingham County together, (2) permits an equitable sharing of the area's resources and liabilities, and (3) is in the best interest of the community at large. In the following sections of this report the Commission endeavors to analyze the proposed Town of Elkton – County of Rockingham agreement on the basis of these general criteria.

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<sup>5</sup> **The County of Rockingham and the Town of Elkton Annexation Agreement** (hereinafter cited as **Annexation Agreement**). See Appendix A for the complete text of the proposed Agreement Defining Annexation Rights between the Town of Elkton and Rockingham County.

## **ORDERLY AND REGULAR GROWTH OF THE TOWN AND COUNTY**

In terms of population, the data reveal that both the Town and County experienced growth during the previous decade. Between 1990 and 2000, the population of the Town of Elkton increased from 1,935 to 2,042 persons, or by 5.5%, while that of Rockingham County grew from 57,482 to 67,725, or by 17.8%.<sup>6</sup> Recent population estimates reveal, however, that while the County has continued to experience modest population growth, the Town has confronted a decline in the number of its residents. According to those estimates, between 2000 and 2002 the County's population increased by 2.2%, while the Town's populace declined by 0.6%.<sup>7</sup> These data indicate that essentially none of the population growth of the County occurred within the Town of Elkton.

With respect to fiscal resources, property assessment data indicate that growth in the County generally has been somewhat in excess of that experienced within the Town. Between FY1997-98 and FY2001-02 the value of locally assessed real property in Rockingham County increased from \$3,100.0 million to \$3,957.5 million, or by 27.7%. During the same span of years, such values within the corporate limits of Elkton grew from \$62.8 million to \$77.5 million, a growth rate of 23.3%.<sup>8</sup> Thus, these property

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<sup>6</sup> U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 2**; and **2000 Census of Population and Housing, Profiles of General Demographic Characteristics, Virginia, Table DP-1**, p. 289. Population statistics for Rockingham County include persons residing in the Towns of Bridgewater, Broadway, Dayton, Elkton, Mount Crawford, Timberville, and that portion of Grottoes which lies within the County. See Appendix B for a statistical profile of the Town, County, and the area covered by the proposed agreement. See Appendix C for a map of that area.

<sup>7</sup> U. S. Department of Commerce, Bureau of the Census, Population Division, **Virginia Town Population Estimates and Population Change, July 1, 2001 to July 1, 2002**, Table SUB-EST2002-11-51. (Available: <http://www.ccps.virginia.edu/Demographics/estimates/towns/towns-01-02.xls>.)

<sup>8</sup> **Joint Submission**, Volume One, Tab 19. The assessed property values for Rockingham County include those within the Towns of Dayton, Bridgewater, Broadway,

values, the principal source of revenue for both jurisdictions, increased at a marginally greater rate in the County generally than they did within the Town of Elkton during that five year period.

The prospects for future development within the current boundaries of the Town of Elkton appear to be limited. Land use statistics reveal that approximately 300 acres in the Town are presently classified as vacant (approximately 34.3% of the Town's total land area), with less than 5 acres of that property unsuitable for development due to floodplain restrictions or steep slopes.<sup>9</sup> Town officials have indicated, however, that all of this vacant land is located in one tract, known as the Elkwood Subdivision, and is currently undergoing conversion to single-family residential uses.<sup>10</sup> Some evidence of the limited potential for development within the Town is provided by the fact that other than the aforementioned Elkwood development, there have been only 12 subdivision lots platted within Elkton in the last five years.<sup>11</sup>

Under the terms of the proposed agreement, the Town of Elkton would be permitted to annex by ordinance the Phase I area immediately and would be eligible to annex subsequently the Phase II area subject to certain conditions.<sup>12</sup> The annexation of

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Elkton, Mount Crawford, Timberville, and that portion of the Town of Grottoes that lies within the County.

<sup>9</sup> Town of Elkton, Virginia and County of Rockingham, **Proposed Annexation Agreement: Supplemental Answers to Commission's Questions**, Volume Three, July 18, 2003 (hereinafter cited as **Supplemental Submission**), Items 41, 43.

<sup>10</sup> **Ibid.**, Item 41; and Town of Elkton, "Tour of the Town of Elkton and Proposed Annexation Areas," (hereinafter cited as "Tour Narrative"), July 28, 2003. The Elkwood Subdivision, which is located in the northeastern portion of Elkton, currently contains approximately 80 lots and is the largest tract of undeveloped property located in the Town.

<sup>11</sup> **Ibid.**, Item 42.

<sup>12</sup> The proposed agreement provides that Elkton may annex Phase II one year following the incorporation of the Phase I area if the Town has completed the extension

the Phase I area would bring within the corporate limits of Elkton an area of approximately 790 acres (1.2 square miles) containing a population of approximately 770 persons and an estimated \$37.6 million in assessed real property values.<sup>13</sup> The addition of this area to the Town will increase Elkton's population by 38.0% and its assessed real property values by 48.6%. Further, the annexation of the Phase I area also will bring within the Town commercial development located adjacent to Elkton's current boundary.<sup>14</sup> Moreover, the incorporation of this area into the Town will provide Elkton with approximately 350 acres of vacant land for possible future development.<sup>15</sup> Finally, the proposed agreement affords the Town of Elkton the opportunity, subject to certain conditions, to annex the Phase II area. That area embraces approximately 24 acres and currently contains 47 persons and approximately \$2.3 million in real estate assessed values.<sup>16</sup>

It is the Commission's judgment that the proposed agreement does facilitate the orderly and regular growth of the Town and County together. The agreement will permit

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of municipal services to properties in the Phase I. (**Annexation Agreement**, Sec. 4.) The Commission notes, however, that another provision of the proposed agreement gives the Town up to six years to extend public water and sewerage to properties in the Phase I area. (**Ibid.**, Sec. 6.)

<sup>13</sup> **Joint Submission**, Volume One, Tabs 5, 18, 22.

<sup>14</sup> Phase I contains 11 businesses, most of which are located in the Food Lion Shopping Center in the western portion of the area proposed for annexation. (**Ibid.**, Volume One, Tab 22; and "Tour Narrative.")

<sup>15</sup> According to Elkton officials, almost one-half (48.1%) of the land located within the northeastern portion of Phase I, referred to in the proposed agreement as Phase IC, is owned by the Town. Of that municipal property, approximately 200 acres is undeveloped, and the Town is proposing to construct a mixed-use development on that site.

<sup>16</sup> Lauri A. Nowakowski Sigler, Special Counsel, Town of Elkton, letter to staff of Commission on Local Government, Sep. 22, 2003; and **Joint Submission**, Volume One, Tab 22. A portion of the vacant property in Phase II has been subdivided into 81 lots for future residential development.

the Town to benefit from an immediate increase in population and fiscal resources, and it will provide Elkton land for future development which will help ensure its continued viability. Moreover, the viability of the Town and its expanded fiscal resources will enable Elkton to continue to contribute to the social and economic health of its area and Rockingham County generally. Finally, the proposed agreement contains a provision permitting the Town and County to modify the annexation accord by joint consent, if such is subsequently deemed appropriate.<sup>17</sup> This provision constitutes recognition by both jurisdictions that the agreement may require subsequent modification to meet needs and circumstances which cannot now be foreseen.

### **EQUITABLE SHARING OF RESOURCES AND LIABILITIES**

Within the context of an agreement defining annexation rights, an equitable sharing of resources and liabilities requires an opportunity for both jurisdictions to benefit from the growth in the area sufficient to meet the needs of their respective residents and commensurate with the contribution each makes to the social and economic viability of the general area. The following paragraphs consider these issues.

#### **Resources**

Statistics reviewed earlier in this report indicated that the Town of Elkton has not experienced growth in its population and tax base in recent years equal to that of Rockingham County. Further, while the total property values subject to local taxation in the Town have increased between FY1997-98 and FY2001-02 by 23.3%, the revenues generated by those tax sources have grown by only 10.0%.<sup>18</sup> Although the Town relies on additional sources of revenue to support its municipal services and functions, local property taxes represent the largest component of revenue available to fund its general

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<sup>17</sup> **Annexation Agreement**, Sec. 16.

<sup>18</sup> Town of Elkton, **Financial and Compliance Reports**, June 30, 2002, pp. 37, 39.

governmental activities. Furthermore, the evidence indicate that in recent years the Town of Elkton's general fund revenues have been insufficient to cover its expenses. Town officials have reported that revenue from the operation of its public electrical system routinely have been used to subsidize general governmental services.<sup>19</sup>

With respect to the issue of an equitable sharing of resources and liabilities, it is significant to note that the Town has contributed substantially to the economic development of its general area through the extension of public water and sewerage services to businesses and residents beyond its boundaries. As succeeding sections of this report will indicate, Town utility services are found extensively in the Phase I and II areas. Thus, under the terms of the proposed agreement, Elkton would be permitted to annex territory whose existing development has been facilitated by Town services.

The proposed agreement would permit the Town of Elkton to annex immediately an area possessing local assessed property values sufficient to yield, based on current Town tax rates, approximately \$38,000 in additional revenues.<sup>20</sup> Further, the annexation of Phase I will also provide the Town with approximately \$240,000 annually in other local-source revenues and intergovernmental transfers (e.g., bank stock taxes, business, professional and occupational licenses, and ABC profits distributions).<sup>21</sup> Moreover, Phase I will provide Elkton with vacant land for future development which should result

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<sup>19</sup> **Financial and Compliance Reports**, pp. 5-6. For FY2000-01 and FY2001-02, Elkton transferred \$137,540 and \$18,234, respectively, from its enterprise accounts to support the Town's general fund operations.

<sup>20</sup> **Joint Submission**, Volume One, Tab 22.

<sup>21</sup> **Ibid.** Under the terms of the proposed agreement, the Town will be required, simultaneously with its first annexation, to reduce water and sewer rates for all its customers located in Phase I and II so that the rates are the same as those charged to the current residents of Elkton. (**Annexation Agreement**, Sec. 8.) Town officials have estimated that the loss of utility revenue as a result of the rate equalization will be \$12,400 annually, but that reduction will be more than offset by the anticipated receipt of water and sewer connection fees from the residential development occurring in Phase II. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.)

in further increases in the fiscal resources available to the Town. Thus, the annexation of Phase I, as well as the prospective incorporation of property in Phase II, will promote an equitable sharing of the resources of the general community.

It is important to note here that town annexations in Virginia, unlike those initiated by cities, do not remove property from a county's tax rolls. Thus, Rockingham County's major tax sources will be unaffected by annexations by the Town of Elkton. To be sure, town annexations do constrict some of a county's more modest revenue sources (e.g., automobile license taxes, consumer utility taxes, sales taxes, etc.), but no significant loss of revenue to Rockingham County is anticipated as a result of the annexations effected by Elkton under the terms of the proposed agreement.<sup>22</sup> Moreover, any development facilitated by the extension of Elkton's services to annexed areas will redound to the benefit of Rockingham County. On the basis of these considerations, the Commission concludes that the annexations under the terms of the proposed agreement can provide the Town of Elkton and Rockingham County with an equitable sharing of the area's resources.

### **Liabilities for Services**

As with the other towns located in Rockingham County, Elkton plays an important role in the provision of public services to its general area. In terms of utilities, the Town serves not only the needs within its present boundaries, but also residential and commercial connections beyond its corporate limits. The availability of Town utilities

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<sup>22</sup> Rockingham County estimated that it will incur a loss in taxes and fees amounting to approximately \$57,000 due to the annexation of Phase I, and an additional reduction of \$13,000 in water and sewer connection fees and other charges. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.)

has also been instrumental in the development of areas adjacent to Elkton.<sup>23</sup> In terms of the future growth in the general area, the Commission notes that the current draft of the revised Rockingham County comprehensive plan, which is based upon an in-depth analysis of the County's needs and anticipated growth, calls for the continued development of the areas adjacent to Elkton and within the territory subject to annexation under the terms of the proposed agreement.<sup>24</sup> If such development occurs, Elkton would be, in our view, the appropriate entity to provide urban services to those areas.

Annexations effected by Elkton under the terms of the proposed agreement will, however, increase the Town's public service responsibilities. While this expanded responsibility for public services constitutes a liability to be assumed by the Town, the extension of such services represents, at the same time, a consequence of the agreement which is in the general interest of the community at large. The sections which follow address those public service concerns.

**Sewerage.** The Town of Elkton's sewage treatment plant, which was constructed in 1981, has a permitted capacity of 0.40 million gallons per day (MGD) and received in 2002 an average daily flow of 0.25 MGD, leaving the facility with an excess capacity of 0.15 MGD, or 37.5% of its rated capacity.<sup>25</sup> The municipal sewage collection system serves 616 connections, including 87 connections in Phase I and 10 connections in Phase

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<sup>23</sup> Pursuant to a prior agreement with the County, Elkton provides potable water and wastewater treatment to several businesses located west of the Town and beyond the area proposed for annexation.

<sup>24</sup> County of Rockingham, **Comprehensive Plan for 2020 and Beyond**, Section II, Draft, Mar. 4, 2002, pp. 2-61 – 2-62 (Available: <http://rkhm.gislogic.com/pdf/06PoliciesforSpecificAreas.pdf>.)

<sup>25</sup> **Supplemental Submission.**, Item 3; **Joint Submission**, Volume One, Tab 22; and “Tour Narrative.” The Town's sewage treatment plant is located in the western portion of the area proposed for annexation that is referred to in the agreement as Phase IA.

II of the area proposed for annexation.<sup>26</sup> It is important to note that the Town's sewerage system is presently the only source of central wastewater treatment available to serve the area proposed for annexation. The residents and businesses in that area and its environs not served by Elkton are dependent on individual septic tanks.

With respect to the immediacy of need to extend municipal sewerage to the area proposed for annexation, the evidence suggests that there are properties within that portion of Phase I known as the Pentecostal Hill community which have major sewage concerns. Records of the Rockingham-Harrisonburg Health Department disclose sanitation problems in that community resulting from lot sizes and unfavorable soil conditions that restrict the repair or replacement of septic tanks serving the residences in that community.<sup>27</sup> Under the utility commitments in the proposed agreement, Elkton will extend its sewage collection lines to the Pentecostal Hill community within six years following the effective date of annexation.<sup>28</sup>

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<sup>26</sup> In addition, the Town also serves 8 sewer connections located beyond the area proposed for annexation adjacent to U. S. Highway 33 West. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003; and Todd McCoy, Director of Public Works, Town of Elkton, communication with staff of Commission on Local Government, Oct. 2, 2003.)

<sup>27</sup> Bradford Williams, Environmental Health Specialist, Rockingham-Harrisonburg Health Department, communication with staff of Commission on Local Government, Sept. 5, 2003. According to an official for the Rockingham-Harrisonburg Health Department, the small lot size and soil conditions in the Pentecostal Hill Community have resulted in the denial of three new septic tank systems and the issuance of an additional three permits for the repair of existing on-site wastewater disposal system. (**Ibid.**)

<sup>28</sup> **Annexation Agreement**, Sec. 6. The Town contemplates the expenditure of approximately \$411,000 for the extension of its sewer lines and appurtenances to the residents and businesses in the Pentecostal Hill community. (**Supplemental Submission**, Item 50.) That project is being financed, in part, by a \$240,000 grant from Rockingham County to the Town for the extension of public utilities to the Pentecostal Hill community. [Presentation of Nathan H. Miller, Town Attorney, Town of Elkton, **Commission on Local Government Annexation Presentation and Hearing** (hereinafter cited as **Transcript**), July 28, 2003, p. 18.] The Town will also extend its sewage collection lines to other properties in Phase I and Phase II within five years

In view of the extent of the Town's sewerage already provided customers in Phase I and Phase II of the area proposed for annexation, its plans to address existing wastewater collection and treatment needs of property annexed, and the Town's excess capacity in its system, we find that Elkton is capable of meeting both the current and prospective needs of those areas.<sup>29</sup> Further, the Town places a surcharge on sewage connection and user charges for customers located beyond its present boundaries.<sup>30</sup> Thus, the annexation will substantially reduce the cost of sewerage service to all residents and businesses connected to the system in the area proposed for annexation.<sup>31</sup>

**Water Supply and Distribution.** The Town of Elkton owns and operates a public water storage and distribution system, which presently serves 997 connections, with 127 of those connections being located in Phase I and an additional 11 connections in

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following their annexation "... if those services are needed or if they are required by property owners." (**Annexation Agreement**, Sec. 6.)

<sup>29</sup> Town officials are also proposing to make certain improvements to its sewage treatment plant unrelated to the proposed annexation, and they estimate the cost of those improvements to be approximately \$220,000. (**Supplemental Submission**, Item 5; and McCoy, **Transcript**, p. 58.)

<sup>30</sup> The Town places a 50% surcharge on its connection fees and sewer rates for the 23 nonresident customers located in the Phase I area. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.) The Commission notes that under the terms of a prior agreement between the Town and Rockingham County, residents and businesses located in the area proposed for annexation that are currently connected to sewerage installed by the County are not assessed the municipal surcharge. (**Joint Submission**, Volume Two, Tab 29.)

<sup>31</sup> The proposed agreement requires Elkton, upon initiation of its first annexation, to reduce sewer rates for its customers located in the Phase I and Phase II areas so that the rates are the same as charged to the residents of the Town. (**Annexation Agreement**, Sec. 8.)

the Phase II area.<sup>32</sup> Water for the system is obtained from a well located within the Town's current boundaries.<sup>33</sup> While the aggregate yield from that water source is not known, the Town is authorized by the Virginia Department of Health (VDH) to distribute 0.55 MGD.<sup>34</sup> Since Elkton's present water distribution system required approximately 0.39 MGD in 2002 to serve its connections, the system currently retains an unused reserve capacity of 0.16 MGD, or approximately 29.1% of total.<sup>35</sup> In terms of storage capacity, the Town has a ground storage reservoir that holds 1.0 million gallons of water, or an amount in excess of two days' demand.<sup>36</sup>

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<sup>32</sup> Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003. Town water lines also serve 19 connections in Rockingham County beyond the area proposed for annexation.

<sup>33</sup> Water from the well is treated with chlorination and fluoridation prior to distribution. In addition, Elkton uses a spring, which is located east of Town, as a backup water source during times of drought. (**Joint Submission**, Volume Two, Tab 27.)

<sup>34</sup> **Ibid.**, Tab 27.

<sup>35</sup> **Ibid.**, Tab 22. To supplement Elkton's existing water sources and to address low pressure in a portion of the municipal distribution system, the Town is purchasing an additional well. That well, which is located in Phase II, has been approved by the VDH as a public water source, and it is capable of pumping approximately 0.34 MGD. An Elkton official estimates that the cost to connect the new well to the Town's water lines will be approximately \$150,000. (McCoy, communication with staff of the Commission on Local Government, Oct. 2, 2003.) The Commission also notes that Rockingham County is proposing to transfer its ownership of Bear Lithia Spring, which is located approximately three miles north of Elkton, to the Town to meet future water needs. (William G. O'Brien, County Administrator, County of Rockingham, letter to Wayne Printz, Mayor, Town of Elkton, July 25, 2003.) Although the spring is tested monthly by the VDH, its capacity is unknown. According to an Elkton official, there are no plans in the immediate future to connect Bear Lithia Spring to the municipal water distribution system. (McCoy, communication with staff of the Commission on Local Government, Oct. 2, 2003.)

<sup>36</sup> **Joint Submission**, Volume Two, Tab 27.

Under the utility commitments in the proposed agreement, Elkton will extend its water distribution lines to the Pentecostal Hill community within six years following the effective date of annexation.<sup>37</sup> With respect to the need to extend municipal water service to that portion of the area proposed for annexation, the evidence indicates that properties located in the Pentecostal Hill community located to the south of Elkton rely on individual wells.<sup>38</sup> Further, according to a State official, the presence of on-site sewage disposal systems in the Pentecostal Hill community heighten the threat that failing septic tanks could create a health hazard by contaminating individual drinking wells.<sup>39</sup>

As is the case with the Town's sewer service, Elkton places a surcharge on water user and connection fees for customers located beyond its present boundaries.<sup>40</sup> Thus, annexation will substantially reduce the cost of water service to all residents and businesses who are brought within Elkton's boundaries, as well as to others subsequently connected to the system in annexed areas.<sup>41</sup>

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<sup>37</sup> **Annexation Agreement**, Sec. 6. The Town estimates that the cost of constructing water lines to serve the Pentecostal Hill community will be approximately \$498,000. A portion of that cost will be funded by the County's grant to Elkton of \$240,000 for the extension of Town water and sewerage to that community. (Miller, **Transcript**, p. 18.) The Town will also extend its water service to other properties in Phase I and Phase II within five years following their annexation if those services are needed or required by affected property owners.

<sup>38</sup> According to an official with the Rockingham-Harrisonburg Health Department, several residences located in the Pentecostal Hill community also utilize cisterns as a water source. (Williams, communication with staff of Commission on Local Government, Sep. 10, 2003.)

<sup>39</sup> **Ibid.**

<sup>40</sup> The 101 Town water customers located in the Phase I area are subject to a 50% surcharge on municipal sewage water services. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.) The Commission notes, however, users in the area proposed for annexation connected to water lines installed by the County are not assessed the surcharge.

<sup>41</sup> The proposed agreement requires Elkton, upon initiation of its first annexation, to reduce water rates for its customers located in the Phase I and Phase II areas so that the

**Solid Waste**. The Town of Elkton provides to its residents, on a fee basis, weekly collection of solid waste through a contract with a private collector.<sup>42</sup> Town residents are charged \$8.25 per month for this service.<sup>43</sup> At the current time, residents in the areas subject to annexation under the terms of the proposed agreement must dispose of their waste in containers located at various sites in the County or contract with private concerns for the collection and disposal of their refuse.<sup>44</sup>

Areas adjacent to Elkton, both developed and those to be developed, will benefit, in our judgment, from the solid waste collection services provided by the Town. The extension of the Town's services to areas annexed will result not only in the reduction in the cost of door-to-door solid waste services, it should also promote increased utilization of regular refuse collection within those areas. Clearly, the Town can and should bear responsibility for the provision of this public service in the areas covered by the agreement.

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rates are the same as charged to the residents of the Town. (**Annexation Agreement**, Sec. 8.)

<sup>42</sup> **Joint Submission**, Volume One, Tab 22. The Town's contractor utilizes the County's landfill, which is located near Elkton, for the disposal of refuse. Commercial entities located within the current Town boundaries must contract separately with private concerns for solid waste collection services. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.)

<sup>43</sup> **Joint Submission**, Volume One, Tab 22. Seasonal collection of leaves and brush, and the pickup of large items and recyclables are provided on a regular basis by the Town's solid waste service. (**Supplemental Submission**, Item 26.)

<sup>44</sup> There is a County-owned solid waste container located in the western portion of the area proposed for annexation. Residents of the area covered by the agreement currently are charged \$15.00 per month for private solid waste collection services. (Sigler, letter to staff of Commission on Local Government, Sep. 22, 2003.)

**Law Enforcement.** Since law enforcement activities of Virginia towns augment those provided by county Sheriff's departments, the expansion of Elkton's boundaries under the terms of the proposed agreement will have the effect of providing additional and more intensive law enforcement services to the residents and businesses of the areas annexed. The Town presently has six full-time police officers, with each assigned patrol responsibility.<sup>45</sup> The duty shifts of those officers are structured so that the Town is regularly patrolled 24 hours per day.<sup>46</sup> The Rockingham County Sheriff's Department, which maintains its headquarters in the City of Harrisonburg, assists the Town in meeting its law enforcement needs. Close cooperation exists between the two departments, with each agency responding to calls for service to the other when circumstances warrant.<sup>47</sup> Further, the County provides dispatching services for the Town.<sup>48</sup>

While the Commission has no knowledge of any major law enforcement problems in the areas to be annexed under the terms of the proposed agreement, the addition of those areas to the Town will add to the responsibilities placed upon Elkton's police department. In order to address these additional responsibilities, the Town of Elkton proposes to hire and equip one additional law enforcement officer following the annexation of Phase I.<sup>49</sup> The extension of the Town's law enforcement services to the areas annexed should be of benefit to its residents and businesses.

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<sup>45</sup> **Supplemental Submission**, Item 15.

<sup>46</sup> **Ibid.**, Item 22.

<sup>47</sup> In FY2002-03, Elkton's police department responded to approximately 40 calls for service in the areas proposed for annexation. (**Ibid.**, Item 20.) Further, during those periods when Town police officers are otherwise occupied, law enforcement calls for service emanating from the Town are responded to by the Rockingham County Sheriff's Department. (**Ibid.**, Item 21.)

<sup>48</sup> **Ibid.**, Item 22.

<sup>49</sup> **Joint Submission**, Volume One, Tab 22; and Miller, **Transcript**, pg. 61.

**Public Recreation.** Residents of the area proposed for annexation and the County generally are currently free to utilize the Town's recreational facilities and services.<sup>50</sup> The Stonewall Park, which is a significant community asset, is located on a 7-acre tract containing two ball fields, tennis courts, picnic shelters, and a playground.<sup>51</sup> The Town's recreation department, which is staffed by 15 full-time and 6 part-time and seasonal personnel, supports organized athletic leagues, instructional classes, and special events at Stonewall Park and other locations in the Town.<sup>52</sup> According to data provided by Elkton, between FY1997-98 and FY2001-02 the Town expended approximately \$542,000 in support of its recreation activities.<sup>53</sup> While the annexation proposed under the terms of the proposed agreement between Elkton and Rockingham County will not immediately affect the level of public recreational services in the areas annexed, the Town's commitment to such services and programs will increasingly benefit that area and its residents.

### **Summary**

The annexation of the Phase I area will provide the Town of Elkton with an immediate infusion of additional revenues. Moreover, that area and the subsequent incorporation of Phase II will provide the Town with an opportunity for future economic development. Such annexations will permit the Town to share appropriately in the growth of its general area and will provide it with the resources to extend its services to areas of need. From our perspective, the proposed agreement does allow an equitable sharing of both the area's resources and liabilities.

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<sup>50</sup> **Supplemental Submission**, Item 35.

<sup>51</sup> **Ibid.**, Item 33. The Town also owns a five-acre park that contains a picnic shelter.

<sup>52</sup> **Ibid.**, Item 34.

<sup>53</sup> **Financial and Compliance Reports**, June 30, 2002, p 38.

## **INTEREST OF THE COMMUNITY AT LARGE**

In the review of a proposed agreement defining a town's annexation rights, the Commission is also directed by the Code of Virginia to consider whether such an agreement in "the best interest of the community at large."<sup>54</sup> As indicated previously, the Commission considers the proposed Town of Elkton – Rockingham County agreement as providing for the orderly and regular growth of the Town and County and facilitating an equitable sharing of the area's public resources and liabilities. While these factors are clearly promotive of the best interest of the community at large, there are other attributes of the proposed agreement which are relevant to this criterion and which merit comment in this report.

### **Simplification of the Annexation Process**

The proposed Town of Elkton – Rockingham County agreement permits the growth of the Town by a simple process (i. e., annexation by municipal ordinance) which would avoid extended, and often expensive, adversarial annexation proceedings. While the State's traditional annexation process has many commendable features, experience has shown that such proceedings can be costly in terms of legal fees, consultants' charges, administrative time, and other expenses incidental to litigation. Moreover, contested annexation cases can result in strained interlocal relations which often inhibit cooperative efforts, collaboration on mutual problems, and long-range planning. The proposed agreement will permit the growth of Elkton in a non-adversarial manner with a minimum of attendant cost. This provision in the proposed agreement can serve the best interest of the community at large.

### **Relinquishment of Authority to Seek City Status**

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<sup>54</sup> Sec. 15.2-3232, Code of Va.

A significant element of the proposed agreement is the provision which calls for the Town of Elkton to relinquish in perpetuity its authority to seek city status. While the Town does not at the present time have the requisite population (5,000) to be eligible to seek independent city status, nor will any annexation contemplated under the terms of the proposed agreement result in Elkton attaining that statutory threshold, future economic and demographic conditions might significantly alter that situation.<sup>55</sup> If the Town were to exercise its present statutory prerogative to seek city status at some future date, such an event would remove totally the Town's population and tax resources from County authority, with the consequence that the remaining residents of Rockingham County could be confronted with a greater local tax burden for the provisions of public services. With the adoption of this proposed agreement, Elkton commits itself to remaining permanently a part of Rockingham County and supporting with its residents and resources the needs of the County generally. Unless a variance in political values or service needs creates irreconcilable differences, the best interest of the community at large is served, from our perspective, by the Town of Elkton remaining a part of Rockingham County.

### **Economic Development of the Elkton Environs**

The proposed agreement facilitates the growth of the Town of Elkton, which, in turn, will provide that municipality with additional fiscal resources which can be used to extend and improve its public services to meet the needs of its general area. Elkton's increased capability for the provision of public services can be an important factor in supporting desirable development in the area. Any such development which does occur will benefit both Elkton and Rockingham County. This aspect of the proposed agreement is clearly in the best interest of the general community.

### **Protection of Agricultural Properties**

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<sup>55</sup> The annexation of the entire Phase I and II areas would increase Elkton's population from 2,028 persons to approximately 2,845 persons.

The proposed Town of Elkton – Rockingham County agreement includes three provisions which commit the Town to the protection of agricultural operations.<sup>56</sup> First, the agreement states:

The Town has no desire to annex acreage which is principally and actively devoted to agricultural production unless such acreage is largely embraced by property appropriate for annexation and cannot, in the judgment of the Town, be reasonably excluded therefrom.

While this provision would allow the incidental annexation of agricultural properties which might be encompassed by developed areas, it is intended to prevent any large and indiscriminate annexation of such properties by Elkton. Second, the proposed agreement obligates the Town to protecting existing agricultural operations in areas annexed "...through the use of zoning and land use ordinances, including the land use assessment system."<sup>57</sup> Third, the proposed agreement would protect agricultural properties which might be incidentally annexed by prohibiting Elkton from implementing any procedure which would place undue restrictions or hardship on land devoted to agricultural production. The Commission recognizes the State's strong concern for the preservation of agricultural properties, and the significance of Rockingham County as the preeminent

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<sup>56</sup> **Annexation Agreement, Sec. 9.**

<sup>57</sup> The Commission observes that while Elkton's current land development control ordinance does not include a zoning district whose principal purpose is the protection of agricultural properties from the incursion of incompatible uses, the Town has recently adopted an amendment to that ordinance which continues the County's zoning classifications and regulations on all properties annexed until such property is rezoned by the municipality. (Town of Elkton, **Code of the Town of Elkton**, "Amendment to Annexed Territory, Section 110-406 of the Code of the Town of Elkton, Virginia, Adopted September 17, 2001.") It is also noted that Elkton has not adopted use value assessment for all properties within its present borders qualifying for such from the County. (**Supplemental Submission**, Item 38.)

agricultural resource of the Commonwealth.<sup>58</sup> We consider the provisions of the agreement concerning the protection of agricultural lands to be fully consistent with the best interest of the community at large.

### **Cooperative Planning Efforts**

The proposed agreement contains a provision which commits the Town and County to a coordinated and cooperative planning and land use regulatory program for managing future growth in the Phase II area. Rockingham County will not approve any rezoning requests or development proposals affecting property in the unincorporated portion of Phase II without first notifying the Town of the pending action. Conversely, Elkton will solicit and carefully consider comments from the County concerning land use decisions affecting those portions of Phase II which have been annexed to the Town.<sup>59</sup> These efforts on the part of the Town of Elkton and Rockingham County to plan in a collaborative manner for managing future development of an area adjacent to the Town are clearly in the best interest of the community at large.

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<sup>58</sup> In 2001 Rockingham County was the leading county in the Commonwealth in terms of the production of corn for silage, hay, and cattle. (Virginia Department of Agriculture and Consumer Services, Virginia Agricultural Statistics Service, **County Profiles**, p. 111.) Moreover, the County ranked second in the nation in the market value of poultry and poultry products sold in 1997. (U. S. Department of Agriculture, National Agricultural Statistics Service, **1997 Census of Agriculture, Ranking of States and Counties**, Table 26.)

<sup>59</sup> Under the terms of the cooperative planning and review process established by the proposed agreement, Rockingham County will be afforded an opportunity to comment on all planned or requested changes in zoning, land use, special use, or development regulations which would effect the development of Phase II. (**Annexation Agreement**, Sec. 11.)

## **FINDINGS AND RECOMMENDATIONS**

The Commission finds that the proposed agreement appropriately provides concurrently for the orderly and regular growth of the Town of Elkton and Rockingham County, that it facilitates an equitable sharing of the area's public resources and liabilities, and that it is in the best interest of the community at large. While the Commission has reviewed the proposed agreement and reports it "favorably," we offer the recommendations set forth below.

### **ANNEXATION OF PROPERTIES IN PHASE II**

Sections 4 and 6 of the proposed agreement establish conditions which would govern the Town's annexation of properties in Phase II. Considered collectively, those sections make the extension of utilities a prerequisite for the annexation of that area. Section 4 of the proposed agreement authorizes Elkton to annex properties in Phase II one year following the effective date of the annexation of the Phase I area, if the Town has extended municipal service to properties in the area initially annexed. The Commission notes, however, that Section 6 of the agreement commits the Town to the extension of public water and sewerage to all properties in Phase I within five years following the effective date of annexation "... if those services are needed or if they are required by property owners."<sup>60</sup> This latter requirement could, in certain circumstances, restrict the opportunities of the Town of Elkton to expand its boundaries. Therefore, we recommend that these two sections be rewritten to remove any ambiguities and to avoid future misunderstanding by the public.

### **COMPREHENSIVE PLANNING**

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<sup>60</sup> **Annexation Agreement**, Sec. 6. With respect to the extension of central water and sewer service to the Pentecostal Hill community, the proposed agreement gives the Town six years from the effective date of the annexation of Phase I to complete that project.

During the course of our review, this Commission was presented evidence that contrary to State law, the Town of Elkton does not have a current comprehensive plan to guide its public planning efforts.<sup>61</sup> The Town has acknowledged this deficiency, however, and Elkton officials have approached the Central Shenandoah Planning District Commission seeking assistance to prepare a new comprehensive plan.<sup>62</sup> In this instance, our concern over the absence of this significant planning instrument is diminished somewhat by two facts. First, previously cited data indicate that only a limited portion of the area proposed for annexation is vacant or used for agricultural purposes, and thus, available for future development. Second, a 2001 amendment to Elkton's land development ordinance provides that any land incorporated into the municipality by annexation will continue to be subject to the County's zoning classification and regulations until such time as the property is rezoned by the Town.<sup>63</sup> As we have noted in prior reports, a locality's comprehensive plan is an important document governing its development, the placement of public thoroughfares and public facilities, and related public concerns. In addition, a current comprehensive plan is the foundation for any amendments to the zoning and subdivision ordinances of a jurisdiction. Therefore, the Commission recommends that the Town of Elkton move quickly to adopt a current

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<sup>61</sup> Miller, **Transcript**, p. 62. Section 15.2-2223, Code of Virginia requires each local governing body to adopt a comprehensive plan for the territory under its jurisdiction. Further, such comprehensive plans are to be reviewed at least once every five years by the local planning commission. (See Sec. 15.2-2230, Code of Va.) The Town last adopted a comprehensive plan in 1977, but it cannot be readily determined if that plan has been amended since its initial approval. (William H. Strider, Executive Director, Central Shenandoah Planning District Commission, communication with staff of Commission on Local Government, Oct. 3, 2003.) The Commission notes, however, that the Town has completed an initial draft of a revised comprehensive plan. (McCoy, **Transcript**, p. 62.)

<sup>62</sup> Miller, **Transcript**, p. 62; **Supplemental Submissions**, Item 46; and Strider, communication with staff of Commission on Local Government, Oct. 3, 2003.

<sup>63</sup> "Amendment to Annexed Territory, Section 110-406 of the Code of the Town of Elkton, Virginia, Adopted September 17, 2001."

comprehensive instrument that meets the criteria specified in the Code of Virginia and reflects the proposed annexation.

### **FISCAL MANAGEMENT**

As previous sections of this report have indicated, the proposed agreement will permit the Town to annex immediately property which has major public utility concerns. In view of the Town's recognized need to extend water and sewerage to the Pentecostal Hill community, we recommend that Elkton consider the adoption of a fiscal planning instrument, such as a capital improvements plan, to assist it in the proper implementation of its development control measures.<sup>64</sup> With the initial and subsequent expansion of the Town's boundaries and the consequent increase in Elkton's fiscal responsibilities, a capital improvements program will grow in significance.

### **CONCLUDING COMMENT**

As stated previously in this report, agreements defining a town's annexation rights are significant instruments containing major grants and concessions of legal authority by the two jurisdictions which are parties to them. Accordingly, the proposed Town of Elkton – County of Rockingham agreement has merited and received careful review by this body. While this Commission recommends the clarification of two provisions in the accord and improvements to the Town's planning program, we find the existing agreement consistent with statutory standards, and we hereby report it "favorably."

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<sup>64</sup> Section 15.2-2239, Code of Virginia authorizes local planning commissions to prepare and revise annually a five-year capital improvements program, based on the comprehensive plan of the locality, for submission to the governing body or chief administrative officer of the affected jurisdiction. The adoption of a capital improvements program assists localities in the proper implementation of their development control measures.

**THE COUNTY OF ROCKINGHAM  
AND THE TOWN OF ELKTON**

**ANNEXATION AGREEMENT**

**THIS AGREEMENT** is made and entered into this 6th day of May, 2003, by and between Rockingham County, Virginia, a political subdivision of the Commonwealth of Virginia ("County"), and the Town of Elkton, Virginia, a municipal corporation of the Commonwealth of Virginia ("Town").

**RECITALS:**

A. The County adopted a Comprehensive Land Use Plan for Rockingham County which promotes growth in and around the incorporated towns of the County and encourages the development of an Annexation Agreement between the Town and the County.

B. The Town and County wish to enter into an Agreement defining annexation rights pursuant to § 15.2-3231 of the Code of Virginia, 1950, as amended.

C. The Town desires first to annex Four (4) tracts, one containing 183 acres, more or less (adjacent to the western boundaries of the Town), the second containing 41 acres, more or less (adjacent to the northwestern boundaries of the Town), the third containing 108 acres, more or less (adjacent to the eastern boundaries of the Town), and the fourth containing 458 acres, more or less (lying south of State Route 33 and north of Sapling Ridge Road adjacent to the southern boundaries of the Town) being described on the attached plat as Phase IA, Phase IB, Phase IC, and Phase ID, respectively. Subject to the provisions herein, the Town shall have the right to annex one year from the effective date of the

annexation of Phase I the land (lying south of Old Spotswood Trail or Business Route 33 on the western side of the Shenandoah River) described on the attached plat as Phase II.

D. The Town wishes to relinquish its right to seek independent city status.

E. The Town and County have negotiated this Agreement regarding annexation which will be in the best interests of all the citizens of the County, including the citizens of the Town and the citizens in the areas designated as Phase I and Phase II.

**WHEREFORE**, pursuant to § 15.2-3231 of the Code of Virginia, 1950, as amended, the Town and County, in consideration of the mutual covenants and agreements contained herein, agree to perform the following acts and to be bound by the following statements and principles in settlement of all annexation issues.

1. **Recitals.** The recitals are hereby made a part of this Agreement.
2. **Relinquishment of City Status.** The Town hereby permanently relinquishes its right to seek city status.
3. **Annexation of Phase I** The Town shall first annex all of Phase I, and such annexation shall become effective on the last day of the month following review and recommendations by the Commission on Local Government and compliance with all the provisions of Virginia Laws pertaining to annexation, including the adoption by the Town of an ordinance of annexation. Any survey required under this Agreement will be along established property lines, to the extent feasible.
4. **Right to Annex Phase II** If the Town is not in default of its obligations under this Agreement, including specifically its obligations regarding the extension of service as set forth in Section 6, the Town shall have the right to annex all or any portion of the lands described on the plat as Phase II, which are contiguous and compact, by enacting an ordinance at any time one year after the effective date of the annexation ordinance for Phase I. Any annexation ordinance adopted for any part of Phase II shall

meet all requirements of law and, whether required by law or not, the Town shall first hold a public hearing on such ordinance and advertise the hearing for two consecutive weeks in a newspaper of general circulation in the Town and County. The Town shall give written notice of the hearing to the County. Any annexation ordinance(s) adopted shall be effective on the last day of the month following the adoption of the annexation ordinance. Certified copies of any and all annexation ordinances shall be filed where required by law, including the Clerk of the Circuit Court of Rockingham County, Virginia, the Secretary of the Commonwealth of Virginia, and all other appropriate local, state and federal agencies that require notice of annexation, but the failure to file with any such local, state or federal agency shall not affect the validity of any such ordinance. Prior to the effective date of any annexation, the Town shall, at its expense, cause an accurate survey and a census of the proposed annexed area to be made. If a portion of the area designated as Phase II is annexed, no additional portion thereafter shall be annexed unless and until water, sewer, street lighting and other municipal services have been provided to the annexed area, to the same quantity and quality as are available generally within the entire Town.

5. **The Annexation Ordinance.** Any annexation ordinance adopted by the Town shall include, but not be limited to:

- a. A description of the property to be annexed.
- b. A map showing all parcels to be annexed.
- c. An accurate census of the area to be annexed.

6. **Extension of Services.** Except as hereafter provided, the Town commits itself to extend water and sewer services to the property lines of all property owners, including residential, commercial and industrial, in any annexed area in accordance with then existing policies of the Town, such extension of water and sewer services to be concluded within five (5) years from the date of annexation if those services are needed or if they are requested by property owners.

Due to the high cost of extending water and sewer services to the area designated as Phase ID on the attached plat, the Town shall have an additional year to extend water and sewer services to the property lines of all property owners, including residential, commercial and industrial in said Phase ID. Notwithstanding any provision in this Agreement to the contrary, the Town commits itself to complete the extension of water and sewer services within six (6) years from the date of annexation to the property line of all property owners in Phase ID. Construction of the water and sewer utilities to service Phase ID must begin within one year from the date of annexation thereof. The County agrees it will support the extension of water and sewer services to the area designated as Phase ID. Such support will include the sharing of their grant writing staff, and a contribution of a portion of the cost of the extension of the services and other such actions as the County and the Town find appropriate and as they may agree from time to time.

The Town shall provide street lighting in any annexed area within five (5) years from the date of annexation. Other municipal services will be extended by the Town in annexed areas on the effective date of annexation. All such services will be of the same quantity and quality as are available generally within the entire Town.

7. **Effect on Existing Water and Sewer Agreements.** There are two existing agreements between the County and the Town regarding a water and sewer line extending from the current Town limits and running in a westerly direction along U.S. Business Route 33 and continuing in a westerly direction along U.S. Route 33. The first agreement was made on September 25, 1985 between the parties providing for sewerage service by the Town within the County, which agreement was subsequently modified by an Amendment to Agreement made August 31, 1987 and the second agreement was made August 31, 1987, between the parties providing for water service by the Town within the County (hereafter "Utility Agreements"). The Utility Agreements provide that the County is entitled to charge and

collect any fee it wishes for any connection to the lines until all of the costs of construction of the extension of the lines paid by the County have been reimbursed in full to the County. A portion of the said water and sewer lines extending from the current Town limits and running in a westerly direction along U.S. Business Route 33 to a certain tract known as the Food Lion Shopping Center are included in the area designated as Phase IA and after the effective date of the annexation ordinance for Phase IA will be completely within the boundaries of the Town. The Utility Agreements are hereby amended as follows:

A. The County relinquishes and conveys any right, title and interest in and to the water and sewer lines located in Phase IA to the Town and the Town is entitled to charge and collect a fee for all connections to the lines up to the western boundary of Phase IA which is that certain tract of land known as the "Food Lion Shopping Center".

(The parties acknowledge that the said water and sewer lines run along and on the southern side of Business Route 33. It is the intention of the parties that the water and sewer lines are included in Phase IA as designated on the attached plat.)

B. Each of the Utility Agreements provides the County an irrevocable option to construct additional lines as extensions of the existing utility lines provided for in the Utility Agreements. Each of the Utility Agreements also provides the Town with certain rights to review extensions to the utility lines proposed by the County. The parties agree that as to any extension to the utility lines proposed by the County from those portions of the utility lines outside Phase I, Section 4.4 of the Sewage Service Agreement dated September 25th, 1985, and Section 5.4 of the Water Service Agreement dated August 31st, 1987 shall be modified by changing "ninety percent (90%)" to "eighty percent (80%)" in each section.

C. Any additional lines or extensions to the lines shall be by mutual agreement of

the County and the Town. The Town shall not unreasonably deny any request by the County for additional lines or extensions.

In all other respects the utility agreements shall remain unaltered.

8. **Equalization of Utility Charges** The Town agrees that simultaneously with the execution of this Agreement, it will equalize the rates it charges for water and sewer customers outside of its boundaries, but within the areas designated as Phase IA, IB, IC, ID and Phase II on the attached plat, so that the rates are the same as those charged within its corporate boundaries

9. **Agriculture**, The Town has no desire to annex acreage which is principally and actively devoted to agricultural production unless such acreage is largely embraced by property appropriate for annexation and cannot, in the judgment of the Town, be reasonably excluded there from. The Town commits that it will continue to protect existing farm lands within any annexed area through the use of zoning and land use ordinances, including the land use assessment system. The Town states its intention to allow the continued agricultural use of any farm land which it annexes by way of favorable ordinances, subject to best management practices.

10. **Commitments to Serve Needs of Phase II Land** Although the Town does not absolutely commit itself to annex any of the lands within the area designated as Phase II on the attached plat, it does intend to consider seriously citizens petitions or requests for annexation provided the Town finds feasibility. The goal of both the Town and County is to provide for orderly development of the land and to serve the needs of the area as and when they arise. The County pledges as to any unannexed lands within the area designated as Phase II, it will consult with the Town before approving subdivision and rezoning. The County's obligation to consult shall be complied with if the Town is given twenty (20) days to provide written comments, if any, on any preliminary or final subdivision plat submitted to the County

from lands within Phase II. As to zoning, the County shall give thirty (30) days' written notice of each public hearing date to the Town and the Town shall give its written comments, if any, to the County at least seven (7) days prior to such public hearing. The right to make such changes prior to annexation is reserved by the County, but the Town shall be consulted in each instance. No public hearing concerning the unannexed portion of the area designated as Phase II, either *de jure* or *defacto*, shall be held by either body without at least twenty (20) days' notice to the other. Failure to notify the Town, however, shall not affect the validity of any such subdivision or zoning, or any other rights or obligations of the parties under this Agreement.

11. **Planning.** The Town pledges to advise the County from time to time of the Town's plans with respect to the use and development of the area designated as Phase II on the attached plat. The County shall be entitled to comment upon such plans as they are developed. Each party shall promptly notify the other of any requested or planned changes in land use, zoning, special use or development regulations which would affect the area designated as Phase II. The County and the Town further agree to solicit, welcome and carefully consider the views of each other in this regard.

12. **Modification of Phase II.** In the event that the Town from time to time seeks to modify the area designated as Phase II by deleting certain lands from it or by adding additional lands to it prior to the time that the entire area designated as Phase II has been annexed, the Town shall designate by tract description the areas so modified and request that the County review the proposal. The County shall review each such proposal within a reasonable time and shall notify the Town either of its acceptance or its declination of the proposed modification. In the event a modification is accepted by the County, then upon the preparation of a metes and bounds description of the modified area, which shall be made a supplement to this Agreement, the area designated as Phase II shall be deemed so modified and the provisions of this Agreement shall apply to the modified area designated as Phase II, without the need for

further review by the Virginia Commission on Local Government or a public hearing before the Commission. However, the public hearing required pursuant to paragraph four (4) of this Agreement shall be required prior to annexation of land included by modification of the area designated as Phase II.

13. **No Annexation Outside Agreed Area** Except as otherwise provided in paragraph 12 herein, the Town agrees that until the entire area designated as Phase II is annexed and all required services are provided to Phase I and II, it will not voluntarily seek to annex any other areas. Citizen petitions for annexation shall be processed in accordance with the applicable provisions of the Code of Virginia in effect at the time of the petitions.

14. **Sections are Severable** In the event any section of this Agreement is found to be illegal or unconstitutional by a court of competent jurisdiction, such finding shall apply only to that section and all other provisions shall remain in full force and effect, except that if the Town's renunciation of city status is held illegal or unenforceable the County shall have the right to withdraw its consent to annexation, in which event the Town shall have the right to rescind its agreement under paragraph eight (8) to equalize utility charges.

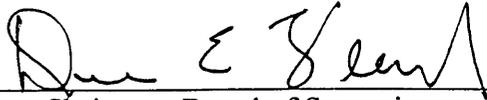
15. **Costs and Attorney's Fees.** Each party to this Agreement shall pay its own attorney's fees; all other costs of annexation shall be paid by the Town.

16. **Right to Modify or Amend.** The Town and County reserve the right to modify this Agreement by joint consent and in writing whenever the needs of the Town and County and of the citizens of each require such modification or amendment.

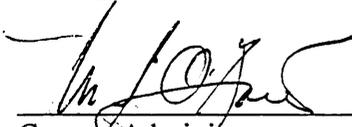
17. **Entire Agreement** This written Agreement constitutes the entire agreement between the County and Town on the issue of annexation of the areas designated as Phase I and Phase II.

WITNESS the following signatures and seals:

COUNTY OF ROCKINGHAM

By   
Chairman, Board of Supervisors

ATTEST:

  
County Administrator

TOWN OF ELKTON

By   
Mayor

ATTEST:

  
Clerk



**STATISTICAL PROFILE OF THE TOWN OF ELKTON, COUNTY OF ROCKINGHAM  
AND THE AREAS COVERED UNDER THE AGREEMENT DEFINING ANNEXATION RIGHTS**

	<u>Town of Elkton</u>	<u>County of Rockingham</u>	<u>Phase I</u>	<u>Phase II</u>
Population (2002)	2,028	69,200	770	47
Land Area (Sq. Mi.)	1.37	851.2	1.23	0.03
Assessed Property Values (2002)				
Real Estate Values	\$ 77,495,800	\$ 3,957,473,750	\$ 37,633,000	\$ 2,287,700
Mobile Homes	N/A	\$ 27,655,665	N/A	N/A
Personal Property Values	\$ 9,762,625	\$ 431,955,530	\$ 3,792,810	\$ 133,525
Machinery and Tools Values	\$ 322,330	\$ 221,400,480	N/A	N/A
Merchants Capital Values	N/A	\$ 89,003,840	N/A	N/A
Public Service Corporation Values	\$ 2,014,131	N/A	N/A	N/A
Land Use (Acres)				
Residential	N/A	N/A	276.5	N/A
Commercial	N/A	N/A	23.7	N/A
Industrial	N/A	N/A	7.9	N/A
Public and Semi-Public	N/A	N/A	323.9	N/A
Vacant, Wooded, or Agricultural	N/A	N/A	158.0	N/A

## NOTES:

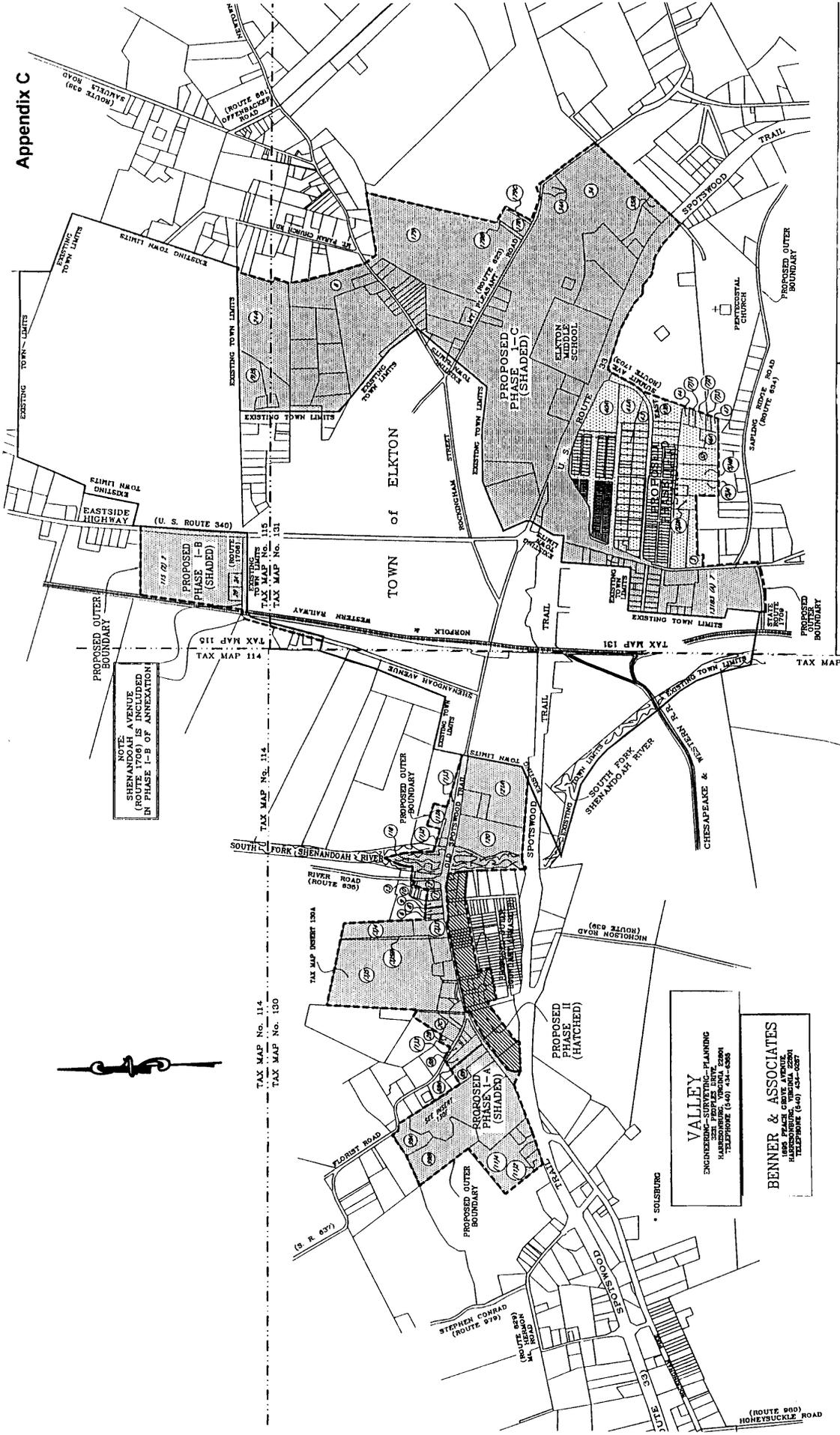
N/A = Not Available

Statistics for Rockingham County include data for the Town of Elkton

## SOURCES:

Town of Elkton and County of Rockingham, **Proposed Annexation Agreement, Submission to the Virginia Commission on Local Government**, Volume One, May 20, 2003.

Appendix C



NOTE:  
SHENANDOAH AVENUE  
(ROUTE 900) IS SHOWN  
IN PHASE I-B OF ANNEXATION

TAX MAP No. 114  
TAX MAP No. 130

**VALLEY**  
ENGINEERING-SURVEYING-PLANNING  
1808 PEACE CREEK AVENUE  
HARRISBURG, PENNSYLVANIA 17103  
TELEPHONE (410) 431-4200

**BENNER & ASSOCIATES**  
1808 PEACE CREEK AVENUE  
HARRISBURG, PENNSYLVANIA 17103  
TELEPHONE (410) 431-4200

PROJECT No.  
**7125-7**  
SCALE: 1" = 600'  
DATE: 8/20/87  
SHEET 2 OF 2

COMPILED PLAT SHOWING the  
PROPOSED OUTER BOUNDARIES of the  
TOWN of ELKTON, VIRGINIA

