

**Report on the  
Town of Mount Jackson - County of Shenandoah  
Agreement Defining Town  
Annexation Rights**



**Commission on Local Government  
Commonwealth of Virginia**

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**REPORT ON THE  
TOWN OF MOUNT JACKSON - COUNTY OF SHENANDOAH  
AGREEMENT DEFINING ANNEXATION RIGHTS**

**PROCEEDINGS OF THE COMMISSION**

On June 14, 2001 the Town of Mount Jackson, with the concurrence of Shenandoah County, submitted to this Commission for review a proposed agreement defining the Town's future annexation rights which 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's notice was accompanied by data and materials to assist this body in its review of the proposed agreement.<sup>1</sup> Further, and also in accordance with the Commission's rules, the Town concurrently gave notice of the filing to 17 local governments with which it shares functions, revenue, or tax sources.<sup>2</sup>

Following its receipt of the proposed agreement, the Commission met in Mount Jackson on July 16 to tour the Town and relevant areas in Shenandoah County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing for the purpose of receiving citizen comment.<sup>3</sup> The public hearing, which was advertised in accordance with Section 15.2-2905.7(B) of the Code of Virginia, was attended by approximately 125 individuals and produced testimony from 26 persons. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions through July 30, 2001.

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<sup>1</sup>Town of Mount Jackson, **Submission to the Commission on Local Government** (hereinafter cited as **Town Submission**), June 12, 2001.

<sup>2</sup>Commission on Local Government, **Rules of Procedure**, Rule 3.8.

<sup>3</sup>Due to illness, Commissioner James J. Heston did not take part in the July 16, 2001 proceedings and, accordingly, was not a participant in the discussions, deliberations, drafting, or approval of the Commission's report on this agreement defining annexation rights.

## SCOPE OF REVIEW

In 1979 the General Assembly amended the State's annexation statutes 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>4</sup> Thus, where town annexations are pursued under such agreements, the Commonwealth'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 municipal 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 status as an independent city.

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 conditions which must be met in their development. Based upon such statutory conditions, this Commission is directed to determine in its review:

. . . whether the proposed agreement provides 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>5</sup>

It should be noted here that whatever the findings and recommendations of the Commission regarding the agreement under review, 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

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<sup>4</sup>Article 2, Chapter 32, Title 15.2, Code of Va.

<sup>5</sup>Sec. 15.2-3232, Code of Va.

agreement is "unfavorable," the local governing bodies may not adopt the accord until after they have jointly held an advertised public hearing on the issue.<sup>6</sup>

### **EVALUATION OF THE AGREEMENT**

Briefly stated, the principal provisions of the agreement negotiated by the Town of Mount Jackson and Shenandoah County would:

1. require the Town to renounce permanently its authority to become a city;
2. authorize the Town to annex by municipal ordinance a specified area of the County, designated as Area A, on December 31, 2001, or as soon thereafter as practicable;
3. authorize the Town to annex additional contiguous land in a specified area covered by the agreement, designated as Area B, at such time as the area can be provided with water and sewerage services within five years of annexation, with such services being provided according to Town polices;
4. bar the Town from initiating action to annex any properties within the Mount Jackson Industrial Park for a period of 15 years following the effective date of the agreement;
5. commit the Town not to annex land which is principally and actively devoted to agricultural production unless such land is largely embraced by property appropriate for annexation or which, in the judgment of the Town, cannot be excluded from annexation;
6. commit the Town to establish measures to protect such lands which might be annexed under the terms of the agreement; and

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<sup>6</sup>Sec. 15.2-3233, Code of Va. It should be observed that State law authorizes a town to proceed unilaterally to obtain an order defining its future annexation rights in instances where it is unable to conclude an agreement with its county on the issue. (See Sec. 15.2-3234, Code of Va.)

7. require the Town to compensate the County for a three-year period for a portion of its revenue lost as a result of all annexations effected pursuant to the terms of the agreement.<sup>7</sup>

As indicated previously, 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 Mount Jackson and Shenandoah 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 Mount Jackson - County of Shenandoah agreement on the basis of these three general criteria.

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

The data indicate that between 1990 and 2000 the population of Shenandoah County increased from 31,636 to 35,075 persons, or by 10.9%.<sup>8</sup> During the same period the population of the Town of Mount Jackson increased from 1,583 to 1,664 persons, or by 5.1%, a rate slightly less than half that of the County.<sup>9</sup> This disparity in population change

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<sup>7</sup>See **Appendix A** for the complete text of the proposed Agreement Defining Annexation Rights Between the Town of Mount Jackson and Shenandoah County.

<sup>8</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. 83. Population statistics for Shenandoah County include persons residing in the Towns of Edinburg, Mount Jackson, New Market, Strasburg, Toms Brook, and Woodstock. 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>9</sup>**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 1; and **2000 Census of Population and Housing, Profiles of General Demographic Characteristics, Virginia**,

indicates that Mount Jackson has failed to share appropriately in the population growth of its area in recent years.

In terms of fiscal resources, recent property assessment data reveal that the growth in the Town has been somewhat in excess of that experienced within the County generally. Between Tax Year 1996 and 2000 the value of locally assessed real estate in Shenandoah County increased from \$1.80 billion to \$1.96 billion, or by 9.1%.<sup>10</sup> During the same span of years such values within the corporate limits of Mount Jackson grew from \$59.6 million to \$67.3 million, or by 12.9%.<sup>11</sup> Thus, these property values, the principal source of revenue for both jurisdictions, increased at a marginally greater rate in the Town than they did within the County overall during that five-year period.

With respect to the Town's prospects for future development, it should be noted that of Mount Jackson's total land area of 775 acres, approximately 330 acres, or 42.3% of its total area, are undeveloped.<sup>12</sup> Of this total undeveloped land, however, approximately 50 acres are situated in

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Table DP-1, p. 371. The Town's last boundary expansion, which occurred in 1972, increased the size of Mount Jackson by 486 acres and added 639 persons to its population. (Town of Mount Jackson, **Comprehensive Plan**, p. 2-5.)

<sup>10</sup>Virginia Department of Taxation, **Annual Report**, 1997 - 2000, Table 5.2; and Judith C. Waldron, Research Division, Virginia Department of Taxation, communication with staff of Commission on Local Government, Aug. 17, 2001. Data concerning Tax Year 2000 assessed values for Shenandoah County is preliminary and is subject to revision. The assessed real property values for Shenandoah County include those within Mount Jackson and the five other incorporated towns located within the County.

<sup>11</sup>**Town Submission**, Table "Town of Mount Jackson, Assessed Valuation of all Taxable Property, 1996-2000."

<sup>12</sup>**Ibid.**, Table "Land Use Comparison By Category."

the 100-year floodplain or are affected by other natural factors which would restrict their development potential.<sup>13</sup> Further, recent data reveal that the Town contained only 156 acres of vacant property on tracts of five acres or more.<sup>14</sup> The majority of that vacant property (144 acres), however, is currently zoned for residential purposes, and while that is not an absolute barrier to commercial or industrial uses, it does make those parcels less attractive to potential developers.<sup>15</sup> Additional evidence of the limited potential for development within the Town is provided by the fact that there have been no properties platted for subdivisions within Mount Jackson in the last five years.<sup>16</sup>

Under the terms of the proposed agreement Mount Jackson would be permitted to annex immediately Area A comprising 2.47 square miles and containing, as of 2000, 208 persons and 1999 assessed real estate values estimated at \$22.0 million.<sup>17</sup> The addition of this area to the Town will increase Mount Jackson's population by 12.5% and its assessed real property values by 32.2%. The annexation of Area A will also bring within the Town a limited amount of commercial development which has occurred

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<sup>13</sup>Charles K. Moore, Town Manager, Town of Mount Jackson, letter to staff of Commission on Local Government, July 12, 2001.

<sup>14</sup>**Ibid.**

<sup>15</sup>Locational concerns, such as adjacent uses or access to transportation thoroughfares, also limit the development potential of vacant properties within the Town. (**Town Submission**, Sec. "Municipality's Need for Land"; and Moore, presentation to Commission on Local Government, July 16, 2001.

<sup>16</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001.

<sup>17</sup>**Ibid.**; and **Town Submission**, Sec. "Land Use & Property Values."



adjacent to Mount Jackson's current boundary.<sup>18</sup> Moreover, the incorporation of this area into the Town will provide Mount Jackson with approximately 2.0 square miles of vacant land.<sup>19</sup> The development potential of this vacant property is suggested by its access to major thoroughfares and Town water and sewage services.

The proposed agreement also authorizes the Town to incorporate within its boundaries two additional areas, identified as Area B and the Mount Jackson Industrial Park, subject to certain conditions. With respect to Area B, the Commission notes that Mount Jackson would be eligible to annex subsequently within that area as the Town's needs require and its service capacity permits.<sup>20</sup> According to data provided by the Town, Area B contains 4.92 square miles and, as of 2000, approximately 660 persons and \$15.3 million in 1999 estimated real property assessed values.<sup>21</sup> Area B also offers Mount Jackson substantial amounts of vacant land suitable for development. Finally, under the terms of the proposed accord, the Mount Jackson Industrial Park will be subject to annexation by Town ordinance 15

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<sup>18</sup>Commercial properties in Area A include Shenandoah Caverns and two vacant industrial facilities. Also located within that area is the Mount Jackson Industrial Park, but statistics concerning that facility are not included in data for Area A. (Moore, facsimile to staff of Commission on Local Government, Aug. 9, 2001.)

<sup>19</sup>**Ibid.**

<sup>20</sup>**Annexation Agreement**, Sec. 5. The agreement permits the Town to annex properties within Area B that can be served by municipal water and sewerage within five years of annexation.

<sup>21</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001; and Moore, facsimile to staff of Commission on Local Government, Aug. 9, 2001. Approximately 90% of the total land area in Area B (4.4 square miles) is vacant, wooded, or in agricultural use.

years following the effective date of the agreement.<sup>22</sup> The incorporation of that facility within Mount Jackson will provide the Town with a significant resource which is currently served by municipal water and sewerage.<sup>23</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 the Town to benefit from an immediate increase in population and fiscal resources, and it will provide Mount Jackson with significant land for future development which will help ensure its continued viability. Moreover, the viability of the Town and its expanded fiscal resources will facilitate the continued economic development of the general area which will benefit all citizens of Shenandoah County. 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>24</sup> This provision constitutes recognition by both the Town and the County that the agreement may require future modification to meet needs and circumstances which cannot now be foreseen.

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<sup>22</sup>**Annexation Agreement**, Sec. 10. Nothing in the proposed accord, however, bars property owners within the industrial park from requesting to have their property annexed by the Town at any time following the effective date of the agreement.

<sup>23</sup>According to County officials, the Mount Jackson Industrial Park contains approximately 233 acres and, of that amount, eight parcels, collectively comprising 147 acres, are vacant and suitable for development. The industrial park currently contains five industries that employ collectively approximately 400 persons. (Vincent E. Poling, County Administrator, County of Shenandoah, letter to staff of Commission on Local Government, June 26, 2001.)

<sup>24</sup>**Annexation Agreement**, Sec. 21.

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

An equitable sharing of resources and liabilities within the context of an agreement defining annexation rights requires, in our judgment, an opportunity for both the Town and County to benefit from the growth in the general 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 sections consider these concerns.

### **Resources**

As indicated in the previous section of this report, the Town of Mount Jackson has not witnessed the population growth in recent years commensurate to that recorded in Shenandoah County overall. However, the real property values subject to local taxation in the Town increased between 1996 and 2000 by 12.9%, somewhat greater than the growth of such values in the County generally during the same period (9.1%). While the Town has experienced only modest population and economic growth in recent years, it has continued to contribute to the economic development of its general area through the extension of public utility services to businesses and residents beyond its boundaries. In this regard, data indicate that Area A contains 80 connections to Mount Jackson's water system, and the Town also provides sewage collection and treatment for 85 users in that area.<sup>25</sup> Thus, under the terms of the proposed agreement, Mount Jackson would be permitted to annex territory whose existing development has been facilitated by Town services.

Consistent with the terms of the proposed agreement, and as previously noted, Mount Jackson has indicated its intentions to annex

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<sup>25</sup>**Town Submission**, Sec. "Urban Services"; and Moore, letter to staff of Commission on Local Government, July 12, 2001. Utility data for Area A does not include that for the Mount Jackson Industrial Park.

immediately Area A, which contains 2.47 square miles, 208 persons, and a limited amount of developed commercial property. Further, the annexation of that area will initially provide Mount Jackson with approximately \$46,000 in property tax revenue based on 1999 assessed values and the Town's tax rates.<sup>26</sup> Moreover, the Town estimates that Area A will also initially provide approximately \$21,000 in miscellaneous local-source revenues and intergovernmental transfers (e.g., motor vehicle license taxes and fees, meals and utility taxes, business, professional and occupational licenses, and ABC profits distributions).<sup>27</sup> These fiscal benefits to the Town will increase with the future growth and development of the area annexed. Thus, the annexation of Area A, as well as the prospective annexation of property in Area B, will, in our judgment, promote an equitable sharing of the resources of the general community.

With respect to the impact on the County of periodic annexations effected by Mount Jackson, the Commission notes that town annexations in Virginia, unlike those initiated by cities, do not remove property from a county's tax rolls. Thus, the major tax sources of Shenandoah County will be unaffected by annexations by the Town. While town annexations do constrict some of a county's more modest revenue sources (e.g., automobile license taxes, consumer utility taxes, sales taxes, etc.), under the terms of the proposed agreement now under consideration, Mount Jackson would reimburse Shenandoah County for a portion of such revenue loss for a three-year period subsequent to each annexation.<sup>28</sup> Further, any development facilitated by the extension of Mount Jackson's services to annexed areas will benefit not only the Town, but the County as well. On the basis of these

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<sup>26</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001.

<sup>27</sup>**Ibid.**

<sup>28</sup>**Annexation Agreement**, Sec. 3.

considerations, the Commission concludes that the proposed agreement should provide the Town of Mount Jackson and Shenandoah County with an equitable share of the area's resources.

### **Liabilities for Services**

As with the other towns located in Shenandoah County, Mount Jackson 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 also has been instrumental in the development of areas adjacent to Mount Jackson.<sup>29</sup> With respect to the future growth in the general area, the Commission notes that the current Shenandoah County comprehensive plan, which was based upon an in-depth analysis of the County's needs and anticipated growth, calls for the continued development of the areas immediately adjacent to Mount Jackson and within the territory subject to annexation by the Town under the terms of the proposed agreement.<sup>30</sup> If such development occurs, Mount Jackson would be, in our view, the appropriate entity to provide urban services to those areas.

Annexations effected by Mount Jackson under the terms of the proposed agreement will, however, place additional service responsibilities

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<sup>29</sup>According to a County official, the Mount Jackson Industrial Park was a joint project between Shenandoah County and the Town. (Poling, presentation to Commission on Local Government, July 16, 2001.) Further, the extension of Town water and sewerage to that facility was a prerequisite for its development.

<sup>30</sup>County of Shenandoah, **Shenandoah County Comprehensive Plan: 2010**, December 1991, pp. 9-3, 9-6. In addition, the County's comprehensive plan has as one of its strategies to "(i)dentify potential public service areas and seek annexation agreements with towns to define those areas."

upon the Town. While this expanded responsibility for public services constitutes a liability to be borne by the Town, the extension of such services to areas of need 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.

**Water Supply and Distribution.** The Town of Mount Jackson owns and operates a public water system which serves the Town and substantially all of Area A. The Town currently serves directly 866 customers within its present borders and 80 customers in Area A.<sup>31</sup> Mount Jackson obtains all its water from four wells which are authorized by State permit to provide the Town collectively 0.31 million gallons per day (MGD).<sup>32</sup> Since the current connections served by the Town's system consume 0.30 MGD, the system retains an unused reserve of only 0.01 MGD.<sup>33</sup> In terms of storage capacity, Mount Jackson has an elevated tank and an open reservoir which collectively hold 2.5 million gallons (MG) of water, or an amount in excess of eight days' demand.<sup>34</sup> It is important to observe that Mount Jackson is

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<sup>31</sup>In addition, the Town serves eight water customers in Area B and five customers in the Mount Jackson Industrial Park. (Moore, letter to staff of Commission on Local Government, July 12, 2001.)

<sup>32</sup>**Ibid.** Water from the Town's wells is chlorinated before it enters the municipal distribution system.

<sup>33</sup>**Town Submission**, Sec. "Urban Services." The Commission notes that usage statistics for the Town's water system include those for customers located in Area A, Area B, and the Mount Jackson Industrial Park. Under the terms of a separate interlocal agreement between Mount Jackson and Shenandoah County, the Town is required to provide up to 0.10 MGD of water to all users located in the Mount Jackson Industrial Park. (See **Agreement Replacing Town/County Water/Sewer Agreement, Town of Mount Jackson and County of Shenandoah**, May 2, 2001, Sec. 9.)

<sup>34</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001.

presently providing treated water to the predominant portion of the businesses and residents in Area A.

Due to deficiencies in the municipal water system, the Town has taken steps to ensure that a sufficient potable water supply will be available to meet future public service needs of its general area.<sup>35</sup> In this regard, we note that the Town has recently completed the construction of a fifth well, and once that facility receives its final certification from the Virginia Department of Health (VDH), the approved capacity for the municipal water system will be increased to 0.36 MGD.<sup>36</sup> Further, in order to provide additional storage for domestic usage and fire flow, the Town is constructing two 0.5 MG storage tanks which are to be completed in the summer of 2002.<sup>37</sup> Moreover, Mount Jackson has constructed an interconnection with

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<sup>35</sup>According to a Mount Jackson official, demands placed on the municipal water system in 1998 required the Town to utilize all four of its water wells at or near their permitted capacity. As a result, two of the Town's wells recorded nitrate levels that approached the limits authorized by the Virginia Department of Health (VDH). (Charles A. Conner, Assistant District Engineer, Office of Water Programs, Virginia Department of Health, communication with staff of Commission on Local Government, Aug. 22, 2001.) As a precaution and until additional water supply sources could be secured, Mount Jackson, with the concurrence of the VDH, was required to post notices regarding nitrate in the Town's drinking water from July 1998 to March 2000. (Moore, letter to staff of Commission on Local Government, Aug. 3, 2001.)

<sup>36</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001.

<sup>37</sup>**Ibid.** A provision in the joint utility agreement calls for the County to pay Mount Jackson \$20,000 annually for 20 years to assist the Town in improving the storage capacity and fire flow of the municipal water system. (**Agreement Replacing Town/County Water/Sewer Agreement, Town of Mount Jackson and County of Shenandoah**, Sec. 7.) Future plans call for the Town to remove its 2.0 MG open reservoir from service and to use that storage facility only in emergencies. If such should occur, the total storage capacity in the Town's water system will be reduced to 1.5 MG, or an amount equal to five days' demand. (Moore, letter to staff of Commission on Local Government, Aug. 29, 2001.)

a private water system located adjacent to the Town's northern boundaries to provide an additional source of supply in emergency situations.<sup>38</sup>

In view of the water service currently provided by the Town to Area A and the measures taken to increase the capacity of the municipal system, we find that Mount Jackson is capable of meeting both the current and prospective needs of the areas covered by the proposed agreement. Further, since the Town places a surcharge on its connection fees and user charges for nonresidents customers, the annexation of Area A will result in substantially reduced charges for water service in that area.<sup>39</sup>

**Sewerage.** The Town of Mount Jackson also operates a sewage collection system which presently serves 960 connections, with 85 connections being located in Area A.<sup>40</sup> Sewage collected by the Town's system is treated at the municipal treatment facility, which has a permitted capacity of 0.20 MGD, and during a recent 12-month period, it received an

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<sup>38</sup>In 1999 Mount Jackson signed a ten-year agreement with Bowman Apple Products Company, Inc. to provide each other with potable water in times of an emergency. Although that agreement does not specify the amount of water to be supplied by either party on an emergency basis, the connection between the Town and Bowman Apple Products is capable of providing approximately 0.27 MGD. (Moore, letter to staff of Commission on Local Government, Aug. 3, 2001; and Moore, letter to staff of Commission on Local Government, Aug. 29, 2001.) That emergency source of supply will also allow the Town to operate properly the municipal water system without its 2.0 MG open reservoir.

<sup>39</sup>Mount Jackson places a 50% surcharge on water rates for nonresident customers. (Moore, letter to staff of Commission on Local Government, July 12, 2001.)

<sup>40</sup>**Ibid.** There are also 30 Town sewer connections in Area B and 5 municipal connections located in the Mount Jackson Industrial Park. (Moore, communication with staff of Commission on Local Government, Aug. 9, 2001.)



average daily flow of 0.18 MGD.<sup>41</sup> While this daily flow leaves little excess capacity at Mount Jackson's plant, the Town will become a member of the North Fork Regional Sanitation Authority (NFRSA) which will assume ownership of a 1.30 MGD regional sewage treatment plant currently owned by Shenandoah County.<sup>42</sup> By virtue of its membership in the NFRSA, Mount Jackson will be allowed to transmit 0.50 MGD of sewage to the regional plant for treatment.<sup>43</sup> Once the sewage interceptor line to the regional facility is completed, Mount Jackson will phase out its existing treatment

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<sup>41</sup>**Town Submission**, Sec. "Urban Services." The municipal wastewater facility is located across the North Fork of the Shenandoah River from the current Town boundaries and discharges into that stream.

<sup>42</sup>In September 1998 Shenandoah County purchased a wastewater treatment facility, which served the former Aileen textile plant located in the Town of Edinburg, to treat leachate from the County landfill and to process septage and wastewater sludge generated within the County. Although that sewage facility, which is located approximately 11 miles north of Mount Jackson, has the capacity to receive and treat 1.30 MGD, its initial permitted capacity is 0.75 MGD. (Gilbert W. Clifford and Associates, Inc. **North Fork Regional Wastewater Treatment Plant, Shenandoah County, Comprehensive Facility Evaluation**, July 2000.) According to a representative for Shenandoah County, the full utilization of the plant's capacity would only require the hiring of additional staff to operate the facility 24 hours a day. (Poling, communication with staff of Commission on Local Government, Aug. 21, 2001.)

<sup>43</sup>**Agreement Replacing Town/County Water/Sewer Agreement, Town of Mount Jackson and County of Shenandoah**, Sec. 5. The interlocal utility agreement between the Town and Shenandoah County requires the municipality to reserve 0.10 MGD of its allocated capacity in the regional treatment facility to provide sewer service to the Mount Jackson Industrial Park. Further, under the terms of that agreement, the NFRSA, which is currently being chartered by Shenandoah County, will have a governing body comprised of five members, two appointed by the Town and three by Shenandoah County. (**Ibid.**, Sec. 15; and Poling, communication with staff of Commission on Local Government, Aug. 21, 2001.)

plant.<sup>44</sup>

As is the case of water service, the Town places a surcharge on sewage user charges for customers located beyond its present boundaries.<sup>45</sup> Thus, annexation will substantially reduce the cost of sewerage service to all residents and businesses who are brought within Mount Jackson's boundaries, as well as to others subsequently connected to the system in annexed areas.

In the Commission's judgment, Mount Jackson is currently capable of meeting the sewerage needs of the area to be annexed, and will, by virtue of its membership in the regional authority, have the capacity to extend municipal sewerage to additional areas incorporated into the Town. Indeed, the Town's sewerage facilities constitute the only public sewerage system available to serve the Mount Jackson environs.

**Solid Waste.** The Town of Mount Jackson provides to its residents and commercial establishments, on a fee basis, weekly collection of solid waste

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<sup>44</sup>The new Town - County utility agreement calls for Shenandoah County to begin construction on the sewer interceptor line between the regional treatment plant and Mount Jackson no later than November 2002, and the cost of that line will be borne entirely by the County. (**Agreement Replacing Town/County Water/Sewer Agreement, Town of Mount Jackson and County of Shenandoah**, Secs. 21, 25.) Further, the joint utility agreement also requires the County to assume the cost to remove the Town's sewage treatment plant from service. (**Ibid.**, Sec. 6.) Moreover, the water and sewer accord provides that the NFRSA will assume the Town's existing debt service for the municipal wastewater plant. (**Ibid.**, Sec. 23.)

<sup>45</sup>Municipal sewer customers located beyond Mount Jackson's current boundaries pay user fees 50% greater than those paid by in-Town users. (Moore, letter to staff of Commission on Local Government, July 12, 2001.)

through a contract with a private collector.<sup>46</sup> Town residents are charged \$6.00 per month for this service.<sup>47</sup> At the current time, residents in Area A must dispose of their waste at containers located at various sites in the County or contract with private concerns for the collection and disposal of their refuse.<sup>48</sup> Areas adjacent to Mount Jackson, 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 the areas annexed will not only reduce the cost of refuse collection services for the annexed residents and businesses, it should also promote increased utilization of regular refuse collection services 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.

**Law Enforcement.** Law enforcement services in Mount Jackson are provided by the Town's police department which is staffed by four full-time officers.<sup>49</sup> Each of those officers is assigned patrol responsibility, with the duty shifts structured so that the Town is regularly patrolled during most of

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<sup>46</sup>**Town Submission,** Sec. "Urban Services." In terms of the disposal of refuse, the Town's contractor utilizes the County's landfill which is located south of the Town of Edinburg.

<sup>47</sup>**Ibid.** Businesses in the Town are charged \$8.00 per month for refuse disposal services. The Town's contractor also provides residential customers with a monthly pick-up of bulky trash items.

<sup>48</sup>Poling, letter to staff of the Commission on Local Government, June 26, 2001. There is a County-owned solid waste container located approximately one mile south of Area A. Residents of Area A who choose to contract for private hauling of their household waste pay \$15.00 per month in collection fees.

<sup>49</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001. Mount Jackson's police chief is included in the total number of Town police officers.

the day.<sup>50</sup> All dispatching services for the Town's law enforcement activities are provided by the Shenandoah County Sheriff's Department. During 2000 the Town police department responded to 1586 calls for service, and of that number, 96 came from areas beyond the current municipal boundaries.<sup>51</sup>

The County Sheriff's Department, which is located in the Town of Woodstock approximately 15 miles north of Mount Jackson, assists the Town in meeting its law enforcement needs. Close cooperation exists among the two departments, with each agency responding to calls to the other if units of that department are not readily available.<sup>52</sup>

The Commission has no knowledge of any extraordinary law enforcement problems in the areas proposed for annexation, and the incorporation of Area A into the Town is not expected to add substantially to the law enforcement burden of Mount Jackson's police department.<sup>53</sup>

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<sup>50</sup>**Ibid.**; and Moore, letter to staff of Commission on Local Government, Aug. 29, 2001.

<sup>51</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001.

<sup>52</sup>**Ibid.** During the two-hour period each day when Town police officer are not on duty, calls for service are responded to by Shenandoah County Sheriff's Department deputies.

<sup>53</sup>According to a representative for Mount Jackson, the current population distribution in Area A does not justify the employment of an additional Town police officer immediately following the annexation of that area. (Moore, letter to staff of Commission on Local Government, Aug. 3, 2001.) In this regard, we note that a significant segment of the population residing in Area A is concentrated in a mobile home park adjacent to State Route 698 or along a portion of East Avondale Avenue. At the present time, the balance of East Avondale Avenue is currently located within Mount Jackson and is patrolled by Town police officers.

**Street Maintenance.** All public roads in Mount Jackson, the areas proposed for annexation, and in Shenandoah County generally are maintained by the Virginia Department of Transportation in accordance with State-prescribed policies. While the State bears total financial responsibility for the maintenance of those thoroughfares in the Town which have been accepted into the State's highway system, Mount Jackson has, at its own volition, followed a policy in recent years of expending local funds to assist with this activity.<sup>54</sup> The data reveal that during the period from 1996 to 2000, the Town expended approximately \$133,000 in local funds for the improvement of its public thoroughfares.<sup>55</sup> This policy of augmenting State expenditures for street and road maintenance will benefit, in terms of addressing both immediate and prospective needs, the area annexed by the Town.<sup>56</sup>

**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>57</sup> The Mount Jackson Community Park, which is a significant community asset, is located on an 11-acre tract containing a swimming pool, a lighted athletic field, playground, and basketball and

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<sup>54</sup>With its own funds, the Town maintains approximately six-tenths of a lane-mile of roadway within its current borders. (Moore, letter to staff of Commission on Local Government, July 12, 2001.)

<sup>55</sup>**Ibid.**

<sup>56</sup>According to data provided by the Town, only a small portion of East Avondale Avenue in Area A is a private roadway and, thus, not maintained by VDOT. The Town has indicated, however, that it will pursue transferring maintenance responsibility of that private segment to the State if requested to do so by the affected residents. (**Ibid.**)

<sup>57</sup>Moore, letter to staff of Commission on Local Government, Aug. 29, 2001.

volleyball courts.<sup>58</sup> The Town's recreational department, which is staffed by a varying number of seasonal personnel, supports organized athletic leagues, instructional classes, and special events at the Community Park and other locations in the Town.<sup>59</sup> According to data provided by Mount Jackson, between 1996 and 2000 the Town expended approximately \$207,400 in support of its recreational activities.<sup>60</sup> While the annexations proposed under the terms of the agreement between Mount Jackson and Shenandoah County will not immediately affect the level of public recreation services and programs in the area annexed, the Town's commitment to such services and program will increasingly benefit that area and its residents.

### **Summary**

The Town of Mount Jackson will benefit from an immediate infusion of additional revenues as a result of the annexation of Area A. Moreover, that area and the territory in Area B which might subsequently be annexed under the terms of the proposed agreement will provide the Town with an extraordinary opportunity for future economic growth. Mount Jackson's future expansion in Area B 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>58</sup>**Town Submission**, Sec. "Urban Services"; and Moore, letter to staff of Commission on Local Government, July 12, 2001. Further, a portion of Town-owned parcel located in the Mount Jackson Industrial Park is used on a rent-free by a soccer league sponsored by Shenandoah County.

<sup>59</sup>**Ibid.**

<sup>60</sup>Moore, facsimile communication with staff of Commission on Local Government, Aug. 13, 2001. During the same span of years, the Town received approximately \$76,400 in revenues from the operation of its recreational facilities and programs.

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

The third criterion prescribed by law for Commission consideration in the review of an agreement defining a town's annexation rights is whether such an agreement is in the "best interest of the community at large."<sup>61</sup> As indicated previously, the Commission considers the proposed Mount Jackson - Shenandoah County agreement as providing for the orderly and regular growth of the Town and County together and facilitating an equitable sharing of the area's public resources and liabilities. These attributes of the proposed agreement are clearly promotive of the best interest of the community at large. There are, however, additional aspects and ramifications of the agreement which are relevant to this criterion and which merit comment in this report.

### **Enhancement of Public Services in Mount Jackson Environs**

As previously observed, annexations effected under the proposed agreement will place additional service responsibilities upon the Town of Mount Jackson. However, the Town's assumption of such service responsibilities concurrently promotes the interest of the community at large. In this regard, annexation of Area A by the Town will result in an immediate reduction in water and sewer connection fees and user charges for all residents and businesses located in that area. Similarly, the Town will extend its solid waste collection services to annexed areas. As a consequence, the proposed agreement facilitates and encourages greater community utilization of public utilities and refuse disposal service, which is clearly in the interest of the general area. In sum, the extension of these Town services and others to areas presently beyond Mount Jackson's corporate limits will serve the community at large.

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<sup>61</sup>Sec. 15.2-3232, Code of Va.

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

The proposed Town of Mount Jackson - Shenandoah County agreement permits the growth of the Town by a simple process (i. e., annexation by municipal ordinance) which avoids extended, and often costly, adversarial annexation proceedings. Although the State's traditional annexation process has many commendable features, experience has shown that such proceedings can be costly in terms of litigation expenses. Moreover, contested annexation cases can result in strained intergovernmental relations which often inhibit cooperative efforts, collaboration on mutual problems, and long-range planning. The proposed agreement will permit the growth of Mount Jackson in a nonadversarial 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**

A significant element of the proposed agreement calls for the Town of Mount Jackson 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 for the transition to independent city status, nor will any annexation contemplated under the terms of the proposed agreement result in Mount Jackson reaching that population threshold, future economic and demographic conditions might significantly alter that situation.<sup>62</sup> If Mount Jackson were to exercise its present statutory prerogative to seek city status at some future date, it would remove totally the Town's population and tax resources from County authority, with the consequence that the remaining residents of Shenandoah County would be confronted with bearing a greater local tax burden for the provision of public

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<sup>62</sup>The annexation of Area A and Area B concurrently would increase the Town's population from 1,664 persons to approximately 2,500 persons.



services. With the adoption of this agreement, Mount Jackson commits itself to remaining permanently a part of Shenandoah County and to 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 Mount Jackson remaining a part of Shenandoah County.

### **Economic Development of the Mount Jackson Area**

The proposed agreement facilitates the growth of the Town of Mount Jackson which, in turn, will provide that municipality with additional fiscal resources which can be used to extend and improve its public services. Mount Jackson's increased capability for the provision of public services can be a positive factor in the attraction of desirable development in the area. Any such development which does occur will redound to the benefit of both the Town and Shenandoah County. This aspect of the proposed agreement is clearly in the best interest of the community at large.

### **Reimbursement to County for Lost Revenue**

As this Commission has noted in previous reports, the Supreme Court of Virginia has held that towns cannot be required to compensate counties for their loss of revenue resulting from annexation.<sup>63</sup> Thus, if the Town of Mount Jackson were to pursue successfully annexation through the traditional process, Shenandoah County would not be eligible, based on the

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<sup>63</sup>**Town of Christiansburg v. Montgomery County**, 216 Va. 654 (1976). The Virginia Supreme Court stated that "...in the area of financial adjustments, the court upon ordering annexation may require a city to compensate a county for its prospective loss of net tax revenues; but where a town is the entity awarded annexation such compensation may be required only if later the town becomes a city within the prescribed time period." This "prescribed period" is set forth by Sec. 15.2-3211, Code of Virginia.

above-cited Supreme Court ruling, for compensation for lost revenue. While a county confronts no loss of major tax resources (e. g., real estate, public service corporation, personal property, machinery and tools, or merchants capital assessables) from town annexations, such annexations do operate to reduce some lesser local-source revenues (e. g., automobile license taxes) and intergovernmental aid (e. g., the distribution of Alcohol Beverage Control profits by the State). In recognition of this fact, the proposed agreement calls for Mount Jackson to compensate Shenandoah County for the annexation of Area A at the rate of approximately \$28,400 per year for the three-year period following such annexation.<sup>64</sup> Similarly, the proposed agreement also calls for the Town to compensate the County for subsequent annexations for the three-year period following each, at a rate not to exceed 50% of the calculated loss. This compensatory arrangement can assist the County in making necessary financial adjustments and, in periods of financial need by the County, will be in the general interest of the community at large.<sup>65</sup>

### **Protection of Agricultural Properties**

The proposed Mount Jackson - Shenandoah County agreement includes three provisions which commit the Town to the protection of

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<sup>64</sup>**Annexation Agreement**, Sec. 3; and Moore, letter to staff of Commission on Local Government, Aug. 29, 2001. A Town official has acknowledged that the County reimbursement amount in the proposed agreement contained a mathematical error and should be revised. (Moore, presentation to the Commission on Local Government, July 16, 2001; and Moore, letter to staff of Commission on Local Government, Aug. 3, 2001.)

<sup>65</sup>Shenandoah County officials acknowledge, however, that the reimbursement for lost revenues resulting from annexation it will receive from the Town represents less than 1% of the County's total local-source revenues. (Poling, presentation to Commission on Local Government, July 16, 2001.)

agricultural operations.<sup>66</sup> First, the agreement states:

The Town has no desire to annex acreage which is devoted principally and actively 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 Mount Jackson. Second, the proposed agreement obligates the Town to protect existing agricultural operations within areas annexed "...through the use of zoning and the establishment of use value taxation procedures."<sup>67</sup> Third, the proposed agreement would protect farmland which might be incidentally annexed by prohibiting Mount Jackson from implementing any procedure which would place undue restrictions or hardships on land devoted to agricultural production.<sup>68</sup> This Commission recognizes and fully supports the State's strong concern for the preservation of agricultural properties, and the significance of Shenandoah County as one

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<sup>66</sup>**Annexation Agreement**, Sec. 6.

<sup>67</sup>**Ibid.** The Commission observes that Mount Jackson has adopted use value assessment for all properties within its present borders qualifying for such from the County. (Bodkin, presentation to the Commission on Local Government, July 16, 2001.) Further, the Town has adopted an agricultural zoning district which contains many of the same provisions as the County's A-1 agricultural zoning district.

<sup>68</sup>According to a representative for Mount Jackson, the Town has also adopted hunting and firearms regulations similar to those of Shenandoah County. (Moore, presentation to Commission on Local Government, July, 16, 2001.) Further, the Town proposes to amend its mandatory utility connection ordinances to make appropriate exemptions in instances where residences are served by properly functioning and sanitary private water and sewerage disposal systems. (Moore, letter to staff of Commission on Local Government, Aug. 3, 2001.)

of the premier agricultural resources of the Commonwealth.<sup>69</sup> We consider the provisions of the proposed agreement concerning the protection of agricultural lands to be fully consistent with the best interest of the community at large.

## **FINDINGS AND RECOMMENDATIONS**

The Commission finds that the proposed agreement appropriately provides concurrently for the orderly and regular growth of the Town of Mount Jackson and Shenandoah County, facilitates an equitable sharing of the area's public resources and liabilities, and 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.

### **BOUNDARIES OF AREA A**

#### **Citizen-Proposed Modification**

During the course of our review, the Commission was urged by some residents of Area A to exclude certain properties located in the floodplain of the North Fork of the Shenandoah River from the area proposed for immediate annexation by Mount Jackson. The request for the exclusion of that territory rested, in part, upon the contention that the properties in question were not suitable for annexation by the Town by virtue of their agricultural nature, and thus, would derive no immediate benefit from the extension of municipal services and policies. It was also noted by the

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<sup>69</sup>In 1997 Shenandoah County ranked fifth in the Commonwealth in the value of agricultural products sold (\$73.0 million), and was ranked second in the State with respect to the pounds of apples harvested. (U. S. Department of Agriculture, National Agricultural Statistics Service, **1997 Census of Agriculture, Virginia State and County Data**, Tables 1, 31.)

citizens that land located in the floodplain was generally unsuitable for development due to its environmental constraints.

The Commission notes that the proposed annexation line approved by the governing bodies of the two jurisdictions has generally followed natural boundaries or right-of-way lines, and that such a policy is reasonable and appropriate.<sup>70</sup> Further, as noted in the previous section of this report, Mount Jackson has gone to extraordinary length to adopt policies and procedures that would protect productive agricultural operations which might be incidentally annexed by the Town. Furthermore, the floodplain areas recommended for exclusion are components of properties that have access to Town water and sewerage as well as frontage along Interstate Highway 81 or U. S. Highway 11, the principal gateways for the Town. Moreover, the properties which will be brought into the Town by the proposed agreement have no unique features which would distinguish them from properties historically annexed by Virginia municipalities.

In support of the contention that land located in flood prone areas should be excluded from Area A, the Commission observes that a representative of Mount Jackson has stated that the Town does not wish to annex the floodplain areas of active agricultural lands if such could be avoided.<sup>71</sup> In addition, the Commission has recognized in prior reports that while vulnerability to flooding is not an absolute barrier to the development of land, it does render vacant property less attractive to potential commercial, industrial, and residential developers, and can constitute a major impediment to development. Further, there is evidence to suggest that the excision of territory located in the floodplain of the Shenandoah

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<sup>70</sup>Moore, presentation to Commission on Local Government, July 16, 2001.

<sup>71</sup>**Ibid.**

River from Area A would not, in our judgment, substantially affect the development opportunities available to the Town.

Due to the stated desire of the Town to avoid the annexation of property with limited development potential and the future growth opportunities which the proposed agreement will provide Mount Jackson, the Commission recommends that the boundaries of Area A be redrawn to exclude the floodplain of any parcel used for active agricultural purposes, and that such territory be included within Area B.<sup>72</sup> This proposed amendment, however, should not override the statutory principal that territory annexed to Mount Jackson should embrace "...a reasonably compact body of land..."<sup>73</sup> Our recommendation is also conditioned upon an understanding that as agricultural properties are converted to other uses, or as they are proffered for development, they would become subject to immediate annexation by the Town.

### **Area Adjacent to Shenandoah Caverns**

The Commission notes that the boundaries of Area A have been drawn in a manner which would leave the southwestern portion of that area separated from the enlarged Town by intervening County territory. Following the annexation of Area A, property adjacent to and including Shenandoah Caverns will be surrounded on the north and east by the Mount Jackson Industrial Park, and on the south and west by either Area B or

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<sup>72</sup>In those instances where a current survey of the 100-year floodplain boundary of affected properties is not available, the Commission recommends using the Federal Emergency Management Agency's Flood Insurance Rate maps to determine the limits of the flood prone areas.

<sup>73</sup>Sec. 15.2-3211(1), Code of Va.

unincorporated portions of the County.<sup>74</sup> Although a representative of Mount Jackson has indicated that the Shenandoah Caverns portion of Area A is contiguous to a Town-owned parcel in the industrial park, that municipal property will remain under County jurisdiction subsequent to the initial annexation.<sup>75</sup> The Commission finds no justifiable or rational basis for creating such an anomalous situation. Historically, local government boundaries in Virginia have been drawn so as not to create an isolated "island" of territory under municipal jurisdiction that is surrounded by unincorporated county areas.<sup>76</sup> Accordingly, the Commission recommends that all of the property owned by Mount Jackson in the industrial park be included in Area A and subject to immediate annexation by the Town.

### **COMPENSATION BY TOWN**

Section 3 of the proposed agreement commits the Town to compensating the County for a portion of its revenue lost as a result of annexations effected under the agreement. The fourth paragraph of this section qualifies this commitment by language providing that:

In the event any of the above stated revenue programs are discontinued or changed in such a way that the County would not have received revenue in any year during which reimbursement

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<sup>74</sup>Under the terms of the proposed accord, the Mount Jackson Industrial Park cannot be annexed by the Town for 15 years following the effective date of the agreement. (**Annexation Agreement**, Sec. 10.)

<sup>75</sup>Moore, letter to staff of Commission on Local Government, Aug. 3, 2001.

<sup>76</sup>It is also not appropriate, in our judgment, to sanction the annexation of distant property which is connected to the municipality by means of nothing more than a right-of-way (i.e., "flag poling").

by the Town is provided for under the above formula, the County shall not be reimbursed by the Town during that year.

While the Commission assumes that the intent of this section is understood by the parties, literal application of the above language calls for the waiver of all compensation due the County in the event any one revenue source is discontinued. For purposes of avoiding any such possible interpretation, the Commission recommends that the above-cited sentence be amended by adding at its conclusion the phrase "for any such program so discontinued or changed."

### **FISCAL MANAGEMENT**

The Town has indicated that it intends to address a projected deficit in its water and sewer enterprise accounts following the annexation of Area A by transfers from its general fund.<sup>77</sup> We recommend that the Town not adhere to this practice on a continuing basis, but that it take appropriate steps to have its enterprise activities be self-supporting. This Commission also recommends the Town consider the formal adoption of a capital improvements plan, subject to annual revision, as an integral component of its fiscal management.<sup>78</sup> A capital improvements plan will also assist in the proper implementation of the Town's development control measures that will be revised following the annexation of Area A.

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<sup>77</sup>Moore, letter to staff of Commission on Local Government, July 12, 2001. Following the annexation of Area A, the Town estimates that the equalization of water and sewer user fees for municipal utility customers in that area will result in an annual deficit in its enterprise funds of approximately \$8,600.

<sup>78</sup>Sec. 15.2-2239, Code of Virginia authorizes local planning commissions to prepare and revise annually a five-year capital improvement program, based on the comprehensive plan of the locality, for submission to the governing body or chief administrative officer of the affected jurisdiction.



**CONCLUDING COMMENT**

As stated previously in this report, agreements defining a town's annexation rights are significant documents containing major grants and concessions of legal authority by the two jurisdictions which are parties to them. Accordingly, the proposed Town of Mount Jackson - Shenandoah County agreement has merited and has received careful review by this body. While this Commission recommends the adoption of the amendments herein proposed, we find the agreement consistent with statutory standards, and we hereby report it "favorably."

**Respectfully submitted,**

\_\_\_\_\_/s/\_\_\_\_\_  
**James E. Kickler, Chairman**

\_\_\_\_\_/s/\_\_\_\_\_  
**Frank Raflo**

\_\_\_\_\_/s/\_\_\_\_\_  
**Peter T. Way**

\_\_\_\_\_/s/\_\_\_\_\_  
**Geline B. Williams**

**May 8, 2001**

**AGREEMENT DEFINING ANNEXATION RIGHTS**

WHEREAS, the Town of Mount Jackson, Virginia, (herein called “the Town”), and the County of Shenandoah, Virginia, (herein called “the County”), desire to enter into an agreement defining the Town’s annexation rights in the future; and,

WHEREAS, the Town has completed a study to determine the feasibility of annexing certain lands located in the County adjacent to the corporate limits of the Town; and,

WHEREAS, the said study entitled Annexation Plan for the Town of Mount Jackson herein called “the Plan” (see attachment “A”), has defined a study area defined as Areas “A” (Blue) and “B” (Yellow) in which future annexations by the Town may take place; and,

WHEREAS, the Town offers to permanently renounce its right to become a city; and,

WHEREAS, the Town and County desire to enter into an agreement to provide for the regular and orderly growth of the Town in conjunction with the County; and the Town and County desire to provide for an equitable sharing of resources and liabilities;

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and in further consideration of the mutual promises and covenants herein contained, the Town and County do mutually agree as follows:

1. The Town by execution of this agreement as provided by Section 15.2-3231 of the Code of Virginia, 1950, as amended, does hereby permanently renounce its right to become a city.

2. The Town hereby acquires the right to annex by ordinance following a public hearing those areas designated in this agreement as Areas “A” and “B” as set forth in Figure 1 subject to the policies hereinafter provided and effective as of the effective date of this agreement.

It is the intent of the Town to annex the area designated as Area “A” (Blue) for annexation in the plan in Figure 1 as of December 31, 2001, or as soon thereafter as practicable. Such annexation shall be accomplished by enacting a Town Annexation Ordinance after the execution of this agreement by the parties, subsequent to review by the Commission on Local Government as provided for in Section 15.2-3233 of the Code of Virginia, 1950, as amended.

3. For the purposes of this agreement, the losses of revenue to the county resulting from annexations under this agreement are anticipated in the following categories:

Automobile license sales

Sales tax revenues

Share of profits from Alcohol Beverage Control Board

Utility Tax

Reimbursement to the County for revenue losses based on the annexation area “A” of the attached plan shall be made at the rate of \$21,182 per year for three years. Such payments shall be made as of January 1 of the second year following the annexation anticipated in Paragraph 2 above and continue for the next two years on the same date.

Revenue losses resulting from subsequent annexations under this agreement shall be calculated based on revenue figures for the fiscal year prior to the effective date of annexation and agreed upon by the Town and County. The Town shall reimburse such losses for a period of three years at a yearly rate of not more than 50% of the total revenue lost.

In the event any of the above stated revenue programs are discontinued or changed in such a way that the County would not have received revenues in any year during which reimbursement by the Town is provided for under the above formula, the County shall not be reimbursed by the Town during that year.

4. No annexation ordinance shall be enacted by the Town without first holding a public hearing after advertising such hearing for two consecutive weeks in a newspaper of general circulation in the Town. Formal written notice shall be provided to the Board of Supervisors at least two (2) weeks prior to such hearing.

The annexation ordinance shall include:

- a. a metes and bounds description of the area sought for annexation;
- b. information, which can be recorded on a map attached to the ordinance, indication the location of subdivisions, major industrial and commercial sites and vacant areas, as well as other information relevant to the possible future uses of property within the area proposed for annexation; and,

- c. a statement of the terms and conditions upon which the annexation will be effected, including provisions for the extension of utilities, if applicable, and for meeting the annexed area's other service needs.
5. The Town shall annex only such area as can be served by water and sewer within a period of five (5) years from the date of annexation; however, in accordance with Town policies, water and sewer services shall be extended into annexed areas only as it becomes reasonably necessary and economically feasible. In the event water and sewer are provided by a regional authority, or such authority agrees to provide such services to a developer/developers, business/businesses, industrial enterprise/industrial enterprises, or group/groups of residents within the area, the town may annex additional contiguous land within Area "B" as shown on Figure 1. Other municipal services, exclusive of water and sewer, will be extended by the Town into annexed areas on the effective date of each annexation, or as soon as practicable. All such services will be at the same level and quality as are generally available within the entire Town.
6. The Town has no desire to annex acreage which is devoted principally and actively 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. The Town will, as soon as reasonably possible, establish means by which to protect existing farmlands within any annexed area through the use of zoning and the establishment of use value taxation procedures. The Town intends to allow the continued use of any

farmland which it annexes for agricultural purposes, and the Town does not propose to implement any procedures which will place undue restrictions or hardships on agricultural land.

7. All annexations shall be made effective as of midnight on December 31 or June 30 of the year specified, and certified copies of each adopted annexation ordinance shall be filed with the Circuit Court of Shenandoah County, the Secretary of the Commonwealth, and other State and Federal agencies which require knowledge of local government boundary changes.
8. The Town and County agree that all land use ordinances and regulations affecting the study area shall be Town ordinances and regulations at the time of annexation by the Town. Such ordinances or regulations, in so far as is practicable, shall be adopted so as to be consistent with existing County land use ordinances currently governing the study area. The administration of land use in the study area shall be the responsibility of the County acting through its Zoning Administrator or such other appropriate official as may be appointed by the County until annexation occurs.
9. Prior to annexation, in the event of rezoning requests, special use requests, non-conforming uses or any other use situations not permitted by right in the aforesaid ordinances or regulations, the County Zoning Administrator shall refer any such matter for a joint review by the County Planning Commission and the Town Planning Commission. The respective commissions may meet jointly and shall make their recommendations jointly or severally, as each respective commission may so desire, to the County Board of Supervisors, as

provided by law. The Town agrees that, provided such referrals are made in a timely fashion so as to allow adequate time for review, the Town Planning Commission shall in turn make a timely recommendation, if any, so as not to delay formal action by the County within the statutory time limits for same. Any such referrals by the County Zoning Administrator to the Town Planning Commission should be made no less than 10 days prior to any meeting of the Town Planning Commission during which action thereon by the Town Planning Commission is desired.

10. Within the Area “A” on Figure 1 there is located the “Mt. Jackson Industrial Park” (delineated on Figure 1 by cross-hatch). The Town and County agree that the Town will not attempt to annex any of the Mt. Jackson Industrial Park area for a period of fifteen (15) years from the date of this Agreement; except that in the circumstance where an owner of land located within the boundaries of the Mt. Jackson Industrial Park petitions or requests to be annexed into the Town of Mount Jackson, such petition or request may be considered by the Town and, if determined feasible by the Town, annexation may take place in accordance with the terms and conditions of this agreement.
11. The Town agrees that it will not seek to change the order of the listing of names on the Interstate 81 signs northbound on I-81 which list Shenandoah Caverns first and Mount Jackson second. It is understood that control of such signs rests with the Virginia Department of Transportation, not the Town or the County.

## APPENDIX A

12. The Town shall pay all of the costs of the annexation plan, one-half the costs of the proceedings, and its own attorney's fees for the proceeding.
13. The County shall pay the costs of its attorney's fees and one half the cost of the proceeding.
14. The Town has authorized the execution of the agreement as indicated by the attached attested copy of the minutes of the meeting of \_\_\_\_\_, 2001.  
See Attachment \_\_\_\_\_.
15. The County has authorized the execution of the agreement as indicated by the attached attested copy of the minutes of its meeting of \_\_\_\_\_, 2001.  
See Attachment \_\_\_\_\_.
16. The Commission on Local Government has reviewed this agreement with modifications, if any, as indicated by Attachment \_\_\_\_\_.
17. All modifications, if any, suggested by the Commission on Local Government have been acknowledged by the Town and County and the agreement has been adopted by each body as required by Code of Virginia Section 15.2-3233. See Attachments \_\_\_\_\_ and \_\_\_\_\_.
18. This agreement shall become void in the event no annexation ordinance is adopted by the Town within five (5) years of the date of the final approval of the annexation agreement by the Commission on Local Government.
19. Nothing in this agreement shall deprive the citizens in Shenandoah County of exercising their right to petition the Court for voluntary annexation to the Town of Mount Jackson under Section 15.2-3203 of the Code of Virginia of 1950, as amended.



**APPENDIX A**

20. The County and Town agree that the Town, by entering into this agreement in no way relinquishes authority or power to use the traditional annexation process authorized by Article I, Chapter 32, Title 15.2 of the Code of Virginia as now in existence or as may be amended in the future.

21. The Town and County reserve the right to modify this agreement by joint consent.

Review and modification of the study area limits delineated in Figure 1 shall be considered in the event that major development is proposed outside the area, but is contingent on the provision of Town services. A request for review may be initiated by the Town or the County. If no such review is requested during the first thirty (30) years the agreement is in effect, one shall be scheduled during the thirtieth year jointly by the County and Town.

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Chairman, Shenandoah County  
Board of Supervisors

\_\_\_\_\_

Date

\_\_\_\_\_

Mayor, Town of Mount Jackson

\_\_\_\_\_

Date

**STATISTICAL PROFILE OF THE TOWN OF MOUNT JACKSON, COUNTY OF SHENANDOAH  
AND THE AREAS COVERED UNDER THE AGREEMENT DEFINING ANNEXATION RIGHTS**

	<b><u>Town of Mount Jackson</u></b>	<b><u>County of Shenandoah</u></b>	<b><u>Area A</u></b>	<b><u>Area B</u></b>	<b><u>Mount Jackson Industrial Park</u></b>
Population (2000)	1,664	35,075	208	662	0
Land Area (Sq. Mi.)	1.21	507	2.47	4.92	0.36
Assessed Property Values (1999)					
Real Estate Values	\$68,467,200	\$1,786,389,600	\$22,047,900	\$15,320,500	\$9,449,800
Personal Property Values	\$9,736,233	\$196,188,324	\$581,185	\$2,210,220	\$16,450
Machinery and Tool Values	N/A	N/A	N/A	N/A	N/A
Merchants Capital Values	N/A	N/A	N/A	N/A	N/A
Public Service Corporation Values	N/A	N/A	N/A	N/A	N/A
Land Use (Acres)					
Residential	252	12,922	170	N/A	0
Commercial	33	1,811	14	N/A	0
Industrial	29	3,097	12	91	85
Public and Semi-Public	28	N/A	40	122	N/A
Transportation, Communication and Utilities	105	N/A	N/A	N/A	N/A
Vacant, Wooded, or Agricultural	328	309,576	1,294	N/A	147

## NOTES:

N/A = Not Available

Statistics for Shenandoah County include data for the Town of Mount Jackson.

## SOURCES:

Town of Mount Jackson, Submission to the Commission on Local Government.

Vincent E. Poling, letter to staff of Commission on Local Government, June 26, 2001.

Charles K. Moore, letter to staff of Commission on Local Government, July 12, 2001.

## **APPENDIX C**

### **Map of the Town of Mount Jackson and the Areas Proposed for Annexation**