

REPORT
ON THE
TOWN OF LEBANON—COUNTY OF RUSSELL
ANNEXATION ACTION



COMMISSION ON LOCAL GOVERNMENT
COMMONWEALTH OF VIRGINIA

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TOWN OF LEBANON -- COUNTY OF RUSSELL
ANNEXATION CASE

PROCEEDINGS OF THE COMMISSION

On November 20, 1986 the Town of Lebanon filed notice with the Commission on Local Government, pursuant to the provisions of Section 15.1-945.7(A) of the Code of Virginia, of its intention to petition the court for the annexation of approximately 2.39 square miles of territory in Russell County. Consistent with the Commission's Rules of Procedure, the Town's notice was accompanied by data and materials supporting the annexation action.¹ Further, in accordance with statutory requirements, the Town concurrently gave notice of its annexation action to 36 other local governments with which it was contiguous or with which it shared functions, revenues, or tax sources.²

On December 17, 1986 the Commission met with representatives from the Town of Lebanon and Russell County for the purpose of establishing a schedule for its review of the annexation issue. At that meeting the Commission established a schedule which called for the submission of the County's materials in response to the annexation action by February 27, 1987, for public presentations and hearings on March 24, and for submission of the Commission's report by May 21, 1987.³

Consistent with its previously adopted schedule, on March 24, 1987 members of the Commission toured the area proposed for annexation and relevant sites and facilities in the Town and the County and received oral presentations from the parties in support of the annexation. In addition to its receipt and consideration of materials and testimony from the Town and the County, the Commission solicited comment from other potentially affected political subdivisions and the public.

¹Town of Lebanon, Annexation Notice to the Commission on Local Government (hereinafter cited as Town Notice), Nov. 1986.

²Sec. 15.1-945.7(A), Code of Va.

³At the request of the Commission, the Town and the County agreed to extend the date for the submission of the Commission's report to June 22, 1987.

Each jurisdiction receiving notice of the proposed annexation from the Town under the provisions of Section 15.1-945.7(A) of the Code of Virginia was invited by the Commission to submit testimony on the proposed action. Further, the Commission held a public hearing, advertised in accordance with the statutory requirements, on the evening of March 24 1987 in Lebanon.⁴ The public hearing was attended by approximately 25 persons and produced testimony from six individuals. In order to receive additional public comment, the Commission agreed to keep open its record for the receipt of written submissions through April 24, 1987.

SCOPE OF REVIEW

The Commission on Local Government is directed by statute to review proposed annexations and other local boundary change issues prior to their being presented to the courts for final disposition. Upon receipt of notice of such proposed actions, the Commission is directed to "hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations to the affected local governments.⁵ While the Code of Virginia directs that the Commission's findings and recommendations be based upon the criteria and standards prescribed by law for the disposition of the issue under consideration, the Commission is also cognizant of the fact that its analyses must be guided by the legislatively decreed concern for the preservation of the viability of the Commonwealth's localities.

The analysis and recommendations which follow in this report are based upon the Commission's collective experience in local government

⁴Sec. 15.1-945.7(B), Code of Va. Copies of all materials submitted by the Town of Lebanon and Russell County relative to the proposed annexation were made available for public review in the offices of the Town Manager and the Russell County Administrator.

⁵Sec. 15.1-945.7(A), Code of Va.

administration and operations. It is the intention of the Commission to leave questions of law for appropriate resolution elsewhere. The Commission trusts that this report will be of assistance to the localities, the court, and the citizens of the area as well as the Commonwealth generally.

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

TOWN OF LEBANON

The community of Lebanon was founded in 1816 and was incorporated as a town by the Virginia General Assembly in 1873.⁶ Located near the geographic center of Russell County, Lebanon has been the governmental center of the County since 1818.⁷ Lebanon, whose last boundary expansion occurred in 1953, gained population during the previous decade, experiencing an increase in its populace of approximately 41% between 1970 and 1980.⁸ As of 1980 the Town of Lebanon had a population of 3,206 persons and an area of 1.91 square miles, giving the municipality a population density of 1,680 persons per square mile.⁹

Lebanon constitutes a major center of economic activity in Russell County. Due to its various public, commercial and industrial facilities, the Town provides significant employment opportunities within its boundaries. The evidence also suggests that the Town is the locus of employment for many residents of the surrounding area. In 1985 the Town had within its borders approximately 1,773 positions in nonagri-

⁶Town Notice, p. 3.

⁷Ibid.

⁸Ibid., p. 9; and U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, Number of Inhabitants, Virginia, Table 4. The 1953 annexation increased the size of the Town from 325 acres to its current size (1,221 acres) and added 54 persons to the Town's population.

⁹Town Notice, p. 9.

cultural wage and salary employment, with the number of such employment positions in the Town exceeding Lebanon's 1985 civilian labor force (1,202) by 47.5%.¹⁰

In terms of land use, 1986 data indicated that 27.4% of Lebanon's total area was devoted to residential development, 5.7% to commercial enterprise, 4.7% to industrial activity, 4.4% to public and semi-public uses, with 57.8% (702 acres) remaining vacant.¹¹ Of this vacant land, however, 579 acres were situated on slopes greater than 16% or located within the 100-year floodplain. Exclusive of this land affected by such environmental constraints, the Town contains approximately 123 acres, or only 10.1% of its total area, vacant and generally amenable to development.¹²

COUNTY OF RUSSELL

Russell County was established in 1786 from territory formerly part of Washington County.¹³ Between 1970 and 1980 the County's population increased from 24,533 to 31,761 persons, or by 29.5%.¹⁴ The official population estimate for 1985 placed the County's population at 32,300 persons, an increase of 1.7% since the preceding decen-

¹⁰Ibid., p. 76. The data reported by the Town indicate that, as of September 1985, the largest employment sectors in Lebanon were wholesale and retail trade (724 positions), manufacturing (590 positions), and government (314 positions).

¹¹Ibid., p. 9.

¹²Ibid.

¹³County of Russell, Response to Annexation (hereinafter cited as County Response), p. 10.

¹⁴1980 Census of Population, Number of Inhabitants, Virginia, Table 4. In addition to Lebanon, there are two other incorporated towns (Cleveland and Honaker) and a portion of a third (St. Paul) in Russell County. The 1980 population of persons residing in the County's three incorporated towns was 5,209. Between 1970 and 1980 the population residing in the unincorporated portions of Russell County increased by 26.5%. (Ibid.).

nial census.¹⁵ Based on the County's 1985 population and its land area of 483 square miles, it has a population density of 67 persons per square mile.

Despite the County's population growth in the decade of the 1970s, the data suggest that the County remains largely rural. In terms of land use, 1979 data (the most recent available) reveal that, as of that year, only 1.6% of land in Russell County was devoted to residential, nonagricultural commercial, and industrial, or other urban uses.¹⁶ Also indicative of the rural nature of Russell County are 1982 data indicating that there existed 1,283 farms in the County occupying a total of 184,321 acres.¹⁷ Further, 1986 data disclose that there are 167,872 acres of timber land in the County.¹⁸

Nonagricultural commercial and industrial activities in Russell County do, however, constitute an important part of the County's economic base. Statistics indicate that for the quarter ending June 30, 1986, there were 6,300 nonagricultural wage and salary positions within Russell County, with mining operations employing the largest

¹⁵Julia H. Martin and David W. Sheatsley, Estimates of the Population of Virginia Counties and Cities: 1984 and 1985 (Charlottesville: Tayloe Murphy Institute, University of Virginia, 1986), Table 1.

¹⁶County of Russell, Twenty-Year Comprehensive Plan, 1979, p. 69. Land use statistics include data for the County's incorporated towns.

¹⁷U. S. Department of Commerce, Bureau of the Census, 1982 Census of Agriculture, Virginia, Ch. 2, Tables 1, 3. In 1982 more than 645 (50.3%) of farm operators in the County were employed for 100 days or more in nonfarm related activities. (Ibid, Table 5.). The major agricultural crop in the County is tobacco.

¹⁸U. S. Department of Agriculture, Forest Service, Forest Statistics for the Southern Mountains of Virginia, 1986. The Forest Service defines "forest" land as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for nonforest use. Such property may also be included in the Census Bureau's definition of farm land.

number of workers (1,460 positions).¹⁹ Most of the employment opportunities in Russell County, other than those in the mining sector, are located in one of the three incorporated towns.²⁰

In sum, while Russell County experienced significant demographic growth during the previous decade, the population increase since 1980 has been extremely modest. Moreover, exclusive of the development in or adjacent to its incorporated communities, Russell County remains predominantly rural.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation by the Town of Lebanon contains three tracts of land totaling 2.39 square miles, 949 persons, and \$12.8 million in real estate values subject to local taxation.²¹ Thus, the area embraces 0.5% of the County's total land area, 3.0% of its population, and 3.2% of the 1985 assessed real property values subject to local taxation.

In terms of current development, the area proposed for annexation contains 10 residential subdivisions, a shopping center and adjacent commercial development, the Russell County Industrial Park, a County high school, as well as water, sewer and park facilities owned by the Town. According to recent land use data, 10.8% of the area is devoted to residential development, 1.3% to commercial enterprise, 1.5% to industrial activity, 3.1% to public and semi-public uses, with 83.3% (1,272 acres) of the area remaining vacant or engaged in agricultural

¹⁹Virginia Employment Commission, Covered Employment and Wages in Virginia for Quarter Ending June 30, 1986.

²⁰In 1986 approximately 30.1% of the County's nonagricultural wage and salary employment was located within the Town of Lebanon.

²¹Town Notice, p. 9. The real estate values in the area proposed for annexation reflect use value assessment. See Appendix A for a statistical profile of the Town, the County, and the area proposed for annexation. See Appendix B for a map of the area proposed for annexation.

production.²² Data presented by the Town of Lebanon concerning the condition of this vacant land indicate that approximately 830 acres, or 65.3% of the aggregate, are affected by environmental restrictions such as steep slopes or location in the floodplain.²³ Thus, approximately 542 acres in the area proposed for annexation is vacant and suitable for development.

STANDARDS AND FACTORS FOR ANNEXATION

The criteria and standards prescribed for consideration in annexation cases are set forth in Section 15.1-1041 of the Code of Virginia. This section of law directs this Commission, and ultimately the reviewing court, to determine "the necessity for and expediency of annexation." As a guide for determining such "necessity and expediency," Section 15.1-1041 requires consideration of the interest of the people of the county and town, services rendered and needs of the people of the area proposed for annexation, the interest of the people in the remaining portion of the county, and the best interest of the State in promoting viable units of government. Further, Section 15.1-1041 specifies a number of fiscal concerns, public service functions, community of interest factors, and State policies which are to be examined in considering the best interest of the affected jurisdictions and the State. The sections which follow in this report constitute the Commission's analysis of these various factors.

NEED OF THE TOWN FOR LAND FOR DEVELOPMENT

As indicated earlier, the Town of Lebanon currently has approximately 702 acres of land which are vacant or in agricultural use, with that acreage constituting 57.8% of the Town's total land area.²⁴ Of

²²Ibid.

²³Ibid.

²⁴Ibid.

that vacant land, however, 579 acres are located in floodplains or on slopes greater than 16%.²⁵ Exclusive of such property restricted in its development potential by major environmental factors, Lebanon contains 123 acres, or 10.1% of its total land area, vacant and environmentally suited for development. It is important to note, however, that a considerable portion of this vacant land is limited in its development potential by parcel size, poor access to transportation facilities, or by adjacent land uses. While this Commission recognizes that such factors are not absolute barriers to development, they constitute significant impediments which render vacant sites within the Town less attractive to prospective developers. Based on such considerations, and for the reasons set forth below, the Commission concludes that the Town of Lebanon has a need for additional land for future development.

With respect to Lebanon's prospects for future industrial development, the Commission notes that there are no parcels of vacant land containing three or more acres within the Town's present corporate boundaries deemed suitable for industrial activity.²⁶ Further, evidence presented by the Town indicates that no new industrial concern has located within the Town since 1971.²⁷ Furthermore, the Russell County Industrial Park, which is located in the area proposed for annexation, is considered to be the most attractive site for industrial development in the County. Although no manufacturing concern has located within the industrial park since it was opened in 1973, the attractive attributes of that facility places potential industrial sites within the Town of Lebanon at a distinct disadvantage.²⁸

²⁵Ibid.

²⁶Carl Tankersley, Town Manager, Town of Lebanon, communication with staff of Commission on Local Government, May 15, 1987.

²⁷Ibid.

²⁸The Russell County Industrial Park contains approximately 100 acres and is served by Town water and sewer lines. The County

It should be noted, however, that the Town has experienced some, albeit limited, industrial growth in recent years. Between January 1, 1982 and March 31, 1987 the Town issued one building permit valued at approximately \$468,000 for the expansion of an existing industrial operation.²⁹ During that same period, there were no building permits issued in other portions of Russell County for the construction of new industrial facilities or the expansion of existing industrial operations. Thus, the evidence indicates that Lebanon has shared in the limited amount of industrial development which has occurred in Russell County during the past five years.

With respect to the Town's prospects for future commercial growth, Town officials have indicated that there are no vacant sites containing three or more acres within Lebanon considered suitable for commercial development.³⁰ Further, much of the recent commercial development in the Lebanon environs has occurred in the area proposed for annexation. Statistics indicate that between January 1, 1982 and March 31, 1987 the Town issued 15 building permits valued at approximately \$5.5 million, for the construction of new commercial enterprises. During the same period of time, Russell County also issued 15 building permits for new commercial construction, valued at approximately \$12.8 million.³¹ In sum, while the available data suggest that the Town has been comparatively successful in its efforts to attract new industrial and commercial construction, Lebanon does not have within its present boundaries sufficient vacant land for future de-

recently received a grant of \$150,000, which was matched by \$100,000 in local funds, to grade two industrial sites and to construct a building on one of the graded sites.

²⁹Gregory J. Hancock, Town Attorney, Town of Lebanon, letter to staff of Commission on Local Government, Apr. 9, 1987.

³⁰Tankersley, communication with staff of Commission on Local Government, May 15, 1987.

³¹Hancock, letter to staff of Commission on Local Government, Apr. 9, 1987. Of the total number of building permits (15) issued for new commercial development by the County, six were for the construc-

velopment.

Finally, with respect to the issue of the Town's need for land for residential development, the Commission considers it important to observe that the general viability of all communities rests in part upon the capacity of the locality to attract and retain a heterogeneous population. A prerequisite for such is a locality's ability to continue to offer an array of housing alternatives to prospective residents. The absence, for example, of moderately priced single-family residential alternatives can result in the permanent loss of young families who contribute substantially to a community's economic, social, and civic life. Data available to this Commission indicate that Lebanon has not experienced a level of residential construction in recent years commensurate with that of the surrounding County.

With respect to this point, it is relevant to note that between January 1, 1982 and March 31, 1987 the Town issued only 3 permits for the construction of single-family residential units; 1 permit for multi-family housing (representing 48 units), and 33 permits for mobile homes.³² During the same span of years Russell County issued 413 single-family residential building permits, 2 permits for multi-family housing (representing 100 units), and 1,479 permits for mobile homes.³³

In summary, the evidence suggests that the Town does need land for industrial, commercial, and residential development. Although Lebanon is presently a viable community, the limited amount of vacant land suitable for development in the Town and the historic development pat-

tion of businesses in the area proposed for annexation.

³²Ibid. Between 1982 and 1987 there has been only one new subdivision containing seven lots recorded in the Town of Lebanon. During the same period, there were 12 subdivisions which collectively contained 311 lots, platted in the unincorporated portion of the County.

³³Ibid.

terns lead this Commission to conclude that an annexation by the Town is appropriate to promote its continued viability.

NEED OF THE TOWN TO EXPAND TAX RESOURCES

Since towns in Virginia rely predominantly upon taxes on real property for local revenues, the assessed values of such property becomes an important consideration in town annexation issues. In this instance the data reveal that the Town of Lebanon has experienced growth in its real property tax assessables in recent years in excess of that in the County generally. Based upon assessment at 100% of fair market value, real property values in the Town increased from \$41.9 million in FY1980-81 to \$53.3 million in FY1984-85, or by 27.2%.³⁴ During the same span of years, such values in Russell County as a whole increased from \$417.1 million to \$458.0 million, or by 9.8%.³⁵

In terms of local revenues derived from all property subject to local taxation between 1981 and 1985, Lebanon's receipts increased by 176.8% while those for the County decreased by 3.9%.³⁶ During that same period the Town's revenue derived solely from real estate increased by 212.0%, while similar receipts by Russell County increased by 9.8%.³⁷ It should be noted, however, that a significant portion of the growth in the Town's local property tax revenues between 1981 and 1985 were a result of the increase in the real property tax rate established by the Lebanon Town Council in 1984.³⁸

³⁴Town Notice, p. 11; Virginia Department of Taxation, Annual Report, Fiscal Year Ended June 30, 1981; and Annual Report, Fiscal Year Ended June 30, 1986.

³⁵Ibid. Statistics for Russell County include data for Lebanon.

³⁶Town Notice, pp. 13, 14.

³⁷Ibid. Data reported for the County include information for the Town.

³⁸The Commission notes that the Town's real estate tax rate increased from \$0.10 per \$100 of assessed value to \$0.20 per \$100 of

While the data indicate that the Town of Lebanon has experienced growth in its tax resources in recent years and remains a strong and viable community which has promoted the economic growth of its general area, the Commission concludes that the scarcity of vacant and competitive sites for future development within Lebanon will diminish significantly the Town's ability to increase its tax base without some modification of its present boundaries.

IMPACT ON THE COUNTY

The annexation proposed by the Town of Lebanon, if granted by the court in its entirety, would have minimal adverse impact on Russell County. While the proposed annexation would reduce initially some minor County revenue sources, all properties annexed by the Town would remain subject to local taxation by Russell County.³⁹ Further, upon annexation the Town will assume the responsibility for certain services, such as law enforcement, that are currently being provided by the County.

Finally, the proposed annexation would permit the Town to benefit from an immediate infusion of fiscal resources, would assure it of land for future development, and would promote its continued viability. The viability of the Town and its expanded fiscal resources will facilitate the economic development of the Lebanon area which will redound to the economic benefit of the citizens of Russell County generally.

COMMUNITY OF INTEREST

Another of the factors that is statutorily prescribed for consideration in annexation issues is the strength of the community of interest which joins the municipality with the area it seeks to annex. In this case the evidence clearly indicates that there are tangible

assessed value in 1984 while the rate for the County (\$0.65 per \$100 of assessed value) has remained the same since 1981.

³⁹County revenues affected by town annexations include those from sales, consumer utility, wine, and bank franchise taxes, motor

ties between the Town of Lebanon and the area proposed for annexation.

First, the data reveal that the Town is the center of much of the community's public life and contains governmental offices and other public facilities serving the general area. The Town is the seat of Russell County government, and within Lebanon's corporate limits the County maintains its courts, library, health, welfare, law enforcement, and general governmental offices, as well as two schools and other educational facilities. In addition, there are also offices of various State and federal agencies located within the Town which promote and maintain relationships between the municipality and the adjoining areas.⁴⁰

Second, the Town of Lebanon is the major focal point of the area's economic life. According to data submitted by the Town, there are over 155 businesses located in Lebanon. Further, U. S. Bureau of the Census data reveal that, as of 1982, the Town contained 21.0% of the County's retail businesses and 47.6% of its service industries.⁴¹ Furthermore, as noted previously, employment statistics indicate that as of 1985 approximately 30.1% of Russell County's nonagricultural wage and salary employment was located within the Town's current

vehicle and business licenses, and ABC profits distribution. The County estimates that the annexation proposed by the Town of Lebanon will result in its loss of approximately \$65,000 from such sources. The largest component of that amount would be the loss to the County of \$33,280 in consumer utility taxes. (County Response, p. 57.)

⁴⁰Town Notice, p. 75. Located in the Town is a branch office of the Virginia Department of Motor Vehicles and a Post Office. Lebanon, which contains the Russell County Medical Center, is also the center of the area's medical services.

⁴¹U. S. Department of Commerce, Bureau of the Census, 1982 Census of Retail Trade, Virginia, Nov. 1984, Table 8; and 1982 Census of Service Industries, Virginia, Nov. 1984, Table 8. The Bureau of the Census defines "retail" trade as those establishments engaged in selling merchandise for personal or household consumption and in rendering services incidental to the sale of those goods. "Service" industries are defined by the Bureau of the Census as those primarily engaged in rendering a wide variety of services to individuals and

boundaries.⁴²

Third, Lebanon is the source for the provision of certain urban-type services to the area proposed for annexation. The Commission notes that the Town is presently providing water and sewerage to a predominant portion of the area's population.⁴³ The Town also contains the volunteer fire department and rescue squad serving the proposed annexation area. Further, the evidence indicates that Lebanon's recreational facilities and programs are used by the residents of the area proposed for annexation and the surrounding County.⁴⁴

Finally, the Commission notes that the area proposed for annexation has a composite population density of approximately 398 persons per square mile, considerably in excess of the County's overall population density (approximately 67 persons per square mile).⁴⁵ This density of population gives the area proposed for annexation an urban nature and service needs which more closely parallel those of the Town than those of the County generally. With respect to such urbanization in the area, it should be observed that a number of developments along the primary and secondary highways radiating from Lebanon are, in our judgment, extensions of development patterns originating within the Town.⁴⁶

In sum, recognizing the general character of the area proposed for annexation and considering the data which indicate the importance of

business establishments (e. g., hotels and motels and personal, business, legal, and repair services).

⁴²Town Notice, p. 76.

⁴³The Town provides water service to 73% of the residences in the area proposed for annexation and sewage collection service to 46% of the residential dwelling units in that area. (Town Notice, p. 9.)

⁴⁴Town Notice, p. 54.

⁴⁵Ibid., p. 9. The 1980 population density of the unincorporated portion of Russell County was 55 persons per square mile.

⁴⁶Ibid., Map 1. These development patterns include those along U. S. Highway 19 east of the Town and State Route 71 and in the

Lebanon as a center of government, employment, and public services in Russell County, the Commission has no difficulty concluding that there exists a strong and varied community of interest between the Town and area it seeks to annex.

URBAN SERVICE CONSIDERATIONS

Another set of factors statutorily prescribed for consideration in annexation issues is the urban service needs of the area proposed for annexation, the level of services currently provided by the municipality and the affected county, and the relative ability of the two jurisdictions to serve the area in question. In this instance, the area proposed for annexation contains 2.39 square miles (0.5% of the County's total area) and an estimated population of 949 persons (3.0% of the County's population).⁴⁷ These figures give the area a population density of 398 persons per square mile. This population density gives the area an urban character dissimilar to that of Russell County generally.

Sewage Treatment

The Town's sewage treatment plant has a rated capacity of 0.71 million gallons per day (MGD). The plant currently treats an average daily flow of 0.61 MGD, leaving an excess capacity of approximately 0.10 MGD.⁴⁸ The Town's present sewage collection system consists of 28 miles of lines and six pump stations which are located within and

Lebanon Manor subdivision.

⁴⁷Ibid., p. 9.

⁴⁸Town Notice, p. 22. The current average daily flow to the Town's plant is 86% of its treatment capacity. When the average monthly flow reaches 90% of treatment capacity, the Town will be required to begin planning for an expansion of its treatment facility. (See "Policy for Sewage Treatment Plant Loading" in Virginia State Water Control Board, Statutes, Regulations, Policies and Other Documents Adopted by or Applicable to State Water Control Board, July 1982, p. P-1-1.)

beyond Lebanon's present boundaries.⁴⁹ The Town's collection system provides service to approximately 1,473 connections, including 169 in the area proposed for annexation.⁵⁰ Moreover, the Town is the only source of centralized sewage collection and treatment presently available to serve the proposed annexation area.

The Commission notes that the Town's sewage collection system is confronted with problems from the infiltration of groundwater and the inflow of storm water resulting, in part, from the age of the collection lines.⁵¹ Town officials have informed the Commission that studies have been completed which identify the problem areas and that the Town has an ongoing program to address these problems.⁵²

With respect to its plans to serve the area proposed for annexation, the Town has indicated that most residents in that area are either currently served by Lebanon's sewerage system or have direct access to those facilities. The Town does plan, however, to extend sewer lines to the Russell County High School and environs between the fourth and tenth year following the effective date of the

⁴⁹Hancock, letter to staff of Commission on Local Government, Feb. 12, 1987.

⁵⁰Ibid.; and Tankersley, letter to staff of Commission on Local Government, May 19, 1987. The Town's sewerage connections in the area proposed for annexation serve 46% of the dwelling units in that area. Residences and businesses in the area proposed for annexation which are not connected to Town lines utilize septic tanks.

⁵¹Town of Lebanon, Sewer System Evaluation Study, Wastewater Treatment Facilities, 1982. In 1980 the Virginia State Water Control Board limited the number of new single-family residential equivalent connections to the Town's sewage treatment plant due to excessive infiltration and inflow. As a result of the efforts made by the Town to correct the identified problems since that date, the State Water Control Board, in December 1986, lifted the moratorium and permitted additional connections to the Town's system. (Town Notice, p. 24.)

⁵²Since 1985 the Town has spent approximately \$859,000 to correct infiltration and inflow problems in its sewage collection system. (Hancock, letter to staff of Commission on Local Government, Feb. 12, 1987.) The Town estimates that of the total amount of infiltration and inflow entering its system, approximately 26% has been removed to date and, further, that it is financially feasible to

annexation.⁵³ Further, the proposed annexation will result in a significant reduction in the connection charges for Town sewerage service in the areas annexed. Since the charge to residential customers for connection fees in the County is three times that for similar uses in the Town, the proposed annexation will result in a savings for residents in the areas incorporated into the Town.⁵⁴

Since the only central sewage collection and treatment facility available to serve the area proposed for annexation is operated by the Town, and considering the current ability of Lebanon to provide such service to that area, the Commission concludes that the proposed annexation will be beneficial to the people of the area annexed in terms of the future extension of sewerage services and their costs.

Water Supply and Distribution

The Town of Lebanon has as its water source the Big Cedar Creek. Raw water is pumped from that stream to the Town's treatment plant, which is located in the eastern portion of the area proposed for annexation. Lebanon's treatment facility, which was constructed in 1982, has a rated capacity of 1.0 MGD.⁵⁵ Since the Town's present distribution system requires approximately 0.4 MGD, the system

remove an additional 30%. (Hancock, letter to staff of Commission on Local Government, Apr. 9, 1987.)

⁵³Town Notice, p. 90. The proposed project, which is estimated to cost \$350,000, would serve a portion of the area proposed for annexation which is largely unpopulated at this time.

⁵⁴Ibid., p. 26. The Town's sewer connection charge is \$250 for in-Town users and \$750 for out-of-Town connections. User fees are the same for Town residents and nonresidents. Although the Town has a mandatory sewer connection policy, the State imposed a moratorium between 1980 and 1986 on new sewer connections which limited Lebanon's ability to enforce its policy. Since the expiration of the moratorium, the Town has required structures to connect to Lebanon's sewage collection lines. (Tankersley, communication with staff of Commission on Local Government, May 21, 1987.)

⁵⁵Town Notice, p. 30. Prior to the construction of the water treatment plant, the Town was served by two springs and three wells. Although the Town currently maintains these alternative water sources,

currently retains an unused reserve of 0.6 MGD or 60% of its rated capacity.⁵⁶

With respect to its distribution and storage facilities, the Town owns and maintains approximately 30 miles of lines, both within and beyond its corporate boundaries, and three storage tanks which collectively hold 1.3 million gallons of treated water.⁵⁷ These facilities serve approximately 1,297 connections within the Town's current borders and 281 in the area proposed for annexation.⁵⁸ Inasmuch as Russell County does not operate a public water system in the area proposed for annexation, service by the Town is the only public source of potable water available to the residents of that area.⁵⁹

In terms of the Town's plans to serve the area proposed for annexation, the Town proposes to make improvements to its existing system and extend water lines within the area proposed for annexation

they are not presently connected to the Town's water system. (Ibid., p. 32.)

⁵⁶The Town's water treatment plant has been designed for expansion to 1.5 MGD.

⁵⁷Hancock, letter to staff of Commission on Local Government, Feb. 12, 1987; and Town Notice, pp. 34-35.

⁵⁸Hancock, letter to staff of Commission on Local Government, Feb. 12, 1987. In addition, the Town owns and maintains two miles of water lines in the remaining portion of Russell County which serve 53 connections. The Town's connections in the area proposed for annexation serve 73% of the residences in that area. (Town Notice, p. 9.) Also located within the area proposed for annexation are two private water systems, each serving a mobile home park. The system located west of Town serves seven connections but does not operate under a permit issued by the Virginia Department of Health. The other system, which is east of Lebanon, serves 30 connections and has been certified by the State Health Department.

⁵⁹The Commission notes that the County is served by two public service authorities, the Russell County Water and Sewage Authority, which was created in 1968, and the Swords Creek Public Service Authority, which was created in 1986. Neither of these County public service authorities has water facilities which could readily serve the area proposed for annexation. (County Response, pp. 20-21.)

as the need arises.⁶⁰ Further, Lebanon has indicated its intention to install 12 fire hydrants at various locations within that area to increase its level of fire protection.⁶¹ Moreover, it should be noted that the proposed annexation will have the effect of reducing the cost of Town water to residential users in the area proposed for annexation. Since the cost for service and connection fees to residential connections in the County is substantially more than that for similar service in the Town, the annexation will reduce such cost in areas annexed.⁶²

In sum, the area proposed for annexation is already heavily dependent upon the Town of Lebanon for its water supply. Moreover, the Town's water system, which is the only public distribution system in the general area, has the capacity to serve the other portions of the area proposed for annexation.

Solid Waste Collection and Disposal

The Town of Lebanon provides its residents with weekly solid waste collection service and extends to its business establishments a schedule of collections dependent upon their needs. The cost of this ser-

⁶⁰Town Notice, p. 90. The Commission notes that the Town's plans to extend water lines into the area proposed for annexation include the installation of 6,200 feet of water line and construction of a 0.3 million gallon water tank to serve the County high school and its environs. These improvements are scheduled to be undertaken between the fourth and the seventh year following the effective date of the annexation. With respect to the two private water systems in the area proposed for annexation, Lebanon officials have indicated that the Town has no plans at this time to require the systems to connect to Town water lines. (Tankersley, communication with staff of Commission on Local Government, May 21, 1987.) The Commission observes, however, that Town water lines of sufficient size are located in close proximity to the mobile home parks served by the two private water systems. (Town Notice, Map 6.)

⁶¹Town Notice, p. 90.

⁶²Town Notice, p. 36. Currently, water rates charged by Lebanon for out-of-Town residential customers are approximately 50% greater than those charged Town residents. The Town does not have a mandatory connection policy with respect to water service.

vice for residential collection is \$5.00 per month.⁶³ Lebanon disposes of its solid waste at the County's landfill, which is located approximately ten miles west of the Town.⁶⁴

At the present time Russell County does not provide any solid waste collection services to individual residences. County residents, including those in the Town and in the area proposed for annexation, can dispose of their household waste at one of several permanent solid waste collection sites located throughout the County.⁶⁵ Some County residents and businesses, including those in the area proposed for annexation, also have the option of contracting directly with private firms for collection services, with the cost of such service determined by the frequency of collection.⁶⁶

With respect to the extension of service to the area proposed for annexation, the Town has indicated its intention to provide residences and businesses in that area with the same level of service and frequency of collection as are currently being provided within the municipality.⁶⁷ In the Commission's judgment, the extension of this service to the area proposed for annexation will be of benefit to that

⁶³Ibid. Solid waste collection fees charged commercial customers varies with the frequency of collection.

⁶⁴Ibid., p. 40; and Tankersley, communication with staff of Commission on Local Government, May 15, 1987. The Commission notes that the County landfill has reached its current capacity and that the Tazewell County landfill is being used as a disposal site until the Russell County landfill can be expanded.

⁶⁵County Response, p. 23. Site attendants are hired by the County to monitor the condition of the disposal sites. The closest County permanent solid waste collection site to Lebanon is located adjacent to the Town's park and sewerage treatment plant in the area proposed for annexation.

⁶⁶Town Notice, p. 41. Private contractors providing residential solid waste collection services to the area proposed for annexation charge \$5.00 per month for this service.

⁶⁷Ibid., p. 87. Although Town officials have indicated that solid waste collection services can be extended initially to the area proposed for annexation without any additional municipal cost, Lebanon

area and its residents. The general availability of publicly financed solid waste collection services promotes the use of the services, reduces the incidence of illegal disposal and has a salutary effect generally on a community.

Crime Prevention and Detection

Since the law enforcement activities of Virginia towns augment those provided by county Sheriff's departments, the proposed annexation by Lebanon will have the effect of extending supplemental law enforcement services to the area's residents. The Town of Lebanon presently has six full-time sworn law enforcement personnel, of which five are assigned patrol responsibility.⁶⁸ This staffing level provides one patrol officer per eight-hour shift, an average response time to all calls for service of three minutes, and one patrol officer for each 534 Town residents.⁶⁹ The Town's criminal justice efforts are assisted by Russell County's provision of dispatch services and jail facilities, as well as by the activities of the County Sheriff's Department with its complement of 14 law enforcement deputies.⁷⁰ With respect to crime prevention activity, the Town has an organized program which includes the establishment of neighborhood watches

may need to hire additional collection personnel after new collection routes are established in the area.

⁶⁸Ibid., p. 45. The Town's Chief of Police serves in a patrol capacity when circumstances require such.

⁶⁹Ibid. The Town's Police Department responds to approximately 300 calls for service per month. The term "calls for service" in the law enforcement context includes everything from response to major crimes, which constitutes a small part of the total demands on law enforcement agencies, to noncriminal requests for assistance.

⁷⁰Randall D. Campbell, County Attorney, County of Russell, letter to staff of Commission on Local Government, Apr. 21, 1987. For law enforcement purposes, Russell County is divided into three patrol districts with two patrol deputies assigned to each district. The County Sheriff's Department does not provide any regular patrol activity between 4:00 a. m. and 8:00 a. m. The staffing level of the County Sheriff's Department provides one patrol deputy for each 2,950 residents, exclusive of the population residing in the County's in-

covering various portions of the municipality.⁷¹

It is relevant to note that Town police officers often patrol a portion of the area proposed for annexation by mutual agreement with the County Sheriff's Department.⁷² In addition, Town law enforcement officers regularly respond to calls for service from that area as needed.⁷³

Although the Commission has no knowledge of any unmet law enforcement needs in the area proposed for annexation, the nature and character of development in that area is such that it would benefit from the more intensified law enforcement services which can be provided by the Town. In order to extend these services to the area proposed for annexation, the Town has indicated its intention to employ five additional officers and to purchase and equip three additional police vehicles.⁷⁴

Planning, Zoning and Subdivision Regulation

The Town of Lebanon conducts its public planning efforts with the assistance of a planning commission and a comprehensive plan which was revised in 1986. This comprehensive plan meets, in our judgment, the requirements established by the Code of Virginia for such basic planning instruments. Lebanon also has a subdivision ordinance which was adopted in 1958. Thus, the Town has established all of the planning instruments required by State law to guide its future growth.

corporated communities.

⁷¹Town Notice, p. 46. There are no Police Department personnel assigned full-time responsibility for crime prevention activity.

⁷²Ibid.

⁷³The commercial area along U. S. Highway 19 east of Lebanon and a low and moderate income apartment complex adjacent to that thoroughfare are two locations within the area proposed for annexation where Town police officers regularly respond to calls for service.

⁷⁴Town Notice, p. 47.

The Commission notes that the Town has not adopted a zoning ordinance.⁷⁵ In our view, a zoning ordinance is an effective instrument for the management of a community's land resources and for the adequate control and direction of development. Moreover, the Town's Comprehensive Plan acknowledges the need for a zoning ordinance by recognizing that residential, commercial, institutional, agricultural, and industrial uses are interspersed at random throughout the municipality.⁷⁶

While Russell County has, like the Town of Lebanon, established all of the State required planning instruments, those instruments are designed primarily for sparsely populated development which characterizes the County generally. Despite the absence of a zoning ordinance, in our view Lebanon has a more current and effective set of instruments for planning and directing future growth than does Russell County.⁷⁷ Subject to the qualifications and recommendations set forth later in this report, we believe that the Town can properly meet the public planning and subdivision regulatory control needs of the area proposed for annexation.

Public Works

The proposed annexation will result in changes in the policies and procedures by which various public works are provided to areas to be annexed. The new Town policies and procedures are, in the Commission's judgment, better designed to meet the needs of urbanizing areas than are those which have applied generally in Russell County. These changes governing the nature and extension of public works in the area proposed for annexation should be increasingly beneficial to

⁷⁵Ibid., p. 42. Lebanon first considered the adoption of a zoning ordinance approximately 20 years ago. Town officials have advised that the topic is again being considered by the planning commission and Town Council.

⁷⁶Town of Lebanon, Comprehensive Plan, 1986, p. 36.

⁷⁷The Commission notes that the County's comprehensive plan was adopted in 1979, with no indication that it has since been

that area.

Street Maintenance, Construction and Snow Removal. Currently all of the public roads in Lebanon, the area proposed for annexation, and the County generally are maintained by the Virginia Department of Transportation in accordance with State-prescribed policies. While the State bears financial responsibility for the maintenance of the public roadway in Lebanon, the Town has invested local funds to assist in addressing its thoroughfare needs. The data reveal that between FY1982-83 and FY1985-86, the Town contributed approximately \$256,000 in local revenue to improve and maintain 8.3 lane-miles of roadway within its corporate boundaries that are not part of the State system.⁷⁸

The proposed annexation would result in Lebanon's assumption of responsibility for the maintenance of public thoroughfares in the Town and in the areas annexed.⁷⁹ The annexation of the area sought by the Town will add 5.0 lane-miles of primary road and 14.5 lane-miles of secondary roads to the Town's road network.⁸⁰ The data con-

reviewed by the planning commission as required by the Code of Va. In addition, the County has recently revised its current subdivision ordinance to permit private road subdivisions. In the judgment of this Commission, this action substantially weakens the County's only land development control instrument.

⁷⁸Town Notice, p. 59. Currently located within the Town are 9.0 lane-miles of primary roads and 17.5 lane-miles of secondary roads which are maintained by the State.

⁷⁹State statutes require incorporated communities with a population of 3,500 to assume responsibility for the maintenance of public thoroughfares within their corporate limits. (See Sec. 33.1-41.1, Code of Va.) Lebanon's population, if the proposed annexation is awarded in its entirety, will increase from approximately 3,200 to 4,200 persons. Such an increase would require the Town to assume the responsibility for the maintenance of the streets and roads within its jurisdiction. Concurrent with the assumption of this responsibility, however, the Town will also become eligible to receive categorical aid for the maintenance of streets which qualify for such payments. (See Sec. 33.1-44, Code of Va.)

⁸⁰Town Notice, p. 59.

cerning the condition of that roadway reveal that there are significant road improvement needs in the area. Approximately 1.0 lane-mile of secondary roads located within the area requires paving and an additional 8.0 lane-miles of roadway in that area has not qualified for State maintenance.⁸¹

In terms of these public thoroughfares, Lebanon proposes to assume responsibility for the maintenance of all public roads in the area proposed for annexation.⁸² Further, the Town will make necessary improvements to bring the nonqualifying roadway up to the standards required for receipt of State maintenance payments.⁸³ The Town estimates that the cost of such improvements will be approximately \$158,000.⁸⁴

The Town of Lebanon will also become responsible for snow removal in the area proposed for annexation. Currently, the Town has three snow plows and one salt spreader assigned for snow removal purposes

⁸¹Ibid.

⁸²Ibid., p. 63. In order to assume full responsibility for the maintenance of the streets in the enlarged Town, Lebanon will be required to expend initially \$170,000 for the purchase of equipment and to allocate \$213,000 annually for personnel and operating expenses. (Ibid., pp. 90, 92.)

⁸³The Town estimates that approximately 2.3 lane-miles of nonqualifying secondary roads in the area proposed for annexation will require no major improvements in order to qualify for State maintenance payments. Further, approximately 4.9 lane-miles of such roadway in the proposed area will require improvements to meet State standards. Finally, approximately 0.8 lane-miles of secondary road currently not maintained by the State and located within the proposed annexation area cannot qualify for State maintenance payments due to the inability to acquire sufficient right-of-way. Town officials have indicated, however, that Lebanon will maintain the roads in the latter category at municipal expense. (Ibid., p. 67.)

⁸⁴Town Notice, p. 67. This estimate assumes that all road improvement work would be performed by private contractors. Town officials indicate that to the extent that its Street Department personnel are able to undertake the necessary improvements, the cost of such work could be reduced by approximately 50%. (Ibid., p. 90, n. 1.)

within its present boundaries.⁸⁵ Upon annexation, the Town will purchase an additional snow plow and two salt spreaders to augment its current equipment inventory.⁸⁶

In the Commission's judgment, the area proposed for annexation will benefit, in terms of addressing both its immediate and prospective needs, from the management of public thoroughfares by the Town of Lebanon.

Streetlighting. The record discloses that there are approximately six streetlights in the area proposed for annexation.⁸⁷ If the proposed annexation is ultimately approved, the Town proposes to install and operate at municipal expense approximately 50 streetlights at various locations in the areas incorporated into Lebanon.⁸⁸ In addition to these lights, the Town will, consistent with current municipal policy, install other lights upon citizen request and justification of need.⁸⁹ It is our judgment that the additional streetlights proposed for the annexed area and the Town's policy of extending streetlights upon citizen request will benefit the residents of the area proposed for annexation.

Curbs, Gutters and Sidewalks. The County's subdivision ordinance does not specifically require the installation of curbs, gutters and sidewalks in new subdivisions.⁹⁰ In terms of the present existence

⁸⁵Ibid., p. 61.

⁸⁶Ibid., p. 64.

⁸⁷Ibid., p. 71.

⁸⁸Ibid., p. 90. The Town proposes to begin the installation of streetlights in areas annexed within one year of the effective date of the annexation. The installation cost of the streetlights in the area proposed for annexation will be borne by the electric utility company. Currently, the Town pays for the operation of 234 streetlights within its present boundaries.

⁸⁹Ibid., p. 71.

⁹⁰County of Russell, Subdivision Ordinance, Dec. 1983.

of such facilities in the area proposed for annexation, the evidence indicates that sidewalks are nonexistent along public thoroughfares and that curbs and gutters are limited to areas adjacent to certain business establishments. The Commission notes that while the Town's subdivision ordinance does not require the installation of curbs, gutters, and sidewalks, the Town will install these facilities in existing developments upon citizen request and subject to review and approval by Town Council.⁹¹ While the Town does not propose to install curbs, gutters, and sidewalks in any specific areas following annexation, its policy with respect to the provision of such facilities in existing developments will benefit the areas proposed for annexation.

Public Recreational Facilities

With the exception of the Glade Hollow Park, which is located approximately four miles north of Lebanon, the County does not own any public park facilities in the immediate vicinity of the Town.⁹²

Located within the County, however, is the State-owned Clinch Mountain Wildlife Management Area. This recreational area contains 5,946 acres and has a 300-acre lake, as well as facilities for camping and fishing. In terms of organized recreational programs, the County relies primarily on the activities offered by civic groups or its incorporated towns.

The Town of Lebanon provides the only public recreational facilities and programs available to residents of the area proposed for annexation. The Town owns two parks which provide a total of 39 acres for recreational purposes.⁹³ Collectively, the two parks offer a broad array of recreational facilities, including tennis and basket-

⁹¹Hancock, letter to staff of Commission on Local Government, Apr. 9, 1987.

⁹²Ibid., p. 55. The County's Glade Hollow Park is located on a 12-acre site and contains 3 tennis courts, a basketball court, 3 baseball/softball fields, and picnic facilities.

⁹³The Town's facilities consist of the J. S. Easterly Park, which is located on a 34-acre site in the area proposed for annexation,

ball courts, a junior olympic-size swimming pool, an exercise trail, football, baseball, and softball fields, and picnic areas.⁹⁴ The Town also offers a variety of recreational programs and activities including organized athletic leagues and special events. Participation in these programs as well as use of the Town's facilities is open to all residents of the general area. Lebanon employs 11 seasonal personnel to maintain its facilities and direct its recreational programs during the summer.⁹⁵

While the Commission recognizes Russell County's commitment to the provision of recreational services to its citizens, it is required to conclude that the residents of the area proposed for annexation have a need for the recreational facilities and services provided by the Town of Lebanon.

General Considerations

The Commission notes that two major public services in the area proposed for annexation will not be affected by the incorporation of that area into the Town of Lebanon. In terms of library services, the residents of the Town, the area proposed for annexation, and the County generally are served by the Russell County Library. That library, which is located within Lebanon, is supported solely by Russell County.⁹⁶

With respect to fire prevention and protection services, the annexation will have no immediate impact upon the residents of the

and the Town Recreational Park, which is located on a 5-acre site near the geographic center of Lebanon. The Commission notes that the land for the latter facility was donated to the Town by Russell County.

⁹⁴Town Notice, p. 54. The Town's swimming pool is the only public swimming facility in Russell County.

⁹⁵Ibid., pp. 54, 55.

⁹⁶The County plans to construct a new library facility in the Town in the near future.

area to be annexed. Lebanon and Russell County jointly support the Lebanon Volunteer Fire Department (VFD), which serves the Town and approximately one-half of Russell County, including all of the area proposed for annexation.⁹⁷ Lebanon's water distribution system and the fire suppression capabilities of the Lebanon VFD are such that properties within the Town are classified "5" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss, whereas similar properties within five miles of the Town's current boundaries have been assigned a classification of "9."⁹⁸ Future plans of the Town to install fire hydrants in the area proposed for annexation and to make other improvements to its existing water system should result in the ISO classification for the area proposed for annexation being reduced to that presently assigned to properties in Lebanon. Such a change in ISO classification should decrease the fire insurance premiums charged residents of the area proposed for annexation. The Town does not propose any modification in the staff or equipment of the VFD as a result of the proposed annexation.

Summary of Service Considerations

In the preceding sections of this report the Commission has endeavored to analyze the urban service needs of the area proposed for annexation and the relative ability of the Town and County to meet those needs. Although the Commission has examined the statistical data which it considers appropriate, this analysis has been conditioned by our direct experience in local government. On the basis of information presented in the preceding sections, the Commission

⁹⁷Ibid., p. 48. The Lebanon VFD is served by 24 volunteers who operate three pumpers and one utility truck. The Town of Lebanon annually receives \$15,000 from Russell County to support the Lebanon VFD. Although the volunteer fire department receives donations from civic groups and local industries, the Town provides a substantial portion of its operating costs. Further, most of the capital expenditures for new motorized equipment is borne by the Town.

⁹⁸Town Notice, p. 49. Portions of the area proposed for annexation adjacent to Lebanon and served by Town water lines of adequate size have ISO classifications between "5" and "9" depending on

finds that the area proposed for annexation has a need for additional urban services and will benefit by the extension of Town services and policies.

INTEREST OF THE STATE

One of the factors prescribed by the Code of Virginia for consideration in local boundary change issues is the ". . . best interest of the State in promoting strong and viable units of government."⁹⁹ In the judgment of this Commission, the preservation and promotion of the viability of Virginia's local governments is the State's paramount concern in such issues. As previous sections of this report have indicated, the annexation proposed by Lebanon will provide the Town with additional tax assessables as well as a considerable amount of vacant land which can accommodate future development. Further, the infusion of present and prospective tax resources into the Town's fiscal base should not have any major adverse effect upon Russell County. While the County will experience a modest reduction in some revenue categories by virtue of the proposed annexation, any future development occurring in the enlarged Town will also benefit Russell County. In sum, the Commission finds that the proposed annexation by the Town of Lebanon is consistent with the interest of the State in promoting strong and viable units of government.

the location of the properties and other factors. The ISO classification is based on a scale of "1" to "10" for comparison with other municipal fire protection systems and represents an indication of a system's ability to defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is no or minimal protection. Protection class "1" represents a fire protection system of extreme capability. The principal features used by ISO in grading a community's fire system are water supply, fire department, fire communications and fire safety control. [John L. Bryan and Raymond C. Picard, Managing Fire Services (Washington, D. C.: International City Management Association, 1979), p. 102]. Residential properties located more than five road-miles from a fire station are automatically assigned a protection class of "10" by the ISO.

⁹⁹Sec. 15.1-1041(b), Code of Va.

COMPLIANCE WITH STATE POLICIES

An additional factor prescribed for consideration in annexation issues is the extent to which the affected jurisdictions have made efforts to comply with applicable State policies with respect to environmental protection, public planning, education, public transportation, housing, or other State service policies promulgated by the General Assembly. In this instance, there are two State service policies which are applicable to the Town of Lebanon and Russell County which merit comment in this report.¹⁰⁰

Public Planning

The evidence indicates that, consistent with State requirements, the Town has established a planning commission and has formally adopted a comprehensive plan and a subdivision ordinance. With respect to the public planning efforts of the County, the record indicates that Russell County has, in compliance with the law, established a planning commission, adopted a comprehensive plan, and enacted a subdivision ordinance.¹⁰¹ The Commission notes, however, that the County's comprehensive plan has not been revised since its adoption in 1979 and, further, that there has been no evidence presented to indicate that the plan has been reviewed by the County's planning commission within the past five years as required by Section 15.1-454 of the Code of Virginia.

Agricultural Land Preservation

By various enactments the General Assembly has declared that it is

¹⁰⁰Due to the fact that the Town and County are served by the same school division, educational services are not at issue in this case. The Commission notes, however, that the Russell County School System is in full compliance with the State's standards of quality guidelines. (Jack D. Eades, Supervisor of Administrative Review Services, Virginia Department of Education, communication with staff of Commission on Local Government, May 9, 1987.)

¹⁰¹The County adopted its first subdivision ordinance in 1978.

the policy of the Commonwealth to protect and preserve the State's agricultural properties.¹⁰² One method authorized by statute in the promotion of this goal is use value assessment. Such a system permits property to be assessed for taxation at its "use" value rather than at its "fair market" value. Russell County instituted such a use value assessment program in tax year 1981 for agricultural, horticultural, forestal, and open space properties.¹⁰³ During the 1985 tax year this method of assessment served to reduce, in the aggregate, the taxable value of qualifying properties in Russell County by \$57 million.¹⁰⁴ This use value assessment program constitutes a significant concession by the County's populace to the preservation of the State's agricultural lands. The Commission notes that the Town of Lebanon has indicated its intentions to adopt a use value assessment program for qualifying properties, if annexation is ultimately decreed by the court.¹⁰⁵ Such action would be consistent with the State's interest in the protection of its agricultural properties.

ARBITRARY REFUSAL TO COOPERATE

A further consideration in reviewing annexation issues is whether the affected localities have arbitrarily refused to cooperate in the provision of ". . . joint activities which would have benefited citizens of both political subdivisions; . . ." ¹⁰⁶ In this instance, the Commission has no knowledge of any action by either party which it

¹⁰²Sec. 15.1-1507, Code of Va.

¹⁰³James A. Gillespie, County Administrator, County of Russell, communication with staff of Commission on Local Government, Apr. 26, 1987.

¹⁰⁴Virginia Department of Taxation, Annual Report, Year Ended June 30, 1986.

¹⁰⁵Tankersley, communication with staff of Commission on Local Government, Apr. 27, 1987.

¹⁰⁶Sec. 15.1-1041(b)(1)(v), Code of Va.

would consider to be an arbitrary refusal to cooperate. Indeed, the Commission has noted significant areas of cooperation between the Town of Lebanon and Russell County in the provision of services to their residents. Such cooperation between the Town and the County is to be commended.

RECOMMENDATIONS

AREA PROPOSED FOR ANNEXATION

For the reasons set forth in previous sections of this report, the Commission recommends, subject to the qualification noted in the ensuing section, that the Town of Lebanon be granted all of the area requested in its petition for annexation. While the Commission's recommendations are founded upon the entirety of the data previously cited in this report, there are several salient considerations which should be reiterated here.

First, the Town of Lebanon has facilitated a considerable portion of the development on its periphery through the construction of facilities serving the areas beyond its corporate boundaries. Data reveal that Lebanon currently provides water to approximately 73% of the residences in the area proposed for annexation with central water and extends sewage collection to approximately 46% of its residential dwelling units.¹⁰⁷ Moreover, the areas recommended for annexation contain properties which are presently in need of utility services which Lebanon can provide.

Second, while data disclose that the Town of Lebanon has shared fully in the growth of its general area in recent years, current development patterns suggest that the Town does confront a need for additional land for development. The continued growth and development of commercial property along U. S. Route 19 east of the Town will affect adversely the competitive position of commercial properties within the

¹⁰⁷Town Notice, p. 9.

Town. With respect to industrial operations, the Town does not have sufficient vacant land within its current boundaries suitable for such development comparable to that which is available in the area proposed for annexation. In terms of residential development, the evidence indicates that the scarcity of vacant land within the Town will ensure that future residential development in the Lebanon environs will be concentrated increasingly within the area proposed for annexation. In our judgment, Lebanon's ability to continue to share in the commercial, industrial, and residential growth of its general area rests upon an extension of the Town's corporate boundaries.

Third, there also exists a strong community of interest between Lebanon and the areas on its periphery. This community of interest is founded on urban service considerations, economic and social ties, and various terrain features. With respect to the latter factor, the Town of Lebanon is located within a valley between two mountain ranges, with that geographic configuration promoting and enhancing internal relationships within the area. These factors, and others cited previously in this report, support the recommended annexation.

DEVELOPMENT CONTROLS

In our judgment, there is an evident need for the Town of Lebanon to improve its development control instruments. This need is clearly manifested by the absence of a municipal zoning ordinance. The continuing urbanization of our Commonwealth makes it essential that increased attention be given to the establishment of development control instruments which permit proper attention to the full range of public concerns including the protection of the environment and the provision of adequate public services. Accordingly, we recommend that the Town of Lebanon develop, as a condition of this recommended annexation, a zoning ordinance which will adequately address the existing development patterns within the Town and the area proposed for annexation and which can provide appropriate public regulation of development which will occur in the enlarged municipality. Further,

the Town of Lebanon should consider the adoption of a fiscal planning instrument, such as a capital improvement plan, to assist in the proper implementation of a zoning ordinance and other development control measures.

With respect to development control measures, it has been our collective experience that the proper protection of an area's aesthetic and natural attributes is a vital element in the attraction of quality industry. In brief, the quality of life in a community and the existence of appropriate development instruments to ensure its protection are factors of considerable importance in the locational decisions of well-managed industry. We vigorously encourage the Town of Lebanon, as well as Russell County, to establish stringent regulatory instruments to protect their evident physical assets.

FINANCIAL SETTLEMENT

Annexations by towns in Virginia, unlike those initiated by cities, do not require an assumption of county debt, nor payment to the county for the prospective loss of net tax revenue (unless the town becomes a city within five years after the effective date of annexation).¹⁰⁸ Further, under the State's annexation processes, towns are required to compensate a county for its public facilities only in instances where the town seeks to acquire title to such facilities. In this case, there are no County-owned public improvements which would become the property of the Town of Lebanon as a result of

¹⁰⁸Town 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 period." The Supreme court also held that since taxpayers of a town subsequent to an annexation continue to contribute a proportionate part of payment of a county's existing debt and since a town annexation removes no assessed values from a county ". . . it would be unjust to require [a town] to assume any portion of the [c]ounty's debt."

the proposed annexation.¹⁰⁹

OTHER CONSIDERATIONS

At the public hearing held in Lebanon on March 24, 1987, the Commission was urged to recommend the exclusion of certain properties adjacent to the County's high school in the western portion of the area proposed for annexation. The request for the exclusion of these properties rested upon the contention that the individual tracts were not suitable for annexation by the Town by virtue of their agricultural nature and that such properties would derive no immediate benefit from the extension of Town services and policies. After extensive considerations of these contentions, the Commission is unable to find any appropriate basis for proposing the exclusion of these properties from the area to be annexed. The Commission notes that the proposed annexation area boundaries constitute a rational basis for the Town's corporate limits and that they embrace a reasonably compact body of land. Further, inclusion of the properties in question in the area recommended for annexation does not appear to be arbitrary in light of the proposed improvements contemplated to serve the general area. Furthermore, the properties which will be brought into the Town by the proposed annexation have no unique features which would distinguish them from properties historically annexed by Virginia municipalities.

SERVICES AND POLICIES

As previously indicated, a significant majority of the residents in the area proposed for annexation receive services directly from the Town of Lebanon (e. g., water and sewer) and from agencies located within the Town's present boundaries (e. g., volunteer fire department and rescue squad). The Town's proposed plans to serve the area sought for annexation calls for the extension of other public services to the

¹⁰⁹County Response, p. 62.

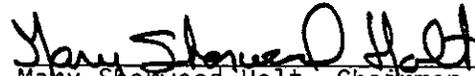
enlarged municipality. Given the presence or availability of existing Town services and facilities in the area proposed for annexation, the proposed service plans appear to be appropriate to meet the needs of the area's residents.¹¹⁰

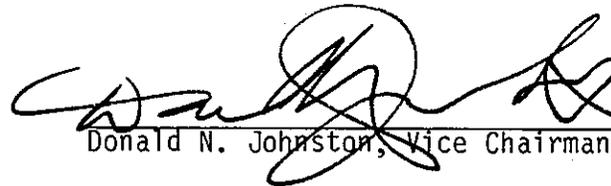
There are, however, two recommendations relative to the Town's services and policies which this Commission desires to offer. First, the Commission recommends that the Town encourage the owners of the two private water systems in the area proposed for annexation, especially the system currently operating without approval of the Virginia Department of Health, to cease their operations and to connect to the Town's central water distribution facilities as soon as possible following the effective date of the annexation. Second, the Commission recommends that the Town of Lebanon adopt a program of use value assessment for all categories of qualifying properties. Exhibits presented to the Commission indicate that a substantial amount of land in the area proposed for annexation is vacant or engaged in active agricultural production.¹¹¹ Adoption of use value assessment program would reduce the impact of the incorporation of such land into the Town.

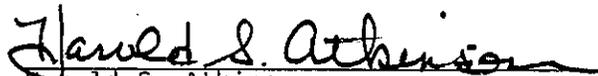
¹¹⁰The availability of a carefully developed fiscal planning instrument would be of considerable assistance to the Town as it develops its detailed plans to serve the area proposed for annexation. The absence of such an instrument can contribute to disjointed public actions.

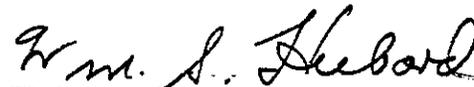
¹¹¹Town Notice, p. 9.

Respectfully submitted,


Mary Sherwood Holt, Chairman


Donald N. Johnston, Vice Chairman


Harold S. Atkinson


William S. Hubbard


Frank Raflo

STATISTICAL PROFILE OF THE TOWN OF LEBANON,
COUNTY OF RUSSELL, AND THE AREA PROPOSED FOR ANNEXATION

	Town of Lebanon	County of Russell	Area Proposed for Annexation ¹
Population (1980) ²	3,206	31,761	946
Land Area (Square Miles)	1.91	483	2.39
Total Assessed Values (1985) ³	\$64,370,367	\$640,489,720	\$12,801,356
Real Estate Values (1984) ³	\$53,289,200	\$409,691,568	N/A
Personal Property Values and Office Equipment (1985)	\$6,338,923	\$77,306,031	N/A
Machinery and Tools Values (1985)	\$435,634	\$13,855,858	N/A
Merchants' Capital (1985)	\$400,077	\$704,900	N/A
Mobile Homes (1985)	\$905,218	\$13,443,494	N/A
Public Service Corporation Values (1985)	\$3,001,315	\$134,487,369	N/A
Lane Use (Acres) ⁴			
Residential ⁵	335	3,930 ⁵	165
Commercial	70	172	20
Industrial	57	3,179	N/A
Public and Semi-Public	54	347	47
Agricultural, Wooded or Vacant	705	303,439	1,272

Notes:

1. As estimated by the Town of Lebanon.
2. Population estimate for the area proposed for annexation is for 1986.
3. Reflects total assessed values for real estate subject to local taxation except in the area proposed for annexation which reflects use value assessment.
4. Land use data for the Town and area proposed for annexation was collected in 1986. Russell County's land use was taken from data in the County's 1979 Comprehensive Plan.
5. Includes 512 acres of mixed development which the County, in its Comprehensive Plan, identified as a combination of all urban types of development that are indistinguishable for air photo interpretation.

SOURCES

Town of Lebanon, Annexation Notice to Commission on Local Government, November 1986.

County of Russell, Response to Annexation, March 1987.

Virginia Department of Taxation, Annual Report - Fiscal Year Ended June 30, 1986.

APPENDIX A

STATISTICAL PROFILE OF THE TOWN OF LEBANON,
COUNTY OF RUSSELL, AND THE AREA PROPOSED FOR ANNEXATION

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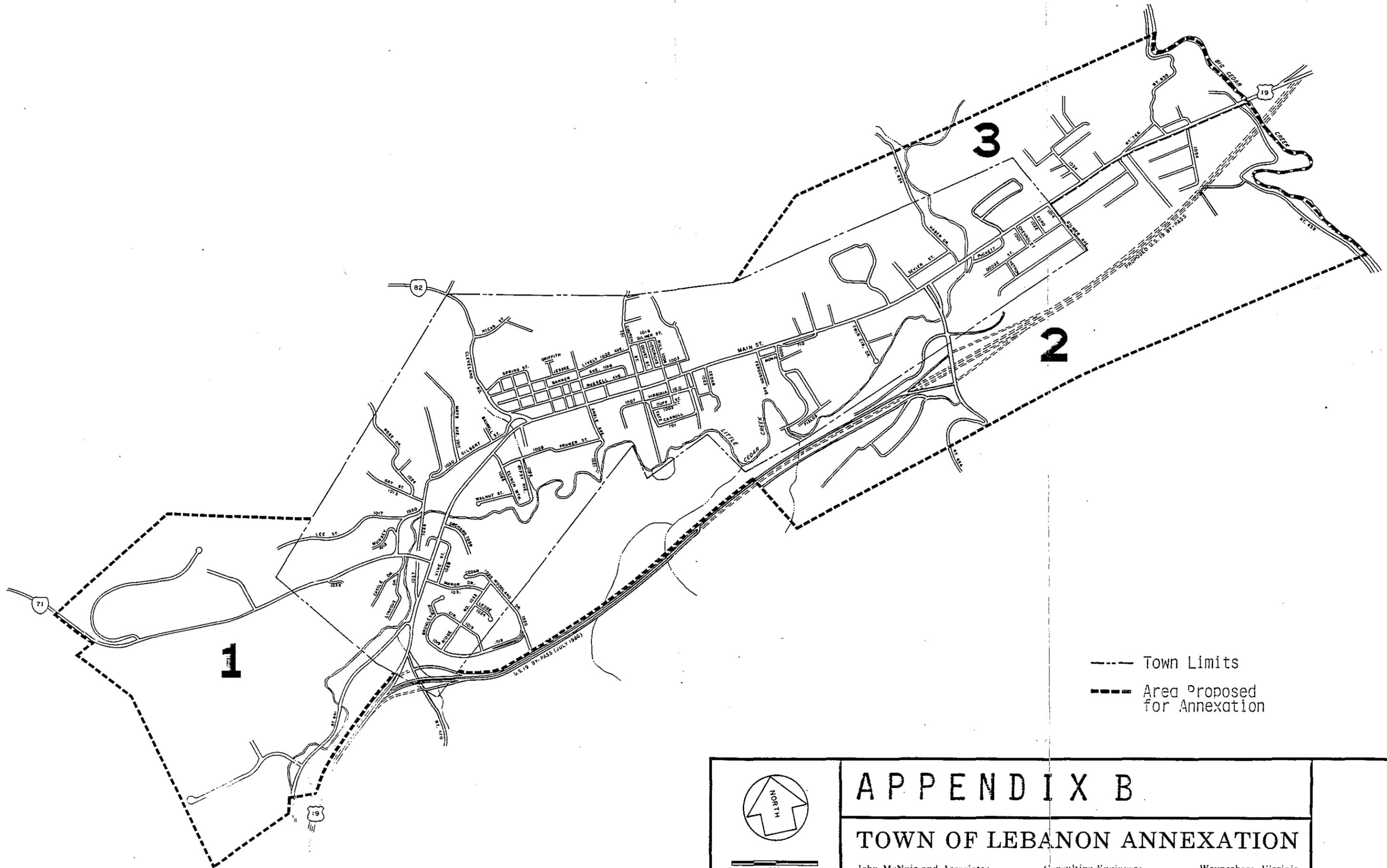
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SOURCES

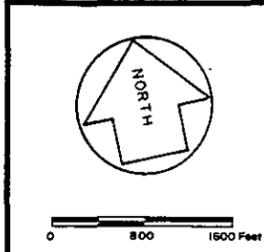
Town of Lebanon, Annexation Notice to Commission on Local Government, November 1986.

County of Russell, Response to Annexation, March 1987.

Virginia Department of Taxation, Annual Report - Fiscal Year Ended June 30, 1986.



--- Town Limits
 Area Proposed for Annexation



APPENDIX B

TOWN OF LEBANON ANNEXATION

John McNair and Associates Consulting Engineers Waynesboro, Virginia