

**REPORT ON THE  
TOWN OF CHINCOTEAGUE - COUNTY OF ACCOMACK  
SETTLEMENT AGREEMENT**



**COMMISSION ON LOCAL GOVERNMENT  
COMMONWEALTH OF VIRGINIA**

**JANUARY 1989**

**REPORT ON THE  
TOWN OF CHINCOTEAGUE - COUNTY OF ACCOMACK  
SETTLEMENT AGREEMENT**

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REPORT OF THE COMMISSION ON LOCAL GOVERNMENT

TOWN OF CHINCOTEAGUE - COUNTY OF ACCOMACK  
VOLUNTARY SETTLEMENT AGREEMENT

PROCEEDINGS OF THE COMMISSION

On June 6, 1988 the Town of Chincoteague 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 for the annexation of approximately 54.9 square miles of territory in Accomack County.<sup>1</sup> In accordance with the Commission's Rules of Procedure, the Town's notice was accompanied by data and exhibits supporting the proposed annexation. Further, as required by statute, the Town concurrently gave notice of its annexation to Accomack County and to 13 other local governments with which it shared functions, revenue, or tax sources.<sup>2</sup> Subsequent to the receipt of the Town's annexation notice, both Chincoteague and Accomack County advised the Commission that they desired to negotiate regarding a settlement of the annexation issue and requested the Commission to designate an independent mediator to assist in the negotiations. Pursuant to this request, on July 14, 1988 the Chairman designated Dr. Roger Richman of Old Dominion University as an independent mediator to assist the parties in their negotiations.<sup>3</sup>

On July 26, 1988 the Commission met with representatives of the Town of Chincoteague and Accomack County for the purpose of making preliminary arrangements for its formal review of the Town's action. At that meeting the Commission established a schedule which called for a

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<sup>1</sup>Town of Chincoteague, Notice of Annexation Proceedings to the Commission on Local Government (hereinafter cited as Town Submissions), Vol. I, June 1988. Of the total area proposed for annexation by the Town, 33.2 square miles were covered by tidal waters and 13.2 square miles were on Assateague Island and owned by the federal government.

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

<sup>3</sup>The Commission had delegated to the Chairman the authority to designate an independent mediator to assist the parties at a special meeting on June 27, 1988.

tour of the Town and the area proposed for annexation on October 24, 1988, for oral presentations and a public hearing on the proposed agreement on the same date, and for the submission of the Commission's report on January 6, 1989.

As a result of negotiations between the Town and County, aided by the Commission's designated mediator, an agreement was developed and presented to the Commission on October 17, 1988.<sup>4</sup> This proposed agreement, which was negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, contained provisions which (a) granted the Town an annexation of 42.0 square miles of County territory, (b) permitted the County to levy its transient occupancy tax within the enlarged Town of Chincoteague, (c) required the Town to waive any claim for monies paid to the County by the federal government for Assateague Island, (d) committed the Town to revising its zoning and subdivision ordinances to allow the County's land use regulations to be enforced within areas annexed until July 1, 1990, and (e) called for the Town to share a portion of its consumer utility tax revenue with the County for a period of five years.<sup>5</sup>

Consistent with its previously adopted schedule, on October 24, 1988 members of the Commission toured relevant sites and facilities in the area proposed for annexation and in the Town and received oral presentations from the parties in support of the proposed agreement.<sup>6</sup> In addition to its receipt and consideration of materials from the

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<sup>4</sup>J. W. Jeffries, Town Manager, Town of Chincoteague, letter to staff of Commission on Local Government, Oct. 17, 1988.

<sup>5</sup>The area proposed for annexation included 33.2 square miles of tidal waters. Subsequent to the filing of the proposed agreement with the Commission, the Town supplemented its previously submitted notice with revised exhibits to reflect the provisions of the agreement. See Appendix A for the text of the proposed agreement.

<sup>6</sup>Because of illness, Commissioner Johnston did not participate in the Commission's review of the proposed agreement and, consequently, is not a signatory to this report.

parties, the Commission solicited comment from other potentially affected political subdivisions and from the public. Each political subdivision receiving notice of the proposed agreement from the parties was invited by this Commission to submit testimony on the agreement for consideration. Further, the Commission held a public hearing, advertised in accordance with the requirements of Section 15.1-945.7(B) of the Code of Virginia, on the evening of October 24, 1988. The public hearing was attended by approximately 175 persons and produced testimony from 23 individuals. In order to receive additional public comment, the Commission agreed to keep open its record for the receipt of written submissions through November 14, 1988.

#### SCOPE OF REVIEW

The Commission on Local Government is directed by law to review proposed annexations, petitions for partial county immunity, other local boundary change and transition issues, and negotiated agreements settling such issues prior to their being presented to the courts for ultimate disposition. Upon receipt of notice of each such proposed action or agreement, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.<sup>7</sup> With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

As we have noted in other reports, it is evident that the General Assembly encourages local governments to attempt to negotiate a settlement of their interlocal concerns. Indeed, one of the statutory responsibilities of this Commission is to assist local governments in such efforts. In view of this legislative intent, the Commission

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<sup>7</sup>Section 15.1-945.7(A), Code of Va.

believes that proposed interlocal agreements, such as that negotiated by the Town of Chincoteague and Accomack County, should be approached with respect and a presumption of their compatibility with applicable statutory standards.

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

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

##### TOWN OF CHINCOTEAGUE

The Town of Chincoteague, which is located on Chincoteague Island, was incorporated by the Virginia General Assembly in 1908 and currently is one of the principal municipalities on Virginia's Eastern Shore. Although much of its early history was associated with the seafood industry, the Town has now become a recreation and tourist center.<sup>8</sup>

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<sup>8</sup>J. Devereux Weeks, Dates of Origin of Virginia Counties and Municipalities (Charlottesville: Institute of Government, University of Virginia, 1967); and Town Submissions, Vol. I, pp. 43-44. The Town's development as a tourist center is due to its natural beauty and its proximity to the 10,000 acre Chincoteague National Wildlife Refuge located on Assateague Island. See Appendix B for a statistical profile of the Town, the County, and the area proposed for annexation. See Appendix C for a map of the Town and the areas affected by the proposed agreement.

Demographic data indicate that the Town of Chincoteague experienced a population loss during the preceding decade, with its populace decreasing between 1970 and 1980 from 1,867 to 1,607 persons, or by 13.9%.<sup>9</sup> Moreover, population estimates for 1988 placed the Town's population at 1,220, a further decline of 24.1% since the preceding decennial census. Based on its land area of 0.79 square miles and the 1988 population estimate, the Town has a population density of 1,544 persons per square mile.<sup>10</sup>

With respect to the nature of its population, the evidence indicates that the residents of the Town are significantly older and less affluent than those of the State generally. Data reveal that, as of 1980 (the most recent year for which such data are available), the median age of Town residents was 46.3 years, a statistic markedly greater than that for the State overall (29.8 years).<sup>11</sup> Further, the percentage of the Town's 1980 population age 65 and older was 23.2%, while the comparable figure for the State generally was only 9.5%.<sup>12</sup> In terms of earnings, data reveal that, as of 1979, the median family income in the Town of Chincoteague was \$12,318, or only 61.5% of the comparable statistic for the Commonwealth as a whole (\$20,018).<sup>13</sup>

With respect to the Town's physical development, 1988 land use data indicate that 51.7% of Chincoteague's total area is devoted to residential development, 12.7% to commercial enterprise, 8.2% to industrial activity, 8.2% to public and semi-public uses, with 19.2% (97

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<sup>9</sup>Town Submissions, Vol. I, p. 12.

<sup>10</sup>Ibid., p. 13.

<sup>11</sup>U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Virginia, Table 14. In 1980, only one other town in Virginia had a population with a higher median age than Chincoteague.

<sup>12</sup>Ibid.

<sup>13</sup>Town Submissions, Vol. I, p. 47.



acres) remaining vacant. Of the 97 undeveloped acres, however, 70 acres are situated in wetlands or on tracts unsuitable for fill, conditions which should preclude their development.<sup>14</sup> Exclusive of this land affected by environmental constraints, the Town retains approximately 28 acres, or only 5.5% of its total area, vacant and generally amenable to development.<sup>15</sup> Thus, the data indicate that the Town of Chincoteague has an extremely limited amount of vacant land suitable for future development.

#### COUNTY OF ACCOMACK

The County of Accomack was created in 1663 from territory formerly part of Northampton County.<sup>16</sup> In contrast to the loss of population experienced by the Town of Chincoteague during the decade of the 1970's, Accomack County's population increased from 29,004 to 31,268 persons, or by 7.8%, between 1970 and 1980.<sup>17</sup> The official population estimate for 1987 (the most recent available), moreover, placed the County's population at 32,300 persons, an increase of 3.3% since the preceding decennial census.<sup>18</sup> On the basis of the 1987 population estimate and

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<sup>14</sup>Ibid., p. 9. (Revised). Vacant land unsuitable for fill has been designated as such by the U. S. Environmental Protection Agency and generally denotes marshland. Such areas cannot be filled without prior approval by the U. S. Army Corps of Engineers. (Turner T. Smith, Special Counsel, Town of Chincoteague, letter to staff of Commission on Local Government, Aug. 26, 1988.)

<sup>15</sup>Town Submissions, Vol. I, p. 9 (Revised).

<sup>16</sup>Dates of Origin of Virginia Counties and Municipalities.

<sup>17</sup>1980 Census of Population, General Population Characteristics, Table 4. In addition to Chincoteague, there are 13 other incorporated towns in Accomack County. The 1980 population of persons residing in the County's 14 towns was 8,745, or approximately 28% of the County's total population.

<sup>18</sup>Julia H. Martin and Michael A. Spar, Estimates of the Population of Virginia Counties and Cities: 1986 and 1987 (Charlottesville: Tayloe Murphy Institute, University of Virginia, Sep. 1988), Table I.

its land area of 602 square miles, the County has an overall population density of 53.7 persons per square mile.<sup>19</sup>

With respect to the nature of its population, various statistical indices disclose that the County's populace, like that of the Town, is older and less affluent than that of the State generally. Data indicate that, as of 1980 (the most recent year for which such data are available), the median age of residents of Accomack County was 34.8 years, or 5 years in excess of that for the State as a whole (29.8 years).<sup>20</sup> Further, statistics reveal that, as of 1980, approximately 16.7% of the County's population was age 65 or over, a statistic significantly greater than that for the State generally (9.5%).<sup>21</sup> In terms of earnings, the median family income for County residents in 1979 was \$13,803, or only 69% of the comparable figure for the State overall (\$20,018).<sup>22</sup> While these data reflect a population older and less affluent than that of the Commonwealth generally, they also disclose that County variations from the Statewide measures are not as pronounced as those for the Town.

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<sup>19</sup>Of the County's total area of 602 square miles, approximately 134 square miles are covered by water or are wetlands. (Charles Powell, Zoning Administrator, Accomack County, communication with staff of Commission on Local Government, Dec. 5, 1988.)

<sup>20</sup>1980 Census of Population, General Population Characteristics, Virginia, Table 14. The data for Accomack County include that for the residents of the 14 incorporated towns in the County.

<sup>21</sup>Ibid.

<sup>22</sup>U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Social and Economic Characteristics, Virginia, Tables 61, 180. By 1986 the estimated median family income in the County was reported to be \$21,134 while the similar statistic for the State collectively was \$31,148 [John L. Knapp and Robert W. Cox, Projected 1986 Median Family and Median Household Income in Virginia's Counties, Cities, MSAs, and Planning Districts (Charlottesville: Tayloe Murphy Institute, University of Virginia, June 1986)]. The statistics for the County include data on persons residing in the County's incorporated municipalities.

With respect to the nature of its development, the data indicate that Accomack County has experienced some growth in commercial and industrial activity during the preceding six-year period. Statistics reveal that between March 1982 and March 1988, the number of nonagricultural wage and salary positions in the County grew from 9,973 to 11,098, or by 11.3%.<sup>23</sup> However, the County's total civilian labor force contained 15,372 persons in March 1988, which indicates that a significant component of the County's labor force either continued to be engaged in agricultural activity, was required to seek employment outside the County, or was unemployed.<sup>24</sup> Indeed, the evidence suggests that agricultural and forestal activities remain significant components of the County's economic base. As of 1982, there were 415 farms in Accomack County occupying a total of 105,298 acres (approximately 165 square miles), with the value of the County's agricultural products then totaling approximately \$47.4 million.<sup>25</sup> Moreover, 1986 data disclosed that 104,715 acres in Accomack County, or 27.2% of the County's total area, are considered forest land.<sup>26</sup> These statistics suggest the predominantly rural nature of the County. In sum, while Accomack County has experienced population growth during the past two decades and while it has witnessed a growth in nonagricultural wage and salary employment, it remains largely rural and sparsely populated.

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<sup>23</sup>Virginia Employment Commission, Population and Labor Force Data, 1982, and Covered Employment and Wages in Virginia for Quarter Ending March 31, 1988.

<sup>24</sup>Virginia Employment Commission, Labor Market Review, June 1988.

<sup>25</sup>U. S. Department of Commerce, Bureau of the Census, 1982 Census of Agriculture, Virginia, Ch. 2, Tables 1, 3. In 1982 more than 140 (33.7%) farm operators in the County were employed for 100 days or more in nonfarm related activities. (Ibid., Table 5.)

<sup>26</sup>U. S. Department of Agriculture, Forest Service, Forest Statistics for the Coastal Plains 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.

## AREA PROPOSED FOR ANNEXATION

The area proposed for annexation under the terms of the proposed agreement between the Town of Chincoteague and Accomack County contains 42.0 square miles of territory (but including only 8.8 square miles of land area), 2,314 persons, and approximately \$145.2 million in assessed property values (real estate, public utility, personal property, mobile homes, and machine and tools) subject to local taxation.<sup>27</sup> Thus, the area proposed for annexation contains 7.0% of the County's total area, 7.2% of its population, and 18.2% of its total assessed property values subject to local taxation.

In terms of current development, the area contains a retail area adjacent to the entrance of Assateague Island National Seashore, residential areas east and north of the Town, a number of commercial campgrounds and mobile home parks, Chincoteague High School, and two Town recreation facilities.<sup>28</sup> Recent land use data reveal that exclusive of tidal waters (33.2 square miles), 14.0% of the area proposed for annexation is devoted to residential development, 4.4% to commercial enterprise, 1.0% to industrial activity, 1.6% to public and semi-public uses, with 79.9% (4,494 acres) remaining vacant.<sup>29</sup> The intensity of development of the area proposed for annexation is indicated by the fact that based on its 1988 population estimate and its land area of 8.8 square miles, the area has an overall population

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<sup>27</sup>Town Submissions, Vol. I, p. 12; and Taylor F. Turner, Consultant, Town of Chincoteague, letter to staff of Commission on Local Government, Nov. 16, 1988. The area proposed for annexation includes 33.2 square miles of tidal waters and 8.8 square miles of land area.

<sup>28</sup>Turner, letter to staff of Commission on Local Government, November 3, 1988; and Town Submissions, Vol. I, pp. 32, 33.

<sup>29</sup>Town Submissions, Vol. I, p. 9 (Revised). Of the vacant areas, 3,283 acres (73.1% of the total vacant land) are not suitable for development due to environmental constraints or federal ownership.

density of 263 persons per square mile, or nearly five times the density of the County generally (53.7 persons/square mile).<sup>30</sup>

#### STANDARD FOR REVIEW

As indicated previously, the Commission on Local Government is charged with reviewing proposed interlocal settlements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia for the purpose of determining whether such settlements are "in the best interest of the Commonwealth." In our judgment, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this instance the Commission is required to review an interlocal agreement which principally (1) grants the Town an annexation of 42.0 square miles of County territory, (2) permits the County to collect its transient occupancy tax within the enlarged Town of Chincoteague, (3) calls for the Town to relinquish any claim for monies paid by the U. S. Department of the Interior to the County for Assateague National Seashore, (4) commits the Town to amending its zoning and subdivision ordinances to conform, within the area proposed for annexation, to the provisions of the County's land use regulations currently applicable within that area until July 1, 1990, and (5) calls for the Town of Chincoteague to pay the County 25% of its consumer utility tax revenues derived from the expanded Town for a period of five years commencing July 1, 1989. A proper analysis of the proposed Town of Chincoteague - County of Accomack settlement agreement, as mandated by statute, requires consideration of the ramifications of these provisions with respect to the future viability of these two jurisdictions.

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<sup>30</sup>Town Submissions, Vol. I, pp. 9, 13 (Revised).

## INTERESTS OF THE TOWN OF CHINCOTEAGUE

### Demographic and Governmental Integration of Island

As noted previously, the Town of Chincoteague has experienced a dramatic loss of population during the past several decades, with the data reflecting a decrease in the number of Town inhabitants by approximately 35% since 1970.<sup>31</sup> In contrast, the unincorporated portion of the Island is estimated to have increased in population by over 66% during the same period of time.<sup>32</sup> As a consequence, over 65% of the total population on the Island now lives beyond the corporate boundaries of the Town.<sup>33</sup> Since the Town contains only 28 acres of vacant property considered environmentally suited for development, most of the future development on the Island is likely to occur outside the current municipal boundaries.<sup>34</sup>

One of the major benefits to the Town resulting from the proposed agreement will be the stabilization of its population and the governmental integration of the Island. The annexation will integrate the residents of the annexed area into the governmental life of the Town and will enable the energies of the enlarged municipality to address more effectively the significant environmental and public service concerns confronting the Island of Chincoteague. The future well-being of all residents on the Island shall be determined by a proper

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<sup>31</sup>Town Submissions, Vol. I, p. 12.

<sup>32</sup>Ibid.

<sup>33</sup>In 1970 approximately 42.7% of the Island's population lived in the unincorporated area. (Ibid.)

<sup>34</sup>Ibid., Vol. I, p. 9 (Revised). The Town's Comprehensive Plan reveals that between 1970 and 1980 there was an increase of only 123 residential units within the municipality, while 726 new residential units were constructed in the unincorporated portion of the Island during that decade. (Town of Chincoteague, Chincoteague Town Plan, 1982, June 1982, p. 12.)

resolution of the same public service issues and environmental concerns. Recognizing the current and growing interdependence of the Town and residents of the unincorporated area, the demographic and governmental integration of the Island is clearly in the interest of the municipality.<sup>35</sup>

#### Fiscal Assets and Public Service Liabilities

The Commission notes that the Town of Chincoteague is one of the principal employment centers in Accomack County and that in recent years it has been a focal point for development. This situation is reflected by the fact that between FY1982-83 and FY1986-87 the total assessed value of real estate subject to local taxation within the Town increased by 35.6%, while that within the County generally increased by only 3.1%.<sup>36</sup> Further, when all forms of property subject to local taxation are considered collectively, the rate of growth of assessables in the Town (34.7%) was more than three times that in the County as a whole (10.1%).<sup>37</sup>

Notwithstanding the disparity in the growth of assessments, however, the data disclose that between FY1982-83 and FY1986-87, the Town's receipts from property taxes increased by only 49.8%, while those

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<sup>35</sup>A traditional consideration in annexation cases is the municipality's need for land for development. Recognizing the Commonwealth's concern for the protection of its coastal areas and resources, this Commission is unable to support the proposed annexation in this case as a means of promoting or facilitating growth on Chincoteague Island.

<sup>36</sup>Town Submissions, Vol. I, p. 14 (Revised). The assessed values for Accomack County include those for property within the boundaries of the 14 incorporated municipalities in the County. The totals reflect use value assessments for qualifying properties. (Reid M. Ennis, Director of Finance, Accomack County, communication with staff of Commission on Local Government, Dec. 20, 1988.)

<sup>37</sup>Town Submissions, Vol. I, p. 14.

of the County grew by 75.0%.<sup>38</sup> Thus, while the Town has experienced in recent years a greater increase in total assessed property values subject to local taxation, its utilization of that revenue base has not grown in proportion to that of the County. This Commission recognizes, however, that the significant increase in the real estate tax rate of the County has had some effect on the capacity of the Town to adjust the municipal rate.<sup>39</sup>

The proposed agreement will permit Chincoteague to annex an area containing approximately \$145 million in assessed property values subject to local taxation, which, based on 1987 assessment data, will increase the Town's total assessed property values by 229.4%. Those assessables are expected to generate an additional \$223,497 in property tax revenue (based on current municipal rates) for the Town during the first year after annexation.<sup>40</sup> Further, the Town is expected to derive \$321,128 in non-property tax revenue from the annexed area during the year following annexation.<sup>41</sup> In the aggregate, these additional receipts constitute 56.7% of the Town's total 1987 local-source revenues.

While the proposed annexation will provide the Town with additional revenues, it will also present the municipality with expanded public service responsibilities. The Town will be required to provide general governmental services to the residents of areas annexed at the same

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<sup>38</sup>Ibid., pp. 10, 11 (Revised).

<sup>39</sup>The Commission also observes that the Town primarily relies on non-property tax receipts to support its governmental operations. During FY1986-87 general property tax revenues comprised only 11.5% of Chincoteague's total local-source revenue.

<sup>40</sup>Turner, letters to staff of Commission on Local Government, Nov. 3 and 16, 1988; and Town Submissions, Vol. I, p. 14.

<sup>41</sup>Ibid. In addition, the Town estimates that it will receive \$15,000 annually from the operation of its septic tank pumping service in the area proposed for annexation. (Ibid.)



level as currently provided within the present Town. The additional operating expense for the provision of these services has been estimated to cost \$266,737 annually. In addition, the Town has identified specific capital needs in the area proposed to be annexed and has developed a plan to provide facilities to meet these needs at a cost of \$219,400.<sup>42</sup> The proposed annexation should generate sufficient revenues to permit Chincoteague to address the needs of the enlarged municipality. Based upon the data cited previously, the Commission finds that the proposed annexation would bring within the Town's boundaries a reasonable balance of fiscal assets and public service liabilities.

#### INTERESTS OF THE AREA PROPOSED FOR ANNEXATION

The 8.78 square miles of land area proposed for annexation by the Town of Chincoteague are estimated to contain a population of 2,314, giving that area a population density of 263 persons per square mile. While almost 80.0% of the area proposed for annexation is currently vacant, it does contain several residential concentrations, private campgrounds, mobile home parks, a major commercial area located between the present Town boundaries and the entrance to Assateague National Seashore, and several public and semi-public sites. In addition, projections by the Town indicate that the population in the area proposed for annexation will increase in the future, with development continuing in existing residential and commercial areas adjacent to the Town.<sup>43</sup> While environmental considerations may well necessitate constraints on Chincoteague Island's future growth, the evidence indicates that the area proposed for annexation will experience

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<sup>42</sup>Turner, letter to staff of Commission on Local Government, Nov. 3, 1988. This amount does not include the Town's assumption of the responsibility for the maintenance of public roads on the Island.

<sup>43</sup>Town Submissions, Vol. I, p. 12. The Town projects that the population of the area proposed for annexation will increase by approximately 1,500 persons between 1988 and the Year 2000.

development pressures and, accordingly, will confront a need for additional urban services.

#### Water Supply and Distribution

The Town of Chincoteague is the only source of treated water available to the residents of the Town and the area proposed for annexation. The Town currently serves directly 1,183 customers within its present borders and 1,737 connections in the area proposed for annexation.<sup>44</sup> The Town obtains all of its water from wells located on the mainland, approximately five miles west of Chincoteague Island. These wells collectively have a total pumping capacity of 1.3 million gallons per day (MGD).<sup>45</sup> Since the current connections served by the Town's system consume 0.52 MGD, the system retains an unused reserve of 0.88 MGD.<sup>46</sup> In terms of storage capacity, the Town has two tanks which collectively hold approximately 1.2 million gallons of water, or in excess of two days' demand.<sup>47</sup>

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<sup>44</sup>Turner, letter to staff of Commission on Local Government, Nov. 3, 1988. Of the approximately 70 miles of Town-owned and maintained water mains on Chincoteague Island, 70% are located in the area proposed for annexation.

<sup>45</sup>Town Submissions, Vol. I, p. 25. The Town currently has three deep wells and 12 shallow wells for public water supply. This well water is chlorinated prior to distribution for use. In addition, Chincoteague plans to drill three new shallow wells by mid-1989. Those wells collectively will add approximately 0.22 MGD to the Town's water supply. (Jeffries, communication with staff of Commission on Local Government, Jan. 6, 1989.)

<sup>46</sup>Turner, letter to staff of Commission on Local Government, Nov. 3, 1988. At the present time, the Town is permitted by Virginia Department of Health to withdraw an average of 1.0 MGD from its wells. (Dickson W. Tucker, District Engineer, Division of Water Programs, Virginia Department of Health, communication with staff of Commission on Local Government, Jan. 6, 1989.)

<sup>47</sup>Town Submissions, Vol. I, p. 26. During the peak of the Island's tourist season, the Town's storage capacity is sufficient to meet one day's demand.

The Commission notes that a recent consultant's study identified three potential problems which could affect the Town's water system in the future. First, the study indicated that Chincoteague is not permitted to withdraw more than 1.3 MGD of groundwater from its existing wells due to concern that any increase in this volume could result in the depletion of the underground water table and the intrusion of saltwater into the aquifer.<sup>48</sup> Second, the same consultant's report stated that the Town confronted recurring problems with low water pressure and reduced rates of water flow.<sup>49</sup> Finally, the study noted that the Town's existing water transmission main which connects the Island to Chincoteague's well field on the mainland cannot accommodate increases in peak water flows beyond the pumping capacity of the Town's current wells.<sup>50</sup>

With respect to these concerns, the Commission observes that Chincoteague currently is permitted by the Virginia Department of Health (VDOH) to withdraw 1.0 MGD of groundwater from its well field, and such operations are monitored on a monthly basis by that agency to ensure that groundwater sources are not being depleted.<sup>51</sup> In addition, VDOH officials have advised the Commission that there have been no incidents of saltwater intrusion into the mainland aquifer serving Chincoteague

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<sup>48</sup>Bradbury and Drenning, Ltd. Proposed Sewer System, Town of Chincoteague, Preliminary Engineering Study (hereinafter cited as Town Sewer Study), Apr. 1988, p. 5.

<sup>49</sup>Ibid.

<sup>50</sup>Ibid.

<sup>51</sup>Tucker, communication with staff of Commission on Local Government, Jan. 6, 1989. The Town can exceed its permitted withdrawal volume on an infrequent basis to meet peak water demands. (Jeffries, communication with staff of Commission on Local Government, Jan. 6, 1989.) The Town estimates that during the tourist season the average daily population in its water service area is approximately 15,000 persons. (Turner, letter to staff of Commission on Local Government, Nov. 16, 1988.)

Island as a result of the operation of the Town wells.<sup>52</sup> In regard to the reported water pressure problems and the inadequate size of the primary water main serving the Island, representatives of the Town have acknowledged that, due to the presence of undersized water lines in portions of the Town's water distribution system, some areas of the Island may experience reduced water pressure during periods of peak use. They assert, however, that the water pressure in the system is sufficient to meet nationally recognized standards for municipal water service.<sup>53</sup> Further, we note that the Town owns an unused 8-inch water main which formerly served as the primary transmission line between the Island and the Town wells on the mainland. Town officials have indicated that this facility could be reactivated at minimal cost should the need arise.<sup>54</sup> In our judgment, the Town can and should be expected to meet the current and future water needs of the area proposed for annexation.

In terms of the interests of the residents of the area proposed for annexation, it should be noted that their incorporation into the Town

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<sup>52</sup>D. M. Martin, Division of Water Programs, Virginia Department of Health, communication with staff of Commission on Local Government, Nov. 9, 1988.

<sup>53</sup>Turner, letter to staff of Commission on Local Government, Nov. 3, 1988; and communication with staff of Commission on Local Government, Jan. 6, 1989. The Commission has been advised that undersized water transmission mains in the Town's system can result in insufficient pressures to maintain an adequate emergency fire flow in portions of the Island. Such conditions should be addressed by the Town systematically through capital improvement planning. In this regard, we note that the Town proposes to replace the undersized lines in the area proposed for annexation with 6-inch water mains following the effective date of annexation. These proposed improvements are a positive step in addressing the water pressure problems on the Island. (Smith, letter to staff of Commission on Local Government, Aug. 26, 1988; and Turner, communication with staff of Commission on Local Government, Jan. 6, 1989.)

<sup>54</sup>Town Submissions, Vol. I., p. 25; and Turner, communication with staff of Commission on Local Government, Jan. 6, 1989.

will have the effect of reducing their cost for water service.<sup>55</sup> Further, the Town has indicated its intention to improve and extend its water distribution system in the area proposed for annexation for the benefit of the area's residents.<sup>56</sup> In sum, the proposed annexation will result in lower water rates for residents of the annexed area and the extension of water service to additional connections in that area.

### Sewage Treatment

Presently there is no central sewage collection and treatment system serving the Town of Chincoteague or the area proposed for annexation. Wastewater on Chincoteague Island is disposed primarily by discharge directly into seepage pits, cesspools, or by the use of holding or septic tanks.<sup>57</sup> The maintenance of these individually-owned sewage systems on the Island is provided by the periodic pumping of these facilities and through the disposing of the septage at the sewage treatment plant of the National Aeronautic and Space Administration (NASA) located at the Goddard Flight Center on the mainland. While residents of the Town of Chincoteague are furnished this pumping service by the municipality for a service charge, persons residing in the area proposed for annexation contract on an individual basis with private operators for that service.<sup>58</sup> The Town proposes to extend the operation of this municipal service to residents of the areas annexed subsequent to their incorporation into the Town. Thus, the residents of the area

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<sup>55</sup>Ibid., p. 26. The cost of service to residential connections in the County is approximately 36% greater than that for similar connections in the Town.

<sup>56</sup>Ibid., p. 49. The Town proposes to install 8,300 feet of water main and 16 fire hydrants in the area proposed for annexation within two years following the effective date of the annexation.

<sup>57</sup>Town Submissions, Vol. I, p. 27; and Town Sewer Study, p. 1.

<sup>58</sup>Ibid. The Town and private contractors charge \$75.00 per pump for this service. (County of Accomack, Annexation Proceedings (hereinafter cited as County Submissions), Vol. I, p. 3-1.)

proposed for annexation will not experience any reduction in the maintenance of their sewage disposal systems.

With respect to the existing methods of wastewater disposal used on Chincoteague Island, the Commission observes that there is substantial evidence to suggest that the individually-owned and maintained on-site sewage systems are undesirable and have a potential for creating significant health problems. In this regard, the failure or improper operation of many of these systems has already contributed to the closing of many of the commercial shellfish harvesting beds in the waters surrounding Chincoteague Island by the Virginia Department of Health (VDOH).<sup>59</sup> Further, approximately 25% of the applications for permits for the installation of new septic tanks on the Island have been denied by VDOH because of unsuitable soils.<sup>60</sup> Finally, a Town-sponsored

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<sup>59</sup>Mary P. Wright, Senior Sanitarian, Bureau of Shellfish Sanitation, Virginia Department of Health, communication with staff of Commission on Local Government, Nov. 1, 1988. Due to failing septic tanks and the discharge of wastewater into surface waters, some commercial shellfish harvesting beds in the waters adjacent to the Island have been closed since 1936. A 1985 survey of Chincoteague Island and environs by VDOH revealed that 62 properties on the Island (3.0% of those surveyed) had deficiencies with respect to (1) the disposal of sewage or kitchen and laundry wastes or (2) the absence of disposal facilities, conditions which have contributed to the pollution of shellfish beds. In addition, 24 other properties were identified by the survey as having a potential for shellfish pollution which warranted further monitoring. Since the publication of the survey, the deficient facilities on 48 of the properties identified as having significant pollution problems have been corrected. The Commission also observes that a portion of the pollution affecting waters adjacent to the Island is a result of the discharge of wastewater from commercial and pleasure boats which dock in the Town or in the area proposed for annexation. (Virginia Department of Health, Bureau of Shellfish Sanitation, Shoreline Sanitary Survey, Chincoteague and Assateague Islands, June-August 1985.)

<sup>60</sup>County Submissions, Vol. I, p. 3-3. Local health department officials indicate, however, that the rate of rejection of septic tank permits on the Island is similar to that in Accomack County generally. In addition, VDOH has not declared any portion of Chincoteague Island to be a health hazard due to the existing sewage disposal problems. (Pierce Eichelberger, Sanitarian Supervisor, Accomack County Health Department, communication with staff of Commission on Local Government,

consultant's study of the need for a central sewage treatment facility to serve the residents of the Town and the area proposed for annexation revealed a number of sanitation problems on the Island resulting from the failure of septic tank drainfields due to high seasonal groundwater tables and soils saturated with septage.<sup>61</sup> In sum, these facts are sources of considerable concern to this Commission and manifest, it appears to us, a need for a more environmentally sound method of sewage disposal both in the Town and in the area proposed for annexation. Further, it would be imprudent, in our judgment, to permit any significant new development on the Island without adequately addressing these wastewater disposal problems. While the proposed annexation does not offer immediately improved sewerage conditions in the area proposed to be annexed, it affords the residents of the Island an opportunity to work in concert to address a major concern to the area's well-being.

#### Solid Waste Collection and Disposal

The Town of Chincoteague provides solid waste collection services on a weekly basis to its residents and to commercial establishments through contract with a private collector.<sup>62</sup> The cost of this service is borne by the Town's general fund and is not supported by user charges. In terms of the disposal of refuse, the Town uses the Accomack County landfill, which is located on the mainland at Temperanceville.

Accomack County, like most of the Commonwealth's rural counties, does not provide any door-to-door solid waste collection services to individual residences or business establishments. The County does offer a bulk container service, with "green boxes" being situated throughout

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Nov. 3, 1988.)

<sup>61</sup>The study also concluded that septic tank overflows and sewage rising to the surface of drainfields created a potential for infectious disease epidemics on the Island. (Town Sewer Study, p. 1)

<sup>62</sup>Town Submissions, Vol. I, p. 31.

the County for solid waste disposal. Currently, the County maintains a solid waste transfer station at the site of the Town's former landfill on the Island, with this facility serving both the residents of the area proposed for annexation and the Town.<sup>63</sup> County residents also can contract on an individual basis with private operators for refuse collection services.

The extension of the Town's services to the areas annexed will result not only in the elimination of monthly contractor charges for the annexed residents, but it should also promote increased utilization of regular refuse collection services within those areas. The developed areas adjacent to Chincoteague will benefit, in our judgment, from the solid waste collection services provided by the Town.

#### Crime Prevention and Detection

Since the law enforcement activities of Virginia towns augment those provided by county sheriff's departments, the proposed annexation by the Town of Chincoteague will have the effect of providing additional and more intensive law enforcement services to residents of areas annexed. The Town presently has seven full-time sworn law enforcement personnel, all of whom have patrol responsibility.<sup>64</sup> This staffing level is sufficient to give the Town's police department one patrol officer per 174 municipal residents, permit it to maintain a minimum of two patrol officers on duty during most of the day, and enable it to achieve an average response time for emergency calls of approximately two minutes.<sup>65</sup> It should be noted that the Town is also engaged in

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<sup>63</sup>The Town's solid waste contractor also disposes of the refuse collected within Chincoteague at the County's bulk collection site.

<sup>64</sup>Town Submissions, Vol. I, p. 37.

<sup>65</sup>Jeffries, communication with staff of Commission on Local Government, Dec. 15, 1988 and Jan. 6, 1989.



crime prevention programs, although no officer is assigned to such activity on a full-time basis.<sup>66</sup>

The Town's criminal justice efforts are assisted by Accomack County's provision of jail facilities and dispatching services, as well as by the activities of the County's Sheriff Department. That department has a personnel complement of 44 full-time sworn law enforcement personnel, 14 of whom have regular patrol responsibilities.<sup>67</sup>

It is significant to note that the Town's police department currently provides some law enforcement services to the area proposed for annexation. During 1987 the Town's law enforcement officers responded to 1,516 calls for assistance, of which 445 (29.4%) were for assistance outside the boundaries of the municipality.<sup>68</sup> Although the Commission is unaware of any major crime problems in the area proposed for annexation, the incorporation of the area into the Town and the increased responsibility for the protection of seasonal tourists will place an additional burden upon Chincoteague's police department. In order to address these added responsibilities, the Town proposes to hire and equip four additional law enforcement officers following the

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<sup>66</sup>Town Submissions, Vol. I, pp. 37, 38; and Turner, letter to staff of the Commission on Local Government, Nov. 3, 1988. The Town's police department sponsors in-school drug awareness programs and provides engraving equipment for use by the public as part of an anti-theft activity.

<sup>67</sup>James W. Mathews, Acting Executive Secretary, State Compensation Board, communication with staff of Commission on Local Government, Dec. 12, 1988; and County Submissions, Vol. I, p. 7-1.

<sup>68</sup>Town Submissions, p. 38. Of the 445 responses by the Town's police department to areas beyond its immediate jurisdiction, 92 resulted from requests for assistance from the Accomack County Sheriff's Department.

effective date of the annexation.<sup>69</sup> The extension of the Town's law enforcement and crime prevention services to areas annexed should be of benefit to its residents and businesses.

### Public Works

The proposed annexation will result in the application of the Town's policies and procedures for construction and maintenance of various public works in the area to be annexed. The Town's policies and procedures are, in the Commission's judgment, designed to meet municipal needs and should be beneficial to the developed portions of the area proposed to be annexed.

Street Maintenance. Presently all of the public roads in the Town of Chincoteague, the area proposed for annexation, and Accomack 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 Chincoteague, the Town has invested local funds to improve and maintain the two miles of roadway within its corporate boundaries that are not part of the State system.<sup>70</sup>

Since State statutes require incorporated communities with a population of 3,500 or more to maintain the public thoroughfares within their jurisdiction, the proposed annexation, it appears, will result in

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<sup>69</sup>Turner, letter to staff of Commission on Local Government, Nov. 3, 1988. The Town estimates that the expansion of its police department would require an initial expenditure of \$15,000 for a new police vehicle and related equipment and an annual cost of \$80,000 for new personnel.

<sup>70</sup>During FY1986-87, the Town expended \$7,200 in local funds for street maintenance. (Town of Chincoteague, Report of Examination and Supplementary Information for Fiscal Year Ending August 31, 1987, p. 20.)

the Town's assumption of that responsibility.<sup>71</sup> When this occurs, Chincoteague will become responsible for the maintenance of the approximately 15.6 lane-miles of secondary roads located in the Town and for the 26.1 lane-miles of roadway currently located in the area proposed for annexation.<sup>72</sup> Data concerning the condition of the streets and roads in the area proposed for annexation reveal the presence of a considerable amount of such roadway not currently maintained by the State, with a significant portion of those public thoroughfares having insufficient right-of-way or pavement width.<sup>73</sup>

Although it is unlikely that the Town will be required to assume the Island's public road maintenance responsibility from the State prior to the publication of the results of the 1990 Census, Chincoteague officials have indicated that the Town can assume this responsibility through an increase in its own staff and equipment and through the employment of private contractors for major road improvement projects.<sup>74</sup>

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<sup>71</sup>Sec. 33.1-41.1, Code of Va. Following the effective date of the annexation, Chincoteague's estimated population will increase from 1,220 to an estimated 3,534 persons.

<sup>72</sup>Town Submissions, Vol. I, p. 28.

<sup>73</sup>The Town estimates that there are approximately 12 miles of privately maintained roads in the area proposed or annexation. (Turner, letter to staff of Commission on Local Government, Nov. 16, 1988.)

<sup>74</sup>The Town estimates that assumption of road maintenance responsibility will require an initial capital expenditure of \$25,000 for equipment and approximately \$300,000 in annual operating expenses. Concurrent with the Town's assumption of the road maintenance responsibility, Chincoteague will also become eligible to receive categorical aid from the State for the maintenance of those streets and roads which qualify for such. (See Sec. 33.1-44, Code of Va.) The Town estimates that, if it had been eligible for State road maintenance payments in 1988, it would have received approximately \$232,000 from the Commonwealth. (Turner, letter to staff of Commission on Local Government, Nov. 3, 1988.) Based on these initial calculations, the Town's assumption of responsibility for the maintenance of its public thoroughfares will require Town expenditures in excess of State maintenance assistance.

Streetlighting. Another urban service provided by the Town of Chincoteague is the installation, operation, and maintenance of streetlights. Currently, there are approximately 312 publicly funded streetlights within the Town's corporate limits.<sup>75</sup> Further, the Town has a policy of accepting requests for additional streetlights from its citizens, and where such are deemed appropriate and necessary for public safety and welfare, new lights are installed and operated at public expense.

The limited number of streetlights presently within the area proposed for annexation are operated primarily by individual homeowners or neighborhood associations. Following the effective date of the annexation, the Town will extend to the residents of the areas annexed its current policy for installing and operating streetlights at public expense.<sup>76</sup> In our judgment, the area proposed for annexation would benefit from the application of the Town's policy regarding the installation and operation of these facilities.

Sidewalks. The Commission notes that approximately 80% of the public roads serving residential and commercial areas in the Town of Chincoteague have sidewalks. Moreover, Chincoteague has a policy of installing sidewalks upon citizen request and upon their agreement to bear half of the construction cost. The Town annually allocates public funds for the maintenance and extension of these facilities to meet such citizen requests or municipal needs.<sup>77</sup>

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<sup>75</sup>Town Submissions, Vol. I, p. 35.

<sup>76</sup>The Town proposes to install the streetlights in the area proposed for annexation upon citizen request. The Town's current policy of installing streetlights approximately every 400 feet will require the installation of 344 streetlights to serve properly the annexed area. (Turner, letter to staff of Commission on Local Government, Nov. 3, 1988.)

<sup>77</sup>The Town budgets approximately \$3,500 annually for this service. (Report of Examination and Supplementary Information for Fiscal Year Ending August 31, 1987, p. 20.)

The Commission has been advised that sidewalks are nearly nonexistent in the area proposed for annexation.<sup>78</sup> While the Town has not identified any specific locations for the immediate construction of sidewalks in the area proposed for annexation, the application of its policy with respect to the construction of such facilities should, in time, benefit the area proposed for annexation.

#### Planning, Zoning and Subdivision Regulation

The Town of Chincoteague established its first planning commission in 1969 and currently guides its planning efforts under a comprehensive plan adopted in 1982. The Town also utilizes officially adopted subdivision and zoning ordinances as implements to manage its development.<sup>79</sup> In this regard, we note that under the terms of the proposed agreement, the Town will amend its current zoning and subdivision ordinances to conform, within the area proposed for annexation, to the County's current development control instruments until July 1, 1990.<sup>80</sup> The continued application of the County's development standards in that area will afford Chincoteague an opportunity to review its comprehensive plan and development control instruments to reflect the incorporation of additional territory into the Town. This provision in the agreement provides the Town time to amend its zoning and subdivision regulations in order to eliminate provisions which may be inappropriate for the area and to ensure that it has an appropriate and effective set of development control ordinances to protect the fragility of Chincoteague Island.<sup>81</sup>

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<sup>78</sup>Town Submissions, Vol. I, p. 29.

<sup>79</sup>Ibid., p. 36.

<sup>80</sup>Town of Chincoteague - Accomack County Settlement Agreement (hereinafter cited as Agreement), Sec. II(3).

<sup>81</sup>The Commission notes that the Town's two residential zoning districts permit residential development on lots of 7,500 square feet whereas the County zoning ordinance requires a minimum residential lot size of 15,000 square feet in the area proposed for annexation.

Once the Town's revised planning instruments and land development regulations are extended to the area proposed for annexation, the application of its policies can result in a more unified and comprehensive approach to controlling future growth and to preserving the delicate and distinctive features of Chincoteague Island.

#### Other Service Considerations

The Commission notes that with respect to the provision of certain other public services, the residents of the area proposed for annexation will not experience any immediate change as a result of their incorporation into the Town. In terms of fire prevention and protection and recreational services, the proposed annexation will have little immediate impact on the area to be annexed.

With respect to fire services, all of the area proposed for annexation currently is served by the Chincoteague Volunteer Fire Company (CVFC), which is jointly supported by the Town and Accomack County.<sup>82</sup> We note, however, that the Town's water distribution system and the fire suppression capabilities of the CVFC are such that properties within the present corporate limits of the municipality are classified "8" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss, whereas similar properties in the

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Further, the County's minimum required area for mobile home parks is one-third greater than the Town's. (County Submissions, Vol. I, pp. 6-2--6-3.) The immediate application of these and similar provisions of the Town's zoning ordinance would have the effect of permitting development at a higher density than that which has occurred previously in the area proposed for annexation.

<sup>82</sup>Town Submissions, Vol. I, p. 39. The Town makes an annual appropriation to the CVFC of \$6,500 for the operation of the fire department and rescue squad and contributes \$13,500 through the rental of Town office space from the CVFC. (Report of Examination and Supplementary Information, for Fiscal Year Ending August 31, 1987; and Town Submissions, Vol. I, p. 39.) Accomack County appropriates \$15,000 annually to the CVFC; however, \$6,000 is designated for the rescue squad. (County Submissions, Vol. I, p. 8-1.)

area proposed for annexation currently have an ISO classification of "9."<sup>83</sup> Future plans by the Town to install 16 additional fire hydrants in the area proposed for annexation and to make other improvements in the municipal water system should result in an improved ISO classification for annexed properties affected by those improvements.<sup>84</sup> Such a change in ISO classification should decrease the fire insurance premiums charged property owners in the area proposed for annexation.<sup>85</sup>

In terms of public recreational services and facilities, the residents of the area proposed for annexation currently utilize the facilities operated by the Town of Chincoteague on the same basis as municipal residents.<sup>86</sup> In regard to such facilities, the Town owns a public boat dock within its present corporate limits and two

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<sup>83</sup>Smith, letter to staff of Commission on Local Government, Aug. 26, 1988. The ISO rating 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 usually 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].

<sup>84</sup>Town Submissions, Vol. I, p. 49. The Town plans to install approximately 8,300 of water main and 16 fire hydrants in the area proposed for annexation.

<sup>85</sup>While the fire hydrants and the larger water lines proposed for installation by the Town in the area proposed for annexation will improve fire suppression capabilities in that area, we recommend that the Town and County request the assistance of the Virginia Department of Fire Programs in evaluating the level of fire service which can be provided by the CVFC. The increase in population on the Chincoteague Island, limited access to the Island, and the distance from other fire departments indicate a need for such an evaluation.

<sup>86</sup>Ibid., p. 32.

recreational sites, Memorial Park and the Curtis Merritt Harbor of Refuge, located in the area proposed for annexation.<sup>87</sup>

While the proposed annexation will not immediately affect the level of fire suppression or recreation in the areas annexed, the Town's responsibility and commitment to these services can increasingly benefit that area and its residents.

#### Summary of Service Needs

In the preceding sections of this report the Commission has endeavored to analyze the existing and prospective urban service needs of the area proposed for annexation and the ability of the Town of Chincoteague to meet those needs. On the basis of the data cited in those sections, the Commission finds that the area proposed for annexation by the Town under the terms of the settlement agreement will benefit from the extension of the Town's services and policies.

#### INTERESTS OF THE COUNTY

The proposed agreement negotiated by the two jurisdictions contains a number of provisions which serve the interests of Accomack County. Although the annexation proposed by the agreement will not affect the County's receipt of any of its property taxes, it will reduce initially its receipts from some of its minor revenue sources. Estimates jointly developed by the parties indicate that the proposed annexation, considered apart from other provisions in the agreement, will result in the County's loss during the first year after annexation of

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<sup>87</sup>Town Submissions, Vol. I, p. 32, 33. Memorial Park is an eight-acre waterfront park containing a ballfield, a picnic pavilion, a playground, and a boat launching ramp. The Curtis Merritt Harbor of Refuge is a 16-acre site with commercial and recreational boat docking facilities.



approximately \$218,000 in general fund revenue.<sup>88</sup> That estimated revenue loss, however, constitutes less than 1.6% of the County's budgeted general fund revenue collections for FY1988-89.<sup>89</sup> Further, that estimated revenue loss will be reduced by approximately \$30,000 as a result of certain expenditure savings and by approximately \$11,000 in increased tipping fees to be received from the Town.<sup>90</sup> As a consequence, the initial net annual revenue loss which will be experienced by the County is estimated to be \$177,000.

Included in the proposed agreement are other financial provisions, not typically a part of the financial settlement in town annexation cases, which will benefit the County. First, under the terms of the proposed agreement the Town has agreed to permit Accomack County to impose its 2% transient occupancy tax within the municipality, with that provision projected to generate initially \$65,000 annually for the County.<sup>91</sup> Second, the proposed agreement commits the Town to the

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<sup>88</sup>Town Submissions, Vol. I, p. 51 (Revised).

<sup>89</sup>Accomack County has budgeted for FY1988-89 general fund receipts of \$13,978,637. (Accomack County Revenue Budget, Fiscal Year Ending June 30, 1989.)

<sup>90</sup>Town Submissions, Vol. I, p. 51 (Revised). The expenditure reductions are due to the County's discontinuance of responsibility for the maintenance of a "green box" (i. e., a solid waste receptacle) and for the repair of boat ramps in the annexed area.

<sup>91</sup>Agreement, Sec. II (1). The estimate of County revenue to be derived from this provision is given in Town Submissions, Vol. I, p. 51 (Revised). Section 58.1-3819 of the Code of Virginia prohibits a county from imposing a transient occupancy tax within the corporate limits of any town within its boundaries that levies a similar tax, unless the governing body of the town agrees to permit such to occur. Although counties are limited by State statutes to a maximum transient occupancy tax rate of 2%, municipalities are not similarly restricted in the rate they may impose. Presently, the Town of Chincoteague imposes a 2% transient occupancy tax on the motels and campgrounds within its jurisdiction. The application of the County's tax in the enlarged Town following the effective date of the annexation will double the tax rate imposed on affected businesses in Chincoteague. The Commission notes that under the terms of a previous agreement between Accomack County and the Town, the County contributes the proceeds from its transient

payment of 25% of its consumer utility tax collections to Accomack County for a five-year period, with that revenue sharing arrangement expected to provide the County initially in excess of \$43,000 per year.<sup>92</sup> The combined effect of these two provisions is to reduce the County's initial general fund revenue loss to approximately \$69,000 per year, or less than 0.5% of its budgeted general fund receipts for FY1988-89.

With respect to the benefits of the proposed agreement for the County, two other provisions should be cited. First, the agreement requires the Town to waive any claim to payments received by the County from the federal government as a result of federal ownership of Assateague Island.<sup>93</sup> Second, as noted previously, the agreement commits the Town to amending its zoning and subdivision ordinances, as they would apply within the area proposed for annexation, to conform with those of the County until July 1990.<sup>94</sup> This provision, which would delay changes in provisions governing the development of that area until after the councilmanic election held subsequent to the annexation is in the interest of the County. It is clear to this Commission that the

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occupancy tax collections from the unincorporated portion of Chincoteague Island to a joint fund dedicated to the construction of a convention/recreation center on the Island. This agreement is scheduled to terminate July 1, 1990. Officials of Accomack County, however, have indicated that the County will continue contributing the tax proceeds derived from the annexed area following the effective date of the annexation. (Bruce D. Jones, Attorney, Accomack County, letter to staff of Commission on Local Government, Nov. 21, 1988.)

<sup>92</sup>Agreement, Sec. II (4). The estimate of County revenue to be derived from this provision is given in Town Submissions, Vol. I, p. 51 (Revised).

<sup>93</sup>Agreement, Sec. II (2). During FY1986-87 the County received \$88,351 from the U. S. Department of Interior to compensate for the federal ownership of Assateague Island. (County of Accomack, Report of Examination for Fiscal Year ending June 30, 1987, p. 66.)

<sup>94</sup>Agreement, Sec. II (3).

nature and intensity of future development on Chincoteague Island can have a profound effect on Accomack County generally.

In sum, we believe that the proposed agreement, while reconciling a number of conflicting concerns, appropriately serves the interest of Accomack County.

#### INTEREST OF THE COMMONWEALTH

A principal concern of the Commonwealth in this and similar interlocal issues is the development of a resolution which equitably addresses the contending interlocal concerns and which protects and promotes the viability of the affected localities. The proposed Town of Chincoteague - Accomack County agreement constitutes, in our judgment, such a resolution. There are, however, distinct State concerns affected by this proposed interlocal agreement which must be cited in this report.

Virginia's Constitution declares that it shall be the policy of the State "to protect its atmosphere, lands, and waters from pollution, impairment, or destruction for the benefit, enjoyment, and general welfare of the people of the Commonwealth."<sup>95</sup> Pursuant to that constitutional statement, the General Assembly has enacted numerous measures recognizing the significance of Virginia's wetlands and coastal resources and establishing programs to protect them.<sup>96</sup> To that end, in June 1986 Governor Baliles signed an executive order creating the Virginia Coastal Resources Management Program, which was designed to strengthen the State's efforts to protect those significant and fragile resources.<sup>97</sup> Summarizing the Commonwealth's concern for its coastal areas, Virginia's Council on the Environment stated in 1987:

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<sup>95</sup>Art. XI, Sec. 1, Constitution of Virginia.

<sup>96</sup>See, for example, Secs. 10.1-2100 and 62.1-13.1, Code of Va.

<sup>97</sup>Executive Order No. 13(86), June 23, 1986.

The importance and beauty of Virginia's coastal resources have been well-documented in fact and in generations of folk lore. The future of these resources will be influenced, of course, by natural processes, but to a large extent they will also be influenced by man. Our ability to properly protect and manage these diverse resources today and in the near future will determine their survival for generations to come.<sup>98</sup>

Recognizing these concerns of the Commonwealth, this Commission acknowledges the potential impact which municipal annexation can have on Virginia's coastal resources. The proposed agreement between the Town of Chincoteague and Accomack County can, however, be an instrument by which the formidable environmental concerns of the Island are positively addressed. The proposed annexation can give the Town the breadth of authority and resources, acting with the support of the County, to address the sewage and wastewater treatment problems which threaten the Island's viability. This feature of the proposed agreement is clearly in the interest of the Commonwealth.

Second, the implementation of the proposed agreement will afford the residents of the Island an opportunity to review critically the instruments designed to regulate future development on Chincoteague. With growing recognition of the fragility of our coastal areas and the detrimental effect of development, the implementation of this agreement offers an appropriate opportunity for the Town, in concert with the County, to analyze carefully the development options before it.<sup>99</sup> The

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<sup>98</sup>Council on the Environment, Virginia's Environment, March 1987, p. 40.

<sup>99</sup>The Chesapeake Bay Agreement (signed by the Governors of Virginia, Maryland, and Pennsylvania, and representatives of the District of Columbia, the Chesapeake Bay Commission, and the U. S. Environmental Protection Agency) stated, "There is a clear correlation between population growth and associated development and environmental degradation in the Chesapeake Bay system." (Chesapeake Bay Agreement, Dec. 15, 1987.) While Chincoteague Island may not technically be a part of the Chesapeake Bay system, the correlation between population growth and environmental degradation remains applicable to that Island.

elected leadership of Chincoteague serves not only the current residents of the Island, but they are also stewards of its resources for future generations.

### FINDINGS AND RECOMMENDATIONS

Based upon our consideration of the impact of the proposed agreement on the Town of Chincoteague and Accomack County and on the interest of the State in the protection and preservation of the viability of each, we submit the findings and recommendations set forth below.

#### FLOOD INSURANCE

During the Commission's public hearing on October 24, 1988, several residents of the area proposed for annexation advised this body that due to Chincoteague's non-participation in the National Flood Insurance Program (NFIP), the incorporation of their property into the Town would result in the cancellation of the flood damage insurance currently protecting their residences and businesses.<sup>100</sup> In view of this situation, the Commission was requested to recommend a delay of the proposed annexation until Chincoteague had been accepted into the NFIP.

The Commission notes that flood insurance has been available in the unincorporated portions of Accomack County since 1985 when the County was designated as a full participant in the NFIP. Although the Town has

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<sup>100</sup>The National Flood Insurance Program, which is administered through the Federal Emergency Management Agency, enables property owners to purchase flood insurance through commercial insurance companies at rates subsidized by the federal government. The NFIP is based on an agreement between local jurisdictions and the federal government which requires communities to reduce future flood risk to new construction in flood prone areas through the implementation of certain protective measures. These measures include the adoption of floodplain zoning provisions designed to limit damage to structures in flood hazard areas. (Federal Emergency Management Agency, Questions and Answers on the National Flood Insurance Program, Aug. 1987.)

been eligible to participate in the program, it chose not to comply with the required application procedures and allowed its eligibility to expire. The Commission has been advised by officials of the Federal Emergency Management Agency that if the Town remained a non-participant in the NFIP, the extension of Chincoteague's boundaries into the area proposed for annexation, which is currently covered by the program, would terminate that area's eligibility for federally subsidized flood insurance and that existing policies could not be renewed.<sup>101</sup>

The Commission recognizes that the NFIP has provided the residents of the area proposed for annexation with protection against catastrophic damage or loss from flooding and that the prerequisites for participation in the NFIP, such as floodplain zoning and special building codes for flood hazard areas, generally have had a salutary effect on the character of the development in the unincorporated portion of the Island. Although we acknowledge that in some instances the NFIP has facilitated development in areas environmentally unsuited for intensive growth, the beneficial aspects of that insurance program must be noted.

In sum, the expansion of the Town's boundaries into areas presently afforded protection by the NFIP without participation by Chincoteague in that program would deprive the residents of those areas of flood

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<sup>101</sup>Steve Adukaitis, Community Planner, Region III, Federal Emergency Management Agency, communication with staff of Commission on Local Government, Oct. 28, 1988. In addition, federal financial assistance, such as Veterans Administration loan or a mortgage from a federally regulated bank, is not available for a building located in a flood hazard area. Further, if a disaster is declared in areas annexed due to flooding prior to the Town's participation in the NFIP, no federal financial assistance can be provided for the permanent repair or reconstruction of damaged buildings. (Questions and Answers on the National Flood Insurance Program.) Furthermore, where residents of the area proposed for annexation have mortgage loans on their property, most of these mortgage contracts contain provisions requiring the maintenance of flood insurance on the structures located on the property. The termination of such coverage would constitute a breach of the contract that could result in the renegotiation or foreclosure of the mortgage.

insurance coverage and would place their properties at risk. Therefore, this Commission cannot recommend approval of the proposed annexation until such time as the Town of Chincoteague has applied for and has been accepted in the NFIP.<sup>102</sup>

#### SEWAGE CONCERNS

During the course of its review, the Commission was presented conflicting data concerning the problems with respect to the issue of sewage disposal problems in the Town of Chincoteague and in the area proposed for annexation. As indicated in a previous section of this report, almost all of the residents and businesses on the Island dispose of their wastewater by (1) discharge directly to surface waters, (2) seepage pits or cesspools, (3) holding tanks which are periodically pumped out, or (4) septic tanks and drainfields. In the latter instance, however, high seasonal groundwater tables and saturated soils have resulted in the failure of many drainfields, resulting in those septic systems becoming, in actuality, holding tanks. Although both the Town and private contractors provide equipment, for a fee, to pump cesspools, holding tanks, and septic systems for the purpose of disposing the septage at a central sewage treatment plant located on the mainland, there is evidence that the existing methods of wastewater disposal on Chincoteague Island are undesirable and constitute a potential health hazard.

One indication of the sewage problem is the fact that a number of the commercial shellfish harvesting areas surrounding the Island have been closed by the Virginia Department of Health (VDOH) for a number of years due to the overflow of cesspools and holding tanks, the failure of

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<sup>102</sup>The Commission notes that the Town submitted its application for participation in the NFIP to FEMA on January 6, 1989. (Jeffries, memorandum to staff of Commission on Local Government, Jan. 5, 1989.) Officials of FEMA have indicated that review and approval of the Town's application normally takes 15 to 30 days. (Adukaitis, communication with staff of Commission on Local Government, Nov. 11, 1988.)

drainfields, and the direct discharge of wastewater into surface water. These sewage conditions are exacerbated during the summer months when there is a significant influx of tourists onto the Island. In addition, data presented by both the Town and the County indicate that between 1985 and 1987 approximately 25% of the applications for permits for the installation of new septic tank facilities were denied by VDOH due to unsuitable soils for drainfields or due to insufficient lot size for the operation of on-site sewage disposal systems.

Partially in response to these conditions, the Town of Chincoteague commissioned a consultant's study in 1987 to examine the existing problems of on-site sewage disposal and to propose alternative processes for the treatment of wastewater emanating from the Town. The resulting report, which was presented to the Town in April 1988, documented the existence of problems associated with the wastewater disposal methods currently utilized on the Island and recommended that a central sewage collection and treatment system be constructed on the mainland to serve the Town, the unincorporated portion of Chincoteague Island, and the federal facilities located at the Assateague National Seashore and NASA's Wallops Island. To date, however, Chincoteague has taken no action on the recommendations of the consultant's report.<sup>103</sup>

With respect to the consultant's recommendations, the Commission recognizes that both Town and County officials have expressed the view that current methods of wastewater disposal have been sufficient to meet the needs of the residents of Chincoteague Island and that the construction and operation of a central sewage collection and treatment system would be too costly for the residents of the Island to bear.<sup>104</sup>

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<sup>103</sup>The Commission notes that on October 26, 1988 the Chincoteague Town Council passed a resolution which committed the Town to restudying the need for a sewage treatment system for the Town. (Jeffries, letter to staff of Commission on Local Government, Oct. 27, 1988.)

<sup>104</sup>The consultant's study estimated that the construction of the proposed central sewage treatment plant and collection system to serve the Island and the federal facilities would cost between \$12 and \$15



Moreover, this Commission also acknowledges that data provided by VDOH indicate that both the incidence of the failure of septic tank drainfields and the rate of rejection of septic tank permits on the Island are similar to those in other areas of Accomack County. Finally, the Commission has been advised by local health department officials that there are no existing health hazard areas in the Town nor in the area proposed for annexation, and that the presence of a central system providing potable water to the residents of the Island reduces the potential for infectious disease.<sup>105</sup>

While acknowledging the evidence cited above, this Commission is obliged to observe that there are significant indications that the individually-owned and maintained on-site systems on the Island are not providing a reasonably safe and environmentally sound method of sewage disposal and that, while crises have yet to occur, preventive action is now appropriate. Additional growth and development in the Town or in the area proposed for annexation, to the extent it occurs, will increase the magnitude of existing sewage problems on the Island. Furthermore, because the economy of Chincoteague Island is primarily dependent on seafood harvesting and processing and tourism, two industries directly affected by water quality, responsible public leadership requires appropriate action.

In sum, it is the judgment of this Commission that the current methods for the disposal of wastewater on Chincoteague Island constitute a serious concern, with evidence indicating that the sewage issue may

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million. (Town Sewer Study, pp. 29-41.)

<sup>105</sup>The term "health hazard area" as used by the Virginia Department of Health denotes those portions of a community where the operation of the water supply and sewage disposal facilities create a potential public health risk for the residents of the affected area. Areas declared as having a potential health hazard receive special consideration for funding by the Virginia Water Control Board for the installation or repair of central water or sewage treatment systems. (Virginia Department of Health, Sanitarian's Operational Manual.)

pose a threat to public health on the Island if not appropriately addressed in the near future. Accordingly, this Commission strongly recommends that, based on the sewage and wastewater management problems substantiated by the Shoreline Sanitation Survey conducted by VDOH in 1985 and by the Bradbury and Drenning study, the Town develop a plan to address its sanitation concerns and a schedule by which that plan would be implemented<sup>106</sup>

#### DEVELOPMENT CONTROLS

There is an evident need, in our view, for the Town of Chincoteague to improve its development control instruments. This need is clearly manifested by certain aspects of the Town's current zoning ordinance. First, given Chincoteague's experience with malfunctioning septic tanks and drainfield failures, the provisions of the Town's zoning ordinance which authorize residential development on lots of 7,500 square feet and which permit that development to be served by individual septic tanks are inappropriate. Second, the intensity of development permitted by the Town's zoning ordinance is generally incompatible with current land use patterns in the area proposed for annexation and, more significantly, injurious to the Island's fragile environment.<sup>107</sup> The need for the Town to have effective development control instruments may be significantly increased as a result of measures to address the

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<sup>106</sup>While the Commission recognizes that the proposed annexation will permit the Town to attend to the sewage disposal needs of Chincoteague Island in a comprehensive and coordinated manner, one alternative plan which might be considered is the development of a wastewater management plan which could address existing and prospective sewage concerns beyond the boundaries of the enlarged Town. Thus, the Town's plans might properly include participation by Accomack County as well as the federal agencies responsible for the management of Assateague Island and Wallops Island.

<sup>107</sup>The Commission also recommends that the Town re-evaluate the pyramidal aspect of its zoning ordinance which permits any lesser intensive use in areas zoned for more intensive development. This aspect of an ordinance can create significant conflict between residential and commercial activities.

Island's sewage concerns. The solution to the current wastewater disposal problems on Chincoteague Island may well increase development pressures on the Island, thereby placing added responsibility on the Town for the effective management of residential and commercial growth. Accordingly, we recommend that the Town critically review its zoning ordinance in recognition of these concerns.

Prior to the adoption of any amendments to its zoning and subdivision ordinances, however, the Commission recommends that the Town revise its current comprehensive planning instrument to reflect the proposed annexation. The revised comprehensive plan should clearly identify environmentally sensitive areas and those portions of the Island not capable of supporting intensive development, due to unsuitable soils or other factors, and should propose positive actions to protect such areas. Further, we recommend that the Town of Chincoteague consider the adoption of a fiscal planning instrument, such as a capital improvement plan, to assist it in the proper implementation of its development control measures. In view of the Town's recognized need to install enlarged water mains, the need to address the wastewater management problems on the Island, and the State's requirement that municipalities with populations in excess of 3,500 persons assume responsibility for the maintenance of public thoroughfares, we consider such a financial planning instrument to be indispensable.

Finally, we note that the Island of Chincoteague has become the pre-eminent tourist destination on Virginia's Eastern Shore due in large part to its natural beauty and the passive recreational facilities of Assateague National Seashore. The proliferation of signs and billboards on the causeway leading to the Island and in the Town, however, presents an unattractive "gateway" for travelers to the area.<sup>108</sup> The natural

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<sup>108</sup>Currently, Chincoteague has the authority to regulate signs in the marsh or meadowlands owned by the State along either side of the causeway (State Route 175) leading from the mainland to the Town. (See Sec. 33.1-361, Code of Va.)

beauty and serenity of the Island is diminished by the pervasive signage, which is not in keeping with the character of the surrounding environment. Accordingly, the Commission recommends that the Town of Chincoteague amend its sign regulations in a manner which would significantly increase the Town's ability to control the number, type, and square footage of all signage and that it institute an amortization program to reduce the number of signs subject to its jurisdiction. A community, such as Chincoteague, which is endowed with unique aesthetic qualities, should act to preserve its distinctive attributes.

#### MUNICIPAL ELECTIONS

The Commission notes with concern that the full involvement of the residents of the area proposed for annexation in the governance of the Town may be delayed an extended period of time. Currently, there appear to be no general law provisions which require the Town to hold special municipal elections as a result of an annexation effected under Section 15.1-1167.1 of the Code of Virginia.<sup>109</sup> We observe that the next general election for members of the Chincoteague Town Council is scheduled for May 1990, with only three of the seven seats on the Council to be filled at that time. The Commission recommends that the Town explore alternative means by which all residents of the area proposed for annexation might be engaged more quickly in the electoral affairs of the municipality.<sup>110</sup>

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<sup>109</sup>State statutes generally require municipalities awarded territory pursuant to an annexation instituted under the provisions of Article 1, Chapter 25, Code of Virginia to hold a special election for the members of the municipal governing body following the effective date of the annexation. (See Sec. 15.1-1054, Code of Va.)

<sup>110</sup>One alternative available to the Town would be to request the special three-judge court to order elections for the entire Chincoteague Town Council, as a mutually supported corollary to the agreement, at an early date following the effective date of the annexation.


Summary

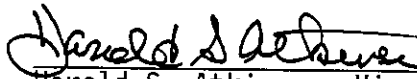
While this Commission has indicated in this report its inability to endorse the proposed annexation prior to the Town of Chincoteague's formal and full participation in the National Flood Insurance Program, and while we have recommended other actions by the Town which we consider to be necessary for the proper governance of the enlarged municipality, we find the proposed agreement, as presented to us, "in the best interest of the Commonwealth."


**CONCLUDING COMMENT**

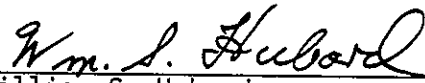
The Commission on Local Government acknowledges the considerable effort devoted by the officials of the Town of Chincoteague and Accomack County to the negotiation of the agreement currently before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. While proposing the recommendations set forth previously, we commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Respectfully submitted,

  
Frank Raflo, Chairman

  
Harold S. Atkinson, Vice Chairman

  
Mary Sherwood Holt

  
William S. Hubard

APPENDIX A

A G R E E M E N T

THIS AGREEMENT, made and entered into this 17 day of October, 1988, between the TOWN OF CHINCOTEAGUE, a Virginia municipal corporation (hereinafter referred to as "TOWN"), acting by and through its governing body, the Chincoteague Town Council, and ACCOMACK COUNTY, VIRGINIA (hereinafter referred to as "COUNTY"), acting by and through its governing body, the Accomack County Board of Supervisors.

WHEREAS, the Town Council of the Town of Chincoteague adopted on May 25, 1988 a Petition which was filed before the Commission on Local Government on June 6, 1988 concerning the annexation of the remainder of the Island District of Accomack County other than the present Town corporate limits; and

WHEREAS, the parties desire to enter into a voluntary settlement of a boundary line agreement pursuant to §15.1-1167.1 of Chapter 26.1:1 of Title 15.1 of the 1950 Code of Virginia, as amended, and to provide therein certain other agreements between the two governing bodies.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

SECTION I

The present boundary of TOWN will be adjusted so as to include all of the Island District of Accomack County less and except the island of Assateague and the right-of-way of Virginia primary highway Route 175 from the center of the bridge across Queen Sound Channel

to the present western corporate TOWN limit on the Island of Chincoteague, as set forth on plat attached hereto marked EXHIBIT "A".

## SECTION II

1. TOWN agrees to amend its present Transient Occupancy Tax Ordinance to permit COUNTY to collect its Two Percent (2%) transient occupancy tax in the entire Town of Chincoteague, including the present TOWN and the area to be annexed, thereby resulting in a "piggy-back" tax with COUNTY collecting its Two Percent (2%) tax and TOWN collecting its Two Percent (2%) tax, both in the present TOWN and the area to be annexed.

2. TOWN agrees to make no claim for any reimbursement from COUNTY or directly from the Federal Government for monies being paid by the U. S. Department of Interior through the Fish and Wildlife Service to COUNTY due to Assateague Island being owned by the Federal Government for revenue sharing purposes as a result of Assateague Island being removed from the real estate tax rolls.

3. TOWN will amend its Zoning and Subdivision Ordinances to provide that the provisions of COUNTY'S Zoning and Subdivision Ordinances will continue to be effective within the annexed area until after the new Town Council members to be elected in 1990 have taken office on July 1, 1990. Thereafter, TOWN shall be free to amend Zoning and Subdivision Ordinances applicable to the annexed area.

4. TOWN shall collect and pay to COUNTY Twenty-Five Percent (25%) of collections for consumer utility tax levied in the present TOWN and annexed area for a period of five (5) years beginning July 1, 1989.



5. COUNTY and TOWN agree to cooperate fully in expediting finalization of annexation, including making every reasonable effort to have annexation take effect by January 1, 1989, except that all revenue and non-property taxing aspects of this Agreement shall not take effect before the end of the current COUNTY budget cycle (i.e., July 1, 1989). If annexation does not take effect by January 1, 1989, it shall take effect in all aspects on July 1, 1989, including SECTION I and SECTION II paragraphs 1, 2, 3 and 4 of this Agreement.

### SECTION III

The boundary adjustment made pursuant to this Agreement shall be nullified in the event objection thereto is made by the Attorney General of the United States pursuant to 42 U.S.C. Section 1973 (c), generally known as the Voting Rights Act.

### SECTION IV

If the boundary line adjustment and the provisions of the Agreement set forth herein are not approved by the Court, or by the Attorney General of the United States, this Agreement shall be null and void in its entirety, and no part of this Agreement shall be admissible as evidence in any subsequent Court proceedings between the parties as to annexation or otherwise.

IN WITNESS WHEREOF, the County of Accomack has caused this Agreement to be signed by the Chairman of its Board of Supervisors pursuant to Resolution of the Board of Supervisors of Accomack County adopted on the \_\_\_\_\_ day of October, 1988, and the Town of Chincoteague has caused this Agreement to be signed by its Mayor pursuant to Resolution of the Town Council of the Town of Chincoteague adopted

on the 17 day of October, 1988.

COUNTY OF ACCOMACK

BY James C. Payne  
Chairman  
Board of Supervisors

TOWN OF CHINCOTEAGUE

BY Henry Stanley Horton  
Its Mayor

APPENDIX B

STATISTICAL PROFILE OF THE TOWN OF CHINCOTEAGUE  
COUNTY OF ACCOMACK, AND THE AREA PROPOSED FOR ANNEXATION

	<u>Town of Chincoteague</u>	<u>County of Accomack</u>	<u>Area Proposed for Annexation</u>
Population (1988)	1,220	32,300 <sup>a</sup>	2,314
Land Area (Square Miles)	0.79	602	42.0 <sup>b</sup>
Total Taxable Values (1987)	\$63,277,434	\$796,228,964	\$145,236,116
Real Estate Values (1987)	\$57,518,400	\$653,064,260	\$128,629,920
Public Service Corporation Values (1987)	\$1,451,833	\$53,174,261	\$2,166,757
Personal Property Values (1987)	\$3,690,679	\$81,735,602	\$9,299,755
Machinery and Tools Values (1987)	N/A	\$8,254,841	\$12,500
Mobile Homes (1987)	616,522	N/A	\$5,127,184
Existing Land Use (Square Miles)			
Residential	0.40	N/A	1.23
Commercial	0.10	N/A	0.39
Industrial	0.07	N/A	0.01
Public and Semi-Public	0.07	N/A	0.13
Vacant Land	0.15	N/A	7.01
Tidal Waters	0.0	N/A	33.2

NOTES

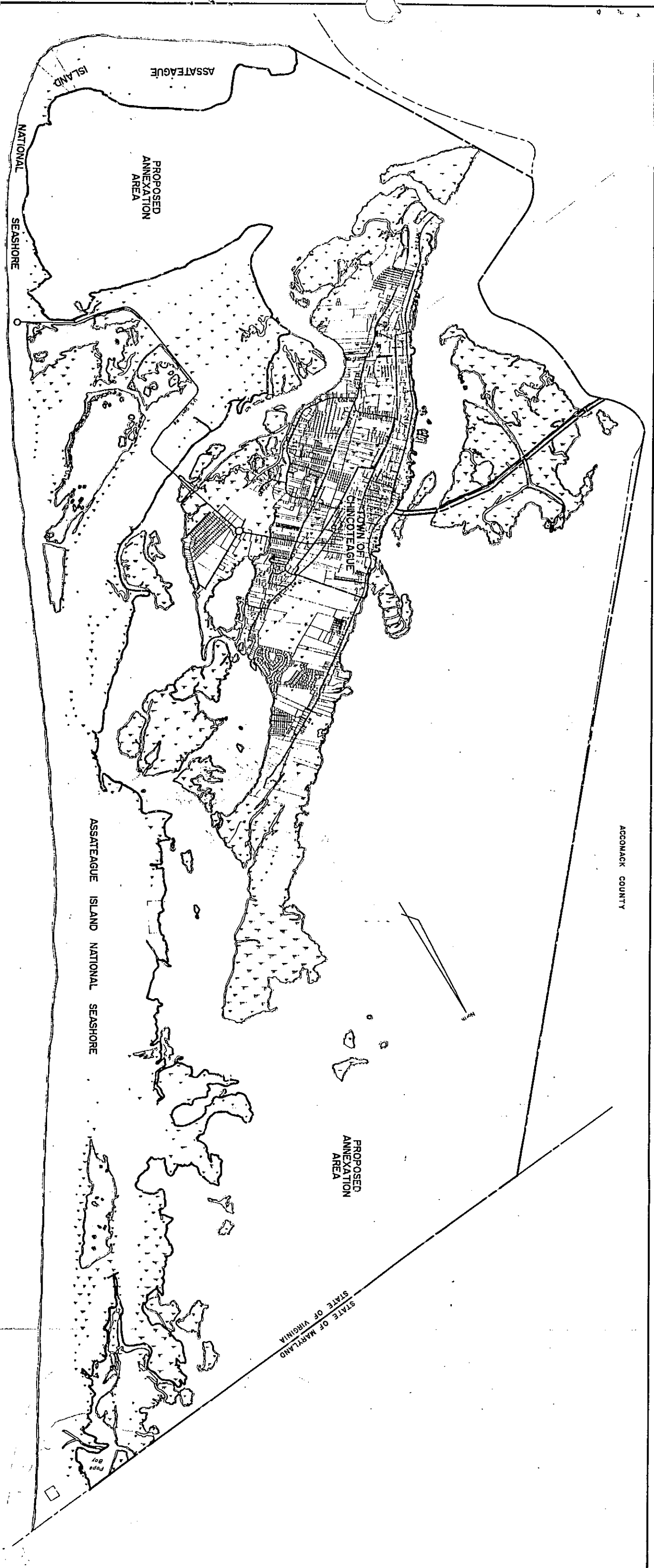
N/A = Not Available

<sup>a</sup>1987 population estimate.

<sup>b</sup>The area proposed for annexation includes 33.2 square miles covered by tidal waters.

SOURCE

Town of Chincoteague, Notice of Annexation Proceedings to the Commission on Local Government, Oct. 1988, pp. 9, 14 (Revised); and Taylor Turner, Consultant, Town of Chincoteague, letter to staff of Commission on Local Government, Nov. 16, 1988.



ACCOMACK COUNTY

STATE OF MARYLAND  
STATE OF VIRGINIA

PROPOSED ANNEXATION AREA

PROPOSED ANNEXATION AREA

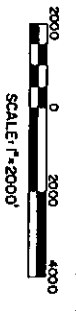
ASSATEAGUE ISLAND NATIONAL SEASHORE

NATIONAL SEASHORE

ASSATEAGUE ISLAND

TOWN OF CHINCOTEAGUE

**GENERAL LEGEND**  
 TOWN OF CHINCOTEAGUE, VA. CORP. LIMITS  
 PROPOSED ANNEXATION LINE



**MAP OF THE  
 TOWN OF CHINCOTEAGUE, VA.  
 AND ENVIRONS**

PREPARED BY  
 R. STUART ROYER & ASSOCIATES, INC.  
 RICHMOND, VIRGINIA

PROPOSED ANNEXATION AREA

TOWN OF CHINCOTEAGUE, VA. CORP. LIMITS

PROPOSED ANNEXATION LINE

REVISED 10/17/96  
M.A.P.