

**Report on the
Town of Colonial Beach - County of Westmoreland
Voluntary Settlement Agreement**



**Commission on Local Government
Commonwealth of Virginia**

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**REPORT ON THE
TOWN OF COLONIAL BEACH - COUNTY OF WESTMORELAND
VOLUNTARY SETTLEMENT AGREEMENT**

PROCEEDINGS OF THE COMMISSION

On June 14, 1993 the Town of Colonial Beach and Westmoreland County formally submitted to the Commission on Local Government for review a proposed voluntary settlement agreement which had been negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia. Consistent with the Commission's Rules of Procedure, the notice was accompanied by data and materials supporting the proposed agreement.¹ Further, in accordance with statutory requirements, the Town and County concurrently gave notice of the proposed agreement to 11 other political subdivisions with which they were contiguous or with which they shared functions, revenues, or tax sources.² The proposed agreement contains provisions which would (1) grant the Town an annexation of approximately 501.4 acres of territory in the County, (2) require the Town's renunciation of its authority to initiate succeeding annexation actions for a five-year period following the completion of Colonial Beach's new sewage treatment facility, (3) give the Town and County joint zoning control over certain territory located within each other's jurisdiction, and (4) reserve a specified number of connections to the Town's water and sewerage systems for use in unincorporated areas of the County.³

¹Town of Colonial Beach, Notice of the Town of Colonial Beach of Its Intent to Petition for Approval of a Voluntary Settlement with Westmoreland County and Supporting Data, (hereinafter cited as Town Notice).

²Sec. 15.1-945.7(A), Code of Va.

³Voluntary Settlement Between the Town of Colonial Beach and the County of Westmoreland (hereinafter cited as Voluntary Settlement). See Appendix A for the full text of the proposed agreement.

On July 13, 1993 the Commission toured the area proposed for annexation and other relevant areas and facilities in the Town and County and the following day received oral presentations from the parties in support of the settlement.⁴ In addition to its receipt and consideration of materials and testimony from the Town and County, the Commission solicited comment from other potentially affected local governments and from the public. Each locality qualifying for notice of the proposed agreement under the provisions of Section 15.1-945.7(A) of the Code of Virginia was invited by the Commission to submit testimony for its consideration. Further, on the evening of July 14, 1993 the Commission held a public hearing, which was advertised in accordance with Section 15.1-945.7(B) of the Code of Virginia, in Colonial Beach.⁵ In order to permit the receipt of additional comment, the Commission agreed to keep open its record through July 29, 1993 for written submissions from the public.

SCOPE OF REVIEW

The Commission on Local Government is directed by law to review proposed annexations, petitions for partial county immunity, other local boundary change and transition issues, as well as negotiated agreements settling such matters prior to their presentations to the courts for

⁴Because of illness, Commissioner Atkinson did not participate in the Commission's review of the proposed agreement and, consequently, is not a signatory to this report.

⁵The public hearing was attended by approximately 25 persons but produced testimony from only one individual.

ultimate disposition. Upon receipt of notice of such proposed action or agreement, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.⁶ With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

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

The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia be reviewed by this body prior to their final adoption by the local governing bodies. We are obliged to conclude, therefore, that while interlocal agreements are due respect and should be approached with a presumption of their consistency

⁶Sec. 15.1-945.7(A), Code of Va.

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 COLONIAL BEACH

The Town of Colonial Beach, which is located on the Potomac River approximately 25 miles east of Fredericksburg, was incorporated by the Virginia General Assembly in 1892 and currently is one of the principal municipalities on Virginia's Northern Neck.⁷ Although much of its early history is associated with the seafood industry, the Town has now become a major recreation and tourist center. Unlike most other towns in the Commonwealth, the resident population of Colonial Beach grew during the preceding decade, with its populace increasing between 1980 and 1990 from 2,474 to 3,132 persons, or by 26.6%..⁸ Based on its land

⁷Town of Colonial Beach, Comprehensive Plan (hereinafter cited as Town Comprehensive Plan), Apr. 1993, p. 3. The community of Colonial Beach was founded in 1867.

⁸U. S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Virginia, Table 14; and U. S. Department of Commerce, Bureau of the Census, 1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1. The Town's 1990 population represented 20.2% of Westmoreland County's total population. Less than one-third of Virginia's 189 towns experienced an increase in population during the decade of the 1980s. Only 18 towns in the State had rates of population growth which exceeded that of Colonial Beach during the prior decade.

area of 1.59 square miles and its 1990 population, the Town has a population density of 2,008 persons per square mile.⁹

With respect to the nature of its population, the evidence indicates that Colonial Beach's populace is significantly older than that of the State as a whole. Data reveal that, as of 1990, the median age of Town residents was 38.7 years, a statistic significantly greater than that for the State overall (32.6 years).¹⁰ Further, the percentage of the Town's 1990 population age 65 years and older was 22.6%, while the comparable figure for the State generally was only 10.4%.¹¹

Colonial Beach constitutes a major center of economic activity in Westmoreland County. Due to its various public and commercial facilities, Colonial Beach provides employment opportunities within its boundaries to many residents of the Town and the surrounding area. In 1993 the Town had within its corporate limits 547 positions in non-agricultural wage and salary employment, a figure which represents 18.3% of the total of such employment in the County.¹²

⁹Town Notice, Tab "General Data," p. 9. See Appendix B for a statistical profile of the Town, the County, and the area proposed for annexation. See Appendix C for a map of the Town and the area proposed for annexation.

¹⁰1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1.

¹¹Ibid.

¹²Town Comprehensive Plan, p. 31. The percentage is based upon total County employment reported for the second quarter of 1992. (Virginia Employment Commission, "Covered Employment and Wages in

In terms of the Town's physical development, 1993 land use statistics indicate that 48.2% of Colonial Beach's total area is devoted to residential development, 5.2% to commercial enterprise, 8.0% to public or semi-public uses, 23.7% to transportation or utility purposes, with 14.9% (148 acres) remaining undeveloped.¹³ Data presented by Colonial Beach indicate that much of the undeveloped acreage within the Town has development limitations imposed by locational concerns, parcel size, access to utilities or public arterial, or other appropriate land use considerations.¹⁴ In addition, environmental conditions, such as poor soils, tidal marshlands, and steep bluffs, make vacant sites within the current Town unattractive to potential developers. Thus, the evidence indicates that the Town of Colonial Beach has only a limited amount of vacant land suitable for future development.

COUNTY OF WESTMORELAND

The County of Westmoreland was created by the Virginia General Assembly in 1754 from territory formerly part of King George and Northumberland Counties.¹⁵ As in the case of the Town, Westmoreland

Virginia by 2-Digit SIC Industry for Quarter Ending March 31, 1992," Oct. 7, 1992.)

¹³Town Notice, Tab "Town's Need to Annex," p. 5, Table 1. It is significant to note that the 1993 survey of Colonial Beach disclosed that none of the territory within the Town was devoted to industrial operations.

¹⁴Ibid.; and Town Comprehensive Plan, p. 49.

¹⁵J. Devereux Weeks, Dates of Origin of Virginia Counties and Municipalities (Charlottesville: Institute of Government, University of Virginia, 1967).

County experienced growth in its population during the decade of the 1980s, with its populace increasing from 14,041 to 15,480 persons, or by 10.2%, between 1980 and 1990.¹⁶ On the basis of its 1990 population and an area of 227 square miles, the County has an overall population density of 68 persons per square mile.¹⁷

With respect to the nature of its population, statistical indices disclose that the County's populace, like that of the Town, is older than that of the Commonwealth generally. Data indicate that, as of 1990, the median age of residents of Westmoreland County was 38.4 years, a figure similar to that of the Town (38.7 years), but significantly in excess of that of the State as a whole (32.6 years).¹⁸ Further, the data indicate that, as of 1990, approximately 19.0% of the County's population was age 65 or over, a statistic less than that for the Town (22.6%), but almost twice that for the State generally (10.7%).¹⁹ Thus, these data, as those for the Town of Colonial Beach, reflect a population older than that of the Commonwealth overall.

¹⁶1980 Census of Population, General Population Characteristics, Virginia, Table 14; and 1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1. Also located within Westmoreland County is the Town of Montross, which in 1990 contained 359 persons. Between 1980 and 1990 the population of unincorporated portion of Westmoreland County increased by 7.9%.

¹⁷Town Notice, Tab "General Data," p. 9. In 1990 the population density of the unincorporated portion of Westmoreland County was 54 person per square mile.

¹⁸1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia, Table 1. The data for Westmoreland County include that for the residents of the County's two incorporated towns.

¹⁹Ibid.

In terms of the nature of its development, statistics indicate that Westmoreland County has experienced modest growth in its economic base during the decade of the 1980s. Between 1980 and 1990 the number of non-agricultural wage and salary employment positions in the County grew from 3,026 to 3,117, or by 3.0%.²⁰ Despite this growth in non-agricultural employment during the previous decade, data collected in April 1990 reveal that almost two-thirds of the County's total civilian labor force (5,937 persons) was unemployed or required to seek employment outside Westmoreland County.²¹ Further, with respect to the extent of its commercial and industrial development, the evidence suggests that agricultural and forestal activities remain significant components of the County's economy. As of 1987 (the latest year for which the data are available), there were 181 farms in Westmoreland County occupying a total of 70,165 acres (approximately 110 square miles), with the average market value of their agricultural products being \$61,071.²² Moreover, 1991 data disclosed that 74,248 acres (approximately 116 square miles) in Westmoreland County continued to be

²⁰Virginia Employment Commission, "ES-202 Covered Employment and Wages File, Annual Average Employment" (unpublished data for 1980 and 1990), Apr. 1992.

²¹Virginia Employment Commission, Labor Market Review, Vol. 4, No. 4, Apr. 1991; and Commuting Patterns of Virginia Workers: County and City Level for 1990, Mar. 1993. Statistics for Westmoreland County include that for the residents of Colonial Beach and Montross. Civilian labor force includes all individuals 16 years of age or over (exclusive of persons serving in the armed forces) within a specified geographic area who are either employed or unemployed but not seeking employment.

²²U. S. Department of Commerce, Bureau of the Census, 1987 Census of Agriculture, Virginia, Table 1, p. 152. In 1987 the average value of agricultural products sold by farms in the State collectively was \$35,464.

classified as "timberland."²³ In sum, while Westmoreland County experienced a population increase during the past decade, and while it witnessed growth in non-agricultural wage and salary employment, the County remains predominantly rural.

AREA PROPOSED FOR ANNEXATION

The area proposed for annexation in the agreement between the Town of Colonial Beach and Westmoreland County embraces two discrete parcels - Parcel A (66.4 acres), situated west of Colonial Beach's present corporate limits and extending on both sides of State Route 205; and Parcel B (435.0 acres), located northwest of the Town's corporate boundaries. Those parcels collectively embrace 501.4 acres of territory containing a 1993 estimated population of 12 persons and FY1992/93 assessed property values of \$3.5 million.²⁴ The area contains approximately 0.3% of the County's total land area, 0.08% of its total 1990 population, and 0.5% of its total 1993 assessed property values subject to local taxation.

²³U. S. Department of Agriculture, Forest Service, **Forest Statistics for the Coastal Plain of Virginia, 1991**, Table 1. The Forest Service defines "timberland" as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for non-forest use, capable of producing 20 cubic feet of industrial wood per acre per year, and not withdrawn from timber utilization by legislative action. Such property may also be included in the Census Bureau's definition of "farm land."

²⁴**Town Notice**, Tab "General Data," pp. 9, 11; and Carter Glass, IV, Special Counsel, Town of Colonial Beach, letter to staff of Commission on Local Government, Aug. 19, 1993. Assessed values for the area proposed for annexation are based on the use value of its real estate.

Although the area proposed for annexation is predominantly undeveloped or in agricultural or forestal uses, it does contain approximately a half-dozen residences, a shopping center as well as other commercial establishments, and the future site of the Town's new sewage treatment plant.²⁵ According to the most recent land use data, 1.0% of the area is devoted to residential development, 2.7% to commercial enterprise, 10.0% to public and semi-public uses, 2.0% to transportation purposes, with 84.3% of the area (422 acres) remaining vacant or engaged in agricultural production.²⁶ The development potential of Parcel A is enhanced by the presence of Town water and sewage lines, as well as by its location at the intersection of two arterial roads (State Route 205 and Colonial Avenue) that constitute the entrances to the Town. Further, the Town has advised the Commission that two major developments have been proposed for the undeveloped property in Parcel B.²⁷ In sum, although the area proposed for

²⁵Parcel A contains four mobile homes, which are located on property zoned for commercial use. Parcel B contains one single-family permanent residence and one mobile home. (Jerry W. Davis, Town Manager, Town of Colonial Beach, communication to staff of Commission on Local Government, Sep. 3, 1993.) Commercial operations in the area proposed for annexation include the Beachgate Shopping Center with nine retail stores and five other businesses. (Town Notice, Tab "Community of Interest," p. 3.) The Town owns approximately 48 acres of land in Parcel B, with 15 acres of that property to be occupied by its new sewage treatment facility.

²⁶Davis, communication with staff of Commission on Local Government, Sep. 3, 1993; and Town Comprehensive Plan, p. 50.

²⁷Although the predominant portion of Parcel B, known as the Wilkerson tract, is an active agricultural operation maintained in single ownership, that property has been the subject of two development proposals in recent years. In 1989 Westmoreland County rezoned 25 acres of the Wilkerson tract to permit the construction of approximately 160 condominium units. That project has not proceeded, however, because the developer was unable to obtain sewer service from the Town. (Stephen

annexation is predominantly vacant, it contains significant development potential.

STANDARDS FOR REVIEW

INTERESTS OF THE TOWN OF COLONIAL BEACH

While the annexation authorized under the terms of the proposed agreement will initially have an inconsequential impact on the population of the Town, it will provide Colonial Beach with 501.4 acres of territory and approximately \$3.2 million in current assessed property values subject to local taxation.²⁸ Although the territory proposed to be annexed is predominantly vacant or remains in agricultural or forestal uses, the evidence indicates that portions of the proposed area

Gunnells, Zoning Administrator, County of Westmoreland, communication with staff of Commission on Local Government, Sep. 17, 1993.) Further, in 1992 representatives of the Wilkerson tract petitioned Westmoreland County to rezone approximately 396 acres of that property to permit the construction of 940 single-family, townhouse and condominium units, a golf course, and a small shopping center on the site. (Ibid.; and Karen E. Lewis, Acting County Administrator, County of Westmoreland, letter to staff of Commission on Local Government, Aug. 5, 1993.) Westmoreland County denied the rezoning request, in part, because the proposed development would require sewer service from Colonial Beach. At the time the rezoning petition was under consideration, the Town had insufficient capacity in its sewage treatment plant to support the intensity of development requested for the property. (George Mason, III, County Attorney, County of Westmoreland, presentation to Commission on Local Government, July 14, 1993.)

²⁸Town officials estimate that based on current assessment data, tax rates, and fee structures, the area proposed for annexation is expected to generate initially approximately \$47,400 annually in additional local-source revenues and \$3,800 annually in State categorical aid, respectively. (Town Notice, Tab "Ability to Finance," pp. 4-5.) Collectively, the estimated revenue would comprise approximately 1.6% of the Town's FY1991/92 total revenue.

have significant potential for future residential, commercial, or industrial development by virtue of their location along major arterials leading to Colonial Beach.²⁹ In addition, both parcels in the area proposed for annexation are located in close proximity to existing or planned public utility lines, which further enhance their development potential.³⁰ Thus, while the area proposed for annexation currently contains only modest fiscal resources and limited service liabilities, both can be expected to increase with the development of the area.

The data suggest that an expansion of the Town's boundaries would contribute to the continued viability of Colonial Beach and, thus, to Westmoreland County. Evidence presented by the Town indicates that much of the recent commercial development in the Town's environs has occurred in areas adjacent to the municipality, with some of that growth resulting from businesses leaving the municipality.³¹ Further, the

²⁹Town Notice, Tab "Town's Need to Annex," p. 2, and Map Exh. 4. The Town's recently adopted comprehensive plan recommends continued commercial development along State Route 205 in the vicinity of the Beachgate Shopping Center in Parcel A. That plan also proposes light industrial uses for the area adjacent to the Town's new sewage treatment plant in Parcel B, with the balance of that parcel reserved for a planned-unit residential development. (Town Comprehensive Plan, Exh. K.)

³⁰Town Notice, Tab "Service Plan," p. 1; and Davis, testimony before Commission on Local Government, July 14, 1993. All of the residences and retail operations in Parcel A are connected to Town water and sewer lines, but only one business in Parcel B receives sewage collection services from Colonial Beach. (Davis, communication with staff of Commission on Local Government, Sep. 21, 1993.) Further, in conjunction with the construction of its new sewage treatment plant in Parcel B, the Town will install a 20-inch sewer line through a portion of that tract which will be available to serve future development.

³¹Colonial Beach officials have stated that since the opening of the Beachgate Shopping Center in Parcel A, most of the businesses in the Colonial Avenue shopping center in the Town have terminated their

potential for future industrial development within the Town is limited by the lack of suitable vacant land for such activity.³² The proposed annexation would alleviate that condition.

In addition to the two factors cited above, there is another issue concerning the future viability of the Town which merits comment. Colonial Beach is one of only two towns in the Commonwealth which operate independent school divisions.³³ While the Town receives substantial financial support from the State for its public school system, approximately 69.5% of Colonial Beach's maintenance and operations expenditures in FY1991/92 were for educational purposes.³⁴ Since taxes on real property comprised almost one-fourth of the Town's local-source revenues during that period, a substantial portion of the burden of supporting the independent school system fell on real property

operation, leaving that facility largely vacant. (Town Notice, Tab "Town's Need to Annex," pp. 1-2.)

³²Ibid. A 1993 land use survey of the Town also revealed that there were no manufacturing or fabrication industrial operations within the current boundaries of Colonial Beach. (Town Comprehensive Plan, p. 48.)

³³The other town that operates an independent school division is West Point, which is located in King William County.

³⁴In FY1991/92 the Commonwealth provided 64.4% of the funds expended by the Town for educational purposes. During that same period 5.3% of the Town's school expenditures were from federal sources, and additional 14.0% came from Westmoreland County. (Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1992, Exh. C-6; and Town of Colonial Beach, Comprehensive Annual Financial Report, June 30, 1992.) In addition, during that same period, approximately half of the Town's long term debt obligations were for its school system. (Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1992, Exh. G.)

owners in Colonial Beach. Indeed, statistics disclose that Town residents do bear a significantly higher real property tax burden than that borne by taxpayers in towns of comparable size (i. e., with populations between 2,000 and 4,000 persons) in Virginia. In 1992 the nominal real property tax rate in Colonial Beach was \$0.89 per \$100 of assessed value, a figure more than three times the average of such rates (\$0.265) for the other 22 towns in the specified set of localities.³⁵ Further, when Westmoreland County's 1992 real property tax rate (\$0.80) is added to the Town (\$0.89), the 1992 aggregate real property tax rate in Colonial Beach (\$1.69) is higher than the aggregate rate of any other town in Virginia and more than double the average of such aggregate tax rates (\$0.82) of the other municipalities in specified population range.³⁶ Moreover, Colonial Beach's aggregate real property tax rate in 1992 was higher than that of any city or county in the Commonwealth.³⁷ These statistics reflect the need to strengthen the

³⁵Virginia Department of Taxation, Local Tax Rates, Tax Year - 1992. The range of nominal real property tax rate for the 22 towns was between \$0.184 and \$0.42. According to information provided by the Town, the true real property tax rate in 1992 in Colonial Beach was \$0.56. (Town Notice, Tab "General Data," p. 24.) The Town's true property tax rate was calculated by multiplying its nominal real property tax rate by the median ratio of assessed property values and sales in Westmoreland County as determined by the Virginia Department of Taxation.

³⁶Local Tax Rates, Tax Year-1992. For the 22 towns the range for aggregate tax rates was between \$0.564 and \$1.10. The Commission notes, however, that a portion of the property tax revenues that the County derives from property located within Colonial Beach is returned to the Town for educational purposes. If Westmoreland County's true real estate tax rate in 1992 (\$0.50) is added to that of the Town's (\$0.56), an aggregate true real property tax rate of \$1.06 for the residents of Colonial Beach would result. (Town Notice, Tab "General Data," p. 24.)

³⁷Local Tax Rates, Tax Year-1992.

revenue resources of the Town and support the annexation called for in the proposed agreement.

Another component of the proposed agreement with major implications for Colonial Beach is the set of provisions which commits the Town and Westmoreland County to a cooperative land use regulatory program for managing future growth in a specified geographic sector encompassing the area proposed for annexation and territory outside the property to be annexed, identified as the "County Impact Area." The County Impact Area, which is located between annexation Parcels A and B and contiguous to State Route 205, contains approximately 545 acres and 90 residents.³⁸ The Town's recently adopted comprehensive plan identifies the County Impact Area as having potential for future commercial development due to its proximity to State Route 205 and its access to existing and planned public utility lines.³⁹ In the proposed agreement the Town and Westmoreland County have agreed that for a ten-year period following the completion of the Town's new sewage treatment plant, any request to rezone property within the area proposed for annexation or within the County Impact Area will require the approval of both jurisdictions.⁴⁰

³⁸Davis, letter to staff of Commission on Local Government, Aug. 5, 1993; and communication with staff of Commission on Local Government, Sep. 14, 1993. The County Impact Area was initially included as a component of the area sought for annexation by the Town.

³⁹Town Comprehensive Plan, pp. 106-107, 110 and Exh. K.

⁴⁰Voluntary Settlement, Sec. 6. Under the terms of the agreement, the Town's treatment plant will be considered "completed" on the date the facility begins operation after receiving all required permits from the Virginia Department of Health and the Virginia Water Control Board.

The joint land use regulatory provisions of the proposed agreement will enable the Town to influence the scope and nature of development that will occur in an area of major significance to Colonial Beach. The portions of the County Impact Area that have frontage along State Route 205 adjoin the principal entrance to the Town. In addition, following the effective date of the annexation, the County Impact Area will be surrounded on two sides by the enlarged municipality. Town approval of rezonings in that area will be especially important in protecting the State Route 205 corridor, and the County Impact Area in general, from uncoordinated development. The joint commitment by both jurisdictions to collaborate on rezoning requests and development concerns in the Town's environs is unique in the Commonwealth and will be of increasing benefit to Colonial Beach in the future. In our judgment, for the reasons specified the proposed agreement is in the best interest of the Town of Colonial Beach.

INTERESTS OF THE COUNTY OF WESTMORELAND

While the proposed annexation sanctioned by the agreement between the Town and the County would result initially in a small loss of revenue to Westmoreland County, that loss should be more than offset in the long-term.⁴¹ All properties annexed by the Town would remain

(*Ibid.*, Sec. 2.5.) Town officials have indicated that the new sewage treatment facility is scheduled to be operational in the spring of 1994. (Davis, testimony before Commission on Local Government, July 14, 1993.)

⁴¹Estimates developed by the Town indicate that the proposed annexation will result initially in an annual loss by the County of approximately \$24,000 in general and school fund revenues. That

subject to taxation by Westmoreland County. Further, the proposed annexation will assure the Town of Colonial Beach of land for future development, and any growth which does occur in the areas annexed will benefit both the Town and County. Moreover, as development occurs within the annexed area, the County will be relieved of providing certain public services to that territory.

Aside from the proposed annexation, there are three other elements of the proposed agreement which affect the interest of Westmoreland County. First, the agreement contains a provision by which the Town agrees not to initiate any subsequent annexation for a five-year period following the completion of the Town's new sewage treatment plant.⁴² Second, the proposed agreement provides that, once the new municipal wastewater facility is operational, the Town will reserve 20 residential equivalent water connections and the same number of residential equivalent sewer connections for use by properties located in the unincorporated portions of the County.⁴³ That provision will

estimated revenue loss constitutes 0.15% of Westmoreland County's FY1992/93 total general and school fund revenues. (Town Notice, Tab "Impact on County," pp. 2-3.) A representative for Westmoreland County has expressed concurrence with the Town's calculations. (Lewis, letter to staff of Commission on Local Government, Aug. 5, 1993.)

⁴²Voluntary Settlement, Sec. 2.5.

⁴³Ibid., Sec. 7. For purposes of the interlocal settlement, a residential equivalent connection is defined as one which uses, in the case of water, a maximum of 450 gallons of water per day or which discharges, in the case of sewer, a maximum of 450 gallons of wastewater per day. Under the terms of the proposed agreement, the reserved utility connections are available for use by residential, commercial, or industrial customers approved by the County for a period of ten years following the completion of the Town's new wastewater treatment plant. Further, property owners in the unincorporated territory who have

facilitate development consistent with the County's needs and interests. Third, the previously cited component of the agreement which requires County approval of rezonings in the area proposed for annexation during for a ten-year period subsequent to the completion of the Town's sewage facility will assure Westmoreland County of a significant role in the development of that area even after its incorporation into the municipality. To the extent that cooperative management of the annexed area and portions of adjacent unincorporated territory leads to rational and aesthetically pleasing development, it will foster community pride and the prosperity of both jurisdictions. In sum, these various provisions, coupled with the modest initial adverse fiscal impact of the proposed annexation, are features of the agreement which are, in the Commission's judgment, in the interest of Westmoreland County.

INTERESTS OF THE AREA PROPOSED FOR ANNEXATION

Urban Services

The proposed agreement permits the Town of Colonial Beach to annex 501.4 acres of predominantly undeveloped territory, containing only 6 dwelling units and 14 businesses, with few immediate urban service needs. As indicated previously, however, portions of the proposed area have enhanced development potential due to their access to a major thoroughfare and public utility lines. Although the future development

received approval from the County to connect to Colonial Beach's utility lines must agree to bear 100% of the costs and to dedicate the facilities or improvements to the Town.

of the area proposed for annexation will depend upon various factors, not all of which can be controlled by either the Town or the County, the ability of Colonial Beach to meet the urban service needs of the area, especially the provision of public water and sewerage facilities, will increase the growth potential of that territory. Thus, in brief, in the Commission's judgment, the area proposed for annexation will experience development pressure and will need additional urban services.

With respect to such service needs, the Commission observes that the Town of Colonial Beach is the only source of public water presently available to serve the area proposed for annexation. The Town currently serves directly 1,924 connections within its present boundaries and 15 connections in the area proposed for annexation.⁴⁴ Colonial Beach obtains all of its water from three wells located within its present boundaries, and those sources have an aggregate yield of approximately 1.6 million gallons per day (MGD).⁴⁵ Since the connections served by the Town's system consumed in 1992 approximately 0.595 MGD, the municipal system currently retains an unused reserve of approximately

⁴⁴Davis, letter to staff of Commission on Local Government, Aug. 13, 1993. The Town does not meter any of its water customers. (Glass, letter to staff of Commission on Local Government, July 12, 1993; and Davis, testimony before Commission on Local Government, July 14, 1993.) Within the area proposed for annexation, all of residences and businesses in Parcel A are connected to Town water lines. Non-residents pay a surcharge of 50% for municipal water service. (Davis, testimony before Commission on Local Government, July 14, 1993.)

⁴⁵Virginia Department of Health, Division of Water Supply Engineering, "Waterworks Operation Permit, Town of Colonial Beach," May 10, 1993. Water from the Town's wells is chlorinated prior to distribution for public use. (Davis, communication with staff of Commission on Local Government, Sep. 21, 1993.)

1.0 MGD.⁴⁶ The Town is prevented, however, from utilizing fully this reserve because of insufficient storage capacity. Although Colonial Beach has three storage facilities, which collectively have an effective capacity of 400,000 gallons of water, Virginia Department of Health regulations limit the number of connections which can be served by the Town's water system to 2,000 until additional storage capacity is provided.⁴⁷ Moreover, Colonial Beach officials have acknowledged that there are other deficiencies in the Town's water system, such as insufficient water supply and the need to replace or upgrade some of its water transmission lines to accommodate any additional demands for service, which will have to be addressed in order for the municipal system to serve properly future development in the areas annexed.⁴⁸ Since there is no immediate need to extend water service to the area proposed for annexation, Colonial Beach should have sufficient time to address the deficiencies in its water system to meet its future needs.⁴⁹

⁴⁶As a tourist center, water consumption fluctuates between 1.0 MGD during the summer months and approximately 0.550 MGD during the off season. (Town Comprehensive Plan, p. 59.)

⁴⁷"Waterworks Operation Permit, Town of Colonial Beach." Based on the Virginia Department of Health's 1992 Waterworks Regulations, a connection is defined as one which consumes 400 gallons of water per day.

⁴⁸Davis, testimony before Commission on Local Government, July 14, 1993. The Town's recently adopted comprehensive plan indicates that some of the water mains in Colonial Beach need to be replaced or upgraded due to age or insufficient size for fire protection. (Town Comprehensive Plan, p. 60, 119.) The Town plans to initiate a program to replace all inadequate water mains and service laterals over the next 25 years, and, as part of that project, Colonial Beach will install additional fire hydrants to increase fire protection. (Ibid., p. 60.)

⁴⁹The Town recently received a preliminary draft of a hydraulic study of the entire municipal water system, which estimated that the needed improvements to Colonial Beach's water supply and distribution

Similarly, the Town of Colonial Beach offers the only source of central sewage treatment services in the general vicinity. The Town's wastewater treatment plant, which was upgraded to a secondary treatment facility in 1975, has a rated capacity of 0.8 MGD.⁵⁰ The municipal collection system serves 1,939 connections, including 15 in the area proposed for annexation.⁵¹ Due to demands placed on that facility during the summer months by tourists, and the inflow of stormwater and the infiltration of groundwater into the Town's collection lines, the average flow exceeds the plant's capacity by approximately 0.1 MGD.⁵² In order to comply with a 1988 consent order issued by the State Water Control Board, Colonial Beach is currently constructing a new sewage treatment plant and addressing the infiltration and inflow problems.⁵³

system would cost approximately \$2.0 million. (Davis, communication with staff of Commission on Local Government, Oct. 8, 1993.)

⁵⁰Town Comprehensive Plan, p. 61.

⁵¹Davis, letter to staff of Commission on Local Government, Aug. 13, 1993. The sewage service charge for in-Town users is \$225 a year, while the fee for non-resident customers is 50% greater.

⁵²Town Comprehensive Plan, p. 61; and Davis, testimony before the Commission on Local Government, July 14, 1993. Recent tests of the Town's collection system revealed that infiltration and inflow into the sewer lines increased wastewater flows through the system to as much as 4.0 MGD.

⁵³Pursuant to the State Water Control Board consent order, the Town is permitted to add only 20 new residential equivalent sewer connections to collection lines until the new wastewater treatment facility is completed. ("State Water Control Board Enforcement Action, A Special Order Issued to the Town of Colonial Beach," Aug. 10, 1990; and Davis, communication with staff of Commission on Local Government, Sep. 21, 1993.) According to Town officials, Colonial Beach has adopted a schedule of improvements to repair or replace deteriorated sewage collection lines over the next ten years. The Town will be required to expend approximately \$100,000 annually for that project. That schedule has been incorporated into the State Water Control Board's consent order with the Town. (Ibid.; and Davis, testimony before the Commission on

The new treatment facility, which is scheduled to be completed in the spring of 1994, will have a permitted capacity of 2.0 MGD.⁵⁴ Thus, as the area proposed for annexation develops, the Town's sewerage system should meet the needs of the enlarged municipality.

In terms of other service concerns, the evidence indicates that the Town of Colonial Beach currently offers an array of public services to its residents and, in our judgment, has the capacity to extend those services to the annexed areas as the need arises. First, the Town provides solid waste collection services to its residents on a weekly basis, with the cost of this service being borne by general tax revenue.⁵⁵ Second, the Town's planning and land development control activities, which are administered through a planning commission assisted by a full-time planner and guided by a recently adopted comprehensive plan, should be of increasing benefit to the annexed area

Local Government, July 14, 1993.)

⁵⁴Town Comprehensive Plan, p. 61. The new sewage treatment facility, which will cost approximately \$7.0 million, is being financed by a 20-year interest free loan from the Virginia Resource Authority's revolving loan fund. Of that amount, approximately \$1.0 million is for the installation of line connecting the Town's existing sewage collection system to the new plant. The treatment facility is being constructed so that its capacity can be doubled as future conditions warrant. (Davis, testimony before the Commission on Local Government, July 14, 1993.)

⁵⁵Ibid.; and Town Comprehensive Plan, p. 61. The Town also provides periodic collection of leaves and yard debris. Commercial establishments and large apartment complexes located within the Town, however, are required to contract with private collectors for such service. Refuse collected by the Town and private collectors is deposited at the Westmoreland County landfill. (Davis, testimony before the Commission on Local Government, July 14, 1993.)

as it develops.⁵⁶ Third, the Town augments the County's crime prevention and protection services by a municipal police department, consisting of eight full-time and three part-time sworn law enforcement personnel, which will enhance public safety in the annexed area.⁵⁷ While the Town does not propose to add initially any additional law enforcement personnel for purposes of extending services to the annexed area, the Colonial Beach police department has already demonstrated a capacity to provide service in that area when requested to do so.⁵⁸ Finally, Colonial Beach has a policy of operating and maintaining at public expense streetlights where such are deemed appropriate for the public welfare.⁵⁹ The Town accepts requests for additional

⁵⁶Town Notice, Tab "Urban Services," p. 7. The Town's comprehensive plan was adopted in March 1993. The Town's zoning and subdivision ordinances are presently undergoing revision to reflect the recently adopted comprehensive plan. That effort is being assisted by a grant from the Chesapeake Bay Local Assistance Board. (Davis, testimony before the Commission on Local Government, July 14, 1993.) The Commission observes that the Town's planning instruments fail to include an adopted five-year capital improvement plan to coordinate the provision of public facilities consistent with the comprehensive plan.

⁵⁷Town Notice, Tab "Urban Services," p. 8. The staffing level of the police department is sufficient to maintain patrols on Town streets 24 hours per day, with an average of two police officers on duty at all times. The Town's law enforcement efforts are also assisted by four reserve police officers. In addition, the County sheriff's department provides traffic control for special public events in the Town. (Davis, testimony before the Commission on Local Government, July 14, 1993.)

⁵⁸Ibid. During 1992 the Town's police department responded to 72 calls for service from the area proposed for annexation.

⁵⁹There are currently 398 publicly funded streetlights within the Town's corporate limits, but there are no streetlights operated at public expense in the area proposed for annexation. (Davis, letter to staff of Commission on Local Government, Aug. 13, 1993.) Town officials have identified the need for approximately ten such lights in that area and propose to install the needed fixtures within two years following the effective date of the annexation. (Davis, testimony before the Commission on Local Government, July 14, 1993.)

streetlights from residents, and if such requests are considered meritorious, the lights are installed by Virginia Power Company and subsequently operated at Town expense.⁶⁰ In sum, the availability of these urban services to the annexed area will be of increasing benefit to residents of the annexed area as it develops.

Educational Services

Because the Town of Colonial Beach operates a school division separate from that of Westmoreland County, any analysis of the proposed agreement must include consideration of the capacity of the Town to meet the prospective educational needs of the students who will reside in the area proposed for annexation. According to Virginia Department of Education data for the 1991/92 school year (the latest year for which statistics are available), there were 630 students in average daily membership (ADM) in the Colonial Beach schools.⁶¹ Data provided by the Town indicate that the 1991/92 ADM slightly exceeds the capacity (approximately 621 students) of its permanent facilities, but mobile classrooms have been added to the primary and elementary schools to accommodate the excess students.⁶² There is evidence to suggest,

⁶⁰Ibid.

⁶¹Virginia Department of Education, Superintendent's Annual Report for Virginia, 1991-92, Table 17. The data reflect the ADM as of September 30 of the 1991/92 school year. An official for the Town has indicated that there are approximately 130 non-resident students enrolled in the Colonial Beach school system. (Davis, testimony before Commission on Local Government, July 14, 1993.)

⁶²Town Notice, Tab "Urban Services," p. 19. The Town's school facilities consist of four buildings, which house the kindergarten, primary (Grades 1-3); elementary (Grades 5-7), and the high school (Grades 8-12) levels. Although additional classrooms have been added to

however, that, exclusive of the impact of the proposed annexation, the Town's school system may confront increased spatial concerns in the immediate future. The University of Virginia's Center for Public Service projections of school membership indicate that the enrollment in the Town's school system, as presently constituted, will increase to 677 students by the end of the decade.⁶³ Again, that estimate does not reflect the impact of the proposed annexation and the growth which may be facilitated by the Town's new sewage treatment plant. Those two factors can be expected to spur additional development within the enlarged Town which would place further demands on Colonial Beach's school facilities.⁶⁴

the primary and elementary facilities, the high school has sufficient capacity to accommodate its students. (Ibid.; and Superintendent's Annual Report for Virginia, 1991-92, Table 2.)

⁶³Center for Public Service, University of Virginia, "Colonial Beach Town Fall Membership Projections," unpublished data from Projection of Educational Statistics to 2012 by Michael A. Spar, Susan H. Sakurada, and Julia H. Martin (publication pending). Enrollment in the Town's school system is projected to increase to 736 students by the 2007/08 school year. The student membership data cited are for September 30 of each school year. The Center for Public Service projections were produced with the support of the Virginia Department of Education and the State Council for Higher Education. [Michael A. Spar, Susan H. Sakurada, and Julia H. Martin, Projection of Educational Statistics to 2011 (Charlottesville: Center for Public Service, University of Virginia, Aug. 1992), p. 1.]

⁶⁴Ibid. Projections of student membership by the Center for Public Service are based on historical information and assumes that recent trends will continue into the future. At the present time, the Town has requests for 231 residential equivalent connections to its sewage collection lines which have been postponed until the new municipal treatment facility is completed. Of that number, however, 160 connections are for a condominium development in Parcel B, and 58 connections are for a low and moderate income apartment complex for elderly residents in the Town's Classic Shores neighborhood. (Davis, letter to staff of Commission on Local Government, Aug. 5, 1993.)

Housing and Transportation

In addition to the services discussed above, the Commission also wishes to acknowledge the Town's efforts to address the housing and public transit needs of its residents. Through its acquisition of a \$1.2 million Community Development Block Grant, the Town will rehabilitate approximately 20 single-family dwelling units and make improvements to public infrastructure in the State Route 205/Classic Shores area for the benefit of low and moderate income persons.⁶⁵ In terms of public transportation, Colonial Beach, which began its operation of a transit system in 1981, currently operates a fixed-route bus system, which serves the Town and adjoining areas in Westmoreland County.⁶⁶ In addition, scheduled trips to regional shopping and employment centers are offered. In our judgment, both housing and public transportation are fundamental concerns of local government.

⁶⁵Town of Colonial Beach, "Community Improvement Grant," Part II - Community Needs and Program, Mar. 12, 1992. Public improvements in the State Route 205/Classic Shores area include upgrading water and sewer lines, storm drainage and street improvements, installation of sidewalks and streetlights, and the removal of blighted structures. In its application for the Community Development Block Grant, the Town included a portion of the County Impact Area within the boundaries of the project area, and, thus, the residents of that unincorporated tract will be eligible to apply for housing rehabilitation assistance under the grant received by the Town.

⁶⁶Town Comprehensive Plan, p. 56. While Colonial Beach receives State and federal assistance for the operation of its transit system, the Town is required to supplement that assistance with local funds. An official for Colonial Beach has stated that the Town is expected to provide approximately \$13,000 in local funds to support the fixed-route system during FY1993/94. (Davis, testimony before the Commission on Local Government, July 14, 1993.)

Summary

Based upon our review of services currently available to the residents of Colonial Beach, the Commission concludes that the various services offered by the Town of Colonial Beach will benefit the area proposed for annexation. Such services will grow in significance to that area as it develops.

FINDINGS AND RECOMMENDATIONS

The interest of the State in this and similar interlocal issues is, from the Commission's perspective, the development of a resolution which equitably reconciles the interests of the affected residents and which protects and promotes the viability of the jurisdictions involved. In our judgment, the proposed agreement between the Town of Colonial Beach and Westmoreland County meets that standard. Accordingly, we recommend the court's approval of the proposed agreement. While finding the agreement, as presented, in the best interest of the Commonwealth, there are two related issues which should be addressed in this report.

BOUNDARIES OF THE AREA PROPOSED FOR ANNEXATION

As noted previously, the proposed agreement between Colonial Beach and Westmoreland County authorizes the Town to annex two separate areas adjacent to the municipality's current corporate limits. The boundaries of the area proposed for annexation have been drawn in a manner, however, which would leave in the unincorporated portion of the County

two tracts of land, identified as Coopersville and the County Impact Area, which will be virtually surrounded by the enlarged municipality. There is strong evidence to suggest that both areas should be included within the territory to be annexed by Colonial Beach.

With respect to this issue, we note that the Coopersville area is situated on the northwestern side of State Route 205 between the current Town boundaries and annexation Parcel B. The area encompasses approximately 40 acres and 22 residences.⁶⁷ A representative of Colonial Beach has indicated that the Town and County agreed to exclude Coopersville from Parcel B at the request of the residents of that area.⁶⁸ The Commission is unable to find, however, any appropriate basis for the exclusion of that territory from the area to be annexed. The territory in question has no unique features which distinguish it from the other areas which will be annexed by the Town.

Following the expansion of the Town's boundaries, the Coopersville area will not be accessible to the unincorporated portion of the County except through Colonial Beach. Further, the annexation of the properties in question would simplify and rationalize the administration of a number of public services in that area, such as law enforcement,

⁶⁷Davis, letter to staff of Commission on Local Government, Aug. 5, 1993. According to estimates furnished by the Town, the Coopersville area contains approximately 75 persons.

⁶⁸Davis, testimony before Commission on Local Government, July 14, 1993.

planning, and land development regulation.⁶⁹ Furthermore, while the Coopersville area has no immediate need for public water and sewer services, the Town would be the appropriate jurisdiction to extend those services to the area should conditions warrant.⁷⁰ Moreover, there exists a strong community of interest between the Coopersville area and the Town of Colonial Beach, which will increase in significance following the annexation.⁷¹ The residents of that area should be expected to support the adjoining municipality with their civic involvement and resources. The interrelationship and interdependence of the Town and Coopersville argue for the incorporation of that area into Colonial Beach. While the exclusion of the area in question from the territory to be annexed by the Town can not be seen, in our judgment, as a defect so grave as to threaten the legal acceptability of the proposed

⁶⁹The provision of the proposed agreement which requires Town approval of rezoning requests in certain portions of the County does not apply to the Coopersville area. (*Ibid.*) The Commission observes, however, that the agreement gives Westmoreland County authority to approve rezoning requests in that portion of the area proposed for annexation which abuts the Coopersville area to the west and south.

⁷⁰Although the Town has water and sewer lines in the vicinity of the Coopersville area, the residents of that area are served by individual septic tanks and by either a private water system or separate wells. A 1981 survey of Westmoreland County revealed that the predominant portion of the soils within the Coopersville area possess qualities which generally have moderate limitations for the disposal of effluent from septic tank drain fields. (U. S. Department of Agriculture, Soil Conservation Service, Soil Survey of Westmoreland County, Virginia, Aug. 1981.) Further, County records reveal that most of the septic tanks in the Coopersville area are functioning properly and have experienced only a limited number of problems. (David Harrison, Sanitarian, Westmoreland County Health Department, communication with staff of Commission on Local Government, Oct. 1, 1993.)

⁷¹The incorporation of the Beachgate Shopping Center into the Town will place the only major grocery store in the general area within Colonial Beach.

agreement, the omission is inconsistent with the principles and practices which should delineate areas appropriate for annexation. Accordingly, we strongly recommend that the Town and the County modify the boundaries of Parcel B to include all properties located in the Coopersville area.

While the County Impact Area will be similarly impacted by the proposed new municipal boundary line, the situation is not exactly parallel to that of Coopersville. In this regard, we note that the County Impact Area, which is located between Annexation Parcels A and B, will be contiguous to Colonial Beach only on two sides following the proposed annexation. Although the County Impact Area is predominantly vacant, it has been identified in the Town's recently adopted comprehensive plan as having potential for future commercial and industrial development and currently contains two residential neighborhoods located, respectively, along State Routes 205 and 632.⁷² Physical tours of the area by members of the Commission revealed, however, that unlike Coopersville, both neighborhoods in the County Impact Area contain predominantly low and moderate income residents who have a need for improved public services, especially public water and sewerage. That judgment is reinforced by the fact that records maintained by the Westmoreland County health department reveal a

⁷²According to information provided by the Town, the State Route 205 community contains 10 dwelling units and approximately 35 persons, while the State Route 632 neighborhood encompasses 16 housing units and approximately 55 persons. (Davis, letter to staff of Commission on Local Government, Aug. 5, 1993.)

pervasive problem in both neighborhoods with failing septic tanks and unsatisfactory pit privies.⁷³

Given the nature of the County Impact Area and the constraints currently confronting the Town regarding an extension of its utility systems, annexation of that area at the present time may not be appropriate. Accordingly, while refraining from recommending annexation at this time, we propose that the Town and the County work in a collaborative fashion to assist residents of the County Impact Area to obtain needed utility service.⁷⁴ Since future development in the County Impact Area will be subject to the joint land use regulatory program called for in the proposed agreement, there may be opportunities

⁷³Harrison, communication with staff of Commission on Local Government, Oct. 1, 1993. In addition, the 1981 survey of Westmoreland County found that the soils within the County Impact Area to be poorly drained with severe limitations for septic tank drainfields. (Soil Survey of Westmoreland County, Virginia.)

⁷⁴Such action could include the expansion by the Town and County of the utility assistance programs currently in operation within their respective jurisdictions. For example, one of the projects which could be funded under Colonial Beach's Community Development Block Grant is an extension of municipal lines to the State Route 205 neighborhood in the County. In addition, the Westmoreland Housing Coalition, Inc., a private, non-profit organization, has utilized funds from the Virginia Indoor Plumbing Rehabilitation (VIPR) Program to assist financially residents of the unincorporated portions of the County obtain safe and sanitary drinking water and sewage disposal. In order to qualify for assistance from the VIPR Program, however, the housing unit to be rehabilitated must be connected to central sewerage or be served by an on-site sewage disposal system that is approved by the Virginia Department of Health. (Elizabeth S. Bush, Director, Westmoreland Housing Coalition, Inc., communication with staff of Commission on Local Government, Oct. 6, 1993.)

for the County, in concert with Colonial Beach, to extend municipal utility lines into that area.⁷⁵

FISCAL MANAGEMENT

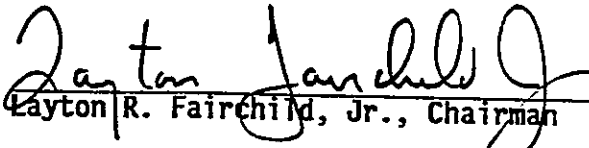
In addition to the recommendations presented above, the Commission is obliged to offer additional brief comment on the fiscal issues which currently confront the Town of Colonial Beach. As previous sections of this report have indicated, the proposed agreement will permit the Town to annex property with no immediate public service needs, but which affords the municipality additional fiscal resources and the potential for future economic growth. We observe, however, that needed improvements to the Town's utility infrastructure, such as the new wastewater treatment plant, the repair of municipal sewage collection lines, and the expansion of its water system, may require Colonial Beach to increase its utility rates above present levels. In addition, the Town will also have to address the need for additional educational facilities in the near future. While, in our judgment, the Town will have the capacity to meet the existing and projected service requirements of its citizens, those outstanding capital improvements indicate a need for Colonial Beach to revise its current fiscal planning and control instruments. Accordingly, we recommend that the Town adopt annually a capital improvements program as authorized by Section 15.1-

⁷⁵Due to the soil conditions in the County Impact Area, new development in that area will require water and sewer service from Colonial Beach and, as a condition of obtaining rezoning approval from the Town and the County, a prospective developer will be responsible for installing the needed utility lines.

464 of the Code of Virginia.⁷⁶ Further, since the development of the area proposed for annexation will place, in time, additional demands on the municipal services provided by the Town, Colonial Beach should be prepared to adjust its capital improvement program to ensure that the quality of public services provided its current residents is maintained. In view of the proposed annexation and the Town's physical needs, a capital improvements program will grow in significance.

⁷⁶Section 15.1-464, Code of Virginia authorizes local planning commissions to prepare and revise annually a five-year capital improvements program, based on the comprehensive plan of the locality, for submission to the governing body or the chief administrative officer of the affected jurisdiction. The adoption of a capital improvement program assists localities in the proper implementation of their development control measures. The Town's recently adopted comprehensive plan recommended that Colonial Beach adopt such an instrument. (Town Comprehensive Plan, p. 117.)

Respectfully submitted,


Layton R. Fairchild, Jr., Chairman


Frank Raflo, Vice Chairman


Mary Sherwood Hoyt


William S. Hubbard

VOLUNTARY SETTLEMENT BETWEEN THE TOWN
OF COLONIAL BEACH AND THE COUNTY OF WESTMORELAND

This Agreement is made and entered into this _____ day of May, 1993, by and between the TOWN OF COLONIAL BEACH, an incorporated town of the Commonwealth of Virginia ("Town") and the COUNTY OF WESTMORELAND, a county of the Commonwealth of Virginia ("County").

WHEREAS, the Town has determined that it needs to expand its current boundaries to include additional territory located within the County for the purpose of obtaining additional tax resources and vacant land suitable for development and for the orderly planning of the urbanizing territory surrounding the Town; and

WHEREAS, the Town Council and the County of Board of Supervisors have determined that such a change of boundaries, subject to certain other terms and conditions, will benefit the citizens of the Town and the County; and

WHEREAS, the Town and the County, pursuant to Chapter 26.1:1 of Title 15.1 of the Code of Virginia (1950), as amended, have reached a voluntary settlement which provides for the annexation of certain territory, for the waiver of certain annexation rights, for the adoption by the Town of land use assessment, for the joint zoning of certain areas, and for other terms and conditions;

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

Section 1. Definitions

Section 1.1. The parties agree that the following terms as used in this Agreement shall have the meanings set forth below.

"Code" shall mean the Code of Virginia of 1950, as amended. A reference to a specific Code provision shall mean that Code provision as it existed on the date of execution of this Agreement, or any successor provision should the Code be amended after the execution of this Agreement.

"Commission" shall mean the Commission on Local Government.

"County" shall mean the County of Westmoreland.

"Court" shall mean the special three-judge court appointed by the Supreme Court of Virginia pursuant to Chapter 26.2 of Title 15.1 of the Code.

"Section" or "subsection" refers to parts of this Agreement unless the context indicates that the reference is to sections of the Code.

"Town" shall mean the Town of Colonial Beach.

Section 2. Voluntary Boundary Line Adjustment

Section 2.1. The corporate boundaries of the Town shall be modified and adjusted by the annexation to the Town of certain County territory consisting of two parcels (the "Annexation Areas") which are described by metes and bounds on

Exhibit A attached to this Agreement and which are depicted on the map attached as Exhibit B. The Annexation Areas contain approximately 501.4 acres of land.

Section 2.2. The annexation provided for in Section 2.1 shall be effective at midnight on December 31, 1993. If the Court has not entered an order prior to December 31, 1993 approving and affirming this Agreement, then the annexation shall become effective at midnight on June 30, 1994.

Section 2.3. The Town shall cause the Annexation Areas to be surveyed and appropriately monumented. A copy of a map reflecting that survey shall be submitted to the Court and shall be incorporated in the final order approving and implementing this Agreement.

Section 2.4. The Town agrees that, upon the effective date of the annexation provided herein, it will extend its municipal services to the annexation areas on the same basis as such services are now or hereafter provided to the areas within its current corporate limits where like conditions exist.

Section 2.5. The Town agrees that it will not initiate or institute any proceedings to annex any portion of the County pursuant to Chapter 25 of Title 15.1 of the Code for a period of ~~five years~~ following the completion of the Town's new wastewater treatment plant. The completion of the new plant shall be deemed to occur on the date the Town begins to operate the plant after receiving all required operational permits and certifications from the State Health Department and the State Water Control Board.

Section 2.6. In the event property owners or qualified voters institute any proceedings for annexation of territory to the Town pursuant to Section 15.1-1034 of the Code during the period specified in Section 2.5, the Town agrees that it will not support any such petition and, instead, will maintain either a position of neutrality or opposition to the annexation request.

Section 3. Town Adoption of Land Use Assessment

Section 3.1. The Town agrees to institute a land use assessment program by adopting an ordinance providing for the assessment and taxation of real estate within its boundaries pursuant to Article 4 of Chapter 32 of Title 58.1 of the Code. Such ordinance shall be applicable to real estate devoted to agricultural and forest uses, as defined in § 58.1-3230 of the Code and, at the Town's option, may also be applied to horticultural uses and open space uses. To ensure that the land use assessment program will be available to qualifying landowners during the tax year immediately following the effective date of the annexation occurring pursuant to Section 2.1 and Section 2.2 of this Agreement, the Town shall adopt a land use assessment ordinance no later than June 30 of the year prior to the effective date of the annexation.

Section 3.2. The Town agrees to maintain such a program of land use assessment for a period of ten years following the completion of the Town's wastewater treatment plant or until the County terminates its program, whichever event shall first occur.

Section 4. Establishment of Hunting Rights

Section 4.1. Section 22-3 of the Town Code of Colonial Beach currently prohibits the discharge of firearms within the Town, except at an authorized shooting range. Substantial portions of the Annexation Areas do not presently contain urban development, and are therefore used on occasion for hunting by the owners of various properties, which activity would be barred by this Town Code Section when the Annexation Areas are incorporated into the Town. Therefore, following the effective date of the boundary change provided for in Section 2.1 and Section 2.2, the Town agrees to amend Section 22-3 of the Town Code to permit hunting within those portions of agricultural zoning districts deemed appropriate by the Town Council, taking into account public safety and noise concerns.

Section 4.2. The Town agrees to permit such hunting activities within appropriate portions of agricultural zoning districts for a ten-year period following the completion of the Town's new wastewater treatment plant.

Section 5. Zoning of the Annexation Areas

Section 5.1. The Town agrees that, prior to the effective date of the annexation provided for in Section 2.1 and Section 2.2, it will amend and modify its zoning ordinance to provide for the establishment of an agricultural zoning district to protect, where appropriate, existing and future agricultural

areas located within the territory to be annexed to the Town. The uses to be permitted in the Town's agricultural zoning district shall be similar to those permitted in the County's agricultural zoning district.

Section 5.2. The Town agrees that, upon the effective date of the annexation provided for in Section 2.1 and Section 2.2, all territory annexed to the Town shall be temporarily classified in one or more Town zoning districts which in the opinion of the Town Council most closely approximate the County zoning districts in which the property was designated at the time the annexation became effective. Within six months after the effective date of the annexation, the Town shall either affirm the zoning districts so established or shall classify the territory in the Annexation Areas in new zoning districts by amending its zoning map, subject to the approval process in Section 5.3.

Section 5.3. Recognizing that a joint process of rezoning property in the Annexation Areas will serve to further the interests of all citizens in the County, the parties agree to the joint exercise of certain zoning powers as set forth hereafter. During the ten-year period following the completion of the Town's new wastewater treatment plant, the Town agrees that it will not amend its zoning district map for the territory to be annexed, unless the County Board of Supervisors has concurred in the approval of any rezoning request. This requirement shall apply to the proposed amendment of the Town's zoning map initiated by the Town Council, the Town planning commission, or by the owner or contract purchaser of any property within the Annexation Areas.

Upon the filing of any such rezoning application, the Town shall notify the County Administrator of such application and the date on which such request will be reviewed by the Town Planning Commission and the Town Council. At least 30 days prior to the Town Council meeting at which the rezoning request will be heard, the County Board shall take action to approve or deny the request. If the proposed amendment of the Town's zoning map is rejected by the County, then the Town Council shall likewise reject the proposed amendment. This joint exercise of zoning arrangements shall not be applicable to territory currently within the boundaries of the Town or to any proposed amendment to the Town's zoning map initiated after the ten-year period following the completion of the Town's new wastewater treatment plant.

Section 6. Zoning of County Impact Areas

Section 6.1. Recognizing that the development of certain County areas adjacent to the Town corporate limits may impact the Town and affect its growth, and further recognizing that a joint process of rezoning property in such areas will serve the interests of all citizens in the County, the parties agree to the joint exercise of certain zoning powers as set forth hereafter.

Section 6.2. During the ten-year period following the completion of the Town's new wastewater treatment plant, the County agrees that it will not amend its zoning district map for designated County Impact Areas, unless the Town Council has concurred in the approval of any such rezoning request. The

County Impact Areas are those areas of the County adjacent to the Town corporate limits which are depicted on the map attached as Exhibit B. This requirement shall apply to the proposed amendment of the County's zoning map initiated by the County Board of Supervisors, the County planning commission, or by the owner or contract purchaser of any property within the County Impact Areas. Upon the filing of any such rezoning application, the County shall notify the Town Manager of such application and the date on which such request will be reviewed by the County Planning Commission and the County Board of Supervisors. At least 30 days prior to the Board of Supervisor meeting at which the rezoning request will be heard, the Town Council shall take action to approve or deny the request. If the proposed amendment of the County's zoning map is rejected by the Town, then the County Board of Supervisors shall likewise reject the proposed amendment. This joint exercise of zoning arrangements shall not be applicable to any proposed amendment to the County's zoning map initiated after the ten-year period following the completion of the Town's new wastewater treatment plant.

Section 7. Water and Sewer Connections

Section 7.1. Recognizing that the availability of public water and sewer service is necessary for residential, commercial, and industrial development in many areas of the County in the vicinity of the Town and that such development can be in the best interests of all citizens of the County, the Town agrees

to make available certain water and sewer connections for areas located outside the Town boundaries as described below.

Section 7.2. Following the completion of the Town's new wastewater treatment plant and the termination of the current moratorium on sewer connections imposed by the State Water Control Board, the Town agrees that it will reserve 20 residential equivalent sewer connections and 20 residential equivalent water connections for areas located in the unincorporated County. Such connections shall be reserved for use by residential, commercial, or industrial customers designated and approved by the County Board of Supervisors as described in Section 7.3. A residential equivalent water or sewer connection shall mean a maximum usage of 450 gallons of water per day or a maximum discharge of 450 gallons of wastewater per day respectively, which quantities represent the maximum water and sewer demands for a typical single-family residential dwelling. Hence, the 20 residential equivalent water connections could be used, for example, for 20 single-family dwellings each using 450 gallons of water per day or for two commercial businesses each using 4,500 gallons of water per day.

Section 7.3. Subject to the maximum number of connections specified in Section 7.2, the Town further agrees that, upon receiving approval from the County for the extension of Town water and/or sewer to designated parcels of land lying beyond the Town corporate limits, it will allow the owners of such parcels (including parcels owned by the County Industrial Development Authority, if so designated by the County) to connect to the Town's water and/or sewer facilities pursuant to the Town's

standard water and sewer extension and connection policies as they exist at the time of application by each such property owner. The Town shall have no obligation under this Section to bear the expense of (a) extending existing Town water and/or sewer lines to the designated parcels of land outside its borders or (b) upgrading the capacity of its existing lines and facilities to accommodate such connections, which costs shall be paid for entirely by the property owner applying for a connection to the Town's water and/or sewer system. Pursuant to Town utility policies, all such new lines and facilities and all improvements to existing lines and facilities shall be owned, operated, and maintained by the Town.

Section 7.4. The Town's obligation to permit water and/or sewer connections to parcels of property lying outside the Town boundaries, as provided in Section 7.3, shall continue until ten years following the completion of the Town's new wastewater treatment plant.

Section 8. Commission and Court Approval

Section 8.1. Each party hereto agrees to make a good faith effort to effectuate the intent of this Agreement and to execute and deliver to the other such documents or other instruments as may be necessary to carry out the provisions hereof.

Section 8.2. The Town and the County agree to initiate the steps necessary and required by Chapters 19.1 and 26.1:1 of Title 15.1 of the Code to obtain affirmation of this Agreement by the Commission and the Court; provided, however, that this

Agreement shall not be submitted to the Commission or the Court for approval and shall not be binding on the parties unless the Town and the County also approve and execute an agreement providing for the Commission to act as the arbitrator of a controversy relating to payments made by the County to the Town for the support of the Town's school division pursuant to Section 22.1-113 and Section 22.1-114 of the Code.

Section 9. Miscellaneous Provisions

Section 9.1. This Agreement shall become effective when it has been affirmed and given full force and effect by a Court appointed pursuant to Chapter 26.2 of Title 15.1 of the Code.

Section 9.2. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their assigns, and any successors of the Town or the County.

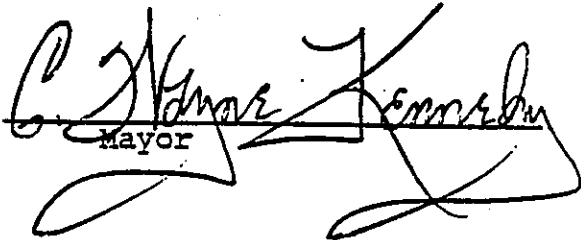
Section 9.3. This Agreement may be amended, modified, or supplemented in whole or in part by mutual agreement of the Town and the County by written document of equal formality and dignity duly executed by authorized representatives of the Town and the County.

Section 9.4. This Agreement shall be enforceable only by the Court affirming and giving full force and effect to this Agreement or by any successor Court appointed pursuant to Chapter 26.2 of Title 15.1 of the Code, pursuant to an action at law or in equity initiated by either or both parties hereto to secure the performance of the covenants, conditions, or terms herein contained

or the performance of any order affirming and giving full force and effect to this Agreement.

IN WITNESS WHEREOF, the governing bodies of the Town and the County have each by resolution or ordinance caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, by their respective Mayor or Chairman, and attested by their Clerks.


TOWN OF COLONIAL BEACH

BY 
Mayor

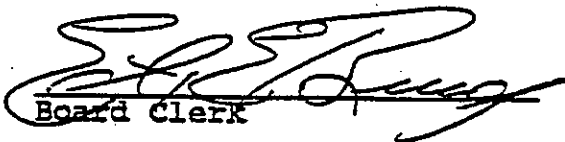
ATTEST:


Clerk of Council

COUNTY OF WESTMORELAND

By 
Chairman, Board of Supervisors

ATTEST:


Board Clerk

APPENDIX B

STATISTICAL PROFILE OF THE TOWN OF COLONIAL BEACH, COUNTY OF WESTMORELAND, AND THE AREA PROPOSED FOR ANNEXATION

	<u>Town of Colonial Beach</u>	<u>County of Westmoreland</u>	<u>Area Proposed for Annexation</u>
Population (1990)	3,132	15,480	12
Land Area (Square Miles)	1.59	227.00	501.40
Total Assessed Values (FY1993)	\$114,133,615	\$683,780,691	\$3,497,111
Real Estate Values	\$102,896,530	\$579,770,740	\$3,485,650
Public Service Corporation Values	\$2,816,215	\$21,281,181	\$11,461
Personal Property Values	\$8,420,870	\$72,794,190	N/A
Machinery and Tools Values	\$0	\$2,324,470	\$0
Merchants' Capital Values	N/A	\$7,610,770	N/A
Existing Land Use (Acres)			
Residential	480	N/A	5
Commercial	52	N/A	14
Industrial	0	N/A	0
Public and Semi-Public	80	N/A	50
Transportation and Utilities	213	N/A	10
Agricultural, Wooded or Vacant	148	N/A	422

NOTES:

N/A=Not Available

County population, land area, and property value statistics include the Town of Colonial B

Real property values reflect use value assessment.

Population estimate for the area proposed for annexation is for 1993.

SOURCES:

Town of Colonial Beach, Notice of the Town of Colonial Beach of Its Intent to Petition for Approval of a Voluntary Settlement with Westmoreland County and Supporting Data.

