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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD No. 750088

TOWN OF CHRISTIANSBURG,

Appellant,

v.

MONTGOMERY COUNTY,

Appellee.

APPENDIX

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ANNEXATION ORDINANCE

AN ORDINANCE OF THE COUNCIL OF THE TOWN OF CHRISTIANSBURG, VIRGINIA, PETITIONING THE CIRCUIT COURT OF MONTGOMERY COUNTY, VIRGINIA, FOR THE ANNEXATION OF CERTAIN TERRITORY ADJACENT TO SUCH TOWN AND LYING IN THE SHAWSVILLE AND RINER MAGISTERIAL DISTRICTS OF MONTGOMERY COUNTY, VIRGINIA, AND AUTHORIZING THE INSTITUTION AND CONDUCTING OF THE NECESSARY LEGAL PROCEEDINGS TO EFFECTUATE SUCH ANNEXATION

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF CHRISTIANSBURG, VIRGINIA:

I.

The Council of the Town of Christiansburg, a municipal corporation in Montgomery County, Virginia, for the purpose of promoting the health, safety and general welfare of said Town and of the territory sought to be annexed hereunder and in pursuance to the provisions of Article I, Chapter 25, Title 15.1, Code of Virginia, 1950, as amended, hereby petitions the Circuit Court of Montgomery County, Virginia, for the annexation of certain territory adjacent to such Town and lying in the Shawsville and Riner Magisterial Districts of Montgomery County, Virginia.

II.

The following are the metes and bounds and sizes of the areas sought:

[DESCRIPTION OMITTED]

III.

There is annexed hereto a map of the areas sought to be annexed indicating generally subdivisions, industrial areas, farm areas, vacant areas and others, together with any other information deemed relevant as to possible future usage of property within the area.

IV.

The annexation of the area described above is necessary and expedient within the meaning of those terms as used in Article 1, Chapter 25, Title 15.1, Code of Virginia, 1950, as amended, and more specifically for the following reasons:

1. The area sought to be annexed is needed by the Town for its future growth and development. The town has experienced growth in population which has expanded into the areas sought for annexation. There is not sufficient available vacant land in the town to permit its continued orderly growth within its present limits, with the result that development which the town would normally expect is taking place outside and in the areas sought. The population densities indicate that the Town and the areas sought to be annexed as a whole are populated at such density level at present as to be considered urban in nature. There is every indication that this condition will continue to become more acute.

2. A strong community of interest exists between the areas sought to be annexed and the Town.

The Town of Christiansburg and the areas sought to be annexed form a compact urban area. Although some portions of the

areas are only partially developed, these will provide space for future growth and development. The existence of the Town is the primary reason for the business, commercial and residential development within the areas sought. The Town is the center of the social, recreational, civic, educational and religious interests of the areas sought. A substantial percentage of the residents of the areas sought purchase their groceries and other needs within the Town.

At present the Town supplies water to a large majority of the residents of the areas sought. Town sewage disposal service is presently available to most of the property in Area I.

As the population density and business and commercial development increase within the areas sought the community of interest now existing between the Town and such areas can be expected to become stronger.

3. There exists within the areas sought for annexation a growing need for the extension of the municipal services now being furnished within the areas and furnishing of additional services. These include sewer line extensions, more development planning, and the extension of garbage and trash collection services; police protection, street lights, extension of water lines and the construction of fire protection facilities. Although the Town is at present furnishing water to a large percentage of the residents of the areas sought the rates charged by the Town therefor are fifty per cent greater than those charged consumers within the Town for such services.

The foregoing and the existing need for long range coordinated urban type zoning and planning for the development of the areas sought can only be met through annexation of the areas sought.

The County of Montgomery does not, at present, and, so far as the Town knows, has no plans for furnishing the areas sought the municipal facilities now needed by them. The annexation of the areas by the Town will relieve the County of any responsibility for furnishing such facilities to the areas at any time in the future, and will relieve it of problems and expenses incident to an urban area which the government of the county is not primarily designed to handle.

4. A combination of the resources of the Town and the areas sought to be annexed into a single integrated political unit will present the opportunity for a greater development of services to residents of all areas for all purposes; and, consequently, the health, safety and general welfare of the Town and the areas sought would be promoted.

V.

The estimated population of the areas sought was 1,714 in 1970, which is only 3.63 per cent of the population of Montgomery County according to the 1970 Census. The areas sought containes in the aggregate 5,447.92 acres, more or less, or 8.512 square miles, while the area of Montgomery County is approximately 395 square miles.

The county would be left with ample resources to carry

on its government without significantly affecting its present tax structure or standards of service.

The Town of Christiansburg is in a sound financial condition and is able within a period of five (5) years from the time annexation is granted to comply with the hereinafter set forth terms and conditions upon which annexation is sought and with the provisions planned by the Town for the future improvement of the areas sought for annexation, including the provisions for public utilities and services therein as hereinafter set forth. In connection with public utilities, the Town, as a member of the Blacksburg-Christiansburg-V.P.I. Water Authority, has access to an almost unlimited supply of potable water. The two sewage disposal plants of the Town along with planned facilities will be more than adequate to serve the residents of the Town and the residents of the areas sought for annexation.

VI.

The following is a general statement of the terms and conditions upon which annexation is sought:

1. The Town of Christiansburg does not know of any existing debts of the County of Montgomery which will be affected by this proceeding. The Town will, however, to the extent required by law, assume a proper proportion of any debt of the County of Montgomery as provided for in the Code of Virginia, 1950, as amended, should the Court determine any such debt exists.

2. The Town will, with reasonable speed, make provisions for the future improvements for the areas sought to be annexed including the provision of public utilities and services therein.

3. The Town will fulfill all requirements imposed upon it by law in connection with said annexation.

VII.

The following is a statement of the provisions planned for the future improvement of the areas sought to be annexed including the provision for public utilities and services therein:

1. Water

The seasonable construction of water supply mains and distribution lines and fire hydrants in the areas sought to be annexed so as to furnish reasonable water service and fire protection in such areas.

2. Sewer

The seasonable construction of interceptor and collector lines and treatment facility where needed in said areas sought, so as to furnish reasonable sanitary sewer service in such areas.

3. Garbage and Trash Collection and Disposal.

The immediate provision for the reasonable collection and disposal of garbage and trash within such areas.

4. Streets and Street Lights

The reasonable maintenance of, and where necessary, extensions of the streets, avenues and highways of said areas

sought, and as soon as practicable the provision of said areas with street lighting facilities where needed.

5. Police Protection

The immediate provision for furnishing to said areas sought the same degree of police protection now provided within the Town of Christiansburg, using the existing police force of the Town and such additional policemen and patrol cars as may be necessary.

6. Fire Protection

The Christiansburg Volunteer Fire Department now provides fire fighting services for the areas sought to be annexed and this protection will be continued with improved services resulting from the installation of water mains and fire hydrants within the areas. Fire inspection will be provided for the areas as soon as possible.

7. Planning and Zoning

The provision of an orderly development of the areas sought to be annexed under suitable planning and zoning, for the coordinated and harmonious development and growth of the community. The Town could accomplish this with the assistance of its Planning Commission and would be able to manage and control the proper physical development of the areas sought, which control is urgently needed to promote the health, safety and general welfare of both the Town and said areas.

8. Recreation Program

The Town has an established Department of Parks and Recreation with a full time Director, a Recreation Center and

programs designed to serve the residents of all ages of the Town and the areas sought to be annexed.

9. Compliance

The Town will, in connection with furnishing water, sewer, garbage and trash collection and disposal, streets and street lighting, police protection and fire protection, comply with all the applicable ordinances of the Town, the laws of the State, and the direction of the Annexation Court, and will furnish and serve the areas proposed to be annexed with all other services and facilities as are provided within the present Town, or as may be specifically required by ordinance, regulation and law.

VIII

The Attorney for the Town of Christiansburg and such other persons as may be engaged for the purpose are hereby authorized and directed to give such notices and institute and prosecute the necessary legal proceedings for annexation to the Town of Christiansburg, by proper decree or judgment of the Court having jurisdiction in the suit, the territory hereinabove described and, to that end, they are authorized in the name of the Town to do any and all things necessary and essential to prosecute such litigation to a successful conclusion.

The vote upon the foregoing ordinance being taken and recorded was as follows:

Ayes	Nays
J. D. Carter	None
E. Staley Clements, Jr.	
P. L. Griffith, Jr.	
Harold G. Linkous	
C. Wilbert Page	
W. Scott Weaver	

Approved: January 19, 1973.

NOTICE OF ANNEXATION PROCEEDINGS

Filed January 22, 1973

To: J. Patrick Graybeal, Commonwealth's Attorney for Montgomery County, Virginia; Russell P. Duncan, Route 3, Christiansburg, Virginia; Foster S. Arrington, Route 1, Blacksburg, Virginia; Howard F. Hale, Route 1, Blacksburg, Virginia; Wendell D. Hensley, 712 South Broce Drive, Blacksburg, Virginia; John R. Hutcheson, Jr., 802 Draper Road, Blacksburg, Virginia; B. B. Hylton, Route 1, Christiansburg, Virginia; and Guy W. Wall, Route 2, Blacksburg, Virginia, members of the Board of Supervisors of Montgomery County, Virginia:

PLEASE TAKE NOTICE THAT THE TOWN OF CHRISTIANSBURG will, on the 5th day of March, 1973, at 10:00 o'clock, A. M., of said date, or as soon thereafter as it may be heard, move the Circuit Court of Montgomery County, Virginia, or the judges designated to hear the case, in the Courthouse of said Court, in the Town of Christiansburg, Virginia, to grant the annexation requested in the ordinance entitled

> "AN ORDINANCE OF THE COUNCIL OF THE TOWN OF CHRISTIANSBURG, VIRGINIA, PETITIONING THE CIRCUIT COURT OF MONTGOMERY COUNTY, VIRGINIA, FOR THE ANNEXATION OF CERTAIN TERRITORY ADJACENT TO SUCH TOWN AND LYING IN THE SHAWSVILLE AND RINER MAGISTERIAL DISTRICTS OF MONTGOMERY COUNTY, VIRGINIA, AND AUTHORIZING THE INSTITUTION AND CONDUCTING OF THE NECESSARY LEGAL PROCEEDINGS TO EFFECTUATE SUCH ANNEXATION"

adopted January 19, 1973, a certified copy of which ordinance is attached hereto as a part hereof.

TOWN OF CHRISTIANSBURG

2 EDGAR F. MASSIE, JR.

3 having been duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. DAVENPORT:

6 Q Mr. Massie, what is your name, please?

7 A Edgar F. Massie, Jr.

8 Q You are a consulting engineer?

9 A Yes, sir.

10 Q You have been consulted by the Town of

11 Christiansburg in connection with this annexation proceeding?

12 A Yes, sir.

13 Q You have done the background studies and prepared

14 some of the exhibits?

15 A Yes, sir.

16 Q Exhibit No. 1 in this blue booklet purports to

17 set forth your professional experience and your associations

18 as of today with R. Stuart Royer & Associates in Richmond,

19 is that correct?

20 A Yes.

21 Q Where is your home?

22 A My home is in Crewe, Virginia.

23 Q You have been with R. Stuart Royer since 1958?

24 A That is correct, yes, sir.

25 Q You are a member of the firm now?

2 A Yes, sir.

3 Q Looking at the second page of Exhibit 1, there
4 are listed a number of town annexation cases under the legend
5 "Principal Engineering Responsibility in Following
6 Annexation Cases". Does that accurately set forth your
7 experience in annexation?

8 A Yes, it does.

9 Q Together with the two items below where you had
10 limited engineering responsibility?

11 A This is correct, yes.

12 Q The Town of Christiansburg v. Montgomery County
13 was listed first. When was that case?

14 A That case was in 1965.

15 Q That was the one that resulted in what is known
16 as the annexation of 1966?

17 A Yes, sir, that is correct.

18 Q Was that the last annexation that the Town of
19 Christiansburg has had?

20 A Yes, that annexation became effective on midnight
21 December -- end of December, 1965, or January 1, 1966.

22 Q How long have you been a consultant, you
23 personally been a consultant for Christiansburg as an engineer?

24 A I personally have been associated as a consultant
25 with Christiansburg since 1959, in various degrees.

Q Has your firm been a consultant for Christiansburg for longer periods than that?

A Yes, sir, our firm has been a consultant since the early fifties, for the Town of Christiansburg, or possibly before that. I know it is from the early fifties.

Q Can we get the general location map which is a separate map on that?

A Yes, sir. There is one on page 4 in the booklet.

Q The small one on page 4 of the booklet. What is that over the top?

A That is a piece of transparent cellophane or plastic to protect the map.

Q Can we see it better if we lift it up?

A There will be less glare.

MR. FITZGERALD: Is that numbered?

MR. DAVENPORT: This is the same as Exhibit 3, Mr. Fitzgerald. We will mark it Exhibit 3, if the Court please.

Mr. Cogar suggests we call this 3-A.

BY MR. DAVENPORT:

Q They are identical, are they not?

A Yes.

JUDGE JORDAN: The map in the book is No. 3 and the large map is Exhibit 3-A.

(TOWN EXHIBITS 3 and 3-A were marked for identification and filed.)

BY MR. DAVENPORT:

Q Will you get up there and point out the relationship of the towns and the City of Radford itself.

A We have here town Exhibit 3-A, sheet 1 of 1. It is a map of Montgomery County showing thereon the boundaries of the county, the names of the counties adjoining Montgomery County, showing also the magisterial districts, showing the location of the City of Radford, the location of the Town of Christiansburg, the location of the Town of Blacksburg, those two towns being incorporated municipalities within and part of Montgomery County.

Those two municipalities, the Town of Christiansburg and Blacksburg, on this large map are colored in red.

Also shown on the map are the principal highways that traverse the county.

The purpose of this map is to give the Court a general orientation of the county, its magisterial districts, its incorporated municipalities within it, and the adjoining counties and so forth.

Q All right, sir. Let's look at Exhibit 4, which is the 1967 aerial photograph.

What is shown by that aerial photo, Mr. Massie?

A Town Exhibit No. 4, sheet 1 of 1, is an aerial photograph, mosaic, that was flown April 20, 1967. This shows the aerial view of the Town of Christansburg in the adjacent area, including the area proposed to be annexed. Shown hereon is the existing corporate limits by red and white tape.

Q Will you mark -- point that out. Do you have a pointer?

A The red and white tape showing the present corporate limits of the Town of Christiansburg and the green and white tape showing the proposed corporate limits of the area proposed to be annexed. (indicating).

Q There seem to be three different sections, in referring to the question to Mr. Porter. Will you point out on there I, II and III.

A These areas are identified specifically in the map that accompanied the ordinance that the town passed, town passed for annexation. Area I is to the east of town, Area II --

Q What is its reference with Route 11 and Route 81?

A Area I, Roman No. I, is identified by the ordinance map as lying on both sides of U. S. 11 and 460 east of the present corporate limits. This is known as the

2 Roanoke Road. This is toward Roanoke from Christiansburg
3 (indicating). It includes within it the eastern interchange,
4 Christiansburg interchange of Interstate 81. This can be
5 seen, part of this interchange that was being developed in '67
6 (indicating). It can be seen in this area.
7 The remaining portion of Route 81 northeast of
8 Roanoke had not been constructed at that time.
9 On southwest from this interchange within this
10 annexation Area I, and then adjoining the southern boundary
11 of the Town of Christiansburg, into the Town of Christiansburg
12 and out again on the southern boundary is 81 that had been
13 developed as of 1967.
14 Q What is Area II?
15 A The area marked II is an area south of
16 Christiansburg. It is south of what is known as Huff Acres,
17 which is within the present corporate limits of Christiansburg.
18 Area II is also on the south side of Interstate 81.
19 Q We went in there this morning, didn't we, when
20 we crossed 81?
21 A Yes, sir, we went into this Area II. This is
22 known as the Walnut Grove subdivision and we turned around
23 just on top of the hill there at a little grocery store and
24 right across the road was a trailer park.
25 Q Now the large area to the northeast that you

outlined first, would you point to Area III.

A Yes, this is the area to the northwest of Christiansburg (indicating), west and northwest of Christiansburg is III. This extends from a point south of Route 11 west of Christiansburg in a northerly direction to a point or line on the north side of the Norfolk & Western Railway, along Slate Branch. This used to be the old Virginia Railway. It is now part of the Norfolk & Western system. Then on the western boundary of the proposed annexation area, generally follows the secondary road from Route 11, about 200 feet west of and probably out to a secondary road from Route 11 across to Route 114. We toured then on 114. We crossed this western proposed annexation line this morning and the tour went down to, beyond it a ways at what was called Vicker Hill and turned around and came back into the area, the eastern area of this Area III, the eastern boundary of this Area III, in addition to being a common boundary to Christiansburg, also the proposed boundary north of Christiansburg is west of Route 460, north of Christiansburg, and embraces a residential area just north of Christiansburg and east of 460, and then along, as was pointed out, horticultural research park at VPI does not include that. Then this northeast corner is a subdivision, right across from the Corning plant (indicating).

Q While you are there, Mr. Massie, would you

2 generally -- this was from the year after the last annexation
3 case?
4 A Yes, it was about when Christiansburg was granted
5 annexation in 1966.
6 Q Point out in a general way where the development
7 was concentrated at that time.
8 A The concentration of development was within the
9 core of the Town of Christiansburg and what was the old Town
10 of Cambria, which had been merged with Christiansburg a
11 year previous to this annexation. As you look at this, right
12 in the center of the whole photograph is, almost the direct
13 center, you can follow the crossroads there where the
14 Montgomery County Courthouse is and the intersection of
15 Route 11 and 460. This is the core of the town at that time
16 or was the core of the town at that time, and on out to the
17 edges of some of the area that was annexed. Some of that was
18 annexed in 1966, Huff Acres, and such as this were developing
19 at that time, partially developed.
20 Q Do you have an overlay for this?
21 A Yes, sir.
22 MR. DAVENPORT: Is there a glare on that, Judge?
23 JUDGE JORDAN: A little. It is not too bad. We
24 can see it.
25 MR. DAVENPORT: Can you see the red?

JUDGE JORDAN: Yes.

BY MR. DAVENPORT:

Q Tell the Court what this overlay represents and what its purpose is.

A This overlay is town Exhibit No. 4-A, sheet 1 of 1, and is entitled "Development Since April 20, 1967." The legend shows the area -- there is a red area development since April, 1967, as shown on this map, we have colored in with red ink the areas that have developed within the town and annexation area since 1967. The significance, I feel, in going back to the '67 or immediately after annexation, the areas that have developed since that annexation, here we have what is known as Flagler Craig Mountain, where we rode today, a subdivision which is under development now. In 1967 or '66 it was completely raw land. There are several small areas shown of individual residential development.

Then just east of this is a red area which is now the Hill Shopping Center that has been developed in this annexation area.

Q That is in the city?

A It is in the present town now, yes, sir. This was in the old annexation area that has developed after the annexation. Then out on Starlight Drive there are several places within the present town in the old annexation, in the

2 area that was granted in 1966. South of the interstate and
3 west of what is known as the Pilot Road is a subdivision
4 there within the old, within the area that was annexed in '66,
5 has developed. Also north of the interstate, the south
6 portion of Christiansburg is an area, substantial area that
7 is under development, has developed.
8 Then in the northwestern portion of Christiansburg
9 are several areas that have developed over this period of
10 time since 1967. This is still within the present town, but
11 within, most of it was in the area that was annexed in '66,
12 such as the juvenile detention home that we saw was started
13 today. Also we saw this apartment complex that has been
14 developed.
15 Q What is this up in the northern part of the present
16 town?
17 A The northern part of the present town --
18 Q Right on the boundary.
19 A Lying both inside and outside of the present line,
20 part of it is in the annexation area, is the new county high
21 school that is under construction and being developed now.
22 Q Let me draw your attention to it, before you get
23 up to the north. To the east, outside the present corporate
24 limits and within the annexation area, what is that rather
25 large red spot right there (indicating)?

A Just at the northeast corner of the area, eastern edge of Christiansburg, just outside the present corporate limits, but within the area proposed for annexation is a large red area which embraces the Hubbell plant, which we drove by today. Just west of that, we didn't point it out, but there is a new telephone warehouse and central headquarters building there that has developed.

Then at the southwest corner in the annexation area, adjoining the present corporate limits, just southeast of the present corporate limits -- if I said southwest, I mean southeast corporate limits -- is an area that the Court could see today from the interstate, was a rather large trailer park that has developed in the last several years, or since 1967.

Then south of the interstate, I don't know whether the Court noticed it or not, there were some roads being graded out over there today (indicating). This is another trailer park that is under development at the present time.

Then up at the interstate interchange and Route 11, this is east of Christiansburg (indicating), at the southeast portion of that interchange, the Court can see a new motel under construction at this present time.

At the northwest portion of that interchange is a new motel that was constructed and is in operation, was

2 constructed since 1967.

3 There are several residences in this area, east
4 of the town and in the proposed annexation area that have
5 developed since 1967.

6 Q What development has taken place since 1967 in
7 the northern section of the annexation area?

8 A In the part --

9 Q Section III.

10 A Section III of the northwest portion, start just
11 northwest of the northernmost corner of the present town, there
12 is some development just behind the area that is shown here
13 in development. It is a red area. Then on north in the
14 subdivision across from the Corning plant, there is an area
15 that has developed since 1967. Going out 114, west of its
16 intersection with 460 -- we rode into one subdivision, it is
17 marked, shown here in red, Belmont Estates. This is under
18 development now. Just east of it is, I believe, after
19 Virginia Long Acres is a subdivision here that is under
20 development. Attention was called to it this morning. We
21 didn't drive into it. This is adjacent to the road that was
22 struck from the tour that the Court will view later.

23 Then on west on 114 is another area, north of
24 114, that is a trailer park that has developed since 1967.

25 Then south of 114 in the southern portion of

2 Belmont Farms is a red area marked here that has been a
3 continuing development of Belmont Farms, and we drove down
4 into a portion of this today.
5 The Court can see how this, the condition of this
6 is at the present time. Then in the southwest part of Area III,
7 just west of the automobile graveyard is a commercial area,
8 farm equipment development there, or rather extensive area
9 that the Court passed today. Development has taken place
10 since 1967.
11 Then on the road, the western portion of this
12 Area III, the secondary road, going back toward the Country
13 Club, there are several houses here that are developed, and,
14 of course, on the Country Club property itself, as we entered
15 today, I think the Court saw one new house has just recently
16 been completed in this area.
17 Q Have you finished going around that?
18 A I think the southwest -- the southern portion,
19 this is Area II, we didn't cover in the annexation area.
20 There is an area right adjacent to the southern corporate
21 limits that is being developed now. We went out and looped
22 up through there. When we first left, this is west of the
23 Pilot Road. When we first went in, we went through the area
24 that already had houses in it, and then we stopped at a trailer
25 truck and Mr. Lemley pointed out the proposed line, and then

we looked up through an area that has just been recently graded, and this area developed in '67.

Right across the road from that is an area that has been graded out and is under development now. These two areas marked here, water and sewer facilities are there or being extended into those areas at the present time.

Q That is all you have got on that, isn't it?

A Yes, sir.

JUDGE JORDAN: Mr. Davenport, since it is two more minutes until the hour and a half mark, before you get into that, suppose we take the afternoon break.

MR. DAVENPORT: All right.

JUDGE JORDAN: About a ten minute break.

. . . Thereupon, a recess was taken at 3:28 p.m. and reconvened at 3:50 p.m. . . .

JUDGE JORDAN: All right, Mr. Davenport, you may proceed.

MR. DAVENPORT: Thank you, sir.

BY MR. DAVENPORT:

Q Mr. Massie, you have on the easel Exhibit 5. Will you tell the Court what it represents.

A This is town Exhibit 5, sheet 1 of 1. It is entitled "Map of Christiansburg, Virginia," showing land use, January, 1966.

2 Q Did you prepare the map?

3 A No, sir. I prepared the base map in 1966,
4 January, '66 is the official map of the town. The grid was
5 put on it and we brought it up to date at that time and
6 divided the town into quadrants for use.

7 Q Where did you get this map, this exhibit?

8 A The base map we were furnished from Mr. Lemley
9 and the town employees to show thereon the land use of
10 January 18, 1966.

11 Q This is an official city document, is it not?

12 A Yes, it is.

13 Q Kept in the Municipal Building?

14 A Yes, sir.

15 Q Will you describe what it shows with reference
16 to the legend. I think it would help the Court.

17 A It shows in the legend as of 1966, single family
18 in yellow, multi-family in white with a block, trailers in
19 orange, motel with a red rectangular shape with white in the
20 center, motel and hotel, trailer court in a rectangular block
21 with orange, local business a light pink, general business
22 a dark red, intensive business purple, public utilities gray,
23 rectangular shape block, light industry black, heavy industry
24 another shade of purple, junk yards with a triangle, black
25 triangle, semi-public buiddings in a light blue, semi-public

2 parks and playgrounds in a rectangular block green, public
3 buildings in another shade of purple, public schools a
4 different shade of purple, cemeteries are a green block, and
5 tourist homes a yellow.
6 Q The white areas that you see throughout here are
7 what?
8 A These white areas are -- let me add one other
9 thing about this base map. In January of '74 we revised the
10 town's base map to add subdivisions and so forth and update
11 it as of January, 1974, so to enable the town to use this
12 to superimpose the land use in '66 on it. This white shows
13 some cover up of some streets, roads and subdivisions that
14 did not exist in 1966. These white areas are stuck on with
15 cellophane tape.
16 Q That white area represents the same as that white
17 area does, for example, (indicating), does it not?
18 A Yes.
19 Q So it is all white?
20 A Yes.
21 Q Undeveloped?
22 A Yes.
23 Q In 1966?
24 A In 1966.
25 Q Do you have an overlay to show how much of that

has been filled in in 1966?

A We have here town Exhibit No. 5-A, sheet 1 of 1. This is an overlay showing the land use as of April, 1974. This overlay is coordinated with the base map 5, land use map of '66, and shows superimposed on there the development and land use within the present corporate limits of Christiansburg as of April, 1974.

Q Up in the left-hand corner is the legend for the overlay?

A Yes.

Q Those colors correspond generally with the legend on the base map?

A Yes, generally they follow the same legend as the base map.

Q As you look at this, with the overlay on it, that represents the extent of development in the Town of Christiansburg as of today, does it not?

A As of April, '74.

Q Two months ago?

A Yes, two months ago, yes, sir.

Q Where has the principal development taken place since 1967? Can you just, without going into great detail -- what is this long black streak?

A This long black streak is Interstate 81, along

2 the south portion of Christiansburg and through the southern
3 portion of Christiansburg.
4 Q There is a lesser black streak above. What is
5 that?
6 A This through the upper portion is the Norfolk &
7 Western Railway, main line of Norfolk & Western Railway that
8 goes through Christiansburg, and on the north boundary is a
9 black line. It is a broken line, spur line over to Corning,
10 which used to be known as the Huckleberry. Then in the east
11 end, just in the northeast end of the eastern portion of
12 the town is a black streak showing the by-pass, Christiansburg
13 by-pass of 114 or 460 by-pass around Christiansburg.
14 Q All right, sir. Let's have Exhibit 6. I believe
15 that is on the back of this, isn't it?
16 A Yes, sir.
17 Q Will you tell the Court what this represents.
18 A We have here town Exhibit 6, sheet 1 of 1, and
19 this is the map showing the existing land use in the area
20 proposed to be annexed as of May, 1974.
21 Q Is this map a colored edition, so to speak, the
22 map that went with the annexation ordinance?
23 A Basically this is the land use map that went
24 with the annexation ordinance. We have removed the metes
25 and bounds that were on that same map with the ordinance.

We colored in the land use and colored in several adjustments to it since that map was made.

Q Just tell the Court, point out what you think is significant on this map.

A This map in the upper right-hand corner has a land use legend, showing the industrial colored orange, business colored yellow, residential colored red, farm with an F, white with an F, vacant and other is white, and recreation is green. Shown on this map, the existing corporate limits are in the red and white tape, just as it was on the aerial photograph. The proposed annexation boundaries in green and white tape, as it was on the aerial photograph.

The areas by identification are Area I, east of town, Area II, south of the present town, and Area III, west and north of the present town.

We have shown here the various areas in land use, according to this legend. We also on this map have the identification of the various subdivisions throughout the area.

Q The pink areas generally represents subdivision, does it not?

A Well, it represents residential, but also covers the subdivisions, too, because they are residential.

Q Have you computed the areas represented there in acres and percentages?

A Yes, sir. Also shown on this map in the lower right-hand corner are the areas of the several areas sought to be annexed. That is Area I, Area II, and Area III. And the present town also in terms of square acres and miles, the present town having an area of 3,155.76 acres, and the area proposed to be annexed, the three areas have a combined total of 5,447.92 acres, giving a total area of 8,603.68 acres.

Q Tell the Court what are the areas that have been developed and those that have not been developed and those that you consider are undeveloped and why.

A Of the land use --

MR. FITZGERALD: Excuse me, is there an exhibit in the book on this?

MR. DAVENPORT: No, there is not, Mr. Fitzgerald, for which I will take the blame. I am sorry there is not.

A We have industrial use, 212 acres, which represents 2.89 per cent of the total area. Commercial, 170 acres, which represents 3.12 per cent of the total area. Residential, 966 acres, representing 17.73 per cent of the area. Interstate highway, 106 acres, representing 1.85 per cent of the area. Railroads, 120 acres, representing 2.2 per cent of the total area. Public and semi-public, 75 acres, representing 1.38 per cent of the total area.

This gives total developed area within the annexation areas of 1,649 acres or 30.27 per cent of the total area.

Q Is all the rest of that approximately 70 per cent developable land?

A No, sir. Of the remaining 70 per cent of the area, and this is the undeveloped portion of the annexation area, 750 acres we consider is undevelopable.

Q For what reason?

A We used the criteria that any land having greater than twenty per cent slope, substantial portion of land of greater than twenty per cent slope was not suitable for development. Any areas that had a large amount, the large sink holes would not be suitable for development.

Q What about rock outcroppings?

A No, sir, we did not deduct rock outcroppings.

Q You did not?

A No.

Q All right.

A This undevelopable land of 750 acres represents 13.76 per cent of the area sought for annexation. The net developable land is 3,049 acres, representing 55.87 per cent of the area sought for annexation.

Q That is so far not developed?

2 A That is correct, yes, sir, that is not developable.

3 Q Yes. Let's look at your book, page 5, Exhibit 7,

4 Populations and Areas. Would you discuss that briefly with

5 the Court and point out its significance.

6 A Town Exhibit No. 7, sheet 1 of 1, page 5, the

7 title, "Populations and Areas", we have here the estimated

8 population of the several political subdivisions involved

9 and also the areas of them.

10 Montgomery County, including the towns, and this

11 is the 1974 estimated population, the current estimated

12 population, Montgomery County, including towns, 53,600.

13 Excluding towns, 21,100.

14 The Town of Blacksburg, 23,830. The Town of

15 Christiansburg, 8,670. The annexation area, 2,350.

16 The areas for these several political subdivisions,

17 Montgomery County, including towns, 247,437 acres. Excluding

18 towns, 232,221 acres.

19 The Town of Blacksburg, 12,060 acres. The Town

20 of Christiansburg, 3,156 acres. And the annexation area,

21 5,448 acres.

22 Q What is the source of this information?

23 A The source of this information, we estimated the

24 population of the county and the towns with several different

25 information. For instance, Montgomery County, including the

2 towns, we took into account the Tayloe-Murphy estimates that
3 were available, also the projections for the Planning District
4 Commission.
5 Q Tayloe-Murphy of Virginia?
6 A Yes.
7 Q They make a specialty of making population
8 estimates, assembling population data, do they not?
9 A That is their responsibility for the state. For
10 the Town of Blacksburg, estimate was based on the estimated
11 population of the recent annexation and a projection thereof.
12 Our estimates and projections.
13 The Town of Christiansburg population was, our
14 estimate is based on the Tayloe-Murphy projections and our
15 records of the Town of Christiansburg -- of course, all these
16 projections is where possible were tied back into the 1970
17 United States census. We used this also. The annexation
18 area, population estimates were based on house counts as of
19 1974, May, 1974. The areas were based on planimeter where
20 possible. The Town of Christiansburg and -- we rounded them
21 off to the comparative data on town Exhibit No. 6.
22 Q Turn the page to Exhibit 8, which consists of two
23 pages, Decennial Populations and Comparisons of towns,
24 county, State of Virginia and the United States. Point out
25 what has happened, what the significance of this is.

2 A We have here the decennial population of the
3 several political subdivisions for the years 1920 through
4 1970. We show thereon also the change per decade in number
5 and also in per cent. This is by decade, and at the bottom
6 the average change per decade between 1920 and 1970. This
7 is for the Town of Christiansburg, Montgomery County,
8 including and excluding its towns, towns in Montgomery County,
9 the State of Virginia and the United States.
10 Discussion could go on through this. Basically,
11 the fundamentals here are that during this period of time,
12 from 1920 to 1970, Christiansburg, the towns of Montgomery
13 County, Montgomery County as a whole, with the exception of
14 the 1950-60 decade and Montgomery County, excluding its towns,
15 have experienced an increase in population each decade.
16 During the 1950-60 decade Montgomery County, excluding its
17 towns, had a loss in population.
18 Q How do you compare then the growth in the urban
19 areas of the county as opposed to the rural areas of the
20 county?
21 A Well, the growth in the urban area of the county,
22 we also show the growth by the towns in Montgomery County
23 and the Town of Christiansburg.
24 Q I know that, we can see the figure. What
25 conclusion do you draw as to the comparative growth in the

2 urban areas as opposed to the rural areas?

3 A At the lower reaches of this or lower portion of
4 this document, you will see that Montgomery County, including
5 its towns, have had an average growth of 20.46 per cent per
6 decade, whereas the area, excluding the towns, has had an
7 average of 14.51 per cent per decade, while the towns in the
8 county, Blacksburg and Christiansburg, have had an average
9 growth of 38.38 per cent per decade.

10 Now another significant thing here is that the
11 State of Virginia and the United States both had growths,
12 average growths of these five decades. However, Montgomery
13 County as a whole has exceeded the growth, the average growth
14 of both Virginia and the United States in the county,
15 excluding the towns, has almost been the same, just slightly
16 less than the State of Virginia. The conclusion is that
17 Montgomery County, and it is noted in number of projections
18 and populations, Montgomery County is experiencing an unusual
19 growth as compared to the overall state. I think for the
20 western section of the state, it is very unusual growth. In
21 the last decade, between '60 and '70, that portion of the
22 county, excluding the towns, had a 40 per cent, 39.2 per cent
23 increase in population. This is basically, you would consider,
24 the unincorporated portion of the county had a substantial
25 growth in population. Of course, we know since 1970

2 Blacksburg annexed some territory, but also the urban growth
3 is also coming within other portions of the county, too.
4 Q On the second page of this exhibit you have got
5 some population estimates for the future, entitled "For
6 Selected Years". Do you want to discuss that briefly?
7 A Yes, sir. We have estimated the population for
8 the Town of Christiansburg and the Town of Blacksburg and
9 Montgomery County for the selected years of 1973, '74, '75
10 and 1980.
11 Q How did you make those projections?
12 A The projection for Montgomery County in 1980 is
13 a figure set forth, estimate set forth by the State Division
14 of Planning, and has been utilized by the Planning District
15 Commission also, 65,000. Using the 1970 population of the
16 United States census, we can project this population for the
17 county as a whole. Of course, the towns within the county
18 have to be compatible and the remaining of the county has to
19 be compatible to this projection. From this we projected the
20 Town of Christiansburg, the Town of Blacksburg, and the
21 combination of these two comparables to the projection for
22 Montgomery County. Also taking into account past population
23 trends and growth of these two towns and also the county.
24 Q Now the second half of that page really adds to
25 the fact or consideration of the annexation area itself, does

2 it not?

3 A Yes, sir.

4 Q And its influence on the other figures?

5 A That is correct. This takes into account the

6 proposed annexation or the annexation area. Now the annexation

7 or projections were based on a house count in '74 and a house

8 count in 1971 that we made for this area.

9 Q Back to the first part of that page. What is the

10 rate of growth that you project for the Town of Christiansburg?

11 A You mean the present town?

12 Q Yes.

13 A About two and a half per cent per year.

14 Q What for the Town of Blacksburg?

15 A About four and four-tenths per cent, four and a

16 half per cent per year.

17 Q How do you account for the difference?

18 A Well, Blacksburg recently annexed substantial

19 territory, and a territory that has been growing, and this

20 area will continue to grow. They have got this within their

21 boundaries.

22 Q What is the trouble with Christiansburg?

23 A Well, Christiansburg is approaching a high density

24 and the growth is not going to be as fast.

25 Q What you are saying is that without annexation,

it won't be as high?

A That is correct. The area within, the population within the present corporate limits, we estimate that it will grow at two and a half per cent.

Q That is within the present corporate limits?

A That is correct.

Q If annexation is granted as requested, will the two be reasonably compatible, Blacksburg and Christiansburg?

A Yes, more nearly so, that is correct.

Q Let's move over to Exhibit 8-A. Exhibit 8-A, does it not reflect in graph form the same information that you have been discussing on Exhibit 8?

A Yes, that is correct.

Q Do you want to comment on it?

A Yes, sir. This exhibit is a graph showing, plotting the population and population projections of several political subdivisions. The upper line and the lower line are fairly simple to follow. In between it is a little complicated. The upper line, the solid black upper line is the indicated Montgomery County as a whole, including its towns. The lower line is the Town of Christiansburg, solid line is the Town of Christiansburg, and we show thereon the 1960, effective 1966 annexation, and then from 1970 to 1980 is a projection of the population of Christiansburg, and in

1975 we show there with a line and a dot, assuming annexation is granted as proposed, the projection of the estimated population of the town in the annexation area.

Just above that is a graph showing the towns in Montgomery and the growth. This is a dash line, long dash line. We show on there also the effect of the 1958 Blacksburg annexation, the 1966 Christiansburg annexation, the 1973 Blacksburg annexation. That goes up above the arrow pointing there from Blacksburg, annexed by Blacksburg, then your solid, up above 30,000, to the right of 1970 and 1973 there is a dash and then there is another step up and a projection, and this is assuming annexation by Christiansburg. This is the projection of the towns of the county with annexation by Christiansburg, as well as Blacksburg in the past.

Just above that is Montgomery County, excluding the towns. This is a short dash line, showing the growth over to 1958, and the effects of Blacksburg annexation, growth within the county, excluding the towns, until 1966, the effect of Christiansburg annexation, continued growth to 1973, and there the population would drop down to just above 20,000. Then projected over for two years to '75 and showing another drop in 1975, assuming annexation is granted as proposed.

Then a projection from there to 1980, for the

2 remaining portion of the county.

3 Q The top line is Montgomery County, including the
4 towns, which is the whole ball of wax?

5 A Yes, sir. The population of the towns, throughout,
6 will be the population of Montgomery County also.

7 Q Since the 1966 annexation for the Town of
8 Christiansburg, has its rate of growth kept up with the rate
9 of growth of Montgomery County, including the towns?

10 A No, sir.

11 Q Have you computed what the difference is, or the
12 amount of growth rather than the rate of growth, in that
13 period of time?

14 A The rate of growth from 1966 for Christiansburg
15 through 1974 is about 24.8 per cent, approximately 25 per cent.

16 Q That is the total growth?

17 A That is the total growth for that period of time.
18 That is eight years. The population we estimated has
19 increased approximately 25 per cent.

20 Q What has been the increase of Montgomery County,
21 including the towns, during the same period?

22 A Thirty-one, little more than 31 per cent.

23 Q Okay. So Christiansburg is not keeping up with
24 its share of the growth in the county as a whole, under its
25 present condition?

2 A That is correct. The population is not right
3 within the present corporate limits.
4 Q All right, we look at Exhibit 9, dealing, talking
5 about some of the utilities. Tell us what it shows.
6 A Exhibit 9, sheet 1 of 1, and page 9, is entitled
7 "Water Service". It is explanatory there that this table
8 shows the number of water service in and outside the town
9 for the last eight years, and this eight years was chosen as
10 the period since the last annexation, along with the
11 percentage relationship. Since 1966 through 1973, within
12 the town, a number of water services has increased, at the
13 average rate of 4.35 per cent per year, or 108 services a year.
14 Total of 759 services, a total increase of 34.77 per cent.
15 I want to point out that there is an error on
16 this exhibit at 1970 under in town services it should be
17 2,549, instead of 3,549.
18 Q Isn't there an error in the percentage figure,
19 first column, on 1966?
20 A Yes, 1966 per cent of total should be 93.33 per
21 cent instead of 99.33 per cent. Here we have the per cent
22 of total number of customers from 1966, of all of the town's
23 customers, 93 and a third per cent were within the town.
24 Last year less that 85 per cent of that total water customers
25 were within the town. The remaining were outside.

Q What does that indicate?

A It indicates that there is a strong demand for water services outside of town, that there is some growth going on out there, substantial growth going on out there, and they are relying on the town's water service for water supply. It increased at an average annual change of 18.77 per cent, per year, almost 20 per cent, while the town was a little more than 4 per cent, an increase of about 5 times as fast, outside the corporate limits.

Q Where does the town get its water?

A The town purchases its water in wholesale quantities from the Blacksburg-VPI, from the Blacksburg-Christiansburg-VPI Water Authority. This water is taken from the New River, pumped, raw water pumped to a ~~pond~~ PLANT along 114 and is processed into potable filtered water and pumped along 114 to the intersection of 460, where it is pumped into two directions, one to the Town of Christiansburg and the other to Blacksburg and VPI, along Route 460.

Q The Town of Christiansburg serves customers along the line of its main transmission line from the Authority's treatment plant, is that right?

A Yes, sir. There is a transmission main along 114 from the filter plant to the intersection of 114 and 460. This portion of the line, part of it is Christiansburg,

2 serves water to the individual customers, along this line,
3 and a short portion of it back toward the filter plant,
4 Blacksburg, serves customers. At the intersection of 114
5 and 460 south of that intersection along 460 to Christiansburg,
6 the customers tapped onto that transmission main are considered
7 Christiansburg customers and they serve these customers.
8 North of 114, along 460, water connected to the
9 water line or transmission mains are considered Blacksburg
10 individual customers and they are supplied by Blacksburg.
11 Q Does the Water Authority sell water to anybody
12 except the three units that compose the Authority?
13 A No, sir, it only sells to --
14 Q Between the two, Blacksburg and Christiansburg?
15 A Blacksburg, Christiansburg, and VPI are the only
16 three customers that the Blacksburg-Christiansburg Water
17 Authority has.
18 Q All right. Let's have Exhibit 10.
19 JUDGE JORDAN: Before we leave that exhibit, may
20 I ask a question?
21 THE WITNESS: Yes, sir.
22 JUDGE JORDAN: Mr. Massie, Belmont Estates, is
23 that Christiansburg or Blacksburg customer for water?
24 THE WITNESS: That is Christiansburg water
25 customer.

JUDGE JORDAN: Coming on the north side of Route 114?

THE WITNESS: Yes, both sides of Route 114. Mr. Lemley can tell you the exact mileage, but it is about a mile and a half east of the filter plant is a division point between Blacksburg and Christiansburg along 114. Then from that point all the way to 460 along 114, customers on both side of 114 are Christiansburg customers. West of that point, customers on both sides of 114 are Blacksburg customers.

JUDGE JORDAN: From the river up?

THE WITNESS: From the filter plant up to that point, yes, sir.

JUDGE CRIDLIN: I take it, Mr. Massie, that these 520 out of town services are furnished by the Town of Christiansburg?

THE WITNESS: Yes, sir.

BY MR. DAVENPORT:

Q Aren't there a few of those services outside the annexation area, beyond the annexation area?

A Yes, sir. We will get into some areas that the town serves with this map. The town serves outside of the annexation area, those 520.

Q All right. Now Exhibit 10 is on the easel.

Can we get that sheen off of it?

A Yes.

Q Describe that map to the Court, please.

A We have here town Exhibit No. 10, sheet 1 of 1, entitled "Map Showing Water Facilities". We have the same base map, the Town of Christiansburg, the existing corporate limits shown in red and white tape. The proposed limits.

Q Run all the way around, because I get mixed up with the water lines. I don't know what we used the same color --

MR. FITZGERALD: Can you stand on the other side so we can see? Thank you.

A This red tape, the red and white tape is the existing corporate limits of the Town of Christiansburg.

BY MR. DAVENPORT:

Q All right, go ahead.

A The green and white tape is the limits of the area proposed to be annexed (indicating). The same color or schemes used on this tape as was used on the aerial photograph and the previous exhibit.

Also shown on this map is schematically the water system of the Town of Christiansburg. The existing facilities are shown in red, with red ink over the original print. The fire hydrants, existing fire hydrants are also shown on this

2 map. The size of the water lines are also shown.

3 Going back to where the water originates in the
4 upper left-hand corner of the map, northwest of Christiansburg
5 is 114. On beyond the limits of the map is a point where the
6 Blacksburg-Christiansburg-VPI Water Authority's filter plant
7 is located. Finished water pumped from there on in, on into
8 the intersection of 460 along 114. Then, as I said, it is
9 pumped north to Blacksburg and VPI and south to Christiansburg
10 and into the Christiansburg system.

11 The red lines to the north and south of 114 up to
12 the intersection of 460 are distribution lines that are
13 considered Christiansburg distribution system. Any customers
14 on this line and along the transmission main, up to this
15 intersection, from this point west to the annexation area
16 are Christiansburg customers. Christiansburg maintains,
17 services these lines, reads the meters, bills the individual
18 customer. Then from this intersection of 114 and 460 south
19 to the present corporate limits, this is also the case, the
20 customer along this transmission main and the customers on
21 any extensions thereof are off on the side, are Christiansburg
22 customers, billed individually by Christiansburg.

23 Along the northern portion of 460 from the
24 intersection of 114, and it is noted here on the map, existing
25 water facilities presently operated and maintained by the

2 Town of Blacksburg, Virginia, and these facilities exist in
3 transmission main and lines into the subdivision serve the
4 customers as Blacksburg customers. Blacksburg reads the
5 meters, Blacksburg services the customers and bills them,
6 collects for the service.
7 We go into the present town with the extensions,
8 distribution system. The town has within its town and its
9 system, I say within its town, there are a couple of tanks
10 outside of town, but on its distribution system, a 250,000
11 gallon reservoir in the northern portion of town. This I
12 referred to on the tour today, was the old Cambria standpipe,
13 where the Court pointed out the two reservoirs in the western
14 portion of town, 200,000 gallons and one 100,000 gallon
15 reservoir located in the western portion of town.
16 In the southern portion, and when we were on the
17 tour, we passed this tank that was being painted at the
18 present time, a 200,000 gallon reservoir tank in the south
19 portion of this town. This was over near the swimming pool
20 as we went by.
21 Then in the eastern portion of town, just outside
22 of the town, and it was located here because of topography
23 of 500,000 gallon reservoir standpipe, serving the eastern
24 portion of town, and then out behind the Harvey Hubbell plant
25 and the annexation area is 250,000 gallon reservoir elevated

2 tank, also serving the eastern area of the town, the annexation
3 area, and this tank also serves as fire protection for the
4 Harvey Hubbell plant.
5 Water comes into town and is pumped into the old
6 Cambria tank in the western two reservoir tanks and these
7 tanks float on the system. This is what we call the low level
8 system of the town. The areas south of town, south of the
9 interstate in a little portion northwest of the interstate
10 and the southwest portion of town is on a high level system.
11 There is a pump station at the intersection of Radford Street
12 and West Main Street that takes water from the low level
13 system and pumps it over into the high service system and the
14 excess going into the 200,000 gallon reservoir service tank.
15 As we went into the annexation area south of town
16 today, this is Area No. II, just at the corporate limits there
17 is a booster station here that will pump water into the
18 subdivision that is under construction now or is being
19 developed in the annexation area, too. This will also boost
20 pressure in the Walnut Grove area, which is also securing
21 water from the town system.
22 East of town, in the east portion of town just
23 beyond what we call the Old Cambria Road or Route 111, right
24 at a place called Stone's Restaurant, we turned and went up
25 into north of Route 11, in the east portion and the bus

2 backed up in a driveway and came out, is a booster pump
3 station here that transfers water from the low level system
4 to the eastern portion of the town's distribution system,
5 which is a high level system. It pumps the excess water not
6 being consumed into the Harvey Hubbell tank and the 500,000
7 gallon reservoir north of the town's eastern limits.
8 These also serve, these two tanks and the water
9 and this pump station also serve the eastern portion of town,
10 the eastern portion of this area, one of the annexation areas
11 and on beyond that to the top of what is known as Christiansburg
12 Mountain.
13 Q How far out is that, beyond the annexation area?
14 A About 7,000 or 8,000 feet.
15 Q Mile and a half?
16 A Yes, sir.
17 Q How did you happen to go out there?
18 A Well, let's see if I can go back on this. The
19 town has built this 500,000 gallon reservoir and extended the
20 water up to the corporate limits and somewhat beyond, or up
21 to the corporate limits. There was a request for water out
22 to the interchange at 81. The town prepared to make this
23 exchange, make this extension, and the Service Authority
24 for the county objected, but after negotiations, it was
25 agreed that the Service Authority would support the town

2 extending outside its corporate limits, providing the town
3 would extend it all the way to the top of Christiansburg
4 Mountain.
5 Q They didn't give it financial support, did they?
6 A No, sir.
7 Q All right.
8 A I might point out here in this, these areas, I
9 did point out in the south area, but in the east area, back
10 over and adjacent to Harvey Hubbell and beyond 81, over to
11 about where the radio station is, the town is presently
12 serving. On beyond the eastern limits of the Area No. I the
13 town is also serving two lines going back into some development
14 beyond the area sought to be annexed.
15 Q All right, does that pretty well cover the
16 description of the present service?
17 A Yes, sir.
18 Q What is proposed to be done now if annexation is
19 granted?
20 A One point I did miss, Mr. Davenport and your
21 Honors, is this: west of town there is a line running out
22 to Route 661, and from there up into the Country Club where
23 we turned around and had a rest break today. This is Round
24 Meadow Country Club, and the house we saw there is receiving
25 town water service, too.

2 Q What is proposed to be done to serve the
3 annexation area, if the Court grants this annexation?
4 A We have shown hereon, on this map extensions
5 proposed by the town to be made in several areas, if they are
6 annexed, to make water service available to the residents of
7 the area.
8 Q What you have got to do -- I am not sure that
9 the Court can distinguish between red and green where it is
10 so close together. They are main lines, aren't they?
11 A Yes, sir.
12 Q Point out what you are talking about.
13 A Let's take Area I to start with.
14 Q All right.
15 A Just east of Harvey Hubbell and north of Route 460,
16 and this we loop a loop by Harvey Hubbell, just east of there
17 is some development along some secondary road. The town
18 proposes to extend the six inch water line into that area to
19 serve this. Also it proposes to place fire hydrants along
20 this line at strategic points to provide fire protection also.
21 Then out at Interstate 81, intersection with 460,
22 north, just west of the interchange, up behind the existing
23 motel, the town proposes to extend the water line into this
24 area to make water service available.
25 Going back just east of the existing corporate

limits is a developed area that the town proposed to extend water lines into to make water service available to that area and fire protection also. This is just south of 460 and north of 81, and east of the existing corporate limits is where this large trailer part that we saw from the by-pass, interstate today, is located.

Then east of the intersection of 81 and Route 460 and south of 460, beyond the radio station and on over into extreme southeast corner of Area I that the town proposed to extend the fire hydrants and water mains to make water for fire fighting purposes available.

In Area No. II, the town proposes to extend a water line out to the southeast limits of Area No. II, if the area is annexed. This is a short portion. The remaining portion of that area is already being served.

West of town in Area No. III the town proposes to extend an eight inch line along Route 11, up to the existing development and also a six inch loop around the secondary roads over towards a fur farm, loop this around, cross Route 11, on back down Route 661 to tie into the existing line now in 661. This would be a six inch loop with fire hydrants at strategic locations.

Going further, going up to 114 in Area ~~II,~~ III there is an indication of a pump station. This is a pump station

2 operated by the Water Authority, Blacksburg-Christiansburg-
3 VPI Water Authority, to move this water into Blacksburg and
4 Christiansburg. There is a 12 inch line proposed by the
5 Authority, transmission line from that pump station into the
6 town's 200 and 100 thousand gallon reservoir. The town
7 proposes to make fire hydrant installations along this line
8 at strategic locations and off of this line in the vicinity
9 of the N & W Railroad and back over to Route 661, extension
10 water line to serve this area.
11 Q What is the status of that proposal, of the water
12 authority?
13 A The plans are being prepared for it at the
14 present time, to the best of my knowledge.
15 Q That is the Christiansburg-Blacksburg-VPI Water
16 Authority?
17 A Yes. This is to get water into this area and
18 the town negotiating with the Authority and with the
19 cooperation of the two, instead of continuing along the same
20 highways, negotiated to bring it back through this area and
21 make more areas served by the facilities and a larger service
22 area.
23 A Belmont Farms subdivision, this area is served
24 by the town's facilities. Belmont Estates, this area is
25 being served by the town facilities. Just east of this, north

2 of 114, developed, subdivision is presently being served by
3 town facilities. The town proposes, if this area is
4 annexed, to extend this line on north to serve the existing
5 development along this road, and provide fire protection
6 also. The town also proposes to, in the northeast corner,
7 to extend a line into some development there, what is called
8 Midway, to serve the development back off the road now that
9 is not presently being developed. That is they are not being
10 served.
11 JUDGE CRIDLIN: You say they are now served by
12 Blacksburg?
13 THE WITNESS: This area right now is not served
14 by anyone in here (indicating).
15 JUDGE CRIDLIN: Then this road, 460 --
16 THE WITNESS: Anything on 460 is being served,
17 yes, sir. Anything that taps onto it but --
18 JUDGE CRIDLIN: Is served by the Blacksburg?
19 THE WITNESS: They are considered Blacksburg
20 customers, yes, the Town of Blacksburg.
21 JUDGE CRIDLIN: Do you have defined service areas
22 for Christiansburg and Blacksburg as to where each would
23 go?
24 THE WITNESS: There is an understanding between
25 the two and I think I can discuss it some, but I think

Mr. Lemley, the town manager, can discuss it more thoroughly.

JUDGE CRIDLIN: I just wondered if some of this area that you are seeking to annex in territory III here wouldn't have to be served by Blacksburg.

THE WITNESS: Yes, sir, this is correct. It is now being served by Blacksburg.

JUDGE JORDAN: Midway would be in the Blacksburg area?

THE WITNESS: Yes, this is correct. The subdivision across from Corning and Corning itself are served by Blacksburg.

MR. JOLLY: In response to Judge Cridlin, there is an agreement which is in the form of an ordinance which was adopted by both councils, which we propose to introduce.

JUDGE JORDAN: All right.

MR. DAVENPORT: Mr. Jolly is quite right, the ordinance is there. I think it will be introduced before Mr. Jolly gets to it, unless he wants to do it now.

MR. JOLLY: We would be glad to introduce it now, if you would like it to be introduced.

MR. DAVENPORT: It is going to be introduced by

2 the town manager. Mr. Massie is not a party.

3 JUDGE CRIDLIN: Just go ahead the way you were

4 doing. There is no hurry.

5 MR. DAVENPORT: It is germane to the problem,

6 there is no question about that. We are not trying to

7 duck it for the moment.

8 BY MR. DAVENPORT:

9 Q Go ahead, Mr. Massie.

10 A This is a problem, yes, sir. The proposed

11 subdivisions, across here, the city proposes to extend water

12 lines into there with fire hydrants for protection of this

13 subdivision.

14 Back just north of the northern corner of town

15 is development and the town proposes to make distribution

16 extensions in this area to serve the development and improve

17 some lines that are there now, and the service there now,

18 and bring it up to the standards of the town, provide water

19 for fire fighting service.

20 JUDGE JORDAN: Mr. Massie, does that red line

21 indicate the road going up there where you just left,

22 come on down -- going down by the highway department

23 lot and so forth?

24 THE WITNESS: Yes, sir. That is an existing line

25 into that manufacturing plant in there. That is a ten

inch line to provide fire protection, as well as water service.

JUDGE JORDAN: Does that go as far as that road goes out there?

THE WITNESS: Yes, sir, it goes over to that industry over there. I believe it is a furniture manufacturing plant in there.

Basically, there is one little extension here, we show in the Country Club property that I see is not what it should be. It should have curved over and tied into the 12 inch line. I am sorry I missed that. This should have been tied together here to give a loop over into the Country Club and back into this 661 route, secondary route.

BY MR. DAVENPORT:

Q What are those little green knobs sticking off of 114 transmission lines?

A They are proposed fire hydrants along the Authority's transmission main. There are no -- the Authority provides no fire hydrants and there are no fire hydrants there. The town proposes to install fire hydrants along these transmission lines to make fire fighting service, water for fire fighting service available, along 114.

Q All right. Have you finished with that?

A Yes, sir.

Q Okay, let's go back and move on to sewers, Exhibit 11.

Your Honor, may I inquire what time you want to stop?

JUDGE JORDAN: Five o'clock.

MR. DAVENPORT: Well, we can get through Exhibit 11. I think it would be futile to get into the counterpart of this map, because it will be a half hour, I am afraid.

JUDGE JORDAN: All right.

MR. DAVENPORT: If we get through this Exhibit 11, is that satisfactory?

JUDGE JORDAN: That will be fine.

BY MR. DAVENPORT:

Q All right, Mr. Massie, look at Exhibit 11. Tell the Court what it indicates.

A Town Exhibit No. 11, sheet 1 of 1, and page 10 in the booklet, is entitled "Sewer Services". This is a comparable exhibit to the water service. The table shows the number of sewer services both inside and outside the town for the last eight years, together with their percentage relationship.

For 1966 through 1973 the town has had an increase in number of sewer service an average of 7.7 per cent per

2 year or 129 connections, for a total of 905 connections over
3 the period of time.
4 The number of sewer services, percentage of
5 services in town to the total number of services in 1966 was
6 99.55 per cent. 1973 was 99.29 per cent. Out of town services
7 were 6 in 1966, in 1973 they were 16. The average annual
8 change is 10 per cent, but only one per year. The average
9 change for the total sewer system was 130 per year or 7.7 per
10 cent per decade. I mean per year -- I am sorry, per cent per
11 year, annual.
12 Q Why so little out of town contrasted to what?
13 A Well, to extend sewer service in a number of
14 instances, the topography played such an important part that
15 the sewer has to flow by gravity or if it is into a different
16 area, it has to be pumped back. The town annexation in 1966,
17 several, a number of the lines were based on topography with
18 this in mind. Any extensions outside of town in a goodly
19 portion of the area around the boundary would entail major
20 cost of pump stations to lift these areas just outside of town
21 back into town. We don't have this problem with water.
22 Water is under pressure and we can keep moving it on.
23 We do have some problem with level pressure, but
24 not like sewer where we resort to gravity to collect it to a
25 common point and then move it back.

This is why in this instance for sewer, the capital cost involved for pump stations was a deterrent to develop making such extension, including the pump station. There are several, and we will get into them on that.

The other thing that I would like to point out, that the increase in sewer customers within the town being higher than the water customers over a like period of time, immediately after the annexation in 1966, not only did the town extend sewer and water service to the annexation area, but the town extended sewer service into the old Cambria area, which had been ~~mentioned by~~ merged with the town, before the annexation. This area had resorted, had been using outdoor privies and septic tanks for years. This was part of the advantages of the merger at that time of the two towns, that Christiansburg had the wherewithall to make the sewer extension into Cambria.

MR. DAVENPORT: Your Honor, we have a couple of exhibits I can get rid of in a hurry, and we will go to the sewer map tomorrow.

BY MR. DAVENPORT:

Q Look at Exhibit 13. That sets forth assessments, tax rates, levies, so forth. Describe that exhibit to the Court.

A Yes, sir. This is an exhibit consisting of five pages. It sets forth assessed values in Montgomery County

2 and the levies for the past five years by categories to
3 comply with the requirements of the annexation statutes.
4 Also for the Town of Christiansburg, based on county levies,
5 this is shown on sheet 2.
6 Q Those are the levies that are collected by the
7 county and the town?
8 A This is correct.
9 Q Sheet 2.
10 A Yes, sir. Sheet 1 is all of the levies collected
11 by the county within the county. Sheet 2 is that portion
12 that is collected within the Town of Christiansburg.
13 Q All right. Sheet 3.
14 A Sheet 3 are the levies by the Town of Christiansburg
15 within its corporate limits and, of course, the assessments
16 are the same as those on sheet 2 because the town uses the
17 county's assessed value. However, the town does not levy a
18 tax on merchant's capital, which is not shown on sheet 13, or
19 sheet 3, page 13. On sheet 4, page 14, the tax rates for
20 Montgomery County, these are the tax rates levied by the
21 county in the county for the various categories for the past
22 five years as set forth. That tax rates for the Town of
23 Christiansburg that it levies within its boundaries for the
24 past five years on the categories set forth.
25 At the bottom of the 1971 ratio of assessed values

2 to true values in Montgomery County, for real estate as
3 determined by the State Department of Taxation and the Public
4 Service Corporation is arrived at by data given us by the
5 State Corporation Commission. On sheet 5, page 15, are the
6 estimated assessed values, 1975 tax year for the Town of
7 Christiansburg and for the annexation area. These we, our
8 firm, estimated these projected assessed values for the tax
9 year 1975. The reason we picked this '75 year was this would
10 be the first full year of town operation in the annexation
11 area, if annexation were granted as proposed.
12 Q All right. Let's look at Exhibit 14, and I will
13 stop. Exhibit 14 deals with outstanding debts, debt limits
14 and debt margin. These are based on the figures you have
15 just been talking about, aren't they?
16 A Yes. Of course, the outstanding debt is not an
17 estimate. This is what the outstanding debt will be in 1975-
18 76 fiscal year, assuming the town continued to pay off its
19 debt as it has in the past, will be $315,000. The legal debt
20 limit set at 18 per cent of the assessed real estate values
21 of the area in the town, the legal debt limit, $2,593,800.
22 This is the maximum debt that we estimate the town could
23 incur without a referendum by issuing general obligation bonds.
24 The outstanding existing debt would have to be
25 deducted from this, and this leaves, subtracting $315,000 in

2 '75-76 years, fiscal year would leave a debt margin of
3 $2,278,800. This is our estimate that if the town needed it,
4 after annexation, in its first full year, it could issue up
5 to approximately $2,278,800 in general obligation debts.
6 MR. DAVENPORT: May I ask Judge Jordan, may we
7 consider that each exhibit to which the witness
8 testified to is offered in evidence at that time and
9 will be received?
10 JUDGE JORDAN: Unless I hear objection.
11 MR. DAVENPORT: Unless objected to.
12 JUDGE JORDAN: Unless I hear an objection, it
13 will be considered as introduced, with your right to
14 reserve to cross examine as to content.
15 MR. DAVENPORT: May we stop now?
16 JUDGE JORDAN: I think it is a very good stopping
17 point.
18 I will say for the benefit of counsel, this room
19 and the jury room where you have your exhibits will be
20 locked. Anything will be safe in here tonight, if you
21 wish to leave it.
22 Sheriff, adjourn court until half past nine
23 tomorrow morning.
24 . . . Thereupon, court adjourned at 5:00 p.m. to
25 reconvene at 9:30 a.m. on July 9, 1974 in Radford,

SECOND DAY OF TRIAL

July 9, 1974

. . . Thereupon, court reconvened at 9:30 a.m., in Radford, Virginia, when the following proceedings were had . . .

JUDGE JORDAN: All right, gentlemen, you may resume examination of Mr. Massie.

MR. DAVENPORT: Thank you, sir.

EDGAR F. MASSIE, JR.

resumed the witness stand and further testified as follows:

DIRECT EXAMINATION (Continued)

BY MR. DAVENPORT:

Q Mr. Massie, we have put on the easel Exhibit 12, I believe, is that right?

A Yes, sir.

Q This shows the sewer facilities existing and proposed, is that correct?

A Yes, sir.

Q Will you go to the easel and explain that to the Court, please.

A We have town Exhibit No. 12, sheet 1 of 1, map showing sewer facilities. We have the existing corporate limits as in the other maps shown with red and white tape

2 and the boundary of the area proposed for annexation shown
3 with green and white tape (indicating). Shown hereon is in
4 red, red solid lines are the existing sewerage facilities of
5 the Town of Christiansburg. Also shown thereon are the
6 locations or the sewerage treatment plants and the several
7 sewerage waste water pumping stations that the town owns and
8 operates.
9 Q Do you want to point them out?
10 A Yes, sir. Generally at this point (indicating)
11 is one of the sewage treatment plants having a capacity of
12 equivalent population of 6500 people. This is the other
13 sewage treatment plant having a capacity for equivalent
14 population of 2,000 people.
15 JUDGE JORDAN: Are both of those on Crab Creek?
16 A Yes, sir, both are tributary to Crab Creek.
17 Christiansburg is so situated as referred to
18 earlier yesterday, in the latter part of the day, regarding
19 sewer customers, topography has so much to do with influents
20 and the arrangement of the sewer system that it governs the
21 cost and has to some extent govern the feasibility of extending
22 the system and the way it is set up.
23 Christiansburg, most of it is tributary, the
24 present corporate limits are tributary to Crab Creek. Crab
25 Creek or parts of it originate here in the southeast portion

2 and the southern portion of the present corporate limits of
3 Christiansburg and it goes in a northern, northeast and
4 northern direction around through the eastern side of
5 Christiansburg and then over adjacent to the main line of the
6 Norfolk & Western Railroad. It turns and comes in a westerly
7 direction and all through the area proposed for annexation,
8 flowing toward New River.
9 Now this area north of the Norfolk & Western main
10 line, the old Cambria area, is tributary by gravity into a
11 major trunk along Crab Creek. Then the remaining portion is
12 tributaried down -- well, it is two ways. One is tributary
13 in a southeast direction over to Crab Creek and then around
14 Crab Creek (indicating). The remaining portion of the town
15 is tributary back directly to Crab Creek in a northern
16 direction. The southwest corner of the town of the area in
17 the southwest portion are tributary by gravity on down into
18 the sewage treatment plant.
19 Now in the western portion of town, out near the
20 extremity, is this sewage pump station known as the Silver
21 Lake Pump Station. This was put in in the last six or seven
22 years. This was put in in a part of the territory annexed
23 in 1966. In the eastern portion of town, on out to the area
24 where, the 460 by-pass ties back in, this is the eastern
25 corporate limits, is just about on the ridge line or is on

2 the ridge line, and this waste flows by gravity back into the
3 town system.
4 Beyond the existing corporate limits, there is
5 a small amount of gravity line, because this is practically
6 a flat grade here (indicating), then as we get on into it,
7 further into the area proposed for annexation, the gravity
8 flow is back in an easterly direction and out just beyond the
9 intersection of 460 and 81, a sewage pump station has been
10 installed that serves this eastern area of the area proposed
11 for annexation and diverts that waste back into the town
12 system, ultimately to flow to the plant by gravity for treatment.
13 BY MR. DAVENPORT:
14 Q What is that line right just to the north, right
15 there (indicating)?
16 A The line in the annexation area, red line, just
17 north of the present corporate limits, it goes in an easterly
18 direction across 460 by-pass, is an outfall sewer that was
19 built up recently to serve the Harvey Hubbell industrial plant
20 that we saw yesterday. This plant is served by the town
21 sewer system and, as I testified yesterday, also by the town's
22 water facilities.
23 Shown on this map, there is one other -- let me
24 get back -- one other pump station has just been recently
25 installed. Northwest of the town corporate limits, down

Crab Creek from the town's existing sewage treatment plant -- this pump station will receive waste and at this point and pump it back to the waste treatment plant for service. This pump station was put in to serve areas annexed in 1966, and it will also serve the new juvenile detention home, as well as other areas right in that section. These areas gravity into Crab Creek just downstream from the existing waste treatment plant.

When this plant pump station was put in, the town negotiated and discussed with some property owners there adjacent to it so that it was gotten down to the next stream tributary coming in to afford some extra coverage. This is for planning ahead and looking ahead toward serving the area.

Q If you haven't finished, go ahead.

A In the south of town, in Area No. II, that is proposed for annexation, you will notice some red lines just outside the corporate limits. These lines are tributary to a point just at the south corporate limits. This is to serve the Edge Hill subdivision and the Walnut Grove subdivision that we saw yesterday that is being developed. There is a pump station that diverts this waste back into the town system, and flows by gravity down through what is known as Huff Acres, across the interstate and on around Crab Creek to the town's sewage treatment plant.

This generally covers the town's existing sewage facilities. The various sizes of lines are shown on here. Close examination, you can find there the size of the collectors and interceptors sewers.

Q All right, Mr. Massie. The drain lines outside and the proposed annexation area represent what is proposed to be done for the area?

A Yes, sir.

Q Describe them for the Court.

A The green lines show the proposed sewer extensions and improvements to the town's facilities that would be made to serve the area proposed for annexation, make sewer service and waste water treatment available to this area. Shown on here, close examination of the sizes of these various lines and the general arrangement of them.

As I said earlier, this area is tributary on down, down Crab Creek.

Now there are a couple of other drainage areas involved here also. Let's go to Area I first, which we discussed, the area in the vicinity of 81 interchange is in a different drainage area. Incidentally, while we are talking, this amount of interest, Christiansburg lies right on the drainage divide between the Atlantic Ocean and the Gulf of Mexico. As we go towards Roanoke and just as you cross out

2 of the corporate limit lines, you change from New River
3 drainage basin into the Roanoke River drainage basin and this
4 is going into the Atlantic Ocean's drainage and the main
5 portion of Crab Creek and New River is into the Gulf of Mexico.
6 Going out to this interchange, the existing pump
7 station there serves 460 area and 81 interchange, and on beyond
8 the interchange, up to, could with an extension up to the
9 proposed annexation line. It also will serve out where we
10 saw the radio station. However, just east of there and south
11 of 460 is a drainage basin or drainage area, another creek
12 there that the town proposes to put a waste pumping station,
13 collect the area of the waste, anticipated waste from the area
14 in the southeast corner of Area I, and divert it back into
15 the town system.
16 Over east of the Harvey Hubbell plant is
17 considerable residential development that now has no waste
18 collection facilities. This is shown to collect this east
19 of the Harvey Hubbell plant and this is a rather flat depressed
20 area, and the town proposes to build a waste pumping station
21 here and divert it up to the line serving Harvey Hubbell
22 plant, which will gravity into the town's existing system.
23 Just south of 460 and east of the present corporate
24 limits, refer to a large trailer court that we noticed
25 yesterday from the interstate. There is a small pumping

2 station here that takes the waste from this trailer court and
3 diverts it back into the town system for treatment. Just
4 north of that trailer court there are some residential
5 developments that the town proposes to install some collector
6 lines there to serve this area.
7 In Area No. II, the town proposes an extension
8 on up Route 615 of the Pilot Road, to the proposed corporate
9 limits of Area II, and this would make the sewer service
10 available, waste water treatment service available to this
11 subdivision and development adjacent to that line.
12 Over in Walnut Grove subdivision, the earlier
13 development there is on septic tanks. This is an area where
14 Mr. Porter talked about the basement that had waste water
15 running through it. The town proposes to put in collector
16 lines at the lower reaches of this drainage area on Smith
17 Creek, a pump station, and divert this waste back into the
18 town's system.
19 Then in Area No. III is a major sewer facility
20 extension. This is coupled with the needs of service in the
21 Area III, the annexation area as well as the future needs of
22 the town. The town, as I said earlier, has the treatment
23 capacity equivalent to 8,500 population. Of course, we have
24 projected this population and know even with the present town
25 the capacities of these plants will soon be reached. The

2 State Water Control Board also recognized this and the town
3 has been put on a priority list and has been given a grant to
4 build a waste water treatment plant, regional facilities on
5 Crab Creek. This plant is proposed west of Route 661.
6 Q What will be the size of that plant, Mr. Massie?
7 A That plant will be 1.5 m.g.d., at the present
8 projection now, we are talking about 1.5 m.g.d. What has to
9 be done, the present treatment plants are operating within
10 their certificates; however, the Water Control Board anticipates
11 or has raised the quality of the stream standard for Crab
12 Creek and will require additional treatment at the existing
13 plants, high level of treatment. At the present time it is
14 proposed to abandon the two-tenths m.g.d. plant, the small
15 plant which is an old plant, abandon it, add additional
16 treatment to the .65 m.g.d. plant, to raise this to a high
17 level of treatment and build a 1.5 m.g.d. plant downstream
18 from Route 661. This would give a total of approximately
19 2.1 m.g.d. capacity available.
20 Q What is their estimated population that that
21 will take care of?
22 A This will handle a population on the order of
23 21,000.
24 Q All right.
25 A There is an alternate being considered, and this

2 is what we refer to as cost effective, to determine if it
3 would be more economical in the long run or cost effective I
4 should say in the long run to abandon both of these plants
5 and make a two m.g.d. plant, a modern up to date plant to
6 handle all of this waste water at a high level of treatment.
7 This is something that the town and our firm will work with
8 the Water Control Board and EPA to determine the cost effect
9 on this and EPA makes the final decision as to which way it
10 will go. This is mainly a technical matter.
11 JUDGE JORDAN: What would be the controlling
12 factor of doing away with the two that are upcreek and
13 building a new larger one downcreek further?
14 THE WITNESS: The high level of treatment will
15 require additional supervision and personnel and
16 operational costs. By operating two plants, then it
17 will have a duplication of personnel that would add to
18 the overhead cost of operation, where if we brought it
19 all to one plant, especially with a plant designed from
20 the beginning for this level of treatment, then we can
21 reduce the number of people and the total overhead and
22 operational cost.
23 JUDGE JORDAN: All right.
24 BY MR. DAVENPORT:
25 Q Now will you go ahead. You have described what

2 you propose to do as far as treatment is concerned. Show how
3 you are going to collect it.
4 A Up Crab Creek is proposed interceptor sewer, all
5 the way up to the existing pump station, the existing pump
6 station, and if the existing sewage treatment plant is abandoned,
7 this line would go on up immediately to that location
8 (indicating). It may stop, if this plant is continued in
9 operation, initially this line would stop at the existing
10 pump station. Ultimately for long range it would have to
11 come on up to this point.
12 This is a main interceptor to which everything
13 from the southwest corner or the southwest area of Area No. III
14 would be tributary, across in a northly direction, tributary
15 across Route 11, down just west of the Country Club property
16 and on down to Crab Creek. We proposed an interceptor sewer
17 up through this area and collector lines along 661, and the
18 loop just south of Route 11, some lines along Route 11 to
19 provide sewer service for the existing development in this
20 area. We also, a portion of this road south of U. S. 11
21 in Area III, is tributary down to the town's present Silver
22 Lake Pump Station.
23 We show on here also some dotted green lines for
24 future extensions. This line down the creek adjacent to the
25 golf course will ultimately be extended up to the Silver Lake

2 Pump Station and this abandoned (indicating). Take this
3 waste straight on down by gravity on down to the new plant.
4 Over on 661, in the western area just south of
5 the Norfolk & Western main line, are some residences there
6 and the town proposed to put in collector sewers and take
7 these down into the interceptor sewer on Crab Creek. Then
8 north of Crab Creek up to generally 114, this area is
9 tributary by gravity back to the location of the proposed
10 sewage treatment plant on the western edge of Area III.
11 We propose there interceptors up, just adjacent
12 to Belmont Farms, on up toward the vicinity of the ridge just
13 west of where the Huckleberry crosses 114. This would be an
14 interceptor. Then from that would be lines up, extending
15 proposed up into Belmont Farms to collect this waste by
16 gravity and let it flow into the plant.
17 Also just west of Belmont Farms, along a low in
18 here, between Belmont Farms and 661, along the low is a
19 proposed interceptor, see we are going up to 114. There are
20 a couple of collector lines in 661 that are connected into
21 this interceptor. There are some collector lines along 114
22 that would gravity into this interceptor, as well as a portion
23 would gravity back into the area north of 114, which is
24 tributary to Slate Branch.
25 Q One hundred fourteen is roughly a ridge line, is

2 it not?

3 A Yes, sir, 114 is generally along a ridge line,
4 separating Crab Creek and Slate Branch.

5 Q Will your interceptors and treatment facility
6 south of 114 -- how do you propose to serve the area north
7 of 114?

8 A Well, initially, as an integral means to collect
9 the waste north of 114 at two pumping, interim pumping
10 stations and divert this waste back across 114 and treat it
11 on Crab Creek. This would serve a part of 114. It would
12 also serve Belmont Estates, subdivision just east of Belmont
13 Estates. The other portion would serve the Midway subdivision,
14 development along 460, and development south of 114 on 460.
15 The long range plan is that this waste from the area north of
16 114 would go into a proposed interceptor along Slate Branch,
17 which would ultimately tie back into an interceptor on
18 Stroubles Creek, which is proposed to be constructed by the
19 Blacksburg-VPI Sanitation Authority.

20 Q What is the status of that proposal, do you know?

21 A The proposal for the interceptor along Slate
22 Branch is now being proposed in attempting to get on a priority
23 list for the Water Control Board for a grant. This is
24 recognized as a need, both for this area and for some areas
25 within the corporate limits of Blacksburg and some areas

2 between Area No. III and the corporate limits of Blacksburg,
3 back up in the Merrimac area. However, the priority at this
4 time has not been such a grant is available.
5 The further status of this proposed arrangement
6 is that the proposed interceptor along Stroubles Creek from
7 a point in the edge of the ammunition plant up to the existing
8 plant that the Blacksburg-VPI Sanitation Authority has on
9 Stroubles Creek treating the university waste and the town
10 waste, this is a grant, a grant has been made available for
11 this interceptor, as well as a waste treatment plant to be
12 built at the ammunition plant. The Authority right now, the
13 interceptor line has been designed and is at EPA for approval.
14 We are in the process of designing -- we have the consultant
15 contract with the Blacksburg-VPI Sanitation Authority. We
16 are designing the waste treatment plant for this site.
17 Q What is holding it up?
18 A Well, one is as far as the interceptor sewer and
19 the design is completed, there are some forms and so forth
20 that are being filled out, that should be filled out and
21 have been filled out and submitted. Some of them have gone
22 to EPA and some have been held by the Planning District
23 Commission, New River Planning District Commission.
24 To give you a little background behind this, the
25 Water Quality Management plan drawn up by the New River

2 Planning District Commission, which is tied in with EPA grant
3 and federal and state directives and requirements and Water
4 Control Board requirements or criteria, in order to get a
5 grant for facilities such as treatment plants and interceptor
6 sewers and pumping stations, they have to comply with a
7 Regional Water Quality Management plan. And this plan has
8 been developed by the New River Valley Planning District
9 Commission, and Christiansburg is delegated as the regional
10 facility for the Crab Creek area, and this is the plant and
11 interceptor sewer are tied into this.
12 The Blacksburg-VPI Sanitation Authority has been
13 delegated as the regional facility to treat waste originating
14 on Stroubles Creek, Slate Branch, and a goodly portion of
15 Toms Creek, which is north of the Stroubles Creek area and
16 is a part of the Town of Blacksburg.
17 At the present time, and to do this, the various
18 localities or whoever is delegated as the regional, to have
19 the regional institutional facilities, has to agree that it
20 will receive waste and treat it from that particular drainage
21 area. On several conferences at the Planning District
22 Commission, this agreement has been made.
23 In accordance with the water quality management
24 plan, right now the Town of Christiansburg has submitted what
25 is known as an A-95 form. This is a clearance form to the

2 Planning Commission for their comment, which is a prerequisite
3 to go to the State Planning Clearing House. This is being
4 held up by the Planning District Commission, because
5 Montgomery County Service Authority wants this plant put
6 down New River. This is the Christiansburg plant, put down
7 at New River, a number of miles downstream. This is not in
8 accordance with the water quality management plan that was
9 agreed upon by the town.
10 This, I understand, in fact I have correspondence
11 that this has been tabled for reconsideration by the Planning
12 Commission.
13 Also on the Sanitation Authority's application
14 A95 for the Stroubles Creek interceptor sewer and sewage
15 treatment plant, this A95 form has been tabled because the
16 Montgomery County Service Authority wants a contract spelled
17 out and written out now as to how they could tie into this
18 line and serve it and the terms of it. Both of the areas
19 have agreed, both of the regulatory, implementation agencies,
20 that is the Authority and the Town of Christiansburg, have
21 agreed that they would negotiate and work into these contracts.
22 One thing on the Stroubles Creek line, there is
23 no real concern at Christiansburg, but it is with the
24 development up this line, up this Slate Branch area
25 indirectly, the Authority wants to build this line as soon

as possible. It will go all the way to New River. When the new plant is built upstream, the lower portion of the line will be used as an outfall line to New River, but if it can be built, as soon as it can be built, the waste from the existing plant up on Stroubles Creek, which is right heavily loaded, the waste would be diverted into this line and sent on to New River, and thereby would not contravene in the stream standards of Stroubles Creek, so the Authority is right anxious to get moving with this line.

In any event, getting back to Area III, the northern portion of it, the Town of Christiansburg proposes until the Slate Branch line can be built, if this area is annexed, the Town of Christiansburg proposes to build two interim pumping stations and divert this waste back into their proposed sewage treatment plant and treat it until this Slate Branch line is built.

Q Now what you have described there, will that adequately serve all around the proposed annexation area? Will it make sewer facilities available to the whole area?

A Yes, sir.

Q All right, resume your seat, please, sir.

Let's look at Exhibit 22 in the book on page 20. This is a capital improvement program, so titled. Did you have any part in preparing this?

A Yes, sir, we prepared it and had some assistance and cooperation with the town manager of Christiansburg.

Q Would you point out which sections of this you prepared. Did you make a take-off of the water facilities?

A Yes, sir, the water facilities, we have summarized the amount of facilities, the size of the facilities and the estimated cost of the facilities for water on page 20, we made this estimate, both for facilities and the estimated cost.

Q What is the $229,500 that you have deducted from the total water facilities cost? Is that the same item as up above for 15,300 feet of 12 inch water line?

A Yes, this is the 12 inch water line that is proposed. We showed yesterday on the water facilities exhibit. This is the 12 inch water line to be constructed from 114 over to the town's two concrete ground storage reservoirs by the Blacksburg-Christiansburg-VPI Water Authority.

Q So according to this your estimate of the cost of the water facilities to the Town of Christiansburg is $509,000?

A This is correct, yes, sir.

Q Turn to page 21, the second sheet of that exhibit. I will ask you the same thing. Did you make a take-off with reference to the sewer facilities?

A Yes, sir, the quantities, the lengths, the quantities and sizes and the estimated cost were developed by us and it is our estimate.

Q Now with reference to the first item, eight inch collector sewers, they do not qualify, do they, for federal and state grants?

A No, sir, they do not.

Q Does everything else in there qualify for federal and state grants?

A Practically everything else will qualify for state and federal grant.

Q The deduction of $2,762,160 at the lower part of that part of the exhibit, less state and federal grants, that is the grants that are expected to be received for everything else on there?

A Yes, sir. This is the grant -- this amounts to a total of eighty per cent grant of the qualifying facilities. This is 75 per cent federal grant and 5 per cent state grant.

Q So the net cost to Christiansburg for the proposed sewer facilities will be $1,745,840?

A This is correct.

Q Of which a million dollars plus is all in the collector system, right?

A Yes, sir.

Q Did you make the estimate of street improvements?

A I conferred with Mr. Lemley on this and we developed this estimate together, yes, sir.

Q The total estimated net capital cost, which would include also the equipment listed at the top of that exhibit on page 20, is how much?

A The net cost to the capital cost to the Town of Christiansburg, $2,374,440.

Q Would that all be incurred immediately?

A No, sir.

Q Over what period of time is it proposed that that cost be incurred?

A It is estimated and proposed that this cost would be incurred over the five years following annexation, five year period.

Q Have you made an estimate of what it would cost -- what would the annual cost be to carry this debt, even if it were all incurred initially at one time?

A If it were all incurred at one time and the town financed this over a twenty year period at five and a half per cent, it would cost, annual debt service would cost $198,700.

Q But according to the plans of spreading it over a five year period it wouldn't be anywhere near that, would it?

A No, sir. I think a good illustration of that is

2 in the past annexation case, where Christiansburg was granted
3 the area and sewer and water facilities were extended into
4 that area somewhere I believe approaching a million dollars,
5 and they sold $400,000 worth of bonds, after about three years,
6 I believe it was, three and a half years, and the rest of
7 the improvements were financed out of current revenues and
8 annual revenues.
9 Q These figures that you have here, that you just
10 testified to, don't anticipate revenues themselves, do they,
11 revenues from the water and sewer?
12 A No, sir, these are capital costs, strictly capital
13 costs and the last estimate is what funds would have to be
14 available, that is $198,700 would be the average annual debt
15 service cost, if this were all financed by a bond issue.
16 Q All right, Mr. Massie. Did you make certain
17 assumptions and prepare an exhibit based thereon showing what
18 the financial effect on an annexed resident would be,
19 Exhibit 24?
20 A Yes, sir, town Exhibit 24.
21 Q On page 24?
22 A Page 24, consists of two sheets.
23 Q Would you explain the exhibit, please.
24 A Yes, sir. We estimated what the financial effect
25 would be on a resident in the area, should he be annexed. To

2 arrive at this we had to make certain assumptions. Assumptions
3 were that the assumed value of his real estate was $2500,
4 the improvements, that is his residence and so forth was
5 $25,000, giving a total of $27,500. Applying an assessment
6 ratio of 15.1 per cent, the assessed value would be $4,152.50.
7 We assumed that this was a brick residence, that this resident
8 owned an automobile, that he used the average amount of water,
9 residential unit per quarter, and that he would be connected
10 to the town's sewer and water system, and that he received
11 garbage service.
12 Before annexation there would be no real estate
13 tax, town real estate tax. There would be no town personal
14 property tax. He would pay a county auto license fee. His
15 water cost and sewer cost would be out of town rates. This
16 is the average rate. His garbage service cost we estimated
17 at $2.50 a month.
18 We understand, have certain information to the
19 effect that what is known as scavengers or private collectors
20 are collecting garbage within this area on some type of
21 schedule at approximately a cost of $2.50 per residence per
22 month.
23 The insurance on a house and the content in this
24 area that did not have the benefit of adequate water for
25 fire fighting purposes and were not within a municipality,

for this type of residence was obtained from the insurance rating service.

The total cost before annexation on the items that would be involved after annexation, we estimated at $245.90.

On page 25 of sheet 2 of 2 of this exhibit, we have the annual cost ~~of~~ after annexation. The town real estate tax at the present town rate, $2.25 per hundred would be $93.43.

The personal property taxes at the same rate.

And we show here, the average utility tax that the town levies on its residents is $18 a year.

The town's auto license is the same as the county of $10.

The water and sewer cost would be reduced because there would be an in-town resident.

The garbage service, collection service by the town providing this service is $1.50 a month, and the insurance would be reduced on the house and contents, giving a total of $304.92.

We estimate that the resident would be able to claim deductions for both federal and state income tax purposes for the town real estate tax, personal property tax, and that he would get a reduction in income tax of $29, so

it would leave him a net total cost of $275.92, the difference being at the bottom of the summary, after annexation, would be $30.02.

Q All right, sir. Mr. Massie, that I think deals with all the exhibits that we were going to touch upon, does it not?

A I believe so, yes, sir.

Q You have been an engineering consultant for the Town of Christiansburg for about 15 years, I think you said. And you helped them at the last annexation case and you have studied this situation with reference to this case. Would you tell the Court what you have observed and concluded on the needs of the town with reference to this annexation.

A Well, based on my knowledge, knowledge that I gained through the association with the town over these years and the studies in connection with the annexation, this proposed annexation, I am of the opinion that Christiansburg needs this area for the growth of the town. What little vacant land in town, there is in town, suitable for development, there is only a little left, and this is developing rapidly. A substantial amount of the development of the community has taken place just outside of town. In my opinion, this is associated strongly with the community of Christiansburg. There is no vacant land at all in the present town for any

2 substantial subdivision -- this large area such as we saw
3 well underway on Flag Mountain or Craig properties yesterday.
4 There is no vacant land within the present town for industrial
5 development. Anything on the order of Harvey Hubbell, looking
6 for large industrial development, land for industrial development
7 not up against some residential area, has to be outside the
8 corporate limits.
9 The town also needs this area within the corporate
10 limits now so that it can plan for the future development of
11 the area as a part of the community so that it can be bound
12 in with the development of Christiansburg as a town and
13 community. Within the area, the town can plan for this
14 development, for the development of the town, can plan it and
15 direct it so that it is in an orderly manner, that would
16 enhance the community, would enhance the area and would enhance
17 the town itself.
18 Q What else do you observe and feel are the needs
19 of the proposed area, proposed annexation area?
20 A Well, the needs of the proposed annexation area
21 or the residents of the area, this area is suburban in nature.
22 A goodly portion of it is urban, as we saw yesterday. It is
23 in need of the services of an urban government, such as
24 Christiansburg, the various governmental services that the
25 town is capable of providing. The town is already providing

water service to a substantial number of the residents of the area and institutions and installations in the area. It is already providing sewer service to a portion of the area. But these are not the only things that an urban needs.

The urban area needs street lighting, police patrol and protection. It needs a higher level of street maintenance than the highway department is geared to provide for rural highways.

It needs the direction of orderly development to protect the values of the property and the development of the area, to enhance the area itself. In my opinion Christiansburg is capable of providing for these needs of this area.

Q What would be the effect on the county if the Court should decree annexation of this, all these three areas?

A Well, being that the area of the town is a part of the county, with this annexation, if it enhanced the value of the town and the area, it would also enhance the values within the county and the county would benefit from the development of this area, more orderly development of the area, and as such it would gain additional revenues, taxable revenues that it would not normally gain. It is true that initially would be approximately, we estimate approximately $48,000 in some revenues that the county received from the area that would be diverted to the town, but this is a very small amount. In

2 fact, it is less than four-tenths of one per cent of the
3 projected budget of the town. This money would be used to
4 improve the area, which the county would get the benefit from,
5 too.
6 As we spoke earlier, the capital improvements,
7 these monies would be used toward improvement, either on a
8 pay as you go basis or debt service, which in turn would
9 enhance the values there.
10 MR. DAVENPORT: You may examine.
11 CROSS EXAMINATION
12 BY MR. FITZGERALD:
13 Q Mr. Massie, you have made, I believe you said,
14 considerable, done considerable work with the Town of
15 Christiansburg, have you not?
16 A Yes, sir.
17 Q You have done other work in the area of Montgomery
18 County, too, haven't you?
19 A Yes, sir.
20 Q You are quite familiar with the total of
21 Montgomery County, aren't you, sir?
22 A I am familiar with parts of Montgomery County.
23 Quite familiar with parts of Montgomery County, but I wouldn't
24 say the total of Montgomery County.
25 Q You not only made a study for the Town of

Q Now in 1971 Christiansburg had less population than it does now, doesn't it?

A Yes, sir.

Q Had less commercial and industrial development than it does now?

A Yes, sir.

Q Because you showed what had happened in later years?

A Yes, sir.

Q So it was your conclusion then, in 1971, that the Town of Christiansburg did not need to annex more territory to become an independent city of the second class?

A This is not involved in that report about whether it needed to annex or not.

Q There is nothing in this report that says they needed to annex?

A No, sir, that didn't have anything to do with annexation.

Q All right. And without annexation, it was feasible in 1971 to become a city of the second class?

A It was feasible in 1971 to become a city of the second class, based on our studies.

Q Now in October of '71, you made a study and report or made the report dated then, on the feasibility of

2 annexation?

3 A That is correct, yes, sir.

4 Q You determined was feasible, too, didn't you?

5 A Yes, sir.

6 Q Did you draw the proposed lines of annexation?

7 A I assisted the council in determining the line of

8 annexation.

9 Q Were they the same as you recommended in this

10 report?

11 A No, sir, not exactly.

12 Q What were the changes made?

13 A An area was added to the south of town known as

14 Area No. II. An area was added in Area No. I. Some area

15 was added to the southeast portion of Area No. I. Some area

16 was added to the southwest portion of Area No. III, and some

17 area was deducted from the eastern portion of Area No. III.

18 That is at the time that the annexation case was filed as

19 compared to the report.

20 Q Did you agree with those changes, after you made

21 the recommendation of this report?

22 A Yes, sir.

23 Q In other words, you agreed -- is there a less

24 area being sought now or more area?

25 A I am not real sure. I would have to go back and

2 A What do you mean had I projected a growth?

3 Q You had a 1970 census figure, didn't you?

4 A Yes, sir.

5 Q What was that?

6 A Seven thousand eight hundred fifty-seven.

7 Q And you projected it in the four years that it

8 had grown to 8,670?

9 A Yes, sir.

10 Q What per cent growth is that?

11 A I would have to check back on that. We didn't

12 arrive at the percentage first and then back in, we got -- I

13 can figure that, if you like.

14 Q Just approximately.

15 A I would rather -- that was ten per cent growth

16 over that period from 1970 to 1974.

17 Q Ten per cent?

18 A Yes, sir. That is the total change.

19 Q All right. How did you account for the population

20 of the Town of Blacksburg in 1974?

21 A By the same method that we used at Christiansburg

22 and also taking into account the estimated population of

23 their recent annexation.

24 Q How did you account for the students at VPI?

25 A I assumed that they were a part of the same

Q No, let's get my question right. In your opinion is it desirable for the number of people in a given area, such as the Town of Christiansburg, to keep on getting larger?

A I don't quite understand -- it depends.

Q On what?

A I don't understand your question. Is it desirable for the number of people to keep increasing?

Q Yes, sir.

A I don't know whether it is desirable or undesirable. In some cases it would be desirable and certain conditions, and certain conditions it would be undesirable.

Q So not in all cases is it desirable for the number of people to grow?

A All I know is that the area is growing. The people are increasing. I don't know whether it is desirable or undesirable. This is what is going on here.

Q It is true that the more people you have, the more services that are demanded?

A Yes, sir, the more densely populated an area, the more high level of service they need; yes, sir, this is true.

Q And the most expensive service of local government is what?

A Well, I don't know what you would say the most expensive service of local government is.

Q You wouldn't know that the providing of a public school system is the most expensive, costly item?

A It is one of the most expensive, yes, sir.

Q Is there anything else that comes near, non-revenue producing functions of government, local government?

A I imagine non-revenue producing.

Q Now the town has no obligation or responsibility there?

A The town government itself, the residents of the town have an obligation, yes, sir.

Q The government itself in providing the service has no obligation for that?

A No, sir.

Q That is the county's obligation?

A Yes, sir, the county government.

Q The county government's obligation?

A Yes, sir.

Q School board and board of supervisors. But you say the town ought to control the planning of the area. This means that the town controls the density as well as it can?

A Guides it, yes, sir, density of development.

Q They can do it by zoning and subdivision?

A That is correct, yes, sir, because this density of development exerts demands for utility service which the

A Yes, sir, that is our projection.

Q When you speak of Montgomery County, are you including the Town of Blacksburg in that, too?

A Yes, sir. That is a part of Montgomery County.

Q So is Christiansburg?

A Yes, sir.

Q So you are comparing apples and oranges, aren't you, Mr. Massie?

A You are comparing a part of the whole with the whole.

Q If you eliminate the Town of Blacksburg and compare the Town of Christiansburg with what is left of Montgomery County, both towns out, your own figures show that you are growing at double the rate, isn't that true?

A Double the rate of what?

Q Of Montgomery County.

A I would have to check on that.

Q Look at the bottom of the page, sheet 1 of 2 of Exhibit No. 6.

A Yes, sir, over the last fifty years the Town of Christiansburg has increased at an average of 27 or 28 per cent while the county has increased at an average of 20.5 per cent.

Q I believe that includes the towns, does it, Mr.

Massie?

A Yes, sir.

Q Now I will go back and ask you excluding -- that includes Blacksburg?

A That includes both towns.

Q Both towns. Now if you go to the column that excludes both towns, the county has been growing at a rate of 14.51 per cent, hasn't it?

A Yes, sir, the rural portion of the county. However, only in the last decade and in the 1940-50 decade was there a substantial growth. The rest of it has been practically nil.

Q Over that period of time Christiansburg has grown at 27 per cent rate of growth, right, 27.8, almost 28 per cent?

A Yes, sir.

Q And Blacksburg has grown at 38 per cent?

A No, sir. These are the Towns of Christiansburg, both Blacksburg and Christiansburg, combined.

Q Where is Blacksburg then?

A It is not in there, except combined with Christiansburg as comparing the towns of Montgomery County.

Q How much does Blacksburg growth count for that?

A I don't know, I would have to go back and figure that.

have reduced the percentage of growth.

A I have no control over the rest of the growth of the county.

Q You don't. Did you have any control of the area outside the town?

A No, sir.

Q Is it your idea that Christiansburg has to be as big as Blacksburg?

A No, sir.

Q That is not necessary, is it?

A No, sir.

Q Does it have to be bigger than the City of Radford?

A No, sir.

Q This would make it bigger than the City of Radford, wouldn't it?

A No, I don't know. I don't know how big the City of Radford is.

Q You didn't look at that in your studies?

A No, sir.

Q Now you have mentioned, I believe, that there was urban growth in other parts of the county.

A I don't know whether I did or not, but I think there is.

Q I wrote it down.

2 A Well, I probably did. I am of that opinion.

3 Q You agree with that, don't you?

4 A Yes, sir.

5 Q You agree that the County of Montgomery has to

6 contend and provide for the urban growth in other parts of

7 the county?

8 A Some parts of it they provided for the growth.

9 Some types of services for that growth, yes, sir.

10 Q And their government is such that they can provide

11 for urban growth?

12 A Certain types of growth, yes, sir.

13 Q If that annexation is granted, what per cent of

14 the population of Montgomery County will be within towns?

15 A I don't know, I would have to compute that. I

16 didn't compute it.

17 Q Can you look at your own figures and give us a

18 rough estimate?

19 A Yes, sir, I can estimate it.

20 Q Doesn't your Exhibit No. 8 --

21 A Yes, sir, just a second and I will calculate it.

22 I haven't calculated it, but I can calculate it.

23 This is based on 1975 or '74. Which way do you

24 want it? Which year do you want it in?

25 Q Whichever one you want to give it in. You have

four years there. Start with '74.

A I just finished '75 and it is 66 per cent, of the area would be within the corporate limits, 66 per cent of the population would be within the corporate limits of either town, yes, sir, both towns.

Q In 1980, what is your projection?

A Sixty-eight per cent.

Q Sixty-eight per cent?

A That is correct.

Q You came to a conclusion at the end of your testimony that you had considered the effect on Montgomery County, you saw nothing detrimental to Montgomery County except a little temporary loss of a few dollars. Did you take this into consideration that two-thirds of the population of Montgomery County would be within towns?

A No, sir, I didn't take that specifically into consideration that the population would be within the towns. I think as far as Montgomery County on this, they would still be a part of Montgomery County, whether they were in town or not.

Q We understand that. But it is already feasible for Christiansburg to become a city, isn't it?

A It was in 1971.

Q And now with this annexation granted, they will

2 even have more resources, won't they?

3 A They will have more resources.

4 Q That is what the exhibit shows?

5 A Yes, they will have more. They will have more

6 resources for operating as a town, yes, sir.

7 Q Now did you take into account that the town would

8 control the density of population and the type of development

9 of two-thirds of the people of the county, while the county

10 would have to provide the school system for all the people

11 of the county? Did you take that into account?

12 A These same people, this highly dense area and the

13 increase of values would be a part of the county. I took it

14 into account and even in light of the last annexation,

15 Montgomery County benefited just as much as the Town of

16 Christiansburg by the improvements that were made in the area

17 that was annexed. If this is added to the town and these

18 improvements made, the level of services being extended into

19 these areas, and some of the problems that some of these areas

20 are now experiencing would be eliminated.

21 Q It would --

22 MR. DAVENPORT: Let him finish.

23 MR. FITZGERALD: He is not answering my question.

24 BY MR. FITZGERALD:

25 Q I am talking about schools, Mr. Massie. Can we

2 stick to that for a moment? It is true that the town would
3 control the planning and zoning that affect two-thirds of
4 the people of the county, isn't that true?
5 A Yes, sir.
6 Q It is true also that the county will have to plan
7 for and provide for school facilities and programs for all
8 the people of the county?
9 A Yes, sir.
10 Q Did you take that into consideration?
11 A I took into consideration that any enhancement
12 in this area to raise the levels of revenues and the values
13 would not only enhance the position, assist the town in meeting
14 the level of service, but the county would benefit by this,
15 too. If this came in, then, raised the level of values in
16 the area, I think from the standpoint of schools, that there
17 would be more taxable values to the county and the county
18 would get the benefit of it.
19 Q And would have to build more schools, based on
20 what the towns --
21 A They would have the money to finance the schools.
22 Q They would have the money to finance the schools?
23 A The population is growing. The population in this
24 area is growing. Whether it has been annexed or not, the
25 population is growing. The county has got to meet these

Q If a developer, if you are going to have the same policies in this area that you seek to annex as you had in the existing city, if a developer wants to build a development and wants water service, he has to build the lines and give them to the town?

A The policy of the town, if it is annexed, and this is a town rather than a city, the policy will be the same in the area annexed as it is in the present town.

Q You mentioned that a ten inch line running up that road -- well, I forget which one it is, but I believe it is in back of the Hubbell or Corning Glass property, going to a furniture factory.

A Yes, sir.

Q Who paid for that line?

A I don't know, sir. That is not up back of Corning. That is just north of the present corporate limits going up behind the radio, adjacent to the radio station to a furniture plant.

Q Do you know that that was put in by the furniture company?

A I said I didn't know, no, sir.

Q Now you mentioned there is a line not shown on there that would be a connection with the water main that the Water Authority is going to put down through there, over to

Q When you divided the population by three, you said is the way you do it, you find out the number of homesites.

MR. DAVENPORT: If the Court please, that is not what was said. The witness said he counted the number of homesites. That is the lawyer's theory.

MR. FITZGERALD: He said he worked both ways, counted the number of homes and multiplied by three to find the population, or estimate.

BY MR. FITZGERALD:

Q If you know the population, you can do it backwards?

A I said you could do it.

Q You came up with a figure of 2890 homes in the Town of Christiansburg, estimated.

A I have forgotten what I came up with.

Q I wrote it down. Do you want to do it again?

A No, sir, I will take your word for it. I don't remember.

Q You got 2230 sewer connections?

A Yes, sir.

Q Okay. Now is that a pretty good indication of how many homes in the Town of Christiansburg are not sewered?

A I don't know that you can take this and apply it, no, sir.

2 Q If you know the number of homes, you know the
3 number of sewer connections, why isn't that a valid way of
4 estimating the number of homes that don't have sewer service?
5 A Well, some of these, like apartment houses and
6 all might have one sewer connection for the whole apartment
7 house, four or five apartments. You can have this. We have
8 got instances where there is a trailer court and you have got
9 a number of trailers and then there is one sewer connection
10 to it.
11 Q I am not talking about the exact figure. I am
12 talking about an indicatinn.
13 A You can take and divide and get figures and say
14 well, we are going to assume this is what it is, and you can
15 go on with that, yes, sir. You can do all these.
16 Q All your other figures are estimates, aren't they?
17 A Yes, sir.
18 Q They are not absolutes?
19 A No, sir. Then the assumptions you make, when you
20 make estimates, the assumptions you make have something to do
21 with the validity of it, you know.
22 Q So it would be fair to assume that there is some-
23 where between maybe around 600 homes in the Town of
24 Christiansburg that either have privies or septic tanks?
25 A I wouldn't want to make that assumption. I would

like some thoughts on what you are proposing here before I agree or disagree.

Q You would like to make a survey of that, too?

A I would like to have the time to analyze it.

Q Your Exhibit No. 13, page 4, now the way I read this, from 1970, the tax rate in the Town of Christiansburg has remained the same?

A Yes, sir.

Q Does Christiansburg use the same assessment as the county?

A Yes, sir.

Q Same ratio?

A Yes, sir, the same assessed values that the county used.

Q During the same time the tax rate in the County of Montgomery has gone from $4.75 to a high of $7.15 and now in '73 to $6.90?

A Yes, sir.

Q And this proposal would take, you say, a small amount, you said around $48,000 a year?

A Yes, sir.

Q Still away from the County of Montgomery and give it to the town?

A Yes, sir. This is not -- these particular

2 revenues, there has to be an allowance or should be an
3 allowance of benefits to the county by the improvements in
4 this area that will raise the values of it.
5 Q Yes, sir, but you did that to us, to the County
6 of Montgomery in 1966, you gave the county this great
7 advantage and what happened to the tax rate?
8 A I think the tax rate came in there, some
9 development with the school, didn't have anything to do with
10 the annexation. This area, as I said a while ago, this area
11 is growing, regardless of annexation or not annexation.
12 Montgomery County and its towns are growing. The towns are
13 a part of the county.
14 Q This has to do with providing schools which is the
15 county's responsibility?
16 A That is correct.
17 Q To this sewer plan which you have, is that on the
18 other side of that?
19 A Yes, sir.
20 Q Exhibit 12, I believe it is. What part of this
21 plan do you say that the grant has already been made?
22 A The grant has already been committed to the
23 interceptor sewer, interceptor sewers to service this area
24 and the sewage treatment plant and the pump station.
25 Q Where is this sewage plant that the grants have

Q This is for them to consider the building of one plant to take care of what two plants could do, isn't that true?

A I am not real sure. I think what you are referring to is the proposal that has been made at one time to build a large waste treatment plant in the arsenal, the ammunition plant, to treat all the waste from Blacksburg, Christiansburg, VPI, Radford, Montgomery, most of Montgomery County, Pulaski, Dublin, part of Pulaski County. This was proposed or submitted to the regional Planning District Commission and considered, and to the best of my knowledge was not adopted, because of the time and the cost and it wasn't practical to move toward this direction. This was being discussed on several occasions.

Q In any event, the Planning District has tabled your application?

A My understanding that it is.

Q While they are making some further studies?

A I don't know what they are doing. They are tabled.

Q They haven't told you. Turning to your Exhibit 24. This is your exhibit that you prepared to show the effect of annexation by the town on a resident. Did you do this as an average resident which you determined to be?

A Well, this would be a typical resident that had these services, yes, sir. I don't know whether you can say

as an average resident, because I don't know what the average value of houses are, for instance.

Q Did you mean to pick this out as a typical resident living in the area?

A Yes, sir, I think this would be a good example.

Q Would you say that a typical resident living in this area has a septic system or is connected to your, pays sewer fees?

A Well, typical resident right now may have in certain areas, would have a septic tank, and other areas may be connected to the system.

Q You have only got how many services in the whole area?

A In 1973 there were only 16, I believe, but there have been a number added in No. 1 since, during '73 and since '73, because of this extension and pump station that were extended on outside the corporate limits and to serve 460 east as well as the interchange of 81.

Q How many services have been added in 1974?

A I don't know, I haven't seen the recent report on it. I do know that there were a number added. Mr. Lemley, I think, can tell you this number.

Q In 1973 there were only 16 connections in the total three areas?

A That is correct.

Q The additional connections since that you know have been in Area I?

A Well, that, in the improvements that have been made, and underway in the Walnut Hill subdivision and Edge Hill subdivision. I don't know whether any connections have actually been made there. I believe some connections have been made there.

Q Would it be fair to say of the number of homes in the area that relatively few of them are served by sewer service?

A Yes, I would say more than a majority are not served by sewer.

Q Use your factor in count of houses in determining the population of the area, if you do that backwards again, what about, between eight and nine hundred homes in the area sought to be annexed?

A I believe I would have to look in my records on the number.

Q Something above 16, let's say there are 50 sewer connections out of that. That is what you count as a substantial majority not being served by sewer, wouldn't you say?

A Yes, sir.

Q So that if they had a septic system, the $48 that you show them now paying would go up, wouldn't it?

A Yes, they might pay a whole lot more paying to get that pumped every several months, if it was failing.

Q They might pay more if they had to put in a brand new one?

A Yes.

Q It might be --

A It would definitely be more than that if they were pumping it several times a year.

Q Yes, sir. But if they have got a functioning septic tank that doesn't have to be pumped four times a year, then the $48 is based on a sewer service charge?

A That is correct.

Q So that would go out under those conditions?

A Yes, sir, and in a like manner, if he was annexed, the sewer cost, if his septic tank was operating properly, he wouldn't be required to connect to the system, so $30 would go out also.

Q I understand. Just answer my question. The insurance on the house, how did you determine what the insurance on his house would be?

A Called the Insurance Rating Service in Richmond and described the particular areas we were talking about and

the characteristics of the residence and they gave us those rates.

Q Did you tell them whether or not they had a fire hydrant within so many feet of the house?

A I told them what areas that we were talking about, the subdivision and so forth in there, and they gave me these rates.

Q Did they ask you whether or not there were fire hydrants?

A No, sir, the lady that I talked to had records on these various areas.

Q She knew whether they had fire hydrants in any of these areas?

A All she knew was that is what these areas had been rated after they had inspected them. This is what she explained.

Q Don't you know if a house has a fire hydrant within a certain distance of it it gets the same rate as it does in town?

A In some instances it does and some it doesn't, the way I understand.

Q Are there any fire hydrants out in this area?

A Yes, sir, they are shown on this map.

Q They are shown on the map?

2 A Yes, sir.

3 Q You are sure that if the house has a fire hydrant

4 within 500 feet of it outside the town, its rate is different

5 than inside the town?

6 A No, sir.

7 Q You are not sure of that, are you?

8 A No, sir.

9 Q How did you estimate the savings in federal and

10 state income taxes, $29?

11 A I assumed that this resident would pay approximately

12 25 per cent income tax, what he would deduct would save him

13 25 per cent in taxes.

14 Q Are you familiar with the fact that -- what did

15 you figure the 25 per cent on? What bracket of income?

16 A An income that would be 25 per cent.

17 Q What income is that?

18 A I don't know, sir.

19 Q You don't have any idea?

20 A No, sir.

21 Q You just picked 25 per cent out of mid air?

22 A In my opinion 25 per cent is based on the income

23 tax table and so forth that I worked with each year on mine

24 and I felt like 25 per cent would be a reasonable figure.

25 Q Do you think the average person in this area has

an income like you do?

A I didn't say my rate was 25 per cent. I said the tables that I worked with each year, having looked those over, that my recollection of those that 25 per cent would be reasonable.

Q What did you do, take 25 per cent of the personal property and real estate taxes?

A Yes, sir.

Q Do you itemize your deductions on your return?

A Yes, sir, sometimes.

Q Sometimes you don't, do you, is that right? You take the standard deduction?

A Well, I have taken the standard deduction and I have itemized them.

Q If you take the standard deduction, they don't get any savings of $29, that is already figured in there, isn't it?

A In some cases, yes, sir, depending on --

Q So you have no way of knowing whether the typical resident of this area takes a standard deduction or itemizes his deduction?

A No, sir.

Q If they take a standard deduction, there is no savings of $29?

2 A No, if they take a standard deduction, no, sir.

3 Q So if you take away the $48 for a person who has

4 a septic tank and put back in that $29. For somebody that

5 takes a standard deduction, you have a difference of $111.02

6 living in the town?

7 A I think you would have to deduct that $30, change

8 that $30 around for the sewer service, too.

9 Q Let's change it around a little bit. Suppose they

10 do have a malfunctioning septic system and had to be pumping

11 it out every year, wouldn't you require them to hook to the

12 sewer system?

13 A Yes.

14 Q What would they have to pay?

15 A It would be the prevailing connection charge at

16 that time.

17 Q What is that?

18 A I would have to look at that.

19 Q You don't know?

20 A I don't remember right off. I have it in some

21 records.

22 Q Is it a hundred dollars?

23 A I say I don't know.

24 Q Whatever the connection charge is, they have to

25 pay it?

A Yes, sir, they have to pay it.

Q And start paying that $30?

A Yes, sir.

Q In your testimony, I believe, it may be in your report, study on annexation, you comment on the fact that the town had little vacant land?

A Yes, sir.

Q How much vacant land does the town have?

A I believe it is around 700 acres.

Q When did you make that study?

A I discussed it with Mr. Lemley.

Q When you made your study and reported to the town that they had little vacant land, you never made any study?

A Yes, sir, I was familiar with the area and knew basically that they were limited in their available land for development.

Q But you got that from Mr. Lemley?

A No, sir, part of it was association with the town in general. You are talking about when the study was made? Are you talking about when the study was made?

Q When we asked in our interrogatories to the town how much vacant land was in the town we got back the answer that it hadn't been determined, didn't know.

A No, sir, that is correct.

2 Q That is correct. They didn't even know at that
3 time?
4 A That is right.
5 Q This is sometime after the annexation case has
6 been filed?
7 A Yes, sir.
8 Q When did you determine how much vacant land was
9 in the town?
10 A After that time.
11 Q After that time?
12 A Yes.
13 Q How many acres?
14 A I believe Mr. Lemley has that information. I
15 believe it was around 700 acres.
16 Q Seven hundred acres?
17 A I believe. I stand to be corrected if he has a
18 different figure on it.
19 Q You don't know whether he counted vacant lots or
20 how he counted it?
21 A I think you better discuss that with him.
22 Q Did you make any study or was this Mr. Lemley's
23 sphere of work about the number of pit privies in the town?
24 A Mr. Lemley investigated that.
25 Q He knows about that?

A He investigated.

Q Do you know how many there are?

A No, sir, I do not.

Q You didn't count the houses in the town though, did you?

A No, sir.

Q Now one of the things you say this area needs are street improvements?

A Yes, sir.

Q To the same level as they have been provided the area annexed in 1966?

A The level of the streets to be improved to equal that that is in the present town, yes, sir.

Q That is what the citizens have to look forward to, is the level of street improvement as exists in the present town in the area sought, annexed in 1966?

A And maintenance of them, yes, sir.

Q How did you figure up that the county was going to lose $48,000 a year?

A We estimated, ABC profits of $9,110 --

Q Wait just a minute now. ABC profits how much?

A $9,110. Motor vehicle license, $15,670.

Q Give me that figure again.

A $15,670.

2 Q All right.

3 A Local sales tax, $25,130.

4 Q Twenty-five thousand --

5 A One hundred thirty dollars.

6 Q That is all of the losses?

7 A Yes, sir, that totals up to $47,910. I rounded

8 off my estimate to $48,000.

9 Q Counting on losing any bank stock tax?

10 A If it does, it would be minimal.

11 Q Minimal. Are you familiar with Exhibit No. 23?

12 A To some extent I am, yes, sir.

13 Q Did you help prepare that?

14 A Only in instances such as this of the sales tax

15 and the motor vehicle license, ABC profits.

16 Q You made some of the estimates on this exhibit?

17 A I assisted Mr. Lemley in it, yes, sir.

18 Q You all worked together on it, didn't you?

19 A Some of it we did, yes, sir, I assisted him.

20 Q Will the annexation affect such changes, bank

21 stock tax?

22 A To the best of my knowledge it will be minimal,

23 if any.

24 Q Will it effect it, regardless of whether it is

25 a penny or not?

2 A I don't know.

3 Q You don't know. All right. Let me ask you this.

4 This Exhibit 23 purports to show what the town's budget will

5 be, if annexation is granted, doesn't it?

6 A Yes, sir.

7 Q So this takes into account the town's budget as

8 it exists, plus what it will be with the area, all the area

9 sought to be annexed?

10 A Yes, sir.

11 Q So what has been done is that the town budget

12 has been taken and additions or adjustments have been made,

13 taking into account the area sought for annexation?

14 A And the projection into another fiscal year.

15 Q What fiscal year budget was used to make these

16 projections?

17 A I think the past several years of actual operation

18 costs, plus the preliminary budget for the coming fiscal year

19 was also used. I say preliminary budget, because I believe

20 the preliminary budget has not been adopted yet.

21 Q Goes into effect September 1, is that right?

22 A I believe it does, yes, sir.

23 Q You have projected this budget for the first full

24 year, fiscal year after annexation, if it is granted?

25 A Yes, the town has, yes, sir.

Q True?

A The town has, yes, sir.

Q Are you saying that if you take the figures in the 1974-75 budget for the town and subtract them from these figures, you don't get the effect of the annexation?

A No, sir.

Q Can't get it that way?

A I don't think so, because you have got to take that budget and project it ahead. This is taking the budget of one year and subtracting it from the budget of another year.

Q I am holding up the budget of '74-75.

A We are talking about the '75-76 fiscal year in here, sir.

Q I understand. This budget is taken and projected and added to?

A (Witness nods head indicating affirmative answer.)

Q If you just took this budget itself, without projecting it and made the additions for the area annexed, would these amounts be more or less?

A I don't know, sir. I haven't done that.

Q You have no way of knowing it?

A No, sir.

Q One other question. There is an item in here that the town called revenue sharing.

A Yes, sir.

Q And there has been a projection of that as in the town budget. Do you know whether that will be affected by this annexation?

A I don't know, you will have to ask Mr. Lemley.

Q You don't know that?

A No, sir.

MR. FITZGERALD: That is all.

JUDGE JORDAN: Stand aside.

MR. JOLLY: May it please the Court, we would like to cross examine, but I didn't know when your Honors --

JUDGE JORDAN: We generally run until one o'clock.

MR. JOLLY: Okay.

JUDGE JORDAN: Adjourn from one to two for lunch and it makes the afternoon short.

CROSS EXAMINATION

BY MR. JOLLY:

Q Mr. Massie, you have the sewer map up. I want to ask a few questions about that and talk to you about the water situation. Now you are, as you have told the Court, you are the engineer for the Blacksburg-VPI Sanitation Authority?

A That is correct.

Q That is correct?

A Yes, sir.

generally along the ridge line. The ridge line dodges back and forth along through there.

Q What I am saying, the area north of 114 is in the Slate Creek drainage area?

A Generally, yes, sir.

MR. WALKER: A little more than one, Judge, but that is all.

JUDGE JORDAN: Anything further?

MR. DAVENPORT: I think not. I think Mr. Walker confused me enough. I am afraid I couldn't straighten it out myself.

JUDGE JORDAN: Mr. Massie, you may stand aside.

(Witness excused.)

JUDGE JORDAN: Call the next witness.

MR. COGAR: Mr. Lemley, please.

JOHN E. LEMLEY

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COGAR:

Q State your name, please.

A John E. Lemley.

Q You are townmanager of the Town of Christiansburg, is that correct?

2 A Yes, sir.

3 Q Now I will ask you to turn to page 3 of the town
4 book of exhibits and state to the Court whether this exhibit
5 accurately reflects your educational background and
6 professional qualifications?

7 A Yes, sir, it does.

8 Q And experience?

9 A Yes, sir.

10 Q You have been town manager of Christiansburg for
11 what period of time?

12 A Since September of 1956.

13 Q Were you town manager at the time of Christiansburg
14 prior immediate, next preceding annexation case, 1966?

15 A Yes, sir.

16 Q Did you testify in that case?

17 A Yes, sir.

18 Q When was Christiansburg founded?

19 A In 1792.

20 Q When was it chartered?

21 A In 1833.

22 Q What prior boundary expansions has it had?

23 A The preceding annexation, that is preceding 1966,
24 was in 1916. In 1964, the town merged with the former Town
25 of Cambria.

Q Had an annexation in 1916, a merger in '65 with Cambria, and an annexation in 1966?

A The merger was in '64, I believe.

Q '64. How would you describe Christiansburg's economic case? Is it diversified or is it basically oriented to a particular industry?

A I would say it is diversified. We are, as we know, the county seat. It is, I would say, the center of the farming area of the county. It has a good commercial base and it has several smaller industries.

Q Who are some of the principal employers in the town?

A Inside the town, the largest one, I think, is Imperial Reading Corporation. We have Warren Furniture Company, C. W. Poff Construction Company.

Q In the area sought to be annexed, who are the principal employers?

A The two principal employers would be Corning Glassware and Harvey Hubbell Lighting Division.

Q Will you put before you at this time town Exhibit No. 15, which is at page 17 of the town exhibit book. Did you at my request cause to be prepared a narrative reflecting the town's structure and administration?

A Yes, I did.

2 Q Have you reviewed this narrative?
3 A Yes.
4 Q Is it accurate?
5 A Yes, sir.
6 Q The Town of Christiansburg is governed by a
7 mayor and six councilmen?
8 A That is correct.
9 Q How are the councilmen elected?
10 A At large, staggered terms.
11 Q All on staggered terms?
12 A Yes, sir.
13 Q How is the mayor elected?
14 A At large.
15 Q Is he elected by the council?
16 A No, sir, he is elected by popular vote.
17 Q Popular vote. I note from the narrative that in
18 addition to being town manager, you also serve as town
19 engineer and director of public works?
20 A That is correct.
21 Q You have a full-time building inspector?
22 A Yes, sir.
23 Q What sort of inspections does he perform?
24 A Electrical, plumbing, building construction
25 itself.

2 Q Of all structures for which permits are issued?
3 A Yes, sir.
4 Q Turn now, please, to Exhibit 16 to be found at
5 page 19 of the town's exhibit book. Would you tell the Court
6 what this exhibit purports to show.
7 A This is an organizational chart of the full-time
8 departments of the town.
9 Q It is structured to show departmental organization
10 and leaves, for example, the constitutional officers as it
11 would traditionally appear on an organizational chart?
12 A Right.
13 Q Of course, the town manager reports directly to
14 the council and serves at its will and pleasure?
15 A Correct.
16 Q There are not shown on here, as is customarily
17 shown, any boards or commissions. Does the town have any?
18 A Yes, sir, we have three actually, a Board of
19 Zoning Appeals, a Planning Commission and a Recreation
20 Advisory Commission.
21 Q All right, coming down the chart to the first
22 level below town manager, starting on the left, there is
23 shown the police department. How many officers, sworn
24 officers do you employ?
25 A Have a total of 13.

2 Q Do they work around the clock?

3 A Yes, sir, 24 hour coverage, three shifts working
4 eight hours each. We have four patrol cars equipped with
5 mobile radio units.

6 Q Do you have on a 24 hour basis a patrol car in
7 the field?

8 A Yes, sir.

9 Q You have a dispatcher?

10 A We have a dispatcher who works eight hours in
11 daylight. The remaining hours are dispatched by Montgomery
12 County Sheriff's Department.

13 Q Do you propose any increase in the police
14 department after annexation?

15 A Yes, sir, we do. I believe we plan for four
16 additional officers and one patrol car.

17 Q Your present population, you presently have a
18 population of approximately 8,000?

19 A Yes, sir.

20 Q Thirteen officers?

21 A Yes.

22 Q Population of the annexation area is what?

23 A Roughly 2400, I believe.

24 Q You are adding four officers?

25 A Yes, sir.

Q The next department, moving from left to right across the organizational chart, is finance, your finance department. Are the functions of that department those which its name implies?

A Yes, they are responsible for all of the billing, that is tax tickets, water, sewer and solid waste charges, automobile tags. They are responsible for the billing of this and the collection of these monies.

Q In the center of the page, to the right of the Department of Finance, is Department of Public Works. Under it there appears to be various divisions, which I will, at least that is how I will refer to them. The first of these is streets. What does this particular division within Public Works do with respect to streets in the existing town?

A They are responsible for the maintenance and construction of the streets.

Q What streets? All streets running through the town?

A Yes, all public streets, yes, sir.

Q How about primary?

A Primary, too.

Q How many persons are employed in that department?

A It will vary normally in the neighborhood of 15.

Q You receive your funds from the state, you receive

funds from the state for street maintenance?

A Those funds are received on an annual mileage basis and they are for construction, reconstruction and maintenance.

Q Do you have any unpaved streets in Christiansburg?

A Yes, sir.

Q The earlier examination of Mr. Massie, Mr. Fitzgerald inquired as to whether Mr. Massie knew of any citizens who had asked to be deannexed because of conditions of streets. Mr. Massie was unfamiliar with any such request and I don't believe responded and left it for you to do that. Are you familiar with any such request?

A I recall one instance near the end of the five year period of our last annexation that a couple of citizens in Newcomb Heights subdivision made informal comments to this effect. To my knowledge it never went any further than that. Their problem was that we had not paved all the streets in Newcomb Heights and the reason we hadn't paved it because we couldn't get the right of way from them.

Q What do you mean you couldn't get the right of way?

A Council's policy is and has been for many years, in return for improving a street, we ask the citizens to donate sufficient right of way to qualify the street under

the Virginia Department of Highway requirements for inclusion in their system. In the case of that particular subdivison, we needed fifty feet of right of way and the subdivision was put on record before it was ever in either town, Cambria or Christiansburg. The town did not have ~~a~~ subdivison ~~ordinance~~ out of town jurisdiction 1958 at that time, so the streets got on record with a forty foot right of way and could not qualify for highway department payments without a fifty foot right of way. Some of the people in the subdivision granted this additional right of way. We paved those streets. Those streets that did not give us the additional right of way, we haven't paved yet.

Q Does that condition obtain in other parts of Christiansburg?

A Yes, sir.

Q There are unpaved streets where you have been been unable to obtain the right of way necessary to have them accepted into the state system?

A That is correct, yes.

Q Mr. Lemley, I call your attention to Exhibit No. 19, which is being placed before you on the easel. I will ask you to tell the Court what that purports to show.

A This exhibit shows all of the paved streets within the town. The green color indicates those streets paved prior to 1966 and the red color indicates those streets

paved subsequent to 1966.

Q Would you, with a pointer, traverse generally the city or the annexation, a line which will show beyond the '66 annexation area or what was the town prior to its last annexation.

A Beginning on U. S. 11, Radford Street, the corporate limits was at this point (indicating), which is now Clearview Drive. From there the line went generally south to a point in the vicinity of Mountain View Drive. From there it went easterly to the intersection of Allegheny Street and South Franklin. From there, still continuing east, to a point -- well, a private roadway where my pointer is (indicating). Then north along Craig Street to Park, then still continuing north to the intersection of North High and Craig Street. Then there was a common line with the old Town of Cambria that traversed in this manner (indicating). Then in a southwesterly direction back to the point of beginning.

Q At the present time how many feet of paved streets do you have in the Town of Christiansburg?

A These are round figures. It is about 8.3 miles of primary and I believe in the neighborhood of 50 miles of other streets, streets other than primary. Now those figures are the ones that are in the highway system.

Q How many feet or miles of street approximately

2 have you paved since the 1966 annexation?

3 A A total of about 51,000 feet.

4 Q What will the town policy be with regard to the

5 pavement of streets in the area sought to be annexed?

6 A I would assume the council will keep the same

7 policy it has; if we can get the right of way to bring it up

8 to standards, we will pave it.

9 Q Have you calculated or anticipated the number of

10 feet that will be paved during the first five years?

11 A Yes, sir. I believe one of the exhibits shows

12 16,000 feet.

13 Q That is Exhibit No. 22, which is the financial

14 exhibit for capital improvements, which we will come to later,

15 is that correct?

16 A Yes.

17 Q If you will turn back to the organizational chart,

18 Mr. Lemley, the third block on the bottom line is the

19 construction division of the Department of Public Works. Will

20 you tell the Court what it does.

21 A This crew does all of our heavy construction,

22 primarily water and sewer construction. It is a crew that is

23 maintained year-round and it can do some street construction.

24 During the off season, it normally operates under the street

25 department for maintenance and snow removal.

2 Q Pass from there over solid waste to buildings
3 and grounds and tell the Court what that division does.
4 A This involves maintenance of the buildings which
5 are owned by the town: the Municipal Building, the fire
6 department, recreation hall, the National Guard Armory,
7 although we don't own it, we are responsible for the
8 maintenance of it.
9 Q The next block to the right of building and
10 grounds is shop. What do the personnel do there?
11 A This is the shop, the town shop from where we
12 maintain our equipment and that sort of thing.
13 Q Come back over now to the division of water and
14 sewer. Will you tell the Court when Christiansburg got into
15 the water and sewer business.
16 A The water system originally was developed around
17 the turn of the century, I think around 1905, with a source
18 and pump station located in the vicinity of the Round Meadow
19 Country Club.
20 Q What was the source at that time?
21 A Springs and later on wells were developed in that
22 area. This system or this source stayed in operation until
23 1957, at which time the Blacksburg-Christiansburg-VPI Water
24 Authority went into operation. The Town of Christiansburg
25 was invited to join the Authority in 1954 and did so, I

2 believe, in 1955. Since that time we have kept the old system,
3 the old springs and wells and reservoir on a standby basis.
4 That is we have kept them. They can be made operational in
5 the case of an emergency. As far as the sewer business --
6 Q Let's stick with water for a moment. The
7 suggestion was made in questions asked of Mr. Massie, that
8 the town operates its water department at a profit. Does it?
9 A Our revenues exceed our operating expenditures.
10 Q Would that be a definition of profit then? What
11 do you do with the excess?
12 A We pour most if it back into capital improvements
13 of the system and also some of it goes to subsidize our
14 sewer system.
15 Q Is your sewer system operated at a loss?
16 A Yes, sir.
17 Q Mr. Massie previously testified to the extensions,
18 water extensions which are proposed to be made in the
19 annexation area. Did he confer with you in developing this
20 data?
21 A Yes, sir.
22 Q He summarily testified to the sewer extensions
23 that would be made after annexation. Did you assist in the
24 development of those plans?
25 A Yes, sir.

2 Q Did you take into account any sewage problems
3 in the area which sanitary sewer would alleviate?
4 A Well, we have general knowledge of areas
5 throughout, for instances throughout the area, where there
6 are septic tank problems.
7 Q Are you speaking of the three distinct areas?
8 A Yes. We also know where there are a good number
9 of existing outhouses, privies in the area. So we took all
10 this into consideration as we developed that.
11 Q At our request did you undertake, prior to the
12 commencement of this case, to ascertain where these privies
13 were in conjunction with your plan for the development of a
14 sewage program?
15 A We located all of the privies, if that is the
16 question, yes, sir.
17 Q They are shown on Exhibit No. 20?
18 A I believe that is the right number.
19 Q I believe on Exhibit 20 a red line which shows
20 present corporate boundaries and the green line which shows
21 proposed annexation line. Will you point out generally the
22 vicinity of the privies which you personally located in the
23 annexation area.
24 A My building inspector personally located them.
25 Q All right, at your direction?

2 A Yes. In the eastern area. Each gold star
3 represents one privy. As you can see, there are several in
4 the eastern area, five in the southern area and the remainder
5 of them in the northwest area. I believe there is a total
6 of 48.
7 Q Will the sewer extensions proposed by the town
8 be available for service to all those areas?
9 A Yes, sir.
10 Q You at present have how many treatment plants?
11 A Two.
12 Q Point out on the exhibit which is before you,
13 which is No. 20, where they are located.
14 A The older plant, which was constructed in 1933
15 and upgraded in 1963 is located just east of U. S. 460, in
16 this vicinity. The new larger plant, which was constructed
17 in 1962 is located adjacent to Crab Creek and the Norfolk &
18 Western Railroad at our western and corporate limits.
19 Q What are the capacities of those plants?
20 A The old plant is 2,000 population capacity,
21 2,000 or 200,000 gallons a day, and the new plant 650,000
22 gallons a day.
23 Q Mr. Massie testified previously to the city's
24 plan for building a new treatment plant. Will you tell the
25 Court what has been done and is being done in connection with

2 that particular plant, which I think is the subject matter
3 of an A95 submission of some sort.
4 A We started, I believe, in 1970 or 1971 with R.
5 Stuart Royer & Associates to determine how close we were to
6 capacity on our present plant. In 1971 determined that it
7 was time we started planning for a new plant, even though at
8 that time we had not reached eighty per cent capacity. We
9 commenced then to proceed with attempting to get us a federal
10 grant to construct this plant with. We were placed on a
11 priority list by the Water Control Board in 1971 or 2. We
12 have remained high on this list ever since.
13 Q Now what does that mean being placed on the
14 priority list?
15 A These are localities, as I understand it, around
16 the state that either, one, have an existing problem, or, two,
17 have a potential problem, within the next few years.
18 Q And the effect of being placed on the priority
19 list is to expedite the funding, is that right?
20 A That is correct, yes.
21 Q Have you gotten any money for planning purposes?
22 A We haven't gotten any hard cash, no, sir.
23 Q What have you gotten?
24 A We have been informed that we are in fiscal year
25 '74-75 for planning grant and we have received word that the

2 Water Control Board has recommended us to EPA.

3 Q Excuse me, let me back up. You have been advised

4 what with respect to the planning grant?

5 A We were advised that we have been approved for

6 the planning grant.

7 Q You have been approved?

8 A Yes. We have been recommended to the Environmental

9 Protection Agency for inclusion on their 1975-76 for

10 construction grant.

11 Q Where does that plan stand at the present?

12 A The latest development, we submitted, I believe

13 it was the first part of May, an application of intent, I

14 believe that is what they call it. You have to submit a form

15 that you intend to apply for federal grant. We submitted this

16 in May to the New River Valley Planning District Commission,

17 and since the A95 review procedure of these grants require

18 that the applications go through the regional planning agency,

19 which in this case is the New River Valley Planning District

20 Commission. The procedure, as I understand it, that is followed

21 from that point on, the regional planning agency notifies all

22 its member jurisdictions that one of those localities has

23 applied for a grant or submitted an intent to apply and

24 invites the comments from all of the member jurisdictions,

25 if they have an interest in it.

2 Q Who are the member jurisdictions?

3 A Montgomery, Pulaski, Floyd and Giles County,

4 City of Radford, the Towns of Blacksburg and Christiansburg.

5 Q You have submitted the form?

6 A We have given our notification of intent to apply.

7 Q What has happened since then?

8 A The Montgomery Public Service Authority did

9 comment on the application adversely in that it conflicted

10 with some of their plans.

11 The next step in this procedure, if this happens,

12 is to arrange a conference between the applicant and anybody

13 who takes exception to the application. This conference has

14 been arranged for the 17th of July. From that point on, the

15 procedure goes somewhat like this: if you can resolve your

16 differences, then the application goes forward with no adverse

17 comment. If you cannot resolve the differences between the

18 two or three parties, whatever the case may be, then the

19 applicant can request that he be allowed to submit a final

20 application form.

21 The district commission has five days to furnish

22 them with this form. Then the applicant can submit it and

23 the commission has thirty days during which time it can

24 comment either adversely or favorably on it, but within thirty

25 days it has to be forwarded then to the State Clearing House.

2 The district commission has no authority to
3 disapprove or approve or hold up, so we are at the point of
4 holding the conference on the 17th of July.
5 Q If those steps be followed, then your plan or
6 application for funding will go to the body which has already
7 approved your planning money?
8 A Yes.
9 Q What is Montgomery County Public Service
10 Authority's complaint with your plan?
11 A Well, from what I heard this morning, apparently
12 it is not far enough downstream. That was the gist of the
13 comments they made to the Planning District Commission was
14 that they felt that it should be further down Crab Creek.
15 Q Has there been a concensus at the Planning
16 Commission level as to where the plant should be located?
17 A The Metropolitan Regional Quality Management Plan,
18 which was in the making for some two years almost, is in its
19 final form. The Planning District Commission has held its
20 public hearing on it and it is now being passed around to
21 the member jurisdictions for their final review and comment.
22 In that plan, the Christiansburg facility is shown where Mr.
23 Massie showed it on his exhibit. I don't say that all the
24 member jurisdiction were unanimous. Montgomery County took
25 exception to it, that is the Service Authority. However,

the plan is in its final draft and has been reviewed by the Water Control Board, with favorable comment.

Q Assuming then that this plant will be built sometime, would that cause either of your existing plants to be phased out?

A I am sure the old plant will be phased out. There is still some question, as Mr. Massie testified to, regarding the phasing out of the newer plant. It is going to be a balancing of costs, whether the initial capital cost of 2.1 million gallon plant would be offset by the operating costs of two plants, something that will have to determined by the consulting engineer.

Q If you keep in operation your 2.1 m.g.d. plant and your 850,000 m.g.d. --

A No, if we do away with both existing plants, then we will have a 2.1 m.g.d. If we keep the holder plant, the newer plant, then the new plant will be a 1.5, still giving you a total of 2.1.

Q Have you taken into account the capacity and ability of that plant or combination of plants to serve the existing town, the annexation area and any environs?

A Yes, sir, I believe Mr. Massie's testimony showed that the new plant or combination of plants would have 2.1 million gallons per day capacity. This would be a population

figure of around 21,000 and his projection for 1980, is it, about 11,000 people, so I would say yes to your question.

Q Let's move across now from water and sewer on this departmental organizational chart to solid waste, which is trash collection.

A Yes, sir.

Q What do you presently do in that regard?

A We have two packer trucks. We make weekly residential pickups and daily commercial pickups within the town. We operate a sanitary landfill which is approved by the State Health Department. We have a permit for it.

Q We saw that on the tour.

A Yes, sir.

Q How many employees do you have presently?

A In this department?

Q Yes.

A Seven.

Q Do you propose to extend this service to the residents of the annexed area?

A Yes, sir.

Q How many additional employees do you propose to hire, if any?

A We plan one truck and I believe four employees.

Q I will ask you to recheck that figure, if you

would.

A I may have to get some other notes.

That is correct, sir.

Q Four?

A Yes. Now I am talking about solid waste. Was that your question?

Q Yes. I have a little different figure. All right. Will you move over to plants and pumping stations, which is the last block. You already told the Court what plans you have. How about pumping stations, lift stations?

A We have two water pump stations in existence and six sewerage pump stations.

Q Do your personnel do the maintenance on these?

A Yes, sir.

Q Back up now to the principal departments, moving from the left to the right. The next department shown is the Recreation Department. Do you have full-time programs?

A Yes, sir.

Q Do you have someone in charge of the recreation program?

A We have a full-time director and one full-time assistant. Then two part-time year-round employees, in addition to two full-time ones. Of course, in the summertime, we hire part-time, additional part-time people.

2 Q What kinds of recreational activities do you
3 sponsor?
4 A Sponsor all the normal sandlot programs for
5 children, football, softball, basketball, volleyball. Then
6 in addition to that in the athletic realm, we do have some
7 adult programs such as slow pitch, softball, and adult
8 basketball. In addition to that we sponsor various types of
9 classes, such as ceramics, arts and crafts, this type of thing.
10 Q Are these programs limited to the residents of
11 the town?
12 A No, sir. We determined, our Recreation Advisory
13 Commission, and our council approved, that they should be
14 made available only to those people in the Christiansburg
15 school district.
16 Q What is the boundary of the Christiansburg school
17 district?
18 A Northern boundary is our proposed annexation line,
19 which is also the magisterial district line. The western
20 boundary is somewhere between our line and, I believe it is
21 the Bellview School or Belmont School. The southern boundary,
22 as far as I know, goes all the way to Pilot. The eastern
23 boundary goes down, I don't know if it is the top of the
24 mountain or the bottom of the mountain somewhere.
25 Q You say your Recreation Department undertook to

2 determine whether the residents outside of the town were using
3 the program. Do you have any -- were they able to provide
4 you with any information indicating the use of Christiansburg
5 recreational facilities by non-residents of the town?
6 A Yes, sir, I do have the information pertaining to
7 that. This was for the period July 1, 1973 to June 30, 1974.
8 During that period a total of 3580 persons took part in our
9 recreational programs who resided outside the Town of
10 Christiansburg.
11 Q Is any special charge made by the city to
12 participants who are non-town residents for participation in
13 these programs?
14 A None other than little normal registration fees
15 that everybody pays in the adult program.
16 Q What is your budget for recreational activities?
17 A I believe the proposed budget this year is in the
18 neighborhood of $50,000, $48,000.
19 Q It is shown in later exhibits?
20 A Yes, sir, I believe it is. I think it is around
21 $48,000.
22 Q Does the county sponsor any programs in the town
23 or annexation area?
24 A Recreation programs?
25 Q Yes.

2 A Not to my knowledge.

3 Q All right, the last department left on Exhibit 16,
4 which has not been discussed, is the fire department. Tell
5 the Court about the operation of the fire department.

6 A It is an entirely voluntary fire department
7 consisting of thirty members. They elect their own officers.
8 The town contributes annually, makes an annual appropriation
9 in the town budget to the fire department. They receive some
10 funds also from Montgomery County. The reason for this is
11 they operate, I believe it is three pieces of county equipment
12 out of our fire station. I think they have two county pumpers
13 and a tanker. Our fire department does operate this equipment.
14 The county pays for the maintenance and insurance and the
15 upkeep of their equipment.

16 Q Then you have town equipment and county equipment
17 housed in the town fire department?

18 A That is correct.

19 Q The county equipment responds generally in the
20 county areas?

21 A There is one truck which was purchased jointly
22 by the town and county that answers all calls, the first truck,
23 whether it be in town or out of town. Other than that first
24 truck, generally speaking, the county equipment answers calls
25 in the county outside of town and the town equipment would

2 answer calls inside the town. This, of course, there is a
3 mutual agreement that if a fire gets out of hand in either
4 place, all the equipment will go to it.
5 Q Is the response area of this department larger
6 than or smaller than the proposed enlarged town?
7 A It is larger.
8 Q Have you undertaken to ascertain where the
9 volunteers reside? Do you know where they reside?
10 A Generally speaking they live either in town or
11 within a mile of town. I believe the department has a ruling
12 that they can't live beyond, I think it is one mile of town.
13 Q For insurance purposes, the fire department is
14 rated?
15 A Yes, sir.
16 Q What is its rating?
17 A I believe it is rated No. 8.
18 Q Is there any town in Virginia with a better rating?
19 A The only one I know of personally is Wytheville
20 and it has, this is because they do qualify with some 24 hour
21 dispatching out of the fire station. I believe Blacksburg
22 is rated 8, too. It is my understanding this is the best
23 rating you can get with an all volunteer department.
24 Q In these ratings, is the adequacy of the water
25 system a criteria?

A Yes, sir.

Q I would like to have Exhibit No. 18. I call your attention, Mr. Lemley, to town Exhibit 18 and ask you if you will tell the Court what is indicated on that exhibit.

A This is a map showing the existing fire hydrants on the town's water system, both in town and out, these red dots representing one fire hydrant. I think other than that it is self-explanatory.

Q There are fire hydrants even beyond the annexation area to the east?

A Yes, sir, this is all the way down to the top of the mountain at the church campground, the last entrance to the church campground.

Q In riding through the annexation area yesterday, as we noticed fire hydrants in various of these, in the different areas. Were any of those installed by anybody other than the Town of Christiansburg?

A Yes, sir, within the subdivisions, the developer is required to install fire hydrants.

Q After installation, who is responsible for the maintenance?

A The town.

Q They are installed on whose water lines?

A Well, the developer has to put in the water lines

2 and it becomes part of the town system.

3 Q Town water?

4 A It is the town water system, right. Now these

5 particular hydrants down east of town, the town put those in.

6 Q The fire hydrants that you propose to install in

7 the annexation area are shown on the water exhibit testified

8 to by Mr. Massie, is that correct?

9 A Yes.

10 Q You are zoning administrator of the town?

11 A That is correct, yes, sir.

12 Q You have had a zoning ordinance for how long?

13 A The first ordinance, the first zoning ordinance

14 was adopted by the town in 1947.

15 Q Is the town completely zoned?

16 A Yes, sir.

17 Q Was it rezoned following the 1966 annexation?

18 A It was rezoned in 1967 and again in 1972.

19 Q I direct your attention to Exhibit 17, which is

20 on the easel before you, and tell the Court what that shows.

21 A This is a zoning map of the town, reflecting the

22 rezoning of 1972.

23 Q Tell the Court the various categories of zoning.

24 A The white areas -- we have three residential zones

25 in our zoning ordinance. The white areas are zoned R-1, that

is single family dwellings. The yellow and white hash-marked areas are zoned residential R-2, which is two family or duplex dwellings. The solid yellow is residential multiple family, that is apartment houses, this sort of thing. Business is red. Light industrial or limited industrial is the dark brown. Agricultural is green and heavy industry or general industry is blue.

Q Does the county have a zoning ordinance?

A Yes, sir.

Q Is it in effect in the annexation area?

A Yes, sir.

Q What is the town's plan with regard to zoning after annexation?

A My plan, my recommendation would be to council that immediately following annexation, we would leave the zoning districts as they are now zoned, apply our zoning ordinance to them, as an interim measure until our Planning Commission could study the area and come up with a favorable zoning plan for the area.

Q Do you have a subdivision ordinance?

A Yes, sir.

Q How long have you had one?

A The first one was adopted in 1952, I believe.

Q What has happened since '52?

A It was completely revised. The latest revision in 1972.

Q Who enforces the subdivison ordinance?

A Administers? I do.

Q Does your subdivision ordinance have any extra territorial effect?

A Yes, we have two mile extra territorial jurisdiction.

Q Does the county have a subdivision ordinance?

A Yes, sir.

Q When was it enacted?

A It was originally enacted in 1959. I can't speak to any amendments since then because I don't know.

Q Mr. Massie testified earlier that there was commissioned a study by the town to determine the feasibility of Christiansburg being a city of the second class, and he testified that the recommendations of his firm showed that it was feasible. Those recommendations were communicated to you with the feasibility report, is that correct?

A Yes.

Q What action, if any, did Christiansburg Town Council take on those recommendations?

A Their final action on it was to decide not to become a city of the second class.

Q Did the council publicly state their reasons for

not becoming a city of the second class, even though it was found by this engineering firm to be feasible?

A I believe that the mayor did make a public statement to this effect, that council felt that it was in the best interests of the county as a whole, as well as the town, for Christiansburg to remain a town.

Q Even though it was feasible?

A Yes, sir.

Q Following the determination by council not to become a city of the second class, it caused to be commissioned another study to determine the feasibility of annexation, is that right?

A Yes, sir, I believe that study was commissioned -- it was almost concurrently.

Q What year was that?

A '71, I believe.

Q That feasibility study, along with the city status feasibility study have been furnished to the county and I believe it shows the date of that report, the annexation feasibility was commenced in October of '71 or thereabouts?

A I --

Q Just give your best estimate.

A That is close, yes, sir.

Q Generally, what did those who studied the

feasibility conclude?

A Of annexation?

Q Right.

A Generally concluded that it would be feasible for the town to annex.

Q What did they conclude with respect to development in the town, in and around the town?

A The conclusion was that development around and adjacent to the town, the trend was that it was increasing as opposed to decreasing within town.

Q What findings did they make concerning the demands of the surrounding area for town services?

MR. FITZGERALD: If it please the Court, I would like to have it clarified as to who "they" are.

MR. COGAR: The engineer commissioned to make the feasibility study.

MR. FITZGERALD: The report is in evidence and I think it speaks for itself.

MR. COGAR: That is all right. I can let him read it and speak it for three hours, if you want me to.

MR. FITZGERALD: I would rather you to ask questions from the report and ask if he agrees with it. This thing is some 68 pages long. I can't imagine that he remembers everything that is said.

2 MR. COGAR: I didn't want him to have to read it.

3 JUDGE JORDAN: I think what the Senator wishes is

4 more specific questions. That might help the Court.

5 BY MR. COGAR:

6 Q Did the consultant commissioned to make the

7 feasibility report find that there was an increased demand

8 for town services in the area surrounding the town?

9 A Yes.

10 Q Did you concur in the recommendation that this

11 annexation be brought?

12 A Yes.

13 Q What were your reasons for recommending to your

14 council that it be initiated?

15 A I had observed myself that there seemed to be an

16 increase in the development adjacent to and around town.

17 There seemed to be an increasing demand for services in these

18 areas.

19 Q Let's break those down and speak first to the

20 needs of the area as you viewed them. We discussed previously

21 the water services which the town was at the time of the

22 adoption of the ordinance and is now providing in the area

23 adjacent to the town. The water that flows through those

24 lines comes from what Authority?

25 A The Blacksburg-Christiansburg-VPI Water Authority.

2 Q When was that formed?

3 A 1955, I believe was the date of the charter.

4 Q Who took the initiative to form that Authority?

5 A Blacksburg and VPI initiated it. Then in 1954

6 they invited the Town of Christiansburg and the Town of Cambria

7 to join it.

8 Q You accepted the invitation?

9 A The Town of Christiansburg did, yes.

10 Q Was the county invited to join at that time?

11 A It was my understanding that they were. However,

12 I was not here.

13 MR. FITZGERALD: May it please the Court, if he

14 doesn't understand it or know, I don't think he is

15 correct, and I wish the answer to be stricken.

16 MR. COGAR: You may cross examine him on the basis

17 of his understanding.

18 MR. FITZGERALD: He said he doesn't know.

19 JUDGE JORDAN: The objection will be sustained.

20 BY MR. COGAR:

21 Q Have you made an inquiry to determine whether they

22 were asked to join?

23 A I did, yes.

24 Q Of whom did you make inquiry?

25 MR. FITZGERALD: I object on the grounds it is

2 hearsay.

3 JUDGE JORDAN: Objection sustained.

4 BY MR. COGAR:

5 Q Of whom did you inquire?

6 A The former mayor who was mayor at that time.

7 Q Was he mayor at the time Christiansburg was

8 invited to join?

9 A Yes.

10 JUDGE JORDAN: I think it is in the record,

11 Senator.

12 MR. COGAR: I will be glad to call the mayor.

13 MR. FITZGERALD: I bet you can't.

14 JUDGE JORDAN: Let's proceed with the evidence.

15 MR. COGAR: Much is being made, if your Honor

16 please, of the fact that Montgomery County can't get

17 in the Authority. I wish to prove that they were asked

18 to join and didn't. Now I can do it briefly through

19 this witness.

20 JUDGE JORDAN: One-third of the Court will take

21 judicial knowledge of that fact and advise the other

22 two-thirds.

23 MR. FITZGERALD: Your Honor, we have evidence that

24 they were not requested. I don't want to dispute the

25 Court's judicial knowledge, but don't close your mind

on that yet.

JUDGE JORDAN: We will be glad to receive your evidence at such time as you wish to put it on.

MR. FITZGERALD: All right.

BY MR. COGAR:

Q All right, at the time of the formation of the Authority, service areas were delineated, were they not, or subsequent or immediately subsequent to the formation of the Authority?

A It was in 1957, I believe, when the service areas were agreed upon.

Q Mr. Jolly previously examined Mr. Massie on the basis of the agreement between the members as to who would serve whom. You were present when Mr. Massie testified to that?

A Yes.

MR. COGAR: Mr. Jolly, you don't recall whether you made those minutes, introduced them in evidence? Did you?

MR. JOLLY: No, sir.

BY MR. COGAR:

Q I will hand you at this time, Mr. Lemley, an excerpt which you handed me a little earlier of what purports to be a part of the minutes of the Town of Christiansburg.

Now will you read to the Court from this paragraph commencing right where I point here, from the town minutes of what date do you recall?

A February of 1957, I believe, although it is not --

MR. JOLLY: February 28.

A "It was decided that the Town of Blacksburg will maintain sales and services to water customers along both sides of that portion of Route 460 between the corporate limits of Blacksburg and the intersection of Routes 460 and 114; the actual division point being the intersection of the 16 inch water main and the 12 inch water main."

Q May I interrupt at that point. Where is the 16 inch main?

A Sixteen inch main traverses Route 114 to the intersection with 460.

Q Does it terminate at that point?

A No, it continues, a 16 inch main continues north on 460 to the Town of Blacksburg and VPI. The 12 inch main commences at the intersection of 114 and 460 and goes south to Christiansburg.

Q All right, will you continue reading from those minutes.

A ". . . the intersection of the 16 inch water main and the 12 inch water main. This distance being 3.8 miles.

Distances along Route 460 do not indicate the portions of the highway which is abutted by VPI land, since VPI is a member of the Authority, and, therefore, would not be served by either of the towns."

Q Without reading that detail, the line was divided up from Blacksburg south to 114 and then back along 114 to the west and then from the intersection of 460 and 114 south. There is shown in those minutes how much of each part of the line each community was able to service?

A Yes.

Q What are those, please?

A Each town got 5.6 miles of line. Blacksburg 3.8 miles along 460 and 1.8 miles along 114. Christiansburg 1.9 miles on Route 460 and 3.7 miles on Route 114.

Q At the time you concurred in the recommendations that an annexation ordinance be adopted to include the area north of Route 114, you were cognizant, were you not, that Blacksburg had the right under that ordinance to continue to serve water customers off its line along 460 north?

A Yes, sir.

Q Being cognizant of that agreement, what factors influenced you to concur in the recommendations that the area north of 114 be included in the annexation?

A When we are talking about bringing the area in

2 town, we are talking about more services than just water.
3 We are talking about police protection, fire protection,
4 garbage collection, street lighting, sewer service. So when
5 we consider all of these things on the one hand being provided
6 to the area as opposed to the one thing of water on the other,
7 it was my judgment that the area was of an urban nature and
8 should be provided all of these services and that is why I
9 went ahead and concurred in the recommendation.
10 Q You previously mentioned that the Christiansburg
11 school attendance line north is where?
12 A The magisterial district line at Midway.
13 Q Let's get a map showing the annexation. Where is
14 the magisterial district line?
15 A It is the same line as our northern annexation
16 line.
17 Q And the school attendance line?
18 A The same line.
19 Q Zip code?
20 A Same line. Telephone exchange is there, mail
21 service.
22 Q You had mentioned various services which can be
23 provided in that area, in addition to the water service being
24 provided by Blacksburg. Do you have an opinion as to whether
25 those services which you have mentioned are needed in that

area?

A Yes, sir, I think they are.

Q Are you aware that Blacksburg recently had a successful annexation?

A Yes, sir.

Q Have you been able to determine whether the area sought was that which was originally considered by Blacksburg?

A No, sir, the area granted or sought was not that originally sought, no, sir.

Q Do you know what they originally considered annexing?

A I believe the original proposal was to come south of Route 114 along 460.

Q Will you point out to the Court where the original Blacksburg annexation line was.

MR. JOLLY: What annexation line are you referring to?

MR. COGAR: Contemplated annexation line.

MR. JOLLY: Whose contemplated annexation line?

MR. COGAR: Talking about Blacksburg, Mr. Jolly.

MR. JOLLY: One never filed in court or never tried. Judge, I object to this.

MR. COGAR: It may not have been filed in court, but it was the subject matter of considerable testimony

2 in that case, as Mr. Jolly knows.

3 MR. JOLLY: It was not the subject matter of any

4 testimony in that case. That is just what I am saying.

5 MR. COGAR: I will vouch for the record that Mr.

6 Martin Johnson, whose testimony I have read, testified

7 at length as to why the line was withdrawn from where

8 it was originally proposed to be.

9 JUDGE JORDAN: The Court is of the opinion that

10 it is not pertinent to this case and, therefore, the

11 objection is sustained.

12 MR. FITZGERALD: Just for the record, the county

13 would like to comment that it is somewhat refreshing

14 to see two towns fighting. (Laughter)

15 MR. COGAR: If your Honor please, I don't make it

16 a practice to quarrel with the Court's ruling. I would

17 like for the record to reflect that the purpose of this

18 line of questioning was intended to show that Blacksburg,

19 one, had originally anticipated including this area;

20 two, that faced with the opposition of Christiansburg

21 and certain residents of the area, they backed off

22 some considerable distance from the area, which we now

23 seek to annex, and the witness would then conclude that

24 because of that, in addition to the other reasons he

25 has assigned, he feels that this area can best be served

by Christiansburg and is not likely in the reasonably foreseeable future to be embraced within the corporate limits of Blacksburg to provide the full range of the town services that the town could provide. That is what the line of questioning was intended to elicit.

JUDGE JORDAN: All right, your position is duly noted in the record.

BY MR. COGAR:

Q Corning is an industry located in that area, is it not?

A That is correct.

Q Will you point out to the Court, while they have seen it on the ground, and I think are probably familiar with it, where Corning is in that area.

A (Witness indicating.) This is the Corning area.

Q In your capacity as city manager, did Corning invite a discussion with you concerning this annexation?

A Yes, sir.

Q Tell the Court the circumstances under which you were approached by Corning.

A The plant manager of Corning requested a meeting with me to answer various questions that they had regarding our proposed annexation. Generally, the questions were of the nature of what services would we provide and at what cost

2 to them.

3 MR. FITZGERALD: May it please the Court, if he
4 is going to testify what questions were asked by Corning,
5 I submit it is hearsay and I object to it.

6 MR. COGAR: If your Honor please, this is not
7 hearsay. It is an operative fact. It is an operative
8 fact that these discussions took place. It is not an
9 exception to the hearsay rule. It is not hearsay. It
10 is an operative fact. It is not offered for the truth
11 of the matter asserted but simply that these discussions
12 took place.

13 MR. FITZGERALD: I can understand that they may
14 not be offered for the truth of the matter, but under
15 the rules, I think it is hearsay, if he is going to
16 repeat a conversation that he had with somebody, some
17 representative of Corning, that I have no chance of
18 cross examining. I don't know what an operative fact is.

19 MR. COGAR: That is perfectly apparent that you
20 don't.

21 MR. FITZGERALD: I have read it in the Watergate
22 hearings. I don't put any credence in those.

23 JUDGE JORDAN: Gentlemen, the Court is of the
24 opinion that any statements made by the manager of
25 Corning Glass to Mr. Lemley as town manager, comes under

the category of hearsay and is, therefore, not admissible. Mr. Lemley may testify to anything that he said.

BY MR. COGAR:

Q Mr. Lemley, what did you tell the people at Corning?

A I told them that we would immediately provide police protection, garbage collection, street lighting. I told them that they were already getting water from Blacksburg and I knew of this agreement, so I told them that that probably would remain the same, but even if there were some later agreement reached, that the cost of water to them would not change because of their large customer rate.

Q Does Corning have its own waste water treatment plant?

A They have a packaged plant.

Q Did you tell them anything concerning their packaged waste water?

A I told them that I would investigate the possibility, if the annexation were successful, I would investigate the possibility of the Town of Christiansburg operating that plant.

Q The records will show that the Corning plant has not intervened in opposition to this annexation, Mr. Lemley. I will ask you whether you, in your capacity as city manager, have received any communication, formal or informal, from

Corning requesting that they not be annexed?

A No, sir.

Q We have, prior to your departure into the Corning and 114-460 Blacksburg-VPI problem, we were discussing the needs of the area as you saw them, and I will ask you if you will briefly express to the Court those services which in your opinion would be improved in the area other than the water and sewer which you have testified.

A We would have better additional police protection in the area, street lighting, refuse collection and disposal, leaf and brush collection, which the area does not have now. Our Planning Commission would be able to provide for more orderly growth of the urban type area. We would have a more responsive snow removal and street maintenance program. I am not being critical of the highway department. They are just not geared to urban type street maintenance.

Q When would these range of governmental services be intended for the annexation area, if granted?

A The police protection and street lighting, the refuse collection would commence immediately.

Q How about the water and sewer?

A I believe Mr. Massie has testified to the planned improvements in the area over the five year period.

Q I believe he also said three to five?

A He may have.

Q Are you and your council cognizant of the power of this Court to impose upon you as a condition of annexation that you make all of the improvements which you have testified to here today?

A Yes, sir.

Q Are you aware of any other political subdivision in this area which has any proposal to provide these services in these areas within the next five years?

A No, sir.

Q Aside from the needs of the area, you spoke of your observations with respect to the town's need for developable land. I would like for you to discuss that briefly, and for that purpose I would like to have Exhibits 5 and 5-A.

Will you again very briefly tell the Court what this map is.

A The base map is the actual land use map prepared in 1966, following your effective date of our annexation. It was done by our Planning Commission in conjunction with the Division of State Planning and your engineering office to show what the actual land uses in the town at that time were in order that we could develop the new zoning ordinance for the entire town. It is, as I say, was the map that was

developed in 1966.

Q The underlying map, which is Exhibit 5, reflects the condition, the land use in the town, existing town as of 1967?

A '66.

Q '66. Now at our request have you prepared an overlay which shows the development which has occurred in the existing town since 1966?

A Yes, sir. The coloring seen on the overlay reflects the changes since 1966. The change here from public to commercial, the addition of primary school here, new subdivision development here (indicating), new subdivision development in this area, extensions here. Of course, the black line, as Mr. Massie indicated, indicates Interstate 81, and this is the Norfolk & Western Railway. This is the new Christiansburg High School. This is the Hill Shopping Center which was developed in 1966.

Q When did 81 come through there?

A When did it open?

Q At the time right of ways were being acquired and plans were being made for 81, was Christiansburg south of 81?

A No, sir, they had already purchased right of way and I think it started construction probably at the time of our last annexation, because that was a factor in the case,

2 as I recall.

3 Q All the area south of existing Route 81 was added

4 in the last annexation case?

5 A Yes.

6 Q The green areas on there delineate agricultural

7 uses?

8 A No, that was on the zoning map.

9 Q Excuse me. How is agricultural shown?

10 A I believe it was white, sir.

11 Q There are within the existing towns certain tracts

12 of land in agricultural use, are there not?

13 A Yes, sir.

14 Q Could you point out --

15 A This white area here (indicating).

16 Q What is that?

17 A That is land belonging to Mr. F. S. Childress.

18 This area where my pointer is east, that is a working farm,

19 Mr. Teel. They are two prime examples. Here is a farm

20 belonging to Mr. Harkrader.

21 Q Have you had occasion to observe what use is made

22 of land in this area when it passes in ownership from one who

23 has had it in an agricultural use to another person?

24 A Generally when the farmland of this type changes

25 hands, in recent years it goes for development, not as a

2 continuing farm use, by a different person.

3 Q Are you familiar with prices being obtained for

4 farmland in this area?

5 A Yes, sir, I am.

6 Q Agricultural land?

7 A Yes.

8 Q Would you give the Court some examples of sales

9 which you have personally checked out yourself in the record

10 room of the court.

11 A Yes, I checked about four areas, recent sales in

12 the northwest area, Area III. The cost of these sales or the

13 cost of these lands varied from a thousand dollars an acre to

14 as high as -- one one acre tract went for $2,000 an acre.

15 That was the highest. There was a seven and a half acre tract,

16 $1,797. There was a 125 acre tract that went for $1,016.

17 That was in 1973.

18 Q Say that again, please.

19 A 1973.

20 Q What?

21 A One hundred twenty-five acre tract for $1,016.

22 Q Is that per acre?

23 A Per acre. In 1972, a 95.9 acre tract went for

24 $1,354 an acre.

25 Q Has the city itself had occasion to buy undeveloped

land in this area?

A Yes, sir.

Q The town, I beg your pardon.

A We purchased sewage pump station site just west of our corporate limits, generally in this area (indicating), which is in Area III, in 1973. I believe it was a hundred foot square, $1,500.

Q Have you had any other purchases?

A Yes, sir. Other sewage pump station sites. They ranged from, generally speaking, the same size site. They ranged from --

MR. FITZGERALD: If it please the Court, I don't believe it is pertinent as to what the city -- you call it the city, I will call it the town --

JUDGE JORDAN: He corrected himself.

MR. FITZGERALD: The town has paid for sewage pump station sites, for the reason that it is not admissible in determining the value of land, because we don't know what they might have considered as damage to the residue.

JUDGE JORDAN: I think we have gone over that far enough. Gentlemen, I think the time has arrived for the mid noon break. Recess for ten or fifteen minutes.

. . . Thereupon, a recess was taken at 3:35 p.m.

2 and reconvened at 3:55 p.m. . . .

3 BY MR. COGAR:

4 Q Mr. Lemley, tell the Court what your observations
5 have been with respect to the availability of or need for land
6 for development in the categories of residential, commercial
7 and industrial.

8 A The land available for residential is fast being
9 developed. For instance, Atkinson Acres subdivision, Craig
10 Mountain subdivision, they are developing now. There is only
11 one site that I would consider for large commercial areas,
12 such as a shopping center. That is at the intersection of
13 Falling Branch Road and Roanoke Road. This property has
14 recently been purchased by a partnership and at their request
15 rezoned. It would appear it is in some stage of development.
16 As far as industrial sites, we really don't have any that I
17 would consider good for an industry of any size. Industry
18 today wants one story plants, with adequate parking for their
19 employees, and we just don't have any sites of that nature
20 inside the present corporate limits.

21 Q On our tour yesterday we passed the Hubbell plant
22 coming in from the east. Would you point out the site of that
23 plant. The Court will remember it. It is a one story, low
24 modern plant facility.

25 A (Witness indicating.)

2 Q When was that located outside the corporate limits?

3 A The original building was built by Appalachian

4 Power Company under one of their shell building projects. My

5 recollection is about 1968, somewhere in there.

6 Q Had any consideration been given to the location

7 of that property in the Town of Christiansburg?

8 A Appalachian did look at several sites inside the

9 corporate limits at that time, but none of them were suitable

10 from the standpoint of terrain or size or combination of both.

11 Q Where is the greatest concentration of public and

12 semi-public facilities in relationship to the area sought?

13 A Inside the present Town of Christiansburg.

14 Q You are nodding toward Exhibit 21. Will you tell

15 the Court what that shows.

16 A This is a map showing the point of the community

17 of interest. The various colors -- in all red, the legend,

18 of course, the corporate limit lines. The green shows

19 cultural and recreational facilities. The blue shows

20 communications, transportation, and a darker shade of blue,

21 governmental activity. The red shows churches. Yellow,

22 cemeteries and funeral parlors. Purple, civic organizations.

23 Brown, hospital, medical and dental clinics. Lighter shade

24 of blue, banks or savings and loan associations. This shade

25 of red, schools. Actually, it is an orange, more of an orange.

2 In this orange is governmental utilities, landfill, sewage
3 treatment plant. As the exhibit shows, all of these, or the
4 vast majority of these type of community of interest items
5 are inside the present town, very few of them being outside
6 the town.
7 Q In delineating and discussing or describing to the
8 Court the public and semi-public facilities in the corporate
9 limits of the town, you pointed, all examples you pointed to
10 were within the corporate limits. In the preparation of this
11 exhibit did you identify in the field and in the annexation
12 area all similar such public and semi-public facilities?
13 A Yes, we have shown --
14 Q They are shown on that exhibit?
15 A Yes.
16 Q You said you have taken into account the needs of
17 the area, the needs of the city, in recommending this
18 annexation to your council. Did you also take into account
19 its anticipated effect on the county?
20 A Yes, sir. The citizens of the town are still
21 going to be citizens of the county. The real estate and
22 personal property within the town will still be part of the
23 county tax base, so in that regard it doesn't seem like the
24 annexation would have an adverse effect on the county to
25 any degree.

2 Q Have you taken into account the effect of
3 development on the county in the annexed area?
4 A If we are able to get the annexed area and then
5 provide the services as we have said we would do, this should
6 actually increase development and thereby increase the county's
7 tax base.
8 Q What effect do you anticipate the annexation would
9 have upon the county's responsibility to provide services?
10 A I don't see how it would detract from that at all.
11 Q Have you taken into account the revenues that
12 will be lost by the county?
13 A Yes, sir, I believe Mr. Massie testified that we
14 had estimated about $48,000 loss of revenue.
15 Q To the extent that they lose them, the town will
16 receive them?
17 A Yes, sir.
18 Q Where will those revenues go?
19 A They will be put into the capital improvement
20 program that we have shown in our budget.
21 Q Speaking of that, will you turn to page 22 of your
22 exhibit book. I beg your pardon, it is page 20. Mr. Massie
23 has previously testified to the anticipated cost of capital
24 improvements in the categories of water and sewer facilities.
25 There are two other categories shown on there. Equipment,

2 I will ask you if under equipment there is shown the equipment
3 that you anticipate purchasing and the cost?
4 A Yes, sir.
5 Q Total cost is how much?
6 A Thirty-nine thousand five hundred dollars.
7 Q Now will you turn the page, please, and at the
8 bottom of page 21 there is a cost shown for street improvements
9 and this is the amount anticipated to be spent for the 16,000
10 feet of secondary streets and roads that you would pave in the
11 annexed area within the first five years?
12 A Yes.
13 Q The amount is what?
14 A $80,000.
15 Q Turn to Exhibit 23, please. Have you considered
16 the fiscal feasibility of annexing this territory to the Town
17 of Christiansburg?
18 A Yes, sir.
19 Q In doing so have you projected the anticipated
20 revenues and operating expenses?
21 A Yes, sir, Mr. Massie and I together worked on
22 Exhibit 23.
23 Q Of the anticipated revenues and expense, operating
24 expenditures shown on pages 22 and 23 of the exhibit book,
25 being Exhibit No. 23?

2 A Yes.

3 Q And total anticipated revenues are what?

4 A $1,637,500.

5 Q The total operating expenditures?

6 A $1,168,300.

7 Q And the final section of this typical year budget

8 as it is entitled shows funds available for capital improvements,

9 and tell the Court how that exhibit, that part of the exhibit

10 was constructed.

11 A Well, our estimated operating expenditures was

12 subtracted from our estimated total revenues. Then our debt

13 service, estimated debt service cost, subtracted from that.

14 Then from that figure our normal annual capital cost, which

15 we would intend to continue to do and subtracted from the

16 figure of $404,200 and leaving the figure $254,200 available

17 for capital improvements.

18 Q How would that be spent?

19 A Well, it could be spent in a couple of different

20 ways, three ways. It could be spent annually towards capital

21 improvements or if the council decided to make all the capital

22 improvements in one package, then this would be spent to

23 defer the cost of bonds that would be issued.

24 Q General obligation bonds?

25 A Yes, sir, or it could be a combination of the two

2 I have mentioned.

3 Q Have you given consideration to what your

4 recommendation would be?

5 A I can only say what we did in our last annexation,

6 we went the combination route. We issued some bonds and spent

7 some of our funds annually.

8 Q Speaking of the last annexation case, have you

9 familiarized yourself with the terms and conditions of

10 annexation imposed upon you by that court in 1966?

11 A Yes, sir.

12 Q Will you tell the Court briefly what those terms

13 and conditions were and what the town has done in compliance

14 with that decree.

15 A We were charged with constructing an interceptor

16 sewer and collector sewers in the former Town of Cambria in

17 the northern portion of town, which we did. We also were

18 charged to provide sewer service to the easternmost area of

19 the annexed area and also to the subdivision south of town

20 known as Huff Acres, across the interstate. This requirement

21 was placed on us by the court to have that done within thirty

22 months. We were able to do it in about 26 months, as I

23 recall it. All other service, such as police, street lighting,

24 garbage collection, were provided immediately upon the

25 effective date of annexation.

2 Q I am afraid I was looking at my notes. What
3 utility requirements were imposed? Strike that.
4 You testified to the extension of your governmental
5 service, utility requirements. Utility requirements were
6 sewer in the Cambria area and eastern and southern part of
7 town. These were done.
8 From a review of that decree, are you satisfied
9 that the town has complied with its terms?
10 A Yes, sir.
11 MR. COGAR: Your witness.
12 JUDGE CRIDLIN: Just a minute. Some of these
13 different areas you speak of additional development,
14 the town needs additional land for that purpose. Area
15 No. I, do you consider that primarily suitable for
16 industrial development?
17 THE WITNESS: Here on the east, yes, sir, there
18 is an industrial park laid out in here, and it is
19 adjacent to our water and sewer system. I would consider
20 that an excellent site for industrial development.
21 JUDGE CRIDLIN: That entire area you would
22 classify as an area that would be suitable for industrial
23 development?
24 THE WITNESS: I would say generally the northern,
25 that portion between Route 11 and the northern line is

2 generally suited, yes, sir. The southern portion, that
3 is south of the interstate, probably not, sir.
4 JUDGE CRIDLIN: Let's see Area No. II, that is
5 the southern area. Would that be suitable for industrial
6 development?
7 THE WITNESS: The topography would be, yes, sir,
8 although the trend at the moment seems to be that it is
9 going to go residential.
10 JUDGE CRIDLIN: Let's take the southern part,
11 Area No. III. What is that suitable for primarily?
12 THE WITNESS: I would say there are areas --
13 JUDGE CRIDLIN: Speaking of the southern part.
14 THE WITNESS: In here (indicating)?
15 JUDGE CRIDLIN: Yes, in that area.
16 THE WITNESS: Where I am pointing is the two huge
17 auto graveyards that you saw on the tour.
18 JUDGE JORDAN: How about Bill Mathis' farm?
19 THE WITNESS: Yes, sir, I would say portions of
20 that are suitable.
21 JUDGE CRIDLIN: I am speaking of available land
22 for industrial development. Any land in that area
23 suitable for industrial development in the southern
24 part of town?
25 THE WITNESS: The area just north of Route 11,

2 across from, where the mobile home sales was, if you
3 remember that, I think that area would be. Whether it
4 is available or not, I couldn't say. I think some of
5 the area west of 460, just north of our present town,
6 would certainly be suitable for industrial development.
7 JUDGE CRIDLIN: I take it then, as far as you are
8 concerned, the Area No. I would be primarily suitable
9 for industrial development and probably No. II primarily
10 suitable for residential development?
11 THE WITNESS: I think we have a combination in
12 Area No. III.
13 JUDGE CRIDLIN: All right, thank you.
14 CROSS EXAMINATION
15 BY MR. FITZGERALD:
16 Q Mr. Lemley, you said that the economy of the Town
17 of Christiansburg was diversified?
18 A Yes, sir.
19 Q It is a farm center, isn't it?
20 A I believe I said that, yes.
21 Q Yes, sir. The town closest to the farmers who
22 come in and buy their supplies and do their trading?
23 A Yes, sir.
24 Q You were asked about the principal employers in
25 the town and you mentioned several. You didn't mention the

2 government of the County of Montgomery, did you?

3 A No, I didn't. I didn't mention the town either.

4 Q Isn't the County of Montgomery a fair size employer

5 in the town?

6 A The school board is, certainly.

7 Q Isn't the county seat there?

8 A Yes, sir.

9 Q And the county offices there?

10 A I believe I said that, yes, sir.

11 Q The county administrative offices?

12 A Yes.

13 Q Whatever employees they have are located there?

14 A Right.

15 Q In the town. I believe you said this chart,

16 Exhibit No. 16, was the town's organizational chart?

17 A Yes, sir.

18 Q You don't have a fire department as such, do you,

19 Mr. Lemley?

20 A We have a volunteer fire department, yes.

21 Q That is not part of your town government, is it?

22 A I consider it so, yes, sir.

23 Q Do you hire the chief?

24 A No, sir.

25 Q Who hires the chief?

2 A The department, as I said, selects its own members.
3 Q I said chief. Who hires the chief?
4 A He is not hired, he is a volunteer.
5 Q Who makes him chief?
6 A The department.
7 Q The town has nothing to do with that?
8 A No.
9 Q Does the town furnish the building they are in?
10 A It is owned by the town, yes.
11 Q The building that the fire department is in is
12 owned by the town?
13 A Yes.
14 Q Who owns the equipment in the building?
15 A The town owns part of it and the county owns part
16 of it.
17 Q Who determines how the fire department is run?
18 A Operational?
19 Q Yes.
20 A While fire fighting?
21 Q Yes.
22 A The chief of the fire department.
23 Q Although this line as shown as coming down under
24 the town manager, you have absolutely nothing to do with it,
25 do you, sir?

A No, that is not correct. I said operational, when they are fighting fires.

Q Well, do you have anything to do with determining who is a volunteer fireman?

A The fire department annually has to submit to the town council, through me, a list of the members and a list of their elected officers for the council's approval.

Q You don't approve or disapprove?

A No, I don't.

Q The council doesn't approve or disapprove the individual members, does it?

A In one instance since I have been here there was a disapproval on an officer, yes.

Q On an officer. Now the town contributes to that fire department, doesn't it?

A Yes, sir.

Q The county contributes to it?

A Yes, sir.

Q You mentioned recreation. Are there any other groups in town that provide recreation, like the Kiwanis Club?

A No, sir. They originally did, and when we developed our recreational program, the two of them together, Kiwanis and our recreational program operated the sandlot program together. Now about the only interest that the

2 Kiwanis have in it is that the sandlot fields are located at
3 Kiwanis Park.
4 Q Owned by the Kiwanis Club?
5 A They say they own it. I don't think it is exactly
6 correct.
7 Q Does the town own it?
8 A No, sir.
9 Q Do the Kiwanis give you permission to use it?
10 A Yes.
11 Q But you don't show the Kiwanis on this organizational
12 chart, do you?
13 A No.
14 Q For the annexation area, I believe you said you
15 were going to add one patrol car and four officers?
16 A Right.
17 Q Now the four officers are merely to keep one
18 patrol car running seven days a week, right? Is that how many
19 you need?
20 A Well --
21 Q You need three for eight hour shifts?
22 A Right.
23 Q And you need one --
24 A We are adding one patrol car, that is right.
25 Q It takes four men to keep one patrol car going

during the week, doesn't it?

A (Witness nods head indicating affirmative answer.)

Q You have got four for the present town?

A Four cars, yes.

Q And 13 officers?

A Right.

Q This includes your chief?

A Yes, sir.

Q How many patrolmen does it include?

A Eight, nine.

Q Nine. Now am I correct that the area you are seeking to annex is considerably larger than the existing town?

A Yes, sir.

Q You have four cars for the existing town and you are adding one for more than double the size?

A (Witness nods head indicating affirmative answer.)

Q Are you going to put some of those existing cars -- are you going to move them out into the area a little bit?

A I am sure we will, yes.

Q Won't that sort of dilute the coverage of the existing town?

A Not too much, no, sir.

Q But somewhat?

2 A (Witness nods head indicating affirmative answer.)
3 Q It would have to, wouldn't it?
4 A (Witness nods head indicating affirmative answer.)
5 Q I don't think she can get that down. Would you
6 say yes.
7 A Yes.
8 Q You have mentioned that there was a need for
9 added police services in the area sought to be annexed.
10 A Yes, sir.
11 Q Now are you familiar with this report that Mr.
12 Massie's firm did on the feasibility of annexation?
13 A Yes.
14 Q And what it said about police protection?
15 A I don't recall right now, sir. It has been
16 several months since I have read it.
17 Q Let me ask you this: I don't believe you have
18 mentioned -- how does -- well, you did testify, I believe,
19 that at some time or somebody testified, Mr. Massie maybe,
20 that at times there was nobody in the dispatcher's office of
21 the town police department.
22 A I don't think Mr. Massie testified to that. I
23 believe Mr. Stone brought it up.
24 Q Didn't he agree to that?
25 A Yes.

2 Q That is true, isn't it?

3 A Sure, it is true. I testified that for 12 hours

4 a day, not 12 --

5 Q Twenty-four?

6 A No, I said eight hours a day we dispatched and

7 the remaining time the dispatching was done through the

8 sheriff's office. I believe I testified to that.

9 Q Without the sheriff's dispatching radio service,

10 you couldn't operate as you operate, could you, sir?

11 A No.

12 Q How many people would you have to hire if the

13 sheriff didn't provide you --

14 A Three additional.

15 Q Three more people?

16 A Yes.

17 Q How about radio equipment, would you have to change

18 any of that?

19 A We would have to buy one base station and I

20 believe that is all.

21 Q How about frequency-wise, would you have to change

22 your frequencies?

23 A No.

24 Q You could use your same mobile equipment?

25 A Yes, sir.

2 Q That doesn't interfere with the sheriff's frequency?

3 A No, because we have just recently got a new

4 frequency and new mobile equipment.

5 Q At the present time you are actually depending on

6 the sheriff's office for your dispatching service, except for

7 eight hours a day?

8 A That is correct.

9 Q So two-thirds of the time you are depending on

10 the sheriff's office. Now it says here in this report on

11 page 6 the town police force does not normally handle matters

12 outside the corporate limits, although its jurisdiction does

13 extend one mile outside. There is, however, excellent

14 cooperation between the town's police force, the county

15 sheriff's office and state police, and any or all participating

16 in any emergency or for any other reason to maintain the general

17 safety and welfare of the community.

18 Do you agree with that statement?

19 A Yes.

20 Q The next paragraph says: all in all, the town

21 and surrounding area and the area surrounding it are provided

22 with excellent police protection.

23 A I would say that is because of our mutual support.

24 Q Yes. Well, if the area is receiving already

25 excellent police protection, then there would be no reason

to spend this additional money for another cruiser and four police officers, would it?

A I am not saying it couldn't be improved.

Q Well, excellent is pretty high on the scale, isn't it?

A Not as high as superior.

Q Oh, you can go to superior?

A Yes.

Q If you have got excellent police protection in the area, around the town now -- is it good economy to hire four more people?

A If it results in a substantial improvement, yes, sir.

Q I believe you said a while ago that it is going to some degree water down the coverage in the town.

MR. COGAR: I object. These questions are argumentative. They have been asked and they have been answered.

JUDGE JORDAN: I agree with you that they are argumentative.

BY MR. FITZGERALD:

Q All right, sir. I note the treasurer's function, Finance Department. The Commissioner of Revenue of the county provides the assessments for the town?

A That we use the county assessments, that is correct.

Q You are aware of the fact that the county has recently acquired and set up a data processing center, have you not?

A Yes, sir.

Q That greatly speeds up and economizes on the project of printing tax tickets, doesn't it?

A It certainly does.

Q This year the county offered to print the tax tickets for both towns, didn't it?

A Yes, sir.

Q Blacksburg accepted and Christiansburg rejected it?

A Right.

Q Now can you tell us whether or not it was because you were in this annexation case that you thought you better not accept?

A No, sir. In the first place, I never got a firm estimate on what it would cost from the county. Secondly, we do our tax tickets differently. I believe the county prints a separate ticket, and I stand to be corrected on that, separate ticket for each parcel of land. We print ours all on one ticket. We want to continue to do so.

Q Weren't you told that it could be done any way you wanted to do it?

A But I wasn't told what it would cost me.

Q Aren't you satisfied that regardless of the cost, it would be substantially less than what it is costing you to do it the way you are doing it?

A No, sir, I am not, because doing it that way would not allow me to discharge one person. That person would still have to work, that person that is doing the tax tickets, and I would have to buy special paper, special printing, so that would be an additional cost. As I understood it, it would take at least two runs through the machine and this would be an additional cost.

Q How many people do you have working on tax tickets?

A One girl.

Q How long does it take to get those tax tickets out, once you have got the assessments from the land book?

A Here again, I could stand to be corrected, but I think her working on our machine and at the same time keeping the other functions of that machine going, takes about 12 days.

Q About 12 days. Do you know that it would take a matter of hours to do it on the data processing?

A Yes, I know that.

Q Now you have a map up there of streets. Could we

have that map put back up there. One of those red and green.

Mr. Lemley, on direct examination, you were telling the Court about the streets that had been improved or surfaced or built since the 1966 annexation.

A Yes, sir.

Q Did you mean to imply that the Town of Christiansburg has built all those streets?

A No, sir. I said the total was around 51,000 feet, I believe.

Q You didn't tell the Court that many, if not most of the streets were built by developers?

A I wouldn't tell the Court that most of them were because that is not true.

Q Let's find out how many were. What --

A The breakdown on developers was about 24,500 and the town 26,500.

Q So roughly, fifty-fifty?

A Roughly, that is right.

Q What did the town do when you say paved the streets? Did it give it what we call a shot treatment?

A After grading it and applying base stone, then double surface treatment.

Q That is the gravel on top of the bituminous or oil?

2 A Yes, double surface.

3 Q Not blacktop?

4 A No, sir.

5 Q I believe you said no right of ways had been widened?

6 A No, I didn't say that.

7 Q Have right of ways been widened?

8 A Yes.

9 Q Where have they been widened?

10 A Well, the one subdivision we have been talking

11 about, you will notice a portion of those streets have been

12 paved. Those streets are the streets that the right of way

13 was donated, so we paved them.

14 Q Anywhere else?

15 A Anywhere else, what, sir? I lost your question.

16 Q Anywhere else that you were able to get the right

17 of way given to you and that you widened the streets?

18 A I am sure there is, if I can -- yes, sir, on

19 Wade's Lane, this section here (indicating).

20 Q Are you familiar with the street into Poff

21 Construction?

22 A Reading Road?

23 Q I think that is it.

24 A Yes, sir.

25 Q Who built that?

A The town did.

Q Who paid for it?

A The town.

Q Who gave the right of way?

A This section of right of way here still belongs to Norfolk & Western Railway, it is leased to us, so they own that.

Q When was this done?

A I can't give you an exact year. I would say somewhere around 1968 or 9.

Q The funds for your street construction come from the gasoline tax fund that you get distributed from the state, is that correct?

A That is our annual mileage payments, yes, sir.

Q What streets in the 1966 area have you extended? When I say you, I am talking about the town, the town paid for it.

A We were not able to connect this street and the one up until after 1966, this street did not go all the way through that right of way. We were able to do that.

Q How were you able to do that? Was the right of way donated again?

A Yes, sir.

Q Did the town pay the total cost?

A Of the construction?

Q Yes.

A Yes, sir.

Q What else?

A Well, we paved these (indicating). You say extended. Do you mean lengthened?

Q Yes, sir, lengthened.

A I know as I could figure out any others that were actually lengthened, no, sir. I can show you several that were built that weren't built.

Q The developers have lengthened a number of them, haven't they?

A Within this subdivision, yes.

Q And that is at the total cost of the development, isn't that true?

A That is correct, yes, sir.

Q The town does have the right to condemn land for right of ways for streets, does it not?

A If we offer to buy it, yes, sir.

Q You do have that information?

A Yes, sir.

Q You mentioned in mileage of streets within the town, that qualify for highway funds. What is the mileage of the streets in the existing town that do not qualify

for highway funds?

A I would say it is less than a mile, sir. These were streets that were paved back before I came to Christiansburg. The best of my recollection, we have never paved one, since I came, that doesn't qualify.

Q There are some streets though that have no paving on them at all?

A Yes.

Q Gravel?

A Yes, sir, that is correct.

Q How much mileage do they amount to?

A I haven't checked it recently. I wouldn't answer that.

Q That is not included in that mile you just talked about of paved streets?

A No.

Q That is in addition to it?

A That is correct. The majority of this type of street, the vast majority of those streets where we do not have sufficient right of way.

Q If under the present policies and so far as you know they will continue, I believe you said, if the property owners aren't willing to give the right of ways, the streets aren't going to be widened?

2 A That is the present policy of the present council.

3 Q Have any storm drainage projects been done in the

4 area annexed in 1966 that you know of?

5 A Yes, sir.

6 Q Where is that?

7 A In Newcomb Heights, same subdivision. There was

8 a low area here that water had been pocketed in because

9 houses had been allowed to build here and block the natural

10 drain. We had to come in with, I believe, a 15 inch storm

11 drain from this point back down to this street and over here

12 (indicating).

13 Q That was done at the same time the road was fixed,

14 wasn't it?

15 A Generally speaking, yes.

16 Q You mentioned this sewer plan and the application

17 you have made for funds, federal and state funds. In order

18 for you to qualify for these funds, it has to be of a regional

19 concept, doesn't it?

20 A Yes.

21 Q That means it has to affect more than one political

22 entity, doesn't it?

23 A Yes, sir.

24 Q When you made application for the funds, you

25 showed the need both in the Town of Christiansburg and in

2 the County of Montgomery, didn't you?

3 A Yes.

4 Q Now if that were all in the Town of Christiansburg,

5 it would not be a regional concept, would it?

6 A If it were all -- I am not sure whether it would

7 be regional or not. Are we speaking about governmental

8 jurisdictions or terrain?

9 Q I am talking about governmental jurisdiction.

10 A Then your statement is correct.

11 Q So if all of the territory that you have shown

12 to be served by these sewer lines were proposed were in the

13 town, it would not have been a regional plan, would it?

14 A That is correct.

15 Q You mentioned the objection of the Montgomery

16 County Service Authority to the plan. The objection was

17 clearly that it is their opinion and they have had engineering

18 advice that the plant ought to be further downstream to serve

19 more people, isn't that true?

20 A I don't know about their engineering advice.

21 Q But that is what they have stated, isn't it, sir,

22 that they have more area to take care of than just the area

23 you propose to annex? They have areas on downstream from that

24 to take care of, too?

25 A To my knowledge nobody has ever proved that it

would be cost effective though to put it down.

Q This is what they have asked you to take a look at, isn't it, to see if you can't save money?

A I believe I said we are meeting with them on the 17th, too.

Q As a result of that meeting, you might agree that it is best to build the plant further downstream and serve more people?

A Possibly, if they are ready to bear some of the cost.

Q Yes, it has to be a joint --

A Absolutely.

Q Affair, a fair share of the cost between them, but you are only talking about somewhere from 15 to 20 per cent of the cost of it, aren't you, local money?

A You mean our share?

Q Yes.

A Yes, our --

Q Either 80 or 85?

A Under the present plan our share would be 15 to 20 per cent.

Q The rest is money that is collected from all the taxpayers, either the State of Virginia or the whole United States?

A Yes, sir.

Q Your solid waste program, you have a landfill in town?

A Yes.

Q The county has a landfill, do they not?

A Yes, sir.

Q The county has made an offer to both the towns that they can use it free of charge and no charge to the town, has it not?

A I am not sure that they have offered to the Town of Christiansburg.

Q You don't know that they have offered it to both Christiansburg and Blacksburg?

A No, I don't.

Q Blacksburg has accepted, you know that?

A Yes.

Q You know Christiansburg does not use it?

A That is correct.

Q You mentioned that you have a trash collection in the town once a week?

A Residential.

Q Residential once a week?

A Right.

Q Picked up at the curb or the door?

2 A The curb.

3 Q Curb service?

4 A Yes.

5 Q Once a day you say for commercial?

6 A Yes, sir.

7 Q Is that out of the taxes that are collected on

8 the property or do they pay a service charge?

9 A They pay a service charge.

10 Q Have to pay for it?

11 A Yes, sir.

12 Q How much does the resident pay?

13 A I believe, sir, it is a dollar and a half a month,

14 $3 per billing period. I would have to check that to be sure.

15 Q How much does a commercial pay?

16 A The commercial fee is based on the number of

17 containers that are picked up per month, and it is a rather

18 lengthy schedule, and I would have to refer to it.

19 Q Do they pay the number of times it is picked up

20 a month?

21 A No, the number of containers.

22 Q Number of containers?

23 A Yes, that is the normal.

24 Q Do you have any idea how much it costs?

25 A No, because it varies, 1 to 12 containers a month

would be one rate and 1 to 30 would be a different rate. As I say, it is a lengthy schedule and I would have to refer to it.

Q But the rates are set forth by the town council?

A Yes, sir.

Q And they set them so that it is a self-supporting thing, it pays for itself?

A Our collection service does. The landfill doesn't.

Q Your landfill doesn't?

A No.

Q Could it be if you used the county landfill, without paying anything to use it, that you would be breaking even on that operation?

A It is a possibility. As I say, that offer has never been made to us to my knowledge.

Q To your knowledge?

A Yes, sir.

Q Could it have been without your knowledge?

A Not likely.

Q In this recreation program that you are talking about, are there any fees charged for any of these programs?

A For the adult programs there are registration fees charged to cover the cost of instructors or, in the case of athletic programs, the cost of officials and trophies.

Q So that money is collected from the people that participate in the program?

A Yes, sir.

Q How about in the crafts program, the materials and stuff you use for the crafts?

A For the adult classes, they do have to pay for that.

Q You said that you had somebody check and there were a number of people outside the limits that participated in this recreation program. That number includes organized sports or teams that play the teams in the town, doesn't it?

A Yes, sir.

Q There is a league of all sorts of sports around the county, isn't it, softball, baseball?

A It doesn't include any baseball teams. Other than in tournaments, tournament play, it doesn't include teams outside our Christiansburg school district.

Q That is what you were talking about, saying people came from your Christiansburg school district and participated in your program. Most of those are teams that play?

A No.

Q Do your teams go outside the Town of Christiansburg?

A They go to tournaments. For instance, the winner of our children's sandlot softball league might go to

Marion to play in the Southwest Virginia.

Q Do any of them go to any of these schools around here that used their playground facilities?

A Are you saying is our recreation program tied in with the school playgrounds and fields?

Q Yes.

A Yes, and part of the county.

Q You say you are also the zoning administrator, you enforce the zoning?

A Yes, sir.

Q There has been no plans studied by the Planning Commission, if this area is annexed, as to what the town might do with it?

A No, sir.

Q The feasibility study was in 1971?

A Yes, sir.

Q Nobody in the town or the Planning Commission of the town has seen fit to make any study of the area subject to annexation to see if it wants to make any changes in the zoning?

A No, sir. This would seem presumptuous to me.

Q You have made a lot of detailed exhibits here and studies about the police, trash collection, all that, recreation, but you didn't do anything towards zoning to see

2 whether or not you should have a different plan of zoning in
3 the area sought for annexation?
4 A No, sir.
5 Q Do you know of anything wrong in the area that
6 the county has zoned around the town?
7 A I don't have any personal knowledge of anything
8 that is wrong.
9 Q Have you ever compared the zoning of the county
10 with the zoning of the town?
11 A Yes, we have worked with the county Planning
12 Commission on several occasions, where they had a rezoning
13 request, bordering our corporate limits, and we would give
14 them our recommendations, this type of thing.
15 Q In other words, to be fair about it, the county
16 Planning Commission has done a credible job of coordinating
17 its efforts with your efforts?
18 A I won't admit to that because they have never
19 taken our recommendation in either case they have asked us for.
20 Q Have you examined the zoning map of the county
21 in comparison with the zoning map of the town to see whether
22 or not it is compatible?
23 A In a general way, yes, but not recently.
24 Q In a general way it is compatible, isn't it?
25 A Several years ago it was, yes, sir.

2 Q You haven't looked at it since?

3 A No.

4 Q You say when the city status feasibility report

5 was given to the city, they took no action or decided not to

6 become a city?

7 A That is correct.

8 Q They did take an action, didn't they? Wasn't

9 the action against the annexation?

10 A They took the action not to become a city.

11 Q Directly thereafter took the action to study

12 annexation?

13 A Yes.

14 Q The report on the annexation followed on the

15 heels of the report on transition to city status, didn't it?

16 A That is right.

17 Q Was there any discussion among the city council

18 and among the consultants that it would be better to annex

19 as a town and then become a city?

20 A No, sir.

21 Q Didn't go that far?

22 A No.

23 Q Now you say one of the advantages of it, the

24 area is going to get better police protection. It is already

25 receiving, according to the report, excellent police

2 protection. You say Corning, one of the advantages that they
3 are going to get is police -- this is one of the things you
4 told them that they were going to get was more police
5 protection?
6 A Yes.
7 Q Doesn't Corning have its own security force there?
8 A I am sure they have an internal force, sir. I
9 don't know, beyond that I know they have a guard on the door.
10 Q Yes. Don't they maintain their own security of
11 the building 24 hours a day?
12 A Internally, I am sure they do.
13 Q You said you were going to give them trash and
14 garbage collection?
15 A Provide it, for a fee.
16 Q For a fee?
17 A Yes.
18 Q Did you know how much it was going to cost them?
19 A No, sir, because he couldn't give me any estimate
20 on how much he had.
21 Q Do they have industrial waste there that they have
22 to get rid of?
23 A Yes.
24 Q You didn't talk about getting rid of those, did
25 you?

2 A No, I told him as far as sewerage treatment was
3 concerned, I was talking about domestic waste. They would
4 continue to treat their industrial waste as they are now.
5 Q How about this trash and garbage, what kind of
6 trash and garbage were you going to pick up there?
7 A Whatever they have. I understand they have a good
8 bit of glass breakage or they used to, I know, cardboard
9 cartons, this sort of thing.
10 Q How do they dispose of it now?
11 A The best of my knowledge, a private collector
12 picks it up.
13 Q You couldn't tell them whether it was going to
14 cost them more or less?
15 A No.
16 Q You said you didn't have any letter from them
17 objecting to annexation. Do you have one from them that says
18 they want to be annexed?
19 A No, sir.
20 Q Another advantage you say the people living in
21 this area is going to be leaf and brush collection. Are you
22 telling the Court that you are going to send trucks and men
23 out to the farm areas in these areas and pick up their brush?
24 A I am telling the Court we will provide the annexed
25 area with the same level of service that we are providing in

town now.

Q What is the farmer going to have to do to get the leaves and brush picked up off his farm? Suppose he cleans up ten acres of ground.

A He will have to bring all the leaves on the farm to the edge of the property. That is the same service we provide now.

Q You pick all those up and take them somewhere?

A Yes.

Q He would have to transport them to the roadside?

A Yes, public right of way.

Q Do you have in mind that many of the farmers of the area are going to take part in that program?

A I wouldn't imagine so because they are exempt from the burning law, as I understand it. They can clear their land by burning.

Q So they wouldn't need that leaf and brush collection?

A Probably not. But the people in the subdivisions would.

Q This street maintenance that you promised is going to be the same, I believe you say, or Mr. Massie may have said it, the same category as what has happened since 1966, that type of improvement?

A Yes, sir.

2 Q Mr. Cogar asked you about the sale of farms in
3 the area, price gotten for them. You said a one acre parcel
4 sold for $2,000. You don't consider a one acre parcel a farm,
5 do you?
6 A No, no, certainly not.
7 Q You mentioned a seven acre parcel, I believe.
8 A The one acre parcel was adjacent to the seven acre
9 parcel.
10 Q Seven acre parcel, you don't consider seven acres
11 a farm, do you?
12 A Not in the sense we are talking about, no, sir.
13 Q You are talking about the town's need to have
14 industry inside the town.
15 A Need for available sites.
16 Q Why do you need industry inside the town?
17 A Well, it is like the Hubbell plant is outside,
18 we are not receiving any tax benefits, but we are providing --
19 Q What service?
20 A Water and sewer.
21 Q Are you charging for the water?
22 A Yes.
23 Q Charging for the sewer?
24 A Yes.
25 Q You are getting paid for it, aren't you?

2 A Yes, sir.

3 Q Well, that sort of cancels --

4 A We are not getting paid for fire protection. We

5 are providing that.

6 Q You are providing fire protection through what?

7 A Our fire department.

8 Q Your fire department?

9 A Yes.

10 Q The one that the county contributes to?

11 A Yes, and through your water system, and we do not

12 meter their sprinkler system.

13 Q Don't they also have an internal fire protection

14 system there?

15 A Sprinkler, which is unmetered.

16 Q Right. The other services, you don't provide them

17 any other services, do you?

18 A We would provide police protection on call, if

19 they needed it.

20 Q They don't call you, they call the sheriff because

21 that is where the dispatcher is?

22 A It depends on what time of day it is, yes.

23 Q They are outside the town, they call the sheriff's

24 office, if they need any help, don't they?

25 A I don't know.

2 A Yes, sir.

3 Q Did you term it typical year or did Mr. Massie

4 term it that?

5 A I believe Mr. Massie had that on it.

6 Q What it actually is, I believe it is defined

7 actually here in the first paragraph, you have taken your

8 74-75 budget and projected that to 75-76 and added to what

9 you think you need for the annexation area and what revenue

10 you get out of it that year, is that correct?

11 A Basically, it was sort of done independently.

12 Mr. Massie came up with his typical year budget at the same

13 time I was working on the proposed budget for 75-76. Then

14 we got together with them and made some adjustments.

15 Q You got together with them and made some adjustments?

16 A Yes.

17 Q Let's see, you show on the bank stock tax an item

18 of revenue of $30,700, correct?

19 A Yes, sir.

20 Q What does your 74-75 budget show as a revenue item

21 for that?

22 A Twenty-nine thousand, I believe.

23 Q So you show a slight increase, is that right?

24 A There normally is every year a slight increase.

25 Q How much did you estimate that you would be

2 getting out of the area sought for annexation on that?

3 A I didn't estimate that any additional would come

4 from the area of annexation. That figure is just a normal

5 increase that I would expect whether they annexed or not.

6 Q Are there any banks in the area sought to be

7 annexed?

8 A There is only one branch bank.

9 Q There is going to be something out of that?

10 A I don't know what the law is there. I don't know

11 if you get bank stock taxes off of branch banks or only off

12 the home bank.

13 Q Well, assuming that the law is you get it off

14 where the bank is located and does its business, whether it

15 is a branch or otherwise, there would be some additional

16 revenue there?

17 A I won't admit to that, no.

18 Q The sales tax, how much sales tax did you show

19 revenue that you anticipated getting in the budget year 74-75,

20 which starts this coming September?

21 A $90,000.

22 Q $90,000?

23 A Yes.

24 Q And you show in your budget here a revenue item

25 of $115,800?

A Right.

Q So the difference there comes out of the area, is that right?

A Yes.

Q How much does that amount to?

A $20,130. Wait a minute. Excuse me. No, I must back up on my last answer. The entire difference there is not coming out of the area, because there would be some increase inside the town anyway.

Q Well, there would be some increase in the area anyway, wouldn't there?

A Yes. Anyway, the difference that Mr. Massie and I worked out is $25,130.

Q $25,130 that you are going to get by reason of the area being annexed?

A Yes.

Q All right. Motor vehicle licenses. You show anticipated revenue there of $63,000?

A Right.

Q How much have you budgeted for the coming year?

A $47,000, I believe.

Q So what is the difference there?

A The difference that we judge would come from the area to be annexed is $13,607.

2 Q Now the county doesn't operate parking meters,
3 does it?
4 A No, sir.
5 Q How about ~~finance~~ fines, do you show any increase in
6 ~~finance~~ fines from the previous year?
7 A No, sir, it is the same.
8 Q Why did you do that?
9 A I have been tricked by ~~finance~~ fines too many times.
10 I never figure an increase in finance under any circumstance.
11 Q Let's see. You have shown ~~finance~~ fines since 1973 up
12 through this coming year budget of $30,000.
13 A That is right.
14 Q And even though you are adding over 2,000 people
15 and almost what, tripling the size of the town, over double
16 the size of the town --
17 A Over doubling.
18 Q And adding one police cruiser and four patrolmen,
19 you don't expect to be any more ~~finance~~ fines?
20 A I am not going to count on it.
21 Q You really don't need that car and patrolmen, do
22 you?
23 A I say we do, yes, sir.
24 Q They are not going to arrest anybody and going
25 to get fined?

A I don't know that I could answer that with any degree of certainty.

Q So you just didn't add anything to that?

A That is right.

Q That could be an additional amount of money for you?

A It could be.

Q That the county will not be getting, assuming that the warrants are written on county warrants?

MR. COGAR: I object to this. We have been over it about five times.

JUDGE JORDAN: I haven't heard it but once. I believe that is the first time I have heard mention of a county warrant.

MR. COGAR: I am talking about the finance.

JUDGE JORDAN: I think the Court knows a little bit about the source of finance in the avenue of district judge.

MR. FITZGERALD: I won't pursue that.

BY MR. FITZGERALD:

Q The garbage collection fees go up from -- let's see if I can find it here. Well, how much did they go up? I can't find it. Here it is. Fifty-two thousand to 63, to 66,400. Now that is not going to take money away from the

2 county, is it?

3 A No, sir.

4 Q It is going to take it away from some private

5 collector?

6 A Probably, yes.

7 Q All right, of the revenue total down there at the

8 bottom, what is the total amount of revenue that you say that

9 you will be removing from the county?

10 A Our estimate is $47,910, and I believe Mr. Massie

11 testified that we rounded it off to $48,000.

12 Q How much ABC profits do you say you will get?

13 A Looks to be $9,110.

14 Q You don't show any effect on revenue sharing, do

15 you?

16 A No, sir, we don't.

17 Q Because you don't know how to figure it?

18 A That is about the size of it.

19 Q It is quite possible the county, because of the

20 larger population in the town, could lose some revenue if you

21 had revenue sharing?

22 A I don't believe population is a factor figure in

23 revenue sharing.

24 Q You don't know that is one of the three factors?

25 A Not straight population, I don't think so.

Q If it is, some revenue could be lost there?

MR. COGAR: I object to the hypothetical nature of these, whether it is possible, if it might be, and that sort of thing.

MR. FITZGERALD: I don't see there is any objection to a hypothetical question. He has made all sorts of assumptions on direct examination.

JUDGE JORDAN: Go ahead.

BY MR. FITZGERALD:

Q On your expenditure side of that budget, Mr. Lemley, you show an expenditure for street department of $272,500, correct?

A Yes, sir.

Q Now in your budget for the town as it is, you show a total budget of $281,605.

A The total in my present budget is total budget. My operating budget in the town as it is is $205,728.

Q Well, do you include in your $272,500 snow removal?

A Yes, sir.

Q Mowing operations?

A Yes, sir.

Q Street cleaning?

A Yes, sir.

Q And street maintenance?

2 A Yes, sir.

3 Q And the only thing you have in this budget for
4 74-75 for streets, capital improvements, is $30,000, is that
5 right or wrong?

6 A $30,000 figure does not ring a bell with me, sir.
7 What I am saying is that $272,500 is an operating budget and
8 my operating budget for this year is $205,000, which is a
9 difference of $67,000.

10 Q How many miles are you adding of road, if this
11 annexation is granted?

12 A I would have to go to the report to refresh my
13 memory on the total mileage. I can't answer that right now.

14 Q You don't know?

15 A No, sir, I would have to go back to our notes.

16 Q How did you make this estimate then, on mileage?

17 A Yes, sir.

18 Q You, I believe, testified that you understood
19 the Court could put you on terms, the town on terms to do
20 these various projects within the five year period of time
21 or some schedule of time?

22 A Yes, sir.

23 Q Are you also aware that the law provides that there
24 is a possibility of compensation to the county?

25 MR. DAVENPORT: I object to that question.

2 JUDGE JORDAN: I think that is a legal question
3 that this witness is not in a position to answer.
4 MR. FITZGERALD: Your Honor, so is the fact that
5 the Court could put the town on conditions. That is
6 in the same statute. I am just asking if one of those
7 conditions could be the subject of debt.
8 JUDGE JORDAN: There wasn't an objection made to
9 that portion of the question.
10 BY MR. FITZGERALD:
11 Q Is there any disposition made for assuming the
12 county's debt or loss of revenue?
13 A No, sir, we are part of the county, we are already
14 paying part of it.
15 Q You are not ready and willing to assume any portion
16 of the debt of the county or any loss of its revenue?
17 A No, sir, our citizens are already paying their
18 share.
19 Q One way or the other, if this annexation is
20 granted, you are going to end up with a surplus of $254,200
21 available for expenditures, is that correct?
22 A I believe that is the right figure, yes.
23 Q You have an exhibit -- we will call it the gold
24 star exhibit. Can we get that one back up there.
25 Now you say you didn't locate these what you term

2 as pit privies, did you?

3 A No, sir, our building inspector did.

4 Q So far as you know, he rode down the road and

5 looked around and marked them down?

6 A No, sir, he actually went over to see if they

7 were working privies.

8 Q Actually checked them to see if they were used?

9 A Right.

10 Q Did he check inside to see whether or not they

11 also had indoor facilities?

12 A You mean running water?

13 Q Well, bathrooms inside, too.

14 A Inside the house, I am sorry -- no, sir, I don't

15 think he did that.

16 Q You don't know, you don't think he did that?

17 A No.

18 Q It is quite possible these were, shall we say,

19 surplus or emergency situations?

20 A These appear to be working privies, sir.

21 Q They might have been leftover after they put in

22 a septic system and still sitting there?

23 A Not from the procedure he used. I would say they

24 were working privies.

25 Q Some of these out in the farm areas of the area,

aren't they?

A Yes, sir.

Q At our request did you compile or did you have the same man compile a list of the privies in use in the Town of Christiansburg?

A Yes, sir.

Q All right. I have that list here. You are familiar with these addresses, aren't you?

A Yes, sir.

Q Would you step down to the exhibit. Let me take that list. That is the list, isn't it?

A Yes. It is a month old. It has changed since then.

Q This is as of the 6th of June, 1974. Are there more privies?

A No.

Q Less?

A Yes.

Q Let's put these on there and you tell us which ones. Would you come up here and make a round red circle, about as big as one of those stars for 1000 Radford Street, Northwest.

A (Witness marked exhibit.)

Q Now that is not quite as big as your star. That

is better.

MR. COGAR: We have no objection to Mr. Fitzgerald putting the privies on there himself, if he wants the right size.

MR. FITZGERALD: I assume they are standard size.

BY MR. FITZGERALD:

Q 1000 Shaffer Street.

A (Witness marked exhibit.)

Q Make it a little bit bigger so it shows up as big as the star.

680 Lester Street, Northeast.

A I am not sure of the site.

Q All right. 545 Shaffer Drive, Northeast.

A (Witness marked exhibit.)

Q 555 Shaffer Drive, Northeast.

A (Witness marked exhibit.)

Q 1090 Depot Street, Northeast.

A I am not sure where the 1000 block is. Somewhere in here (indicating).

Q Just put it approximately. These stars may not be exactly the same situation. Norfolk & Western Depot Street leased by Mitchell.

A Two of them.

Q Put them in there.

A (Witness marked exhibit.)

Q 450 Wade's Lane, Northwest.

A (Witness marked exhibit.)

Q 510 Clearview Drive, Northwest. That looks like one, but it is two.

A (Witness marked exhibit.)

Q 1115 Depot Street, Northeast.

A (Witness marked exhibit.)

Q 1275 Mahone Street, Northeast, or Mahone Street, Northwest rather. It is in the northwest section. Can you just put one in the approximate location?

A I draw a blank on Mahone.

Q Let's pass that. Wade's Lane, 210 Wade's Lane, Northwest.

A (Witness marked exhibit.)

Q 20 Railroad Street, Northwest.

A (Witness marked exhibit.)

Q 3032 24th.

A (Witness marked exhibit.)

Q 110 Mill Lane, Northeast.

A (Witness marked exhibit.)

Q Falling Branch Road. That is Beau Hunters range.

A (Witness marked exhibit.)

Q 10 Railroad Street, Northwest. That is another

2 up on Railroad Street.

3 Stockyard Hill, and Long Street, 1095 Northeast.

4 A (Witness marked exhibit.)

5 Q All right, you can resume the stand. Now how

6 many septic systems are in the Town of Christiansburg?

7 A I don't know, sir.

8 Q The town has kept no record of those?

9 A No.

10 Q Do you make any regular inspection of those?

11 A No.

12 Q Do you request the Health Department to make any

13 regular inspectinn?

14 A Only when we receive complaints, then we ask the

15 Health Department to inspect.

16 Q When was the last complaint that you received?

17 A I don't know exactly. I would say within the last

18 two months.

19 Q There is a septic tank situation bad in the town?

20 A Yes.

21 Q Where was that located?

22 A I don't really recall the last one.

23 Q Can you tell us generally where you have some bad

24 septic tank situations in the town that there have been

25 complaints about?

2 A Yes, sir. The area south of the interstate which
3 the last annexation, as the Court was aware of, and told us
4 to get sewer out there, which we did. And Huff Acres, and
5 in Kinston Court -- they have had any number of problems over
6 the years.
7 Q With septic tanks?
8 A Yes, sir.
9 Q Are they connected with the sewerage yet?
10 A When they go bad and have to be pumped, they are
11 connected, yes.
12 Q Any other areas of the town that have any problem
13 with septic systems?
14 A Those were the two most pronounced. When we
15 speak of an area problem --
16 Q How about over in Cambria?
17 A There have been one or two problems in the
18 Suburban Hills subdivision which was just outside of the old
19 Cambria, right here (indicating).
20 Q Has sewer service been put in there yet?
21 A Yes, sir.
22 Q Are there any existing septic systems that are
23 malfunctioning in the town where the sewer service or sewer
24 lines are not readily available to the houses?
25 A I don't know of any.

2 Q Don't know of any?

3 A No.

4 Q What does it cost to hook up to the sewer?

5 A If it connects to a line that was put in prior

6 to 1966 by the town it is a flat hundred dollars.

7 Q How about to the water system?

8 A $125.

9 Q $125. Now have there been situations where people

10 needed water, that the town told them, within the town, the

11 town told them that it wasn't feasible for the town to run

12 a line, and if they wanted the line, they would have to run

13 it themselves?

14 A Individuals or developers?

15 Q Individuals.

16 A I don't recall any right offhand.

17 Q How about developers?

18 A We have had requests from developers for the town

19 to run lines and the town has told them that they should do

20 it because they are going to make money off of it.

21 Q The town doesn't make any money off of the water?

22 A Some, yes.

23 Q Speaking of the water, you do know when it has

24 been within your term of office that the county has made

25 requests to be able to either join the water authority or buy

water from it wholesale?

A Yes.

Q And the Authority has turned it down, hasn't it?

A Yes.

Q How are you a member of that Authority?

A The Town of Christiansburg?

Q Yes.

A The Town of Christiansburg is.

Q I am talking about you as the manager.

A Oh, no, sir.

Q You don't sit on the Authority?

A No.

Q Now the Town of Christiansburg has objected to the Authority either selling the County of Montgomery water or letting it join the Authority, hasn't it?

A Yes, sir.

Q What is the capacity of the Water Authority treatment facilities?

A They are going through an expansion right at the moment and my recollection is after the expansion is completed it will be somewhere in the neighborhood of 12 million gallons a day. I could be corrected on that.

Q Am I right that the total consumption today, including VPI, Blacksburg and the Christiansburg system is

2 about six to seven million gallons?

3 A The last figure I heard, I believe was around

4 seven, yes, sir.

5 Q And with these new improvements it will have the

6 capacity of something around 12 million gallons a day?

7 A As I say, I stand to be corrected on that, but I

8 think that is right.

9 Q Yes, sir, I think that is right. The Authority

10 in Christiansburg is still of the opinion that none of it

11 should be sold to the County of Montgomery or to its Service

12 Authority, is that correct?

13 A Are you saying my personal opinion or the town's

14 position?

15 Q I am asking you the town's position. I am saying

16 the town.

17 A The town has not been approached since this

18 expansion started. I can only tell you what the town's

19 position was the last time the request was made.

20 Q Let me ask you this, Mr. Lemley, as a town

21 administrator, if there is surplus water there to sell, it

22 would be foolish not to sell it to some customer that needs

23 it, isn't that true?

24 A I don't know that it would be foolish to not sell

25 it direct. I think it might be all right to sell it through

2 one of the three customers of the Authority.

3 Q Why would it have to go through a middleman to

4 add to a profit?

5 A Well, we built it, Mr. Fitzgerald.

6 Q I understand it, but you are going to get paid

7 for the water, I assume, at least what it costs, and make a

8 profit off of it. Why wouldn't you sell it under those

9 circumstances?

10 A The Authority, the purpose of the Authority was

11 to provide water for VPI, Blacksburg and Christiansburg, the

12 urban areas around the towns. If we were to allow Montgomery

13 County to become a part of it or start selling water to them

14 direct, we could detract from the original purpose of the

15 Authority. Once we allow them to connect to it, I think the

16 Norfolk case proves this, even though we said we are out of

17 surplus water, we could never disconnect from them.

18 Q Mr. Lemley, are you telling the Court that this

19 Authority was created solely to provide water for the

20 municipal people within the municipal boundaries of VPI,

21 Blacksburg and Christiansburg?

22 A I said and the adjacent areas. I believe I said

23 that.

24 Q As a matter of fact, both Blacksburg and

25 Christiansburg are selling it outside their boundaries?

2 A Yes.

3 Q It is all right for them to sell it outside the

4 boundaries, isn't it?

5 A That is right. We are selling to individual

6 customers, we are not selling wholesale to someone else.

7 Q So it is just a matter of getting the profit?

8 A No, no.

9 Q Then what is the difference?

10 A It is a matter of looking to the future and not

11 allowing a customer that could, as I say, overload the

12 facility.

13 Q Can't you limit the amount of water that you sell,

14 just like you do anybody else?

15 A In my judgment, once you let another authority

16 hook on or another town, I don't think you could cut the water

17 off. I don't believe you could.

18 Q Couldn't you limit it to the capacity of the

19 production?

20 A You would have to, if you couldn't produce more

21 than --

22 Q Let's leave that, Mr. Lemley, and ask you this

23 question. As an administrator of local government, does it

24 make real good economical sense to have overlapping governments

25 serve the same purposes?

2 A Could you be a little more specific, Mr.
3 Fitzgerald? That is a pretty general term.
4 Q If one government can provide all the services,
5 including running the utilities for a given area, isn't there
6 duplicity built in to having two governments do it for the
7 same governed area?
8 A If one could do it. I don't know that there is
9 one around that can do it.
10 Q The Town of Christiansburg can't do it all, can it?
11 A Right.
12 Q You can't provide the schools?
13 A Right.
14 Q You don't have authority to do that. Is there
15 any function that the Town of Christiansburg is carrying on
16 that you know of that the County of Montgomery is not authorized
17 to do?
18 A Nothing that they are not authorized to do, but
19 a lot of things that they are not doing.
20 Q Well, they are not doing it because you are selling
21 the water and won't sell them any, right?
22 A How about garbage collection, complete fire
23 protection, street lighting and the rest of it?
24 Q To provide many of these utilitary functions or
25 services, there has to be sufficient demand for it, doesn't

2 it, sir?

3 A Oh, yes.

4 Q To turn it around the other way, you can't run
5 water systems out to the farmland, to each farmhouse
6 economically, can you, sir?

7 A Not individually, no.

8 Q You can't develop a sewer system for farms, can
9 you?

10 A No.

11 Q It is not economical really to serve garbage and
12 trash collections to farms, is it?

13 A Not individual farms, no.

14 Q So there has to be a density concentration of
15 population sufficient for that need to exist and for that
16 solution to be given, isn't that true?

17 A Yes.

18 Q Have you as an administrator considered the
19 possibility of the consolidation of these governments into
20 one government?

21 A Considered it, yes.

22 Q Don't you think there would be a savings to the
23 people, the taxpayers, so that you would not have, whether it
24 is $30 more or $100 more?

25 MR. DAVENPORT: I think that is a political

2 question and not involved in this annexation suit.

3 JUDGE JORDAN: The Court sustains your objection.

4 MR. FITZGERALD: Is the objection sustained?

5 JUDGE JORDAN: The objection is sustained.

6 MR. FITZGERALD: Note the county's exception,

7 please.

8 No further questions.

9 JUDGE JORDAN: Mr. Jolly.

10 MR. JOLLY: Just a couple of questions, your Honor.

11 CROSS EXAMINATION

12 BY MR. JOLLY:

13 Q Mr. Lemley, you were town manager when this Water

14 Authority was formed and the service areas were laid out?

15 A Yes.

16 Q Agreed on between the towns and VPI, is that

17 correct?

18 A Yes.

19 Q You haven't had any difficulty in working under

20 that agreement since in the last 17 years, have you, sir?

21 A No, sir.

22 Q Blacksburg serves its territory that it was agreed

23 upon it should serve and you serve what was agreed upon you

24 should serve?

25 A Correct.

2 Town of Christiansburg?

3 A Yes, sir, I had occasion to compute that figure

4 once and it was about 17 per cent.

5 Q Do you also know what per cent of the property

6 tax collected by the Montgomery County is paid by residents

7 of the Town of Christiansburg?

8 A At that time 21 per cent.

9 Q So 21 per cent tax being paid by 17 per cent of

10 the residents?

11 A Yes.

12 Q In Christiansburg?

13 A Yes.

14 MR. DAVENPORT: You may examine.

15 CROSS EXAMINATION

16 BY MR. FITZGERALD:

17 Q Mr. Bucklen, a considerable amount of that tax

18 is paid by you say 21 per cent of the residents, a lot of that

19 tax is on business property?

20 A It was property tax.

21 Q And there are commercial enterprises that pay the

22 property tax?

23 A Yes, sir, there is commercial property, industrial

24 property and residential property in the Town of Christiansburg.

25 Q But would it be fair to say that there is a larger

2 concentration of the commercial businesses?

3 A There is a concentration, yes, sir.

4 Q Than it is in the rest of the county outside the

5 towns?

6 A Yes, sir, I think that is a fair statement.

7 Q And would it be fair to say that the people outside

8 the Town of Christiansburg come into the Town of Christiansburg

9 to use the commercial facilities?

10 A Yes.

11 Q And spend their money there?

12 A Yes, sir.

13 Q That, of course, justifies the existence of the

14 commercial property that they use?

15 A It certainly makes it profitable for them. I am

16 sure they welcome the business outside the town, as well as

17 they do from inside.

18 Q Would it be fair to say that a considerable part

19 of this 21 per cent, the differential between 17 per cent

20 population and 21 per cent tax is attributable to the

21 concentration of commercial activity in the town?

22 A I wouldn't know how to apportion the percentages

23 of what comes from outside the town and what comes from inside

24 the town. Certainly some comes from inside the town.

25 Q It would be fair to say that commercial activity

2 makes at least a differential of about three per cent, don't
3 you think so, mayor?
4 A Three per cent? I would think so, yes.
5 Q Or four per cent?
6 A Four per cent, I would think so.
7 Q You said this area that you seek to annex, the
8 development of it depends on service that only the town can
9 give, has to annex to give these services.
10 A That the town has to annex in order to give the
11 services?
12 Q Yes.
13 A These areas need those services, yes.
14 Q You mentioned water service.
15 A Yes, sir.
16 Q You are already providing water service wherever
17 it is feasible and possible to provide in the area, aren't
18 you?
19 A Yes, and they are going to need more as the area
20 continues to develop.
21 Q There is no reason whatever that you can't have
22 the developers continue to extend the lines and sell this
23 water, just like you have been doing for years?
24 A It is feasible but not as desirable.
25 Q Why isn't it as desirable, if you charge them

half again as much?

A Well, the area, as I tried to point out, is undergoing extreme developmental pressures that need a coordinated and cohesiveness that can only be provided as a unity, within the unity of the present town.

Q Let's talk about water for a minute. For years in the area that you seek to annex, except for part of it, that you and the Town of Christiansburg and Blacksburg have agreed to divey up, but you have extended water lines in every direction?

A Yes, sir, we have.

Q Wherever developers wanted to extend them and wanted to pay for it.

A We have sought to facilitate developments adjacent to the town to the extent that we were able to do so.

Q To some extent maybe the town has extended lines where it was profitable to do so?

A I guess in some cases, I guess the profitability could be questioned.

Q Feasible to do so?

A We have done so.

Q So there is absolutely no reason that you couldn't continue to do just what you have been doing for years?

A We could continue, yes.

2 Q Now the fire protection you talk about is going
3 to be exactly the same, just like Mr. Lemley said yesterday,
4 it is going to be exactly the same after annexation as it was
5 before annexation, isn't it?
6 A If you assume there is going to be no change in
7 the areas, I think that would be a fair assumption.
8 Q I look at your proposed budget that your town
9 manager introduced yesterday, and I see that he projects for
10 the fiscal year 75-76, if the annexation is granted, he projects
11 an expenditure of $8,000 for the fire department. Are you
12 familiar with this budget?
13 A No, sir, I haven't seen that budget yet.
14 Q You haven't seen the budget?
15 A Are you talking about the proposed budget for next
16 year?
17 Q No, sir, I am talking about the budget that the
18 town projects, if this annexation is granted.
19 A You are talking about the one prepared by Mr.
20 Massie in our study?
21 Q Well, there was some testimony Mr. Massie had
22 something to do with it and some testimony that Mr. Lemley
23 jointly prepared it.
24 A If you are talking about something prepared within
25 the last month or so, I haven't seen it.

Q The town council has taken no action whatever on the budget that is proposed for the new town, if the annexation is granted?

A We normally adopt our budget the first of September.

Q I know that, but I am not talking about that budget. I am talking about the budget presented here by the town manager as a budget that is proposed, if the annexation is granted.

A I have not examined that budget.

Q As far as you know the rest of the town council has not seen it?

A As far as I am aware. I don't know if they have or not. The finance committee may have seen it, I don't know.

Q Does Mr. Lemley have the authority to adopt budgets?

A No, sir, the town council of Christiansburg adopts the budget.

Q It is the only entity that has the authority to say that a budget is going to be a budget?

A Yes, sir, I should say it does.

Q I show you town Exhibit 23, which purports to be the budget, if this annexation is granted. You say that you nor the town council have ever considered this budget?

A I haven't looked at this specific exhibit, no, sir.

2 Q Well, I call your attention, page 2, operating
3 expenditures, fire department. If I am looking straight
4 across there, what amount of money does it show if this
5 annexation is granted that the town appropriates for the fire
6 department?
7 A That figure you are pointing to is $8,000.
8 Q Now you are familiar with your budget you are
9 considering for your coming fiscal year for the town without
10 annexation, aren't you?
11 A I have not seen those figures at this time.
12 Q When does that budget have to go into effect?
13 A September 1st.
14 Q I was furnished a copy of the Town of Christiansburg's
15 proposed budget.
16 A Proposed, yes, sir.
17 Q You have seen that?
18 A I have not seen the proposed budget for the fiscal
19 74-75. I do not normally see that budget until the finance
20 committee has had an opportunity to study it and to present
21 it to council.
22 Q But you recognize this as entitled the proposed
23 budget, it was furnished to me as such?
24 A That is entitled Town of Christiansburg Proposed
25 Budget for Fiscal Year 74-75.

Q I turn to the expenditure side of that budget, where it says fire department, am I correct?

A All right.

Q What amount is the tentative budget proposed for the town without annexation?

A The figure you are pointing to is $22,135.

Q Yes, sir. Can you explain how you are going to increase fire protection, if you are going to go from $22,500, without annexation, down to $8,000?

A You are making an assumption that I am not prepared to agree with.

Q You are not prepared to agree with the proposed budget?

A I am not prepared to agree with your assumption.

Q Do you understand what the $8,000 for the proposed fire department is, if annexation is granted?

A Do I --

Q Do you understand what the proposed budget is at all? You said you have never seen it. Do you understand it?

A I understand something about town budgets, yes, sir. I understand that annexation of the areas proposed would require an expansion of the budget of the town.

Q But from these figures it looks like it has been reduced by two-thirds, doesn't it?

A I don't know.

Q Well, from $22,135 down to --

A You are asking me to make a judgment on the basis of two figures which I have not had an opportunity to study and I am not prepared to agree that your assumption is valid. I can't disagree that it may not be, but I can't agree that it is.

Q In any event, the town council has not approved this budget that has been presented here by Mr. Lemley as the proposed budget, if the annexation is granted?

A I don't recall that we have acted on such a budget, no, sir.

Q Well, you certainly would recall that, wouldn't you?

A I think I would, yes, sir.

Q Now you say the area needs rescue squad services?

A Yes, sir.

Q They are going to be exactly the same as they are now, aren't they?

A If you assume again that things remain exactly as they are, I think they would.

Q There is no proposal to increase the rescue services, if the annexation is granted, is there, Mr. Mayor?

A If there is any proposal, I don't know about it.

Whether there would be or wouldn't be, I think would be a matter depending upon the circumstances at the time.

Q Well, we are here at the time now.

A Yes, sir.

Q Mr. Bucklen, this is the time. Now you have told this Court that this area needs rescue squad services.

A Yes, and we are providing them.

Q And the county is providing them, too, isn't it?

A I acknowledged that it is a joint effort, but the Town of Christiansburg and the board of supervisors of Montgomery County, with the citizens of Christiansburg getting a double dose as residents of both communities.

Q Yes, we will go into that in a minute. The fact of the matter is they are going to get exactly the same rescue squad services that they are getting now?

A I would hope that we would continue to be able to provide the services, yes, sir.

Q The same services?

A I would hope so.

Q This double dose of fire -- you are talking about citizens of the town contribute to the fire department?

A Yes, sir.

Q And the citizens of the town being part of the county, they pay a certain portion?

2 A Over and above.

3 Q A small percentage of that, too?

4 A Yes, sir.

5 Q The fact of the matter is, the town has a much

6 more concentrated development than the area outside the town,

7 doesn't it?

8 A Yes, sir.

9 Q There are many more fire hazards as such in the

10 town, aren't there?

11 A I wouldn't say that is true.

12 Q Because of the density of buildings?

13 A We get reports on the activities of the fire

14 department. There is almost as much activity outside the town

15 as there is within.

16 Q The fact of the matter is that there is considerably

17 more fire hazards within the town?

18 A I don't know that that is true.

19 Q You don't know that that is true?

20 A No, sir.

21 Q This sewer application that has been made, this

22 was made without regard to annexation, wasn't it? There is

23 nothing in here that says you are only going to go into this

24 sewer project if annexation is granted?

25 MR. DAVENPORT: I didn't examine him on that

application, if the Court please. If he wants to take him on as his own witness, he can stop leading.

MR. FITZGERALD: If it please the Court, the mayor testified that this area needed sewer services.

MR. DAVENPORT: He didn't testify anything to do with that application, that treatment plant, your Honor.

JUDGE JORDAN: That has been testified to by other witnesses, so I think he can go into it.

MR. DAVENPORT: All right.

BY MR. FITZGERALD:

Q You know, don't you, Mr. Bucklen, that there is nothing in this sewer application that says that this proposal for your sewer expansion is dependent upon the area being annexed to the town, don't you?

A I don't know if it does or not. I haven't examined that application myself, but the application is certainly being made in anticipation that the areas proposed will be served, and I think that it is understood by the people to whom we are applying that these areas will be served.

Q And that is because it had to be a regional application, didn't it?

A Well --

Q It had to serve more than just the town, didn't it?

2 A Yes, sir, it is proposed to serve more than the
3 town, yes, sir.
4 Q Because it had to be a regional application,
5 regional concept?
6 A Well, I think that was alluded to yesterday. I
7 have never had that called to my attention as an absolute
8 fact.
9 Q But in any event, assuming this is funded, you
10 are going to go ahead with this sewer improvement?
11 A Yes.
12 Q With or without annexation?
13 A Well, we hope to. I guess council would have to
14 examine the feasibility without annexation. It does require
15 a large commitment of local funds.
16 Q Your water and sewer are funded on a revenue basis,
17 aren't they? You pay for sewer service, waste water service,
18 I believe it is called?
19 A We attempt to provide those services and attempt
20 to make them bear the burden of the service.
21 Q They are paid for on a service fee basis?
22 A Yes, sir, we do charge service fees.
23 Q Both water and sewer?
24 A Yes, sir.
25 Q Now you mentioned that there were other services

2 provided from the town such as schools, churches, banks.
3 There are schools located in the town?
4 A Yes, sir, that is why I said it gave an orientation
5 to the Town of Christiansburg and identification with the
6 Town of Christiansburg.
7 Q The board of supervisors and school board have
8 seen that the town, provided these schools, is that true?
9 A Yes, but the schools are dependent upon the services
10 provided by the town also.
11 Q Like sewer and water?
12 A Yes, sir.
13 Q Does the school board pay those services?
14 A I would hope so.
15 Q They do pay for them, don't they? And churches,
16 they pay for those services, too, don't they?
17 A Yes, sir.
18 Q And banks pay for those services?
19 A Yes, sir.
20 Q And the telephone exchange, pays for them?
21 A Yes, sir.
22 Q And all these other private or semi-public or
23 public facilities, not owned by the town, not provided by the
24 town, are paying their way, paying for their services that
25 they get?

2 the county is going to have to continue to try to solve very
3 similar problems in other sections of the county?
4 A I would say that the Town of Christiansburg,
5 with what is in the areas being proposed for annexation,
6 adjacent to the present town, is about all that we could hope
7 to serve effectively.
8 Q So the answer to my question is yes, the county
9 will still have to meet the similar problems in other parts
10 of the county?
11 A I would say that the Town of Christiansburg has
12 no jurisdiction in those areas and would not have any
13 responsibilities.
14 Q And you don't seek it?
15 A No.
16 Q So far as you know the Town of Blacksburg doesn't
17 seek it?
18 A As far as I know, no, sir.
19 Q So that leaves it up to the county. That is the
20 only other jurisdiction left, isn't it?
21 A I would say that is the only jurisdiction left,
22 yes, sir.
23 JUDGE JORDAN: Is that all, Senator?
24 Mr. Jolly.
25 MR. JOLLY: No questions.

2 A I would hope that everyone that we are serving
3 is paying the bills, yes, sir.
4 Q Are there other areas of Montgomery County not
5 in the proximity of the Town of Christiansburg that is
6 beginning to have needs for services, such as water and sewer?
7 A I would conclude from information that is generally
8 published in the paper, and it has been recognized that
9 Shawsville and Riner and some of these other areas have had
10 needs and, of course, the Public Service Authority is
11 attempting to meet those needs.
12 Q Christiansburg has no plans or ideas to meet those
13 needs?
14 A In Shawsville or Riner?
15 Q Yes.
16 A No.
17 Q Too far away from it?
18 A Yes, I would say that is just a little bit too
19 much for us.
20 Q So the county does have the same type of problems
21 elsewhere in the county that Christiansburg doesn't plan to
22 help solve?
23 A We do not intend to service the entire needs of
24 Montgomery County, no, sir.
25 Q So even if this annexation is granted in total,

A It is made up of a tentative operating budget figure of $7,635 and a tentative capital budget of $14,500.

Q To what figure out of that would you compare with the $8,000 in this operating budget?

A Well, the figure that would most closely compare to it would be the $7,635.

MR. DAVENPORT: Thank you, sir. I have no further questions.

RECROSS EXAMINATION

BY MR. FITZGERALD:

Q You are adding for fire protection for an area over twice the size of the existing town $500?

A Sir?

Q Do I understand that you adding for fire protection for an area over twice the size of the existing town the total sum of $500?

A I don't know how one could make that conclusion.

Q Well, I just thought you did. Wasn't the figure in the budget? I can't find it in my copy of the budget, the $7,000.

A What I did was read two figures off the proposed budget in comparison to the exhibit.

Q What was the operating budget, of the proposed budget?

A Seven thousand and some.

Q Six hundred dollars? I don't have that figure in mine, Mr. Davenport. Is that correct?

MR. DAVENPORT: I will show you what I used to examine him. You entitled to see that.

MR. FITZGERALD: I thought we had the same.

MR. DAVENPORT: I think you have.

JUDGE JORDAN: Read your copy.

MR. FITZGERALD: That is not what I was referring to.

BY MR. FITZGERALD:

Q Does the figure $7,635 --

A Is the operating budget.

Q Is the operating budget for the fire department?

A Yes.

Q In your coming year budget, beginning this September 1?

A That is the proposed figure, I would take it.

Q Yes, sir.

A It is labeled operating.

Q Yes, sir. Now that compares with the $8,000 you proposed, if this total annexation is granted?

A That is the closest figure, I would see that would compare.

Q Isn't that what you told Mr. Davenport, those were the figures you were supposed to compare?

A The figures that most closely compare of the three was the $7,635 and the $8,000 figure.

Q So the difference is $365?

A That sounds like your arithmetic is correct, yes, sir.

Q That is the added fire protection to the area?

A I don't know.

MR. FITZGERALD: No further questions.

JUDGE JORDAN: Thank you, mayor. You may stand aside.

(Witness excused.)

JUDGE JORDAN: Call the next witness.

MR. DAVENPORT: The town rests, if the Court please.

JUDGE JORDAN: The town rests.

MR. FITZGERALD: Your Honor, we would make the usual motion to strike, but we will reserve the argument until the end of the case. We will go on with the evidence.

JUDGE JORDAN: All right. We will take the matter under advisement.

MR. FITZGERALD: Could we have a few minutes?

JUDGE JORDAN: Take a 15 minute recess.

This is a question for the Court to determine for the evidence and not for him to say whether he agrees or disagrees with whatever conclusion that the Court may reach.

MR. FITZGERALD: I am talking about the exhibit.

JUDGE JORDAN: The objection is overruled.

BY MR. FITZGERALD:

Q Do you agree that the exhibits which show that as an actual fact as of today, the undeveloped land in the Town of Christiansburg is somewhere between what you have measured off the town's exhibit and what you have shown on the county's exhibit?

A Yes, sir.

MR. FITZGERALD: That is all.

JUDGE JORDAN: Any further cross?

MR. COGAR: Yes.

RECROSS EXAMINATION

BY MR. COGAR:

Q You do not take into account in reaching that conclusion the testimony of Mr. Massie that his measurements showed approximately 700 acres, and if the Court accepts his figures, it is substantially less than either of the two figures you have put before the Court?

MR. FITZGERALD: Mr. Massie didn't say he measured

MRS. DIANNE B. CHESSON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FITZGERALD:

Q State your name, please.

A Dianne B. Chesson.

Q Where is your place of residence?

A Virginia Beach, Virginia.

Q By whom are you employed?

A Langley, McDonald & Overman, consulting engineers.

Q What are your duties there?

A I am the economist for the consulting firm and deal in population studies.

Q You have a throat problem, but can you speak up just a little bit.

A I do population studies for the firm.

Q Your qualifications are on Exhibit 2?

A Yes.

Q The county's exhibit book, I believe. Prior to coming to the firm of Langley, McDonald & Overman, by whom were you employed?

A The Division of State Planning Community Affairs.

Q Did you do similar work?

A Yes.

Q For the state?

A Yes, that was part of my work for the state.

Q Have you made certain population studies with regard to the proposed annexation case?

A Yes, I have.

Q The town, in one of its witness's commentaries made some reference to the town having its fair share or appropriate share of the growth of population. Would you state what studies you have made with regard to the population composition of Montgomery County and the towns.

A In trying to study growth throughout the county and the incorporated areas, I reviewed a feasibility study for annexation, as well as the ordinance, both of which contained data related -- well, the feasibility study related to the rates of change and the ordinance with respect to more generalized statements.

Q This feasibility study was a feasibility study that was entered into evidence here filed by the town in response to the county's request, made by Stuart Royer & Associates, I believe, is that the one?

A Yes, published or submitted in 1971. In reviewing both the feasibility study and the ordinance there were certain statements that I have selected, which I think sum up the findings from both and I would like to quote first from the

2 feasibility study on page 12 and then next from the ordinance.
3 The feasibility study makes the following statement with
4 regard to population in the county, and this is taken out:
5 "It is interesting to note that the average
6 per cent increase in population per decade for Christiansburg,
7 Montgomery County as a whole than its town exceeded those
8 for the State of Virginia in the units during the past five
9 decades."
10 They reviewed from 1920 to 1970 -- "It is
11 interesting to note that the average per cent increase in
12 population per decade for Montgomery County, excluding its
13 towns, or the rural portion of the county, exeeded that for
14 the United States and was only one-half of one per cent less
15 than that for the State of Virginia for the period. From the
16 above it is apparent that Montgomery County and its towns have
17 been experiencing an unusual growth when compared to that of
18 the state and the nation. The fact that the rural portion
19 of the county has had such a substantial population growth
20 rate is of particular interest, especially when it is noted
21 that the territory was annexed from it to the towns of the
22 county on three different occasions."
23 Now the annexation ordinance, Section 4, Part 1
24 reads: "The town has experienced growth in population which
25 has expanded even to the areas sought for annexation. There

2 is not sufficient available vacant land in the town to permit
3 its continued orderly growth within its present limits, with
4 the result that development which the town would normally
5 expect is taking place outside and in the area sought. The
6 population densities indicate that the town and the area
7 sought to be annexed as a whole are populated in such density
8 level at present as to be considered urban in nature."
9 That is the end of the quote from the annexation
10 ordinance.
11 In order to somewhat simplify my job, I tried to
12 reduce statements from the feasibility study and the annexation
13 ordinance into four contentions which guided me in my analysis,
14 and I would like to read these.
15 The first is that on the basis of rates of change
16 population growth in the county as a whole and in the
17 incorporated town has been unusual, when compared to that of
18 the state and the nature.
19 No. 2, that the unincorporated area of Montgomery
20 County, the rural portion has had a substantial population
21 growth rate.
22 No. 3, that population growth has expanded beyond
23 the Christiansburg limits and is now taking place outside the
24 town and in the area sought.
25 No. 4, the density calculations indicate that the

town and the area sought are urban in nature.

Now in order to examine these statements, I collected or assembled the following data that have been shown in county Exhibit No. 40.

Q That is the book under population section.

A This exhibit shows not only the population for our State of Virginia, but for the county as a whole, Christiansburg town, Blacksburg town, the unincorporated areas and then the unincorporated area excluding VPI dorm residents. I would like to go over some of the adjustments that I made to these data in order to insure that I had a comparable data base.

The first is that Christiansburg town, in collecting these I included Cambria for those years prior to merger, so that includes Cambria and Christiansburg from 1910 up to the present. The second adjustment was made to Montgomery County totals and the unincorporated areas totals for the years 1910 through 1940. This adjustment was that I included or added back in an approximate town of dorm residents for those years. This is because the census of population did not during those years count dormitory residents or institutional population at their actual place of residence at the time of census. They instead allocated them back to wherever I would imagine their parents lived at the time. So in order to insure

a comparable data base, I felt I had to add them back in.

Now I have shown this last column entitled "Unincorporated Area of Montgomery County Excluding Virginia Tech Dormitory Residents". I felt it important to include this. This represents as close as possible what I would consider to be the household population in the unincorporated areas. For purposes of definition, the Census Bureau in taking a census defines a household population as total population less group quarters. So because of the number of changes in the Census Bureau's definition of group quarters, I felt if I could get an approximate dormitory resident count and be consistent throughout in the exclusion that this would represent as close as possible a household count in the remaining or the rural area of Montgomery County. I did this so I could examine that growth.

In addition I have shown the actual census figures, but I have gone on to show, using '70 data, I did not mix '73 data or '74 data with '70 data, using all '70 data, the effects of the Blacksburg annexation, which took effect January 1, '73, and the possible effects that this Christiansburg annexation might have on the county.

Now this county Exhibit No. 40 serves as the basis for the following analysis. Unlike the study done, feasibility study, which I assume formed the basis for the annexation

ordinance, they based a lot of their statements on examination of rates of change. However, in analyzing growth, when you are concerned with areas of widely different magnitudes as we have had here, that is when you compare towns and counties with total states, and as was done in the feasibility study with the nation, the difference in figures can often distort the percentage change that has been calculated from the figures, that is an absolute increase of one over one as 100 per cent increase, an absolute increase of one over a hundred is a one per cent increase, so to generalize, the smaller the base, normally the larger the percentage change. The larger the base, the smaller the percentage change.

So instead of dealing with rates of change, I selected another method. I looked at growth in the county as a whole and in the various areas of the county in terms of what share did each area of the county, the towns, the unincorporated, what share did each of these areas, what share of the state's population did each of these areas account for over time, over the period of time 1910 through 1970, did the area share increase or did it decrease.

Q What exhibit have you shown this on?

A This is shown on county Exhibit No. 42.

Q You are skipping over 41 and going to 42?

A Temporarily, yes.

Q All right.

A This exhibit is entitled "Population of Montgomery County and the Incorporated Towns of Christiansburg and Blacksburg as a Per Cent of Virginia" for the years 1910 through 1970.

Here again we are representing or talking about shares of total state population. I am interested in the increases and the decreases. In looking at Montgomery County, we see that over the period 1910 through 1970 Montgomery County has, in fact, grown somewhat, as a whole, grown somewhat faster than other areas throughout the state, because its share has increased from .86 to slightly over one per cent. Christiansburg town has also exhibited a somewhat steady growth, although a greater increase is exhibited due to the annexation that took place during the sixties. From 1910 through 1970, its share increased from .10 to .17. If the share is, the share will increase to .21.

Blacksburg town has exhibited, I think, a more dramatic growth in terms of increasing in its share of state population. From .04 up to .18. This large increase from '50 to '60, of course, was due to an annexation during the period. However, a very dramatic increase has taken place because of the January 1, '73 annexation, its share more than doubled during, on the basis of those three years, from

2 .20 in 1970 to .43 as a result of the annexation.

3 The unincorporated area of Montgomery County,
4 however, its share of the state's population has declined.
5 With the exception of the '60 to '70, which was a strong
6 growth year for the county, a growth period for the county as
7 a whole. The increase over the '60 to '70 period in terms
8 of its share of total population was from .54 to .64. However,
9 the Blacksburg annexation, January 1, '73, took in this growth,
10 because we see the unincorporated areas share dropping once
11 again to .41, if the Christiansburg annexation is granted,
12 the unincorporated areas of Montgomery's share will drop .37.

13 A similar decline is also evidenced in the
14 household population of the county outside of the towns,
15 you see a steady decline from .69 to .45 in 1960, however,
16 this population also experienced or took part in the strong
17 growth from '60 to '70, and you see an increase in its share
18 from .50.

19 The difference between the .64 and .50 on the two
20 levels, of course, the dorm residents which had a good increase
21 over that period, but again, with the Blacksburg annexation,
22 the share of the unincorporated area, the household population
23 dropped again to .41.

24 Q Have you depicted this graphically?

25 A Yes.

Q On Exhibits Nos. 72 and 73 on the easel?

A Yes, if you look first --

Q There is a pointer right in front of you.

A I think we can see it because the most dramatic one is this one (indicating). This was prepared first just to see if you could tell the growth. This is a percentage chart entitled "Population Trends", which again shows the county, the towns and the unincorporated areas share of Virginia total population over the period. This is expressed in terms of percentages.

The blue is Montgomery County, the orange Christiansburg, the red Blacksburg, the green unincorporated area and the pink the household population.

With this chart you can see up close the gradual increase in the county's share. Gradual increase in Christiansburg and, of course, the gradual to the dramatic increase in Blacksburg town, but again you can see the corresponding decrease in the unincorporated areas share and in that of the household population outside of the towns.

A better picture, of course, is gotten from county Exhibit or the graph county Exhibit 73, which is taking all the colors and putting them together. It is the same data, except all of Montgomery County is shown together, all of Christiansburg, Blacksburg, unincorporated areas and

2 household population.

3 It is important to note that these, both of these
4 exhibits do reflect the three 1970 sets of data, so that the
5 three bars on the end for Montgomery County are all 1970 data.
6 Of course, the county's total didn't change.

7 With Christiansburg, you can see A is just the
8 actual count and C, on this chart, would depict what would
9 happen to Christiansburg population if annextion were granted.
10 Blacksburg, you can clearly see the '73 annexation with the
11 dramatic increase in the second to the last column.

12 With the green, you can see the gradual decline
13 in the unincorporated areas share and again the pink, the
14 decline in the household population share.

15 Q This shows the percentages of population with
16 regard to the state as a whole over those decades?

17 A Yes.

18 Q Have you made a study as to the distribution of
19 the population within Montgomery County?

20 A Yes, and looking at population distribution within
21 Montgomery County, this is shown in county Exhibit 43. It is
22 over the same period. We see how Christiansburg's share has
23 increased from roughly 12 per cent in 1910 to 1970 the actual
24 census, some 17 per cent. The large increase or somewhat
25 large increase from '60 to '70 is due again to an annexation.

If this annexation is granted, Christiansburg's share will increase to some twenty per cent of Montgomery County's population, again based on '70 figures.

Blacksburg town has grown from roughly five per cent of the total county's population and, of course, between '50 and '60, an annexation, but as of '60, up to some roughly 21, 22 per cent of the Montgomery County population. With the recent annexation in Blacksburg, Blacksburg town's share increased to roughly 43 per cent.

Looking at the unincorporated area of Montgomery County, we see a decline in terms of its portion as related to the total county's population. In 1910 it accounted for roughly 83 per cent of the county's population, but this dropped as of '60 to 65 per cent, as of '70 to 63 per cent, with Blacksburg's recent annexation, to some roughly 41 per cent.

A similar decline is shown in the household population. I think it is important to note that with the possible Christiansburg annexation, given the fact that three annexations have preceded that, if this annexation is granted, the towns together will account for roughly 63 per cent of the total county's population, based on '70 data.

Q This is all based on 1970 census data?

A Yes. And the unincorporated areas share will be some 38 per cent.

Q Have you depicted this graphically on county Exhibit 74?

A The data for April 1, 1975 have been shown on this by chart. County Exhibit 74, in order to graphically depict the effect that the Blacksburg annexation had on the unincorporated areas share of the total county and what effect the Blacksburg, coupled with the possible Christiansburg annexation, would have on the unincorporated area.

The first circle shows the actual '70 count. And, of course, based on that data, unincorporated area represented well over half the total county's population. With the Blacksburg annexation, the unincorporated areas share was reduced to roughly 41 per cent, less than half. Coupling this Blacksburg annexation with the possible Christiansburg annexation, the unincorporated share will be further reduced to some 37 per cent. This is shown in the last circle.

Q The yellow color in the circle depicts the per cent of population in Montgomery County unincorporated portion and orange Christiansburg and green Blacksburg?

A That is correct.

Q Did you make any study as to the relative position, the density of population?

A May I refer to another exhibit first that is

1 somewhat related to this growth?

2 Q Is that Exhibit 41?

3 A Yes. Turning now back, if you will, please, to

4 county Exhibit No. 41, I was interested in this exhibit in

5 trying to identify according to area where the absolute change,

6 that is the increase, absolute increase in population had

7 occurred over the decades, and to try to apportion or account

8 for what per cent occurred in the incorporated town, what

9 per cent was accounted for by increase in VPI dormitory

10 residents and what per cent actually occurred in the remaining

11 unincorporated areas.

12 In looking just generally, if you will look over

13 the 1910, let's say to 1950 period, the first column, of course,

14 represents the total change in population over the decades.

15 We can see that over these four decades that growth

16 has been somewhat shared among these three components. In

17 fact, the unincorporated area in two decades has accounted for

18 well over half of the total absolute increase in population.

19 This has occurred in the decade 1910, 1920, in which the un-

20 incorporated area accounted for, well, 58 per cent of the total

21 county's growth.

22 Beyond this point, however, such an easy

23 identification is really not possible, due to the annexations,

24 and I think this can really be pointed up by looking at the

25

2 '50 to '60 period in which we have an annexation by Blacksburg.
3 We see that according to the census the total change in
4 Montgomery County's population was some 3,143. However, when
5 we add the change in the incorporated areas together, that is
6 when it reflects the, reflecting the annexations, we see that
7 accounts for well over 100 per cent of the total county's
8 change. It shows up on the other end of the scale, that is
9 the unincorporated area, an actual decrease.
10 In effect, what this means is that the annexation
11 not only took it from the growth area, but took in some
12 existing population.
13 Now again, 1960 to 1970 was a very strong growth
14 year for Montgomery County as a whole. So the annexation by
15 Christiansburg over that period is not equally shown as was
16 done in the former case. However, if you refer to the
17 Blacksburg annexation and looking at incorporated town's share
18 of the total growth over the '60 to '70 period, we see that
19 due to annexation, the incorporated areas now account for
20 some 70 per cent of the total growth, whereas prior to annexation,
21 the actual '70 figures show that it only accounted for some
22 41 per cent of the total area's growth.
23 If the Christiansburg annexation is granted, the
24 unincorporated towns --
25 Q You mean incorporated?

A I am sorry, the incorporated towns would account for some 83 per cent of the total growth that took place over the '60 to '70 decade.

Q It would take it in the area of that growth?

A It would take in -- it would appear from these data that it takes in the growth area. It also makes the unincorporated area not to have grown at all. You see a negative figure in the last column.

Q All right. Now referring you to Exhibit 44.

A Exhibit 44 is a density comparison of twenty areas, both cities and towns throughout our state, which is based on '70 data. The last three columns are what I will be addressing for the most part. These are density rankings from high to low. The first column shows, according to actual '70 census figures, without any adjustment for annexation, Christiansburg out of these twenty areas would rank No. 13. That is there were 12 areas with densities somewhat larger than that of Christiansburg. If the annexations that have occurred subsequent to the '70 census were reflected, that there was one in Blacksburg, Wytheville and Bluefield towns, the densities in the second column would be appropriate. Christiansburg town in this ranking shows No. 12, or there are 11 areas with densities larger than that of Christiansburg.

If the posed Christiansburg annexation were

granted, in addition to the other three that have been shown in the second column, Christiansburg density would drop to 20th position or the lowest among these areas.

Q Does that complete the studies that you have made?

A Yes.

MR. FITZGERALD: Your witness.

JUDGE JORDAN: Before you cross examine, it is 11 o'clock. Let's take the mid morning break.

. . . Thereupon, a recess was taken at 11:00 a.m. and reconvened at 11:20 a.m. . . .

JUDGE JORDAN: All right, gentlemen, you may cross examine.

CROSS EXAMINATION

BY MR. DAVENPORT:

Q Mrs. Chesson, you have made a very erudite exposition of the growth in Montgomery County area, both the incorporated towns and the unincorporated area. In the final analysis, that growth is Montgomery County, is it not?

A Yes, it is.

Q Always in the final analysis, these exhibits show that the growth, the greater part of the growth has taken place either in the incorporated towns or in the immediate vicinity of the incorporated towns, being the annexation areas that have been included?

A The areas, if you mean the areas slightly beyond the town limits as the areas of growth, yes, that is true.

Q So that is where it has really taken place?

A For the most part.

Q All of this growth as part of Montgomery County. All its citizens are citizens of Montgomery County, correct?

A That is correct.

Q All the taxpayers are taxpayers of Montgomery County, all the additional business growth is a part of Montgomery County, right?

A That is correct.

Q So all this growth is good for Montgomery County as well as for incorporated communities, isn't that correct?

A That is correct.

MR. DAVENPORT: I have no further questions.

JUDGE JORDAN: Thank you very much. You may be excused.

(Witnessed excused.)

DANIEL E. ROBINSON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FITZGERALD:

Q State your name, please.

A Daniel E. Robinson.

Q Your place of residence?

A Albemarle County, Virginia.

Q Your occupation?

A Certified public accountant and municipal consultant.

Q Your qualifications and that of your firm are in the book, exhibit -- what is the exhibit?

JUDGE JORDAN: Four.

BY MR. FITZGERALD:

Q Exhibit No. 4.

A That is correct.

Q In addition to being a certified public accountant and doing such work as they do and making studies of annexations, have you also served as a county administrator?

A Yes, as county executive of Albemarle County for five years.

Q Now did you make certain studies and computations with regard to this case?

A Yes, sir.

Q What exhibits did you prepare for this case?

A Exhibit 50 and 51 on one page, assessed values of local taxable property, tax rates and assessment ratios of the County of Montgomery in the areas proposed to be annexed.

Q All right, does that show the assessed, estimated assessed values of Montgomery County for the year 1974?

A Yes, it does.

Q Does it also show the estimated assessed values in the area proposed to be annexed?

A Yes, sir.

Q What does it show with regard to the tax rates as between the Town of Christiansburg and the county?

A The latest tax rate we had on the town was '73, which was $2 and a quarter per hundred dollars of assessed values as compared to $6.90 for the county in '73. The county's rate for '74, we are advised, has been set at $6.90 also.

Q All right. Exhibit 52, what have you shown on this exhibit?

A This is a detail of a long term indebtedness of the County of Montgomery projected to December 31, 1974, total of $13,937,500.

Q Exhibit 53, what have you shown here?

A Exhibit 53 is an exhibit setting forth the county's loss of revenue, should the annexation be granted, as to items of ABC profits, local sales tax, local trailer license, motor vehicle license -- motor vehicle carrier tags, bank stock tax and motor vehicle license tax.

Q Does this include all the county fees that would be affected that you know of?

A No, sir, it does not. These are the only ones that I felt like that I could determine with any degree of accuracy. It does not include the federal revenue sharing funds nor does it include any fees, fines. There is another item that I am advised that should have been included here as to the local trailer permit. I had thought this was a one time deal, but I am advised by the county administrator that this is an annual permit license.

Q Is that in addition to the local trailer license?

A Yes, sir.

Q Tax?

A Yes, sir.

Q Is one of the factors that determines the federal revenue sharing population?

A Population is a factor. Tax effort is a factor. Income is a factor. There are a number of other factors that go into it. We have not been able to get the formula from the ORS, Office of Revenue Sharing. We have interrogatories now filed with them for twenty localities in Virginia asking for the details on this determination.

Q That is not available for this case?

A No, sir, it is not.

Q The town does get a share of the county's revenue sharing?

A Yes, it does.

Q In the computation of the effect on the revenue of the county, if this annexation is granted, I note that the first item is ABC profits from the Commonwealth?

A That is correct.

Q There is a projected increase in the loss of that revenue each year. Would you tell the Court how you projected that.

A I projected this on the basis of two and a half per cent increase. This is the increase that the state controller's office has given us for budgetary purposes for the year '74-'75 over '73-'74. This is also the same that we were given a year ago, two and a half per cent increase. On the local sales tax, we have projected that on the basis of the data furnished by the State Department of Taxation to all the localities in Virginia. This is the percentage factor that they have used for Montgomery County, '75, '74-'75 and '75-'76. These figures have been made available to the localities for budgetary purposes for the next two years. This is the percentage increase that the State Department of Education, the State Department of Taxation furnishes the localities.

Q Has the local trailer license, motor vehicle carrier tax, bank stock tax, motor vehicle license tax, have you put any increase at all?

A I have projected no increase in any of these items.

Q The motor vehicle license tax, of course, depends on the number of cars in the area?

A These are the vehicles that we determine as a result of the census count in the area proposed to be annexed.

Q With the exception of the items of revenue that you say have not been included in this, that would be effective to some degree, what is the total amount that --

A Based on the current budget of the county, we feel like a minimum loss to the county for '74-'75, using the current budget, would be $51,096.28.

Q The total amount for the five year period?

A $283,512.69.

Q Mr. Robinson, would this be revenue available to the county's use for not only its operations but for debt service?

A Yes, sir.

Q In getting the data for these exhibits, did you supervise or cause to be made a survey of the area sought to be annexed?

A Yes, sir.

Q Did you compile the results of that study?

A Yes, sir.

MR. FITZGERALD: I will ask that this exhibit be marked county Exhibit 81, I believe.

JUDGE JORDAN: All right.

MR. FITZGERALD:

Q Does this show the inquiries that were made by the census statements in the area?

A Yes, sir, it does.

Q Without going to every figure on there, let me ask you just a few questions about it. How many people does it show in the area are employed in the Town of Christiansburg?

A Under item 3, area of employed persons who reside in the areas proposed to be annexed, out of a total number of employed persons of 866, 207, that is item 3-F, 207 replied that they were employed within the present Town of Christiansburg

Q How many were employed elsewhere?

A Difference being --

Q Is that shown as No. E?

A Right, 659.

Q What did you determine to be the total population of the area?

A Total population of the area, based on the census

2 supervised by us is an item IV, Roman IV-C, 2164.

3 MR. DAVENPORT: Your Honor, this is an item, I
4 realize that I can get to this later, but I want the
5 record to show that we object to this exhibit or any
6 testimony reflecting any racial data for very obvious
7 reasons. This question has come up in every annexation
8 case for the last ten years, and we want this item
9 stricken. He can testify to the totals, but not the
10 breakdown.

11 JUDGE JORDAN: The Court sustains your objection.

12 MR. FITZGERALD: May I ask the witness, before
13 the Court finally rules on it, the question about the
14 census taken?

15 BY MR. FITZGERALD:

16 Q Does the United States government, when it takes
17 a census of any area, include the racial makeup of the area?

18 A Yes, sir.

19 Q You followed the same pattern or the same method
20 of taking the census as the federal census is taken?

21 A Yes, sir.

22 JUDGE JORDAN: The Court has taken the view that
23 the Court is color blind.

24 MR. FITZGERALD: Is the objection to the exhibit
25 being introduced?

MR. DAVENPORT: No, I just object -- my motion is to strike out the racial breakdown shown on this exhibit.

JUDGE JORDAN: The 2155 and the 9, eliminate those two figures and make it 2164.

MR. FITZGERALD: The county notes its exception to the Court's ruling.

BY MR. FITZGERALD:

Q What is the adult population of the area sought?

A Thirteen hundred fifty-three. That is item V, Roman V.

Q The school age population?

A Four hundred sixty-one.

Q How many people are actually employed within the areas proposed to be annexed?

A Eight hundred fifteen, which approximates the number of employed persons residing in the area. Of course, you note that this just shows that the area supports employment approaching that of the employed persons within the area. That doesn't mean that the same people reside in the area work in the area. The area supporting employment in the vicinity of the total employed persons of the area, 814 as against 866 employed persons of the area, which is about, which tends to balance the employment and the employed persons of the area.

2 Q Mr. Robinson, moving on down, of the total of
3 646 residences that moved from some other location to the
4 area, how many reported that they moved from the Town of
5 Christiansburg?
6 A One hundred forty-eight. That is item Roman X-F.
7 Q How many came from other places to the area sought
8 to be annexed?
9 A Four hundred ninety-eight.
10 Q How many reported they were in favor of annexation?
11 A Thirty-two as opposed to 386 against the proposed
12 annexation.
13 Q Mr. Robinson, you have had the opportunity to make
14 a study of the governmental structure of the County of
15 Montgomery, is that correct?
16 A Yes, sir.
17 Q Are you familiar with the financial effort of the
18 County of Montgomery?
19 A Yes, sir.
20 Q Through its budget and you have listened to the
21 testimony here with regard to the activities of all the
22 jurisdiction within Montgomery County, including the Authority?
23 A Yes, sir.
24 Q Will you state to the Court in your judgment and
25 from your experience whether or not the proposed annexation

will have adverse effect on the future operations of Montgomery County?

A I think if the units of government that are operating now, that this annexation cannot help but to have an adverse effect on the future of the balance of the county.

Q Would you state in your judgment what needs to be done to improve the providing of services in the most economical way for Montgomery County, including the Town of Christiansburg.

A Well, I think, No. 1, that in any political location, such as Montgomery County, Blacksburg and Christiansburg, there is grave need for a better political climate as far as cooperation is concerned. I think the greatest need of all is the unification of its utility facilities. I think this not only applies here, I think it applies in any area where jurisdictions need to cooperate and unify these utility facilities. I don't think we could begin to have the electrical service or the telephone service, if we had competition such as you have here for service areas for water and sewer, and I think that the first need is a climate that will provide for the unification of the utility services needed for the entire area.

Q Will you state whether or not in your judgment the unification of government would produce such unification?

A Yes, sir, I think it would.

Q Will you state whether or not the proposed annexation in your judgment would deter unification?

A I don't see how it could help from deterring unification.

MR. FITZGERALD: Your witness.

CROSS EXAMINATION

BY MR. DAVENPORT:

Q Mr. Robinson, on this census data, I am interested in a couple of items that you have touched upon, but you haven't elaborated on quite enough for my benefit. Look at item VII, Roman numeral VII, persons employed within the areas proposed to be annexed. How many of those live in Christiansburg?

A How many of those live in Christiansburg?

Q Yes.

A Persons employed within the areas posed to be annexed?

Q Yes.

A These are people employed on site of the various parcels of land within the area proposed to be annexed. We have no way of knowing whether any of them reside in Christiansburg. The question was not asked. This was simply to --

who was interviewed if they desired to be of record, either as for or against the proposed annexation.

Q What you are telling is that 1353 adults don't, not all -- let me start over again. The people who answered this are not all the 1353, part of the 1353 adults, is that what you are saying?

A I would say the majority are. The illustration that I gave you is the reason that you couldn't use the computation.

Q I see what you are saying.

A You do.

Q But a great many that did not want to be reported, isn't that right, for reasons of their own?

A I don't know what their reasons were. If they had no opinion, or they didn't wish to express an opinion. We just simply asked the question if they desired to be of record and this wasn't a compelling question at all. Left it entirely to the individual that was being interviewed, either as the head of the household or as the person head of the firm or business that we were interviewing.

Q Look for a moment, if you will, at Exhibit 53, the 51 thousand plus dollars you have in the first column, the first year, corresponds roughly to the 48 or 49 thousand dollars that Mr. Massie testified to, does it not? You have

1 got two or three items in there that doesn't have --

2 A I think he had items that I don't have.

3 Q You came out very close.

4 A If you will consider the same system, the two

5 figures are similar, yes. I don't think you are dealing

6 with the same individual figures.

7 Q As I understand your increases in items 1 and 2,

8 they are based upon the fact that there was an increase

9 given to you by the state authority?

10 A Yes, sir.

11 Q This year over last year?

12 A Yes, sir, and I would say this, this ten per cent

13 has been pretty steady, -- I went back to '68 in the county,

14 after the beginning of the sales tax, and the state has

15 pretty consistently used a figure in the ball park of ten

16 per cent on the sales tax per year. The ABC profits have

17 been in the ball park of two and a half to three per cent,

18 sometimes as much as five, from year to year. The current

19 figures that we have here is this two and a half per cent for

20 ABC profits and 10.0806 for sales tax.

21 Q Look at item, your Exhibit 52. I am interested

22 in a note at the bottom of that exhibit. That is debt exhibit.

23 Total debt for the county is $13,937,500, isn't that right?

24 A Yes, sir.

25

Q That is as of what date?

A That is projected to December 31, 1974, taking into account any maturities that might take place between now and December 31, '74.

Q If they aren't there, they have been deducted?

A Yes. You will note that any number of them there do have maturities in December.

Q And October, yes, sir.

A Others are June, July and April.

Q Now this special tax expressed in this note, if I understand, tell me exactly how that should be figured, as to what you expect the town to assume.

A Well, I think a good guide line, Mr. Davenport, would be to convert revenues lost by the county to the amount of debt service that it would support.

Q In other words, you want those revenues allocated to debt service only and none of the other expenditures of the county?

A Well, they are available. They are all available.

Q Well, what they are really, all funds were available?

A That is correct, but this would be that much net revenue.

Q Let me ask you, did it occur to you that perhaps

a better measure might be to pro rate the $51,000 that you say is going to be lost to the total revenue of the county?

A No, sir.

Q Well, tell me how much total revenue of the county is expected to be in the current budget?

A I don't have it before me. I say the total revenue would be somewhere in ten or fifteen million dollars.

Q How much?

A Ten to fifteen million dollars.

Q I want something more exact than that.

A I can give it for last year.

Q Give it to me for the current budget.

A I don't have it.

Q I want the record to reflect the total revenues in the current budget that just went into effect last week.

I show you a copy of the revenue section that was supplied to us by the county and refer you to page 11 and ask you to state whether the proposed --

A I was in the ball park, it is $12,346,000.

Q You said somewhere between 10 and 15. You almost hit it right in the middle?

A Yes, sir. I had not seen the figure. I was basing it on prior actual figures, Mr. Davenport.

Q So if you apply, take the proportion of the

$51,000 to the $12,500,000roughly --

A That would be --

Q About four-tenths of one per cent, wouldn't it?

A Mr. Davenport --

Q Answer my question, it would be about four-tenths of one per cent?

A I haven't computed it.

Q Will you compute it?

A I will take time later and do it.

Q Will you do it right now, please.

A You want me to compute a figure for you?

Q Yes, sir. You are testifying in response to my question.

A You give me your figures.

Q Take 12 million -- what was the figure? Give him the calculating machine.

MR. COGAR: He won't know how to use it.

MR. DAVENPORT: Give him the calculating machine and that exhibit.

THE WITNESS: How far will it go?

. . . Mr. Massie conferred with witness concerning calculator . . .

THE WITNESS: Your Honors, I think that the figure that has been asked to compute here is utterly ridiculous

for the reason --

MR. DAVENPORT: I object to that.

JUDGE JORDAN: We sustain the objection. Just compute the percentage of the 51,096.28 to the total budget of 13 million plus dollars. That is as the Court understood.

MR. DAVENPORT: Twelve million plus.

THE WITNESS: I can look at it and see it is roughly four-tenths of one per cent.

BY MR. DAVENPORT:

Q Let's have it exact now that you have got the calculator.

A I am not used to that one.

Q You mean you can't work it?

A I can't work that one.

JUDGE JORDAN: I think three digits will be more than enough.

THE WITNESS: I get .0408.

MR. DAVENPORT: All right, that is all. Thank you.

REDIRECT EXAMINATION

BY MR. FITZGERALD:

Q Mr. Robinson, you started to explain. "Ridiculous" — would the word "meaningless" fit?

A Yes, sir, it would.

Q Is the 12 million dollars plus that Mr. Davenport asked you about, does that include state and federal funds?

A That is the very reason I was going to say that it is absolutely meaningless.

Q Insofar as a just proportion of any debt assumption?

A Yes, sir. First of all, the federal and state school funds are in there that cannot be used for that purpose at all. I would say approximately half of these funds -- let me see -- for the record, over fifty per cent of these revenues included in this 12 million dollars of funds other than local funds and they are segregated for purposes other than debt and could not under any circumstances be used for debt. Well over fifty per cent of it. To begin with, welfare fund, for example, something over $1,200,000 here, welfare funds. I am reading from the figures that he gave me. I don't know whether they are budget figures or what, but one of the figures here, public assistance alone, $825,000 -- certainly none of that is going for debt. Certainly none of the funds -- incidentally, the revenue sharing funds cannot be used for debt service.

Q Do you have a figure there before you, or if you have it before you, do you have a figure as to the local revenues that are raised, that this amount would be deducted from?

A The figure I have here on page 4, and I have not examined this, just this total revenue from local sources, $5,855,000. That was the reason I was using the figure --

Q That is all.

A Far less than half.

MR. FITZGERALD: That is all.

JUDGE JORDAN: May I ask a question or two, please.

You have your loss of revenue to the county for the first year after annexation, $51,096.28. Mr. Massie for the same period, although as I understand each of you arrived at it in a different manner, his was between 48 and 49 thousand. That is relatively close for two experts to be, is it not?

THE WITNESS: I don't know whether you could say that is close or not, when you are considering apples in one case and oranges in another.

JUDGE JORDAN: But when you consider dollars in the end?

THE WITNESS: Right, but they are not dollars on the same items of revenue.

JUDGE JORDAN: The point I am making, you are actually only two or three thousand dollars apart?

THE WITNESS: That is correct.

JUDGE JORDAN: Now my next question is this: this annexation case has been presented in three areas, Area I, II and III. Do you have any way of giving the Court any information on how much of this $51,096.20 loss would be generated from Area I, from Area II and Area III?

THE WITNESS: I could compute it, sir. I could compute it.

JUDGE JORDAN: Will you do that and give it to the Court later?

THE WITNESS: It will take some time. I have the census data. The most difficult one is the least material item and that is a very small item, the motor vehicle carrier tax that goes into the road factor formula and that is immaterial, but except for the rest of them, I can compute it.

JUDGE JORDAN: Thank you. I wish you would.

MR. FITZGERALD: We will give that to the Court, your Honor.

JUDGE JORDAN: Thank you. You may be excused.

(Witness excused.)

MR. FITZGERALD: Mr. Shelton.

2 STEPHEN C. SHELTON

3 having been duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FITZGERALD:

6 Q State your name, please.

7 A Stephen C. Shelton.

8 Q Where is your place of residence?

9 A Christiansburg.

10 Q What position do you occupy with the County of

11 Montgomery?

12 A County administrator of Montgomery County.

13 Q Your experience and qualifications are shown on

14 county Exhibit No. 7, is that correct?

15 A Yes, sir.

16 Q I note that you have had a rather varied experience

17 over the years. Prior to coming to Montgomery County as

18 county administrator, you served as county administrator

19 of Franklin County, is that correct?

20 A Yes, sir.

21 Q What are your duties as county administrator,

22 Mr. Shelton?

23 A I have been given full authority that is authorized

24 by the Code of Virginia in the executive secretary type of

25 government which later has been called county administrator

type by the board of supervisors.

Q None of the powers given to you by the statute have been withheld from you by the board of supervisors, is that correct?

A That is correct.

Q I refer you to county Exhibit No. 14. Does this show the organization of the functions of the county government?

A Yes, sir.

Q Without going through all those, I would like to ask you about a few of them. First of all, I note that the block directly under county administrator is buildings and grounds. Is that what it appears to be, that it takes care of the maintenance of all buildings of the county?

A Yes, sir.

Q Does this also take care of the construction of county buildings?

A Yes, sir.

Q With regard to that, is construction of a new courthouse proceeding now?

A Yes, sir, the architects have been advised to go ahead with the working plans, and we are planning to have on the ballot in November a referendum to the people to complete the financing. We have an escrow account and it will take more than in that account to complete it.

Q The county has accumulated in a building fund some money?

A Yes.

Q How much?

A A little over a million dollars.

Q The rest of it is to be raised by selling bonds?

A Yes, sir.

Q To be approved by referendum?

A Yes, sir.

Q Next to that block is shown a data center. Would you state what that is.

A The county was advised by the audit of public accounts some years ago to go into central accounting. Since that time data of counties, the technology of it has increased to where it is advantageous to go beyond that central accounting and actually go into a data center. In this the handling of the land books, the personal property books and the issuance of the tax tickets are accumulated, plus all the other cumulative data that you can get in the county that helps with the county government.

Q Has the county actually set up such a center?

A Yes, sir.

Q Is the county able to provide services for the towns through that data center?

A Yes, sir.

Q Has the county offered the towns services?

A Yes, sir.

Q Have any of them accepted the services?

A Blacksburg accepted it this year. Christiansburg rejected it. Both of them rejected it last year. I think the reason, they really didn't think we could do it for ourselves last year. We surprised them, because it has just been in existence a little over a year.

Q What are you handling for the Town of Blacksburg?

A We will do their real estate tax tickets. They don't have the personal property over there.

Q So you actually have their tax bills printed?

A Yes, sir.

Q Could you do the same thing for the Town of Christiansburg?

A Yes, sir.

Q Would you state whether or not in your judgment it would be a considerable savings of money to do it that way?

A It would, the issuance of tax tickets is a by-product of the work we have to do anyway. All you have to do is to change your program, to change the levy and the same information that goes into the issuance of the county tickets will turn out the town tickets also, the tax tickets.

Q You could add whatever other programs the town wanted to put on there, is that correct?

A Yes. Just program it for their particular needs.

Q Would this reduce the time it would take?

A Considerably.

Q You also have a purchase and supply. Does that come under your function?

A We do not have the department set up. It is in the budget, but purchase and supply in a limited system is under my supervision now. Purchase orders come across my desk to the administrative function outside of the school board and others that eventually will be under it when we get the department set up.

Q Do you take advantage of the central purchasing division in Richmond?

A Yes, sir.

Q Does the county operate -- I see it has a block here for landfill and waste service. What facilities does the county operate there?

A We have three landfills, one -- well, they are all, could be used for sanitary landfills, but one we use is inert landfill.

Q Is a what?

A Inert landfill.

Q What is that for?

A For items that do not have to be covered daily, tires, limbs, demolition materials, such as that.

Q What other landfills do you operate?

A We have two other sanitary landfills. One is being held in reserve and one in operation that is for the entire county.

Q These landfills are offered to the towns as well?

A They are open for use of anybody within the county that wants to use them. This was taken over by the county board after I came here and Blacksburg had been using it all the time. Christiansburg has been using their own landfill.

Q This is a function that had been under the Service Authority?

A Yes, sir.

Q And was put back under the county?

A Yes, sir.

Q Is that correct?

A Yes.

Q Would you state the rationale or the reason that the county took it back over.

A Well, the cost of operating a landfill and have the garbage pick-up service is rather expensive. There is an effort being made to help the Public Service Authority to get

2 to be a self-supporting agency. As long as they are operating
3 this, and it is a tax item, there could be no income from it,
4 so it was the feeling of the board of supervisors that it
5 should come out from under the Public Service Authority and
6 be operated out of my office.
7 Q In other words, this is a facility, service
8 available to all the people in the county?
9 A Yes.
10 Q As well as the towns?
11 A Yes.
12 Q That are not paying revenue?
13 A Well, the pick-up service is not available to the
14 town, but the landfill operation is.
15 Q All right. What type, what kind of pick-up service
16 is available in the county outside the town?
17 A It is container. We have 96 six cubic yard containers
18 and 25 eight cubic yard containers and we have a 38 cubic yard
19 compactor truck that serves the entire county, outside the
20 corporate limits of the two towns.
21 Q Are there also private trash and garbage collectors?
22 A Yes, sir, there are two.
23 Q That serve --
24 A The individual home pick-up for a fee. Now we
25 do not subsidize them in any way. They do have free use of

the landfill.

Q They come and dump the refuse in the landfill?

A Yes.

Q That operates the household --

A House to house pick-up service.

Q Does the county support any recreation in the county?

A Yes, we have a recreation committee that has been formed, I guess it has been in operation now about six months. Members of it, one comes from Christiansburg and one comes from Blacksburg and the others are made from the, one from each of the election districts. Then there is a representative from the extension service on it.

Q What is the purpose of this committee?

A To coordinate recreational activities throughout the county, to promote open space park service and to provide outdoor recreation as much as possible for all the county.

Q Has the county participated in the construction of the regional juvenile detention home?

A Yes, sir.

Q What participation did the county make?

A Montgomery County, it is according to population and hours being the largest, we are the biggest contributor to the juvenile detention home. In addition to that the five

2 acres that they are on was contributed by the county, above
3 the county participation and total cost.
4 Q That is located in the Town of Christiansburg, I
5 believe?
6 A Yes, sir.
7 Q Does the county own any other land at that site?
8 A Yes, there are 18 acres there and 5 acres has been
9 turned over to the juvenile detention commission.
10 Q I notice the block showing dog warden. Does the
11 county have a dog ordinance?
12 A Yes, sir.
13 Q How is that enforced?
14 A Well, that is for the entire county. That includes
15 both towns. We have a new dog pound under construction at
16 this time. We have two dog wardens. They enforce the dog
17 ordinance, county ordinance in both the towns as well as the
18 county.
19 Q The people in the town gets the same benefits as
20 the people outside the town?
21 A Yes, sir.
22 Q Would you state whether or not there is more call
23 upon that service in the towns than outside the towns?
24 A There is more individual pets in town. Of course,
25 a good bit of the work in the county has to do with stock

2 damage, sheep and chickens. That is a big item outside of
3 the towns. As far as number of pets concerned or dogs that
4 are involved, there is more in the town probably than there
5 is in the county, in the two towns that is.
6 Q Does the county have a zoning ordinance?
7 A Yes.
8 Q Subdivision control ordinance?
9 A Yes, sir.
10 Q Building code?
11 A Yes, sir.
12 Q How long has the county had a building code?
13 A Well, we have been on the southern standard for
14 many years and since the state building codes came, we asked
15 permission to remain on the southern until all of the areas
16 here change at the same time, so there won't be any difference
17 in the enforcement over the state accepted code. I believe
18 it is September that we probably will have to convert at the
19 same time.
20 JUDGE JORDAN: You say all the area, to what extent
21 do you mean?
22 THE WITNESS: I am talking about New River Valley,
23 Pulaski County and the town, even the towns here, they
24 have the southern building code also.
25 BY MR. FITZGERALD:

Q There will be a coordinated changeover to what is called the Avoca Code all at the same time?

A Yes.

Q Does the county also have electrical and plumbing code enforcement?

A Yes. The building inspector heads that department and under him we have a plumbing inspector and an electrical inspector, so there are three doing inspection work within the county out of that department.

Q Do these do the inspection outside of the town?

A Outside of the towns.

Q In the subdivision control, if a person subdivides land in the county that is not on sewer lines, there is a requirement that the septic test be made, percolation test?

A Yes, that is checked by the health department. There is a general check made of a subdivision area and then there is a lot check made separate from that, before any septic system or wells are allowed to be placed on that lot.

Q So before any house can be built on any subdivision lot, that lot itself has to be tested to pass the test?

A Yes.

Q If it doesn't pass the test, you can't build a house there, is that right?

A That is right.

Q Does the county engineer assist in the approval of these subdivision plans, too?

A He is the subdivision agent for the county.

Q That is to assure that the plans submitted comply with the subdivision control ordinance?

A Yes.

Q Does your subdivision control ordinance require certain public improvements to be in any subdivision?

A Yes, streets and such.

Q Incidentally, there was some question about the zoning in Area III as to what lot sizes could be subdivided there. I believe it is zoned agricultural, is it not?

A Yes.

Q What is the lot size in the --

A One-half acre. We can add another section to this.

Q The chart --

A It shows planning commission as being directly under the board of supervisors. For the last four weeks we have been interviewing applicants for planner and that will be under my office also.

Q The planning office?

A Yes.

Q But you do have a board of zoning appeals and planning commission of the county?

A Yes.

Q I notice also a library board. Does the county have a library system?

A Yes, sir.

Q And on Exhibit 17, I believe that shows the organization of the library board of trustees?

A Yes, sir.

Q Where does the county have libraries located?

A Where are they located?

Q Yes. I believe you have a map.

A The main office and library is in Christiansburg on Main Street. I don't know the exact address, but it is about two blocks west of the courthouse. Three blocks maybe. And then there is a branch office in the Municipal Building at Blacksburg, and in addition to that a bookmobile serves the county.

Q Did you, while we are looking for that map, did you request some statistical data from the library board showing the number of volumes and the amount of circulation and such as that that are in the exhibit book?

A That was requested some time ago. I don't have it with me here.

Q I will get it here in a minute. I believe if you look at county Exhibit 47, which has about five pages --

A Yes.

Q That is a description of the library services provided for Montgomery County. These services are also available to the people of the Town of Christiansburg?

A Yes, in fact there is more service in Christiansburg than there is in the county. In addition to this, negotiations are already just about completed for the purchase of church property out here to have a county owned library. They are in a rented building now.

Q I believe they operate presently out of the Blacksburg City Hall?

A Well, that is one branch of it. You see, the main part of the library is what used to be a private home.

Q Looking at Exhibit 71, it shows two branches there, I believe, one operating out of Blacksburg Town Hall?

A Yes.

Q And one operating out of a building in Christiansburg

A Yes, sir.

Q And you say the process of acquiring another building to serve the Christiansburg area --

A Well, to serve the entire county. That will be the headquarters for the whole county operation. You see, the library at Blacksburg is a branch of the one from here.

Q Does the library also operate bookmobiles?

A Yes, one.

Q Exhibit 71 purports to show the stops that the bookmobile makes, is that right?

A Yes, sir.

Q What ambulance service does Montgomery County provide?

A We have a new Oldsmobile ambulance, fully equipped. At one time it was operated by two direct employees. It was not a full-time operation, so it has been recently transferred over. The administrative control of it is under my office and the dispatching of it is under the sheriff's office.

Q Where is that ambulance kept?

A At the courthouse.

Q In Christiansburg?

A In Christiansburg.

Q Now does the county also have located within it the rescue squad, in addition to this ambulance?

A There is a rescue squad in Christiansburg, yes.

Q I refer you to county Exhibit 46. I don't think it is numbered. It is a map exhibit. The rescue squad serves the county divided up into districts?

A Yes, sir.

Q Does this Exhibit 46 show the divisions of those districts?

A Yes, sir.

Q The location of the rescue squad equipment?

A Yes, sir.

Q And an itemization of the equipment that is available for rescue services?

A Yes.

Q Is that a county supported function?

A The county contributes to each of these.

Q They are actually volunteer units, is that correct?

A That is right.

Q The county makes financial contributions to them?

A Yes.

Q How are they dispatched?

A The ones in Christiansburg are dispatched through the sheriff's office.

Q How about the fire fighting services, Exhibit 45, which is on the board and also in the book, does the county, for the purposes of operation, divide it up among the volunteer fire companies in their service areas?

A Yes, sir.

Q Is this coordinated by the county?

A The fire service is voluntary. The county contributes financially to all of them. They run their own organization. Each of them has a chief and then they have

an area, I suppose he is called an instructor, that has been coordinated, as far as we are concerned, with us.

Q Exhibit 45 shows the service area of the Christiansburg Volunteer Fire Department?

A Yes.

Q That is the same fire department that serves the Town of Christiansburg?

A Yes, sir.

Q And the county financially supports all of these fire departments, is that correct?

A Yes, sir.

Q Can you tell us to what extent the current budget?

A Let's see. I have a breakdown here. Five year contribution totally to the county for fire is $176,412.79, and in five years contribution to rescue service, $73,587.34. It is difficult to determine how much of that goes to Christiansburg, because a lot of our books, prior to my coming to Montgomery County, it was a lump sum contribution, and then when the deductions were made, it would not indicate what fire department or rescue squad that deduction went to.

Q The county makes contributions towards the operation and acquisition of equipment?

A Yes, sir.

Q The county has the equipment owned by the county

2 itself?

3 A There is some that is totally owned by the county

4 and some that is jointly owned in both Blacksburg and

5 Christiansburg.

6 Q In Christiansburg, what does the county own in the

7 company there?

8 A I don't have that list.

9 Q You say you don't have that list?

10 A I don't have that information.

11 Q There is some located in the Town of Christiansburg

12 Fire Department?

13 A Yes, I think there are two and a half vehicles

14 in Christiansburg that is owned by the county.

15 Q How are these fire trucks dispatched to fires?

16 A The call goes to the sheriff's department.

17 Q To the sheriff's office?

18 A Yes.

19 Q Is that from all over the county?

20 A No, just for Christiansburg. Blacksburg serves

21 that area up there, and then out in the county we have a unit

22 at Riner and those calls go in directly to them and also down

23 at Elliston and at Longshop McCoy. Some of them have fair

24 radio coverage, but it is not entirely dependable. That is

25 in outlying districts.

Q Insofar as the Christiansburg area is concerned, all dispatching goes through the sheriff's office?

A Yes, sir.

Q Can you tell the Court what tax sources the county is using at the present time?

A Local taxes?

Q Yes.

A Real estate, personal property tax, land redemption, transfer fees from the clerk, fees coming into the clerk's office as refunds, Commonwealth Attorney, sheriff's fees, sales tax, one per cent local use tax, board of prisoners, recordation tax, bank stock tax, welfare board -- that is another. That is from the state side. Building permit fees, trailer license decals and trailer license space tax, automobile graveyard license, electrical permit fees, plumbing permit fees -- let's see -- zoning fees, ambulance service receipts, dog tag fund, county license tag, and then we have income from Blacksburg as a result of their annexations for a five year period for sales tax and ABC funds.

Q Do you also receive local sales tax, you have a local sales tax, is that correct?

A Yes, then we have considerable miscellaneous items that just accumulate as miscellaneous.

Q All right. Now does the county have a utility

tax?

A No, sir.

Q In your judgment as the county administrator, is it feasible for the county to use that source?

A Every time it is mentioned, the county citizens object to it because it goes into the general fund, and the county citizens feel that that general fund is being spent in the towns more than it is the county, and the same objection has been voiced as to automobile license, because the towns both have their license tax to the vehicle and we get no part of that, but the income from our automobile license goes to the general fund and it serves all the county. We do not have a utility tax, and both the towns do have the utility tax.

Q So if the county did adopt a utility tax, it would be in the same position it is with the automobile tag tax?

A Yes, we would lose.

Q One-third of the people would be paying the tax that would be used for the total?

A Yes.

Q Now, Mr. Shelton, can you state whether or not there have been some marked improvements in the county's services and ability to serve since 1969?

A Yes, sir. We have engaged Michie City Publishing Company to recodify our county ordinances. We have gone into

the central accounting data center. We are creating a department of purchasing and supply. We have gone into extensive planning. All of the zoning ordinances and subdivision ordinances have been studied and updated. We have stabilized our finances. I believe the general feeling in the county is quite different now than what it was when they had to face the large indebtedness for the schools that we have just been going over here about the 13 million dollars.

Q In your observations as a county administrator, can you tell the Court whether or not in your opinion the proposed annexation would be detrimental to the county as a whole?

A I don't see that the annexation would reduce our cost any. It would reduce our income, and any time that you reduce county's income, as much as we need the income in the county, the county loses that much of its viability. It loses that much of its effectiveness as a county government.

Q Do you know of any function that the county is providing at the present time, any service that could be curtailed?

A No, I don't. There would be no reduction in the expense to county government that I can see by this annexation.

Q Is the county still going to have an overall sewer problem to solve?

A Yes, sir.

Q Water problem?

A We are still, because in the sewer problem, generally when you provide sewer, it is done at a loss and at best a break even. Where the county is trying to live up to its responsibilities of sewer systems through the public service authority, if you take the areas away, that could become feasibly operational by the Public Service Authority, then we will never be able to get to the point that the Public Service Authority can be self-supporting.

Q Is the same thing true about water?

A Yes, sir.

Q In your observation as county administrator, can you state whether or not there is a better solution to the problems of Montgomery County and its towns?

A Well, I believe that the consolidation ranging anywhere from total down to consolidation of utilities, any degree of it could be advantageous.

Q Do you feel that this further annexation hurts that chance?

A Yes, sir, very much so.

MR. FITZGERALD: Your witness.

CROSS EXAMINATION

BY MR. COGAR:

A It is not economically feasible for the Public Service Authority to provide them for the county residents only, but if it was a joint operation, it would be feasible, if all of them were together, operating on a scale and a plant big enough to take care of all of it.

Q And that can't be solved in this annexation case?

A No, sir.

MR. COGAR: That is all I have.

MR. FITZGERALD: I have a couple of questions and this witness will be through.

JUDGE JORDAN: All right.

REDIRECT EXAMINATION

BY MR. FITZGERALD:

Q Mr. Cogar asked about the county's efforts in the water situation. At my request did you research or have researched the county records to determine what the role of the county was in the establishment of the VPI-Blacksburg-Christiansburg Service Authority?

A Yes, I did.

Q I show you a resolution of July, 1956. Is this the resolution you found in the minutes of the board?

A It was abstracted from the minutes by Mrs. Thomas, who is administrative assistant authorized to attest these abstractions.

Q Would you read that resolution, please.

A "At a regular monthly meeting of the board of supervisors of Montgomery County held at the courthouse thereof, on Tuesday, the 17th day of July, 1956, at ten o'clock a.m.:

"At the request of Mr. W. T. Scott, Jr., attorney for the Blacksburg-Christiansburg-VPI Water Authority, and on motion, duly seconded and by unanimous vote, the Blacksburg-Christiansburg-VPI Water Authority was approved in accordance with Sections 15-754.1 and 15-754.4 of the Code of Virginia, and other provisions of Article 5.1 of title 15 of the Code of Virginia.

"Attest: Betty S. Thomas."

Q Is that the only resolution or only thing in the records of the county dealing with the creation of that Authority that you have been able to locate?

A That is the only one dealing with the creation. I had another one a year later dealing with fluoridation. That is the date of the 15th day of October, 1957.

Q What does that say?

A "On motion, duly seconded the following resolution was adopted by unanimous vote of the board:

"Be it resolved that the board of supervisors of Montgomery County endorses the fluoridation of the water

supply of the Blacksburg-Christiansburg-VPI Water Authority,

"Be it further resolved that the Blacksburg-Christiansburg-VPI Water Authority be requested to provide for fluoridation of water in accordance with the plans and specifications of their system."

Q Is this the only thing that you can find in the records dealing with the Authority?

A That is the only thing in the record. I checked part of it and Mrs. Thomas checked part of it, and we not only have checked the index, but we went through page by page.

MR. FITZGERALD: I would like to introduce this as county Exhibit 83 and 84.

BY MR. FITZGERALD:

Q One other question. The county does have an industrial authority, does it not?

A Yes.

Q Was it through that authority that the hospital was built?

A Yes, sir.

MR. FITZGERALD: That is all.

JUDGE JORDAN: Stand aside, Mr. Shelton. Thank you.

(Witness excused.)

JUDGE JORDAN: Sheriff, adjourn court until 2:15.

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2 for that budget and it can be tomorrow or the next day
3 inserted at the proper place.
4 MR. COGAR: The town rests.
5 JUDGE JORDAN: This morning we asked Mr. Robinson
6 if he could give us some additional calculations. Have
7 you had time to make those?
8 MR. ROBINSON: We have someone working on them
9 right now. We were going to type it up. We can give
10 you the work sheet on it. It should be ready in an
11 hour.
12 JUDGE JORDAN: That will be fine.
13 All right, gentlemen, what is your pleasure as
14 to argument of the case?
15 MR. COGAR: We prefer to do it tomorrow morning,
16 if your Honor please.
17 MR. FITZGERALD: We are ready to do it now.
18 It is not three o'clock yet.
19 JUDGE JORDAN: A thirty minute recess, could you
20 argue it at 3:30?
21 MR. COGAR: Judge, I think we could do it much
22 better -- we have certain authorities that we brought
23 with us, which I have back in my motel room. Quite
24 frankly, I am sufficiently tired that I don't think I
25 could do justice to the subject matter. We don't intend

but we think that a definite policy as to what proportion the cost the town would bear and what proportion the prospective developer or individual citizen should bear should be reduced to writing and filed with the Court, after which we can determine and set forth in our opinion the requirements for the future installation and extension of sewer and water lines in the area granted.

As to the police protection, it is our feeling that the existing police protection and that which is anticipated to be added by the town will be sufficient.

Street lighting, garbage collection and the other services normally rendered by a town and that are being rendered within the present town will, of course, will be extended into the new areas upon the effective date of this annexation, which will be the 31st day of December, 1974.

As to the compensation to be awarded the county from the town, Section 15.1-1041, that Mr. Davenport admitted to, paragraph B thereof, says "To require the assumption by the city or a town of a just proportion of any existing debt of the county or any district therein."

It is the feeling of this Court that the 17 per

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2 cent of the population of the Town of Christiansburg
3 that is now paying 20 plus per cent of the tax revenue,
4 by so doing, are shouldering their proportion of the
5 existing county debt and, therefore, no existing county
6 debt will be assumed by the Town of Christiansburg for
7 the taxpayers thereof are now contributing their
8 proportionate part, and the same will be true as to
9 the taxpayers that are being brought into the town for
10 the first time.

11 We do, however, feel that there will be a loss to
12 the county of the ABC profits and some local sales and
13 use taxes. We have not calculated those figures, but
14 we will do so as best we can from the evidence that has
15 been presented.

16 Mr. Robinson did give the Court a breakdown by
17 area of his figures, and I assume that he gave them to
18 opposing counsel. If not, they are available and will
19 be furnished to you.

20 MR. DAVENPORT: We have them, your Honor.

21 JUDGE JORDAN: Suffice it to say that from both
22 the town's and the county's evidence, we will calculate
23 as closely as we can the loss to the county of those
24 two items by reason of this annexation and will require
25 the town, over a period of five years, to pay each year

that amount of loss similar to that which was done in the Blacksburg annexation case.

At this time I wish to thank on behalf of the Court the courtesies extended to the Court by each and every member of the bar that appeared before us. Your consideration in shortening the evidence a great deal is appreciated. Your agreeing to open court at nine o'clock rather than the usual starting time was appreciated, and we thank you for your courtesies.

Court will adjourn.

. . . Thereupon, court adjourned at 12:15 p.m. . . .

Assessed Values of Locally Taxable Property, Tax Rates and Assessment Ratios
In the County of Montgomery and Areas Proposed to be Annexed

Item No.	Item	For the Tax Years 1968	1969	1970	1971	1972	1973	Estimated* 1974
I.	Assessed Values							
A.	County of Montgomery--Note 1:							
1.	Real Estate	$26 589 640	$28 969 715	$31 051 190	$33 236 485	$35 699 010	$50 890 470	$52 266 235
2.	Tangible Personal Property	5 342 581	6 792 366	6 830 440	7 968 915	7 286 800	8 632 195	8 964 140
3.	Machinery and Tools	424 445	648 025	718 970	759 611	660 340	683 410	792 219
4.	Merchants Capital	898 701	968 182	1 036 781	1 161 700	1 203 865	1 438 690	1 713 780
5.	Public Service Corporations	6 674 009	6 646 547	6 834 002	6 796 321	7 075 462	6 669 125	6 977 486
6.	Total	$39 929 376	$44 024 835	$46 471 383	$49 923 032	$51 925 477	$68 313 890	$70 703 860
B.	Areas Proposed to be Annexed:							
1.	Real Estate	(					)	3 493 535
2.	Tangible Personal Property	(		(NOT AVAILABLE)			)	444 065
3.	Machinery and Tools	(					)	389 209
4.	Merchants Capital	(					)	153 130
5.	Public Service Corporations	(					)	434 043
6.	Total							$ 4 913 982
II.	Tax Rate Per Hundred Dollars of Assessed Values--Note (2):							
A.	County of Montgomery--All Classes of Property	$ 3.75	$ 4.75	$ 4.75	$ 4.75	$ 7.15	$ 6.90	$ 6.90
B.	Town of Christiansburg--All Classes of Property (Except Merchants Capital)	$ 1.25	$ 1.25	$ 1.25	$ 2.25	$ 2.25	$ 2.25	Not Available
III.	Ratio of Assessed Values to True Values--Note (3):							
A.	Real Estate	15.8 %		15.4 %	12.1 %			

Source: Note 1: 1968-1972 Tax years--Reports of the Department of Taxation to the Governor of Virginia.
1973 Original Tax Assessment Books of the County of Montgomery, Commissioner of the Revenue.

Note 2: 1968-1973 Tax years--Reports of the Department of Taxation.

Note 3: 1968, 1970 and 1971--Reports of the State Tax Commissioner. Other years Not Available.

Note *: 1974 Tax year--Estimates of State Corporation Commission and County Administrator.

County of Montgomery Long-term Indebtedness

Projected to December 31, 1974

Item No.	Description	Amount Authorized or Sold	Date Issued or Authorized	Interest Rate	Annual Maturities Amount	Annual Maturities Due	Outstanding and Not Matured
I.	Bonds:						
1.	School	$ 1 000 000	June 1, 1961	3.25 % 3.40 %	$ 50 000 00 50 000 00	June 1, 1975-77) June 1, 1978-81)	$ 350 000 00
2.	School	1 500 000	July 1, 1962	3.00 % 3.20 %	75 000 00 75 000 00	July 1, 1975-77) July 1, 1978-82)	600 000 00
3.	School	500 000	July 1, 1963	3.00 % 3.125%	25 000 00 25 000 00	July 1, 1975-78) July 1, 1979-83)	225 000 00
4.	School	2 500 000	October 1, 1969	6.00 % 5.75 % 5.75 % 5.75 %	175 000 00 175 000 00 150 000 00 125 000 00	April 1, 1975-76) April 1, 1977-82) April 1, 1983) April 1, 1984-85)	1 800 000 00
5.	School	5 000 000	June 1, 1970	5.75 % 5.75 %	325 000 00 350 000 00	December 1, 1975-80) December 1, 1981-85)	3 700 000 00
6.	School	3 170 000	June 1, 1971	5.10 % 5.00 %	160 000 00 150 000 00	December 1, 1975-88) December 1, 1989-91)	2 690 000 00
7.	School	2 000 000	June 1, 1972	4.95 %	100 000 00	December 1, 1975-92	1 800 000 00
8.	School	2 200 000	December 15, 1972	4.90 %	110 000 00	December 15, 1975-93	2 090 000 00
9.	Total County School Bonds						$13 255 000 00
II.	State Literary Fund Loans:						
1.	Christiansburg High School	$ 45 000	December 1, 1955	3.00 %	$ 2 250 00	December 1, 1975	$ 2 250 00
2.	Valley Elementary School	62 000	December 1, 1955	3.00 %	3 100 00	December 1, 1975	3 100 00
3.	Christiansburg Area Elementary School	700 000	December 15, 1973	3.00 %	22 350 00	December 15, 1975-2003	677 150 00
4.	Total State Literary Fund Loans						$ 682 500 00
III.	Total County of Montgomery Long-term Indebtedness						$13 937 500 00

Note: The County of Montgomery expects that, in the event of any annexation, the Town of Christiansburg shall be required to assume the same ratio of the County's long-term debt at the effective date of annexation that the County's revenue resources in such areas annexed, bears to the total revenue resources of the County.

TOWN OF CHRISTIANSBURG VS COUNTY OF MONTGOMERY

ANNEXATION PROCEEDINGS 1974

COUNTY EXHIBIT NO. 53

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Loss of Revenue to the County of Montgomery
During the Next Five Years If Proposed Annexation is Granted

Item No.	Item	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total
1.	Share of A.B.C. Profits from the Commonwealth . . . . . (Projected at an Annual Increase of 2.5% Based on State Comptroller's Estimate of 1973-74 Increase Over 1972-73 Actual)	$ 8 028.44	$ 8 229.15	$ 8 434.87	$ 8 645.74	$ 8 861.88	$ 42 200.08
2.	Local Sales and Use Taxes . . . . . (Projected at an Annual Increase of 10.0806% Based on the State Department of Taxation's Estimate of 1975-76 Increase Over 1974-75 Estimate)	23 296.58	25 645.01	28 230.18	31 075.95	34 208.59	142 456.31
3.	Local Trailer License . . . . . (Based on Number in Areas Proposed to be Annexed With no Projected Increase)	5 904.00	5 904.00	5 904.00	5 904.00	5 904.00	29 520.00
4.	Motor Vehicle Carriers Tax. . . . . (Based on Ratio of County Highway Mileage in Areas Proposed to be Annexed to County Total Highway Mileage)	163.84	163.84	163.84	163.84	163.84	819.20
5.	Bank Stock Tax . . . . . (Based on Bank Stock Tax Assessed on Bank in Areas Proposed to be Annexed with no Projected Annual Increase)	503.42	503.42	503.42	503.42	503.42	2 517.10
6.	Motor Vehicle License Tax . . . . . (Based on Number of Motor Vehicles in Areas Proposed to be Annexed with no Projected Annual Increase)	13 200.00	13 200.00	13 200.00	13 200.00	13 200.00	66 000.00
7.	Total	51 096.28	53 645.42	56 436.31	59 492.95	62 841.73	283 512.69

Reported by Court

Revised

TOWN OF CHRISTIANSBURG VS COUNTY OF MONTGOMERY

COUNTY EXHIBIT NO. 53

ANNEXATION PROCEEDINGS 1974 AREA NO. I

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Loss of Revenue to the County of Montgomery
During the Next Five Years If Proposed Annexation is Granted

Item No.	Item	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total
1.	Share of A.B.C. Profits from the Commonwealth . . . . . (Projected at an Annual Increase of 2.5% Based on State Comptroller's Estimate of 1973-74 Increase Over 1972-73 Actual)	$ 1,828.88	$ 1,874.60	$ 1,921.46	$ 1,969.50	$ 2,018.74	$ 9,613.18
2.	Local Sales and Use Taxes . . . . . (Projected at an Annual Increase of 10.0806% Based on the State Department of Taxation's Estimate of 1975-76 Increase Over 1974-75 Estimate)	3,993.03	4,395.55	4,838.65	5,326.42	5,863.35	24,417.00
3.	Local Trailer License . . . . . (Based on Number in Areas Proposed to be Annexed With no Projected Increase)	3,144.00	3,144.00	3,144.00	3,144.00	3,144.00	15,720.00
4.	Motor Vehicle Carriers Tax. . . . . (Based on Ratio of County Highway Mileage in Areas Proposed to be Annexed to County Total Highway Mileage)	27.62	27.62	27.62	27.62	27.62	138.10
5.	Bank Stock Tax . . . . . (Based on Bank Stock Tax Assessed on Bank in Areas Proposed to be Annexed with no Projected Annual Increase)	22.80	22.80	22.80	22.80	22.80	114.00
6.	Motor Vehicle License Tax. . . . . (Based on Number of Motor Vehicles in Areas Proposed to be Annexed with no Projected Annual Increase)	3,170.00	3,170.00	3,170.00	3,170.00	3,170.00	15,850.00
7.	Total	$ 12,186.33	$ 12,634.57	$ 13,124.53	$ 13,660.34	$ 14,246.51	$ 65,852.28

TOWN OF CHRISTIANSBURG VS COUNTY OF MONTGOMERY

ANNEXATION PROCEEDINGS 1974 AREA NO. II

COUNTY EXHIBIT NO. 53

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Loss of Revenue to the County of Montgomery
During the Next Five Years If Proposed Annexation is Granted

Item No.	Item	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total
1.	Share of A.B.C. Profits from the Commonwealth . . . . . (Projected at an Annual Increase of 2.5% Based on State Comptroller's Estimate of 1973-74 Increase Over 1972-73 Actual)	$ 768.32	$ 787.53	$ 807.22	$ 827.40	$ 848.08	$ 4,038.55
2.	Local Sales and Use Taxes . . . . . (Projected at an Annual Increase of 10.0806% Based on the State Department of Taxation's Estimate of 1975-76 Increase Over 1974-75 Estimate)	2,730.36	3,005.60	3,308.58	3,642.10	4,009.25	16,695.89
3.	Local Trailer License . . . . . (Based on Number in Areas Proposed to be Annexed With no Projected Increase)	288.00	288.00	288.00	288.00	288.00	1,440.00
4.	Motor Vehicle Carriers Tax. . . . . (Based on Ratio of County Highway Mileage in Areas Proposed to be Annexed to County Total Highway Mileage)	15.91	15.91	15.91	15.91	15.91	79.55
5.	Bank Stock Tax . . . . . (Based on Bank Stock Tax Assessed on Bank in Areas Proposed to be Annexed with no Projected Annual Increase)	-	-	-	-	-	-
6.	Motor Vehicle License Tax . . . . . (Based on Number of Motor Vehicles in Areas Proposed to be Annexed with no Projected Annual Increase)	1,210.00	1,210.00	1,210.00	1,210.00	1,210.00	6,050.00
7.	Total	$ 5,012.59	$ 5,307.04	$ 5,629.71	$ 5,983.41	$ 6,371.24	$ 28,303.99

TOWN OF CHRISTIANSBURG VS COUNTY OF MONTGOMERY

COUNTY EXHIBIT NO. 53

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ANNEXATION PROCEEDINGS 1974 AREA NO. III

Loss of Revenue to the County of Montgomery
During the Next Five Years If Proposed Annexation is Granted

Item No.	Item	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total
1.	Share of A.B.C. Profits from the Commonwealth . . . . . (Projected at an Annual Increase of 2.5% Based on State Comptroller's Estimate of 1973-74 Increase Over 1972-73 Actual)	$ 5,431.24	$ 5,567.02	$ 5,706.19	$ 5,848.84	$ 5,995.06	$ 28,548.35
2.	Local Sales and Use Taxes . . . . . (Projected at an Annual Increase of 10.0806% Based on the State Department of Taxation's Estimate of 1975-76 Increase Over 1974-75 Estimate)	16,573.19	18,243.86	20,082.95	22,107.43	24,335.99	101,343.42
3.	Local Trailer License . . . . . (Based on Number in Areas Proposed to be Annexed With no Projected Increase)	2,472.00	2,472.00	2,472.00	2,472.00	2,472.00	12,360.00
4.	Motor Vehicle Carriers Tax. . . . . (Based on Ratio of County Highway Mileage in Areas Proposed to be Annexed to County Total Highway Mileage)	120.31	120.31	120.31	120.31	120.31	601.55
5.	Bank Stock Tax . . . . . (Based on Bank Stock Tax Assessed on Bank in Areas Proposed to be Annexed with no Projected Annual Increase)	480.62	480.62	480.62	480.62	480.62	2,403.10
6.	Motor Vehicle License Tax . . . . . (Based on Number of Motor Vehicles in Areas Proposed to be Annexed with no Projected Annual Increase)	8,820.00	8,820.00	8,820.00	8,820.00	8,820.00	44,100.00
7.	Total	$33,897.36	$ 35,703.81	$ 37,682.07	$ 39,849.20	$ 42,223.98	$189,356.42

OPINION

August 26, 1974

On January 22, 1973, the Town of Christiansburg, Virginia, filed its petition in the clerk's office of this court seeking to annex three areas of land adjacent to its corporate limits. Area I lies generally to the east of the present town and contains 918.75 acres of land, more or less; Area II lies to the south and contains 528.89 acres of land, more or less; Area III lies to the west and north and contains 4,000.28 acres of land, more or less; thus the area sought to be annexed had an aggregate of 5,447.92 acres or 8.512 square miles.

The County of Montgomery, by its duly constituted authority, filed its answer in opposition to said annexation proceedings. Thereafter, on the 8th day of March, 1973, Harold F. Snead, Chief Justice of the Supreme Court of Virginia, designated Honorable Joseph N. Cridlin, Judge of the Twenty-fourth Judicial Circuit, and Honorable Ligon L. Jones, Judge of the Third Judicial Circuit, to preside with Honorable W. S. Jordan, Resident Judge, as members of a three-judge court, authorized by §15.1-1033 of the Code of Virginia, to hear and determine the issue.

Various and sundry pleadings were filed; pre-trial conferences held; and the matter was set down for trial beginning on

the 15th day of July, 1974. On that date, the court convened at 9:30 A. M. in the circuit courtroom in Christiansburg, Virginia, with the following named persons representing the parties indicated: John S. Davenport, III, Esquire, William R. Codger, Esquire, Allen Sowder, Esquire, counsel for the Town of Christiansburg; Robert C. Fitzgerald, Esquire, Myron C. Smith, Esquire, and William J. McGhee, Esquire, counsel for Montgomery County; W. H. Jolley, Esquire, counsel for the Town of Blacksburg, an intervenor; Edwin C. Stone, Esquire, counsel for Round Meadow Country Club and various other intervenors; John L. Walker, Jr., Esquire, counsel for certain concerned citizens of Montgomery County, intervenors.

A bus tour was had over a great deal of the existing area of the town and much of the proposed annexation area. The view thus afforded and another one seen by the court on the evening of July 17, after hearing a substantial amount of evidence, was of tremendous importance. Certain impressions, both for and against annexation, were gained from a firsthand examination of the land sought to be annexed. The topography, the land use and its potential, its nearness to or remoteness from the existing town and many other items of evidence of considerable importance to the determination of an annexation proceeding were thus made clearer or more apparent.

Christiansburg, the county seat of Montgomery County, was incorporated by an act of the General Assembly approved January 7, 1833. A new charter was granted by an act of the General Assembly of 1954. On September 1, 1965, the Town of Cambria merged with and became a part of Christiansburg, and on January 1, 1966, this enlarged town acquired additional area and population by reason of annexation proceedings.

The population of the town according to the 1970 census report was 7,857 inhabitants, and the evidence shows that as of 1974 the town had grown to an estimated 8,670 people, an increase of 813. While that is not a tremendous increase in population, still it does show that the town continues to enlarge, and for the 3,156 acres in the present corporate limits, represents a reasonable density of population.

In 1974 the estimated population of Montgomery County, including towns, was 53,600. The population, excluding the Towns of Christiansburg and Blacksburg, was 21,100 people. The area proposed for annexation contained 2,350 people in 1974.

The evidence shows that the town was increased by 2,091.76 acres in 1966 by reason of annexation. The views and other evidence shows that this area, while not completely built up and still having considerable vacant land, has been substantially utilized by the residents of the town for homes, businesses and industry. As hereinabove pointed out, there is some vacant land within the present corporate limits, and particularly in the western part of the area awarded to the town in the 1966 annexation proceedings. However, the court is of the opinion that the remaining vacant land is not sufficient to permit the town to continue an orderly growth within its present limits. Furthermore, a community of interest does exist between the town and a sizeable portion of the area sought to be annexed.

At present, Christiansburg supplies water to a large number of the residents of the area sought. This is particularly true in Area I and Area II and to a less extent in Area III. Sewage

disposal by way of collector lines from the town disposal plants is available in Area I and partially in Area II and to a lesser extent in Area III. The extension of water lines and sewer lines in each of the areas is an existing need that only the town can supply at this time.

In 1956 Christiansburg, the Town of Blacksburg and Virginia Polytechnic Institute formed a water authority with each town and the university being the only primary customers. That authority sells water to Blacksburg, which political subdivision has the authority to resell and distribute water to residents of Blacksburg and that part of Montgomery County lying north of Route 114, except to VPI. Christiansburg has the authority to resell, distribute and furnish water to the inhabitants of Christiansburg and to the area of Montgomery County lying south of Route 114. The evidence is that the County of Montgomery was approached with reference to the formation of this authority in 1956. However, rather than join with the other three entities, the county only gave its approval to the formation thereof. For this reason the county has been unable to furnish water to a great number of the residents of the county.

A number of intervenors were admitted as parties to the suit. All of them opposed annexation. Most of them lived in Area III. There were some objections from corporations in Area I and Area III. One argument of the intervenors, as always, was increased taxes without corresponding benefits. Another was the extra layer of government that would be imposed upon them and from which they could see no benefits. The court cannot go along altogether with this reasoning, although insofar as the westwardly and northerly portion of Area III

is concerned, the argument does have some application. But as was so aptly said in the recent Lynchburg annexation case, "If taxation were determined by popular vote, we would still be traveling on dirt roads, and our children would still be going to school in one room school houses."

When people live within close proximity to a town, there becomes a two way street between the town and the area. That is to say that the town needs the people to be participants in its activities, and the area needs the services the town can best render. As was said by Justice (later Chief Justice) Eggleston in the case of Henrico County V. Richmond, 177 Va. 754, 788, "Moreover, it is no answer to an annexation proceedings to assert that the individual residents of the county do not need or desire the governmental services rendered by a city. A county resident may be willing to take a chance on police, fire and health protection, and even tolerate the inadequacy of sewage, water and garbage service. As long as he lives in an isolated situation his desire for lesser services and cheaper government may be acquiesced in with complacency, but when the movement of population has made him a part of a compact urban community, his individual preferences can no longer be permitted to prevail. It is not so much that he needs the city government as it is that the area in which he lives needs it."

For the foregoing and many other reasons, it seems to us apparent that the town of Christiansburg is entitled to some annexation for its future growth and development. We feel that the area to be granted must be what would be reasonable for development for a substantial number of years in the future. To award the town just

the area immediately adjacent to the present corporate limits, which has in great measure already been built up, would serve a purpose but would not serve the town's needs for the immediate future.

Having reached the unanimous conclusion that there exists the "necessity for and expediency of annexation," as provided by §15.1-1041(c) of the Code of Virginia, " . . . . . considering the best interests of the county and the town, the best interests, services to be rendered and needs of the area proposed to be annexed, and the best interests of the remaining portion of the county" as required by §15.1-1041(b) of the Code of Virginia, we must now decide where the new corporate line should be located. After much deliberation, it is our unanimous conclusion that all of Area I should be included in the corporate limits of the town. However, rather than crossing I-81 in a northerly direction at Route 640 and then to the existing corporate limits of the town, it is our judgment that the southern boundary line should continue along the southern boundary line of I-81 until it reaches a point formed by the intersection of said southern boundary line of I-81 and the existing corporate limits of the town. It is further our unanimous opinion that all of Area II should be awarded to the town, however,the western boundary line of that area should not cross I-81 as indicated on the exhibits, but should follow the southern boundary line of I-81 in a westwardly direction to a point 200 feet west of the interchange at Route 8 and I-81, at which point the line should cross I-81 to its northern boundary line and then follow the northern boundary line of I-81 and its ramp off of Route 8 to the existing corporate limits. By so doing, all of I-81 between and including both Christiansburg interchanges will be within the jurisdiction of the Christiansburg police

as well as the State Police and the Montgomery County Sheriff. It is further our unanimous opinion that only that portion of Area III which should be awarded to the town is an area bounded by a line commencing at the northwest corner of the new county high school property; thence in a generally northerly direction to a point in the line of the property owned by Van Buren Henley where the southern boundary line of Cambria Street extended reaches that property line; thence continuing in a generally northerly direction to a point formed by the intersection of the northern boundary line of Route 114 with the western boundary line of the Norfolk and Western Railway Corporation's property (branch line from Christiansburg to Blacksburg); thence following the northern boundary line of Route 114 in an easterly direction to a point where it intersects the western boundary line of U. S. Route 460; thence following the western boundary line of Route 460, a distance of 200 feet to a point; thence crossing Route 460 to a point on its eastern boundary line, that point also being on the proposed eastern boundary line of Area III; thence following the proposed eastern boundary line of Area III back to the existing corporate limits of the Town of Christiansburg.

Having determined the area to be annexed, we must now determine the conditions upon which annexation will be granted and consider the question of balancing the equities. It was the town's position, and the court concurs, that there are no existing debts of the County of Montgomery which will be effected by this proceeding. However, as was pointed out in the 1970 annexation proceedings of the Town of Blacksburg V. Montgomery County, "When the annexation statutes were written, there were no sales tax revenues to be distri-

buted. Neither were ABC profits considered. So far as the court is aware, towns have not been required heretofore to reimburse counties for loss of revenue. It is the feeling of this court that the county will lose both ABC profits and local sales taxes and the county should be compensated therefor." Therefore, the court doth ADJUDGE, ORDER and DECREE that the Town of Christiansburg shall annually for a period of five (5) years, beginning with the year 1975, pay to the County of Montgomery as loss of local sales and use taxes the sum of $13,350.00, and for the loss of ABC profits from the Commonwealth the sum of $4,800.00, for a total annual payment of $18,150.00.

In its annexation ordinance, Section VII, paragraph numbered one, water, the town proposes, "The seasonable construction of water supply mains and distribution lines and fire hydrants in the areas sought to be annexed so as to furnish reasonable water service and fire protection in such areas." On their exhibit numbered ten, which is a map showing existing and proposed water facilities, the town shows proposed water mains in Area I, Area II and that portion of Area III awarded to it. No timetable was provided the court as to when these facilities will be installed, and no definition of the word "seasonable" appears in the evidence. It is, therefore, ADJUDGED, ORDERED and DECREED that the water supply mains as shown on exhibit numbered ten be installed no later than three (3) years from the effective date of annexation. Distribution lines are to be installed as they become necessary in order to serve the residents of the annexation area. Of course, in interpreting this requirement, it must be done with the realization that there is no necessity of placing a water line in the ground simply to cover that area unless some development needs it.

In its ordinance Section VII, paragraph numbered two, sewer, the town proposes, "The seasonable construction of interceptor and collector lines and treatment facilities where needed in said area sought, so as to furnish reasonable sanitary sewer service in such areas." On its exhibit numbered twelve, which is a map showing existing and proposed sewer facilities, the town proposes to extend collector lines in Areas I, II and that portion of Area III awarded to it, and in its evidence the town has proposed to enlarge its sewer treatment facilities, but no timetable has been set forth, either by way of exhibit or in the oral evidence as to when the collector lines would be installed as indicated on exhibit numbered twelve, nor when the sewage treatment plants would be brought up to the standards required by the Water Control Board, or a new treatment plant built should the town decide to build a larger plant to take the place of one or both of the two now in operation. It is, therefore, ADJUDGED, ORDERED and DECREED that the collector lines as indicated on exhibit numbered twelve be installed not later than three (3) years from the effective date of the annexation. It is further ADJUDGED,ORDERED and DECREED that within one (1) year from the effective date of the annexation that the town commence construction of such sewage treatment facility as in its judgment will be necessary to bring the present sewage treatment plants in line with the requirement of the State Water Control Board, and within three (3) years from the effective date of this annexation that sewage treatment facilities will have been constructed so as to have the capacity to receive and treat all sewage that will be generated in the annexation area and that can reasonably be expected to be generated in the annexation area within the reasonably near future.

The town has filed exhibits numbers 31-1 through 31-7 as being its written policy by which citizens could be guided in the installation of and connection with water lines and sewer lines. The county has disputed this as being sufficient. The court is of the opinion that in the past the developers of property, whether in the nature of subdivision developers or private individuals constructing only one house, have had no say in and have been given little consideration relative to installation and connection with existing water and sewer lines. The court is not proposing to set forth in detail a policy to guide the town. However, it is ADJUDGED, ORDERED and DECREED that the town, within six (6) months from the effective date of this annexation, formulate and publish a policy more equitable than that which has been in existance in the past, giving consideration to the fact that when a developer or a property owner expends sums of money to run either water lines or sewer lines for distances of more than 250 feet, paying the entire cost thereof, then deeding the lines to the town, he, the property owner, should be reimbursed to some extent by the town from its profit from the sale of water or its charges to subsequent customers that hook on to the installed lines.

We have studied the proposals of the town as set out in its petition and as shown by the evidence for extending other services into the annexed area. Its proposal for garbage and trash collection and disposal is by reference to their ordinance, Section VII, paragraph 3, approved. Likewise, paragraph 4 as to streets and street lights, paragraph 5 as to police protection, paragraph 6 as to fire protection, paragraph 7 as to planning and zoning, paragraph 8 as to recreation programs. All of these services shall be provided to

inhabitants of the annexation area on the date of annexation in the same manner and to the same extent as they are now or may be in the future furnished to the residents of the existing town.

The effective date of this annexation shall be midnight, December 31, 1974. Counsel for the town will prepare an appropriate decree carrying into effect the provisions of this opinion and reserving to the county and to the intervenors their exceptions and their right to apply for a writ of error. It shall be submitted to opposing counsel within two weeks from the date hereof and to the court within two weeks thereafter.

Dated the 26th day of August, 1974.

_____
Judge Designate

_____
Judge Designate

_____
Resident Judge

DECREE OF ANNEXATION

This proceeding, instituted by petition of the Town of Christiansburg for the annexation of territory lying in Montgomery County as provided in a certain ordinance of the Town of Christiansburg adopted and approved on January 19, 1973, this day came on again to be heard on the notice and petition of the Town of Christiansburg to grant the annexation requested, upon the appearance of the County of Montgomery, by counsel, in opposition to the annexation, upon various and sundry pleadings and petitions for intervention in behalf of the Town of Blacksburg, Round Meadow Country Club and others heretofore filed, upon the various pre-trial orders entered herein, upon the evidence and the exhibits heretofore taken and filed as shown by the transcript of the proceedings, upon the full and complete view by the Court of the areas lying within the corporate limits and the areas proposed to be annexed, and upon the arguments of counsel.

And the Court, being now fully advised in the premises and having matured its judgment and having reached a unanimous opinion which is set forth in writing bearing date August 26, 1974 and filed in the Clerk's Office in these proceedings, doth ADJUDGE, ORDER and DECREE as follows:

1. Jurisdiction

(a) The Annexation Court, consisting of Judge W. S. Jordan, Judge of the Twenty-Seventh Judicial Circuit,

Resident Judge, Judge Joseph N. Cridlin, Judge of the Twenty-Fourth Judicial Circuit, and Judge Ligon L. Jones, Judge of the Third Judicial Circuit, was duly constituted and convened as provided by law;

(b) The Town of Christiansburg by its petition for annexation heretofore filed has duly adopted, in the manner required by law, an ordinance filed with said petition, and said ordinance and the map thereto attached comply in form and content with the requirements of the statutes in such cases made and provided, and a copy of the notice and ordinance have been duly served on each member of the governing body of Montgomery County and upon the Commonwealth Attorney of such County as required by law, and such notice and ordinance have been published as required by law;

(c) The Court is satisfied from all of the evidence that the Town of Christiansburg has substantially complied with the conditions of the last preceding annexation;

(d) All proper jurisdictional steps have been taken to bring this proceeding properly before the Court.

2. Necessity and Expediency

The Court is satisfied and hereby determines that the annexation herein decreed is both necessary and expedient, taking into consideration the best interests of Montgomery County and the Town of Christiansburg, the best interests, services to be rendered and needs of the area herein ordered

to be annexed, and the best interests of the remaining portion of Montgomery County.

3. Territory Annexed

The territory which should be and is hereby decreed to be annexed to the Town of Christiansburg contains 1937.96 acres or 3.028 square miles and a population of 1,072 persons. The area decreed to be annexed is described by metes and bounds as follows:

[DESCRIPTION OMITTED]

4. Reasonably Compact Body of Land

The annexation areas described in paragraph 3 above when taken together with the present area of the Town of Christiansburg forms a reasonably compact body of land and such areas are adapted to urban improvements and will be needed in the reasonably near future for development.

5. Terms and Conditions of Annexation

(a) Public Debt: The Town of Christiansburg shall assume no public debt of the County of Montgomery in this proceeding, none of the assessed values of the County being removed thereby.

(b) Loss of Revenue: The Town of Christiansburg shall annually for a period of five years beginning with the first anniversary of the effective date of annexation pay to the County

of Montgomery as loss of local sales and use taxes the sum of $13,350.00 and for the loss of ABC profits from the Commonwealth the sum of $4,800.00, to which order of the Court the Town of Christiansburg, by counsel, objects and excepts.

(c) Capital Outlay--

(1) Water Facilities: The Town of Christiansburg shall proceed with the construction of water supply mains and distribution lines in the areas herein ordered to be annexed as shown for such areas in Town Exhibit 10; the mains as shown on said Exhibit for the annexation area hereby decreed shall be installed no later than three years from the effective date of annexation and distribution lines are to be installed as they become necessary to serve the residents of the annexation area.

(2) Sewer Facilities: The Town of Christiansburg shall proceed to construct interceptor and collector sanitary sewer lines in the areas herein decreed to be annexed as shown for such areas on its Town Exhibit 12; the interceptor and collector lines indicated on Town Exhibit 12 for the annexation areas are to be installed not later than three years from the effective date of annexation and within one year from said date the Town shall commence construction of such sewage treatment facilities as in its judgment will be necessary to bring the sewage treatment plants in line with the requirement of the State Water Control Board. Within three years from the effective date of annexation the Town shall complete construction of sewage treatment facilities with the capacity to

serve and treat all sewage that can reasonably be expected to be generated in the annexation area within the reasonably near future.

(3) In interpreting this decree, insofar as water and sewer extensions are concerned, the Court is cognizant of the fact that there is no necessity of the installation of lines simply to cover an area unless some development requires it.

(4) Utility Extension Policy: The Town of Christiansburg shall, within six months from the effective date of annexation, formulate and publish a policy for the extension of water and sewer lines and connections thereto, giving consideration to the fact that when a developer or property owner expends money to run either water or sewer lines for distances of more than 250 feet, paying the costs thereof and deeding the lines to the Town, he should be reimbursed to some extent by the Town from its profit from the sale of water or its charges to customers who subsequently connect with such installed lines, to which action of the Court the Town of Christiansburg, by counsel, objects and excepts.

(d) Extension of Other Municipal Services: The Town of Christiansburg shall, upon the effective date of annexation, extend to the area decreed to be annexed the same street light, police protection, fire protection, planning and zoning, and recreation programs and other general government services, in the same manner and to the same extent as they

are now or may be in the future furnished to the residents of the existing Town.

6. Map to Be Recorded

The map of the area decreed to be annexed as filed herewith and hereby made a part of this decree shall be recorded by the Clerk in the Clerk's Office of the Circuit Court of Montgomery County.

7. Payment of Costs

The Town of Christiansburg shall pay the costs of this proceeding, including the per diem and the expenses of the court reporter for furnishing the transcript thereof for the Court.

8. Opinion

The opinion of this Court dated August 26, 1974 shall constitute the written opinion of the Court required by law, and such opinion is hereby made a part of the record in this proceeding.

9. Effective Date of Annexation

The annexation hereby decreed shall become effective at midnight on December 31, 1974. After such effective date the territory hereby decreed to be annexed shall be governed, managed and controlled under and pursuant to the terms and provisions of the charter of the Town of Christiansburg, as amended, and shall in every respect be a part of the Town of Christiansburg and so governed.

10. Objections and Exceptions

The County of Montgomery objects and excepts to the provisions of this decree granting any annexation to the Town of Christiansburg and the Town of Christiansburg objects and excepts to those provisions of this decree as hereinabove noted.

11. Adjournment

It is decreed that this Court be adjourned, but not dissolved, subject to being reconvened in the manner provided by law at any time during a period of five years from the effective date of annexation as herein decreed.

/s/ W. S. Jordan
Judge, Twenty-Seventh Judicial Circuit

/s/ Joseph N. Cridlin
Judge, ~~Twenty-Fourth~~ Thirtieth Judicial Circuit

/s/ Ligon L. Jones
Judge, ~~Third~~ Sixth Judicial Circuit

Entered: October 9, 1974

NOTICE OF APPEAL AND ASSIGNMENT OF ERROR

Notice of Appeal

The Town of Christiansburg, by counsel, hereby gives notice of its intention to appeal from the final order entered herein on October 9, 1974.

The transcript of the hearing will hereafter be filed in the office of the Clerk.

Assignment of Error

The Town of Christiansburg assigns as error the following: The Court erred in requiring the Town of Christiansburg to pay to Montgomery County $18,150.00 annually for a period of five years for loss of local sales and use taxes and for loss of ABC profits.

ASSIGNMENTS OF CROSS-ERROR

The County of Montgomery, by Counsel, files its Assignments of Cross-error to the final order entered herein on October 9, 1974, as follows:

1. The Court erred in its finding that it was necessary and expedient to annex the area of the County granted considering the best interests of the County, the Town and the area annexed and the services to be rendered and needs of such area.

2. The Court erred in failing to require the Town of Christiansburg to assume a just proportion of the existing debt of the County of Montgomery.