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Clerk, Supreme Court of Appeals
Richmond, Virginia

Vol. I (In Two Volumes) Pages 1-400

IN THE

Supreme Court of Virginia

AT RICHMOND

CITY OF ROANOKE,
Appellant,

RECORD No. 8095 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

COUNTY OF ROANOKE,
Appellant,

RECORD No. 8096 v.

CITY OF ROANOKE, ET AL.,
Appellees.

CITY OF SALEM,
Appellant,

RECORD No. 8097 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

BLANCHE WEDDLE, ET AL., AND ROY C. KINSEY, SR., ET AL.,
Appellants,

RECORD No. 8098 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

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PETITION FOR ANNEXATION
(Weddle)

Filed May 19, 1966

* * *

The undersigned residents of the territory hereinafter described, who constitute more than fifty-one (51) percent of the duly qualified voters of said territory, which is adjacent to the present corporate limits of the City of Roanoke, Virginia, do hereby petition this Court for annexation to the City of Roanoke, Virginia, as we deem it most desirable, and so state, that such territory be annexed to the City of Roanoke, Virginia, considering the best interests of the County and City; the best interests, services to be rendered and the needs of the territory hereinafter described:

* * *

Wherefore, the undersigned, together with other duly qualified voters of the various precincts in said area, whose names are signed to the accompanying and attached petitions, filed herewith and made a part of this master petition for annexation, in the Clerk's Office of the Circuit Court of the County of Roanoke, Virginia, and request that said territory be annexed to the City of Roanoke, Virginia.

Your petitioners further pray as follows:

1. Education

That the city shall provide for the public education of all children in the territory to be annexed in conformity with the requirement of the State Board of Education and in accordance with the standards maintained within the present city and that school children shall attend the schools nearest to their place of residence.

That the city shall provide free school bus service to and from school for all children living more than a mile from the school they attend.

2. Police and Fire Protection

That the city shall furnish personnel and equipment necessary to provide police and fire protection throughout the territory conforming to the standards maintained within the city.

3. Garbage and Trash Collection

That the city shall provide such personnel and equipment as may be necessary to extend garbage and trash collection to the annexed territory.

4. Planning and Zoning

That the city shall provide for the orderly development of the territory and provide for the future land use of the territory through proper zoning control.

5. Streets and Street Lighting

That the city shall extend streets as may be required and from time to time when proper and necessary locate and establish any additional streets and alleys that may be required and shall provide street lighting to adequately serve the annexed territory.

6. Snow Removal

That the city shall remove snow from the residential streets in the annexed territory and particularly in those areas where drifting is experienced.

7. Sanitary Sewers

That the city shall provide sanitary sewer service to the more densely populated areas of the territory on the same basis as is now provided in the existing corporate limits of the city with the same sewage disposal rates as prevail in the city.

8. Water

That the city shall provide adequate water for domestic use and fire protection to the more densely populated areas of the territory to be annexed and at such rates as prevail in the city.

9. General Municipal

That the city shall provide throughout the annexed territory such other municipal services not hereinbefore specifically mentioned as are provided under like conditions in other portions of the city.

* * *

ANSWER OF CITY OF ROANOKE

Filed June 1, 1966

In answer to the annexation petition of Blanche W. Weddle, et als., against the City of Roanoke and the County of Roanoke heretofore filed in this Honorable Court, the City of Roanoke, a defendant to said petition, by counsel, comes now and says:

1. That this defendant believes that the metes and bounds description of the area adjacent to the existing corporate limits of the defendant sought to be annexed to the City of Roanoke and as set out in paragraph 1 of the petition are correct.

2. That this defendant has no information regarding the allegation that the petitioners constitute more than fifty-one (51) percent of the duly qualified voters of the territory described in said petition, but has no reason to, and does not deny said allegations.

3. That this defendant believes that a real and substantial community interest exists between the residents of the area seeking annexation and the residents of the City of Roanoke and between said two areas, and that such community of interest is greater than any other such interest affecting the area described in the petition.

4. That this defendant believes that the residents of the area seeking to be annexed desire and are in real need of those municipal services generally provided in an urban area as is the area within which they reside; and, further, that the City of Roanoke is the political subdivision best able to supply and render all such services to said area. This defendant says that it is and would be willing to provide such municipal services in said area should the same be ordered annexed to the City of Roanoke with the right and obligation to provide all municipal services.

Wherefore, having fully answered the aforesaid petition this defendant, City of Roanoke, respectfully prays that upon the conclusion of the proceedings taken herein and upon a finding that annexation of the territory prayed for in said petition is necessary and expedient, that this Honorable Court shall grant and order annexation of the territory described in said petition to the City of Roanoke as made and provided by the laws of the Commonwealth of Virginia and upon such terms and conditions as contained in such order as may be entered by this court;

whereupon the City of Roanoke will accept said new territory and its residents as a part of the City of Roanoke and will accept responsibility for providing and rendering to said area and its residents substantially the same municipal services as are now and may hereafter be provided and rendered in the existing City and as are so ordered by said Court.

* * *

COMMISSIONERS' REPORT

Filed September 15, 1966

Preliminary Statement

The Undersigned were appointed Commissioners by order entered in the above-styled cause on the 19th day of July, 1966, to make the inquiries and determinations set forth in said order and to report to the Court on or before August 1, 1966. By subsequent orders, the time to report was extended to September 1, 1966, and then to September 15, 1966.

Qualified Voters In Virginia

The inquiries and determinations are concerned with qualified voters of the territory seeking annexation to the City of Roanoke. The *Constitution of Virginia,* Section 18, and *Code of Virginia,* Section 24-17, provide for qualification of voters in Virginia. These qualfications are:

(1) Be a citizen of the United States and 21 years of age.

(2) Be a resident of the State for One (1) year.

(3) Be a resident of the County, City, or Town six (6) months.

(4) Be a resident of the precinct in which the person offers to vote for thirty (30) days next preceding the general election at which he offers to vote.

(5) Be duly registered.

(6) Pay poll taxes for three years next preceding the general election at which the person offers to vote.

The same sections of the *Constitution* and the *Code of Virginia* further provide:

> . . . removal from one precinct to another in the same County, City, or Town shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of thirty days from such removal.

The Supreme Court of the United States in the cases of *Harper, et al.* v. *State Board of Elections* and *Butts* v. *Albertis Harrison, Governor, et al.,* 16 L.ed.2d 169, 86 S.Ct. (1966), held that the requirement of the payment of a poll tax as a prerequisite to voting violated the equal protection clause of the Fourteenth Amendment to the Federal Constitution and, therefore, was unconstitutional.

The other qualifications to vote have not been changed. However, the Virginia cases have held that resident, or to reside, means domicile insofar as voter qualifications are concerned. Therefore, a person can actually be living outside of the territory and still be considered domiciled within the territory and qualified to vote therein. *Kegley* v. *Johnson,* 207 Va. 54 (1966).

Implicit in the qualification of voters is that he must not only be a resident of a County, City, or Town and Precinct for the requisite period, but he also must continue that residency or domicile therein. The Legislature of Virginia dealt with the question of continuing residency by enacting Section 24-17.2, which provides that a person may offer proof of continuing residency by filing a certificate of residence or pay all poll taxes assessed or assessable against the person for three years next preceding the election in which he offers to vote. This section was held unconstitutional by the United States Supreme Court in the case of *A. M. Harmon, Jr.* v. *Lars Forssenuis,* 380 U.S. 528, 14 L. ed. 50, 85 S. Ct. 1177 (1965). It appears then that continuing residence, or domiciled, in a County, City, or Town and Precinct therein is a factual consideration, and each case would be determined by its particular facts.

The above listed qualifications of voters was the criteria used to determine the qualified voters of the territory.

Qualified Voters Of The Territory

In finding the facts about the qualified voters of the territory, the Commissioners used the voter lists provided by the Registrar for the General Election in November, 1965, subsequent registrations, changes

or transfers in registrations, made certain independent inquiries concerning the residence and voters in the territory, and verified information furnished by the petitioners and their counsel and the County of Roanoke Executive Officer. The Commissioners went into the territory and made personal inquiry and investigation where it was deemed necessary.

The petition for annexation was filed on May 19, 1966, and the qualified voters were determined as of that date as the order of the Court directed. It is assumed that the qualifications of voters would be the same as if a general election were held on that date. In the cases of *Angle, et al.* v. *City of Roanoke, et al.,* Ended Chancery Cause No. ....., generally referred to as "Edgehill" and *Young* v. *Town of Salem,* generally referred to as "Corridor," now pending in this Court, the qualified voters were determined as if a special election had been held on the day the petitions for annexation were filed. This was pursuant to Section 24-22, *Code of Virginia.* The principal reason for determining qualifications of voters on the date the petition was filed as if a special election were held on that date was to determine the years which a person would be required to pay the poll taxes in order to vote in the special election. Since the poll tax is no longer a prerequisite to voting, the reason for determining qualified voters as of a specific general election no longer exists.

Names Considered And Classification

The Commissioners have considered nearly 1000 names in making their inquiries. Challenges were made to a number of names on the Registrar's list, and new names were furnished by counsel for the respective parties, the petitioners, and the Roanoke County Executive Officer. Filed herewith, marked "Exhibit A," is a list of the names considered by the Commissioners. The list is an alphabetical listing by names and an alphabetical street listing. The lists are set up by eleven codes, which classify the person. A "yes" opposite a person's name on Codes 3 through 11 indicates the person meets the requirements of that particular code.

Code 1—Name

This code lists the name considered or registered or as furnished to the Commissioners.

Code 2—Address

This code lists the address where the person now resides in the territory or the address at which the party may at one time have resided in the territory.

Code 3—Qualified voters of the territory as of May 19, 1966

This code shows those persons who meet all the qualifications of qualified voters of the territory as of May 19, 1966. Total number—759.

Code 4—Qualified voters of the territory who reside elsewhere (Included in Code 3)

This code shows those persons who at one time resided in the territory, who are registered in the territory, and who consider themselves to be domiciled in the territory, but who now reside outside of the territory. The place of residence of the person and the reason for the person residing outside the territory is set out opposite their respective names in the far right-hand column of the alphabetical street listing. Total number—21.

Code 5—Qualified voters of the territory who signed the petition for annexation.

Self explanatory. Total number—467.

Code 6—Qualified voters of the territory who signed the petition for annexation and requested removal of names on or before June 30, 1966.

Self explanatory. Total number—65.

Code 7—Qualified voters of the territory who signed the petition for annexation and requested removal of names on or before June 30, 1966, and then requested that their names remain on the petition after June 30, 1966.

During the time the Commissioners were making the inquiries and determinations and after June 30, 1966, thirteen (13) qualified voters, Code 3, who signed the petition for annexation, Code 5, then requested that their names be removed, Code 6, submitted to the Commissioners

written requests that their names remain on the petition as petitioners. The requests are filed herewith as a part of this report, and the thirteen (13) parties are listed in this Code. These parties have not been deducted from those who requested that their names be removed from the Petition, Code 6.

Code 8—Persons who reside in the territory but are registered in precincts in Roanoke County outside the territory.

The Commissioners found thirty-two (32) persons who are residents of the territory but who are registered in precincts in Roanoke County outside of the territory. They were at one time residents of the precincts outside the territory in which they are registered and then moved into the territory but have failed to request the Registrar to place them in a voting precinct within the territory. The Commissioners are of the opinion that such persons are not qualified voters of the territory in that they are not registered in the territory.

Code 9—Persons registered in the territory but residing in precincts in Roanoke County outside the territory.

The Commissioners found twenty-four (24) persons who at one time were residents of the territory, were duly registered in a precinct in the territory, and more than thirty (30) days prior to May 19, 1966, and in some cases, several years prior thereto, moved outside the territory but still in Roanoke County and their present residences are in voting precincts outside the territory. However, these persons have not requested the Registrar to place them in a voting precinct wherein their residence is located. The Commissioners are of the opinion that these persons are not qualified voters of the territory in that they are not residents of the territory.

The persons listed in Codes 8 and 9 are listed separately for the information of the Court. The Commissioners' findings as to the persons listed in Code 8 is consistent with the holding of the Court in the Edgehill and the Corridor cases.

The question raised by the persons listed in Code 9 was not considered by the Court in the Edgehill case but was considered in the Corridor case and the finding in this instant case is inconsistent with the finding in the Corridor case.

Code 10—Signed petition but not registered in territory and or living outside of territory in Roanoke County—not qualified voter of the territory.

Total number—25.

Code 11—A number of persons on or before June 30, 1966, filed petitions as property owners of the County requesting that their property not be annexed to the City of Roanoke or in some cases to the Town of Salem.

Thirty-five (35) of these petitioners were qualified voters of the territory who signed the petition for annexation to the City of Roanoke but did not request that their names be removed. Their petitions are that as property owners, their property not be annexed to the City of Roanoke, or in some cases, to the Town of Salem, but that it remain a part of Roanoke County. Since these parties did not ask that their names be removed as petitioners, the Commissioners have not considered them in Code 6 along with those who did ask that their names be removed but have listed them separately for the information of the Court.

Not Qualified. Those persons listed in Codes 1 and 2 only were not qualified voters of the territory as of May 19, 1966, and the reason for the Commissioners' finding is briefly set out in the far right column of the alphabetical street listing. These names are listed because they were either suggested as qualified voters of the territory by some of the parties, or were challenged by some of the parties.

Inquiries

Based on the above classifications, your Commissioners find and report as follows:

Inquiry No. 1

The number of qualified voters of the territory described in the petition for annexation.

There are 759 qualified voters of the territory, Code 3.

Inquiry No. 2

The number of qualified voters registered as voters of said territory but residing elsewhere.

There are 21 qualified voters of the territory who reside elsewhere, which 21 qualified voters are included as qualified voters of the territory under Inquiry No. 1, Code 4.

Inquiry No. 3

The number of qualified voters of said territory who have signed the petition for annexation herein and the percentage of such of the total qualified voters of the territory.

467 of the qualified voters of the territory signed the petition for annexation, which is 61.528+% of the total qualified voters of the territory. Code 5 and Code 3.

Inquiry No. 4

The number of qualified voters who have signed the said petition for annexation who are registered to vote in but who do not reside in said territory.

There were no qualified voters of the territory who signed the petition for annexation who did not reside in the territory.

Inquiry No. 5

The number of qualified voters of the territory who signed said petition for annexation who on or before June 30, 1966, petitioned the Court to remove their signatures from said annexation petition.

Sixty-five (65) qualified voters of the territory signed the petition for annexation and on or before June 30, 1966, petitioned the Court to remove their signatures. Code 6.

Inquiry No. 6

The number of signatures on said petition for annexation of qualified voters of the territory and the number of signatures on said petition of qualified voters registered to vote in the territory who reside elsewhere that would remain after those signatures are removed as requested, together with the percentage of the totals in each case.

The total number of signatures on said petition were 467, 65 of whom requested that their signatures be removed; and no qualified voters who resided elsewhere signed the petition, leaving a remaining figure of 402 qualified voters who signed the petition for annexation who have not asked that their names be removed. 402 qualified voters remain on the petition for annexation, and these constitute 52.964+% of the total number of qualified voters of the territory.

* * *

EXCEPTION TO THE COMMISSIONERS' REPORT

Filed September 27, 1966

* * *

Now comes the County of Roanoke, Defendant herein, by counsel and files this, its Exception to the Report of Maxine N. Sink, S. L. Fellers, Jr., and Ernest W. Ballou, Commissioners heretofore appointed by Order entered herein.

This Defendant excepts to the finding of said Commissioners that 52.964+% of the total number of qualified voters of the territory are petitioning this Court that such territory be annexed to the City of Roanoke for the reason that said Commissioners failed to delete the qualified voters as shown in Code 11 of said Commissioners' Report.

* * *

PETITION FOR ANNEXATION
(Kinsey)

Filed July 11, 1966

* * *

The undersigned residents of the area described hereinafter, who are qualified voters of said area, do hereby petition this Court for annexation to the City of Roanoke, Virginia.

I. The area for which annexation to the City of Roanoke, Virginia, is sought is as follows:

* * *

II. The annexation of the above-described area is desirable for the following reasons, not to the exclusion of other reasons of desirability which may be shown to the Court.

(1) The area hereinabove described is immediately adjacent to the City of Roanoke, Virginia, and needs for its proper development the administration of municipal government equipped and designed to meet the needs of an urban population.

(2) The undersigned petitioners have their commercial, social, recreational, civic, church and other interests largely in the City of Roanoke, Virginia, and their interests and welfare are identical with the interests and welfare of the residents of the city.

(3) The residents of the proposed area to be annexed to the City of Roanoke will be better served with the usual governmental function by being incorporated into a municipal government designed to meet the needs of an urban population and will be provided with utilities by the City of Roanoke in a more complete, efficient and economical manner than it is now provided to them.

III. The below signed petitioners constitute more than 51 per centum of the qualified voters of the area hereinabove set forth.

In addition, the petitioners herein allege that the following:

Mabel P. Hudgins
Franklin Delano Dotson
Phyllis D. Dotson
Marvin W. Goodwin
Rosemary M. Russell
Montrann B. Hayes
Laura D. Beard
Garnett S. Garst
Harry G. Beard
Stanley B. Hayes
Mrs. Joel Garst
A. F. Hoback
Hester N. Hoback
Blanche S. Boxley
Glenn W. Ramsey
Martha S. Ramsey
Gordon H. Ramsey
Jessyee W. Ramsey
Jesse M. Ramsey
Anne M. Ramsey

who are free holders and/or residents of the hereinabove described area join the petitioners in the prayer for annexation of said area.

Wherefore, the undersigned petition this Honorable Court that the area hereinabove set forth be annexed to the City of Roanoke, Virginia.

* * *

ANSWER OF CITY OF ROANOKE

Filed April 3, 1967

* * *

In answer to the annexation petition of Roy C. Kensey, Sr., et als., against the City of Roanoke and the County of Roanoke heretofore filed in this Honorable Court, the City of Roanoke, a defendant to said petition, by counsel, comes and says:

1. That this defendant admits that the area described by metes and bounds and by the petition filed herein sought to be annexed to the City of Roanoke is adjacent to the present corporate limits of said City along Hershberger Road and Airport Road.

2. That this defendant verily believes all of the allegations set out in paragraphs II (1), (2) and (3) to be true and therefore alleges that a real and substantial community of interest exists between the residents of the area seeking such annexation and the residents of the City of Roanoke, and between said two areas and that such community of interest is greater than any other such interest affecting the area described in the petition.

3. That this defendant is not advised regarding the allegations set forth in paragraph III of the petition, but has no reason to, and does not deny said allegations.

4. That of the 2.87 square miles described in the petition and sought to be annexed to the City of Roanoke more than one-third thereof, to-wit: .99 of a square mile is owned by said City, and that on said land the said City operates its municipal airport, and one of said City's four (4) public high schools, to-wit: The William Fleming High School, both of which facilities were constructed by the City at their present locations because of a lack of suitable and available land

for such types of facilities within the City's corporate boundaries. That, because of the large number of persons who are necessarily caused to assemble and congregate at both said facilities and who are largely residents of said City, large demands are created for the normal public services and facilities which only a municipality is normally equipped and able to supply and furnish and it would, therefore, be desirable and advantageous to those persons and to those of the surrounding areas were the City of Roanoke to be the sole political subdivision responsible for the government of said areas.

5. That there is located on a part of the area immediately adjacent to a part of the present City corporate boundaries a shopping center known as Crossroads Shopping Mall; that the City of Roanoke provided at the specific request of the owners and developers of said business property, and at great expense to the City, sewage, water and drainage facilities which could not otherwise at the time be provided said property, in order that said shopping center could be developed and constructed in said area; and that the City is presently in the process of extending additional such services and facilities so that other portions. of the area adjoining such shopping center and elsewhere in the area seeking annexation can be developed.

6. That at the specific request of residents of said area said City is presently furnishing certain water and sewage services and facilities to other portions of the area seeking to be annexed for which services said residents are required to pay charges in excess of the charges made to its own citizens, but that said city is equipped and able to furnish all of its municipal services to the entire area seeking annexation upon the same basis as such services are furnished to other residents of the said City, its residents so desiring and this Honorable Court so ordering.

7. That the entire area which petitioners seek to have annexed to said City is urban in nature or is peculiarly adaptable to urban development but is in many places without any of those municipal services needed by the area and that the City of Roanoke is ready, willing and able to provide in said area such of its municipal services and facilities as are necessary to properly and economically facilitate its urban development.

8. That this defendait says that it verily believes, and therefore alleges, that the residents of the area seeking to be annexed desire and

are in real need of those municipal services generally provided an urban area as is the area within which they reside; and, further, that the City of Roanoke is the political subdivision best able and is in fact, the only political subdivision able to supply and render all normal and needed services to said area. This defendant says that it is and would be willing to provide all municipal services in said area should the same be ordered annexed to the City of Roanoke with the right and obligation on said City to provide such services.

Wherefore, and having fully answered the aforesaid petition, this defendant, City of Roanoke, respectfully prays that upon the conclusion of the Court's proceedings had and taken on the aforesaid petition and the Court finding the annexation of territory prayed for in said petition to be necessary and expedient, this Honorable Court grant and order the annexation to the City of Roanoke of the territory described in said petition, upon the terms and provisions provided by the laws of the Commonwealth of Virginia to be contained in such order as in entered by this Court.

* * *

PETITION

(Robert M. Willis, et al. v. City of Salem and County of Roanoke)

Filed June 4, 1968

* * *

The undersigned residents of the area hereinafter described, who constitute more than fifty-one (51) percent of the duly qualified voters of said area, which is adjacent to the present corporate limits of the City of Salem, do hereby petition this Court for annexation to the City of Salem, as we deem it most desirable, and so state, that such territory be annexed to the City of Salem, considering the best interests of the County and of the City; the best interests, services to be rendered and needs of the area hereinafter described, and the best interests of the remaining portion of the County:

* * *

Wherefore, the undersigned, together with other duly qualified voters of the area sought to be annexed, whose names are signed to the accompanying and attached petitions, filed herewith, in the Clerk's Office

of the Circuit Court of Roanoke County, Virginia, and request that said territory be annexed to the City of Salem, Virginia.

* * *

MOTION TO DISMISS

Filed May 31, 1967

Now comes the County of Roanoke, by counsel, and renews its Motion made heretofore herein on November 7, 1966, to dismiss this case on the grounds that the territory sought to be annexed herein was not determined until after the Petitioners signed the petition herein and, therefore, said petition does not meet the requirements of Section 15.1-1034 of the Code of Virginia.

* * *

ORDINANCE OF ANNEXATION
(Less Metes and Bounds Description)

In The Council Of The City Of Roanoke, Virginia
The 9th day of June, 1969

No. 18741

An Ordinance to petition the Circuit Court of Roanoke County, Virginia, for the extension of the corporate limits of the City of Roanoke, Virginia, pursuant to the provisions of Article 1, Chapter 25, of Title 15.1, of the 1950 Code of Virginia, as amended, by annexation to said City of Roanoke of all of the territory of the County of Roanoke, including the Town of Vinton; to declare said City's policy with respect thereto; to set forth the necessity and expediency thereof; to define the metes and bounds and size of area of the territory sought to be annexed; to indicate generally subdivisions, industrial area, farm areas, vacant areas and others, and other information deemed relevant to possible future uses of property within the area; to state the general terms and conditions upon which annexation is sought and provisions planned for future management and improvement of the annexed territory, including the provision of public utilities and services therein; and to authorize the institution and conduct of the necessary legal proceedings to effectuate said annexation; and providing for an emergency.

Whereas, the Council considers it necessary and expedient for the

purposes of the City of Roanoke that the boundaries of the City of Roanoke be changed and extended, by annexation to said City of Roanoke of the territory hereinafter described in Section 4 hereof, pursuant to the provisions of Article 1, Chapter 25, Title 15.1, of the 1950 Code of Virginia, as amended; and, Title 15.1, of the 1950 Code of Virginia, as amended; and,

Whereas, there have been filed and are pending in the Circuit Court of Roanoke County five (5) annexation proceedings brought under Section 15.1-1034 of said Code of Virginia, to have annexed, either to the City of Roanoke or to the City of Salem, Virginia, certain portions of Roanoke County, Virginia, each of which is a part of the territory hereinafter described by metes and bounds in Section 4 of this ordinance; and,

Whereas, each of the aforesaid pending cases affects and involves territory which, in the opinion of this Council, is necessary, expedient and desirable to be annexed to and be made a part of the City of Roanoke and, unless provision be made that immediate action be taken and legal proceedings be commenced to have annexed to said City of Roanoke all of the territory set out by metes and bounds and by size in Section 4 of this ordinance a part or all of the territory affected and involved in the aforesaid pending annexation proceedings, now needed and desired by the City of Roanoke, may be lost and removed from possibility of annexation to said City of Roanoke, and the usual daily operation of said City of Roanoke and of its several municipal departments will thereby be impaired and adversely affected; and

Whereas, further, for the immediate preservation of the public health and safety, to be brought about by extension of the authority of said City of Roanoke in such matters of health and safety over and within the area of territory hereinafter proposed to be annexed to said City of Roanoke, and, particularly, in matters concerning this City's public water resources and distribution system, its public sanitary sewers and storm drains, its refuse disposal facilities and fire protection, the Council considers that immediate action should be taken and legal proceedings be commenced to have all such additional territory annexed to said City of Roanoke as hereinafter provided; and

Whereas, for all of the aforesaid and for the reasons hereinafter additionally set out, this Council deems an emergency to exist, and that this ordinance should take effect upon its passage.

Therefore, Be It Ordained by the Council of the City of Roanoke as follows:

1. That the City of Roanoke, a municipal corporation of the Commonwealth of Virginia, hereby declares that it is necessary and expedient and said City of Roanoke does hereby petition the Circuit Court of Roanoke County, Virginia, or the judges designated to hear this cause to extend the corporate boundaries of said City of Roanoke by annexing to said City of Roanoke all of the territory of the County of Roanoke, including the Town of Vinton, all of which territory is either adjacent to or adjoins the said City of Roanoke, and to adjudicate all rights in connection therewith, pursuant to the provisions of Article 1, Chapter 25, of Title 15.1, of the 1950 Code of Virginia, as amended.

2. *Definitions*

(a) The City of Roanoke may hereafter be referred to as Roanoke and/or City

(b) County of Roanoke may hereafter be referred to as County and/or territory to be annexed

(c) The City of Salem may hereafter be referred to as Salem

(d) The Town of Vinton may hereafter be referred to as Vinton

(e) The Roanoke County Public Service Authority may hereafter be referred to as Public Service Authority

Necessity And Expediency Of Annexation

3. That the Council hereby declares that it is both necessary and expedient to annex such territory for the following reasons:

I.

Population and Area

Roanoke County was formed in 1838. Bib Lick was incorporated as a town in the County in 1874, and in 1882 the name was changed to Roanoke. Roanoke became an incorporated independent city in 1884.

The boundaries of Roanoke were extended to include territory in the County by legislative act in 1874, 1882, 1890 and 1892. After the

adoption of the Virginia Constitution in 1902, the boundaries of Roanoke were extended by annexations effective in 1915, 1919, 1926, 1943, 1949, 1965, 1967 and 1968.

Since 1838 the population of the County has continually increased, except during the decades 1890-1900 and 1940-1950, during which inhabitants of the County became a part of the City as the result of the annexations of 1890 and 1892 and 1943 and 1949. In spite of the small annexations of 1965, 1967 and 1968, the County has sustained no loss of population during the 1960-1968 era, but has a substantial increase in the number of people living in the County over the 1960 population:[1]

Prior to 1900, the population of the County exceeded that of Roanoke. During the period 1890-1900, the balance of population shifted from the County to the City. As a result of the shift in population, and the several annexation proceedings, together with its continued increase, Roanoke's population exceeds the population of the County.

During the 1950-1960 decade, however, Roanoke's population increased by less than 6,000 inhabitants, or about 6%, whereas the County's population increased by more than 20,000, almost 49% more than its 1950 population. Moreover, the nearby City of Salem grew, as a town, by over 9,000 residents in the 1950-1960 decade or over 135%.

Based upon findings of the Bureau of the Census made with respect to the metropolitan character and concentration of population, the entire area of the City of Roanoke, the new City of Salem, and County of Roanoke constitute the Roanoke Standard Metropolitan Statistical Area.

There are more than 175,000 people living in the Roanoke metropolitan area, of which about 57% live within the City, about 30% in Roanoke County, and about 13% in the nearby City of Salem.

There are 27.23 square miles of land area within Roanoke's boundaries. It has a density of population of about 4,000 per square mile or in excess of 5 persons per acre. There are about 260 square miles within the County's boundaries exclusive of Roanoke and Salem. The population of the County is concentrated in areas at or near the corporate limits of the two cities, ranging in density comparable to Roanoke near the Roanoke corporate boundaries to a very sparse density in the more remote undeveloped county areas. The City of Salem, as a

[1] The transition of Salem from Town to independent City has caused the County to lose approximately 22,500 of its population as of January 1, 1968.

town, annexed, in 1966 by decree effective in 1967, an area of the County which increased the square mile area of Salem by approximately 75%. The population of Salem was increased from approximately 18,500 to approximately 22,500 or less than 25%.

II.

Necessity for Expansion

Since the 1949 annexation virtually all land in the City available for residential and industrial development has been utilized for such purposes. During the 1950-1968 era large areas in the County were subdivided and devoted to residential use. There has been virtually no available land within the City's boundaries to accommodate any substantial part of the approximately 50,000 people who have established residences in the Roanoke metropolitan area since the 1949 annexation. Industries, which normally would seek locations within the City, have been compelled to establish plants in Roanoke County because no available land could be found in the City for their purposes. There is no substantial unoccupied space available within the corporate limits of Roanoke for residential and industrial development.

The concentration of population in the City, the limitation of space within its boundaries for residential, commercial and industrial development, and the advantages of Roanoke based transportation and communication facilities, have combined to largely contribute to the settlement of people and establishment of industrial and commercial enterpries in the County.

Roanoke must expand its territory into the County or face a gradual deterioration of its capability and potential to provide facilities and services for the population and the industries essential to the economic life of the whole metropolitan community. The demands upon the City for municipal facilities and services increase with the population and commercial and industrial growth of the metropolitan area. Continued growth in population will occur in the County. The location and relocation of industry in the metropolitan area will depend upon the facilities and services available in large areas of the County ideally suited for industrial development. Unless the urban and urbanizing areas in the County are annexed by the City and properly planned for residential, industrial and commercial use and provision is made for facilities and services required for such uses, Roanoke, as well as

the territory to be annexed will fail to reach its optimum growth potential and thus tend toward economic stagnation of the whole community.

Roanoke is, and has been, since the early 1900's, the industrial commercial and marketing center of western Virginia. It is, and has been, the long standing policy of the Commonwealth to place under City government urban areas; and also, areas which, within relatively short periods of time, can be developed for residential, commercial and industrial uses, although presently rural, undeveloped or devoted to agricultural purposes. The best interests of the Commonwealth, and its public policy will be defeated unless Roanoke expands its boundaries to include the territory and population sought to be annexed. It is manifest that Roanoke and the territory to be annexed will eventually stagnate as a residential, commercial and industrial center unless such territory and population are brought under municipal government.

III.

Community of Interests

People living within the combined boundaries of Roanoke and the County are together largely a single, homogenous, populated urban and urbanizing community. Roanoke is unmistakably the vital source and center of this vast metropolitan complex; even through, certain regions of the County may be somewhat more indigenous and homogenous to some other municipal entity. A very substantial number of the urbanized communities in the County would never have come into existence and cannot continue to exist properly without the benefits derived from Roanoke.

Thousands of people living in the County are dependent for their livelihood upon employment in industries, business and commercial establishments and professions conducted in the City. They, likewise, depend on Roanoke for marketing products they produce, through enterprises and businesses conducted in the City.

Roanoke is the primary wholesale and retail shopping center for the people in the whole metropolitan area, and is the principal source of supply for merchandise and articles sold and distributed through establishments in the County. Residents of the County are largely dependent upon these wholesale and retail outlets for many of the necessities of life.

Eight of the eleven major financial institutions serving the metropolitan area are located in the City, several of which have branches in the County and others have branches near the corporate limits of the City for the convenience of people in the County. The entire metropolitan area and the people, industries, business and commercial establishments in the County are dependent upon the City based banking and financial institutions and use them daily for the transaction of their financial affairs.

Postal facilities for the metropolitan area are centered in the City. Branches of the main post office are located in the area to better serve the population, business and commercial enterprises and industries in the community. Mail addressed to Roanoke, Virginia, is distributed through these postal facilities to many addressees in the County.

Telephone and telegraph facilities and services for the metropolitan area are centered in the City. Branches of the main facilities are located in the area to better serve the population, business and commercial enterprises and industries in the community. The means of communication through such services is provided through plant and equipment located in Roanoke and extended into the County.

Major passenger and freight railroad and bus terminals for the metropolitan area are centered in the City. Roanoke owns and operates an airport in the County from which air borne passenger and freight service is provided for the area.

Roanoke Memorial Hospital and Community Hospital of Roanoke Valley, with their extensive hospital and medical treatment facilities, the Lewis-Gale Hospital and Clinic, the Roanoke Ear, Nose and Throat Clinic, the Burrell Memorial Hospital, the Roanoke Memorial Rehabilition Center, Shenandoah Hospital and Jefferson Surgical Clinic, some of which are exempt from taxation, together with several private nursing homes and other medical facilities, are located within the City, and form a major medical complex serving the entire metropolitan area. There are no hospitals in the County, and people in the County are dependent upon these institutions for medical and surgical care and treatment.

There are numerous churches and religious institutions and organizations in the metropolitan area, many of which are located in Roanoke. Many people living in the County are affiliated with these churches, institutions and organizations and participate in their activites regardless of political boundaries or other division based on residence.

There is a community college and several private academic, business, vocational and professional schools in the City. People living in the county attend the college and schools regardless of political boundaries or other division based on residence.

The principal public library in the metropolitan area is located in the City. It is The Roanoke Public Library. Branch libraries are operated in connection with the Roanoke Public Library in convenient locations in the City. These facilities are available to and are used by people in the County.

Many public recreation facilities utilized by the metropolitan area are owned by and located in the City. They consist of Victory Stadium, at which football games and other recreational activities are staged and public playgrounds, playfields and other recreational facilities. People in the County use all of these facilities either as spectators or as participants in games and other recreational activities conducted there.

Roanoke also owns and operates public parks which are used and enjoyed by people in the County.

There are numerous private clubs in the metropolitan area, many of which are located in the City. People living in the County are affiliated with these clubs and use their facilities regardless of political boundaries or other division based on residence.

Roanoke provides at the expense of its taxpayers many essential municipal services and performs many necessary functions required to promote and preserve public safety, health and welfare in connection with the operation and maintenance of the many City based industrial, business, commercial and professional establishments on which great numbers of people in the County depend for their livelihood; wholesale and retail establishments on which many such people depend for the necessities of life; numerous banks and financial institutions and major postal, telephone, telegraph and transportation facilities which serve them; hospitals and medical institutions on which they are dependent; churches and other religious institutions and organizations with which they affiliate and in whose activities they participate; libraries, branches and facilities they use; recreational and educational facilities they enjoy; clubs with which they affiliate. The people generally in the County make no substantial contribution to the cost of providing the municipal services and the management and administrative functions necessary to keep such institutions and facilities available for their well-being, comfort, safety, health, enjoyment and welfare.

IV.

County and City Governments

Roanoke County operates under a county form of government designed to meet the needs of a scattered, yet diminishing, rural population. Such a government is inadequate to meet even the minimum needs of a large, concentrated urban population. The attempt to administer to these diverse needs simultaneously results in inevitable conflicts of interest. These conflicting interests and the tax policies and fiscal and administrative practices of the County are inadequate to meet the needs of an urban and fast urbanizing community.

Roanoke has a modern, efficient and well-administered form of municipal government under a charter designed to meet the needs of an existing and growing urban community. Its functions of government and its administrative and managerial agencies can be readily extended to meet the needs of the territory sought to be annexed, to provide the facilities, improvements and services essential for an urban and urbanizing community, and to coordinate and plan the development of rural, undeveloped and agricultural lands in the County for residential, industrial and recreational use.

Roanoke's tax and fiscal policies are coordinated with the needs for performing its functions of government and providing essential facilities, services and public improvements. Its operating budgets and capital improvement budgets are kept separate and apart from each other. Its operating budgets are based upon performance of defined work programs providing services and facilities. Its capital improvement budgets are based upon programs for public improvements developed in advance of appropriations. Roanoke's budgetary and appropriation procedures are recommended as sound methods for efficient and effective municipal administration. Its operating budgets must be balanced against anticipated revenues and its expenditures cannot exceed appropriations for governmental services. Capital public improvements must be financed through its capital budgets. No expenditures can be made for any other purpose nor exceed appropriations made for specified improvements. Roanoke has been able to finance some capital improvements for current revenues. Bonds issued to finance capital improvements are within the limitations imposed upon such indebtedness by the Constitution. Roanoke has an excellent credit rating in the marketing of municipal bonds. Roanoke has the power, ability and resources to

execute the policy of the Commonwealth by absorbing the urban areas in the County, and those which can be developed for residential, commercial, industrial and recreational uses, within its municipal government.

Incorporation of the territory sought to be annexed with the City and unification of its resources with those of Roanoke will enable the territory to be annexed and the City to function as a single unit under a municipal form of government designed to meet the needs of one of the faster growing industrial and residential centers in the Commonwealth.

V.

Services, Facilities and Improvements

The territory sought to be annexed needs to be incorporated in the Roanoke programs of governmental services, facilities and improvements to promote the general welfare of the said territory, as well as, of the entire metropolitan area and safety, health, peace, good order, comfort, convenience and morals of the inhabitants. Unless the territory sought to be annexed and the inhabitants thereof are brought under municipal government, the unification of such services, facilities and improvements are not economically or politically feasible. Attempts to provide such services, facilities and improvements for the territory sought to be annexed by separate units of government involves ineffective and wasteful duplication of resources and effort. Roanoke and the territory sought to be annexed can meet the practical needs and requirements of the inhabitants of the area by unification through annexation.

Water: Roanoke has an assured and safe water supply. It takes water principally from Carvins Cove Reservoir, north of the City, with supplemental supplies from Falling Creek Reservoir, east of the City, and Crystal Springs in south Roanoke. The Carvins Cove water is treated for human consumption in plants designed and having the capacity to serve the needs of inhabitants, commercial enterprises and industries and for fire protection in the City. The City operates and maintains sufficient storage facilities and distribution systems through which water is sold and delivered to such consumers, commercial establishments and industries and for fire protection as needed throughout the City.

Roanoke is obligated to operate its water utility as a separate business enterprise without incurring a deficit. The economic soundness of Roanoke's water utility has a beneficial effect upon the City's tax and fiscal policies.

Roanoke's existing sources of supply and others which are accessible, and its water treatment plants, storage and distribution facilities are of sufficient capacity to more than serve the immediate needs within the corporate limits. The City is capable of likewise meeting, with moderate improvements, immediate and future needs of inhabitants, commercial establishments, and industries and for fire protection in the territory sought to be annexed in those areas that are sufficiently populated and developed or which become sufficiently populated and developed to justify capital expenditures necessary to enlarge and extend the City's facilities.

Roanoke's facilities, resources and programs are such that it can plan, finance and construct extensions of its plant and storage and distribution facilities to promote and encourage the location and establishment of commercial enterprises and industries in the territory to be annexed.

Roanoke supplies surplus water directly through extensions of its distribution systems to many consumers in the County. To this extent the County and its inhabitants, commercial establishments and industries are dependent upon the City for a water supply.

Water is supplied by the City for a substantial number of County inhabitants, commercial establishments and industries under contracts which can be terminated on relatively short notice. Rates paid by water users in the County are in excess of those charged by the City for water supplied users in the City.

Water pumped from wells is supplied by the Roanoke County Public Service Authority to a much smaller number of County inhabitants, commercial establishments and industries and for fire protection in some areas. The quantity of water that may be available is limited. The design and extension of distribution facilities of necessity is restricted by the extent and capacity of the sources of supply. Such sources do not assure an adequate and safe water supply for the needs of urban and urbanizing communities in the County. Rates paid for water thus supplied are generally in excess of those charged by the City for water supplied users in the City.

Other inhabitants, commercial establishments and industries in the County are left to their own devices for a water supply.

Transmission and Disposal of Sewage and Domestic Waste: Roanoke maintains and operates an extensive system for the disposal of sewage and domestic waste. This system is available to nearly every premise in the City requiring sewage disposal service. Premises for which such service is not now available will be afforded the service as extension of the system is justified and made by the City. Sewage and waste collected in this system is treated at the City sewage treatment plant and the effluent is discharged in the Roanoke River below the City. Roanoke has established a sewage treatment plant and installed extensive sewage interceptors to convey sewage to the plant where it is and will be treated before being discharged into the Roanoke River. Roanoke maintains a program for the installation of additional sewage interceptors and extensions thereof, as well as for expansion of its sewage treatment plant which will be incorporated into its existing system as necessity dictates. The City will finance the cost of these capital improvements partly from current revenues and partly from the issuance of bonds.

In 1954, Roanoke entered into a contract with the County to receive, treat and dispose of large volumes of sewage and domestic waste originating in extensive areas in the County through the City's system and sewage treatment plant. Installation of the necessary interceptors and trunk lines for providing the service was partly provided by the City and partly provided by the County, or its agent, the Public Service Authority. The service is now being provided by the City and the County or the Public Service Authority, for the most part, is providing the sewer collector system. Other such facilities will be constructed in the the County and when completed the service required for the areas they are designed to serve may be extended by the City depending on the circumstances of each requested extension. The County and/or the Public Service Authority contribute, and when other facilities are put in operation, will further contribute only to the cost of treating sewage collected and disposed of through these extensions to the Roanoke system.

Other inhabitants, commercial establishments and industries in the County are left to their own devices for disposal of their sewage.

Roanoke's sanitary sewage disposal and treatment facilities are designed for continual extensions and expansion thereof and are suf-

ficient to serve not only the immediate needs within the corporate limits, but the immediate and future needs of inhabitants, commercial establishments and industries in the territory sought to be annexed which are sufficiently populated and developed or which become sufficiently populated or developed to justify capital expenditures necessary for the purpose. Roanoke's facilities, resources and programs are such that it can plan, finance and construct extensions of its sanitary sewage disposal and treatment facilities to promote and encourage the location and establishment of commercial enterprises and industries in the territory to be annexed.

Refuse and Trash Collection: Roanoke operates and maintains a program for the collection and disposal of refuse and trash throughout the City, consisting of adequate equipment, personnel and immediate disposal areas for protecting the health of the community. Refuse and trash are collected at frequent, closely spaced intervals in accordance with planned, regular schedules. Roanoke makes no charge for such service.

The County provides limited refuse and trash removal service in more densely populated areas for which a service charge is made.

Many residents of the County are left to their own devices for disposal of refuse and trash, thereby creating a health hazard and public nuisance.

The urban and urbanizing areas sought to be annexed are in need of public refuse and trash collection and disposal services and such services will be much more needed as other areas expand by residential, commercial and industrial development.

Fire Protection: Roanoke maintains a massive program for fire protection, consisting of very extensive mains and fire hydrants, stations located strategically throughout the City, so the scene of fire may be reached quickly, modern fire-fighting equipment and trained, full-time employed personnel. With such an organization, Roanoke is able to respond to alarms of fire and combat its effects quickly and efficiently in any part of the City. There are few, if any, parts of the City that are without an adequate water supply for fire-fighting purposes.

Fire protection in the County is provided through private volunteer fire organizations, most of the personnel of which serve part time and without compensation. The County makes some contribution to the maintenance and functioning of these volunteer organizations. These fire fighting facilities are hampered in their effectiveness by the un-

availability in many areas of a sufficent supply of water needed to extinguish fire.

The urban and urbanizing areas in the County are in need of a governmentally operated fire department, with stations strategically located in or near such areas and adequate equipment, an adequate water supply, and full-time employed and trained personnel to preserve and promote the safety of persons and property in such areas. The need of such services, facilities and protection will increase as residential, commercial and industrial development expands.

Roanoke, also, maintains a program for the administration and enforcement of regulations adopted to prevent fire and its containment once it starts, the investigation of fires of suspicious origin, the inspection of residential, business and industrial properties, hotels, theatres and school and educational buildings and other places where numbers of people congregate, and for educating children in public schools in fire prevention measures. Such enforcement, inspections and programs are essential for the safety of people and property in urban communities.

The County does not provide such services substantially in any areas of the County.

Such services, programs and safety measures are needed in the urban and urbanizing territory sought to be annexed and will increase as such areas expand by urban, commercial and industrial development.

Police Protection: Roanoke maintains a very competent police organization with personnel, equipment and facilities necessary for the preservation of law and order and detection and prevention of crime in an urban community and the protection and safety of its inhabitants and property. Roanoke's police force is adequate in number of personnel, organization, management and equipment for the urban community it serves.

The County provides a sheriff's departent which furnishes limited police service in conjunction with its many other functions. Such service does not meet the standards for police protection for urbanized and urbanizing communities. Accepted techniques for the preservation of law and order and detection and prevention of crime in an urban community require a unified single police force to patrol urban and urbanized areas. Artificial political boundaries separating urban communities are not conducive to the elevation of efficiency necessary to adequately provide such services.

People in the urban areas sought to be annexed are in need of such police protection as the City is capable of providing. This need will increase as residential, commercial and industrial development expands.

Streets and Highways: Roanoke maintains an extensive system of streets, highways and alleys. Numerous streets and all of the highways are connected with those in the County. New streets, highways and alleys are opened and improved, and existing streets, highways and alleys are widened and improved as the use and needs of an urban community require. Land for such purposes is often acquired by the City and the work of improvements is partially financed with City funds. All streets, highways, except the Interstate, and alleys are likewise maintained and kept in repair by the City.

The control of streets, highways and alleys and the orderly arrangements therein of underground and overhead facilities which provide public services is essential for the proper and orderly growth of the metropolitan area.

Roanoke also maintains a program of street lighting for its thoroughfares, streets and highways. Street lighting for such thoroughfares, streets and highways is provided according to a program based upon need and safety in their use. The program is designed to provide reasonable illumination based upon such need and safety. All electric energy required is purchased from Appalachian Power Company.

Roanoke also maintains and operates a program of periodic cleaning of its streets, highways and alleys and the removal of snow and ice from its thoroughfares, streets and highways, based upon need and safety in their use.

The necessity for providing, maintaining, widening and improving and keeping in repair many streets and highways, the lighting and provision for cleaning thereof and removal of snow and ice therefrom, is in great measure required by the daily use made of such streets and highways by thousands of people of the County.

The State Highway Department, in the County, makes some provision for opening and improving new highways and for widening and improving those existing when required by the needs of the urban and urbanizing communities. The County relies chiefly upon others to provide necessary public streets. Maintenance and repair is made to streets and highways opened for public use by the State Highway Department.

Except in a limited degree, the County does not provide street

lighting for streets and highways in the urban and urbanizing areas sought to be annexed.

The State Highway Department, in the County, maintains a limited program of street cleaning restricted primarily to picking up litter along the highways and principal thoroughfares. The State Highway Department, in the County, conducts a snow and ice control program.

The County and its inhabitants are dependent upon the use of the streets, highways and thoroughfares in the City for the conduct of many of their business and personal affairs. Situated as the City is, access to areas of the County from other areas of the County can not be easily had except by means of the City's streets and highways.

The urban and urbanizing areas of the County and the inhabitants thereof require street and highway projects and programs for such areas more suited to urban community life and transportation. For safety in the use of streets and highways, they require adequate lighting of principal thoroughfares and streets and highways in the areas that are intensely used and programs for keeping them clean and for installation of street lighting when needed for crime prevention and for the safety of the public. They require a greater degree of maintenance of many streets and highways than is now provided. As urbanization of such areas and the establishment of commercial and industrial enterprises there takes place, and in order to encourage development in the future, adequate provision must be made for new thoroughfares, streets and highways, widening and improving others, and their maintenance for convenience in and safety of their use.

Traffic Control, Research and Engineering: Roanoke maintains a municipal division which provides continuing investigation and study of traffic movement, parking conditions and causes of accidents in order to improve and promote the convenient and safe use of streets and highways in the City. This program provides for the maintenance of thousands of traffic regulatory signs, traffic signals, street name signs and highway route markers and the installation and maintenance of parking meters for regulating the use of streets and highways for parking vehicles.

The daily use of streets and highways in the City by vehicles of residents of the County and the need for places where such vehicles can be parked, contribute greatly to the traffic problems of the City and the responsibilities and performance of the functions of this division.

Many areas in the County are in need of such services and the need will increase as further urban, commercial and industrial development in the metropolitan area takes place; yet the County, except in acutely congested places, makes no provision for meeting the needs for the safe use of streets and highways in the County, but relies upon agencies of the State for protection. Artificial political boundaries hamper the institution and enforcement of traffic control measures which should be effective in the urban and urbanizing areas in the County to efficiently promote and protect public safety.

Storm Water Drainage: Roanoke maintains and operates extensive storm water sewer systems, interceptors and drains by which surface water in streets, highways and alleys and water flowing in natural watercourses in the City is intercepted and collected and discharged into natural watercourses. Moreover, Roanoke is in the process of expanding, extending and improving its storm water drainage systems. Such facilities are essential for the health, safety and welfare of the inhabitants of an urban and urbanizing community.

The County makes very little if any provision for intercepting, collection and disposal of surface water except by keeping natural watercourses cleared of obstructions and the installation of culverts under some streets and highways. Surface water that normally was absorbed by infiltration and surface water that reached natural watercourses in such volume that it could be contained, now is accelerated both in volume and rate of flow so that the natural watercourses and culverts are not sufficient to convey the water to its natural outfall without flooding streets and highways and private property in parts of the County. Furthermore, public and private sewage disposal systems in the County become overcharged with uncontrolled storm water causing raw sewage to reach surface watercourses, ditches and drains, and there is no remedy for this problem presently available in the County. As other areas in the County become urbanized and developed the problem of surface water containment and disposal, flooding and damage to property and the adverse effects on public health will become more acute and severe. Inhabitants of urbanized areas and commercial enterprises and industries in the affected areas and others that will become involved have and will continually sustain loss and damage because of the lack of drainage systems and facilities to effectively dispose of surface water, unless greater resources are employed to alleviate such conditions.

Public Safety, Health and Welfare Services: Roanoke maintains agencies to promote and protect the safety, health and welfare of its inhabitants. Regulations and standards are prescribed for the construction, alteration, repair and demolition of buildings and structures, the installation, maintenance, alteration and operation of boilers and unfired pressure vessels, fuel-burning equipment, electrical wiring, appliances and equipment, elevators and escalators, and water and sewage disposal systems in buildings and structures. Plans for such work are required to be submitted and reviewed to insure compliance with such regulations and standards. Permits are required to be obtained before such work is commenced and frequent periodic inspections are made of the work as it progresses to see that the regulations and standards are observed.

Observations and investigations are frequently made to detect the extent of air pollution with fumes, smoke and soot by the operation of fuel-burning equipment that does not comply with such regulations and standards and appropriate steps are taken to abate the nuisance. Electric appliances and equipment offered for sale are inspected to insure compliance with safety regulations and standards. Weighing and measuring devices used commercially in retail, wholesale and industrial establishments are periodically inspected, the weight of packaged commodities, the sale of commodities by peddlers and hucksters and deliveries of coal and fuel oil are frequently investigated and checked, and the quality of petroleum products, distributed in the area is constantly tested, to protect the public against fraud and deceit.

Persons who engage in the businesses and trades of installing electric wiring, appliances and equipment, elevators and escalators and plumbing and water supply and sewage disposal systems in buildings and structures are required to demonstrate their knowledge and proficiency in planning and installing such facilities in accordance with such regulations and standards. Persons who are unable to pass such tests and examinations are not permitted to engage in such businesses or trades.

Such regulations, standards and services are essential in urban and urbanizing communities to protect and promote the safety, health and welfare of the inhabitants thereof. The County does not provide such services, but relies upon a State agency for such regulation. Residents of the County are benefited by the regulations, standards and services provided by the City, either when they are in the City or as the effects

thereof transcend the boundaries between the City and the County. Because of the limited nature of the program regulating pollution of the air, establishments in the County are not adequately controlled in their operations, which to a degree nullifies the City's efforts to keep the air reasonably clean. As urbanization continues in the County and commercial and industrial enterprises locate there, the need for such services will become more acute.

Airport and Rail Terminals: Roanoke maintains and operates an airport in the County by which air transportation of passengers and freight is made available directly and indirectly through airlines to and from airports throughout the United States and other parts of the world.

Roanoke is the headquarters of one of the principal railroads of the nation which provides transportation facilities for commodities shipped into and out of the metropolitan area.

Such facilities, installations and services are essential for this metropolitan area. They are used by the inhabitants, commercial and industrial enterprises in the County and by their availability and the services they provide benefit the entire area.

Public Education: Roanoke maintains and operates a well-rounded program and system of public and vocational education, consisting of an adequate number of school buildings equipped with essential facilities for the instruction and training of children and adults. Adequate teaching, management and administrative personnel are provided and paid salaries generally higher than are paid in the County's school system.

Such program and system is essential in any community to meet the educational and training needs of children and adults. Opportunities for employment and service in the entire metropolitan area are in direct proportion to the extent and quality of education and training afforded in public education and training systems. Programs and educational and training opportunities are provided in Roanoke's schools that are not available or are available in lesser and limited degrees in the County schools. Continuing attention is given to expanding and developing programs and courses of study and training in Roanoke's schools to meet the needs of present day society. Such programs are provided to meet the needs of all individuals, that is to say, the gifted, the retarded, the minimally brain damaged, and the emotionally disturbed. Psychological services are provided for testing the pupils and evaluating the type of program best suited for them. Moreover, various pupil personnel services

in the areas of health, speech therapy, special education, expanding vocational education offerings, testing and guidance are available. It is essential that the people in the territory to be annexed be afforded the same educational and training opportunities provided in Roanoke's school and educational system. With lessor opportunities and facilities, they may be put to disadvantage under the dual educational systems.

Some individuals in the County receive instruction and training in Roanoke's educational system, because of the proximity of these schools to county residents and because of the urban nature of certain areas in the County.

Comparison of the number of children in average daily attendance in the public schools of Roanoke and the County points up the difficulties the County has experienced in making provision for children attending its schools; and emphasized the difficulties the County will continue to encounter as it becomes more urbanized.

School Year	*Roanoke County*	*Roanoke City*
1950-51	7,377	12,584
1955-56	9,392	15,969
1960-61	12,878	17,779
1965-66	16,841	17,946
1967-68	18,311	17,903
1968-69	18,968 (March, 1969)	18,339

Since the 1950 school year the children in average daily attendance in Roanoke County's schools increased nearly 157%; while those in Roanoke City's schools increased about 46%.

Incorporation of the County's schools and their management, teaching and instructional personnel into the programs and opportunities afforded in Roanoke's schools is the only feasible way adequate provision can be made for children attending public schools in the annexation area and for raising the educational and training level required for the annexation area as it becomes more urbanized and commercial and industrial enterprises locate in the area.

Public Libraries: Roanoke maintains and operates a central public library and a system of branch libraries to serve the needs of its people. All the facilities required of an urban and urbanizing community are

provided through Roanoke's public library facilities. The County provides some public library facilities for its citizens, but such facilities are not developed to the extent required by an urban or urbanizing community. Consequently, inhabitants of the County are constant and frequent users of Roanoke's facilities, which attests to the need for significantly more extensive public library facilities and branches in the territory to be annexed. As in the field of public education, opportunities for employment and service in the metropolitan area are closely related and identified with the availability of library services.

Recreation: Roanoke maintains and operates a system of public parks and public playgrounds and playfields. It also provides a stadium where football games and numerous other recreational activities are conducted, and a coliseum-auditorium complex is under construction which will be used for basketball games and other forms of indoor recreation, as well as numerous other cultural, business and educational activities. The County has only recently untaken to expand its recreational facilities to meet the needs of an urban and urbanizing community. Facilities provided by the City are available to and are used by inhabitants of the County either as spectators or as participants in games and other recreational activities conducted there.

As in the case of public education and libraries, recreational facilities of the character provided by the City are closely related and identified with opportunities for employments and service in the metropolitan area.

Gas and Electricity for Domestic, Commercial and Industrial Use: The area's major suppliers of natural gas and electricity which are sold to consumers in the City and in the County for domestic, commercial and industrial use, i.e. for cooking, heating, airconditioning and production and manufacture of commodities in the metropolitan area, are located in Roanoke. It is the policy of the City of Roanoke to continue the private operation of these public utilities.

Economic Growth and Development: Unification by annexation of the territory sought to be annexed with the City will accelerate the economic growth of the metropolitan area. Roanoke's opportunities for economic growth are restricted by the lack of diversified commercial and industrial sites. The economic growth of the County is restricted by the inadequacy of services and facilities for commercial and industrial development.

It is the public policy of the Commonwealth to encourage the location of new industries in the State and expansion of existing industries. The General Assembly has created agencies of the State government and appropriated funds to advertise and disseminate information to attract the location and to aid in the organization and operation of corporations created under the Virginia Industrial Development Act. It is the function of these agencies to make available information regarding industrial sites and other factors of interest and concern to industries, and to formulate and advance programs encouraging the location of new industries and expansion of others.

Industry is attracted by an assured, safe plentiful water supply, systems for the disposal of sewage, and storm water drainage, streets, highways, and all forms of transportation, fire protection, police protection, educational, cultural and recreational facilities and the qaulity of local government.

Joining of the territory sought to be annexed with the City of Roanoke will facilitate provision and extension of those services facilities and improvements which will attract and are necessary for industrial development, and will enhance the entire metropolitan area's commercial and industrial advantages. Roanoke's form of government and the administration and management of its affairs is of the character and quality that can and will provide the services, facilities and improvements for the economic development of the territory to be annexed.

Planning for Development of Annexation Area: Joining with the City by annexation of the territory sought to be annexed is necessary for planning the uses of land and the services, facilities and improvements necessary for its development before it is occupied. Land which should be logically used for residential development should not be devoted to other uses, and land which should be logically developed for commercial, industrial and recreational use should be devoted to such use.

No comprehensive land use plan can be an effective guide for the territory to be annexed without some form of central authority responsible for the plan. Determinations must be made in advance of land uses and provision made for necessary services, facilities and improvements in fixed locations according to definite schedules. To prosper, an area plan is essential for the economic growth and development of the

area. Unrestricted and unguided development can be worse than none at all. The power to plan must be accompanied by the power to enforce and take action with respect to its application and execution in order that there be stability and permanence in its effects.

Substantial land, now vacant, rural, undeveloped or devoted to agricultural purposes in the territory sought to be annexed should be planned for and devoted to residential and recreational use. Substantial other land in the territory, now vacant, rural, undeveloped or devoted to agricultural purposes, particularly land lying in the vicinity of railroads, passing through the City, and major highways should be planned for and devoted to industrial use and development.

Unification with the City by annexation of the territory sought to be annexed will enable a centralized authority to develop a comprehensive, stable and permannt plan for the residential, recreational and industrial development of the annexation area, and it will permit economical extension of services, facilities and improvements for such development and use.

The County has not substantially provided the services, facilities and improvements necessary for the residential, recreational, commercial and industrial development of the territory to be annexed so as to further the economic growth of the entire metropolitan area.

Recognition of the principal that there must be unified metropolitan area planning was given by the Board of Supervisors of the County when it joined with the City, Salem, Vinton and Botetourt County in the creation of The Roanoke Valley Regional Planning Commission and agree to cooperate in the regional planning and economic development of the metropolitan area. The Commission's powers are limited, however, to suggestions and recommendations. It has no authority to enforce or take any action with respect to any plan it prepares or the application or execution thereof or to require the adoption of any suggestion or recommendation it makes to the Commission members.

Area Proposed To Be Annexed And Size Thereof

4. The metes and bounds of the territory proposed to be annexed are as follows:

* * *

There is to be excepted from the hereinabove described land 2 certain tracts designated herein as Tract 1 and Tract 2, containing 14.14 square miles, more or less, and 27.23 square miles, more or less; the same being respectively the present City of Salem and the present City of Roanoke.

It being the intent of this description to include and encompass all lands within the boundaries of Roanoke County lying outside the present corporate boundaries of the City of Salem and the City of Roanoke, which said lands contain 262.63 square miles, more or less, or 168,083.2 acres, more or less.

* * *

Ordinance Maps

5. There are hereby adopted and made a part hereof three maps entitled:

I. "Map showing the Roanoke County Area, containing 262.63 Sq. mi., more o rless, proposed to be annexed to the City of Roanoke, the same being comprised of original Roanoke County, containing 304 Sq. mi. ±, less and except the Cities of Roanoke (27.23 Sq. Mi. ±) and Salem (14.14 Sq. Mi. ±)" being Map No. 5096 on file in the Office of the City Engineer of the City of Roanoke, and marked Exhibit I.

II. "Existing General Land USE Proposed Annexation Area," indicating generally subdivisions, industrial areas, farm areas, vacant areas and others, said Map having been prepared as Map No. 3606-A by Hayes, Seay, Mattern & Mattern, Architects and Engineers, Roanoke, Virginia, and marked Exhibit II.

III. "Possible Future Land USE Proposed Annexation Area." Said Map having been prepared as Map No. 3606-B by Hayes, Seay, Mattern & Mattern, Architects and Engineers, Roanoke, Virginia, and marked Exhibit III.

General Terms And Conditions Upon Which Annexation Is Sought And Provisions Planned For Future Management And Improvement Of Annexed Territory

6. The City of Roanoke hereby sets forth the terms and conditions upon which it desires to annex the territory of the County and

the provisions for the future management and improvement thereof as follows:

(a) The County and the functions of its government with respect thereto will be incorporated into the City governmental and administrative organization and structure as soon as practicable after annexation is decreed. The City will provide the same managerial services for the territory annexed as are provided for the present City within the framework of the City's charter and general law and in accordance with ordinances and regulations adopted and in force at that time.

(b) The City will assume and become obligated for a proper proportion of all the indebtedness of the County and all districts and/or authorities therein existing at the effective date of the annexation decree as said indebtedness may be determined by the Annexation Court, and will undertake the performance of all valid contracts the County or any such district and/or authorities has entered into with others.

(c) The City will assume and become obligated for all the indebtedness of Vinton existing at the effective date of the annexation decree as said indebtedness may be determined by the Annexation Court, and will undertake the performance of all valid contracts Vinton has entered into with others.

(d) The City will assume ownership and control of all property, real and personal, and all funds and claims and demands, of the County, the Town of Vinton and the Public Service Authority as the Annexation Court may determine and will use the public improvements existing in the annexed area primarily for the benefit of the territory annexed as long as the same serve a useful purposeful and have a usable life.

(e) The City, as soon as practicable after annexation is decreed, and as the need arises and necessity dictates, will provide the territory annexed with all general municipal services and facilities that are provided by the City for its inhabitants, on the same basis as now provided the City's inhabitants; including but not limited to:

(1) *Sewers.* To proceed promptly with the installation of mains and necessary pumping stations necessary to provide sewer service to

the maximum extent economically feasible to areas immediately needing same and to new subdivisions and major industrial developments at their inception, on the same basis as such service is now provided in the present City of Roanoke. Street laterals will be installed in the proposed annexation area as the need arises on the same basis as within the existing City. At the same time the necessary surveys and studies will be commenced to determine how best to provide sewer service to the remaining area as it requires the same.

(2) *Water.* To proceed promptly with the installation of such new mains, lines, fire hydrants and elevated and ground storage facilities, together with such improvement and replacement of existing mains and lines, as will be necessary to afford the urban and urbanizing territory annexed a water system at least equal to that provided in the present City, in keeping with the reasonable needs of those areas for water for domestic, commercial and industrial uses and for fire protection. At the same time the necessary surveys and studies will be commenced to determine how best to provide water to the remaining area as it requires same.

(3) *Refuse and Trash Collection.* To provide promptly, regular garbage and trash collection service throughout the urban and urbanizing territory annexed, maintaining the same schedules and procedures followed in the present City, and to provide such collection in the less developed area as the health and safety of such area may require.

(4) *Engineering and Mapping.* To initiate promptly a program of surveying, mapping and otherwise obtaining engineering data for the territory annexed, to facilitate planning and installation of future improvements, the extension of utilities, and the proper regulation of all future development in those areas.

(5) *Streets and Street Lighting.* To proceed promptly with the improvement of such feeder streets as may be necessary, and inaugurate a program of general highway and street planning and improvement, based upon necessity of the territory annexed. After due study of traffic patterns, priority will be established for provision of additional streets and highways. Street lighting will be improved and extended in the territory annexed to comply with standards for such service in the present city and the need and safety of such territory may require.

(6) *Fire and Police Protection.* To proceed promptly to furnish personnel and equipment necessary to provide fire and police protection throughout the urban and urbanizing territory annexed conforming to the standards maintained within the City, and to furnish fire and police protection in the undeveloped area as the need and safety of such area may require.

(7) *Traffic Control.* To proceed promptly with the installation of modern traffic control signals and regulatory measures needed in the urban and urbanizing territory annexed to bring traffic control up to the standards maintained throughout the City, and to provide the undeveloped area such service as the need and safety of such area may require.

(8) *Street Signs and House Numbers.* To proceed to install new street signs in the territory annexed after thorough study and correction of name duplication and house numbering.

(9) *Parks and Recreational Facilities.* To proceed to supplement the City's existing park and recreational facility program in order to incorporate them into the territory annexed so that a comprehensive plan for development of parks and recreational facilities throughout the expanded City can be developed to determine the priorities of establishment of new and additional parks and recreation facilities based on population density requirement, need and economic feasibility.

(f) The City will discontinue special charges required to be paid by residents of the County for using facilities provided by the City, and will equalize and make rates charged for utility services uniform throughout the City of the territory annexed.

(g) The City will incorporate in its program for capital public improvements such projects for extending services and facilities into the territory annexed as are necessary to provide for the needs of the area, including but not limited to new schools or additions to existing schools as the needs of the area may require, and will make appropriations therefor as such needs require and can be financed with available sources of revenue.

(h) The City will give preferred and intensive attention to the preparation and adoption of a master plan for the development of the annexed area, particularly the vacant, rural, undeveloped and agricul-

tural lands, for the orderly, practical and economic use of the land area for residential, recreational, commercial and industrial purposes, and the preparation and adoption of a comprehensive zoning ordinance regulating such uses of the land; and will plan and extend its programs for municipal services and facilities and for capital public improvements to encourage urbanization and commercial and industrial development in the annexed area.

(i) In order to provide efficient municipal services for the City after annexation, the City could gainfully use the experience and skill of employees of the City, the County, and the Town of Vinton, including the teachers and employees of the School Board of the County. Therefore, it is proposed that the City will adhere to the principle that all employees of the County, the Town of Vinton and the School Board of the County who are in a permanent or full time position or office at the date of annexation will be retained by the City following such annexation and will be compensated at rates of pay no lower than they received on such dates, with retirement benefits at least equal to those acquired as County employees; and that they will occupy positions as comparable as practicable to those occupied on the date such annexation takes effect.

(j) The Town of Vinton and numerous other areas and places in the County having names and identities in which they take just pride, the City will, as a matter of policy and so long as the majority of persons in such areas so desire, continue and preserve the present names and identities of those respective areas following annexation thereof to the City.

(k) The City of Roanoke will as soon as possible request the General Assembly of Virginia to amend its Charter to provide for differences in the rate of taxation to be imposed upon real estate; thereby, enabling the City to establish taxing districts within the City. Said taxing districts and rate charges in any district shall be established on the basis of non-revenue producing governmental services provided or required by the several districts.

(l) The City of Roanoke will request the General Assembly for a charter amendment requesting authority to enable the City of Roanoke to increase its Council membership and to elect Council members from councilmanic wards or districts.

(m) The City of Roanoke shall establish as soon as practical after the effective date of annexation branch governmental offices throughout the City in order to more conveniently serve the residents of the City.

Proceedings For Annexation

7. The City Attorney, and Martin, Hopkins and Lemon, Special Counsel engaged for the purpose, and each of them are hereby authorized and directed to give such notices and to institute and prosecute the necessary legal proceedings to annex to the City of Roanoke, by proper decree or judgment of the Circuit Court of Roanoke County, the territory hereinabove described, and to that end they and the City Manager and each of them are authorized in the name of the City to do all things necessary and essential to prosecute said litigation to a successful conclusion.

Effective Date Of Ordinance

8. Be it further Ordained that an emergency exists and this ordinance shall be in force and effect immediately upon its passage.

Attest:
/s/ Virginia L. Shaw
City Clerk

* * *

I, Virginia L. Shaw, City Clerk of the City of Roanoke, Virginia, do certify that the foregoing is a true copy of Ordinance No. 18741, entitled:

"An Ordinance to petition the Circuit Court of Roanoke County, Virginia, for the extension of the corporate limits of the City of Roanoke, Virginia, pursuant to the provisions of Article I, Chapter 25, of Title 15.1, of the 1950 Code of Virginia, as amended, by annexation to said City of Roanoke of all of the territory of the County of Roanoke, including the Town of Vinton; to declare said City's policy with respect thereto; to set forth the necessity and expediency thereof; to define the metes and bounds and size of area of the territory sought to be annexed; to indicate generally subdivisions, industrial areas, farm areas, vacant areas and others, and other information deemed relevant to possible future uses of property within the area; to state the general terms and conditions upon which annexation is sought and

provisions planned for future management and improvement of the annexed territory, including the provision of public utilities and services therein; and to authorize the institution and conduct of the necessary legal proceedings to effectuate said annexation; and providing for an emergency."

which was duly introduced before the Council of the City of Roanoke at a regular of the said Council held in the Municipal Building in said City on the 9th day of June, 1969, at which said regular meeting the Mayor and five other of the seven members of said Council were present and voted, and which said Ordinance was passed by the said Council of the City of Roanoke at said time and place by a recorded affirmative vote of at least five-sevenths of the members elected to the said Council, the elected membership of that body at that time consisting of seven members, one of which is the Mayor, which said Ordinance was passed by the said Council by a recorded vote of 6 Ayes and 0 Nays.

/s/ Virginia L. Shaw
Virginia L. Shaw, City Clerk of the
City of Roanoke

/s/ James N. Kincancon
James N. Kincancon, City Attorney
215 Municipal Building
Roanoke, Virginia 24011

Martin, Hopkins and Lemon
By /s/ James E. Buchholtz
Special Counsel
6th Floor, Boxley Building
Roanoke, Virginia 24011
Counsel for the City of Roanoke

NOTICE AND MOTION FOR ANNEXATION

Filed June 9, 1969

Notice

You And Each Of You Are Hereby Notified that on the 25th day of July, 1969, at the Courthouse of Roanoke County, in Salem, Virginia, at 8:30 o'clock, a.m., or as soon thereafter as counsel may be heard, the City of Roanoke, a municipal corporation of the Commonwealth of Virginia will move the Circuit Court of Roanoke County or the Judge or Judges designated to hear the case, to grant the annexation to the City of Roanoke of all of the territory of the County of Roanoke, including the Town of Vinton which is located in Roanoke County. The territory thus desired to be annexed to the City of Roanoke is described by metes and bounds and by size in and its annexation to the City of Roanoke is petitioned by Ordinance No. 18741 of the Council of the City of Roanoke duly adopted by said City Council on the 9th day of June, 1969, a copy of which said ordinance, duly certified, petitioning the Circuit Court of Roanoke County to grant the annexation of all such territory is hereto attached and made a part hereof and is to be served with this notice, together with a copy of the motion to be made at the time and place aforesaid.

* * *

Motion For Annexation

The City Of Roanoke, a municipal corporation of the Commonwealth of Virginia, authorized by law to annex territory adjacent to it, respectfully Moves the Honorable Court or the aforesaid Judge or Judges to grant the annexation to the City of Roanoke of all of the territory of Roanoke County, Virginia, including the territory of the Town of Vinton in said County, all of which said territory hereby sought to be annexed is more particularly described by metes and bounds and by size in Ordinance No. 18741 of the Council of said City of Roanoke duly passed by said Council of the City of Roanoke at a regular meeting thereof held on the 9th day of June, 1969, by a recorded affirmative vote of not less than five-sevenths of all of the members elected to said City Council. A certified copy of the aforesaid ordinance petitioning such annexation was duly filed in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, on June 9, 1969, and

notice of this motion and of the time and place for making the same to which notice was attached a certified copy of aforesaid Ordinance No. 18751 and a copy of this motion were served upon the Commonwealth's Attorney for Roanoke County, upon the several members of the governing body of Roanoke Cunty, upon the several members of the Town Council of the Town of Vinton, in Roanoke County, and upon the Roanoke County Public Service Authority, and duly returned to the Clerk's Office aforesaid. In addition to such service, a copy of the notice aforesaid and of the aforesaid ordinance petitioning such annexation, together with the maps referred to in and made a part of said ordinance, were published in a newspaper as required by law, with a certificate of such publication duly filed in the Clerk's Office of this Court.

* * *

ANSWER OF CITY OF SALEM

Filed June 10, 1969

For its responsive pleading to the petition filed herein by Robert M. Willis, et al, the City of Salem now comes and says:

1. The allegations of the said petition are admitted, and in so far as this respondent is able to ascertain the metes and bounds description of the area sought to be annexed is true and correct.

2. For further answer and response to said petition, the City of Salem alleges that if an Annexation Court, when convened, is of the opinion, after hearing the evidence, that it is necessary and expedient that the annexation of said territory be granted upon such reasonable terms and conditions as this Court shall deed appropriate, in accordance with the Statutes of this State in such cases made and provided, the City of Salem would be pleased to accept such territory as a part of said City, welcome the inhabitants thereof as citizens of the City and render them substantially the same municipal services it renders to its present citizens.

And now having fully answered said petition and having filed its responsive pleading, this respondent unites in the prayer of the petition filed herein by Robert M. Willis, et al, that said area be annexed to the City of Salem.

* * *

PETITION TO INTERVENE

Filed June 16, 1969

Your petitioner, City of Roanoke, a municipal corporation of the Commonwealth of Virginia, pursuant to the provisions of Section 15.1-1036 of the Code of Virginia 1950 (as amended) respectfully represents unto Your Honors the following:

1. That there is now pending in this Honorable Court a certain petition filed by Robert M. Willis and others against the City of Salem and the County of Roanoke, filed pursuant to the provisions of Article 4, Chapter 26, Title 15.1 of the 1950 Code of Virginia, as amended, wherein certain territory of the County of Roanoke, set out and described in said petition and shown on a certain map annexed to the same, is proposed to be annexed to the City of Salem, a defendant to said petition.

2. That your petitioner is a City located wholly within the geographical confines of the County of Roanoke and adjacent to said City of Salem and to a portion of the territory proposed to be annexed to the City of Salem, as aforesaid.

3. That your petitioner, the City of Roanoke, would be affected by annexation to the City of Salem of the territory set out and described in the petition mentioned in paragraph 1, supra; and

4. That this petition has been authorized and directed to be filed for and on behalf of said City of Roanoke by resolution of the Council of said City of Roanoke adopted as Resolution No. 18737 on the 2nd day of June, 1969, an attested copy whereof is attached to this petition, marked Exhibit "A."

Wherefore, your petitioner, City of Roanoke, Virginia, appearing as provided in Section 15.1-1036, aforesaid, respectfully prays that it be made a party defendant to the case set out in the caption hereto and in paragraph 1, supra, as provided in Section 15.1-1036 of the 1950 Code of Virginia, as amended, and be represented by counsel, and be granted leave to file such answer or other pleadings as it may be advised are proper and necessary.

* * *

In The Council Of The City Of Roanoke, Virginia
The 2nd day of June, 1969.
No. 18737.

A Resolution authorizing and directing that the City of Roanoke intervene in a certain annexation proceeding pending in the Circuit Court of Roanoke County, Virginia.

Whereas, certain proceedings have been brought under § 15.1-1034 of the 1950 Code of Virginia, as amended, by Robert M. Willis and others against the City of Salem and the County of Roanoke seeking the annexation to the City of Salem of certain territory of Roanoke County which said territory is set out and described in the papers filed in the annexation proceedings now pending as Law Case No. 108-1968 in the Circuit Court of Roanoke County, Virginia; and

Whereas, this Council considers the City of Roanoke to be affected by the aforesaid proceedings and said Council deems it necessary and proper that the City of Roanoke intervene in and become a party to said proceedings and thereafter take such proper action as may be or become necessary to protect the City's interests in the premises.

Therefore, Be It Resolved by the Council of the City of Roanoke that said City's legal counsel be, and are hereby authorized, directed and empowered, for and on behalf of said City, to take such legal action as is appropriate, necessary and proper to enable said City of Roanoke to intervene in and become a party to that certain annexation proceeding brought under § 15.1-1034 of the 1950 Code of Virginia, as amended, now pending in the Circuit Court of Roanoke County, Virginia, under the short style of Robert M. Willis, et al, vs. City of Salem and County of Roanoke, as Law Case No. 108-1968, and, thereafter take such further action therein as is directed by this Council or as is necessary or proper to protect said City's interest in said proceedings.

Attest:
/s/ Virginia L. Shaw
City Clerk.

* * *

MOTION TO DISMISS

Filed February 6, 1970

* * *

Now comes the County of Roanoke, by counsel, and renews its original Motion filed in the case styled *Blanch W. Weddle, et al.* v. *City of Roanoke and County Roanoke* on November 7, 1966, and renewed on April 11, 1967, to dismiss the case on the grounds that the territory sought to be annexed was not determined until after the Petitioners signed the petition therein and, therefore, said petition does not meet the requirements of Section 15.1-1034 of the Code of Virginia.

* * *

PLEA TO THE JURISDICTION

Filed February 6, 1970

* * *

Now comes the Defendant, County of Roanoke and renews this, its Plea to the Jurisdiction of the Court herein, previously filed in the case styled *Blanche W. Weddle, et al.* v. *City of Roanoke and County of Roanoke,* and states as follows:

The Court lacks jurisdiction to hear and determine this matter for the reason that fifty-one per centum (51%) of the qualified voters of the territory are not petitioning the Court for such territory to be annexed o the City of Roanoke as required by Section 15.1-1034, the 1950 Code of Virginia as amended.

Wherefore, the County of Roanoke prays that this matter be dismissed for lack of jurisdiction.

* * *

EXCEPTION TO THE COMMISSIONERS' REPORT

Filed February 6, 1970

* * *

Now comes the County of Roanoke, Defendant herein, by counsel and renews this, its Exception to the Report of Maxine N. Sink, S. L. Fellers, Jr., and Ernest W. Ballou, Commissioners heretofore appointed by Order entered herein and previously filed in the case styled *Blanche W. Weddle, et al.* v. *City of Roanoke and County of Roanoke.*

This Defendant excepts to the finding o fsaid Commissioners that 52.964+% of the total number of qualified voters of the territory are petitioning this Court that such territory be annexed to the City of Roanoke for the reason that said Commissioners failed to delete the qualified voters as shown in Code 11 of said Commissioners' Report.

* * *

MOTION TO DISMISS

Filed February 6, 1970

* * *

Now comes the County of Roanoke, by counsel, and moves the Court to dismiss the Petition for Annexation previously filed in the case styled *Blanche W. Weddle, et al.* v. *City of Roanoke and County of Roanoke* and as its reasons therefor states as follows:

1. That at the time the Petition therein was filed two annexation cases were pending against this Defendant, County of Roanoke, seeking to annex certain territory to the Town of Salem (*Ivan R. Young, et al.* v. *The Town of Salem, et al.,* and *The Town of Salem* v. *The County of Roanoke*).

2. That the special annexation courts appointed to hear and determine the two said cases are of different composition.

3. That the Petition filed therein seeks to annex territory to the City of Roanoke, part of said territory being included in both aforesaid annexation cases.

4. That under the situation created by the Petitioners therein, it is not possible to comply with the provisions of Section 15.1-1037 of the 1950 Code of Virginia, as amended.

Wherefore, inasmuch as the Petitioners have filed the Petition therein in a manner and under circumstances which make the hearing thereof impossible of complying with the annexation statutes, the Defendant, County of Roanoke, prays that the Petition be dismissed.

* * *

ORDER

Filed July 24, 1970

This cause came on again to be heard this 10th day of July, 1970, upon the following pleadings:

In the case of Ivan R. Young against City of Salem the motion to dismiss filed by the County of Roanoke on February 6, 1970.

In the case of Blanche W. Weddle against City of Roanoke, et als, the renewal of the motion to dismiss, renewal of the plea to the jurisdiction, the motion to dismiss the petition, and the exceptions to the Commissioner's Report, all filed by the County of Roanoke on February 6, 1970.

In the case of City of Roanoke against County of Roanoke and Town of Vinton, the plea to the jurisdiction and the Demurrer filed by the County of Roanoke on February 6, 1970, and the plea to the jurisdiction and Demurrer filed by the Town of Vinton on February 5, 1970.

Upon the oral arguments heard on said pleadings on March 28, 1970, and upon the briefs subsequently filed by the parties pursuant to the Order entered herein on April 15, 1970, and the Court having considered said arguments and briefs doth overrule and deny each of the aforesaid pleadings, to which action of the Court the County of Roanoke and the Town of Vinton by counsel, objected and excepted.

And the Court doth fix October 30, 1970, as a cutoff date for the filing of any additional pleadings to the merits hereof or petitions for intervention and doth direct that on October 30, 1970, at 10:30 A.M., a pre-trial conference be held for the purposes set forth in Section 15.1-1040 of the Code of Virginia, and for such other matters as may be brought to the attention of the Court at that time.

And the Court doth fix April 12, 1971, at 9:00 A.M. as the date for the commencing of the trial of these consolidated cases.

* * *

TRANSCRIPT OF HEARING DATED NOVEMBER 7, 1966

William G. Ammen

[11] * * *

Now, on May 19, 1966, I filed this petition on behalf of my clients in the Circuit Court. Thereafter we met the requirements of the statute for notice and service and publication. We had first drawn our metes and bounds in reliance on the signatures that we had—that is the only way the metes and bounds can be drawn—and they are required, in the petition, to rely on the signatures. Now, of course, we all know that if the city or town annexes, they pass an ordinance—an annexation ordinance, and they draw the metes and bounds on any territory they desire to annex. Our lines are restricted to the people who signed the [12] petition.

[14] * * *

Now, when a group of citizens proceed under Code Section 15.1-1034, they are required to do certain things. The first requires them to obtain 51% of the qualified voters; it then requires them to draw their metes and bounds; * * *

[19] * * *

* * * They are asking that they have—these people have a right to have their names taken off. You go a little bit further, and explain this: I have here three petitions totalling 27 names that were handed in. These petitions will not be used, because there were not sufficient signatures on them to have embraced the neighborhood where they were circulated, [20] or the subdivision. One of them is in this area here, which is Westchester—13 names came from there. We do not include that within our boundary because there was not enough—and we won't use these. These other two are names on the south side of *Litham* Drive in this area right here (Indicating on map). There were not enough names to draw the lines around that subdivision. And if the Court would permit me, I would like to file these as exhibits in support of my argument.

Judge Hoback: What has that got to do with the present case? They are not included, as I understand?

Mr. Ammen: That's right.

Judge Hoback: Before the description or the map was set forth?

Mr. Ammen: Yes, sir.

[42] * * *

Judge Hoback: The Court has been advised by Mr. Ammen that he has additional information he wants to present to the Court concerning the proposed motion.

Mr. Ammen: I have since learned that when these petitions were circulated there was a map marked of the general area that was worked. The reason for it was that, as you recall, The Town of Salem had filed an annexation suit, and they were proposing—the people in this area were proposing to be annexed, rather than to be annexed by The Town of Salem.

Judge Hoback: Do you state the general area was the same that's in the petition, or not?

Mr. Ammen: It was not the same area in the petition.

Mr. Fitzgerald: Counsel for the County submits that's not enough, on the face of it, for this territory to be changed, since these people signed this petition.

Judge Hoback: What changes are there, Mr. Ammen, in the map that was circulated with the petition—and set forth in the petition for annexation?

Mr. Ammen: If Your Honor please, I don't have the map. (Indicating on map) But it was in this general area, that The Town of Salem had filed suit for annexation, running on out, I [43] believe—this is 419 to Grandin Road section—Extension, and back along Grandin Road Extension to the City of Roanoke—and that was the area that was worked.

Judge Hoback: Well, then, the petition wherein it recites and describes the area, was done after the signatures were obtained; is that correct?

Mr. Ammen: The final lines; yes, sir.

* * *

TRANSCRIPT OF HEARING DATED DECEMBER 13, 1966

Richard L. Barnett

Direct Examination

By Mr. Hopkins:

[9] * * *

Q And what is included in the blue and the red was what was contemplated to be annexed to the City of Roanoke? A That's correct.

Q Now the blue line shows that the Westchester Subdivision was excluded? A That's correct.

Q How early in the proceedings was it decided by your committee to exclude Westchester? A Approximately the first thirty days.

Q And why did you decide to exclude Westchester? A It did not show the interest.

Q Then was it the desire of your committee to take in just those areas that want to come into the City of Roanoke? A Just the areas that showed the interest and desire to be annexed.

Q Now, on this original map that you have, you do not have Tarin Hills Subdivision [10] included, and yet Tarin Hills is included in the area petitioned to be annexed. A Right.

Q Will you give an explanation of why this was done? A The reason Tarin Hills was not included from the beginning was because our committee agreed that we would only include the north side of Grandin Road Extension from the City boundary line out west to Mud Lick, and we did not go across Grandin Road Extension on the south side.

Q Then why later did you include Tarin Hills? A That was included by the request of the leader of that subdivision, who called me and wanted to know could they be included, and I answered him in the manner that we weren't working and were not going across on the southside of Grandin Road Extension. And he says that my people show a desire that they would like to be included. And I said, "We're now ready to file our case; we have our boundary lines completed, but

if you can work your area and the desire and interest shown that you have fifty-one percent or better of your quali-[11]fied voters we will include you." So he says, "Give me this weekend to visit and solicit my friends in this area," which he did.

Q And was fifty-one percent of Tarin Hills desirous of coming into the City of Roanoke? A Yes, Sir. And we included them.

Q Whose decision was it to come over and take in the Material Yards—the N. & W. Material Yards, and the Roanoke Electric Steel Plant? A It was our committee. We felt that it adjoined the City and adjoined also our area, and we felt that we would include that in our boundary line.

Q And was that added after the initial? A Yes, Sir.

Q Now who made up your final map for you, the one that is filed with the suit papers in this suit? A That map was made for us by the City of Roanoke Engineering Department, of which the City Council of Roanoke passed a resolution that they would give or offer any help or any assistance of the Engineering Department in preparing maps to anyone interested in joining the City. And the City [12] Engineering Department prepared the final map which we filed.

Cross Examination

[25] * * *

By Mr. Jolly:

Q Is that correct, sir? Some of the signatures were obtained on some of the petitions before any changes were made from your original red area, is that right? A That's right.

Q And all of them were obtained before the final line was drawn? A Uh huh.

[33] * * *

John Payne Cone, Jr.

Direct Examination

By Mr. Hopkins:

Q When did you first hear that the people in the general area were seeking annexation to the City of Roanoke? A I heard it on a news broadcast on the radio.

Q And did the news broadcast on the radio give the general area? A Yes, as best I can remember it described the area as being east from Windsor Lakes to the City limits, and north from Grandin Road Extension to the Lee Highway.

Q Would that have included Tarin Hills? A That would not have included Tarin Hills.

Q Now tell the Court, after you heard this broadcast, tell the Court just what you did? A I, after considerable telephoning around, finally obtained the name of Mr. Barnett as being the chairman of this group circulating the petition. I requested permission from him to circulate the petition in Tarin Hills. He was somewhat [34] slow to give it to me because he said the group had already decided the area to be within the petition, but I finally got him to agree to consult with the other members of the group, and he instructed me to call him back the next day.

When I called him back the next day he indicated that the group had decided to give me permission to circulate the petition in Tarin Hills with the understanding that it would be necessary for me to obtain at least fifty-one per cent of the signatures of the people living in that area.

I did circulate the petition and I received well over fifty percent.

Q Do you recall what percentage you received? That is, in Tarin Hills? A It was close to seventy percent, if I'm not mistaken.

Q And then did you present the petitions to Mr. Barnett? A Yes. I gave them to a member of the group. I don't know if it was Mr. Barnett in person.

Q And it was on that basis that Tarin Hills was included in this annexation suit? A That is correct.

[36] * * *

Cross Examination

By Mr. Hopkins:

Q Would you recite for the record what description of the area you told the people whose signatures you solicited? A From Windsor Lakes east to the City limits; from Grandin Road Extension north to the Lee Highway, plus Tarin Hills if my petition was to be successful.

Q Which would not include the Blue Ridge Industrial Park, the Norfolk & Western Material Yards, Crestmore, Medmont Lakes, or any of those areas, would it? A I was unaware of the area north of the Lee Highway that that was contemplated.

Q As a matter of fact, Mr. Cone, you didn't know exactly where the line was to the southwest and west, did you? A I did not know the exact metes and bounds in that area.

Q And this was the information which you passed on to your petitioners and the lines on which they relied? [37] A That is correct.

Q And you turned those petitions back over to the committee? A Yes, that's correct.

[45] * * *

William G. Ammen

Cross Examination

By Mr. Jolly:

Q Yes, sir. And did you have that map when you talked to these people and explained it to them? A I had it, Mr. Jolly, but I didn't show this map to the people, and the reason being is this:

We had three separate meetings in our neighborhood before this petition was circulated. We discussed many things including the area. And at the time we had these meetings, or the first or second one, we hadn't even seen this petition. We had heard about it, but I didn't even know Mr. Barnett and, of course, the word got around and he contacted me and he brought me this map with the petition, and it has these pencil lines on it which are substantially the same lines that are on the map that is filed with the Court papers, with the exception of Tarin Hills and the Material Yards.

When we circulated the petition in our neighborhood these people were explained where the area was going to be. They were told that a petition was being circulated in Medmont and one in Windsor Lakes and that we would have to have fifty-one per cent of our people, and that also there would have [46] to be fifty-one per cent between us and Roanoke.

Q They were told generally where the lines were, but the lines weren't determined until after all of the petitions were signed? A

The lines that were determined after the petitions were signed are the description by metes and bounds which is three or four pages long.

Q Yes, sir. You made the statement to the Court, you stipulated— A What page is that, Mr. Jolly?

Q On page 41. —that the signatures were obtained before the description or the map—the Court's words "was set forth," and you said, "Yes, sir, that's correct." A On Page 41. Now whereabouts on page 41?

Q The bottom of the page.

"Judge Hoback: Anyone else wish to be heard on the proposed motion?

"I take it, Mr. Ammen, it is conceded that the lines were drawn after the petitions were signed. Do you stipulate that to be a fact, is that correct?"

And you said, "Yes, sir."

Now I say is that statement incorrect?

[47] A That statement, as I meant it, was the description by metes and bounds, and that was prepared after the signatures were on the petition.

Q Yes, sir. A And I would like to also add to that description by metes and bounds follows substantially the pencil lines on the map I have, with the exception of the Material Yard and Tarin Hills.

Q It substantially follows it? A Yes, sir.

Q Have you checked it to know—what variations are there in the lines, if you know? A Well the variation is the Material Yard and Tarin Hills.

Q The line otherwise is exactly the same courses and distances on that map you hold in your hand? A This line is not described by metes and bounds, courses and distances. This is a rough line showing the area.

Q So how much it varies you don't know, or if you do tell us? A That question can't be answered because this isn't by metes and bounds.

[48] Q So you can't say how much it varies because it's not by metes and bounds, that's right, isn't it? A That's right. I reckon that's a fair statement.

PRE-TRIAL CONFERENCE DATED NOVEMBER 8, 1969

[1] * * *

Mr. Jolly: May it please the Court, on behalf of the City of Salem, we renew our motion, which the Court has under advisement, that the annexation cases be consolidated, and a trial date fixed. Now, the Order, as prepared, includes the two cases, with which, actually, the City of Salem is not concerned—and that is the Spring Valley case and the Crossroads case. They were included only because it seemed to me —and I have no interest whatsoever in it—it seemed to me that if the Court was going pursuant to the Supreme Court ruling, and consolidate all the other cases, which include the entire County of Roanoke, it appeared to be a little incongruous to try two separate cases included in the same territory. But, as far as Salem is concerned, we are moving that the big case—the City's case, the Weddle case, the Corridor case, and the Glenvar case be consolidated under the style of Ivan R. Young vs the City of Salem, and set for trial.

And I might make one comment at this point—

Judge Hoback: Crossroads?

Mr. Jolly: The Crossroads and Spring Valley were the two I said we were not directly concerned with. It would appear to me, procedure-wise, those two should also be consolidated. I am not here representing anybody concerned with that. I will confine my motion to the cases with which we are concerned. It [2] would seem to me, also, may it please the Court that this case, if consolidated by the Court when it's tried, suits itself particularly to a separate hearing; in other words, that the Court could try the question of necessity and expediency, and what annexation, if any, is granted to the City of Roanoke, and what annexation, if any, is granted to the City of Salem and, depending upon the outcome of that trial, the next question of any financial settlement may or may not be of paramount concern to the Court. If annexation—substantial annexation which accomplishes, in effect, what the consolidation proposals by the various governing bodies envisions,

I think a financial settlement would be between the two Cities could be properly and amicably adjusted and settled.

I am thinking in terms of saving money and the Court's time, and the considerable expense to the various parties concerned. That's merely a suggestion that I make in connection with our motion.

PRE-TRIAL CONFERENCE DATED MARCH 28, 1970

[61] * * *

This Court is of the opinion that the time of the filing of the petition is governing—in fact, this Court has ruled heretofore on that very point in the Edgehill case, that while people who signed petitions have a right to change their position, you still count the way they signed when the petition was originally filed. In that case, I believe, a writ of error was sought and denied. So far as we are concerned, we suppose that is adjudicated that it was a correct ruling. Anyway, that's the same reason we adopt now. * * *

PRE-TRIAL CONFERENCE DATED MARCH 20, 1971

[9] * * *

Judge Hoback: Now, there is, so far as this Court is concerned—and we have discussed some procedure—in our opinion, the only practical way to present it is for the City of Roanoke to put on the entire case, the City having sought the entire County. Afterwards, the City of Salem might be heard, or any intervenors, and then after it is determined whether or not the entire County would be annexed or not the entire County, we would have to go from there after that point is reached. I see no other way—we see no [10] other way, no other practicable way, that it can be handled.

Mr. Fitzgerald: Your Honors, so that we will be clear and, in trying to meet any case that is put on with the proper defense, there are, of course, five cases that have been consolidated to be heard in this proceeding, and we had assumed, rightly or wrongly, that probably the City of Roanoke, in its case to annex the whole County, might be heard first.

But do I understand that the petitioners, for instance, in the what we call the Weddle case, and the petitioners in the Young case, and the

petitioners in the Wills, case, and the petitioners in the Kinsey case, will not be heard until after it's been determined whether or not—

Judge Hoback: No. I think, when the City puts on its case, all parties who would be advocating going into the City would be part of that case, I presume.

Mr. Fitzgerald: Excuse me.

Judge Hoback: But that would be—the hearing would include naturally the City's case for the entire County.

[11] Mr. Fitzgerald: And within that case, those that represent the various area or petition cases would put on their evidence for that particular case?

Judge Hoback: No, sir, no, sir, because if the Court should decide that the City of Roanoke would take the entire County, that would be moot. They would already have that area. Now, if it is determined that the City should not acquire the entire County, then we would have to take up the different segments.

Mr. Fitzgerald: The individual cases.

Judge Hoback: Yes, that was the way we had anticipated it. We don't know of any other way to proceed. We would be glad to have any suggestions.

Mr. Fitzgerald: I had determined that we ought to be prepared to defend these individual cases and I can see that we ought to be prepared to defend the individual cases, or combinations of them, assuming the whole—if the Court's decision is that the whole County should not be annexed, then we would certainly have to meet those cases.

Judge Matthews: After that decision is [12] reached, then we would mean—then we would meet the other cases as to which of those the City should annex, if any.

Do you have any other suggestions? I thought you and Judge Hoback were in agreement.

Mr. Fitzgerald: Yes, sir. I think that—I just wanted to make sure that I was not doing unnecessary work, and I can see that we are not because we won't have time to stop, assuming the Court determine not

to annex the whole County. Then we wouldn't have time to prepare our defenses then and so we are going to—

Judge Matthews: But, at that time, you would be given ample opportunity to.

Judge Hoback: Yes, as to each case thereafter.

Mr. Fitzgerald: Yes, sir, we will be ready to proceed.

Mr. Gochenour: Your Honors, would counsel in the individual cases be allowed to cross examine witnesses for the City of Roanoke as they put on their case and as it relates to their individual case or area?

Judge Hoback: Well, I think insofar as it would relate to annexing the entire County, [13] you would certainly have that privilege, yes, but not as to any specific area.

Now, as to any specific area, that wouldn't apply. But, now in that connection, it would be very helpful to the Court, unless you gentlemen have already decided as to this, to have a composite map of the entire County, with the different areas noted thereon.

In other words, the corridor, the Windsor Hills, and so on, but we would like one big map showing the entire County, with the five different cases shown and designated thereon. Now, that would be helpful to everyone.

Mr. Fitzgerald: We are in the process of preparing maps along that line. All the maps will show all of these and with overlays and I am sure the City is doing the same.

Judge Hoback: In other words, the suggestion of the proceeding is that the City of Roanoke could put on the entire case for the entire County and then, of course, the County would have the right to cross examine and put on any evidence against the entire County and the City of Salem would also have a right to put on the case whatever they are contending [14] for, which naturally would be a defense to the entire County.

The Court would then rule as to whether or not the entire County would go or, if not, then we would have to take up the individual areas.

* * *

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SKETCH OF ORDER TENDERED BY CITY AND REFUSED BY COURT ON MAY 30, 1971

* * *

ORDER

On the 13th day of May, 1971, came the City of Roanoke, by counsel, and moved the Court to continue the hearings on the Consolidated Cases now scheduled to be resumed on the 31st day of May, 1971, on the ground that the City of Roanoke would not be able to complete its preparation of additional evidence in support of annexation of a lesser area than the entire County by said date.

Upon Consideration Whereof, the Court being of the opinion that the City of Roanoke is not entitled to present additional evidence except in defense of the several petitioners' cases doth Adjudge and Order that the motion of the City of Roanoke be, and the same hereby is, denied, to which action of the Court the City of Roanoke duly excepted.

* * *

ORDER

Entered May 31, 1971

This annexation proceeding came on to be heard on the 19th day of April, 1971, and pursuant to the determination by the Court and agreed to by all parties at the pre-trial on March 20, 1971, the Court proceeded to hear the evidence offered by the City of Roanoke in support of its petition for annexation of the County of Roanoke, including the Town of Vinton pursuant to the ordinance adopted by the counsel of the City of Roanoke on June 9, 1969.

Thereupon, on the day of April 19 and the morning of April 20, 1971, the Judges of this Special Annexation Court, accompanied by counsel for all parties and officials of all jurisdictions involved in these proceedings, toured by bus various areas of the City of Roanoke, the County of Roanoke, the town of Vinton, and the City of Salem, during which tour numerous facilities and points of interest were pointed out and observed.

At the conclusion of said tour, the Court convened and commenced

to hear and receive the evidence presented by counsel for the City of Roanoke in support of its said petition for annexation. Such presentation continuing on the 21st, 22nd, 26th, 27th, and 28th of April. At the conclusion of the evidence presented by the City of Roanoke, there being no others wishing to present further evidence in support thereof, counsel for the County of Roanoke moved the Court to strike the evidence presented by the City of Roanoke for the reason that the City of Roanoke had not borne the burden of proof required herein. Thereupon, the Court adjourned to hear arguments on said motion on April 29, 1971.

Said motion to strike by the County of Roanoke was joined into by counsel for the petitioners in the case of *Ivan R. Young, et al.* vs. *the Town of Salem* (Docket No. 152-1965), counsel for petitioners in *Robert M. Willis, et al.* v. *City of Salem* (Docket No. 108-169), not opposed by counsel for the City of Salem and joined in by counsel for intervenors, William S. Russell, et al.

Upon consideration of such, the Court is of the unanimous opinion that the City of Roanoke has failed to bear the burden of proof in that the evidence presented by the City of Roanoke in support of its petition for annexation fails to prove that it is necessary and expedient for the City of Roanoke to annex the County of Roanoke, including the Town of Vinton, considering the best interest of the City, the County, including the Town therein, the best interests, services to be rendered, and needs of the area proposed to be annexed. It is, therefore,

Adjudged and Ordered that the motion of the County of Roanoke, joined in by others as aforesaid, to strike the evidence of the City of Roanoke presented in support of its petition to annex the entire County of Roanoke, including the Town of Vinton therein, be and the same is hereby granted; insofar and only insofar as it affects the annexation of the entire County to the City of Roanoke, provided, however, the Court will proceed to hear the remaining petitions for annexation consolidated herein, in the order that such were filed, commencing on May 31, 1971, at 9 a.m.

And This Case Is Continued.

* * *

ORDER

Entered June 21, 1971

On the first day of June, 1971, W. B. Gochenour, Attorney for the petitioners in the case styled Robert M. Willis, et al v. City of Salem, one of the cases heretofore consolidated within the above styled cause, advised the Court that apparently a majority of the petitioners and other residents of the area within the Willis petition desired to withdraw their Petition and accordingly said attorney moved the Court that said cause, Robert M. Willis, et al v. the City of Salem, be dismissed from the docket and the Court took said motion under advisement and instructed said attorney to investigate the situation more in depth and continued said motion until this date, June 8, 1971.

Whereupon on said date of June 8, 1971, the attorney for said petitioners in the Willis case advised the Court that further investigation disclosed that an overwhelming majority of the original petitioners, as well as other resdents and registered voters of the area lying within said Willis suit, desired that their Petition be withdrawn and the cause dismissed from the docket and said attorney thereupon moved the Court accordingly.

Upon consideration whereof, the Court being of the opinion that the motion should be granted and that it is proper so to do, it is, accordingly, Adjudged and Ordered that the cause under the style of Robert M. Willis, et al v. the City of Salem, one of the consolidated cases herein, be and the same hereby is, dismissed from the docket of this Court, to which action of the Court the City of Salem duly excepted.

* * *

ORDER

Entered June 22, 1971

This proceeding continued on to be heard on the 31st day of May, 1971, pursuant to prior adjournment, upon the petitions for annexation of *Ivan R. Young, et al* v. *Town of Salem, et al,* Docket No. 152-1965; *Blanche Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966; *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-

1966; *Robert M. Willis, et al* v. *City of Salem, et al,* Docket No. 108 1968, *City of Roanoke* v. *County of Roanoke,* Docket No. 85-1969, consolidated herein, upon the pleadings and papers formerly filed, evidence presented, a further view by the Court, accompanied by counsel for the parties, of certain areas of the County of Roanoke, including the areas included in the petitions of *Weddle, et al* and *Kinsey, et al* and was argued by counsel.

In accordance with prior determination of the Court, evidence was presented in behalf and in support of the petitions of *Young, et al, Weddle, et al,* and *Kinsey, et al,* in such order, counsel for the petitioners in the case of *Willis, et al* v. *City of Salem, et al* having moved the Court to dismiss that said petition for the reasons that the basis of said petition no longer existed and, as far as counsel could determine, the petitioners no longer desired the annexation proposed.

Counsel for petitioners in the cases of *Ivan R. Young, et al* v. *Town of Salem, et al; Blanche W. Weddle, et al* v. *City of Roanoke, et al;* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* having rested such cases, the Court inquired if there were any other persons or parties who desired to present evidence in behalf of or in support of the said petitions for annexation; and there were none such, whereupon counsel for the City of Roanoke stated to the Court that, until ruling of the Court is made with reference to said City's motion to present further evidence to support annexation to the City of Roanoke or less territory than the entire of Roanoke County, the City of Roanoke is not in position to know how to proceed in its case. Thereupon, counsel for the City of Roanoke renewed its motion for leave to present evidence in support of annexation of certain defined territory of the County of Roanoke as shown in color on a map tendered by the City of Roanoke as City Exhibit M-3, said motion being opposed by the County and taken under advisement by the Court.

At the conclusion of all the evidence then presented in behalf and support of the petitions for annexation aforesaid, there being no further evidence offered in support of these petitions, the petitioners having rested, counsel for the County moved to strike the evidence of the petitioners in the cases of *Young, et al* v. *Town of Salem, et al; Weddle, et al* v. *City of Roanoke, et al;* and *Kinsey, et al* v. *City of Roanoke, et al,*

said motion being opposed by counsel for said petitioners. The Court thereupon recessed to consider all pending motions.

After mature consideration, the Court doth Adjudge and Order as follows:

That the motion of counsel for the petitioners in the case of *Robert M. Willis, et al* v. *City of Salem, et al,* be and the same is hereby continued until June 8, 1971, at which time the same shall be granted unless prior thereto the said motion is withdrawn. The granting of such motion is duly excepted to by counsel for the City of Salem.

That the motion of the City of Roanoke for leave to introduce additional evidence in support of the annexation to the City of Roanoke of new areas less than the entire County but in addition to the areas sought by the petitions herein, as shown in color on map exhibit tendered by the City, but not filed or received by the Court, marked "City of Roanoke Exhibit M-3 for identification," be and the same is hereby denied unless such evidence is hereafter requested by the Court. To which action of the Court, counsel for the City of Roanoke duly excepts.

That the motion of the counsel for the County of Roanoke to strike the evidence in the case of *Ivan R. Young, et al* v. *Town of Salem, et al* be and the same is hereby granted; and the petition for annexation herein is hereby dismissed; to which action of the Court, the City of Roanoke duly excepts.

That the motion of counsel for the County of Roanoke to strike the evidence in the case of *Blanche W. Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* be and the same is hereby overruled, with right allowed the City of Roanoke, the County of Roanoke and Intervenors to present evidence as hereinafter provided; to which ruling of the Court, counsel for the County of Roanoke duly excepts.

It is further Adjudged and Ordered that the City of Roanoke is granted leave, if it so desires, to present pertinent evidence as to the areas of the County of Roanoke sought to be annexed in the cases of *Weddle, et al* v. *City of Roanoke, et al; Kinsey, et al* v. *City of Roanoke, et al.* To which action of the Court, counsel for the County of Roanoke duly excepts.

And it is further Adjudged and Ordered that this case be and the same is hereby continued until June 21, 1971, at 9:00 a.m., at which time the City of Roanoke, if it so desires, may put on such evidence as it may deem proper relative to the areas sought in the petitions of *Blanche W. Weddle, et al* and *Roy C. Kinsey, Sr., et al* determined proper after which the County of Roanoke and any intervenors in opposition to the annexations proposed in said petitions will be heard.

And This Proceeding Is Continued.

* * *

TRANSCRIPT OF HEARING DATED APRIL 19, 1971

[4] * * *

Mr. Fitzgerald: The other matter is the [5] order on the pre-trial hearing that was held before, and it was presented to us by the City of Roanoke in the City of Salem, and it contained this language that we object to.

It said: "It further appearing to the Court that if at the end of the case for the City of Roanoke it be determined that the entire County is not to be annexed to the City of Roanoke, then any petition area not included in any area determined to be annexed and desiring to become part of the City of Roanoke" etc.

It sort of presupposed that there was territory being annexed and we didn't want to be closed out at the gate. The counsel on the other side have agreed to strike out "not included in any area determined to be annexed and" and just leave it that if the entire County were not annexed then any petitioner could put on its evidence to come in.

And I endorsed the order at that point and gave it back and after we had agreed to that and then upon other reflection they wish to strike out the words "to the City of Roanoke"—and the Court can see from the words that have been stricken—and I object to that because I thought [6] that the first case was going to be solely to determine whether the entire County was to be annexed to the City of Roanoke and in its petition, in other words, or in its suit, and we are not and it would not concern any suit annexing to Salem.

Judge Hoback: It was the understanding of the Court at our pre-trial conference on March 20th, that the first matter to be decided by this Court would be whether the entire County should be annexed. Of course, Roanoke has filed the petition seeking the entire County, but under the annexation law, for example, suppose most of it would go to Roanoke, or a part to Salem, or most to Salem and part to Roanoke, that would still encompass the entire County.

And, in the event the entire County is not annexed—so whether it be by Roanoke or Salem, or both—then we would take up in order the different petitions. That was my understanding—that was the understanding of the Court.

Mr. Fitzgerald: Well, I'm sorry, because I understood the Court to say that we would take up first the case of Roanoke versus the County.

Judge Hoback: Well, that, of course, would [7] encompass the entire County but—

Mr. Fitzgerald: And it didn't—of course, Salem is not part of that. Salem is opposing that suit, as I understand it, and they're going to be on our same side.

Judge Matthews: Well, aren't you—I may have misunderstood it, but I thought this first proceeding was entirely up to the City of Roanoke.

Mr. Fitzgerald: Yes, sir.

Judge Matthews: Whether or not or that they bore the burden of showing that it should take the entire County. Of course, I believe what you're talking about, Judge Hoback, is the Court may have decided to give Roanoke a portion or Salem a portion, but I didn't know Salem would come into this until Roanoke had completed all of their evidence.

Mr. Fitzgerald: That was my understanding.

Judge Boyd: I thought we would take up the City of Roanoke first and dispose of that, and then take the City of Salem up next.

Judge Hoback: Well, the order, as presented, so far as I'm concerned, says that if the entire County is not to be annexed, then the next matter [8] would be the different petitions. Is that the way you interpret it? Or the way you want to put it by Roanoke?

Mr. Jolly: May it please the Court, our understanding is, as far as the City of Salem was concerned, is that exactly that expressed by Judge Hoback. Of necessity Salem certainly doesn't want to be cut off from putting on any evidence after the City of Roanoke rests as to its rights.

As a matter of fact, the derivative suit that gave rise to this entire litigation is the City of Salem's annexation suit, and under the Rules of the Supreme Court all of these cases had to be consolidated.

Now, we certainly want the right to, as the good Senator has suggested, resist the City of Roanoke's annexation of the entire County to the extent that Salem's interest is affected, and we would vigorously protest any procedural rulings that didn't give us the right to be heard after the City of Roanoke has completed its case, and then I presume the County would have a right to be heard.

Judge Hoback: That's my understanding, that [9] Roanoke would proceed first, and then you—depending on what was decided—then you have the right to come in as the City of Salem, and you have a right to oppose this from its very inception.

Mr. Jolly: Well, we would not have the right to put on evidence after the City rests its case.

Judge Matthews: That's my understanding.

Mr. Jolly: Yes, sir.

Judge Hoback: Any question about that?

Mr. Fitzgerald: No, sir; only I hear it stated two different ways. It's pretty difficult, I think, for the City of Salem to be on the County's side and say, with regard to the entire County, that it shouldn't be annexed, and then in the next breath help them do it.

The case I thought we were going to try was the City of Roanoke against the County of Roanoke, and that Salem was going to be on the same side of that case opposing it, and then after that case was disposed of, then it would be determined whether Salem would proceed with its case, and the petitioners would proceed with their case, whether it was necessary to do that.

[10] Judge Hoback: That's my understanding, but I don't see where that precludes any rights of the City of Salem.

Mr. Fitzgerald: And, I assume the City of Salem would vigorously cross-examine the witnesses of the City of Roanoke and oppose the entire annexation of the County.

Judge Hoback: And that would in no manner interfere with their rights or their proceeding after the other matter is determined.

Mr. Fitzgerald: No, sir. For that reason, except for some statistical, I believe, exhibits, we didn't attempt to present or file exhibits dealing with the City of Salem's case or the Young case, or any of the other petition cases.

Mr. Davenport: If the Court please, it was our understanding, just as Judge Hoback has stated. I think there is a difference between the two because I don't see how the Court can make a determination on the City of Roanoke case alone, as respects this whole area, and the annexation statutes contemplate that the Court, after the evidence is

completed, shall determine what if any is a proper annexation. Now you've got two suits, two cities here involved, that the Court of [11] Appeals, as Mr. Jolly said, sent this case back and said that they had to be consolidated for trial, and I don't think you can try the case piecemeal.

We—if Salem has got a claim in here for a certain area, and it's exhibits indicate that it was, and that it wants, and the City of Roanoke is seeking the whole thing, then it seems to me that the initial determination, just as Judge Hoback stated a while ago—and I think Judge Boyd agreed, if I understood what he said correctly—if the determination is whether the County should be all annexed to Roanoke or whether it should be divided between Roanoke and Salem, or whether it should not all be annexed.

Now, the three possible alternatives—

Mr. Fitzgerald: And how about if none should be annexed?

Mr. Davenport: —well the fourth possibility that there should be no annexation. When that determination is made, then the Court, for the first time, knows what the next procedural step is. Until that determination is made, I don't see how the case can be orderly tried.

Judge Matthews: I think it is a matter of [12] procedure. I think the first issue to be determined—and I thought we determined it in the pre-trial conference—was whether or not the City of Roanoke took the entire County. Now if we determine that they don't, then it doesn't affect the rights of anybody, for Salem or—and everybody else to come on in. But that issue must be determined because actually the City of Salem and the City of Roanoke of necessity are on opposite sides to the County in taking it all. But, anyway, as to the City—it is just a matter of procedure.

Judge Hoback: The procedure would be that Roanoke would present or proceed with its case in chief, and if Salem wishes to proceed in opposition claiming that Roanoke can have all but what we want, if the Court agrees, and then the entire County is gone, and the rest of it is moot. The rest of the petitions are necessarily decided, and that was the way, certainly, that I had it in mind. If you say the entire County is going to be annexed by Salem and Roanoke together, then it would still be terminated. Otherwise, we would retrace the entire case.

Mr. Fitzgerald: I would defer to the Court's [13] decision and judgment, but the problem, as I see it, is that put on that basis, then the County is trying and is defending itself then against Salem and Roanoke at the same time.

Judge Hoback: Right.

Mr. Fitzgerald: It was my understanding that we were going to proceed with the Roanoke case first and defend that case, and then proceed—but in any event we can do that.

Judge Matthews: That was my understanding.

Mr. Fitzgerald: But the one thing that I would like to call to the Court's attention—if that is the way we're going to proceed—is that I believe that regardless of whether or what Salem may do or what Salem may say, that we are here defending the case brought by the City of Roanoke to annex the entire County, and that case must stand on its own feet or fall without help from Salem to say "We will take these problems from you and you can have the rest."

This is a suit to annex the whole County and we hope the Court will try it as that and hope that they will require that the suit, if it can be to be substantiated on its own feet.

Mr. Davenport: Well, I would like to [14] remind the Court—or my comment in reply, if your Honor, please, to what Mr. Fitzgerald has just said, would be that the Court, under the statute, after it hears the City of Roanoke's case if the City of Roanoke is, in the Court's opinion, entitled to any annexation, the Court has got to fix the line, so when it is fixing that line, if that be the result, it can equally fix the Salem line if Salem is entitled to any annexation.

Judge Hoback: Well, I think the decision of this Court would be, after hearing the evidence, whether the entire County is to be obliterated and annexed. If that is decided, the other four petitions are moot. If we do have that, after hearing all the case, decide whether Roanoke and Salem, or the two together cannot annex the entire County, then we would take up each of the petitions thereafter and try them one by one.

That was certainly my thought and that was my belief that we had agreed on at the pre-trial conference.

Mr. Jolly: I thought so.

Mr. Fitzgerald: I do not intend to extend the argument, your Honor, but I do ask the Court to enter my exceptions to the ruling because I [15] have endorsed it without being excepted and before the words were stricken.

Judge Hoback: Well, the exception will be noted in the record, and if you wish to, you may note it on the order itself, and you may do so.

Mr. Fitzgerald: All right, sir.

Judge Hoback: Any other matters? I think we all are in accord but not expressed the same way.

Mr. Jolly: You're exactly right, sir.

* * *

TRANSCRIPT DATED APRIL 20, 1971

R. R. Quick
Direct Examination

By Mr. Davenport:
[4] * * *

Q And your occupation is a realtor? [5] A Real estate broker and realtor.

Q Now, from your experience over the years and in recent years in this area, what have you found concerning the availability of land in the City of Roanoke [6] for a residential development? A Well, for the better part of the last ten years, we haven't had any sizable tracts of land for single-family residential subdivisions. There have been and still are a number of scattered smaller sites which are really not economically feasible to develop into a first class subdivision. Most of our effort in the last ten years has been directed outside of the City because of the scarcity, almost a non-existant supply, of suitable land in the City.

[9] * * *

Q You have also had, I believe, considerable experience along shopping center and other commercial lines in development of those, have you not? A Right. We did the Towers Shopping Center ten years ago, which was probably the last site in the Southwest part of the City that could accommodate a shopping center.

* * *

[10] Q Could you find a site in the City today for the location of a modern shopping center? A Nothing that would be comparable to Towers or the Roanoke-Salem Plaza or Crossroads, which is in the County; and the Roanoke-Salem Plaza is in the City.

* * *

Mr. Fitzgerald: May it please the Court, do I go first, or does the City of Salem? It looks like to me, both cities ought to do their direct examination if Mr. Jolly wants to ask the witness any questions.

Mr. Jolly: I have no questions, if that will solve this particular dilemma. (Laughter)

Mr. Fitzgerald: That solves it.

Cross Examination

By Mr. Fitzgerald:

Q Mr. Quick, you testified in the case of Higgins v. Roanoke County, did you not? A Yes, sir.

Q And that was an annexation case to annex your subdivision of the Spring Valley— A That is correct.

Q —to the City? [11] A Yes.

Q How many homes have you built in Spring Valley Subdivision in the County of Roanoke? A Well, there's approximately eighty homes in the County and about a hundred and twenty in the City in the same subdivision of that name, but in both City and County.

Q When did you build it or finish the last of the houses in the County? A Well, we are not through yet; we are building all the time.

Q Well, you finished some house last. Now, how long ago? A Well, two weeks ago.

Q How many houses in the subdivision have you not sold? A Well, we only build what we have sold. We don't build anything that we haven't sold.

Q So, then your testimony is that all of the houses you built, or all the houses you started to build, have been sold? A All of mine, yes. Now, there are other builders in the area.

Q But all that you have built—the eighty some plus—those that have not been completed— [12] A That's right.

Q —have been sold? A That's right.

Q You say there are no tracts in the City of twenty acres or more, with few exceptions? A I didn't say that. I said there are very few tracts of twenty acres or more that I consider suitable for subdivision development in the $15,000 and above price range.

Q Are there any farms in the City of Roanoke? A Oh, yes. I know of one.

Q What size are they? A I'm not real sure but I imagine two or three hundred acres.

Q Any of that suitable for residential development? A Not particularly, in the range of the Spring Valley development, no.

Q I'm not talking about the Spring Valley development. I'm talking about residential development of any sort. A Well, a portion of it could be suitable, that portion which is not under the instrument landing approach at Woodrum Field.

Q Yes, sir. [13] A And, however, the owners are holding it for industrial development and have a price on it which generally takes it off the market, so I don't think it's really available.

Q So, well, whether it's available or not, there have been other parcels in the City that have not been available one year, that became available the next; isn't that true? A Well, I don't remember any similar situation, but I doubt if the situation will change next year on that.

Q Yes, sir. But that is entirely speculative? A Yes, sir.

Q The owners of the property could be dead next year, couldn't they, Mr. Quick? A Yes, sir, that's right.

Q And the new owners could have entirely different ideas of selling the property, wouldn't they? A Well, for ten years we have all been trying to persuade them to utilize the property, with no success.

Q They are holding it for industrial development—the two hundred acres? A Well, that's what I understand.

Q All right, sir. The garden apartments—have you developed any of those within the City of Roanoke [14] in the last ten years? A Well, yes, we have built a hundred and twenty-five units adjoining Towers Shopping Center.

Q Excuse me. Go ahead. A That's the largest one we have done in the City.

Q A hundred and twenty-five units adjacent to Towers Shopping Center? A Right; that's in the City.

Q How long ago did you do that, sir? A Well, we started it three years ago and finished it about a year ago, but that was one of those unusual sites that we had high density zoning and we built a hundred units on three acres.

Q Yes, sir. You had testified in the last case of the City of Roanoke against the County of Roanoke, didn't you, sir? A Yes, sir, I did.

Q Wasn't the intent of your testimony in that case to tell the Court that there was very little, or no, vacant land left for any type of residential or department development in the City? A Yes, and I think that is still true.

Q But, after that, you found room to build a hundred and twenty-five units in that one location, [15] didn't you? A I found a real large three-acre tract.

Q Yes, sir, a real large three-acre tract. [Laughter]

How about the—you mentioned that the Towers Shopping Center had some problem of topography. What was the problem? A There was a great differential from one street to the other, about thirty-five feet, in the distance of less than a thousand horizontal feet, which necessitated our putting it in two levels and doing some substantial grading in keeping the radio station in operation at the same time. Now, that was the only site available and so we decided that the additional expense was probably justified.

Q Well, there are some advantages to building on a grade of that sort, aren't there, sir? A No; not really.

Q How about the apartments; were they built on similar grade or are they on a level? A No; we found a flat space.

Q Found three large acres of flat land? A Yes, an unusual circumstance. (Laughter)

Q Yes, but you found that the building on this considerable slope to be a feasible thing to do and [16] a profitable thing to do? A Mainly because it was in the City and it was the only site available and the options were—

Q If it had been across the line, it would not have been as profitable? A No; it would have been further removed from our market. But, if it had been two blocks away, it would have—and level—it would have been much better.

Q Well, Mr. Quick, do you know of any shopping centers that have been built in the County in the last ten years a little further away from the market? A Yes, but that is a different market.

Q That's a different market? A Right.

Q You said yourself your South Roanoke Apartments are on a sewer line that cost you more than if you had been in the City. Whose sewer line is that? A Well, the sewer line was actually built and paid for by ourselves and other people.

Q Yes, sir, but whose line is it; who owns it? A Well, I'm not real sure. I believe that is a moot point as to who owns it. I'm not sure about that.

Q Do you know who the people you're paying the sewer bills to? [17] A Paying them to the Sewer Authority.

Q The Roanoke County Sewer Authority, Public Service Authority; is that correct? A That's right, that's who we paid our—

Q That's who you paid your tap fees to, wasn't it? A That's who we paid what we considered rather high connection fees to lines that we had already paid for.

Q Yes, sir. You mentioned the fact that water bills are higher out in the County than they are in the City. A Yes.

Q Those rates are set by the City Council of the City of Roanoke, aren't they, sir? A Well, they are furnishing water in the County, and I suppose it's their prerogative.

Q Yes, but the question is, the City of—the Council of the City of Roanoke sets those rates and nobody else. A That's right.

Q And they do charge more if it is outside their limits? A Yes.

Q But you don't pay those City taxes, do [18] you? A They're almost as much.

Q Almost, but not as; is that correct? A No. I expect this year, we will pay as much as.

Q Yes, sir. A Yes, because we just got a 40% increase in one year.

Q Are you aware of the rate increase advertised by the City of Roanoke; have you read that in the paper? A Oh, yes, I pay attention.

Q How much is that increase? A Well, it hasn't come about, and maybe it won't.

Q Yes, sir, but we have been doing some speculating before, so how much have you read the increase is—$1.08 for a hundred? A Something like that.

Q Yes, sir. A My increase in or on South Roanoke is not speculation, though. It's a fact.

Q I notice that you have had some part to play in redevelopment projects. A No, not really.

[19] Q Not really? A No. We—

Q I see. Well, I see here in the qualifications, it says, "Redeveloped, renovated and re-leased foreclosed Roanoke Apartments." A Are you speaking of federal redevelopment or private redevelopment?

Q I'm just speaking from what you have here (indicating). A That's private redevelopment, yes.

Q That's private redevelopment? A Yes.

Q Where did that take place? A That was in the City of Roanoke, the former Roanoke Apartments which are now called the Terrace Apartments.

Q Yes, sir. And you also redeveloped old Franklin Heights Apartments? A That's right.

Q Now, that is known as the Village Green Apartments? A That's in the City, too.

Q Yes, and one of those, the first, the Terrace Apartments contained two hundred and twenty-five units? [20] A Yes.

Q And the Village Green eighty-four units; is that correct? A Yes.

Q Are there any other apartment projects in the City that are in need of redevelopment? A Might be.

Q You're not in the process of redeveloping anything else in the City? A No; that's all, those two projects: one, the Terrace, was built in the fifties and the Village Green was built in the early thirties, so they were both—they both had some age on them.

Q Yes, sir. You did a complete redevelopment job on them? A Well, we did a redevelopment on them, yes.

Q And there they have all been rented out, have they? A That's correct.

Q Now, can you tell the Court whether or not there has been land made available through public redevelopment in the City of Roanoke in the last ten years? A Well, the Commonwealth Redevelopment Project was made available for a very short period of time, but then the City of Roanoke purchased that for [21] their Civic Center. Adjacent to that, there is another—

Q You say that was made available by redevelopment; where the Civic Center is? A Yes.

Q And the City purchased that? A Right, but the reason it wasn't redeveloped prior to that, it was then in the lowest income area of the City and the ethnic problems—well, no developers were interested in coming into the area because of the location, the high cost of redeveloping the property, and nobody wanted to pay those prices.

Q In your experience, Mr. Quick, isn't land redeveloped in all of several categories: residential, commercial and industrial? A Well, this—when you're speaking of this one, you're speaking of what is a federal redevelopment, and I'm not sure that there was—well, I know there wasn't any economic justification for it. It was a federal tax write-

off situation. There was no private economic justification for it and not to this day.

The two projects that we redeveloped and that we were able to economically and feasibly redevelop at economic rents without any tax write-off.

Q Yes, sir. How about any other land? Didn't we see some land yesterday that is being redeveloped [22] residentially—townhouse or garden apartment type redevelopment? A No. Are you speaking of the property in Riverdale?

Q Well, do you know of any? A Well, that wasn't redeveloped? That was a tract of land that's been going begging for twenty-five years and the only people who bought it to put anything on it was a federal rent subsidy or public housing project. There are no private developers who could stand to go in and develop that land for private purposes because of the location.

Q What was wrong with the location? A Well, it was in an area that was developed forty years ago a mile upstream from the sewer treatment facilities. Topographically, it was very poor; at least half of it waste. A private developer could not stand the cost that the government will pay for the site and it will be a success as a public housing project because it doesn't have to show a profit and everybody that lives in it will be living in it on a rent subsidy.

Q But it's provided the land was available for that public housing use? A It was there for that purpose.

Q And that was steep topography, too, wasn't [23] it? A Yes, and I say only the government could afford it.

Q How about the area of Mill Mountain? Are you familiar with the development around there? A Yes, we developed the base of Mill Mountain on the east side as a residential development in 1956, and we used up all of the usable land at that time.

Q How far is that from that sewer treatment plant? A That's about two and a half miles upwind.

Q Upwind? A Yes.

Q How about the Garden City area? A Garden City was developed forty years ago when they didn't have anything such as a sub-

division ordinance and it hasn't gotten much further along since then.

Q Is there any other area of Mill Mountain that is—that you think can be developed? A Well, no; the City and State purchased a large portion of it for a park. The remaining part that's in private hands is steep and, if it had better access, it might be utilized for higher-priced homes but the only way you can get to it now is through an industrial [24] area and a lower-priced area. Consequently, I don't think it would be feasible to develop it into higher-priced residential use.

Q You say there are some homes there that you built some years ago? A Oh, yes. They were in the price range of $10,000 to $14,000.

Q Those homes still worth $10,000 and $14,000? A Well, they're worth probably $13,000 to $16,000 now.

Q Are they built on steep topography? A No. This was the flatest part of it.

Q Are there any homes built on the steep topography that are around Mill Mountain? A Well, there is—now, that's a relative term. Around Roanoke, everything is built on steep topography.

Q It is? A In Richmond, it would be something else.

Q No, sir. Let's get back to Mill Mountain, if we can. Are there any homes built on the steep slopes of Mill Mountain, on the— A Oh, yes, on the—

Q —on the sides of it? [25] A On the north side, there is a few that were built there forty years ago when that was a high-priced residential area.

Q That was a high-priced residential area? A Yes.

Q You didn't build those homes? A No, oh, no; I wasn't around then.

Q Are those homes still holding their value? A No. Not like, oh, I'd say, they're less than forty per cent of the replacement cost.

Q Forty per cent of the replacement cost. Are those worth more today than they were when they were built, sir? A I doubt it.

Q You doubt it. How about, are you familiar with the buildings on Peakwood Drive? A Yes.

Q And is any of that built on steep slopes? A Yes, that happens to be in the right part of town.

Q That's the right part of town. Are they expensive homes? A Oh, yes, and with good access.

Q Is there any land available up there? A Very little.

[26] Q How many acres would you suppose that have not been developed? A I'm not sure how much hasn't been developed but I can tell you less than ten acres that would be suitable for development.

Q Why is the rest of it not suitable, in your opinion? A Well, access for one.

Q Topography? A Right, topography and access.

Q This matter of topography sort of blows both ways, doesn't it, Mr. Quick? Sometimes it can be developed and sometimes it can't; is that correct? A Well, when the end product is expensive enough that it will support the cost of the development of the lots, yes. But, when you get below $20,000, it will not support the higher development cost.

Just the same as that Towers Shopping Center. We paid more for the land site development simply because there were no satisfactory alternatives.

Q Do you not find many homes being built in the area of—for less than $20,000? A Yes, there is a few.

Q A few. I said "many". A A few.

[27] Q All right, sir, a few. Is there any vacant land along Shenandoah Avenue in the City? A A little suitable only for commercial or industrial use, not residential.

Q Well, do you do any commercial or industrial development? A Yes.

Q Well, it would be available for that, wouldn't it, sir? A Oh, yes.

Q How much is available along there? A Well, oh, probably something in the order of twenty to thirty acres, but most of this has topographic problems, too.

Q Again, simply because of the amount of slope? A That, yes, hillsides.

Q That's the topographic problem you're talking about? A That's right.

Q That's the steepness of the slope? A Well, it's not only that. It's valleys and hillsides and you can't build a one-acre plant on inclined land, you know, and you have to level it and that adds to the development cost.

[28] Q Are you familiar with the construction of the Holiday Inn in Salem? A Yes.

Q What sized tract of land do you think that sits on? A It's a ninety acre tract or site. I sold it to them.

Q That was a right steep slope that it was built on, wasn't it, Mr. Quick? A Yes, it was. They did it because it was the only one place they could get near that interchange.

Q Yes. A And that gave them a good view and they were willing to pay the price for the site.

Q So, there are some other factors other than topography or topographic that control the development of land, aren't there? A Well, money mainly, but that site—ninety acres—sold for $35,000, so they could tear down half the mountain and still not have too much in it.

Q You don't think the topography in the City has anything to do with the price of the land, as it does in the County, but— A It does have a lot to do with the price of the land in the City and the usability and feasibility [29] with developers.

Q You mentioned ethnic problems in part of the City that retarded development. What ethnic problem are you talking about? A Well, your access to certain areas. You either have to go through colored areas to get through—for example, your Northeast redevelopment area, why, this was a colored slum clearance project. I don't think anybody in their right mind would expect you to go in there and in a redevelopment of $40,000 houses, do you?

Q But that might be a redevelopment in commercial and industrial type things; is that correct? A Well, automobile dealers.

Q Yes, sir. A And repair shops, that sort of thing.

Q All of these places need a place to go, don't they, Mr. Quick? A Oh, yes, yes.

[30] * * *

J. L. Twinkle

called as a witness in behalf of the City of Roanoke, being duly sworn, testified as follows:

Direct Examination

By Mr. Davenport:

[31] * * *

Q (Continued) According to your qualifications data, you have specialized in the real estate business along industrial lines, I believe? A Industrial and commercial.

[32] * * *

Q Now, what is your—what have you found in the way of available land for modern industrial development in the City of Roanoke? A Well, quite frankly, we facetiously answer people when they ask us that question, "What have you got available in a large tract of land in Roanoke City?" we [33] tell them, "If you can find it, please tell us. We don't know about it."

But, quite frankly, we know of virtually no available satisfactory industrial land in the City of Roanoke.

[36] * * *

Q Trinkle. You said they have to have, speaking of industry, so many acres? A As I said, that varied, yes, sir.

Q And that can vary all the way from a half acre of land to a hundred acres of land, can it not? A Yes, sir, I think I indicated that.

Q Well, you didn't indicate how much of a variance. A Right.

Q But it all depends on the nature of the industry, doesn't it? A That's right, yes, sir, and the size.

Q Yes, sir. There is some types of industrial uses that—small machine shops, metal workshops, and things like that—that are industrial uses and require just a small amount of industrial land use? [37] A That is correct, yes, sir.

Q And there are a number of sites like that available in the City, aren't there? A Yes, we rent quite a number of them.

Q Yes, sir. And if some of these types of uses, that is, the smaller uses, the topography is no problem with them—correct? A In many cases, that's correct.

Q And you say the eighty acres of land near the Viscose is available for long-term lease—ground lease? A That's right, or—excuse me—build and lease, or ground lease.

Q Right. Are you aware of any other tracts that have been developed in that manner in this area? A There have been some small tracts, yes, sir.

Q This is not an unheard of way of developing a tract of land in an industry? A Oh, no, sir. No, sir, it is not.

Q Mr. Quick testified that the Huff farm is being held for industrial use. A Right. Yes, sir, that is, to the best of my knowledge, and that is correct. It is being held for that use.

Q That's what the owner wants to do with it. [38] He wants to sell it for industrial uses, doesn't he? A Again, I think that's what he does, but may I interject this. This may be what it's being held for but at the price it's being held for, I think it's going to be continued—it's going to continue to be held for a good while.

Q Yes, sir. And that's the whole thing. If somebody comes along with the price for a hundred acres, Mr. Huff is going to let it go, isn't he? A Well, they say everything has a price.

Q Yes, sir, and this property has a price, too, doesn't it? A Well, I would say that I have seen people who had no price. Let me say that but I would say that, everything else being equal, there is a price at which most property will or would move.

Q Then you agree with Mr. Huff that it is being held for sale for industrial use? A That's what I understand it's being held for.

Q Yes, sir. How much of it do you think is usable for industrial development? A I would guess, based on some information I have in working with some other industrial companies, and what have you here, that approximately two hundred [39] acres—and you'd probably

lose fifteen to twenty per cent for roads and easements, and so forth—so, you're talking roughly, I would estimate, about a hundred and sixty acres.

Q Well, you lose land for streets and things of that sort? A Right, right.

Q In any kind of development? A Right.

Q But, for just dividing up this tract, you say about two hundred acres? A I say you would have approximately two hundred gross acres, yes.

Q All right. And how much do you think would be available for residential development? A Well,—

Q I guess the balance of it? A Well, the balance of it and I don't know that exact acreage that the balance of it is.

Q Do you have any idea of the approximate size of that property? A Three to four hundred acres but that's an off the top of my hat opinion.

Q What type of residential development would you envision would go in that location? [40] A In that immediate area, there are single-family and there are multifamily and there are garden apartments. I would guess that at what they desire to do and the price that you're talking about there that you're talking about multi-occupancy development.

Q That may be as high as what—thirty or forty units what—per acre? A Well, it all depends on what the zoning is for that particular area for multi-use. The density varies depending on what type of zoning it is and, of course, you have with that property, you do have the problem of the airplanes coming into that Airport and this noise is a problem.

Q Yes, sir. And the airplanes don't always come in from the same direction, do they? A Well, as a rule, the heaviest portion of them come in in this direction.

Q This is where the approach is? A Yes, this is where the instrument approach is.

Q But there is some of this land that doesn't lie directly in the path of the runway? A That's correct.

Q And this is the residential development we are talking about? [41] A Yes. And I do not, as I stated previously, ever think that this land will be suited for any heavy industry.

Q Yes, sir. What types of industry do you think would go here—warehouses? A I think it would be excellent for warehouses. No question about that.

Q When you're talking about heavy industry, you're talking about a steel mill or that type of operation? A General Electric, Ingersoll-Rand, this type of thing.

Q And an electronics plant would probably go there, wouldn't it, sir? A Well, most types of electronics probably would, yes.

Q Research and that type of thing? A Yes, research.

Q And warehouses? A Right.

Q Truck terminals? A You could put truck terminals there, but you would probably get some argument.

Q Well, there are some truck terminals not too far away? [42] A Well, yes, that's right but, as I understand it, the zoning in this particular tract at the present time, you do have to screen your yard and this sort of thing, and you can't store in the open yard and what have you.

Q Do you know what this property is zoned at present? A What I referred to, it's something like what—it's what I call a special industrial. I was arguing about this with some of the people from the Power Company the other day but this is not zoned heavy industrial.

Q But it is zoned for some industrial type uses? A Yes, at the present time.

Q At present? A Yes.

Q Any of the rest of it zoned for residential uses? A I do not know.

Q Who controls the zoning of that tract of land? A The City of Roanoke.

Q The City Council of the City of Roanoke, doesn't it? [43] A That's right.

Q Mr. Quick testified something about, or in response to a question I asked him about land along Shenandoah Avenue. Do you agree that there is considerable small tracts along that street available for industrial development? A There are a number of small tracts. Let me—I'm fairly familiar with Shenandoah Avenue and we have handled a fair amount of property up there. We have loan property and we have located a number of businesses. Yes, there are a lot of, shall we say, substandard houses and there are some small lots, but the terrain is not the best. You have an assembly problem there.

I mean, there is a lot of land if you take individual lots and say it is substandard housing, but for someone who wanted to come in with a substantial tract, even ten acres, you would have a most difficult and expensive time trying to assemble this property.

Q I'm talking about the industries that need small acreages of an acre or two acres, or something like that. There is plenty of that land available on Shenandoah Avenue, isn't there? A Well, you have got one problem. We find and I'm talking about practical and we live with it every day—there is one problem with that area at the moment. [44] This area is heavily burglarized. Well, people very much hesitate, and we virtually—every week, when we mention that area, people do not want to locate there. So, this is not, in my opinion, a strong area for this type of development at the moment.

Q Heavily burglarized, you said? A That's right. There are robberies all within this general area and there have been a number of robberies and a number of businesses have been broken into.

Q The police don't seem to be able to curb it? A They are doing all they can, but it has not been able to be stopped, to my knowledge, at this point. I think, however, it has improved and how much it's improved, I'm not qualified to say. But I think right down the street there on Shenandoah, if my memory is correct, I believe someone was killed down there not too long ago. This is an area that we have found, as a practical matter, people are not anxious to locate in.

Q It needs redevelopment, doesn't it? A Redeveloping would probably help considerably.

Q And some brighter lights? A That would help.

[46] * * *

William M. Zollman

called as a witness in behalf of the City of Roanoke, being duly sworn, testified as follows:

Direct Examination

By Mr. Davenport:

* * *

A William M. Zollman, Jr.

Q And you are a professional engineer, I believe? A That

[47] * * *

Q And you have participated in some twelve annexation studies and cases? A That's correct.

* * *

Q Now, first of all, you tell the Court that—and you are with the firm of Hayes, Seay, Mattern & Mattern in Roanoke? A That's correct; that's right.

Q And your firm, before your day even, has had a good deal of annexation experience, has it not? A Yes, sir.

[60] * * *

A Exhibit A-12 shows here in a crosshatched pattern and shows in the Exhibit Book in a gray pattern areas which have slopes generally in excess of twenty per cent. By "twenty per cent" we mean that there is a rise or a fall of twenty feet vertically for each one hundred feet horizontally. They are areas which do not lend themselves to development in many cases, or in most cases. When development does take place within these areas, it is usually very costly and there must be very special considerations given to it.

The development is expensive and impractical in most of these areas because the topography is such that with the extreme grades, street construction, utilities, construction and lot grading are very difficult and very expensive; and there are also problems in or with erosion and rock, and for the most part we will find that the typical residential subdivision developments will avoid these areas, and only the more expensive houses, or in some cases where the fringe develop-

ments will take place [61] within the area of twenty per cent slope or better.

Now, the twenty per cent, of course, in the case of Roanoke County is the beginning point; the slopes actually will range on up to thirty and to forty to sixty and to eighty per cent.

[62] * * *

In the City of Roanoke, there are 2314 total acres which are either mountainous or within rivers and streams, which is roughly thirteen per cent of the City's land area. The City's total vacant land at the present time is 3672 acres, compared with approximately 5396 acres which were vacant ten years ago, or in 1960.

Q Was that the time of the last annexation case? A Yes, sir.

[63] * * *

Q All right. What about Exhibit 14, unless there is something else on A-13 you want to point out? A Exhibit A-14 deals with the vacant land situation in the City of Roanoke. The City presently has a gross vacant land area of 3672 acres. Of this, 777 acres are with slopes of 20 per cent or greater and 134 acres are covered by rivers and streams. Now, I might point out that of this 134 acres in rivers and streams, that is land which is normally covered by rivers and streams and does not include land that would be subject to flooding. If we include all of the flood plane land, we would come up with a figure much bigger than the 134 acres.

This gives the City what I refer to as net developable vacant land of 2761 acres which represents 15.8 per cent of the total area of the City of Roanoke.

[70] * * *

Q All right. Go ahead and comment on A-19. A A-19 is a semi-logarithmic type of graph. This type of graph is used in order that the rates of increase or decrease in values can accurately be compared between localities having different magnitudes.

[71] * * *

Q All right, sir. Now, go ahead and discuss this. A Since there have been annexations, and since there have been reassessments taking place, the best comparison is—which I feel you can make in this particular case—is between the years 1962 and 1970. During this eight-year period of time, the City of Salem's true values grew by 116

per cent, the Roanoke County true values grew by 108 per cent, if we utilized the 40 per cent assessment ratio; but they grew by about 140 per cent if you use the 34.7 per cent ratio which we have been given by the Department of Taxation.

The City of Roanoke, during the same period of time, had an assessed or true value of growth of 9 per cent. The combined jurisdictions had a growth rate of 46 per cent in true values. It should be noted in the [72] case of the City of Roanoke that the 9 per cent growth between 1962 and 1970 does not keep pace with the inflationary trend which we experienced over the same period of time.

As a result of this, we can conclude—have concluded that the City of Roanoke's true values of real estate are actually decreasing or have been decreasing over the past eight-year period. This has been a combination of properties coming off the tax rolls and being devoted to governmental or non-tax uses and has also been due to a general depreciation which has been notable in the older residential and business areas of the City.

[73] * * *

Q This discusses population trends? A Yes.

* * *

Q What is reflected here so far as Roanoke in the last twenty years as compared on the others? Perhaps A-21 can show that better. A I have it computed for ten-year periods. Actually, we can take it back over a twenty-year period. We show from 1950 to 1960 that Salem increased 135 per cent in population and then, from 1960 to 1970, they increased another 37 per cent. At the same time, the County of Roanoke increased 32 per cent from '50 to '60, and then another 46 per cent from '60 to '70. The City of Roanoke, at the same time, increased 6 per cent between 1950 and 1960, and then lost 5 per cent between 1960 and 1970.

[80] * * *

Q All right. Your next exhibit is A-24, which I believe is an overlay. What do you want to lay it over? A A-24, I would like to lay over the land use map.

Q Including putting A-24 on top of the combination of A-11 and A-12? A Yes, sir.

[81] * * *

Q All right. Now, what does the new overlay on A-24 depict? A Exhibit A-24 is a delineation of what, in my opinion, can be as current—is now considered the urban area of Roanoke County as opposed to the rural area.

[82] * * *

Q What were the premises or bases on which you picked that urban area out and what considerations were involved? A In depicting the urban area, I was mainly interested in what, in my opinion, would be a conservative approach to what part of the County was, for several reasons, of an urban nature. I considered the land uses in the area, the population density and distribution within the urban area, and either the availability or the needs for urban services within the area. And, as a result of that, I came up with this line (indicating) which is, in my opinion, a delineation of the urban and the rural area.

I have noticed since I drew this line that some other agencies—one of them being the Fifth District Planning Commission—has drawn a similar type of line, although obviously not exact, but describing the [83] same general area which I have delineated, and that they referred to it as the urban part of the Roanoke Valley region. In some cases, it is referred to as a corridor line for the benefit of their study.

Q All right. Now, when it delineates the urban area, it necessarily eliminates the rural area or what might be determined the rural area, does it not? A Yes, sir, it does.

Q Do you want to discuss that? A After the delineation of the urban area, we find that on the easterly side of the County we would be left with one relatively small rural area (indicating) along the Botetourt and Bedford County lines. This would be the area generally which would include Reed Mountain (indicating) and some of the agricultural uses adjacent to Reed Mountain. We also have a sizable area of the Blue Ridge Parkway and also some adjacent rural areas (indicating). I believe we looked down on top of those particular areas on the tour yesterday.

Then, on the south side, we have a band which is south of the Blue Ridge Parkway which runs around the County (indicating) down into the Bent Mountain area and up to the line of Route 11 or the Interstate Route 81. (Indicating) In my opinion, that forms a second

and separate area of Roanoke County. I say that, mainly, [84] because the area to the east is, in effect, isolated from this area to the south either by topography or by the fact that the urban area is between these two parts of the rural county.

A third area is then created by a line along the Interstate Route 81 west of Salem (indicating) around over the Fort Lewis Mountain up to the Craig County line, including the Catawba Valley, the Mason Valley, the Masons Cove Area, over to the Botetourt County line on the east (indicating). For the same reason this area, for all practical purposes, forms a third jurisdiction in that it, too, is separated by a combination of topography and the urban area from this area to the south, or the small area to the east (indicating).

It was in these areas, and it was notable on the dot map or the map that showed the distribution of dwelling units—they are nothing but scattered communities or settlements of people. There is no nucleus of population or promise of population growth in any of these three areas which are depicted here as the rural portion of Roanoke County (indicating).

Q Well, when that line or the location of that delineating line is noted with reference to the slopes, does it not appear that it really runs right along the base of the mountains, as a general proposition? [85] A For the most part, it does, yes. That, to a great extent, is true because that is where the urban development has pretty much been arrested at the present time, and where we can expect it to be for all practical purposes arrested for the future. So, you can't anticipate that there will be too much urban development on—in the mountainous areas. There can be with the availability of utilities some squeezing out, so to speak, of the urban area down the corridors of 221 (indicating) 220 (indicating) 460 and so forth. But, to a great extent, much of this urban-rural line is the base of the mountain ranges.

* * *

Q You may take your chair and look at Exhibit A-25. And I take it that this is an analysis, a statistical analysis, financial analysis of the rural portion that you have testified and discussed—the rural portion of the Valley? A Yes, sir. This is an analysis of the areas, which lie outside of the urban areas, being the three different areas which are shown on the overlay: the mountainous areas which we were just discussing comprise [86] approximately 74 per cent of the rural area,

and although the rural area contains approximately 200 square miles, there are only 52 square miles of this which are not mountainous terrain. On Exhibit A-25—

Q And they, I take it, are largely in farms? A Yes, sir, to a great extent they are farms. Now, of the mountainous terrain, of course, we have approximately 27 square miles in the rural area which is government-owned land. In Section 1 of Exhibit A-25, we are comparing the rural study area with the total Roanoke County as it now exists. We cover the land areas with the slope conditions which exist in the study area, and the total County, the population of the rural area, I estimated at 11,300 people as compared with the total Roanoke County population of 67,400.

The population density in the rural area would be 56 people per square mile as opposed to 256. The estimated school enrollment in the rural area would be about 2840 children.

We also undertook a tabulation of the assessed values of property within the rural area, that being the property from which the rural area would derive its taxes should it be in a position, or be left in a position to perform its own governmental functions. We find that of the approximately 208 million dollars of [87] total assessed values in Roanoke County, the rural area comprises less than 20 million dollars or about 10 per cent. The rural area, as can be seen from the comparisons of assessed values per capita and assessed values per school pupil is presently very dependent upon the urbanized area of the County.

The assessed values per capita and per school pupil in the rural areas now being approximately 50 per cent of what they are in the total of Roanoke County. The things which lend to this, of course, is the fact that there are practically no businesses or industrial enterprises whatsoever in the rural area. The residents of the rural area—and I think that although we find a number of farms in the rural area—it is also obvious from our own observations that many of the rural area residents are presently dependent upon the urban area for their employment or livelihood.

The prospects for immediate development in the rural area are rather meager and I don't think we will see any development in that rural area of any substance until such time as the urban portion has become so saturated that development is forced into those areas. Of course, even then the development will not be substantial until the utility services can go into the rural areas.

[88] We have also shown, on Exhibit A-25, a projection of a typical budget which I feel represents what the rural area would be faced with were it to manage its own affairs. We show, based upon the existing fiscal year '70-'71, the budget of Roanoke County, revenues which the rural area might expect of $2,009,430. These are compared with expenditures of $2,565,050. As a result of this, there would be a deficit in a typical rural area budget of $555,620, and in order to satisfy this deficit which would appear in the rural budget based upon the prevailing—now prevailing—tax rates, there would have to be an additional levy of $2.81 to satisfy the deficit.

In summary, the results of this would be a rural area tax rate of approximately $5.26 in order for the rural area to provide for the essential services of government which the people in that area would have to have.

Q What is—excuse me a minute. In your judgment, is it practical for the rural area, under those circumstances,—under those fiscal circumstances and the financial picture, to be a self-sustaining operation? A I don't feel that the rural area can practically or feasibly support itself alone. All indications are—and they are decided in my opinion—are [89] that the rural area is dependent financially upon the urban area, and I don't feel that the rural area would have the population or the school pupils, or the community structure that would be necessary to create an independent type of a government. I think, from a practical standpoint, that for providing educational services, for instance, that a school system with less than 3,000 students in this rural area, bearing in mind that they would be split geographically and topographically into at least two distinct areas, would not be a good situation for this part of Roanoke County.

I feel that the only way that a good system of education and other services could be provided for the rural area would be on a contractual basis with the remaining city or cities, that being the urban area. Of course, if the rural areas must contract for these services, then they would have to have the revenues to pay for the services, which are offered at the urban level. If the rural area chose, of course, and I don't feel that it would be a proper thing to do—they could degrade the level of services which they now enjoy and possibly get by with a somewhat less tax rate, but I do not feel that the rural area has enough in the way of growth prospects, or resources, to where it could ever be comfortably fixed financially.

[90] We might compare, for instance, the rural area which might be remaining in Roanoke County with various other Virginia counties. The rural area with 11,300 estimated population would rank sixty-seventh among the ninety-six Virginia counties. Now, with that I think we have to bear in mind the locations and the sizes of those—of the ninety-six counties in Virginia—to get any sort of a comparison. For instance, the median population of all the Virginia counties is now approximately 16,500 people. The rural area of Roanoke County would be approximately 5,000 less in population than the median for the State.

In land area, the rural area with its approximately 200 square miles would rank eighty-fourth of the ninety-six counties. Now, there are twelve counties in the State with less area than this rural area. They range—they are ranging in size from Arlington County which is 24 square miles, up to Northumberland County which has right at 200 square miles, but I think there is something that we need to take into consideration in this comparison, and that is of these twelve counties which would be smaller in land area than this rural area, none of them have the extremes of topography which we find in the Roanoke County area. The majority of these counties, with the lesser land areas, are in the eastern part of [91] Virginia and they are counties where the elevation differences from one side of the county to another would certainly not exceed fifty to a hundred feet. So that we find a situation where in those cases, while the counties are smaller, they are counties where the land is practically all usable.

In this case, we are talking about 50 square miles of usable land and, in my opinion, that usable means not only for development but for farming as well.

As to wealth, the rural portion of this County would range ninetieth among the ninety-six counties. The only counties in the State which it would exceed in its wealth per school pupil would be the Counties of Nansemond, Lee, Scott, Wise, Smyth, and Tazewell. The average wealth—that is, the true values of real estate and public service company properties for Virginia counties now is $29,758 per school pupil. The rural portion of Roanoke County would have a wealth of $17,935 per school pupil.

Q The sum and substance of those statistics would indicate, would it not, that if only the urbanized portion of the Valley were

brought under the municipal government—under the City of Roanoke government, or perhaps part of the City of Salem—that what would be left would be a poor county unable to sustain itself. [92] Isn't that really what you are saying? A Yes, sir, that is.

* * *

Q Now, what is the significance of this, Mr. Zollman? A A-27, with A-26, show the way the public facilities or major public facilities are concentrated within the City of Roanoke, these being mainly the hospital and health facilities, transportation, cultural facilities, [93] governmental offices and the educational facilities.

We find that the facilities are in the City of Roanoke, they are also in the City of Salem to a certain extent, but we find that very few of these facilities which are used regularly by the public located within Roanoke County.

Q All right, let's move on to A-28, which is a large map. Well, A-28 and A-29 really go together? A Yes, sir.

Q Just a different time of the day? A Yes.

Q All right, sir, do you want to discuss it?

* * *

If I may refer to Exhibit A-28 first. This exhibit shows the peak hour traffic volumes at the Roanoke City limits in the morning between the hours of 7:30 a.m. and 8:30 a.m.

[95] * * *

Leaving the morning peak hour situation and referring to Exhibit A-29, we have the same type

* * *

We are finding again the same general type of situation occurring in between the hours of 4:45 p.m. and 5:45 p.m. as has—except in an opposite direction—as it occurred or as had occurred during the morning peak hours. That is, the traffic for the most part is out of the City.

* * *

Q Does that indicate that business and [96] occupation is in the City and the bedrooms are outside the City? A Yes, sir. I feel it does very plainly exhibit that, that there are places of employment within the City of Roanoke to which the County residents from the suburbs are commuting each day to utilize.

Q Did you or your firm undertake to make a census or sampling of the employment within the City— A Yes, sir.

Q —and the source of the people that are employed? A That is right.

Q What was the result?

[97] * * *

The result of this survey represented a total of 23,443 employed persons. We found that 14,189 of these were residents of the City of Roanoke. That is approximately 60.5 per cent of the total of 23,000 employees. The remainder 39.5 per cent were residents of areas outside of the City of Roanoke. Now, of these 39.5 per cent who resided outside of the City of Roanoke, slightly in excess of 24 per cent were either residents [98] of either Roanoke County or the Town of Vinton, and 6.2 per cent were residents of the City of Salem.

TRANSCRIPT DATED APRIL 21, 1971

[103] * * *

Q Can you tell the Court what the significance of these exhibits is, as to needs, if any, of the City of Roanoke? A In my opinion, these exhibits point out needs of the City of Roanoke in three distinct areas, the exhibits relating to land use being Exhibits A-11 to A-14, as well as the exhibits which show the subdivision development in the City and surrounding area over the past 20 years, being A-15 and A-16, as well as the exhibits dealing with dwelling unit construction over the last 20 years, being Exhibit A-17, in my opinion point [104] out the dire need for developable vacant land in the City of Roanoke.

The exhibits dealing with population, being Exhibits A-20, 21 and 22, I feel show that the City of Roanoke is definitely suffering from a loss of population, and that much of its population that is being lost represents the leadership which a City such as Roanoke, very greatly needs.

Related to both of these is the depreciating tax base, which is definitely a problem with the City of Roanoke. The exhibits dealing with the true values of likely assessed real estate in the City being Exhibits A-18 and A-19, I feel very definitely demonstrate the depreciating tax base from which the City is presently suffering.

* * *

[106] Q Now, what do you find from your studies as the needs of the county area, which is the subject of annexation? A I feel that the county area or what we might consider to be the area as a whole has needs which are very much akin to the needs of the City of Roanoke itself.

The land needs of the entire area which I have just touched upon, in my opinion again, are in need of centralized and efficient control in order to assure that enough land will be available in the future to accommodate the needs of the entire area.

The tax base—I feel that the entire area through centralization can benefit from a diversification of the tax base. Even though the County of Roanoke now enjoys a relatively wealthy situation with respect to a tax base, nevertheless I feel that the annexation or joining together of the separate jurisdictions will diversify the overall tax base of the entire area.

As to population, the City, I have just said is losing the leadership to the County. This same leadership of the people who are earning their livelihoods within the City of Roanoke and who are running business places within the City of Roanoke should be a part of that city and they should have a voice in the government of the city which controls their business voices and their sources of livelihood.

[107] Q Do you find any need for services in a general way in the County that it doesn't have now? A I feel that a unification of the services in the Roanoke valley area will help to offset and prevent the duplications which are becoming more and more obvious as the County becomes more urbanized.

Inevitably if these jurisdictions are to remain separate, the County of Roanoke will be forced to duplicate the administrative structure which now exists within the City of Roanoke, and I think this duplication is something which the citizens and taxpayers of the area should not have to bear the burden of. I think it is an unnecessary duplication and something which can be avoided and will definitely improve the efficiency of the entire County area's government.

Q You have been testifying now regarding an area which includes the town of Vinton. Very little has been said about the town of Vinton. As you know, if this annexation suit is successful in the City of Roanoke, the town of Vinton would be absorbed by the City of Roanoke. What do you have to say with reference to that? A With respect to the town of Vinton, Vinton is presently providing a number of urban-type

services which aren't necessarily enjoyed at the same level throughout the area of Roanoke County. I feel that annexation would certainly not [108] decrease the level of any services which the residents of the town of Vinton now enjoy.

In fact, I feel that these services would certainly be improved as a result of annexation.

As to the town of Vinton, I would have to compare the town of Vinton, in my opinion, to the role of Virginia towns throughout the Commonwealth. The towns in Virginia, I feel, have served and are serving a very good purpose but they are serving this purpose in areas where they are surrounded by rurally oriented counties and counties which are not equipped to provide the urban services which the townspeople need and because of the way they are congregated into a small and compact area.

I also feel that when the day comes that the area around the town becomes so urbanized and the services become available to that town from a larger and more efficient organization, then the need for the towns existing to provide these urban services no longer exists.

I feel that it's a situation that has certainly taken place with respect to the town of Vinton, that geographically the town of Vinton is in effect an appendage of the City of Roanoke and there is nothing that the residents of the town of Vinton need that can't be more efficiently provided by the City of Roanoke.

[109] Q All right. I want to draw your attention again to Exhibit 24, which is a combination of Exhibits 11, 12 and 24, and which is one that delineates what you have termed the rural study area from the urban area.

I would like to have you express your views to the Court as to what would be the effect of annexation upon the rural area. A I feel that insofar as the area is concerned that is delineated within the black line on the exhibit, that that area constitutes the urban area and to me there is no other way to split up the urban area without breaking the cohesiveness and the bonds that join the different developed sections of this urbanized portion of Roanoke County.

As a result of that we leave an undeveloped and to a great extent relatively unpopulated section of Roanoke County which is not of an urban nature at the present time.

I feel with respect to the rural area that annexation will not affect any particular changes in the life that the residents in the rural area

now enjoy. In fact, I feel that the future for the residents of the rural area can certainly be enhanced through annexation and through the strengthening of the—through combination of the urban portions of Roanoke County and Roanoke City.

[110] As we showed on the exhibit relating to the characteristics of the rural study area, the rural area is definitely dependent upon the urban area for its governmental services and without the urban area, in my opinion it cannot survive well on its own.

The majority of the population, regardless of annexation, will always be in the urban area. So even if Roanoke County were to remain as it is today the interests and the efforts of the County government have got to be devoted to the urbanized portion of the County because that is where the majority of the people are going to be.

I do not feel as a result of that that the situation of this rural area as part of a larger and combined community will change or will be affected to any great extent, any more than it presently is.

The rural area, I feel, will definitely benefit from the improved services which the stronger urban area can provide.

I think, too, that when we look at the map we can see that the rural study area will be divided by the urban area as well as the topographic features, and I think we should point out that of the communities which exist in the rural area, being the Mason's Valley community, that that mountain community and the community to the east in the vicinity of Bonsack, that these [111] are more or less communities that are approximately 15 miles apart from each other, and that they are not what we would visualize in Virginia as being a typical County type of arrangement. We would be creating more or less a crescent-shaped county divided in the middle by topography and the urbanized area.

* * *

Cross Examination

By Mr. Jolly:

[113] * * *

Q Mr. Zollman, there has been placed on City of Roanoke Exhibit A-11 an overlay which for identification purposes I will refer to as Exhibit SM-4. Have you seen this overlay, sir? A Yes, sir, I have.

Q And when did you see it? A I saw it after court yesterday.

Q Did you examine it at my request, sir? A That's correct.

Q Could you come around to the map board, please, Mr. Zollman?

Now, this overlay, I believe, shows in red the present corporate limits of the City of Salem, isn't that correct, sir? A Yes, sir, it does.

Q And it is the same scale as City of Roanoke Exhibit A-11? [114] A That's correct.

Q And it shows outlined in yellow the western end of Roanoke County, is that correct, sir? A That's right, the northwesterly part of the County.

Q All right, sir. Would you tell the Court generally what the line from the northeast corner of the present corporate limits of the City of Salem to the County line, what that represents? A This line from the northeasterly corner of Salem which is at the Hanging Rock Interchange on Route 81 generally follows a drainage shed line, and then the property line of the City of Roanoke's Carvin's Cove water impoundment area.

Q All right, sir. Howabout the line beginning in the southeast portion of the present City of Salem? A That line begins where the Salem corporate boundary crosses the Veterans Administration Hospital property and runs around the easterly side of the VA Hospital property, down into what is called the Barnhart Creek Water Shed, and through that water shed around areas known as Medmont Lake mainly, then goes in a kind of a southwesterly direction up the Barnhart Creek Water Shed and then approximately follows the ridge line of Poor Mountain to the southwest and to the Montgomery County line.

[115] Q Now, the southwesterly portion of that line generally follows the Glenvar petition area, isn't that true, sir? A Generally so, yes, sir.

Mr. Fitzgerald: If it please the Court, I object unless the materiality of this line can be shown. We are not trying the Willis case or the Glenvar cases referred to, or any other petition case. We are trying the case of the City of Roanoke against the County of Roanoke. Now, any evidence that the City of Salem wants to put on to show that the

City of Roanoke should or should not annex the County of Roanoke is all right, but unless the materiality can be shown from this line, which is involved in no suit, I would object to it. If we are trying any of the petition suits it is certainly not in accordance with my understanding of our procedure.

Mr. Jolly: May it please the Court, this witness has testified as to the necessity and expediency of annexing the entire County of Roanoke, and as I understood the Court's ruling during the course of this proceeding dealing with the possible fate of the entire County, the City of Salem would be permitted to introduce evidence relative to the areas that it feels [116] are within its sphere of influence, and certainly we do intend to produce evidence that this area is relevant, that this line is relevant insofar as the City of Salem is concerned.

Judge Matthews: I think you are just a little premature in assuming a whole lot of other things. I am inclined to agree with Mr. Fitzgerald.

Mr. Jolly: May it please the Court, do we not have a right to ask him questions relative to the identification of the line topographically and other engineering facts?

Judge Hoback: For identification purposes. I think you are within your rights to question whether the entire County should be annexed to the City of Roanoke, that is also the issue we are trying, whether all of it or part of it or none of it would be annexed. Go ahead, sir.

Mr. Jolly: All right, sir.

Mr. Fitzgerald: Note my exception.

Mr. Jolly: Now, could we have City of Roanoke Exhibit A-12, which is the overlay?

Judge Hoback: Mr. Jolly, the Court feels that your questioning or any information on behalf of the City of Salem should relate to the question whether all [117] of the County should go or be annexed to the City of Roanoke as this witness has testified.

Mr. Jolly: Yes, sir.

Judge Hoback: So you are identifying your exhibits for the purpose of cross-examining on that issue, as the Court understands it.

Mr. Jolly: Yes, sir.

By Mr. Jolly:

Q Mr. Zollman, would you describe generally to the Court what this exhibit shows with reference to the area to the west and north of the yellow lines on the overlay SM-4? A The condition of the City's Exhibit A-12 depicts the slope condition or identifies the mountainous terrain which exists in the area to the west of the line shown on the Salem exhibit.

Q The area that is hatched marked indicates what, sir? A That indicates land with a slope of 20 percent or greater.

Mr. Jolly: Could we have City Exhibit A-23? That is the dwelling unit.

I would like to have the overlay A-24 placed on that, please, the urban area overlay.

By Mr. Jolly:

[118] Q Mr. Zollman, you testified referring to Exhibits A-23 and A-24, that A-24 represents the urban area, the urbanized area of the Roanoke Valley, and A-23 shows the dwelling units, is that correct, sir? A Yes, sir.

Q And I believe you described the rural area as you characterized it as being divided into three sections, is that correct, sir? A That's correct.

Q Would you point out those three sections briefly, sir? A This area referred to as the Catawba area north of Interstate Route 81, and then the southerly area from Interstate Route 81 in a southerly crescent shape generally south of the Blue Ridge Parkway, and west of the City of Salem, and the developed areas in the southwest part of the County immediately around the City of Roanoke and in an easterly area in the vicinity of Read Mountain and the Botetourt and Bedford County lines.

Q Now, if we could put on that SM-4, and if you could just move it up here for the Court, I don't think it is necessary to go through all the gymnastics.

Now, Mr. Zollman, your theory, as I understand it from your testimony, based on these two exhibits we have referred [119] to, and also your book Exhibit A-25, which projected the necessary tax rate to

provide services in what you have explained to be the rural areas of the County, does a north-south division as contemplated or proposed by the yellow lines do violence to any of the theories you have testified to, sir? A With respect to the rural area I don't see that it would, no, sir.

[120] Q All right, sir. You can take that down now, if you will.

Now your Exhibits A-28 and A-29, and I don't think it's necessary to mount the big maps, if the Court would refer, please, to the book map exhibit on your traffic volume maps.

With reference to the main east-west roads which affect Salem, which are Melrose, Salem Turnpike, Shenandoah Avenue and Brandon Avenue? A Yes.

Q You recall those two exhibits, Mr. Zollman? A Yes.

Q I believe it's true, is it not, sir, that the morning traffic into the City of Roanoke, or in the direction of the City of Roanoke and the morning traffic in the direction of the City of Salem just about even out? A Yes. I believe I stated there was, to me, an evidence of an interplay of commuter traffic between the two cities, that they are practically the same.

Q There is very little, if any, difference, both morning traffic in and out and afternoon traffic in and out, isn't that correct, sir? A That is what that exhibit shows.

Q All right, sir. Could we have Exhibit A-31? And [121] I would like to put SM-4 on there, please.

Now, Mr. Zollman, would you tell us again very briefly what Exhibit A-31 represents? A A-31 represents the results of the 1969 consolidation vote by voter precincts in Roanoke County.

Q All right, sir. Now, looking at A-31 with SM-4 interposed over the top of it, would you read into the record of precincts, voting precincts, that were affected—were involved within the yellow lines to the north and west, and the results of the consolidation vote in those precincts? A All right, sir. Catawga, 222 against; 14 in favor; Mason Valley, 314 against, 31 in favor; Brushy Mountain, 334 against, 58 in favor; Glenvar, 551 against, 68 in favor; Green Hill, 234 against, 34 in favor; Westland, 138 against, 176 in favor.

I think we are splitting the Windsor Hills No. 1 precinct, as well as the Oak Grove precinct. D you want me to—

Q Of the precincts that predominate, you have read those votes into the record, have you not, the precincts that predominate this area? A Yes, sir, the ones that are predominantly within this yellow line.

Q All right, sir. If you would resume your seat on [122] the stand, please, sir.

(Witness resumes witness stand.)

Q Mr. Zollman, you have been in charge of preparing this case with the City of Roanoke from an engineering standpoint, have you not, sir? A That's correct.

Q And you personally, and persons under your supervision, have made a complete study of the entire county and the town of Vinton, and the two cities in coming up with the conclusions to which you have testified here before this Court, that's correct, isn't it, sir? A Yes, sir.

Q And is it not true that the yellow line on SM-4, as shown there on the map board generally follows water shed lines, natural drainage lines, isn't that true, sir? A For the most part, yes, sir. I think down a short way through the Barnhart Creek water shed there on the southeasterly side of Salem, possibly there is a split of the water shed. But generally speaking, it follows the water shed, or water shed lines.

Q Well, the Barnhart Creek area, which is just southeast of the present City of Salem, to literally follow a water shed line through there would result in a division of hundreds of property lines, would it not, sir? [123] A It would, yes, sir.

Q Generally, it does follow a water shed drainage area line, is that correct, sir? A For the most part, it does, yes.

Q And the present eastern corporate limits, as fixed by a prior annexation court, follows almost exactly a water shed line, isn't that correct, sir? A Yes, sir.

Q So, from an engineering standpoint, Mr. Zollman, is it not correct that that is an acceptable annexation line insofar as the City of Salem is concerned?

Mr. Fitzgerald: May it please the Court, I would have to object to that because we haven't tried that case.

Judge Hoback: Sustain the objection. This information is simply for cross-examination purposes as to whether Roanoke should acquire

all of the County; not what Salem should acquire. We will try that later, if we reach that point.

The issue is whether Roanoke should acquire the entire remaining County, and this cross-examination is for the purpose of that.

Mr. Jolly: Yes, sir.

Q All right, sir, Mr. Zollman, as I understand it, [124] your theory is that the rural areas of the County which you heretofore identified and demonstrated, cannot support themselves from a practical standpoint, without the intervention of municipalities in the urban areas; is that correct, sir? A That is correct.

Q And could not your theory of the urban areas supporting the rural areas be carried into full force and effect by the City of Roanoke's annexation of the area to the east of the yellow line as shown on the map, sir? A I should think that the situation relatively would be the same as what I previously explained for the entire County.

* * *

Q Mr. Zollman, when you moved to this area, had you been employed by the firm you now work for? A I had been offered employment. I didn't accept the job until I found a house to live in.

Q But that was your purpose in moving to this area, to take a job with the Mattern firm? A That is correct.

Q And you were City Manager of the City of Fairfax when you were offered this job? [125] A Yes, sir.

Q And wasn't it known at that time that your duties would be to participate in annexation cases? A Yes, among other things.

Q This was one of the primary purposes that this firm hired you, wasn't it? A That is right, annexation, consolidation, transitions. I was hired as a Municipal Consultant to take care of questions relating to Municipal Government regardless of what they might be.

Q You have participated in several other annexation cases? A That is correct.

Q All of them on the side of either town or city? A That is correct.

Q Now, when you moved here you said, being a City Manager, that you naturally intended or desired to live in the City? A That is right.

Q Did it make any difference whether you lived in Salem or Roanoke? A No, not particularly.

Q Did you look for a house in Salem? A I didn't look for a house in Salem.

[126] Q Why not? A I think my first choice was the City of Roanoke. Frankly, I never gave Salem a lot of thought from the standpoint of a place of residence.

Q So next to the City of Roanoke, you next chose the County of Roanoke? A Well, there was one other consideration. Salem was farther away from me commuting-wise. In other words, when you look for a house you are looking for what you want and you are looking for convenience.

Q And it really doesn't matter where it is or what jurisdiction it is in as long as it is a house that you want that is convenient to you, isn't that true? A It depends a lot on what sort of services you have been accustomed to. I had come from the Fairfax area. I lived in Fairfax County and had no services and then I lived in Fairfax City and I had a full range of municipal services and I had come to enjoy street lights and fire protection and so forth. In my mind I felt these were important in the selection of a house.

Q And where you lived in Fairfax County you hadn't had any of those things? A No, sir.

Q But Salem never entered your mind. You selected [127] Roanoke County when you didn't find a house in your price range in the City of Roanoke? A As I said, I selected the southwest part of Roanoke County because it was an easier commuting route to where I work.

Q Approximately how many members are there in your firm, Mr. Zollman? A It will average from 125 to 150.

Q Approximately how many of them live in the City of Salem today? A I don't know.

Q How many of them live in Roanoke County? A I don't know that.

Q Can't you give us an approximate number of people in your firm that live in Roanoke County? Some of them live in Salem don't they? A Yes, we have members of our firm who live in Salem.

Q One of your senior partners lived in Salem until fairly recently, didn't he? A I believe we had a senior partner who has possibly always lived in Salem since he has been with the firm.

Q One of the Matterns? A That is correct.

[128] Q And a number of them, you know, live in Roanoke County? A That is true.

Q And some of them live in Roanoke City? A Yes, we have employees who live in the City.

Q What price house did you buy, Mr. Zollman? A Around a $35,000 range.

Q Around $35,000? A That is right.

Q And you hadn't been able to find anything like that in the City? A I hadn't been able to find anything which offered me the house that I wanted in that price range.

Q So it was the type of house, not the price range? A Well, it was the neighborhood, it was the type of house, it was the price, it was all of those things taken into consideration.

Q Those weighed against the services that you would be provided there? A That is right.

Q You looked into that, didn't you? A If you have ever bought a house you know the real agents tell you that these things are coming right shortly.

[129] Q And you believe real estate agents? A Well, you do to a point.

Q You don't exercise your own judgment, then, in buying a house as to what is there and what is going to be there, do you, Mr. Zollman? A Yes.

Q Do you have children? A Yes.

Q And you knew what schools they would be going to? A Yes.

Q And they are going to Roanoke County Public Schools? A That is right.

Q How many children do you have, Mr. Zollman? A One.

Q And what school does that child attend? A He goes to Cave Springs Elementary.

Q Looking at your exhibits, if you will, Exhibit A-2, from that exhibit we find that the City of Roanoke has approximately 5,000 less people in 1970 than it did in 1960, is that correct? A Yes.

Q And we find that the per pupil cost in ADA of education in the 1969-70 year was $700 in Roanoke and $554 in [130] the County of Roanoke, is that correct? A Yes.

Q Turning to Exhibit A-3, we find that while the City of Roanoke has lost 5,000 in population its assessed values have gone up from 1965 from $247 million to $277 million? Is that what we find from that exhibit? A It is a total assessed value that has increased from $247 million to $277 million.

Q In that period of time? A In that period of time.

Q so with fewer people it has higher assessed values, is that correct? A Yes.

Q If you would look at your Exhibit A-4, please. That shows the situation as it exists today, or prior to the adoption of any budgets for 1971-72 fiscal year. That shows the true tax rate of Roanoke is $1.38 while the true tax rate of the County of Roanoke is 85 cents, is that correct? A That is right, the true tax rate on the real estate.

Q Does it also show that the true tax rate of the City of Roanoke has dropped from 1968 to 1970? A It shows approximately a three cent differential between those two years, which is not anything unusual.

[131] Q I just said it shows a drop. That is not approximately three cents, Mr. Zollman; it is exactly three cents, isn't it? A Well, it may be rounded slightly but—

Q I am talking about what your exhibit shows. A The figures show an increase from $1.35 to $1.41 and down to $1.38.

Q My statement was correct, then, wasn't it, that it shows a drop from '68 to '70 of three cents? A That is right.

Q Your Exhibit A-7, Mr. Zollman, shows that the City of Roanoke has continuously annexed land up until 1968, does it not? A It shows that the last substantial annexation was in 1949 and that there were small or petition-like annexations in '65, '67 and '68.

Q My statement was correct that the City of Roanoke since its inception in 1874 has over the years annexed a number of times up to 1968, isn't it? A Yes, it has had a number of annexations.

Q Mr. Zollman, in your opinion would the City of Roanoke have been able to exist if it had not been able to annex? A At what point in time?

Q Any point in time. [132] A You mean beginning in 1874?

Q Take the last large annexation that you were talking about. Would the City of Roanoke have been able to exist if it had not been able to annex? A I think we would have had—Well, we have got a somewhat unpleasant economic situation at the present time and I think that situation would have been much worse than we find it today.

Q Are you saying that, for instance, if the city of Roanoke was surrounded by cities, as Norfolk is, or if the city of Roanoke was a jurisdiction like the County of Arlington is and cannot annex—neither of them can—they could not have existed while those two jurisdictions are doing very well? A I think there is a tremendous amount of qualification that would have to be put on such an answer as that. The City of Roanoke is certainly not comparable in its economic structure to the County of Arlington and, to possibly a lesser extent, it is certainly not comparable to the City of Norfolk.

Q What does the City of Norfolk lack that those two places have? A Insofar as the County of Arlington is concerned, it lacks the federal payroll which supports Arlington County.

Q Does Arlington County have industry like the City of Roanoke has? [133] A Arlington County, no. Arlington County is a residential-type county for the most part, with the supporting offices and so forth which support the population in Arlington and, of course, recently, in the last five to ten years, the growth of the services and the

office buildings and so forth of the federal government in the City of Washington have come to Arlington County in a big way.

I don't think there is any comparison whatsoever between Arlington County and the City of Roanoke. In fact, it is rather difficult to compare Arlington County, with its economic situation, with any city in Virginia.

Q This federal payroll you talk about, the County of Arlington doesn't tax that, does it? A No city in Virginia taxes payroll or taxes income. It is this income which enables the people to buy high-priced property and to live in high-priced homes and generally it is the income which makes the real estate tax base.

Q Mr. Zollman, you did a complete study for this annexation case. When you make a statement that the economic situation of Roanoke County is thus and thus, you must have made some analysis of the industry in the City of Roanoke, in and around the City of Roanoke? A In a general way, yes. This word "complete" needs to be defined, I think, a little better. I am generally [134] familiar with the industries that support the people in the Roanoke area.

Q Let's just see. When were you hired in this case, Mr. Zollman? A Approximately a year and a half ago. Actually the work on this particular proceeding didn't begin until about a year ago.

Q Are you the consultant that told the City they had to annex the whole county? A No.

Q That had been decided before you were hired, is that true? A Yes.

Q And you were told to justify it? A Yes.

Q Who made that decision? A The decision to annex the whole County was made by the Roanoke City Council.

Q But you did not advise them in making that decision? A No, sir.

Q What study did you make after you were told to justify this annexation of the whole county? A It wasn't a matter of justification, in my [135] opinion. It was a matter of bringing out the facts as much as possible relating to annexation.

The studies are pretty well outlined in the Table of Contents of this exhibit.

Q Are the ones that have been testified to so far the only ones that you or your firm made? A We prepared the exhibits, all of the exhibits which are in the City's exhibit book, but the ones that I have testified to, I believe, are the only ones which we actually developed the source material for. The others are based upon information which various City departments gave to our firm.

Q Mr. Zollman, you didn't develop all the data that went into the exhibits you testified to, did you, or your firm? A We collected or assembled the data.

Q The traffic study was not done by your office? A No, sir, it wasn't. Again, how far back down the road do you want to go for the source as to where this came from? It is generally cited on each exhibit, the source of the material.

Q You made population studies, didn't you? A Yes, sir.

Q And studies of school enrollment and school attendance? A That is right.

[136] Q And attendance areas of schools? A Well, the attendance areas of schools we didn't study ourselves. This was done by the City School Board or the Superintendent's Office.

Q In coming to the conclusion that the City of Roanoke was justified in annexing the whole County, you had to certainly take into account what it would do to the school systems, didn't you? A That is correct.

Q And you certainly studied the composition of the schools by racial balance, didn't you? A No, sir.

Q You did not? A No, sir. Racial balance is not a part of any studies which I have made.

Q This wouldn't enter into your judgment at all as to whether the annexation was justified or not? A I don't think it should.

[137] Q You don't think it should? A In any annexation.

Q All right, sir. You certainly took into account the necessity for providing school bus transportation in coming to your conclusion, didn't you? A I didn't make the detailed studies relating to school bus transportation. I simply reviewed the material and the plans which

were prepared by the school superintendent, but I didn't make any detailed studies of the school transportation system.

Q This wasn't an important factor to you in coming to the conclusion that the City of Roanoke annexing the whole County of Roanoke, including all the rural areas; this wasn't an important enough part of that decision for you to look into? A It was important to me, in that I certainly reviewed the exhibits and the proposals of the City School Board to the extent that I satisfied myself that the school bus transportation system existing in Roanoke County after annexation would be as good if not better than what exists today.

Q What system are we talking about that is going to exist in Roanoke County after annexation that led you to that conclusion? A We are talking about the same system practically that exists right now.

[138] Q Are they going to improve it? A The children that ride the buses today will be riding buses after annexation as well.

Q How about the children that are not riding buses today, will they not be riding buses or publicly-owned buses, publicly-run buses? A If there is no justification for a child riding in the bus, then a child shouldn't be on a bus.

Q That's not what I am talking about here. The City of Roanoke does not have a school bus system, does it? A It does not have a publicly-owned school bus fleet. It's my understanding that the City does provide bus transportation at City expense for certain City children.

Q For certain City children, but most of the City children who have to ride a bus to school drop their coins in the coin box to the bus company, don't they? A I don't know whether it's most of them or not. Some of them.

Q Some of them pay and some of them don't? A It's my understanding that that's true.

Q And is that system going to carry over into the County, or is the County system going to carry over into the City? A It's not my understanding that there will be any [139] change in the school bus transportation system that currently exists in Roanoke County other than a possible change of management.

Q Yes. A And as far as the way it will be provided in the City,

the existing system, I am sure, will prevail until the City may provide a fully-paid public transportation or City-paid transportation system.

Q Mr. Zollman, you said you reviewed the plans in order to come to your system. What did the plans show? A The plans which I am familiar with provide that the immediate public transportation in the system, in the County, will be maintained as it is now, and there will be a witness to talk about this, that the situation in the City will go within a reasonable time to a City-owned bus transportation system for the school system.

Q A reasonable time? How long? A I can't remember exactly what budget year it is in.

Q All right. A But this situation of having one type of transportation existing in a City, and another type of transportation existing in an annexation area is not an uncommon situation in Virginia, is it? [140] A It's not.

Q In any event you as a consultant to the City found that the County's public bus transportation system was necessary? A It's necessary, certainly.

Q And you intend to, if the whole County is annexed to the City, continue the same system the County has had? A The pupils in the County would continue to enjoy the same bus transportation that they now have.

Q That is not enjoyed by the pupils in the City, correct? A The City pupils don't have a fully Government-paid transportation system in the schools.

Q Turning to your Exhibit A-10—before we go to that, is the City of Roanoke going to take care of the City of Salem's school bus transportation needs, too? A To the extent that they are now taken care of by Roanoke County.

Q That is fully, isn't it? A Yes, I would say that is fully.

Q You studied this? A I would say there is a situation now that any child who needs public transportation to school is getting that transportation, and the City of Roanoke would continue that [141] transportation system.

Q As a consultant to the City of Roanoke in advising them in annexing the entire County was justifiable, feasible, you had to take

into consideration, didn't you, Mr. Zollman, the fact that the County of Roanoke was furnishing schools and school bus transportation to the City of Salem? A That's correct.

Q Now, as a part of that plan the City of Roanoke would provide the school bus transportation and the schools for the City of Salem? A That's correct. You see, any contractual arrangement that exists now between the City of Salem and the County of Roanoke would be continued by the City of Roanoke. In other words, the City will honor any contractual obligations that the County of Roanoke may have previously entered into.

Q Are you familiar with the contract between the City of Salem and the County of Roanoke? A I have seen it, yes, sir.

Q Do you know the basis of the payment? A As I recall the basis of the payment was assessible to a great extent in the other school-related revenues. I also notice that that contract has a cancellation provision in it which I can't remember exactly what it is.

Q Does the City of Roanoke intend to cancel it? [142] A I don't know. I shouldn't think so. I just said that the City of Roanoke is going to honor whatever contractual relationships which exist between the County and Salem, and once these contracts are subject to renewal, then they will be renegotiated between these two governing bodies.

Q Mr. Zollman, in your discussions with the City of Salem representatives, did they tell you about what was going to happen to the school contract and the other service contracts between Salem and Roanoke County? A With what officials of the City of Salem?

Q Any representatives that you discussed the problem or the situation with, that the County of Roanoke is furnishing schools and school bus transportation and other service to the City of Salem. What did your conferences or your discussions with the City of Salem tell you about what their intention was in regard to the contract if the City of Roanoke annexed the County of Roanoke? A I don't feel that that was important as to what their intentions might be. We have got to go on the basis of what is a matter of record, and as a matter of contract between these jurisdictions. When this contract is subject to renewal, if they want to have a separate system, then the situation will have to be negotiated at that time.

Q Mr. Zollman, you just mentioned to the Court that [143] they had a cancellation clause in that contract. Do you mean to tell the Court that you never discussed with any representative of the City of Salem as to what their intentions were in regard to this service contract, if the City of Roanoke annexed the whole County? A No, I didn't. I don't know who you would talk to in the City of Salem that would give you the official intentions of the City of Salem.

Q You have heard of the City Council of the City of Salem, haven't you, Mr. Zollman? A Yes, but you wouldn't ordinarily carry a question such as this, when there are so many relationships of this type which will go on and on to the City Council of the City of Salem to see what their intentions might be.

Q What you are telling this Court is it was not important in making your decision as to what the intention or the desires of the City of Salem were in regard to that contract, if the City of Roanoke annexes the entire County? A In my opinion, if we are left here with the situation where we have two Cities, and the Cities being more or less of equal status in this State, there is no reason in my mind to believe that the City of Roanoke and the City of Salem can't successfully and on a friendly basis negotiate whatever division might be made in the school system.

[144] Q Mr. Zollman, have you been here long enough to know that that hasn't exactly happened in the past? A I don't think it has been exactly given an opportunity to happen.

Q But you feel you can give it the opportunity, is that right? A I think annexation can give it the opportunity, yes, sir.

Q You said if you are left with a situation where two cities exist, two jurisdictions—that is your proposal, isn't it, Mr. Zollman? A There would be two cities, because regardless of what size they might be after annexation they are still going to be an entity, being the City of Salem as there will be the City of Roanoke.

Q So your statement "if two exist," is not exactly right, is it? A Well, it's a matter of semantics, I think. "If" probably wasn't a good choice of words.

Q Your A-10 shows, I believe, the density of the City of Roanoke 5.29 percent per acre, is that correct? A That's correct.

Q What was it in 1960, Mr. Zollman? A I don't have the 1960 figure, but it would have [145] been slightly higher than it is in 1970, due to the decrease in population that occurred in that ten-year period.

Q So the density of Roanoke City is now less than it was in 1960; is that correct? A Yes, sir.

Q You mentioned that in those cities with higher density that are shown above the position of Roanoke in this exhibit, that Winchester and Richmond had annexed territory? A Petersburg.

Q Petersburg? A Petersburg, I believe I said.

Q And Winchester had annexed territories that would have lowered their density? A That's right.

Q You did mention that the City of Alexandria had attempted to annex territory. They are the highest most dense city in the State, aren't they? A That's correct.

Q They had attempted to annex territory which would have reduced their density slightly, wouldn't it? A That's correct.

Q You testified in that case, didn't you? A That's correct.

Q And the Court denied annexation in that case, [146] didn't it? A That's correct.

Q And Falls Church, who is the next highest density city in the State attempted three times to annex territory and has been denied every time, is that correct? A The last case, I believe it was a petition case, was it not, that wasn't brought by the City of Falls Church.

Q They were in favor of it, as you recall? A Yes.

Q That City has been denied annexation, is that correct? A That's correct.

Q And the next highest density, is the City of Norfolk? A That's correct.

Q And it, for many years has been hemmed in by other cities, and cannot annex, is that correct? A That's correct. Also, you have got to take into consideration when you look at all these density cities, I believe you will find in connection with the City of Norfolk, that their

density is influenced to some extent by its naval population in the City of Norfolk, which is the same type of situation you have when you have a relatively small city, for instance with a college located in it. That on paper, your [147] density goes up, but it doesn't necessarily represent the density of development in your residential communities, for instance. It's like an institutional population being added to your ordinary residential population.

Q Yes, sir. And it really doesn't show the picture of how many people are living where, does it? A No, sir, it doesn't.

Q And as a matter of fact, even though on paper, if annexation were allowed in this case, the density would go way down, wouldn't it? A The density of the overall community would go down.

Q And not a single person would move, they are just as close together as they were before? A That's right. As far as the pattern of development in the City of Roanoke is concerned, they would still be crowded.

Q Yes, sir. It wouldn't change that situation.

Now, going to your land use, A-11, Mr. Zollman, you show on that map, A-11, two classifications; agricultural and vacant? A Yes, sir.

Q Can you tell in which of those categories you put all the forest land that we saw on the tour? [148] A The forest land I put in the vacant category.

Q Then in your judgment, agricultural land does not include any woods or forest at all? A It could, in say a forested—a small wooded area within what is obviously the confines of a fairly sizable farm, on a map of this scale more than likely would be included in the agricultural classification.

But the forested areas, as we know them, as we viewed them on the tour and so forth, for the most part, are going to show up on this map as vacant.

Q As vacant. And they could be some of those areas where we saw firewood being cut on the tour. Did you see some of that? A I did see some of that, yes, sir.

Q Did you see some fence posts being cut and stacked? A I don't recall it specifically.

Q Fence rails? A But I am sure there could have been some.

Q So all the forest land is vacant, except little patches that may be in the middle of a farm? A For the most part, I think that is true, yes, sir.

Q I guess we need your A-12, that is with the [149] overlay? A Yes.

Q Now, Mr. Zollman, A-12 is A-11 with an overlay on it, isn't that correct? A That's correct.

Q And the purpose of the overlay is to show where the slope of

Q You have shown that both in the County and in the City, grades exceeds 20 percent, isn't that correct? A Yes, sir.

Q You have shown that both the County and in the City, have you not? A Yes.

Q Am I correct, Mr. Zollman, in my estimation in looking at your map exhibit here, that of the land in the City of Roanoke that is shown to be in excess of 20 percent, about twice as much land in that category that exceeds 20 percent has been developed, than is undeveloped? You want to step down here and take a look? A All right.

You say of the land that is 20 percent or better slope that is undeveloped?

Q As remained developed. A You mean all types of development?

Q Yes, sir, residential, commercial, industrial. A You are including this park land?

[150] Q No, sir. A I don't know how to answer your question, exactly, because I haven't studied it from that particular standpoint.

Q All right, sir. Would you go back to your seat? Let's see if you have studied that. Turn to your Exhibit A-13.

Now what percent of the land of the City of Roanoke do you show exceeds 20 percent slope? A In A-13, we show 12 and a half percent.

Q Now, look over on A-14. What percent of the vacant land in the City of Roanoke do you show? A Seven hundred seventy-seven acres, or four and a half percent.

Q So there is four and a half percent of the City undeveloped or vacant exceeding 20 percent out of a total of 12.5 percent, isn't there? A Oh, I think I see your question now.

Yes, we are showing that of the total area of the City of Roanoke, 12 and a half percent has a slope of 20 percent or better. That is the total City.

Q Yes, sir, and only 4.5 percent of the City in 20 percent or more remains vacant? A Of the vacant land, yes, four and a half percent of the vacant land has a—no, excuse me, four and a half percent of the—

[151] Q Total City? A Total City.

Q Yes, sir. A Is vacant with a slope of 20 percent or greater.

Q So it certainly follows that about two-thirds of the 20 percent slope or greater land in the City has been developed? A I think you are right, that the City development, and I think notably in some of the more prestigious areas of the South Roanoke area, that the development has pushed up the mountainside.

Q Well, it's a fact that roughly two-thirds of that land has been developed. Why do you, in your judgment, remove that from the vacant land acreage, and come up with a net figure out of it then, if two-thirds of it has already been developed? A I feel that for ordinary development, and I don't think you can consider the development in the South Roanoke area ordinary, that for ordinary development, that land would slope in excess of 20 percent, where the 20 percent or better slope predominates a piece of land, that that land can be efficiently developed for the conventional type of residential subdivisions that are generally built in this area.

Q Mr. Zollman, your map exhibit shows that these [152] areas exceeding 20 percent have been developed in every part of the City? A They have, that is true.

Q Let's look at your A-13 again. You have classified agricultural land in the City as separate from vacant land? A Yes.

Q You haven't done this before, have you, Mr. Zollman, even when you had farms in cities, you included those in the vacant land category, haven't you? A I tell you the reason that I included the agricultural—

Q How about answering my question, Mr. Zollman. You have not done this before, even when cities had agricultural land in them, you classed those as vacant land, didn't you? A That is not exactly right. I had a case where I didn't call them agricultural land, but I had a case where I did break out a classification that I called, "Orchards," which are in effect agricultural land.

Q What case was that, Mr. Zollman? A In Winchester.

Q How about the town of Abingdon? You had farms in Abingdon you called vacant land, didn't you? A I can't recall that we called anything [153] agricultural in that particular instance.

Q That's right, you called it vacant, didn't you? A I think we did.

Q Of course if you add your agricultural land to your vacant land in the City, you come up with a higher percentage of vacant land, don't you? A 23.4. Four hundred twelve acres, according to our figures.

Q If you add agricultural and vacant land in the County, and you have told the Court that you included the forested land in the vacant land? A Yes, sir.

Q What is the total percent of the area sought for annexation in either agricultural or vacant categories? A To add the agricultural and vacant land in the County, you would get 77.9 percent.

Q Almost 78 percent, correct? A Yes, sir, that's correct.

Q Of the land sought for annexation is vacant or agricultural? A That's right.

Q Tell us, what is the total acreage of the area sought for annexation in agricultural or vacant uses? A The total acreage would be 130,951.

[154] Q Yes, sir. We can all add these things, but I wanted it in the record.

And will you tell us, if the annexation is granted as proposed, what will be the total acreage of agricultural and vacant land in the City of Roanoke? A One hundred thirty-five thousand thirty-five.

[155] Q What would be the percent of agricultural and vacant lands in the City of Roanoke? A In the combined—

Q Yes, sir.

Q 72.8 percent.

Q Mr. Zollman, in your Exhibit 18, these are not resident subdivisions that were constructed during these periods of time, are they? A These are lots put to record.

Q Plots recorded? A Yes, sir.

Q It didn't surprise you that there hadn't been many plots recorded as subdivided land or residential lots in the City of Roanoke in the last ten years, did it? A No, I had an idea before we ever searched the records that we weren't going to find too many.

Q And the same thing is true from '50 to '60, isn't it? A That is true.

Q And from glancing at your map and maybe the records will show it on A-16, if you added them up, it appears that there is about as much subdivision of land outside the City from 1950 to 1960 as there was from '60 to '70? A Outside of the City of Roanoke?

[156] Q Yes, sir. A Well—

Q I mean the yellow looks about equal to the red? A I believe that if you totaled them that there wouldn't be too much difference. I think, actually, that there was a pick-up after 19—Well, I think for all practical purposes that on an average or total basis in the area outside the City it was about the same from '50 to '60 as '60 to '70.

Q Yes, sir. And some of the areas in yellow were developed or subdivided between 1950 and 1960 further out from the City of Roanoke than some of the areas in red which were subdivided between '60 and '70 closer in to the City of Roanoke, were they not, sir? A Yes, sir, that is true.

Q And you mentioned the fact, I believe, that this development outside the City of Roanoke and around it was promoted or made possible, or words to that effect, because the City was providing water and sewer utilities? A That is correct.

Q Did your studies show that utilities had been provided by anybody else besides the City of Roanoke for any of those yellow or red blotches? A Some of these subdivisions have been developed on pri-

vate systems and some of the subdivisions have been [157] developed on systems of the Roanoke County Public Service Authority.

Q You mentioned, I believe, that one area, the Cave Spring area, that the city water system served that area? A I can't recall saying that the water system has been extended out there. I thought when I was talking about the water system or utilities that I was talking about the area around the City generally. I didn't mean to state that the Cave Spring area had been developed on the water system of the City of Roanoke.

Q Well, as a matter of fact, it was developed on a private system, wasn't it, the Cave Spring Water Company? A Yes, sir.

Q How about the area of Belle Meade? A Belle Meade is in that same general area, is it?

Q I believe so. A That was a private water company.

Q Not the Public Service Authority? A When I got information on the Public Service Authority we were a little sketchy as to what had been developed on this system originally and what systems they had since acquired that were developed as private systems.

Q As a matter of fact, the City has acquired some of the private systems that were there in the area developed on [158] and later the City bought the water systems, didn't they? A Yes, I believe that is correct.

Q So this development zone, the subdivisions shown on A-15, a number of them are provided with utilities by private water and sewer systems as well as the County Public Service Authority, in addition to some of the City lines, is that correct? A That is right. They had also areas served by the City of Salem and we had areas served by the town of Vinton.

Q Yes, sir, I neglected to mention that. Thank you.

Turning now to your A-17, just for example taking the 1970 bar there, you show 454 dwelling units lost by conversion or demolition? A Yes, sir.

Q But you said that the total of new dwelling units did not include dwelling units built by public authority for rent, I believe? A That is right.

Q So that some of that land that was made vacant by demolition —that caused vacant land to occur, didn't it? A That is right.

Q Could have been built into public housing? A That is right.

[159] Q Providing more dwelling units? A That is correct.

Q Low-cost dwelling units, is that correct? A Yes.

Q And some of that land that was made vacant could have been developed commercially, is that true? A That is correct.

Q And these figures do not show any commercial or industrial development, do they? A No, sir, they don't.

Q And some of that land made vacant could have been developed in commercial land industrial uses? A That is correct.

Q And some of that land made vacant could be added to your vacant land, couldn't it, sir? A Yes. I think we probably have all of it included on this land-use map but there could have been some torn down in the latter part of 1970 which we didn't catch.

Q There has been some vacant land created in the City of Roanoke in the last ten years, has there not? A That is correct.

Q While the population has gone down by 5,000, is that true? A That is correct.

[160] Q In the last ten years? A That is correct.

Mr. Fitzgerald: May it please the Court, is the Court going to recess any time soon?

I am at a pretty good stopping point here.

Judge Boback: The Court will recess.

(A short recess was taken.)

[161] By Mr. Fitzgerald:

Q Mr. Zollman, just for a moment I would like to backtrack and ask just a couple of questions relative, one, to the slopes again. This subdivision or area of Sugar Loaf where you said you found it convenient to live, is any of that area developed on slopes exceeding 20 percent? A Yes, it is. In fact, the house I live in is on a lot which has a slope of 20 percent or greater.

Q I really didn't know that, Mr. Zollman, but it does, doesn't it? A Yes, and it has its problems.

Q I found in this morning's paper an ad saying, "City block, ideal for many types of businesses, also apartments. Has two lines of traffic passing by." This is the left side of Patterson Avenue from Thirteenth to Fourteenth Street southwest, Roanoke. Do you know where that is? A I know generally where it is, yes, sir.

Q Would it surprise you to know that you show that in residential use on your land use map? A It wouldn't surprise me a bit if the area possibly still isn't in residential use. You know, through that section of the City of Roanoke there is quite a bit of buildings being torn down, or buildings being converted, and I can't say yes or no, that it would necessarily be shown as presently [162] residential property on our land use map.

Q You didn't take that into account, that type of property into account in your calculations of net vacant land, did you, sir? A You mean the situation of an unoccupied house?

Q Oh, no, sir, land that is obviously for sale for redevelopment into other uses. A I don't think you can determine that. I think that is a supposition.

Q You can't? A In other words, you can't do a land use survey based on the advertisements in the newspaper.

Q No, sir, but did you pay any attention to master plans or zonings of the City and signs on property for sale for commercial development, things of that sort when you made your survey? A We made a land use survey based upon what was the existing use of the land at the time the survey was made.

Q And if there is a block of land in the City with a big sign on it that says this land is available for redevelopment or development for commercial purposes, with old dilapidated houses vacant on it, vacant homes, you classified that as land in use residential, is that correct? A We didn't make any studies whatsoever of the [163] conditions of the buildings that occupied the land.

Q In your study of the needs of the City of Roanoke, did it make any difference to you whether or not there were substantial areas of the City that were available for redevelopment? A You mean redevelopment from private funds or federal funds?

Q Yes, indeed, private funds. A No. As I say, when a piece of land is vacant, we show it vacant. If it has got buildings on it, then it is shown as development land.

Q Even if there were a big sign on there, "This land available for sale," or, "For sale for development for commercial purposes?" A You know, sometimes those signs stay on property until they finally rot away and have to be replaced. You can't put too much credence into what signs say that are posted on property.

Q Yes, sir. The answer is you did not take that into account? A No, sir.

Q Available land for redevelopment in your land use study? A No, sir. I don't think it relates to a land use [164] study in any way whatsoever.

Q All right, sir. Turning to your Exhibit A-20, this shows that between 1950 and 1960 the County of Roanoke lost seven percent of its population, is that correct? A Between '50 and '60?

Q Yes, sir, or '40 and '50, rather. A Between '40 and '50, yes, sir, they lost seven percent.

Q And between '60 and '70 the City of Roanoke lost five percent? A Between '60 and '70 the City of Roanoke lost five percent.

Q And the seven percent that the County lost between '40 and '50 was occasioned by the annexation of population of the City of Roanoke, wasn't it? A I would say that that accounted for most of it, of that loss.

Q What was the population of the City of Roanoke in 1950? A 91,921.

Q Roughly the same as it is now, isn't it? A Slightly less, yes, sir.

Q Can we have your Exhibit A-24 on the board, please? [165] A What criteria, Mr. Zollman, did you use in drawing the lines shown on A-24? A I used population, and population distribution and land use and the needs and the existence of services, mainly utility services as a means of defining what would be within the urban area.

Q You found that the needs within that black line were different

than those outside of the black line, is that correct? A They weren't different, they were possibly more intensified.

Q Well, Mr. Zollman, you didn't find any differences at all? A For the most part the needs are the same.

Q The needs of the people over at Catawba Valley and Bent Mountain areas are the same as those down here in the corridor? A They have the same basic needs, although the needs I think vary in intensity.

Q You said you took into account utilities of the people over in Catawba in your studies to show that they were in need of a water system being installed over there, didn't you? A I don't see that they are in need of immediate water system over there.

[166] Q The City doesn't plan to install a water system over there if the area is annexed, does it? A Not immediately, no, sir.

Q Nor anywhere outside that black line, does it? A I think it does have some proposals for water extension outside the black line, over a reasonable period of time.

Q But there is no present need for the extension of water systems outside that line, is there? A No, I would say for the most part that there is not a pressing need for water extension, because most of that area is undeveloped.

Q And rural? A That's right.

Q That is what you called it, wasn't it? A That's correct.

Q Did you take into account the population density or anything like that in drawing that line? A Density is a misleading thing when you try to determine a line of this type. Distribution is possibly more an accurate yardstick for drawing such a line.

Q All right, sir. So density wasn't a factor you used? A No, sir, not a measure of density as we know it of [167] being persons per square mile, or persons per acre.

That, of course, is in the background, but it has to be more or less weighed with a lot of other factors.

Q Yes, sir. Looking at your Exhibit A-25, Mr. Zollman, can you tell me how many square miles of Roanoke County you classify as rural? A I classified a total land area of 201 square miles.

Q What percent of Roanoke County is that? A I don't have that figure. Do you want me to figure it?

Q Yes, sir. Would you attain that figure by dividing 263 into 201? A Yes, sir. It would be about 80 percent.

Q About 80 percent of Roanoke County is rural, and that is 80 percent of the area you seek to annex, isn't it, sir? A Yes.

Q All right, sir. Let's look at the other side of that exhibit. You prepared this budget, didn't you? A Yes, sir.

Q And this is a budget for an area of 201 square miles? A That's correct.

Q With a population of 11,300 people? [168] A Yes.

Q Then, Mr. Zollman, in your experience in Municipal Government, have you ever seen a budget prepared on about three inches of space for an area of that size and population of that many people? A This is a summary budget here. I didn't put in a line item budget, because it really wouldn't add anything to it. It would just complicate it and make it harder to read.

These are the essential sources—or the condensation of the sources of revenue, and a condensation of the expenditures.

Q Yes, sir. But to arrive at the summary, you have to have something more than just the figures you have got on these pages, don't you? A That's right. I took the Roanoke County budget for the current fiscal year and used that as a basis, and took it on a department-by-department, or agency-by-agency, and estimated the cost which would be required in this rural area. And I did about the same thing for revenues; in other words took revenues on a line item basis. And from those work sheets, I developed the summary which is in this exhibit.

Q so without those work sheets, we have no idea how you arrived at these calculations, do we, sir? A No, sir. All you are seeing is results here, [169] just like most of the other information on the exhibits. It just tends to show results.

Q Well, how did you split the revenue from local sources up? A That is from local sources, that is predominently local tax. But then it has got other types of revenue in it, such as sales tax, and I think

there is some cafeteria receipts through the schools that are in there.

There must be approximately 15 to 20 separate items which make up revenue from local sources in the County's budget.

Q Let's take one of them. When you say sales tax, you mean local sales tax? A that's right.

Q How did you divide up the local sales tax between the area inside and the area outside? A Well, first I took the property tax revenues for this rural area. I determined that on the basis of the actual real estate assessed values which we took from the land records of Roanoke County. We estimated the public service company assessments based on the information supplied by the State Corporation Commission with reference to some of the petitioned cases, as well as their estimates or figures for the entire Roanoke County. And personal property, I broke down on a [170] more or less per capita basis.

I found after doing this that the property taxes made up predominantly all of the revenue from local sources. So when it came to sales taxes, I did not go to the State Department of Taxation and ask them to give me the sales taxes separately for all the various business places located in a rural area, because it was obvious to me from observations and studies of the land use maps that there wasn't enough business places in the rural area to make any considerable amount of difference with reference to sales tax.

I think I used the figure of about $20,000, I believe, as an estimated sales tax—local sales tax yield in this rural area.

Q What percent of the sales tax did you say would be left to the County? A Can I look at my work sheets?

Q Yes, sir. We might want to look at those too. A I had a local sales tax estimate that was in the total County budget of $720,000, and I used an estimate of $20,000 for the rural area, which would be approximately 3 percent.

Q In other words, the City would be acquiring $700,000 out of $720,000 of local sales taxes? A I think that is a pretty good estimate, yes.

[171] Q And this is just a guess on your part, really? A I wouldn't call it a guess. I would call it an educated estimate.

Q Let's put it this way. You have no basis such as population, assessed values or number of businesses or volume of sale that you used? A No.

Q Just your judgment? A Just by looking at the stores. It doesn't take too much to look at the cross-road store in Catawba Valley and compare it with the Cross Roads small shopping center and see that there is not going to be too much sales tax in that rural area.

Q You could look at those two stores and tell how much sales taxes there will be one place or the other? A So that within a few percent one way or the other on something such as a local sales tax it is not going to make any particular difference.

Q Are there any other items that you arrived at here simply by judgment or your educated guess rather than some basis of division? A I would say that all budget items, of course—And you well know this—are based upon estimates from the very beginning. Where it was possible to make estimates on the [172] basis of per capita revenues such as you might have for ABC profits—and I think it is pretty safe on automobile tags and things of that type—I used a per capita basis, There are estimates in here of revenues which are based strictly upon my own judgment, but I consider them to be valid because—or valid in relation to this total budget because they are relatively minor revenues. They are not of any great importance to the total County and likewise they are not of great importance to the rural area.

Q Which work sheets show how you arrived at these adjustments? A I believe I could give you enough to where you could follow it, yes, sir.

Mr. Fitzgerald: Do you have any objection if we have copies of those work sheets?

Mr. Davenport: No, sir. You may have them.

Mr. Fitzgerald: We don't need them now. We will get them at noon.

Judge Bohack: Before you leave that area, what do you classify that area that you have given an estimated budget for? Is that everything that is not within the urban line?

The Witness: Yes, sir, that is correct.

Judge Bohack: My question would be this. In your [173] budget have you undertaken to take into consideration at all the loss of net taxable revenue for five years or sales tax or any other revenue that might be available in that area if that part is left to the County?

The Witness: The deficit which I show on Exhibit A-25, being $555,620, I consider it to be what we would call a typical year's loss of revenue.

Judge Bohack: But if this part of the County was left, wouldn't the County be entitled to the loss of net taxable revenue under the annexation laws for five years for what part was taken?

The Witness: Yes, sir. This $555,000 figure I consider to be one year of that loss. Of course for five years we would multiply that by five.

Judge Bohack: The loss would be of what is taken, not of what is left, as I understand you?

The Witness: It is the deficit that is created by the taking of the urban area.

By Mr. Fitzgerald:

Q Mr. Zollman, the purpose in doing what you have done to draw a line of the urban area, the rural area, was to show that if the City annexed solely the urban area, then the rest left could not really support itself? A That is right.

[174] Q But if this annexation line were made as you have drawn the black line, then the remaining portion of the County could not support itself? A That is correct.

Q And that, of course, envisions what you show as rural area being the remaining portion of the County? A That is correct.

Q Now, you know very well, Mr. Zollman, as the Court in its questions put to you, that in the event there were a remaining portion of the County, the law of Virginia provides for the County being compensated, doesn't it? A That is right.

Q And one of those items of compensation is the loss of net tax revenue? A That is right.

Q And in your judgment that loss of net tax revenue in this case is what you call a deficit, isn't it? A That is right.

Q Of $555,000 in the first year based on the 1970-71 budget? A That is right.

Q And you know that the law provides that the County can be compensated up to five years for that loss? A That is right.

[175] Q You say you would simply multiply that by five? A That is right.

Q So that is something over two and a half million dollars? A That is right.

Q You know also—Let me ask you this. In your budget that you made up here, how much did you reduce the debt service the County is paying? A I reduced it—Well, to put it on another basis, I went on the basis that the urban area would assume the existing County debt in the proportion that their assessibles bear to the total assessibles in the County. So if you look on 825 at—

Q Nineteen million to two hundred eight million? A Right. In other words, if you apply the 19 million against the 208 million, that is approximately 10 percent. So the rural area would be left with approximately 10 percent of the debt service.

Q Tell us in dollars how much you reduced the County expenditures for the debt service? A The figures I have got for the current year show a total debt service cost for the entire County of $2,371,411. I left with the rural area $225,300.

So the difference between those figures is [176] $2,146,111, and that would be the debt service reduction.

Q So you computed what the loss of net tax revenue would be and you showed a debt assumption of roughly 90 percent of the County's debt? A That is right.

Q What did you compute the compensation for the fair value of the public improvements in the area, the urban area, would be that the City would be required to pay the County? A I didn't compute any value of any public improvements.

Q You did not? A No, sir.

Q Don't you know that by law the remaining County would be entitled to be compensated for the fair value of those public improvement? A I think the law provides for an equitable settlement and it

is inconceivable to me that you would not take into consideration the fact that the citizens and taxpayers in the urban area have a substantial equity in all of the existing facilities of the County.

Q Mr. Zollman, I know your theory but you do know that the Courts have required a city in annexing and leaving the remaining portion of the County to compensate the County for [177] the fair market value of the public improvements annexed, don't you?

Mr. Davenport: That is not necessarily true, your Honor. I object to the question in that form.

By Mr. Fitzgerald:

Q You do know they are required to be compensated? A Yes.

Q And you have said that if the area was annexed the rural areas left would be unable to support themselves, haven't you? A That is right.

Q Didn't it occur to you that you might have appraised or calculated the value of the public improvements in the area owned and operated by the County of Roanoke so that if the City of Roanoke paid the remaining portion of the County those values, the fair value, that the remaining portion might exist very well? A I should think if they were so endowed they could live very well far into the future.

Q Yes, sir. That would mean, then, sir, that there are considerable public improvements in the urban area of Roanoke County? A Very definitely.

Q But you have made no such determination that if [178] the County were compensated by those three means of compensation, loss of net tax revenue, debt assumption and compensation for public improvements owned and maintained by the County, as to what the remaining portion of the County situation would be? You didn't go into that, did you? A It would be inconceivable to me that you would even follow such an approach where you would take such a substantial portion of the citizens of a County. This is not the typical type of annexation case by any means.

Q I think that is the understatement of the year.

Mr. Zollman, it is inconceivable to you because if you did that, if you took that approach, your approach that the City has to annex the

whole County goes flying out the window, doesn't it? A I think we would have a mass exodus to the rural portion of the County if that took place, because I think the rural portion of the County then would—They would be financially possibly the most favorable tax situation in the State.

Q You wouldn't trust the Court to balance those equities so that they would be well enough off to exist but not infamously rich? A I don't think anyone ever contemplated that you would endow the County with enough money that they could invest [179] it at 5 percent and live off it in the future. After all, we would be assuming the outstanding debt.

Q The answer, Mr. Zollman, is that that just does not work with your theory that the City has to annex all of the County, does it? A It is inconceivable to me that there would be any such settlement as that.

Q Let's look at your Exhibit A-26.

Before we leave this, I do have one more question. In your budget that you prepared for the remaining portion of the County, how did you treat the situation between the County of Roanoke and the City of Salem? A This budget for the rural area?

Q Yes, sir. It would still be County of Roanoke, wouldn't it, sir? A In computing the budget there wasn't any great amount of need for getting into that type of detail because what we would be computing that for would be for expenditure items, I would think. I don't see where the relationship of the City of Salem would have any great effect on this typical budget which I have shown in this Exhibit A-25.

Q Are you telling us, Mr. Zollman, that in making your estimates of the budget needs of the remaining portion of the County, should that line be drawn there, you did not take [180] into account one way or the other whether that County would be providing school services and other services to the City of Salem under a contractual relationship? A The cost for that particular County—the post per pupil for its education is going to be approximately the same regardless of whether Salem is in it or Salem is not in it.

Q I don't think that was my question. My question is, is it true that you did not take into account, one way or the other, whether the County of Roanoke would be continuing to provide school services

and other services to the City of Salem should that annexation, the way you have drawn it, be granted. A On the basis that I did this budget it is accounted for. I assume that what you are thinking is that we would take this rural area and we would create in it—or we would have a County Administration of this rural area and this County of 11,300 population then would provide the educational services to the City of Salem?

Q I am not doing anything, Mr. Zollman. It is your exhibit. I want to know how you treated it. A I was trying to understand your question.

Q The question is how did you treat it. Did this County of 11,000 people furnish service to Salem or did it not [181] in your calculations? A In my mind it does not. To the contrary, the rural area—to provide a quality education system—would have to contract for that service from either—Well, actually from the City of Roanoke.

Q In arriving at your budget you provided for them contracting with the City of Roanoke to buy education for the remaining portion of the County? A You see, when I arrived at the cost of education, for instance, for the rural area, I did not provide that the rural area was going to furnish public education to the City of Salem.

Q You did not? A I did not.

Q that answers my question, then. You provided that the City of Roanoke would provide educational services to the remaining portion of the County; is that what you did? A In effect that is what this budget means, yes, that the rural area would have to contract for these particular services or should contract for them. They wouldn't be under any compulsion to do so, but in my opinion it is the only practical way to bring quality education to the rural portion of the County.

Q This is 80 percent, roughly, of the County in [182] size, isn't it? A 80 percent in size is such a misleading number in this particular instance.

Q It is your figure, isn't it, Mr. Zollman, that 80 percent was outside the black line? A 80 percent, roughly, of the land area.

Q And that area would contract with the City of Roanoke to provide schools out in that rural area? A But you don't teach land area. You teach children.

Q Mr. Zollman, I am just trying to find out how you prepared your budget. I don't want to argue. A What I was trying to do when I prepared this budget was to be just as conservative and just as fair as I possibly could, so that my school part of the budget is reduced to a per pupil cost and per pupil revenues.

Q Based on whose costs? A On Roanoke County's costs.

Q Then you presuppose that Roanoke County would continue to educate its children, wouldn't you, at that particular cost? A What you don't understand is that I am using Roanoke County as it exists today as the basis and I know that it can't do it any cheaper and still provide the same type of [183] assistance. To be fair, I used the same per pupil costs for this rural area as presently prevails in the total county.

Q All right, sir. Then you are not providing that Roanoke County with contract with the City of Roanoke, as you mentioned a while ago, to provide school services, in your budget? A No, sir, not necessarily.

Q Because if you used that $700 per pupil figure, this deficit or loss of net tax revenue would go way up, wouldn't it, sir? A Yes, if you go back to the pertinent data that is correct. Of course you have got to remember this pertinent data exhibit—the figures in that are last year's figures. They are not the current budget figures and I don't have in front of me the comparative per pupil costs between the City of Roanoke and the County of Roanoke.

Q Your figures— A I think they are a little closer together now than what is shown in this pertinent data because that was last year.

Q Do you know of school systems, or of jurisdictions, that had no more than 11,000 people in them, don't you? A Yes, sir. In fact, I cited yesterday, I think, the counties in Virginia with less than 11,000 people.

[184] Q I am still a little confused about what you did with Salem. Did you provide that if this area were annexed that Salem would have its own school system or Roanoke City or Roanoke County would provide it? A For budget purposes I provided for one system. I assumed that there would be one system.

Q So that the County of Roanoke would still provide the school services for the City of Salem and they would pay the costs as they are doing now? A Except that the City of Roanoke would assume this contractual obligation of the County in the event of annexation.

Q We are talking about this line, Mr. Zollman? A You are talking about this 11,300 population County providing the service?

Q Yes, sir. A It wouldn't make any difference from a budget standpoint. It is one way or the other. It doesn't matter who is holding the contract. We are talking about costs here.

Q I am trying to find out how you treated it, Mr. Zollman, in determining the cost of what would be left of the County—that is the County of Roanoke, isn't it? A That is correct.

Q What you call the rural area? A That is right.

Q I am trying to find out how you treated it in estimating your budget. Did you consider that they would still be providing school and other services to the City of Salem or not? A Yes, they would.

Q That answers my question.

Now let's look at A-26. A Excuse me. The question you just asked me about the budget—

Mr. Davenport: Do you want the question read to you, Mr. Zollman?

The Witness: May I?

Mr. Davenport: Will the reporter read the question?

Judge Bohack: Whose question is it he wants read?

Mr. Fitzgerald: I will ask the question again if that would simplify it.

Mr. Davenport: All right.

By Mr. Fitzgerald:

Q In the preparation of your budget which is Exhibit A-25, where you prepared a budget purporting to show what the financial operation of the remaining portion of the [186] County would be as shown on Exhibit A-24, did you take into account the remaining portion of the County would be continuing to provide school and other services to the City of Salem? A Well—

Q And you answered yes. Now, is there any different answer than that? A Yes, I did from a standpoint of determining cost, which was all in the world that I was after when I prepared this budget, was cost. Therefore, I reduced the school cost to a per pupil basis and then in so doing it wouldn't make any difference, in my opinion, who was providing the service.

I think maybe you missed the intent of this exhibit. It is try to show the relative situation in this rural area.

Q The intent of the— A It wouldn't make any difference, in my opinion, who provided the service.

[187] Q It wouldn't make any difference who provided the service? A That's right.

Q Your budget would be the same? A That's right. Say Roanoke County, which you call the rural area of the County, could administer this contract or the City of Roanoke, it could be turned around and the City of Roanoke could educate the Roanoke County children.

Q And the County's budget wouldn't be changed, this budget? A I don't think that it would change appreciably, no.

Q How about school facilities? Did you make any study of what school facilities would be left? A I know those that would be left in the rural area, and I know that without some additional facilities, say, on the intermediate and the high school level that the rural area students as they do today would have to come into the urban area to go to school.

Q And how did you account for those? Did you assume that the County would retain some of those schools or sell them to the City and build some new ones? A I assumed that—well, in the first place, from a practical standpoint I assumed that there was going to be this [188] highly populated urban area, and this sparsely populated rural area, and the only way I can look at the thing is to be practical. To me, if I were the superintendent or on a governing body of this rural area that was remaining, I would contract for public education with the urban area.

Q Yes, sir, but that is not what you did in your exhibit. A I didn't attempt to split up which school would go to the rural area and which schools would go to the urban area.

Q Mr. Zollman, you have told the Court and told us that the reason you made this study was to see whether the remaining portion of the County, if the urban area were annexed could continue to exist reasonably. A That's right, and I am assuming—

Q Did you make any study then, did you make any study of what facilities would be left in the rural area, what facilities the County might want to keep that was in the urban area or sell, or any study of that sort? A No, because I am assuming from the beginning that in this balancing of the equities that the rural area students are certainly going to be taken care of either in facilities which would be owned by the remaining Roanoke County, or they would be educated in facilities provided by the urban area.

[189] Q What you are saying, Mr. Zollman, you are going to leave it up to the Court to solve that problem, you didn't attempt to do it? A Well, it's my understanding that the Court balances the equities, that the Court doesn't give me any real say in that matter.

Q You expect the Court to make a study of what school facilities are going to be needed, and which ones won't be needed? You haven't given that information, have you, Mr. Zollman? A No, Mr. Fitzgerald. I, of course, am assuming from the beginning that this is an entire County annexation, and I am bringing out in this Exhibit A-25 what in my opinion is sufficient information to show the plight of the rural area should it be left there by itself.

Q You did this to show that the judgment of the City Council of Roanoke in attempting to annex the whole County was justified, and this was the job you were hired to do, isn't that true? A Well, I would say that all of these exhibits certainly I prepared for the City to show the needs for the City of annexation and go to support the City's case.

Q To support the case that the whole County has to be annexed? [190] A That's right. But I think at the same time in preparing Exhibit A-25 that I have been as fair as I know how to be in showing the relationship of the rural area to the total of Roanoke County as it now exists.

Q And providing for no compensation to the remaining County whatever, true? A As I just said, as far as this compensation ques-

tion is concerned, this exhibit doesn't show it. I feel like if the rural area were left there by itself it should be paid a five year net loss of revenue.

I feel that the urban area should assume a proportionate share of the debt based upon the assessibles in the urban area.

I do not feel that it would be equitable to require the urban citizens of Roanoke County to buy the second time the facilities which they already own.

Q What did your calculations show, or your judgment show that if the remaining portion of the County were compensated fairly for its loss of net revenue for five years, and its debt assumed in the just proportion; what would the situation be then? Would it support itself then? A It could for five years, I feel, from a budgetary standpoint. But after five years with no more promise of growth in assessibles, and what there is in a rural area, I don't [191] think that a five-year loss of revenue payment would take care of them.

I think once the loss of revenue payment ran out that the financial situation in a rural area would be very serious.

Q How about if they were paid enough on their public improvements, did you make any judgment how much they could be paid and be fair, equitable so they could continue to exist as a governmental unit? A No, I didn't.

Q Because that wouldn't fit into your theory or the City's case either, would it? A Well—

Q Because, Mr. Zollman.

Mr. Davenport: Let him finish his answer, Mr. Fitzgerald.

Mr. Fitzgerald: Excuse me. I apologize.

Q Finish your answer, sir. A I was going to say I couldn't do it in my opinion without showing payment for facilities possibly two times, because the urban area would be assuming the debt. I feel that while an area of a County that is remaining should be compensated for whatever facilities it might use on an equitable basis, I don't think there was every any intention of endowing the remaining [192] County on into the future so that one of its sources of revenue would then become the interest earned off the investment of the funds paid it by the City.

Q Mr. Zollman, we have got the County now, this remaining portion in two portions, one where it is not feasible to continue to operate, and the other if it is compensated in the three categories the law provides for, then it is going to be one of the richest areas in the country, endowed, I believe you call it, and people would flock there.

Now, you don't think there is some mean point in there that could be reached if you made a proper study to find out how much the County would have to be compensated for so it could continue to exist in the relative same position it is in today? A I think there is certainly a middle or not a middle point, but there is some in-between point, but it will tend toward the lower extreme rather than the higher extreme.

Q But you didn't make that study to find out where that point was, did you? A No, sir.

Q The reason for it is, if you found that point—it's there someplace—then the theory that the City has to annex the whole County goes out the window? [193] A I don't think you can go along with any such theory as that, because I go back to the same thing, and that is that in the compensation for public facilities it was never intended, in my opinion, that this be an endowment of the remaining county. This compensation for public facilities is, in my opinion, at least, and interpretation, to give the remaining portion of the County funds with which to construct other facilities.

Q Even though the law might say they be compensated for the fair value of the public improvements owned and maintained in the area, you just don't agree with that, do you, sir? A No, sir.

Q All right.

Mr. Davenport: The law does not require that, if the Court please. The law leaves that to the judgment of the Court.

Judge Hoback: Give the Court some benefit of having some slight knowledge of what the law is, and let's get on with the case.

By Mr. Fitzgerald:

Q We will now to to A-26 and see if this Exhibit is as fair as the last one.

Did you select these facilities that went on this exhibit and Exhibit A-27? [194] A I reviewed the list, yes, sir.

Q And you found it to be a fair representation of the major public and semi-public facilities in places of assembly, both in the Cities of Roanoke and Salem and in the County? A I think that, yes. You would have to qualify it that it doesn't purport to show all public facilities in the City or the County or Salem or Vinton. In other words, there are no school facilities shown here except for those school facilities which are above a college level or the major private schools.

Q You didn't treat the schools of Roanoke County as a place of assembly? A As I say, I didn't put any of the public school system on this exhibit.

Q How about fire stations, did you put any fire stations or rescue squad locations on there? A No, sir.

Q They are not public or semi-public facilities? A No, sir. You see, what I was intending this to be mainly, was the facilities which people use not on a routine basis but on a regular basis. In other words, it is the facility that they have occasion to visit.

Q Yes, sir. You have got a number of places such [195] as recreation areas in the City, I believe, have you not, sir, on there? A Yes, sir. We did pick up the—well, recreation, we picked up the major type of park facilities. In other words, the park facilities which we can see from our experience are used by a large number of people that are more or less of a regional nature.

Q So all the recreational facilities and grounds are located on school sites in the County are not shown, are they? A No, sir, they are not.

Q You show hospitals on here, I believe, didn't you, sir? A Yes.

Q And health facilities? A Yes, but I don't believe we showed any nursing homes.

Q So the Home for the Aged out on Route 11, is it? A McVitty's House?

Q Yes, sir. A That is not on here.

Q You didn't think that was a hospital? A We didn't show them in the City, either.

Q Did you show all the park sites of the County on [196] here? A By sites you mean piece of land which the County has bought for park purposes?

Q Well, I think there is some that operate as parks as much as parks are operating. A We show the park off Garst Mill Road.

Q Mt. Pleasant Park? A I think that what you are asking, I believe that the only park that we show in the County as being a part of or in the category of parks furnished by the County Recreation Department is the Garst Mill Road Park.

I think there is possibly another one that we could have or maybe should have shown, and that is the one in the east end of the County. I think it is called Stone Ridge.

Q Well, it suffices to say— A It's near the William Byrd High School.

Q Who selects this list of things to put on there, Mr. Zollman; you didn't, did you? A It was selected by personnel in my office, and then it was reviewed by several departments of the City Government, mainly to see that we had pretty well covered everything, and hadn't left anything off. There were things on here which were stricken because they weren't applicable, but I don't think when they were put on here there was any [197] real intention on anybody's part to favor one jurisdiction over another. We were trying to be as objective as possible in putting it together.

Q Are a number of the places shown in Salem actually Roanoke County facilities? A I'm sure they are, yes, sir.

Q All right, sir. This traffic flow on your A-28, in response to a question of Mr. Jolly you said there was a fairly equal interchange of traffic between the City of Salem and the City of Roanoke, both in the morning and evening as shown by this chart, Shenandoah and Salem Turnpike and Melrose and Brandon, I believe? A Yes.

Q Mr. Zollman, how do you know those cars going from the City of Roanoke out are going to Salem? A There is no way in the world to tell that without performing a rather detailed origin survey.

Q So when you said they were going to Salem, you really meant they were going out of the City of Roanoke but you really don't know

where they were going, do you? A They were going in the direction of Salem.

Q And in the direction of Blacksburg? A Yes, sir.

Q In the direction of the County of Roanoke? [198] A Yes, sir.

Q Christiansburg? A Yes, sir.

Q You don't have any idea where they are going, do you? A We know they are going out of the City of Roanoke, yes, sir.

Q And the cars going into the City, you got no way of knowing whether they are going to stop in the City or keep going, do you? A No, sir. The only thing that you might say about that is, of course, this count is made over a one-hour period, and you would assume that for through traffic, that it would show up, say if it went in on the south side of the City, that it would come out of say the north or east side of the City within that hour's time. But it's correct, you have got no way of telling here how many of these cars stay in the City and how many of them pass through.

Q You do know of a number of industrial operations in the County of Roanoke that these cars could be going to, don't you, sir? A Yes, sir.

Q You gave us a number of them in the answer to interrogatories that you said businesses had moved out of the [199] City? A Yes.

Q And some of these people could be going to these places of employment, couldn't they, sir? A That's correct.

Q Leaving the City of Roanoke. Now, your intent here is to show, I believe, that more people come into the City to work than go out of the City to work, is that correct? A What it really shows is within that hour, which according to the count represents the peak hour, that there are more cars entering the City than are leaving the City. And we are assuming from that that these people are coming into the City to work.

Q Yes, sir, that is the purpose of the exhibit. A That there is an in-flow of people to work. But I think you have to say at the same time that there are people leaving the City to work, that they are going both ways.

Q Yes, sir. It was at this point, I believe, you testified to a survey that the City had made by firms in the City showing how many of their employees lived in the City, outside the City and elsewhere, right? A Yes.

Q For the employees that come into the City and work, you assume, of course, that they are living elsewhere if they [200] are coming into the City to work? A Yes.

Q It would follow, then, that wherever they are living, they were being provided for schools and other governmental services, are they not, sir? A Yes.

Q At that other jurisdiction's cost? A That's right.

Q It would follow, then, that wherever they are living, they were being provided for schools and other governmental services, are they not, sir? A Yes.

Q At that other jurisdiction's cost? A That's right.

Q And it's not an unfair assumption to assume that the people who come into the City to work during the day are going to spend money in the City, provide sales tax revenue for the City? A That's right, the City is a shopping area.

Q So this isn't a bad situation for the City at all, to have people living there and working in other places? A Except for the fact that when this traffic comes into the City and congregates in the City, the City has got to provide the street system and the police protection and so forth to handle this traffic.

Q And for that, they collect the taxes from the businesses where the people work? A That's right.

Q From you. And the buildings they work in? A That's right.

[201] Q And the sales tax they spend there, on the sales tax they spend there? A That's right.

Q And I believe your survey showed that more people who work in Roanoke City live in Roanoke City than otherwise, is that correct? A Yes.

Q Sixty percent, I believe? A The survey showed 60 and one-half percent as living in the City of Roanoke.

Q Now, Mr. Zollman, you said the City had some dire need, I believe in your summation, and I have asked you a few questions on that, so I won't dwell on it.

But actually the City is really in no worse or better shape than it was in 1950, is it? A I don't see how it could be in better shape with the depreciating real estate tax base, which is a matter of record.

Q Well— A And the expenditures being what they are, it's an older city and it's a city who—in 1950, see, the City still had a little vacant land left around its fringes for residential development. And that land is—the usable part of it is for the most part gone, now.

[202] Q It's got less population? A I would say that the City is not any—really as well off now as it was in 1950.

Q Coming up to 1960, it has 5,000 fewer people? A That's right.

Q And since then, it is going through a process of redevelopment where older buildings are being torn down, and new buildings are being put up. We saw a lot of that on the tour, didn't we? A This newer building is a process that I hope we don't have to wait for, because whether it's done privately or publicly, it's a slow process.

Q Let's try to answer the question, Mr. Zollman. Since 1960, it has gone through considerable redevelopment, hasn't it? A I wouldn't say considerable.

Q Would you say there has been some? A There has been some.

Q In the City? A That's correct.

Q And there was a considerable area shown to us in the area of the new City development that is vacant now because of redevelopment, isn't that the truth? A Yes. We went through the Kimball area, which is [203] an attempt to relieve a blighted condition, and at the same time create some vacant land. But that is a Federal project, and it's a project the finances of which I don't think would be feasible if it would be undertaken on a private basis.

Q Mr. Zollman, it is true, there is some private redevelopment going on too, since 1960? A Yes, there have been some buildings torn down and new ones put up in their places.

Q Now if the Court saw fit to annex this whole County to the City of Roanoke, these same blighted areas wouldn't change on the effective date of annexation, would they? A I don't think they would on the effective date of annexation, no.

Q They are still going to be redeveloped, aren't they? A I think a City with more resources certainly has a better opportunity of redevelopment and to arrest the blight which can ruin a central city.

Q Yes, sir. In other words, this City needs more revenue to help pay for the redevelopment? A Well, not redevelopment per se. All of the City services that are required for the residents of the City, and if the people in this area don't get together and put their resources—pool their resources to cure these problems in the [204] City, then they are not going—these problems won't stay confined to the City of Roanoke.

Q Mr. Zollman, the annexation that the City proposes would not up the value of the property in these blighted areas one cent, would it, sir? A No, sir.

Q All right, sir. You say the City is lacking in leadership; on the City Council? A I don't think you can pin it down to the City Council. I think that in every City, we have got the Council, we have got Boards and Commissions, then we have got a lot of non-governmental type activities or Boards and groups. These groups need a broad cross-section of the population, and a lot of people to draw upon in order to survive and in order to, from this broad group, select those who can best be the leaders of the community.

Q You say the City is lacking in leadership. Now which categories of leaders is the City lacking in? A I think the City is lacking in the supply of leadership.

Q In the supply. Where do you see it? A I don't think that the—that the leadership we have in the City at the present time is incompetent, by any means. In fact, I think they are doing a very good job.

[205] Q And yet you say the City is in dire need of leadership? A That's right. The City needs to have a resource of young and vital leadership upon which to draw.

Q Mr. Zollman, if I may, I am trying to find out where you reached your conclusion.

Tell us, if you can, where you found leadership lacking, to make the broad statement to this Court that the City is lacking in leadership. Where is it lacking? A I didn't find any specific instances of where it's lacking. All I can tell you is that we put it this way, we have got good talent on the Roanoke County Board of Supervisors, and we have got good talent on the Roanoke City Council. Why shouldn't we have better talent if we can draw upon that entire pool? There is a small percentage of the total population in any area who are in any way interested in local Government, or serving, or holding public office, so that it takes a tremendous reservoir of talent in order to build the positions that you have to in the community.

Q Mr. Zollman, from what you said, is it correct to say that when you told the Court that the City was lacking in leadership, that this is just a judgment or opinion on your part, based on no specific facts? A That's all it can be.

[206] Q You made no study of leaders that moved out of the City, or leaders needed in the City and they are in the County. It's just a broad opinion that you have given the Court? A Not all—

Q Based on no facts at all? A Not on a person-by-person basis; strictly by observation.

[207] Q You made the statement that this area, the whole area, would do much better under a single government? A That is correct.

Q But that is not your proposal, is it, Mr. Zollman? A You mean with respect to the City of Salem?

Q Yes, sir. A That is right. In my opinion the area would be better off under a single government but at the same time we have to recognize the City of Salem as being an independent political entity. Although I would prefer one government, I think that the situation can certainly be healthy and economical and efficiently managed with the two governments or the two cities.

Q Are you familiar with other areas of the State where there are several jurisdictions within an area the size of the Roanoke Valley? A Several cities?

Q Cities or counties or such? A Yes, sir, there are other—

Q Northern Virginia is one example, isn't it? A Well, Northern Virginia—I don't believe in—Well, in land area or topography or geography or population is in any way comparable.

[208] Q It has more jurisdictions than the Roanoke Valley, hasn't it, sir, considerably more? A But over a much larger area.

Q How about Tidewater, Virginia? Norfolk, Portsmouth, Chesapeake, Hampton, Newport News. A That is right, they are a grouping of cities and these cities are of equal status under the State law. They don't have the jurisdictional or boundary extension problems which seem to be plaguing cities and counties for the most part all over Virginia.

Q They don't have the boundary expansion problems. That is the problem the Roanoke Valley has, isn't it? A I think it has certainly lent to the problem of cities and counties all over the State.

Q Don't you know that the Tidewater area had that boundary expansion problem up until the last few years when the two counties that were being expanded upon became cities? A Consolidation, as I recall, was the last big thing that involved their problem. I think that would solve the problem here.

Q And that stopped the boundary expansion, didn't it, Mr. Zollman? A Yes, sir.

Q You spoke of unification of utilities or services [209] as being a desirable thing? A That is right.

Q Mr. Zollman, have you or your firm served on a committee appointed by the City Counsel of Roanoke and the Board of Supervisors of Roanoke County and perhaps the City of Salem, too, to renegotiate the sewer contract between those jurisdictions? A That would be lately? I don't know, to tell you the truth.

Q You know Mr. Baringer in your firm? A Yes.

Q You don't know that he has served on such a committee? A I think I do not.

Q You don't know about the sewer contract and negotiation that has been attempted between the County of Roanoke and the City of Roanoke, then? A I know that there are negotiations and that these negotiations, I believe, have been going on for some time.

Q And you know—Excuse me. And you know that that committee, with representatives on it from your firm, recommended a contract to both jurisdictions? You know that. It is in your own firm, isn't it? [210] A You see, this is a 150 person firm. I can't keep up with everything that the firm does.

Q Mr. Zollman— A By any means.

Q You made the study to come up with the conclusion that utilities and services should be unified here. Certainly you looked into what the situation was as between the City of Roanoke and the County of Roanoke on the sewer situation. That is a very important facility, isn't it? A I know there is a contract.

Q And you didn't look into the situation as to whether it was in the process of renegotiation or where the renegotiation had stopped? A I don't see where that was even germane to the issue. Knowing that there is a contract and knowing that the City of Roanoke is providing this service for the County under a contract, to me that is as far as I need go.

As to how much either party may be getting paid or is paying for the service, that is to me immaterial from my standpoint.

Q It wasn't germane to you that the committee had recommended a renegotiation of that contract to extend for a longer term under different terms and it had been rejected by the City of Roanoke, the Council? [211] A I don't have any idea that anything has been rejected by the City of Roanoke Council. I haven't had any part in it.

Q You mentioned the town of Vinton. You say the City would be providing the town services just like they are getting now if not better, and you are going to provide them with school buses and things of that sort, the services they get now, aren't you? A The same thing they are getting now.

Q And agriculture extension services? A Yes.

Q You are going to provide that? A Yes, the City will provide that to the extent that it is being provided now by the County.

Q Are they going to provide it in the City? A The City's need for agricultural extension services is a little bit different than

what the needs are in the rural portion of the County. There is no reason in the world why the service wouldn't be the same all over the area.

Q Mr. Zollman, the City of Roanoke doesn't have that service now, does it? A They have got no particular need for that service now.

Q Did the City of Fairfax have a need for that [212] service? A I never thought they did, but the City Council decided to pay the County some $5,000 or $6,000 a year for it.

Q And you also heard the number of services or calls or services that branch provided for the City of Fairfax, didn't you, sir? A Well, I am hearing that from County agents all over, most everywhere I go, especially in these areas where they are becoming urban and the need for rural county agents is becoming less.

But if you want an answer to the question, I enjoyed the services of the County Agent in Roanoke County at the present time and I consider myself in the urban part of Roanoke County. It is a service that I think should be available. I think the rural areas are going to make more use of it and I think the urban people want their questions answered about their lawns and I think they want booklets on how to can and how to do all sorts of odd things around the house. I don't think any big thing should be made of the agricultural extension service.

Q You think it should be continued in the County? A Yes.

Q And actually extended to the City now, don't you sir? [213] A I think it should be made available. Whether they use it or not is another thing.

Q You said, Mr. Zollman, there was no other way that you knew of to separate the rural area from the urban area. I think that was your words. A That is right.

Q And it would be the County of an odd crescent-shape? A Without breaking the cohesiveness that now exists in the urban area.

Q Mr. Zollman, what did you mean when you answered Mr. Jolly's question and said that—When he asked you—it is a yellow line, isn't it, I believe? A Yes, sir.

Q He asked you if it did any violance to your theory. What did you think Mr. Jolly meant? A That his separation or drawing of the

yellow line, did that in any way alter, particularly, what I had already testified to.

Q That the area to the west of that yellow line could not support itself, is that what you are talking about? A No, that is not what I was talking about at all. We are still talking about the same rural area. Whether we draw a yellow line through it or not, it is—

[214] Q That line is not the same as your black line, Mr. Zollman, is it? A No, it is not.

Q He asked you the question, did that yellow line do any violence to your theory. What did you mean by saying no? A Because I—I said no because I didn't see where it made any particular difference whether the yellow line was drawn through there or not. I don't think it affects the figures that I have developed one bit.

Q What theory are you talking about that it doesn't do violence to? A I was referring in my mind to my testimony in general.

Q Is what you are saying that that yellow line represents the same thing as the black line? A No.

Q What is the purpose of the yellow line, in your opinion? A The yellow line, as I understood it, represented an area which the City of Salem felt that they should be awarded of Roanoke County.

Q That is what you thought the yellow line was? A That is right.

[215] Q A portion of Roanoke County that you thought should be awarded to Salem? A That's right.

Q And that was your idea of what that line represented? A That's right.

Q Are you saying that so far as your theory is concerned in this case that that line doesn't do any violence to it, that Salem could annex that and it wouldn't bother your annexation case or your figures one bit? A Now, when you say my theory, are you talking about the rural area or—we had several theories.

Q I am trying to find out what your theory is you are talking about. A Would you define for me what you mean by my theory?

Q All right, sir. I will go back to Mr. Jolly's question. Mr. Jolly's question was, "Mr. Zollman, does that yellow line do any violence to your theory?" Your answer was, "No, it doesn't."

Now, you tell the Court what you thought Mr. Jolly meant by his question and what you meant by your answer? A Well, with respect to my testimony up to that time it was my understanding that in drawing that yellow line [216] over there, which purported to represent an annexation line for Salem, as to whether that materially affected anything that I had already said.

Q And that wouldn't affect the budget for the remaining portion of the County, this rural area, it wouldn't affect that at all? A We are assuming that rural area is still going to be out there. In other words, you are asking me would it change the budget of the rural area if that rural area were annexed to Salem. Excuse me, could I show you on the map? I think maybe I could clear up what I am trying to say.

Q Yes, sir. A If we could have that—I don't need the yellow line. I can show you.

Q When was the first time you saw that yellow line, Mr. Zollman, or a line represented by that line? A I saw that exhibit yesterday.

Judge Matthews: Mr. Fitzgerald, would you show the one with the yellow line now?

Mr. Fitzgerald: There it is.

A If I understand you correctly, you are asking whether or not annexation of all of the area to the west of the yellow line would affect the exhibit I prepared for the rural area.

[217] Q Mr. Zollman, my first question was, Mr. Jolly didn't say word one about the City of Salem annexing that area. He simply asked you if that yellow line on there did any violence to your theory. How did you come to assume that that area was going to be annexed to Salem? A I'm afraid the answer to that is so obvious that it sounds impertinent. But just merely being here and having been a party to all of these proceedings over the last year made me just assume immediately that he meant annexation, that he wasn't just drawing a line, unidentified line and then just asking a pointless question about it.

Q Yes, sir. I believe you said, "We have drawn this line through Windsor Hills." Did you help draw that line, Mr. Zollman? A I

didn't help draw any lines through Windsor Hills. As I recall, the Windsor Hills is one area petitioning for annexation to the City af Roanoke.

Q Can you answer my question? Standing up at that map when you were tracing that, talking about water sheds and talking about the vote for consolidation in those various areas, when you got to the Windsor Hill area you said to Mr. Jolly, "We have drawn this line through Windsor Hills dividing a precinct here." What did you mean by "We have drawn the line through Windsor Hills?" [218] A Well, if I misled you—I have been known to do that before when I am explaining something. I sometimes get both parties into it, and we follow the line together. The line has been drawn through Windsor Hills. I was asked to explain this line, and I was trying my best to describe how it went, and then I got down here and I said, "Then we passed through the Barnhart Creek Water Shed and on west along the ridge line of Poor Mountain to Montgomery County."

But if I said, "we," I certainly didn't mean that Mr. Jolly and I sat down and determined this line.

Q You are telling us that yesterday was the first time you saw a line like that on a map? A No, sir. I'll tell you that I saw a line on a map—not this line, but a line in a lot of respects similar to it about a year ago.

Q All right, sir, come back here and have a seat.

Have you conferred with Mr. Preston Wade in preparation for this case? A Yes, sir.

Q In what respect? A Mainly with respect to the City of Salem, making use of certain exhibits which we have prepared. Other than that I have either talked to Mr. Wade or Mr. John Stedman mainly to answer some individual questions that came up.

[219] I would say that throughout the preparation of this case by our firm there has been a free exchange of information between our firm and the firm of Walley and Wilson who Mr. Wade is with.

Q Mr. Zollman, is what you are saying when you say that that [yellow] line drawn on that map does not do any violence to your theory, that it would be agreeable if the City of Roanoke annexed all roughly east of that line? A I would say that from my standpoint the

City of Roanoke should annex the entire Roanoke County as we now know it. If there were to be or have to be a division between the two cities, I think that line possibly with some slight modifications would be a fairly logical line.

Q And the City of Roanoke doesn't need the area to the west of that then? A I didn't say that. I said that the City of Roanoke should have the entire County.

Q You don't know of any case pending that has a line on it like that, do you, sir? A Not that line, no, sir.

Q Can you tell us how much vacant land there is on the easterly side of that line? A No, sir. I don't believe I could tell you specifically.

[220] Q Can you tell us how much vacant land there is in the urban area of Roanoke County as delineated on your exhibits? A On the urban area, I have that in some notes. In Roanoke County, within that urban area, we measured 10,104 acres.

Q What percent vacant land is there in the urban area of Roanoke County roughly? A As opposed to the entire county?

Q Yes, sir. Percent of vacant land in what you call the urban part of the county? A Well, I have got 10,000 acres against—I have got 168,000 acres in the total County and we have got 10,000 acres of vacant land in the urban part of Roanoke County, so that would be—

Q I don't want the percent of the total County, I want the percent of vacant land in the urban part of Roanoke County. Is that what you are giving me? A You want the percent of the urban area that is vacant?

Q Yes, sir. A All right. I get about 20 percent.

Q How many acres in the urban area, sir? A Well, I was doing it in square miles. The [221] urban area I would estimate is 62 square miles, and the 10,000 acres is approximately 16 square miles.

Q So roughly 20 percent of that is vacant, is that correct? A So it's 26 percent.

Mr. Fitzgerald: If the Court will indulge me just a moment, I believe I am about through.

Judge Matthews: Will it be all right for you gentlemen to recess? It's about that time.

Judge Hoback: Will 1:30 be agreeable?

Mr. Fitzgerald: That will be fine.

Judge Hoback: The court is adjourned until 1:30.

(Thereupon, a luncheon recess was had from 12:25 until 1:30.)

Afternoon Session

[222]

1:30 p.m.
resumed the witness stand and testified further as follows:

Cross Examination (Continued)

By Mr. Fitzgerald:

Q Mr. Zollman, when you made your study in preparation for your testimony in this case and your recommendations to the City of Roanoke, did you have available, or have you had available the 1970 United States Census figures? A I had the United States Census figures that showed the total population and the population by magisterial districts in Roanoke County.

Q Did you have the information concerning white and non-white population? A No, sir.

Q You haven't gotten that information at all? A No, I haven't.

Q And you haven't studied the compositions of racial balances in the various jurisdictions? A I worked it up for 1950 and 1960 some time ago, but never got the 1970 figures. For all I know, they haven't been published.

Q Would it surprise you to know that they have been? [223] A No, sir, it wouldn't one bit. I know that there has been information coming out of the Census Bureau from time to time covering various parts of the census. But I didn't have or use any 1970 racial figures. In fact, I haven't seen them.

Q Can you tell us approximately what the ratio of white to non-white is in the City of Roanoke at the present time?

Mr. Davenport: If your Honor please, we object to going into this phase of testimony. It's beyond the scope of the direct examination to start with, but more importantly the racial distribution within the jurisdictions that are involved in this annexation suit has nothing to do with the question of necessity and expedience. Annexation courts have held that consistently.

Mr. Fitzgerald: May it please the Court, it has been held both ways by annexation courts, both from the point of view of the school systems and the point of view of voting districts. It's been made very pertinent to annexation proceedings by federal court decisions.

Mr. Davenport: That, of course, would have nothing to do with this proceeding.

Judge Hoback: The objection is overruled. The [224] Court thinks that is one of the overall considerations to be taken into account in a matter of this kind, not on a racial basis, but on the total cost of the various and sundry matters that might have to be involved in that connection. We will overrule, and you have an exception to the ruling of the Court.

Mr. Davenport: Note my exception to the ruling of the Court.

Q Can you tell us what the ratio of white to non-white is in the City? A I can give you only what I think it is; I believe there is approximately between 15 and 20 percent non-white in the City.

Q And in the County? A I am not sure what the percentage is in the County. I am sure it's less, but I don't know what it is.

Q Around 5 percent or less? A It would be in that neighborhood.

Q Now, I believe you said that you reviewed the studies that were made insofar as combining the school systems together? A Yes. I reviewed the exhibit material which was prepared by the school superintendent.

Q Yes, sir. But you did not take into account the [225] problem or question of busing to achieve racial balances, did you? A I wasn't really given that subject to study.

Q Well, did the study you reviewed go into that matter? A As far as I know, insofar as busing is being done now, it went into that matter.

Q But did the study go into the effect of annexing the whole County to the City of Roanoke on the problem of the City busing? A The only exhibits I saw, which I think are pertinent to that, are those which showed the existing schools or existing proposed schools, and showed the proposed attendance area lines after annexation.

And my interpretation of those lines and those attendance areas that the busing situation—Well, the overall busing situation wouldn't change as a result of annexation.

Q Yes, sir. A Except in some very minor instances. And I don't think they have anything to do with racial problems.

Q Because the attendance areas that the County has have just been adopted by the City? A To a great extent.

Q With very minor changes? [226] A Except where unification would achieve a more efficient utilization of the school plans.

Q All right, sir. You said you saw that line, or a line similar to that about a year ago? A Yes.

Q What was the occasion? A About a year ago I was asked by the Roanoke City Attorney to look at a line on the map which was roughly the same as the line which is on this map, but not identical to it, to see what I thought as to whether that was a logical division line between the cities of Roanoke and Salem.

Q Supposing that Salem would annex everything to the west of that line, is that correct? A That's right, that Salem would annex everything on the west side.

Q And who had presented that line to the City Attorney? A As I understand it, there was some negotiations, I don't know who the parties were because I was never privileged to any meeting between the two cities. But it was my understanding that there were representatives of both cities who were discussing a line between Roanoke and Salem.

Q And what did you advise the City at that time? A It was my feeling that the line, as they had [227] shown it, was a fairly logical line. As I recall, I did have some dealings down in the Barnhart Creek water shed, that I felt that the Barnhart Creek water shed, for the most part, should go to the City of Roanoke side of the line, rather than to the City of Salem side of the line.

And that the line, as they had shown it, followed ridge lines for the most part, and was a pretty logical sort of a division.

Mr. Fitzgerald: That's all I have of this witness on cross-examination, your Honors.

I now move to strike this exhibit as an exhibit in this case. The witness has identified it purely and simply as a line that suggests that the City of Salem annex up to that yellow line. There is no such case pending before this Court, we are not trying any case at this time, and this is my objection to the line.

That's all the witness has identified the line as I am speaking of SM-4.

Judge Hoback: It's the Court's recollection that this particular line was introduced by counsel for the City of Salem on cross-examination, and your motion is denied. It will be considered, along with all other evidence on the question now before the Court as to [228] whether the entire County should be annexed by the City of Roanoke.

Mr. Fitzgerald: Note the County's exception.

Judge Hoback: Yes, sir.

[230] * * *

Recross Examination

By Mr. Jolly:

Q Mr. Zollman, with reference to SM-4, the yellow line there, is it not true that if any annexation is granted to the City of Roanoke west of that line that the furnishing of any utility services or any other governmental services will [231] of necessity have to be furnished through the City of Salem, from a practical standpoint and to a great extent they will. A I think that water, for instance, can be furnished to the area west of Salem without passing through the existing City of Salem. Sanitary sewer service, I think from a practical standpoint due to topography, would pass mainly along the Roanoke River through Salem.

Q And the furnishing of other services such as police and fire and so forth would of necessity have to use the streets of the City of Salem for free access to and from the area, isn't that correct? A Yes, sir, that is true.

Mr. Jolly: That is all.

[232] * * *

Kit Kaiser

* * *

Direct Examination

By Mr. Cogar:

* * *

Q And you are the manager of the City of Roanoke Water Department, is that correct? A I am.

* * *

[234] Q I will ask you now if you will turn to Exhibit B-4 in the book. If we have a larger exhibit than that I would like to have it put up.

I believe in the interest of saving time, Mr. Kaiser, the Court has before it Exhibit B-4 and I will ask you to proceed with your testimony on that. Would you explain to the Court what this exhibit purports to show. A City Exhibit B-4 shows the existing areas in the City that now have water service, or in the Valley that now have water service. The green area shows the area served by the City of Roanoke. The area in orange is the area of Vinton. The yellow areas are the areas served by the County Public Service Authority. The blue area is the area served by the City of Salem. The gray areas are private areas as we know them. They are served by private water systems as we know them.

[235] * * *

Q Starting at the right with the orange-colored area which you have described as the Vinton water supply system, would you explain to the Court generally the facilities that are there, the ownership, the source of water and who operates it, moving from right to left? A Right. This orange area is the area served by the town of Vinton. They derive their source of water from the City of Roanoke. We also wholesale them the water, so indirectly we serve their customers also.

Q Who owns the land? A The town of Vinton.

Now, the primary source of supply of this area is from our Falling Creek source. This is a filter plant on Beaver Mountain in Bedford County. Water flows down through the town of Vinton and we serve them through a series of meters that they take our water from and distribute it as they see fit.

Coming around you see a private supply here in the Hamilton

Hills subdivision. This is a private supply. This is a private supply down on 220.

Here you have the Huntington Hills, Pine Forest [236] and Cave Springs. Here is Castle Rock. These are all private supplies intermingled with them and in a scattered fashion.

Q These are privately owned and operated? A Right, sir.

Q What is the source of water for those private systems? A The source of water for these systems are from wells, a series of wells or one or more.

Q Does the City of Roanoke wholesale water to any private suppliers? A We wholesale water—We don't wholesale water, but we sell water to private suppliers that backs them up. This is a J. C. Thomas water system. When their wells go bad we sell them water.

Q Now, what is the yellow area to the southeast of the City and north of the City? A The yellow area to the southwest of the City are areas served by the County Public Service Authority. You can see these are scattered out. This is the Sugar Loaf area, the Windsor Hills area, and way up here the North Lakes. Here is Burlington, Summerdean, and other areas back over here.

Q These water facilities are owned and operated by the County Water Service Authority? A County Public Service Authority, yes, sir.

[237] Q And what is the source of supply for this system? A The source of water is the same as it is for the private supplier, and it comes from one or more of a series of wells in each case.

Q Now, if you turn your attention to the blue area— A The blue area is the area served by the City of Salem. Their source of water is, I believe, from the river, or they are developing a source from the river. They have a modern treatment plant and are developing another one.

Q Did you mention Salem's source of supply? A Yes, sir.

Q All right. Salem and Roanoke have no relationship with respect to water, is that correct? You don't sell them water? A No, sir, we don't sell them water and they don't sell us water.

Q Now, turning your attention back to the large green area, which I understand to be the City of Roanoke water system, and while the jurisdictional lines are not too apparent from the small maps in this book, it would appear that in some areas this system extends beyond the corporate limits of the City of Roanoke. Would you please point out those areas where [238] the lines go into the County? A Yes, sir. Of course, our main source of supply is Carvin's Cove, and we come from Carvin's Cove into the City and branch out. This is Summerdean, Brookside. This is the north corporate limits of the City, coming around Hershberger Road back down Peters Creek. All this area in here, which is in the County is served by the City.

We serve several industries in the County also, in this area. We serve Ingersoll-Rand here, Double Envelope Plant here, I.T.T., Jamison Industrial Park.

We serve the large subdivisions over in the corridor area, Mt. Vista and Montclair estates.

As you come back down the eastern side of the City we stay pretty close. We get out in a few of the small areas. We go out 460 and serve the Statesmen's Industrial Park.

Coming on back we follow the City corporate limits fairly close in the southeast area.

As we get over to the southwest area we go out and pick up the Cave Springs area. This is the area of the County we serve. We serve the Blue Ridge Park for industry. This is in the County.

We have a total of approximately 5,000 customers that are served in the County.

[239] Q Those are commercial, industrial and residential? A And residential, right, sir.

Q A moment ago you pointed to Carvin Cove. Would you put your pointer up there again, please? That is the major source of supply of the City's water? A Yes, sir. This is a major source of supply. We saw this on the trip. We saw the abutment of the dam, and it was located at this point. Behind this we have six and half billion gallon of water capacity. This is enough water to serve the entire area that we serve for a period of one year, just to give you an idea of the volume of water.

Q You mean if nothing more was added to it? A Right, sir.

Q And you dammed it up where it entered you could serve for a year out of the existing supply? A Right, sir.

[242] * * *

Q All right, sir. Now, you have previously testified you have some 5,000 connections in the County. Do you have any [243] figures which would reflect the past two, three years, the amounts of water delivered in the County? A Yes, sir, I have.

Q Would you put those before you, please? A Incidentally, these 5,000 connections only includes six, I believe, for the town of Vinton. So we actually serve a lot more people than that, indirectly.

Q All right. According to some figures previously furnished me, I have here an itemization of the amounts of gallons of water billed customers in the City and for those in the County. And to get through this rapidly, I have an indication that there were 3,120.5 million gallons billed in the City in 1967, is that correct? A That is correct.

Q And how many in the County in that year? A In the County that year, we billed 384 million gallons. That is less Vinton.

Q Now, let's skip from 1969, and give me the comparable figures of water delivery in the City and County, less Vinton, for 1970, which I believe are only for an 11-month period? A Yes, sir. In the City for 1970, we billed 3,162,000,000 gallons. In the County, we billed 666.4 million gallons.

Q From 1967 to 1970, what percentage increase in [244] delivery of water was there in the City of Roanoke? A 1.33 percent.

Q For the years 1967 to 1970, what increase in percentage of delivery of water was there in the County? A 73.54 percent.

Q It's a fact, is it not, that your charge to the residents of the County is double the charge to the City? A Yes, sir.

Q In the event that this annexation be granted, what would the rates be? A Should we annex the County, the rate scale for the County residents will be adjusted back to a comparable rate with the City.

Q It will be the same rate? A Yes, sir.

[245] * * *

Q Are you supplying any water to the County, Mr. Kaiser? A Yes, sir, I am.

Q To your knowledge, have they attempted to get water from anybody else, or is water available to meet their needs from any other source? A Not to my knowledge.

Q Do you have any knowledge as to the potability of the water in various areas of the County, any problems that you know of? A I know that in the North County, people that have wells have a problem with iron. Of course you always have a problem with hardness in the case of well supplies.

Q What do you mean by hardness? A Too much calcium barbonate, the water percolates through limestone.

Q Is there an adverse effect resulting from that? A It's not potable, using your term.

Q It won't lather? [246] A Well, it won't lather, you have scale on your lavatory system, cooking utensils.

Q In the bathtub? A In the bathtub. That is not normally called scale, it's a ring.

Q In the event that this annexation be granted, do you anticipate that your department would make any capital improvements, or would there be any extension of your service into the urban areas? A Yes, sir, we propose to—

Q Are these shown on the Exhibit B-4? A Yes, sir, they are.

Q I would appreciate it if you would go up to the map and point these out, and describe them to the Court.

(Witness goes to map.)

A Capital improvements we plan to make in this County are the lines shown in red. I may point some of these out.

Q I notice that there are solid red lines and broken red lines. Would you distinguish those, please? A The solid red lines are the capital improvements we intend to make in the immediate future, upon annexation by the County.

The broken red lines are areas showing means by [247] which we can serve other areas, which would be made in the future as the need requires.

Q Am I correct in assuming these are major transmission lines shown here? A Yes, sir, you are.

Q And none of the connecting lines? A No, sir, that's right.

Q All right. If you will point out the major areas without going into all the details of the lines? A Primarily, we are showing the loop from Lee Highway going down around 419 by Sugar Loaf and Windsor Hills area, coming back into Franklin Road.

This loop will be tied in with fingers coming out, other feeders. In other words, coming out Colonial Avenue, Garson Road and this extension (indicating). It will provide storage on this loop. This loop will be extended out as far as necessary to abut on these existing systems that we don't now serve or have control over.

We propose to make other entensions in the County. We will make a tie-in by the Ingersoll-Rand Plant to give us a loop in this area (indicating), lay a line from Double Envelope Plant to the northwest to provide service to this area north of Burlington Heights.

We intend to make some connections to our [248] existing system just northeast of the City, and lay a line with the pumping station coming up on North Lake, under the Interstate through Hanging Rock, and then above North Salem to the West Salem side, with storage on this (indicating).

To the town of Vinton, we show or propose to make an extension through the town of Vinton tying in a lop system here (indicating) with elevated storage in the town of Vinton itself, or in the area Vinton now serves.

[249] Q Speaking of Vinton, I noticed in the morning's paper there was a picture of some ladies with some buckets in the Council chamber over there protesting something that had to do with the water system in Vinton. Are you familiar with the problem that now exists? A I know they have a problem. The lady who was shown called me last night.

Q What is the problem? A The problem they had is the subdivisions that are actually out of Vinton and are in the County in the

Crofton area, they have a problem of getting water up here in the summertime, especially in the summertime. We serve the town of Vinton from our line here and we have plenty of water available but they can't get it up to the customers that need it.

Q Who is responsible to get it to the customer presently? A The town of Vinton.

Q In the event of this annexation, do you have any plans that would solve the problem that seems to be disturbing these ladies? A Yes, sir, as I indicated before we are proposing a high-level sewage in this area. We also propose to tie this loop back to downtown, to the pumping stations here, in order [250] to permit us to backfeed from our Carvin Cove system back into the higher elevations of the town of Vinton.

Q There was a mention in this article that there is presently under construction an 800,000 gallon storage tank in Vinton. Will the construction of that tank in and of itself be sufficient to solve this pressure problem or lack of pressure problem? A I frankly don't see how it can. There may be a way that it can, that I am not aware of, if it is going to be pumped from that. As I understand this system, I believe the tank will be set at a lower elevation than what is needed for this area up here. By a series of pumps and valves it could be possible, but I don't see it. I haven't been able to figure it out.

Q With these capital improvements that you propose, will they be sufficient to solve the problem as it now exists? A Yes, sir, with some replacement of smaller lines which does not show on this map. We are only showing the major transmission lines.

Q I believe that these proposed extensions are self-evident, but I should ask you one question with respect to the dotted lines. Do you have any precise projections as to when these services will be extended in that area or will that be done as need arises? [251] A That will be done as the need arises under a policy that will be developed that has not been developed up until this time.

Q You have mentioned and pointed out to the Court and there are shown on this map the major transmission lines that are designated to be immediate improvements to be installed at the time of annexation. Most of these appear to come and border upon private systems, the Authority systems and some into the town of Vinton.

With respect to the Authority and the private systems, it wouldn't be possible for you to serve them absent an agreement with them, would it? A No. We propose to make this service available. If the time comes that they want our service or the time comes in the event of an emergency, we can furnish water to the systems.

We will also make an effort to supply these areas with water for fire protection.

Q Would you discuss the area's needs with regards to fire protection? What is the problem? A The problem in the County now is that to have a fire protection system you need more than a hydrant. You have to back it up with something. Most fire insurance underwriters require a flow that varies. I know it varies depending [252] upon what you want to protect. But say 300 to 500 gallons a minute.

In order to provide this flow you have got to either have a well or a tank or both that can supply this. You have got to have a good-sized distribution line in order to get your flow from your storage or from your well to the hydrant.

I am frankly not sure of the flow that comes from some of the wells in the County. I know that there are a lot that will not furnish—I know that there are several that will not furnish adequate fire protection. I think there are at least one and maybe two that do have fairly good flows. I think there is a good well in the Hunting Hills area.

Q Would it be your policy to acquire and operate these private systems if that would be possible? A If it were economically feasible, yes. I don't think we would go out and buy them or acquire them at some ungodly cost.

Q That depends upon what price the development or the private owner is willing to sell it to the City for? A Right. These places have a tendency to come down as the system gets old, due to maintenance costs.

[255] * * *

Q What is the total amount of estimated cost of [256-257] water improvements to which you have testified? A The total cost of the improvements as shown on this Exhibit are estimated at $5 million. I didn't go over the projects that have already been approved and that are already funded. These are projects that will come about as a result of annexation that have not been heretofore contemplated.

[258] Q So what is the nine million one hundred fifty-four thousand dollar figure which is in the first column in the water improvements budget? A That is the total estimated cost of all improvements that we have projected, including those that we have under consideration, regardless of annexation, plus the projects that I have just gone over on the exhibit.

Q And those total approximately $5,000,000? A Yes, sir.

Q And does it also indicate to be financed by revenue bonds, and I take it from the successive columns there that the amounts to be spent in the years in which these amounts would be spent are shown in those columns, is that correct? A Yes, sir. If you will notice the last column says "1975-'76 and later," just to make that exception. It is not just 1975-'76. It will go for a few years past that. I think it is projected for more than that.

* * *

Cross Examination

By Mr. Jolly:

Q Mr. Kaiser, you stated on direct testimony that you were somewhat familiar with the City of Salem's present Municipal water system, is that correct, sir? A Yes, somewhat.

[259] Q And I believe you stated that they had a modern treatment facility and were at present working on a second facility, is that correct? A Yes, sir.

Q Are you aware of the fact that the City of Salem is now engaged in developing a new source of water up in the Montgomery-Floyd County area? Are you aware of that, sir? A Yes, sir.

Q You have shown on your Exhibit B-4 in red what improvements the City of Roanoke anticipates making in the event of annexation, is that correct, sir? A That's correct.

Q I will direct your attention, if I may, to the area to the west and north of the present City of Salem at about the point where the interchange is located. This line here that I am indicating on the map running in a westerly direction comes down southerly into a blue area. That I assume is an existing line of the City of Salem, is that correct,

sir? A Yes, sir. Your new treatment plant will be located at about that point, if I remember correctly.

Q The red line that is extended across the blue area? A Right.

[260] Q Is it contemplated that would parallel an existing line of the City of Salem? A Yes, sir.

Q And then you contemplate a storage facility up at the southeast corner of the gray area on the map? A Yes, sir.

Q Is it not true, Mr. Kaiser, that the lines either dotted in red or solid red in the area west and north of the point I have heretofore indicated could be constructed and operated by the City of Salem? A Yes, sir, they could be.

* * *

Cross Examination

By Mr. Fitzgerald:

Q Mr. Kaiser, how long have you been the head of this Water Department? A Since December of last year, sir.

Q You say you don't wholesale water to other systems, you retail it? A Aside from the town of Vinton, yes, sir.

Q Do you sell to other systems, distribution systems on a retail basis? A Yes, sir.

[261] Q When they need water? A Yes, sir.

Q And this water comes mainly from a source in Botetourt County, doesn't it? A No, sir, not mainly. Well, you have maybe a two-thirds of the water shed of Carvin Cove system, but you also have the falling creek system which is not in Botetourt, and Crystal Springs, which, of course, is located in the City.

Q Mr. Kaiser, I'm no expert in water, but just looking at your map and there is another map here that colors Carvin Cove blue, that is your main source of water, isn't it? A Yes, sir.

Q And it is in Botetourt County, isn't it? A The main portion of that body, yes, sir.

Q And you when you saw that water that you have taken from there and treated, you sell it to another distributor and you sell it to him at a retail rate? A Yes, sir, with the exceptions as noted before.

Q You mentioned the fact that the City had in the past purchased some private water systems outside its area, in the area for annexation. When were those systems purchased? A I believe I wasn't here when some of the systems were purchased, but I think it was in 1965. Keys Spring system was purchased in 1968.

[262] Q 1968? A Yes, sir.

Q Up to that time then those private systems were furnishing whatever area they served with water, is that correct? A They were furnishing them some water, yes, sir. I don't know to what degree.

Q From the looks of your Exhibit B-4 it would indicate—I can't see the corporate lines on that map, but the book shows it, I believe. It indicates, does it not, that in the areas sought for annexation there is considerably more service of water by companies other than the Roanoke City Company, am I correct? A No, sir. I don't think you are correct. I believe I noted the Catawba Service Authority has approximately 2500 customers. We have including the town of Vinton 5,000 connections in the County plus the town of Vinton, which accounts for approximately another six to eight thousand people.

Q I don't think you understood my question. In looking at your Exhibit D-4 there is more of the area served by companies other than the Roanoke City Water Company in the area sought for annexation. Doesn't it show that by the colors on this map? A No, sir, I don't think it does.

Q In your judgment there is not more gray and yellow [263] in the area of Roanoke County and blue than there is green? A Well, I can't say there is more without measuring it. It's probably about the same areawise.

Q You would say it is about the same, that is your judgment? A Areawise, yes, sir.

Q You mentioned going through a mountain and taking some water out of another water shed to put it in the Carvin Cove supply? A Yes, sir.

Q Is there any problem that has arisen about getting the water out of another water shed and putting it over into this water shed? A What type of problem are you referring to, sir?

Q Any problem, legal or physical or otherwise? A Yes, sir. We do have a suit pending. I am sure that is what you are referring to, but this is not from the water shed, because it's still in the Roanoke River water shed, but this is not a problem of that nature.

Q Is a suit pending challenging your right to do what you are trying to do? A A suit is pending seeking compensation, yes, sir.

Q Isn't it an injunction suit to enjoin you from doing what you are doing, taking the water out of one creek and [264] putting it over into the other? A I am not qualified to answer on the type of suit it is. I would like to refer that to our attorney.

Q You don't know? A Not in the strict nature you refer to it.

Q All right, sir. This method of operating the Water Department, it is operated as a utility system, is it not, at a profit? A It's operated on utility on a break-even basis, yes, sir.

Q Does the system contribute any money to the general fund at all? A We pay for some services. We don't make a contribution.

Q In other words, the Water Companies or the Water Department are billed for other County services like any other taxpayer, is that correct? A Not other County services. We are billed for administrative expenses and we in turn bill the City for the water they use.

Q You charge the City? A Yes, sir.

Q For the water they use? A Yes, sir.

[265] Q Do you have meters on all the City buildings? A Yes, sir.

Q You do? A Yes, sir.

Q And you send your own City a bill? A Yes, sir.

Q Do they pay the same rate as any other consumer? A Yes, sir.

Q And that money comes out of the general fund, does it not? A That's correct.

Q Now, the operation of the sale of water outside the City limits must be then at a profit to the Company since you charge double the amount? A Would you repeat your question, please?

Q Well, if your total operation is a break-even operation— A I thought you said "Salem."

Q If your total operation is a break-even operation, then the water that you sell outside the City limits of the City of Roanoke at double rates is a very profitable venture, isn't it? A On operating costs, yes, sir.

Q That is what we are talking about.

[266] Now, when a developer comes to you and wants to get water service from the City you require him to put in the lines, if there is not a line already there, is that correct? A That's correct.

Q And you turn the lines over to the City? A That's correct.

Q No payment to the developer by the City? A That's correct.

Q And has there been any requirement in recent years that that developer also initiates an annexation petition for that area? A Not to my knowledge.

Q Not to your knowledge? A Not to my knowledge, no, sir.

Q You have never heard that discussed in the City, that this is one of the criterias that is supposed to be used if anybody comes and wants to extend the lines into the County? A I have never heard that, sir.

Q Never heard that? A No, sir.

Q You say there have been problems from wells. Is there any problem you have to contend with in surface water? A Oh, yes, sir.

Q You didn't mention those, though, did you? [267] A That's why we treat it.

Q You didn't mention those, did you? A No, sir, I didn't mention them.

Q You can treat well water, too, can't you? A Yes, you can, but you haven't seen it done.

[268] Q Have you had any problem with some sediment or something in your water distributed to your customers? A Sediment? No, not to my knowledge. Occasionally, if you have a water line break or you are backfeeding in one direction or the other, you will stir a coating upon it.

Q Is that the red color that gets into the lines sometimes? A That can cause red problems, yes.

Q What is that red stuff? A That is iron.

Q That is iron too, isn't it? A Iron, or it could be a ferric sulfate deposit.

Q You have had some of those problems? A In past years, yes, sir.

Q What financial effect would the annexation have on your water department operation, if the Court saw fit to grant this annexation? A Initially, we would take a loss in revenue. I am sure as time goes on, as we get our services into the existing County area, that this lost revenue would be regained.

Q Well, the effect of it, then, would be that you would have to up your rates? A Probably, yes, sir.

Q Now, Mr. Cogar asked you if you would supply the [269] annexation area at the same rate as the City; you neglected to say that it was going to have to be a higher rate than you are now charging the City, didn't you? A Yes, I did. But what you are inferring is not true either.

Q It's not? A You are inferring that I would make an across-the-board rate increase, are you not?

Q Do you set the rates? A No, sir, I do not.

Q Who sets them? A The City Council, City of Roanoke.

Q You said if annexation were granted that the revenue side would go down, did you not? A Yes, sir, I did.

Q You said also that your department operated on a break-even basis? A In the long run, we do.

Q You intended to continue running it that way, you said? A That's right.

Q Something has got to be done to get the revenue back up, hasn't it? And I believe you just told the Court that it was probably a rate increase? [270] A Yes, sir.

Q All right. A I might say that speaking of rates, the City

has a very low rate now, as compared to most of the areas and bigger cities in the State.

Q Would you look at this red line in the City? A right, sir.

Q I think it's in the little book too, but it's hard to see. A Yes, sir.

Q What about annexation causes that line to be put in? A If we are going to supply the areas in the County as I have said we would, with adequate water supply, it would be necessary for us to upgrade our existing system to bring the water to the limits.

That is the purpose of this line, is to strengthen our own distribution system, to bring it out.

Q Well, now, you said that there was some of the improvements that were going to be done regardless of annexation. Is that one of them? A Oh, someday, but that is not contemplated initially.

Q Are any of these dark red lines on here projects [271] that have already been planned, regardless of annexation? A Nothing official, no, sir.

Q You say, "nothing official." What do you mean by that? A Well, nothing proposed in an official manner, as opposed to mentally contemplated.

Q Well, my understanding is that you had the total estimated cost of the water improvements as something over 9 million dollars, but the dark red lines on Exhibit B-4 only totaled up to something around 4 to $5 million? A Right, sir.

Q Have you shown these other improvements on that map that come within the $9 million? A No, sir, we haven't. These projects include, like the construction projects underway on the Catawba Creek Tunnel, upgrading our Carvin Cove filtration plant, miscellaneous services for tie-ins, connections, laterals for fire protection.

Q Your capital improvement needs under way are just about the same as you project for the known future in the area sought for annexation, are they not? A No, sir, they are not.

Q About $4 million as compared to $4 and a half million, $5 million? A We don't propose, in the event we do not annex, [272] to make these extensions into the County. Is that your question?

Q No, sir, that is not my question. You already have certain capital improvements that you say—you told the Court on direct examination would be made regardless of annexation? A Right, sir.

Q And do they not total something over $4 million? A About $4 million, yes, sir.

Q Yes, sir. A These are as contemplated.

Q Now, in planning for additions and improvements to your water system, what span of time did you plan for? A Normally, you plan for about 30 years.

Q For about 30 years? A Yes, sir.

Q And you would say that the dark red lines which you would envision would be the needs to improve your system for 30 years, or approximately that? A They would be the back bone, yes, sir.

Q Yes, sir. I believe you said in extending these where you show the dark red lines extended out through already existing services areas of private water companies in the Roanoke County Service Authority, that you intend to put those [273] lines through there whether or not those companies take water from you, or whether you acquire them or not? A That is correct, sir.

Q What is your intention in serving areas that those lines go through that are not yet developed, but will, in the future, develop? Who will serve them? A On future development, we will be glad to serve them if they request our services.

Q You mean it's your recommendation to the City Council that on lines you have going through the area now served by the Roanoke County Service Authority, that if somebody wants to get a building permit, that it would be permissible for them to connect onto the Roanoke County Service Authority lines rather than the City of Roanoke lines? A That, I can't answer, what the policies of the City of Roanoke would be as to the Roanoke County Service Authority.

Q Doesn't that have some effect on your projected revenues? A Yes, sir. But I am not projecting any revenues on these lines.

Q That policy is not solved yet? A As to what the policy will be?

Q Yes, sir. You have not been told? [274] A No, sir, I have not been told.

Q That is true where your lines go through all the areas served by already existing or Roanoke County Service Authority? A As I indicated before, if they request service, I am sure we will service them.

Q You have shown in your exhibit, B-5, the areas served by fire hydrants, the area in green, it says, "City of Roanoke." Are you familiar with the manner in which fire hydrants are provided in the County on the City of Roanoke's lines? A By divided, what do you mean?

Q Provided? A Yes, sir.

Q How are they provided? A The County requests the City Roanoke to install the hydrants on their lines. After it's been approved by the City the—Let me make a distinction. Previously, these were approved and the hydrant was installed at no expense. But recently we have had an ordinance by the City Council that says that fire hydrants will be installed at a cost to the County.

Q Well, Mr. Kaiser, that has been in effect for some time, hasn't it? The County has been paying $100 per [275] hydrant per year for years, hasn't it? A Not a connection charge, no, sir, they do not.

Q Do they pay you anything for having the fire hydrant there? A A $100 per year.

Q $100 per year. That has been in effect for a number of years? A Yes, sir. But that is no longer in effect.

Q Now what are you doing? A It's $150.

Q A year? A A year.

Q Do they also have to pay to install the fire hydrant? A That is correct.

Q How much is that? A If there is a hydrant lateral existing —I might be a little off, I believe it's $300 for the hydrant alone, or $830 in the event it is the total hydrant-in-hydrant lateral.

Q Tell the Court how many hydrants the County is paying this annual charge on now? A Well, the last thing they paid was 74. But we have installed some since then, and I am not sure how many we

have installed. I think it's probably in the range of four to [276] five, maybe six.

Q These dotted lines, I believe you said you don't have any idea when the need will be for those, but it is not now? A No, sir, we don't propose these now.

Q And these lines certainly won't be needed until some time after the red lines are installed? A Probably not.

Q Your budget of capital improvements through 1975 would not provide for the installation of all of these solid red lines, would it? A No, sir.

Q How much of those solid red lines would that budget, up through '75— A The figure includes it all. The time I think is projected, we have projected on an eight-year period to '77, '78 as an initial estimate.

Q Of installing the dark red lines? A Right, sir.

Q 1978? A Yes.

Q And would you care to venture a guess of when any amount of these dashed lines would come into being? A No, sir, I would not.

Q But sometime in, you might say, the far future? [277] A Yes, sir.

[278] * * *

William H. Richardson

* * *

Direct Examination

By Mr. Cogar:

[279] * * *

A I am a partner in the firm of Alvord, Burdick & Howson, Consulting Engineers.

Q How long have you been associated with that firm? A For over 19 years.

Q And you are by profession a civil engineer, is that correct? A Yes, sir.

* * *

Q Generally what is the nature of your work in this field? [280] A The firm of Alvord, Burdick & Howson have been consulting engineers for over 70 years in sanitary engineering, specializing in water supply and pollution control projects.

We prepare reports, feasibility studies, design the project, supervise construction, and then assist in the initial operation of all the projects.

[283] * * *

When did you have your first association with sewage treatment in Roanoke Valley? A 1959. You mean the firm or myself personally?

Q Yourself personally. A In 1960 I came to Roanoke and acted as resident [284] engineer for approximately two months on the addition of the sewage treatment plant at that time.

Q And have you consulted rather continuously with the City of Roanoke? A Yes, sir, I have.

Q Since that time? A Yes, I have.

Q Concerning sewage treatment? A Yes, sir.

Q And are you familiar with sewage treatment as it exists in Roanoke Valley at this time? A Yes, sir.

[300] * * *

Q Are you familiar with the Vinton plant, Mr. Richardson? A I am familiar to the extent that I do know it exists. I have not seen it, I have not visited the Vinton plant.

Q Do you know the— A I know the capacity.

Q What is the capacity? [301] A I believe it's 600,000 gallons a day.

Q From your knowledge of the sewage treatment service as it exists in Roanoke Valley, should this annexation be granted, what would your notion be as to what should be done with the Vinton plant? A Well, the most economical system would be a single plant, which was investigated back in 1946 by our office.

At that time, that conclusion was made. And now today that the capacities are larger, the relationship would be even more pronounced than it was at that time.

I believe that the Vinton plant effluent and excesses could be pumped to the Roanoke sewage treatment plant and handled very readily by the Roanoke plant.

[303] * * *

Q From your past and present association with the City of Roanoke and Roanoke Valley and from your knowledge of the areas and their needs in terms of water and sewage, in your opinion will Roanoke have the capacity to supply the projected sewage and water programs? A In our opinion, yes, they do.

Q To the area, if the annexation be granted? A Yes, sir, they do.

Q In your opinion, will this be of benefit to the annexation area as a whole? A Well, from an engineering standpoint, the most efficient operation of the utility is the central utility, both from efficiency and economy. It would set up the standards that are required. It could provide services in advance of needs and would set the proper requirements for service to all of the areas.

Q You say that it would be more economical, for example, to have a single sewage treatment plant? A Yes, sir.

Q Do you have any idea from city officials what the cost of treatment on some unit basis is at Vinton, say, as [304] compared to the treatment plant— A I have not seen those figures. We wouldn't take long to develop them, but I didn't develop those figures.

Q Do you know the capacity of that plant? A It is a 600,000 gallon plant, yes.

Q Would it generally cost more or less to run that plant? A I would say it would probably cost two times more because of the nature of hydraulics through a large facility versus hydraulics through a small facility.

Q This is one of the reasons you would recommend the abandonment of that plant? A Right.

Q Do you see any advantage to be derived from the consolidation of the various facilities? A The advantage would be, as I have pointed out before, that facilities would be all constructed on a standard. The need would be provided in advance of when they were

needed. The efficiency and economy should be in the system because you would not have a duplication of services.

Q Is that equally true with respect to services? A Yes, sir.

* * *

[305] Cross Examination

By Mr. Fitzgerald:

Q Mr. Richardson, I believe you said that when the system was first set up, the treatment plant was first built around 1954? A Which now, sewage?

Q The sewage treatment plant. A 1951, yes.

Q That you recommended that one plant be built on the river? A Yes.

Q And that the City of Salem or the then town of Salem and the County of Roanoke not build separate facilities? A Yes, sir.

Q That they become customers of a larger single plant below the City of Roanoke? A Yes, sir.

Q There was some thought given at that time, some plans, for the town of Salem or the County of Roanoke or both to build separate facilities, weren't there? A Yes, there was.

Q But in your judgment it was to the best interests of all jurisdictions to have one? A Yes.

[306] Q It was equally advantageous to the City of Roanoke? A I would say so, yes.

Q You couldn't have justified a plant of that size? A We wouldn't have needed a plant of that size.

Q But a larger plant is more economical to run, I believe you said? A Certainly. Everybody in the community benefited—

Q Saves— A —from a lower unit cost.

Q But at that time you couldn't have justified a plant of that size if the town of Salem and the County of Roanoke hadn't been known to be customers at that time? A Well, I don't have the figures in mind but in 1950 it was only a 6 MGD plant. I would venture to say that Salem had made a very small contribution to the flow of the

plant at that time. Whether Salem came in or not, I think that Roanoke would have had to build that size plant.

Q But wasn't the plant designed and planned to expand to a larger size? A All sewage treatment plants are designed so they can readily be expanded.

Q And this was designed so it could be expanded to take care of Salem as a group and the County as a group? [307] A And Roanoke as a group.

Q As a City group? A Yes.

Q The town of Salem and the County of Roanoke agreeing to this cooperative effort put their efforts then into being customers of the Roanoke City facility? A Yes.

Q And in doing so became dependent on the owner of that system to operate it properly, is that correct? A That is correct, yes.

Q Is there a hearing on the 15th of June before the Water Control Board that you are familiar with? A I am not familiar with it. I have not heard of it.

Q You don't know of any show cause order that has been issued? A I am not aware of it, no.

Q You don't know of any threat to cut off or prohibit—to have a moratoriam on connections to the system? A I have seen no correspondence or any literature on that at all.

Q Hasn't anybody in the City told you of this situation? A No, sir, they have not.

Q You are not aware of that? [308] A I am not aware of it.

Q Do you read the local newspapers on the sewer problem? A I arrived in Roanoke on Monday afternoon and I saw the paper last night.

Q Are you aware from the newspapers of any critical situation as to banning any more connections on the system? A I haven't seen anything on that.

Q What is the present degree of treatment if the load does not exceed the treatment capacity? A Last year they had over 90 percent efficiency.

Q That is when the load is not exceeding the capacity? A Well, even if the load is exceeded you would still accomplish between 80 and 85 percent removal.

Q But if it goes to the by-pass, that is raw sewage going into the river? A It is raw sewage, and the sewage, if it doesn't reach the plant, will be by-passed from Salem out along the interceptor and draw into the river if it never reaches the plant.

Q What is the peak load day? A I believe that the maximum the plant can handle—and it has passed 34 MGD's.

[309] A Yes, sir.

Q And the plant is designed to accommodate 21, is that correct? A On treatment capacity, but hydraulic capacity, it is 34.

Q The hydraulic capacity simply means that that much will go through the plant? A And get chlorinated.

Q But the solids are still there? A It goes through all the treatment facilities and does have some detention time. It goes through the primary basins. It does get treated along the way and it all gets chlorinated.

Q What is the degree of treatment when it comes out under those conditions? A As I said, it is about 85 percent efficiency. It is better to have some treatment than none at all.

Q Yes, sir.

You said that it is best to have a single utility? A Yes, sir.

Q Don't you agree that it really doesn't make any difference what jurisdictional entity has the single utility as long as it is a single utility under a competent leadership? A Well, I think it depends on the size you are [310] talking about, the location, how it is operated.

Q For instance, this system as it exists could be operated very efficiently by an authority, could it not? A Yes, it could.

Q That is done in many places? A It is done in many places.

Q It is operated in any event, I am sure, to be a self-sustaining utility, is it not? A I believe it is, yes, sir.

Q The rates are set to produce the income to meet the system's expenses? A Yes.

Q And to produce money to extend the system? A Yes.

Q And improve the system? A Yes.

Q This money that you talk of, $10 million of improvements that you project, will be money raised perhaps by revenue bonds? A Yes, sir, I believe it would. No, about—the plant is 80 percent will come through federal and state aid.

Q Federal and state aid? A Yes.

[311] Q And you were aware that the State Water Control Board's criteria for granting State aid is regional sewage facilities? A Yes, which this is.

Q And this is? A Yes.

Q And it is because the City of Salem and the County of Roanoke are somewhat co-partners in this operation? A Well, it is, yes, because back in 1946 somebody recognized that this was the best way to treat the sewage in the Valley.

Q And an a agreement was entered into? A Yes, sir.

Q And it is because of that agreement that these state funds are available, isn't that true? A Well, I think State funds would be available whether that agreement was there or not. If it is a regional plant, regardless of the agreement, it would go forward.

Q But the fact that the County of Roanoke and the City of Salem are part of that operation, that they agreed to go in with the City, makes it a regional plant, does it not? A Yes, certainly.

Q Are you aware of certain renegotiations of that contract that had been going on for some time? [312] A The only thing that we were involved in, our firm, Alvord, Burdick & Howson, was in the original negotiations back in the early 50's and about three years ago we were asked by the City to review the contract and make a recommendation as to the formula that could be used for service to Salem and the County. That was two years ago.

We prepared a memorandum, sent it to the City, and had not heard anything since that time.

Q Never heard a word since that time? A We have not been involved in any of the negotiations.

Q What was your recommendation to the City? A I can't remember the specific recommendation as to the formula, but it would be based upon the norma formula—it would be based on the pro rata share of the operating expenses plus the fixed costs as determined by the volume treated.

Q Are you aware that there was a committee working out an agreement? A I became aware of it this morning—this afternoon when you asked Mr. Kaiser about it.

Q You didn't know it at the time you submitted your recommendation to the City? A No, sir, I didn't.

Q You have heard not one word from the City about [313] that for two years? A That is correct.

Q Your recommendation would still be that the sewage problems of the Roanoke Valley be handled on a regional basis? A Yes, sir, definitely.

TRANSCRIPT DATED APRIL 22, 1971

[317] * * *

William F. Clark

* * *

Direct Examination

By Mr. Cogar:

* * *

Q You are the Director of Public Works for the City of Roanoke, is that correct? A That is correct, sir.

[318] * * *

Q I would like for you at this time to tell the Court how your department is organized and the function of the various divisions within your department. A Yes, sir. The Department of Public Works is basically organized around six principal divisions.

[319] * * *

Q In the event that this annexation be granted, would it be necessary for you to make any alterations in your communications, existing

communication system? A Yes, sir. The County and Vinton radio communications equipment is not compatible with the City facilities. And these would be phased out and changed over to a—one set [320] of communications equipment. The budget so provides.

Q And the County presently has what type of system? A Well, it's what would be called a low band frequency. The City operates on a high band frequency, it's more dependable, less subject to interruptions and atmospheric interference.

Q Therefore, upon the annexation, you would convert all the equipment to the high band frequency, is that correct? A Yes, sir. Obviously for a short period of time they would have to be operated as a parallel system, but they would be converted as rapidly as feasible.

Q Under signals and alarms on the chart which I am looking at under my notes, I see that street lighting is in that subdivision, or that division, is that correct? A Yes, sir.

Q If this annexation be granted, what proposal do you have for street lighting in the annexation area? A Well, as with all jurisdictions in the area, the power company actually handles the installation and maintenance of the facilities. And they are provided for through the budget to cover the actual operation.

We propose, in the area to be annexed, for the minimum initial four-year period to increase the present County [321] and Vinton expenditures for street lighting by 25 percent a year, so that in the first four years, there would be a doubling of the installation of street lighting in the annexed area while simultaneously an overall County plan was developed for a coordinated street lighting system.

Q Overall City plan? A For the whole area, yes, sir.

Q All right. And that 25 percent increase per year for the first four years would have the result of doubling present expenditures, would cost what? A Just a moment, sir. It would cost approximately—well, I am also figuring in additional lights in the already existing city. But the present County and Vinton are spending approximately $45,000 for street lights, so this would be doubled.

Q I am not sure I am clear about that. I don't know the periphery of the existing city limits. How much do you propose to spend over the next four years? A Well, the present budget for the City,

irrespective of annexation, would be somewhat in excess of $200,000. This would go to somewhat in excess of $400,000 the first year following annexation.

So it would be a $200,000 increase the first year and thereafter.

[324] * * *

Q In the event this annexation be granted, to what extent do you propose to extend this service to the residents of the annexed area? A Are you specifically talking about the leaf collection or the entire refuse collection?

Q The entire refuse collection. A We would absorb the present Vinton and County personnel and equipment, and integrate them in with our own personnel and equipment, and provide equal or better refuse collection to what is now provided, similar to that now offered or identical to that now offered throughout the City.

We propose, in the rural areas where the concentration of homes would be somewhat sparse, to institute a system of rural collection with large containers situated at strategic locations where the people in the rural areas can bring their refuse and have it picked up on a systematic periodic basis.

Q Let me stop you at that point? A All right.

Q The Court has seen, as well as the rest of us, some fairly rural areas of the County, some places as at crossroads, where there may be as few as two, three, four houses. Do you propose to get that far into the County, or what is the nature of the area in which you propose to place these [325] containers that would be picked up periodically? A Well, obviously, it would take a comprehensive study of the entire rural area to specifically identify those locations, crossroads communities, as you described them, where these large containers would provide a facility whereby the rural citizen would have some place to deposit his trash, rather than have to leave it on the roadside, as we frequently see happen.

* * *

Q To your knowledge, does the County presently make a charge for such refuse collection program as we have? A Yes, sir, it's my information that they charge $2.00 per month for residential refuse pickup.

Q What would the City's charge be? A The City makes no special charge for refuse collection.

Q Would that policy obtain upon annexation? A It would be a uniform policy throughout the [326] entire new City area.

[331] * * *

A Before I leave that, would you like to mention commercial collection?

Q Yes, would you please. A Yes, sir. This City operates a fleet of six front-loading large commercial trucks that go around and pick up containers from businesses. We have over 400 containers which we pick up throughout the City, again in no special direct charge.

The County now operates a limited fleet of rear-hoist trucks and the vast majority of commercial pickup in the County is provided by a private contractor. He charges $5 per pickup.

[332] The City would propose to immediately purchase additional front-loading hoist trucks and provide business and commercial collection throughout the entire new City comparable with that now offered in the present City.

Q Would you now discuss your division of property maintenance? A The City's maintenance or property division is responsible for the maintenance and repair of some 178 buildings and property throughout the City from ball park lights to the municipal building. There are 55 bridges and culverts, with a crew of skilled craftsmen to hand all the maintenance and repair of these facilities.

Q What would the function of that department be upon annexation? A We find no evidence that the County directly has such personnel but apparently contracts for this service, so it is our proposal to increase our work force to handle all maintenance and repair through our own employees.

Q Now the last division which I see before me here is your garage division. Will you tell the Court its present function and how that operation would be changed upon annexation? A Yes, sir. The City has a fully-staffed and equipped garage for the maintenance of some 364 motorized pieces of equipment owned by the City. Everything except for that [333] equipment owned by the fire department and the water department, who provide their own maintenance.

We would again increase staff and equipment to maintain the approximately 148 motorized vehicles which we have found available within the County and Vinton.

Q I had intended to ask you at the time you were speaking of your street division, your street maintenance, questions concerning what you propose to do about annexation. It is my recollection that the City's ordinance proposes that in the event of annexation the streets in the annexation area, pursuant to a recently-enacted statute, would be continued to be maintained by the State Department of Highways. Is that correct? A That is correct within the County area. However, we would assume the responsibility for those people within the town of Vinton which are not now maintained by the State.

[334] * * *

Q I had intended to ask you one thing about the sewage treatment plant which I do not think was covered by Mr. Richardson.

You are presently treating in that plant sewage from the City and County and the County's is metered and a charge is made to them for it, is that correct? A Yes, sir.

Q Do you make a profit on the treatment of the sewage which is received from the County? A Definitely not, sir. Figures have been shown for quite some number of years that the City loses considerable money for every gallon of sewage that it treats outside the corporate limits.

Q Are you able to give the Court some idea as to the actual cost to the City of treatment as opposed to what you [335] received from the County? A Actual operating costs from most up-to-date figures available are running in the neighborhood of $65 per million gallons. That was before the recent addition of experimental chemicals to make certain improvements at the plant.

The basic contract with the County, although there have been amendments to it at different rates, but the basic contract, I believe, is in the neighborhood of $35 per million gallons. So it is about half what it is costing us to treat the sewage.

Q How many people do you presently employ in the Department of Public Works? A The total is 506.

Q In my discussions with you I have determined that in each of these various categories and sub-categories you proposed increases but

without going into each of them, because it would be too time-consuming, how many people do you propose to add to your department for all the functions that you have testified to upon annexation? A Six hundred seventy-two total, so the difference would be 166 new people.

Q Where will these people come from? A Well, a certain amount of them are obviously [336] available within the County and Vinton organization. I believe that figure is about 85. No, sir, it is 103 now available and 52 new, if that totals properly.

Q So if you absorb the County and Vinton people presently engaged in these projects you will absorb all of those and hire an additional 52? A Yes, sir.

Q What is the total amount of the operating budget for your department now and what will it be after annexation as reflected in the budget? A The budget now is $5,355,729. It would be, in '72-73 following annexation, $7,610,904, or about two and a quarter million dollars increase.

[338] * * *

Cross Examination

By Mr. Jolly:

Q Mr. Clark, I have a few questions to ask you, sir. As I understand it, the City of Roanoke, if this annexation or some part of it is granted, intends to furnish refuse collection to the areas of the County that are now receiving it? A That's correct, sir.

Q And I presume to extend that as the need arises throughout additional areas that are now determined by Mr. Zollman to be rural, is that correct, sir? A Definitely, sir.

Q And you were present in the courtroom yesterday, were you not, sir? A Yes, sir.

Q And did you have an opportunity to see Exhibit SM-4 which I will refer to as the yellow line exhibit? A Yes, sir.

Q With reference to the areas west and north of the line on Exhibit SM-4, isn't it true, sir, that the City of Salem can furnish the same refuse collection that the City of Roanoke proposes to furnish insofar as that area is concerned?

Mr. Fitzgerald: If it please the Court, it [339] would seem that this question is not material to this case as to whether the City of Salem can serve that area. This case that we are trying now does not concern the ability of Salem to serve that area.

Judge Hoback: We don't think it's material at this point. The issue now before the Court is whether the City would annex the entire County, not whether the area could be served by some other municipality. But insofar as it may relate to the entire County being annexed it would be considered otherwise. It would wait a later time, if we reach that point. So we sustain the objection at the present time.

Mr. Jolly: Might I inquire of the Court at this time? The Court is not indicating, is it, that the City of Salem will not be permitted to put on evidence as to which area of the County before the Court rules on the City of Roanoke's suit?

Judge Hoback: No, we are not indicating that at all.

Mr. Jolly: All right, sir.

By Mr. Jolly:

Q Then, Mr. Clark, if the City of Roanoke furnishes the services it has proposed through your testimony and other witnesses to the area north and west of the yellow line, from a [340] practical standpoint would it not have to furnish those services to the City of Salem? A Well, definitely the area to the west toward Dixie Caverns and Glenvar, that would be true, we would have to pass through the City of Salem to get north to Catawba Valley. I suppose it would be physically possible to get up Route 311 without going through the present corporate limits of Salem.

Q But while it might be physically possible, from a practical standpoint in serving that area don't you have to go through the City of Salem, sir? A It would be most logical, yes, sir.

Q Yes, most logical, is that correct? A Yes, sir.

Q As to your Brushy Mountain landfill, you referred to that several times as a regional land fill? A Yes, sir, that's always been the City's proposal.

Q And when this proposal was first aspoused by the City of Roanoke, isn't it true that the City of Salem expressed a great deal of

interest in participating in the cost of developing and using that land fill site? A It's definitely my understanding that Salem expressed an interest in the site, yes, sir.

Mr. Jolly: All right, sir. Thank you, sir.

[341] * * *

Cross Examination

By Mr. Fitzgerald:

Q Mr. Clark, how long did you say you had been Director of Public Works for the City of Roanoke? A Since August, 1970, sir.

Q And you mentioned that the communications system comes within the purview of your Department, is that correct? A Maintenance and operation, yes, sir.

Q Then you have told the Court that there is going to have to be some alterations in the systems? A Yes, sir.

Q If the City of Roanoke takes over the whole County of Roanoke? A Yes, sir.

Q Are you aware, for instance, the Sheriff's Department of the County of Roanoke is in the process of converting its communications system at the present time? A I have read in the paper where both the County and the town of Vinton are advertising bids for communications facilities which again regretably they are setting up parallel types of communications in this area.

Q Regretably setting up parallel types of communications? Now, let's see. Do you know what type of [342] communication the County is converting to? A I haven't had any occasion to see their specifications, no, sir.

Q Are you aware that the Federal Communications Commission requires certain criteria, certain established frequencies for various public radio transmissions? A Yes, sir.

Q Aren't you aware that the County is complying with those Federal Communication Commission Regulations? A I would assume they would be. I have no idea what frequencies they are proposing to develop.

Q Are you aware that in recent years the Federal Communica-

tions Commission has required local governments to go to a higher band frequency? A I wasn't particularly aware, since the City has always been on a high band and never had occasion to be directed to do otherwise.

Q Never had one on a low band? A Not to my knowledge, no, sir.

Q All right, sir. The County is converting to a high frequency system. Does that change or interfere with your plans? A It would then be more easily convertible and phased in with a unified system of communications, yes, sir.

[343] Q How about the fire communications of the County, do you know what the County has in the way of fire communications? A I would not be particularly knowledgeable of their system, no, sir.

Q Don't you operate the fire communication of the City? A Yes, sir.

Q How are you going to coordinate or convert the County system to your system? A The people that directly work for me tell me that the systems are not compatible, and that there would be some conversion required, and that's the figures that are plugged into the budget.

Q Figures that are plugged into the budget; how much? A Let me refer to the budget, sir.

Q Strike that question right now if you have to refer to the budget.

Do you know the system that is employed in the County of Roanoke? A Personally, no, sir.

Q For fire communications? A Personally, no, sir.

Q You don't know? [344] A No, sir.

Q Do you know what the City's program is for the utilization or provision for fire fighting services if this whole County is annexed? A Again the setting up of a unified system of communications where it is necessary.

Q No, sir. Do you know what the City's plan is for the provision of fire fighting services if the City annexes the whole County?

Mr. Cogar: If your Honor please, that is beyond the scope of anything this witness testified to on direct examination.

Judge Hoback: All he has to say is that he doesn't know and we can proceed. If he does, he can answer the question.

Q Do you know what the City's program is for providing fire fighting services to the total County if the total County is annexed? A I know that the budget includes some money to increase the City's central communications control center with additional consoles and personnel to set up a unified location for the receipt and dispatch of fire calls.

Q Is the answer to my question that you do or do not know what the plan is for providing the fire fighting [345] services that you are going to have to communicate with? A I do not know the specifics of it, no, sir, the detail.

Q You don't know whether the City is going to continue to utilize the volunteer services, fire company services? You have heard that or not heard that? A That's something that completely is in a different department as far as whether the fire department—how the fire department is going to operate. All I am knowledgeable of is the communications.

Q Yes, sir. But aren't you knowledgeable enough in communications to know that the communications system will depend on whether or not the City intends to continue to utilize the service of volunteer fire fighters? Don't you know that they utilize a different system of communications than a regular fire department the City has? A No, sir, I would not be aware of that.

Mr. Cogar: This is argumentative. The witness has answered he is not familiar with the specifics of it.

Mr. Fitzgerald: I believe it's proper cross-examination to find out what this witness knows. He is the one that is providing the program for communications.

[346] Judge Hoback: As far as it relates to communication, I think he should answer the question. If he doesn't know, he can say so.

By Mr. Fitzgerald:

Q Is the answer to my question that you do not know whether or not the City intends to utilize the services of the volunteer fire companies of the County in the event this annexation is granted? A I do not know that specific answer.

Q The street lighting, you say that the budget shows that the City's expenditure for street lights is going to about double if the area sought, the whole County is annexed to the City? A Yes, sir.

Q Are you aware of the size of the County? A Yes, sir.

Q Two hundred and sixty-some square miles, I believe? A Yes, sir.

Q You are aware of the present size of the City? A Yes, sir.

Q How many square miles? A Twenty-seven plus.

Q And the street lights, the budget will increase onefold? [347] A Yes, sir.

Q Mr. Cogar said you made it clear to him, but you didn't make it clear to me, this 25 percent increase you talked about. A Yes, sir, annually.

Q Annually? A Yes, sir.

Q In street light expenditures? A Over what the County and Vinton are now spending.

Q Yes, sir. Is that all going to be spent in the areas sought to be annexed? A Yes, sir.

Q Where? A There are a number of residential and business areas which we could specifically identify. However, I also indicated that there would be simultaneously conducted a comprehensive study of the entire annexed area, and that this first four-year program is to allow time for such a comprehensive plan to be developed.

Q How long would it take you to study whether there is a need for street lights or not? A I know there is a need. I'm talking about identifying the specific locations.

[348] Q All right, sir. How long would it take you to find out where this need is if you know there is a need? A I know the need is there. I'm talking about developing a plan, an orderly program for future expansion.

Q And you have not undertaken that? A Not a detailed plan, no, sir. That is the 25 percent increase allows the interim improvements to be made while the detailed plan is developed.

Q And you can't tell the Court any of the specific locations where the street lights would be put? A I can identify now some of the locations where this initial input would be made.

I know, for example, that the Hunting Hills residential area and the North Lakes residential area have a complete void of street lights.

We would also be talking about arterial lighting and extension of the City's lighting on U. S. 460 to the east, on Route 11 through the west through the corridor, and on Route 220 to the south. Route 11 to the north, through the Boxley Hills area. This would be some of the locations that could be identified immediately.

Q You said Hunting Hills didn't have any lighting? A That's correct, sir.

Q You are not aware of the street lights up there, [349] the gas lights the County pays for? A No, sir, I was not aware of gas lights that were paid for. I don't know that they particularly provide illumination of a quality for street lights.

Q Gas lights do not provide illumination? A Illumination of a quality for street lights, sir.

Q Have the citizens of that area, to your knowledge, petitioned for any additional street lights in that area? A I have no knowledge of what the citizens of that area may have petitioned to the County for, sir.

Q You are not familiar with that line separating the urban area from the rural area, are you not, sir? A Yes, sir.

Q And none of the places you have mentioned, as I recall, would put any street lights out in that rural area, would it? A Probably not initially, except isolated intersections where it might be necessary.

Q Isolated intersections? Are there any street lights out in the rural area there now? A There are a few.

Q At those isolated intersections? A There are a few.

[350] Q Yes, sir. How about the City of Roanoke? Is there any need to improve the street lights there? A Yes, sir. We have an ongoing program annually to increase the lights. They have gone up every year for the last I don't know how many years, and there has been an increase in the budget for street lighting.

Q How much are you proposing to increase the budget for just the City next year, what percent? A If you would bear with me a moment to get the figures, sir. Our present budget for street lighting is approximately 190,000. It will go to 230,000 next year, regardless of annexation. So that is, I would say, a ten to fifteen percent increase.

Q Ten to fifteen percent increase in the City? A Yes, sir.

Q Is any of that going on Shenandoah Avenue? A I wouldn't specifically say at this time what locations that money will be spent on. Our traffic engineering superintendent receives a request and considers needs, those that may be received from any source, and recommends the installation of specific lights.

Q You are not aware of any need on Shenandoah Avenue? A Not a particular pressing need, no, sir.

[351] Q Is the high incidence of crime, breaking and enterings and burglaries one of the things considered in the installation of street lights in the City? A Yes, sir.

Q And you are not aware of a high incidence of crime in the area of Shenandoah Avenue in the City? A That would be a police matter. I wouldn't be aware of it, sir.

Q The police don't tell you where they need street lights? A Yes, sir, they do.

Q They haven't told you about this? A Not a specific unusual amount, no, sir.

Q Were you present the other day when Mr. Trinkle, I believe, testified? A Yes, sir.

Q That was one reason you couldn't sell property on Shenandoah Avenue because of the high crime rate and the street lights might help? A That's a comment he made and I have since counted 41 street lights on the street from Tenth to the corporate limits.

Q You don't propose to add any street lights to help alleviate the crime problem? [352] A I don't particularly at that location see a crying need for them, no, sir.

Q But you do see some crying needs out in the County? A And in the City at locations where we propose to increase our budget by ten to fifteen percent.

Q Storm drainage maintenance you say comes under your direction? A Yes, sir.

Q Have you not any storm drainage problems in the existing City? A Yes, sir. We are always going on with comprehensive plan of development and additional storm drainage improvements.

Q You are still developing comprehensive plans for the improvement of storm drainage on Williamson Road? A There are storm drains going in the Williamson Road area as well as other areas continually.

Q What plans do you have to improve the storm drainage system at the Williamson Road area? A I'm really not too advised and I can't talk to you about the capital improvements, because as Mr. Cogar said, the City Engineer will discuss that phase of the City's case.

Q Is that Mr. McGhee? A Yes, sir.

[353] Q He will testify?

Mr. Cogar: Yes, he will.

Mr. Fitzgerald: He wasn't given to me as a witness on the list.

Mr. Davenport: Then I'm sorry. I thought I gave it to you.

By Mr. Fitzgerald:

Q Are you still using the wells to let drainage water run into in the Williamson Road area? A There are wells there that provide a supplementary system of drainage in areas that do not have outfall storm drains, yes, sir.

Q Are they still being used, is my question. A Yes, sir.

Q How many wells are being used out there? A I believe the City has approximately 100 wells in that area.

Q Is that a permanent solution to that situation out there? A No, sir.

Q When are you going to provide a permanent solution to this situation out there? A The City has for a number of years been providing additional drains as time permits. We have within the last [354] seven to eight years expended approximately $2,000,000 to serve the area north of Orange Avenue and at various ways or another, the outfall storm drain from the Crossroads Mall Shopping Center was put

in by the City across the northern part of the Williamson Road area. The Howie project on Orange Avenue right now is putting in a major box culvert relief which will provide the basic network for future drains in the lower end of the Williamson Road area.

Q How much would you estimate is going to have to be expended to provide the permanent solution for the drainage problem in the Williamson Road Area? A Well, it depends on over what period of time you would be talking about. There are proposed improvements in the upcoming capital budget which Mr. McGhee will talk about, spending a considerable sum in the next five to eight years, but I don't know the specific dollar amounts.

Q Mr. McGhee will know that? A Yes, sir.

Q This land fill situation, the City has been offered use of the County land fill at Dixie Caverns, has it not? A It's my understanding, yes, sir.

Q And a study was made, wasn't it, sir, as to the desirability of using that land fill versus the Brushy Mountain [355] land fill? A I don't recall a specific study that made that comparison. If you are talking about the study that was made for the fifth regional planning district, that was made by a consultant.

[356] Q Yes, sir. A Which study was of Brushy Mountain, yes.

Q And Dixie Caverns? A To be honest with you, I don't recall what it said about Dixie Caverns.

Q You do not, sir? A No, sir.

Q You were not interested in what the feasibility study showed? A I am sure it showed that the Dixie Caverns area had a suitable terrain for a potential land fill, yes.

Q Mr. Clark, don't you know that the results of that study showed that the use by the City of Roanoke of either one of those land fills was six of one and half a dozen of the other? A I don't know that it considered the costs of operation.

Q That was what the study was all about, wasn't it, sir, the cost of utilizing those land fills?

You told the Court, Mr. Clark, that you have been unable to use the Brushy Mountain land fill? A Yes, sir.

Q Did the City apply for rezoning or a use permit to use that land fill? [357] A Yes, it did, sir.

Q In the County? A Yes, sir.

Q To the appropriate County body? A Right.

Q And the citizens of that area sort of got up in arms, didn't they, got upset about it? A Yes, sir, many citizens who were nowhere near the area got upset.

Q And the City withdrew its application, didn't it? A Yes, sir, it agreed to withdraw the matter.

Q And now you say that if the area is annexed you are going to go right back there and put it in there regardless of the citizens' wishes, aren't you? A I believe we would, of course, obviously try to convince those people that their concerns were unduly—they were unduly alarmed.

Q Why don't you do that now? A The matter was withdrawn at the time of the consolidation vote, sir, as a show of good faith to the County.

Q When was the consolidation vote? A I believe it was two years ago, sir.

Q You have had two years now. Isn't it true that you didn't go back there while this annexation case is pending [358] to establish your land fill? That is the reason, isn't it? A That wouldn't have been my decision, sir. I don't know.

Q Who made the decision not to go back there? A I don't know, sir, at this time. It wasn't up to me to decide when to reapply to the County.

Q Who makes that decision? A I would suppose the Council of the City of Roanoke, sir.

Q Now you tell us and tell the Court that if they annex the entire County, that is where the land fill is going to go? A Yes, sir, we feel that that is the most desirable location.

Q And the City Council of the City of Roanoke has already decided that, haven't they? A No, sir.

Q Well, I thought you said they made the decision? A They would have to make the decision, yes, sir. I am saying that is our proposal.

Q Do you know what collection services are provided by the County of Roanoke now, refuse collection? A The specifics of their system I do not know. I know that they operate a fleet of—and a force of collection [359] vehicles and personnel like the City does.

Q But you don't know what services they offer? A I know their rules and regulations, if that is what you are talking about, people have to put it in containers and put it within 100 feet of the street and they will pick it up on a once-a-week collection similar to the City.

Q Do you know where the County collects? A I know they virtually collect all over to a limited extent. The majority of their collection, obviously, would be within the urban area.

Q The majority of the collections are wherever the trash is, aren't they? A Yes, sir.

Q It is just that simple. A Except that the County requires the people to sign up and say they want the service and will pay for it and there are plenty of people who don't sign up and therefore don't get the service.

Q And they don't pay for it, either, do they? A No, sir, and where they dispose of their refuse I don't know.

Q You told the Court that the City would provide equal or better collection service? A Yes, sir.

[360] Q So you had to know what the service was, didn't you? A Within reason, yes, sir.

Q Let's see about that, then. The County, you say, collects refuse anywhere in the County? That is true, isn't it? A Where people sign up for it, yes, sir.

Q If they want the service they get it? A Yes, sir.

Q Anywhere in the County? A Yes, sir.

Q And they pay for this as they get it? A That is correct.

Q And they don't pay for it if they don't get it? A That is correct.

Q Your proposal is to collect refuse in what has been called the urban part of the County, is that true? A Yes, sir.

Q On the same basis as you collect now in the City? A Yes, and I would say that there are possibly some locations around—outside of that urban area where there would be some justification for extending the system where there is sufficient population.

Q There has to be sufficient population to justify extending your system, doesn't there? [361] A No, sir, we agreed that we would provide identical service to what is now being offered.

Q You have agreed to provide identical service to what is now being offered? A Yes, sir.

Q Is that your testimony, Mr. Clark? A Yes, sir.

Q I recall you saying something else on direct examination about putting recepticles out in the rural part of the County as delineated on the maps? A Yes, sir, to provide a service which is not now being offered.

Q But I understood you to say that you would not provide the weekly service, house-to-house pickup, out in that area? A No, sir, where that is now being offered it would still be offered.

Q I thought you just said you understood that the County now offers it all over the County? A Again, to a limited extent where people sign up for it, yes, sir.

Q Are you telling the Court that where people request anywhere in the County you are going to run the truck out there? That is not your program, is it? [362] A We would again say that we would provide the services that the County is now offering, yes, sir.

Q Is it your testimony now that the City of Roanoke is going to run its trucks, trash collection trucks, anywhere in the County as long as somebody calls up and asks for it?

Mr. Cogar: If your Honor please, I believe he has answered that at least twice now.

Mr. Fitzgerald: He has answered it two different ways, your Honors.

Mr. Cogar: No, he hasn't.

Judge Hoback: If he can answer it a third time, he may go ahead.

The Witness: Comparable to what the City is now providing, sir.

By Mr. Fitzgerald:

Q How much is that going to cost? A Comparable to what the County is now providing, no more expensive than the County is now doing it.

Q How many additional trucks are you going to have to have, sir? A As far as the individual residential collection trucks, we are taking over the County fleet and operating it comparable to what the County is operating it.

[363] Q How many additional trucks are you going to have to buy to provide the service— A No additional residential refuse collection trucks, only the large commercial trucks.

Q I didn't say anything about residential or commercial. I asked you how many additional trash collection trucks you are going to have to buy? A We are going to buy four of the large front-end loading refuse trucks to pick up the containers.

Q Are you going to provide leaf collection anywhere in the County, sir, to any of the farmers who want the leaves picked up off their places? A No, that is not a service offered by the County so the City does not propose to offer it.

Q But are you going to provide it in the City that exists? A We would provide it throughout the urban area completely.

Q Are you going to provide it throughout the urban area? A Yes, sir.

Q How is that going to be paid for? How does the citizen pay for it? A It is out of the tax revenues, sir.

[364] Q Out of the tax revenues? So the people in the urban area are going to get leaf collection and the people in the rural area are not? That is true, isn't it? A Yes, sir.

Q Where are you going to put these large containers out in the rural area? A That would require a study of the specific locations. The proposal is not to phase that operation in until July 1 of 1972, which is six months after annexation, and that would give us the time

to specifically identify the locations where this would be available and necessary.

Q But you are sure it is desirable and necessary? A From observation I would say there is a refuse collection need in those areas, yes, sir.

Q Can you tell this Court why, if you are going to provide door-to-door pickup service in all parts of the County, you are going to need to put these containers out there spotted all over the County for people to take their trash and put it into? If they can get it picked up at the door, why in the world would they carry it to some container at some crossroads? Can you explain that? A I don't believe you now are providing door-to-door pickup for every home in those areas and therefore we would not be, either, sir.

[365] Q Maybe I misunderstood you, Mr. Clark, but I believe you said you understood that the County would pick it up anywhere in the County. A Where it is now picking it up we would pick it up, but it is not picking it up at every house in the rural area.

Q Did you tell the Court that anybody that wanted it from the County, who was willing to sign up for it, could get it? A Yes, sir, but they are not all signed up and are not all getting it.

Q But if they can get it without paying the $2 a month or whatever it is, if they can get it from you out of the taxes they pay, can you tell the Court why in the world they would want to carry their trash themselves to some container some miles away? A I don't believe there is that service now being provided and we would provide the—meet the need for the service.

Q Is that your answer, sir? A Yes, sir.

Q And that, too, is going to take a comprehensive study, I believe you said? A Of the specific locations, yes, sir.

[366] Q You mentioned road-side dumps in the rural part of the County. Can you tell the Court where they are? Did you go on the tour? A Yes, sir.

Q Both days? A Yes, sir.

Q And you saw a number of roadside dumps? A I noticed again, on the tour, ones that I had seen before. Of course they weren't

supposed to be editorialized so these were not pointed out to the Court, although they were fairly evident.

Q Whatever roadside dumps were there the Court could have seen, is that correct? A If they had been looking for them, yes, sir. As you know, the bus did not tour all the roads in the County or the City.

Q Does the County collect any trash for the City at any location? A I am trying to think of where, and know of no place.

Q Are you familiar with the Colony House Motel? A Colony House? No, sir, what street is that on? Which highway is it on?

Q It is out on 220 Franklin Road. [367] A Is that the same place that the restaurant is at? Is that the Colony House where the restaurant is? If that is the name of it, I know which one you are talking about, yes.

[368] Q Well, let me put it this way, Mr. Clark: You would know if the City paid the County for collecting refuse for the City, wouldn't you? A I would expect so, although it might be a matter handled directly with the Auditor, that I wouldn't be aware of.

Q Do you know about this situation? A No, I do not know that the County picks up any from the City.

Q You do not know that the City pays the County for collecting trash and disposing of it for the City? A No, I don't.

Q Part of your duties is to maintain the buildings of the City, is that correct? A Yes, sir.

Q You maintain the jail? A Yes, sir.

Q You maintain the courthouse? A Yes, sir.

Q Is there any problem with maintaining those buildings? A Only a matter of any maintenance or repair that would be necessary with any building of that age, yes, sir.

Q Are those buildings quite aged? A I believe the courthouse is—I am trying to [369] remember the age; 50 years. I am not positive.

Q Would you say, in your opinion, these buildings need to be replaced? A Not replaced, no, sir.

Q Not replaced? A No, sir.

Q Do they need any work done on them? A Certainly, I believe there is studies under way as to how the courthouse would be renovated and remodeled, yes, sir.

Q Are you familiar with any pressure to push that along? A If you are talking about pressure for the need to improve the facilities, only what I read in the paper, sir.

Q Mr. Clark, these are buildings you maintain, aren't they? A Yes, sir.

Q Is somebody saying they need something done on them? A Not from the standpoint of routine maintenance and repair, they are not putting pressure on me, no, sir. There might be some pressure for remodeling buildings, but that would be out of my purvey.

Q Who would be responsible for that? [370] A That would be done by contract.

Q Done by private contractors? A Yes, sir.

Q Are you aware of any pressure— A I am aware of studies underway to remodel the courthouse.

Q You are not aware of any pressure to cause it not to be done? A Only what I read in the paper.

Q Do you read that in the paper? A Yes, sir.

Q How about the jail, are you aware of anything other than routine maintenance needs to be done to that? A They talk about providing a larger facility, yes, sir.

Q Is anything being done about that? A I believe it's under study, but again it's not maintenance and repair, so it's not under my control.

Q It's not anything that maintenance and repair can correct? A It's no pressing need, other than routine maintenance, that I am aware of.

Q The maintenance garage comes under your direction? A Yes, sir.

[371] Q You maintain buses at that garage? A No, sir, we do not.

Q You do not? A No, sir.

Q Are you aware that the County has quite a fleet of school buses? A Yes, sir.

Q Under whose jurisdiction, assuming that the Court would grant this annexation for the entire County, in assuming you would absorb those school buses, where are you going to maintain them? A The School Board would have its own maintenance garage, I would expect, sir. That doesn't come under public works.

Q It doesn't come under your job? A The School Board or school administration operates independently from our operations.

Q Does the School Board of the City of Roanoke have a school bus maintenance garage? A Not to my knowledge, no, sir.

Q You know that they don't, don't you? A I assume that is correct.

Q You know that they have no buses to maintain? A Not officially, but what—to my personal [372] knowledge, that's correct, sir.

Q Yes, sir. But you have no idea where they would maintain these buses, then? A No, sir. I have given no consideration to that.

Q You say you have no maintenance for fire equipment? A No, sir, they handle their own.

Q And the Water Department, I believe you said, would have their own mechanics? A Yes, sir, would have their own mechanics.

Q They have their own mechanics? A Yes, sir.

Q Any reason why the Water Department would have its own mechanics, and you maintain the Sewer Department? A The Water Department is operated pretty much as an independent utility with its own revenues and expenditures. Therefore, it does its own maintenance.

Q That comes out of the revenues from the system? A I assume so, sir.

Q Yes. You say that it's a proposal of the City to allow the State Highway Department to maintain the streets and roads in the area of the County as it's doing now? A Initially, yes, sir.

Q And you don't know how many years will go by before [373]

the City will propose to do anything different, do you? A Obviously, it would be no more than ten, in accordance with the law. But it would certainly not be our intention to defer it any longer than necessary, to work out an agreeable plan.

Q But at least you are satisfied, initially, for the State Department of Highways to continue their maintenance of these roads? A Yes, sir.

Q Is it your idea that it's a decision of the City as to when they take the streets over or whether the State Highway Department has any say so in it? A It's mutual, to my understanding.

Q It's a mutual thing, isn't it? A Yes, sir.

Q And you don't know what the position of the State Highway Department will be, do you, sir? A No, sir.

Q Now, you have told the Court that the City is losing money on handling the sewerage collected in the County area, and discharged into the City's treatment plant? A Yes, sir.

Q Do you have knowledge of how it happened to be that the City of Roanoke and the now City of Salem and the [374] County of Roanoke entered into an agreement for the jurisdictions to use one treatment plant? A No, sir, I really do not. That was long before my time in the community.

Q And you have never seen the sewage treatment contract? A I have read the contract, yes, sir.

Q You know what the contract says? A Yes, sir.

Q And you know the contract provided the basis of the charges to be made to the other jurisdictions? A Yes, sir.

Q So you are aware of the negotiations that have gone on over a period of years now, to renegotiate the sewage contract, are you not, sir? A Rather unofficially, I am aware, yes, sir. I have not been any party to them.

Q You have attended some of the meetings, haven't you? A No, sir, I have never attended a meeting of the Committees to renegotiate the contract.

Q Are you aware that the last Committee set up contained the

consultants for the City of Roanoke and the County of Roanoke and the City of Salem? [375] A No, sir, I don't know who is on the Committee, sir.

Q Do you know Mr. Glen Barringer? A I know Mr. Glen Barringer, yes, sir.

Q Aren't you aware, Mr. Clark, as head of the Department that this sewage plant is operated under, that the Committee has recommended and the County has agreed to increase its rate of payment to the City for treatment, and that the City has refused to accept the recommendations of its own consultant? A No, sir, I am not particularly aware of that. It would be a matter for a legal and higher administrative authority than me to be particularly aware of what the proposals for the contract were.

Q Mr. Clark, you are the witness who told the Court that the City is losing money? A Yes, sir.

Q And you know that? A Yes, sir.

Q But you don't know that the City has refused to accept its consultant's recommendation as to the increase for money so it won't lose any more?

Mr. Cogar: May it please the Court, he is arguing, he is badgering the witness. If he wants [376] to do it at the end of his case, that is all right, but I don't think it's proper to argue his case with this witness.

Mr. Fitzgerald: I am not going to ask him any more about it.

Judge Hoback: All right.

Q How many personnel in your department now, five hundred some, I believe you said? A Five hundred and six, sir.

Q Five hundred and six. And those 506 are serving a square mile area of what, 20— A Twenty-seven.

Q Twenty-seven square miles and 92,00 people? A Yes, sir.

Q And now you propose to take on 262 square miles and 67,000 more people? A Yes, sir.

Q And add 166 personnel? A Yes, sir.

Q Are you overstaffed now, sir? A No, sir.

Q Understaffed? A No, sir, I really can't say that.

Q So you are just about staffed correctly, aren't [377] you? A Within reason, yes, sir.

Mr. Fitzgerald: Adequately. Your Honors, if we could have a recess at this time, I think I could go through my notes and shorten this up a little bit.

Judge Hoback: All right.

(Recess taken.)

[378] By Mr. Fitzgerald:

Q Mr. Clark, are you familiar with a document called the Solid Waste Plan, Roanoke Valley Regional Planning Area? A Yes, sir.

Q Made by the State Department of Health? A Yes, sir.

Q Would you tell the Court from that report what the cost of collection per ton of refuse is in the City of Roanoke? A As reported in this document, $6.32.

Q What is the cost of collection in the County of Roanoke? A Again reported in this document, $4.75.

Q What is the cost of disposal per ton in the City of Roanoke? A This report says $2.18, with an asterisk referencing the fact that part of it was disposed of by incineration, which is no longer applicable.

Q What was the cost of disposing of it by incineration? A $4.38 a ton.

Q And what does it show the cost of the County of Roanoke is for disposal? [379] A Twenty cents per ton.

Q Thank you.

I asked you about a report a moment before the recess, concerning the relative merits of the Brushy Mountain area and the Dixie Caverns area. Are you familiar with the engineering report, Solid Waste Land Fill for Roanoke Valley Governments, City of Roanoke, Roanoke County, City of Salem and Town of Vinton? A I have seen it, yes.

Q Have you seen this chart in that report? A Yes, sir.

Q What is the date of the letter of submission of that report? A May 1, 1969.

Q Who made the report, the study and report? A John McNair & Associates of Waynesboro.

Q I believe in determining the relative merits of the various sites, they gave certain scores for certain aspects of each site, did they not, sir? A Yes, sir.

Q Numerical scores? A Yes, sir.

Q What was the score given Brushy Mountain for quality of fill?

[380] A Quality of fill? Ten.

Q And Dixie Caverns? A Fifteen.

Q And the higher the number the better the site, is that correct? A On their rating system. I do not know how much better one reflects than the other.

Q As to adequate fill, both were rated the same, were they not? A Yes, sir.

Q As to drainage problems, Brushy Mountain was rated 15 and Dixie Caverns ten? A Yes, sir.

Q Problems in developing access roads, Brushy Mountain was rated as five, is that correct? A Yes, sir.

Q And Dixie Caverns 10? A Yes, sir.

Q So the development of access roads to Brushy Mountain was more of a problem than development to Dixie Caverns, is that true? A I am not sure as to whether the higher number is the better in this case or not, without reading the explanation.

Q You have seen this report, haven't you, sir? [381] A Yes, sir.

Q You were aware that it rates Brushy Mountain— A The higher number, I would assume, is intended to be the better quality.

Q Because you looked at the total and saw that Brushy Mountain had 155 and Dixie Caverns 150, didn't you, sir? A That is what it shows.

Q Five points difference, from 150 to 155? A Yes, sir.

Q And the main difference you said is the travel time? A Yes, sir.

Q And they rate Brushy Mountain 40 and Dixie caverns 20? A Yes, sir, twice as much.

Q On the other hand, cost to develop the site, they rate Brushy Mountain twice as much, don't they? A Because it is presently an undeveloped site, I suppose that is correct.

Q And operational costs, they rate Brushy Mountain twice as much don't they? A Yes, sir, and I do not know what their criteria was for reaching that conclusion.

Q Proximity to population, they rate them equally, [382] don't they? A Yes, sir.

Q And ability to use non-commercial residential streets, they rate them both equally, don't they? A Yes, sir.

Q You have said that you will absorb the employees of Vinton and the County of Roanoke in the various categories of work? A Yes, sir.

Q Into your department. How do you make the assumption that these employees will want to work for the City of Roanoke? A They are offered employment and if not their positions would be filled otherwise. There is no compulsion on their part.

Q Are you going to employ all the employees now presently employed in these categories by the County of Roanoke and the town of Vinton? A Yes, sir.

Q And add 52 more? A I believe that is the approximate number. Yes, sir, it is 52.

Q May we have Exhibit C-2?

I understand that the operation and maintenance [383] of this sewer system comes under your domain? A Yes, sir.

Q I believe a former witness has testified that the areas—he called it yellow, it looks like a mustard green on this map, it's yellow in the book, I believe, all the areas in that color of yellow or green are sewer lines of the Roanoke County Public Service Authority? A Correct.

Q What is your plan of operation in these sewers if the Court should annex the entire County? A The Public Service Authority continues in being, is my understanding.

Q You would expect the Public Service Authority to continue serving the areas they are now serving? A Yes, sir, unless they chose to ask the City to do their maintenance. But that is not our understanding at this time.

Q It's your understanding, your plan that the Roanoke County Public Service Authority would continue to serve the areas it is now serving? A Yes, sir.

Q So that it will, if you continue to utilize the one sewage treatment site facility, that entity will still be paying by contract some amount to the City of Roanoke for [384] treatment? A For these areas which they now serve, yes, sir.

Q Yes, sir. Now, I am not sure whether you are the witness who is going to testify to these pink and red areas?

Mr. Cogar: Mr. McGhee will testify to that.

Q Are you familiar with these (indicating)? A I am familiar to the extent that I know they are proposed additional sewer service.

Q Are you going to operate those, or the Roanoke County Public Service Authority? A That would be maintained by the City, yes, sir.

Q These areas in pink (indicating)? A Yes, sir.

Q Don't I see them connecting up to the Roanoke County Public Service Authority lines? A May well be in some instances, yes, sir.

Q Well, wouldn't I be correct to say that in all instances they are connections with the service authority lines, where you have shown pink? A I don't believe the most southerly one or branch connects with the Public Service Authority. I do not believe the Barnhart Creek, Cravens Creek connects with the Public Service Authority. The one to the left in the middle, the big one in the middle.

[385] Q This one (indicating). A No, to the left of that, the big pink area. I don't believe that connects to the Public Service Authority.

Q You don't see a connection here? A I believe that is flowing the other way, sir.

Q I see. You operate this system within the City now, don't you? A Yes, sir.

Q Are these lines needed now? A Are you pointing at a particular line?

Q Yes, I am pointing at this line, it runs up a creek, I believe there. A It is not immediately needed for the needs of the present corporate limits of Roanoke. There would be some long-range proposals to improve it, but it is not now needed for the City of Roanoke.

Q How about this line, lower line here? A Very minor amount, I believe the figures show approximately 20 percent of that drainage area is within the corporate limits. The remaining 80 percent is outside the limit that would be served by this particular interceptor.

Q Has the Roanoke County Public Service Authority offered to join with the City to construct additional trunk-line facilities in either of these areas (indicating). [386] A In the Murray Run line, Murray Run water shed, there have been discussions, yes, sir.

Q Has the Roanoke County Public Service Authority offered to join and share the cost of constructing additional trunkline facilities in that area? A Again, my knowledge is only from the standpoint of discussions. As to whether there is a formal communication, an offer to that extent to the City Manager, I am not aware.

Q You mean as the person in charge of operating and maintaining the service system for the City of Roanoke, you are not taken into those conferences? A I have been in discussions where such a verbal offer has been made, yes, sir.

Q All right, sir. Then the answer is yes, it has been made? A To that extent, yes, sir.

Q All right. What has been the reply of the City? A The City has agreed to submit an application for a grant to improve that interceptor to the City limits.

Q To the federal government? A To the state and federal water control, yes, sir.

Q Has the City made such an application? A That, again, would be handled by the City Engineer's Office. I do not know, I assume yes.

[387] Q How long has this been going on, this negotiation? A A month or two, I would estimate.

Q You say that you would plan for the Public Service Authority of Roanoke County to continue to serve the areas it is now serving if this annexation is granted. How about the areas that have been annexed in the last five years, what is the situation there, Mr. Clark? A There is some legal matter pending as to who owns the lines. The City takes the position it owned them, and I believe the County does the same. It's a legal matter that is beyond my resolution.

Q But the City is going to take a different position if this annexation is granted? A It is my understanding, yes, sir.

Q Very well, sir. I believe you testified before the recess that you had never attended any of the conferences or meetings of the committee or committees that have been attempting to negotiate a modification in the sewage contract between the City of Roanoke and the County of Roanoke and the City of Salem? A I believe I said that. I don't think I ever went to one of their formal meetings, that I recall.

Q Well, formal or informal? [388] A Well, I don't recall being at any of their meetings. I might have been.

Q You might have been? A I don't recall ever being at one of their meetings.

Q Mr. Clark, you worked in the Department of Public Works prior to the time you became the director, didn't you? A Well, it's a little bit of an involved situation. When I first came to the City, engineering was part of the Public Works; therefore, I was in the Department of Public Works. Then engineering became a separate department, so at that time when I was City Engineer, I was not in Public Works.

Q Can you tell us whether or not in the last ten years there has been any additions made to either the City Jail or the courthouse of the City? A The courthouse has had a whole new annex or new municipal building built.

Q No, sir, I am not talking about the municipal building, I am talking about the courthouse? A Well, the courthouse and municipal building were one and the same until such time as the new municipal building was built. They are one complex, as far as we look at them for maintenance and operation. If you are talking about [389] additions to the Court—

Q Yes, the court building that houses the courtrooms and court facilities. Has there been any improvement in that in the last ten years by way of rennovations? A Well, modernization of office space, yes, sir. No physical expansion of the structure.

Q I see. No physical expansion of the structure? A No.

Q How about the jail, you don't classify the— A The jail is part of the courthouse building, yes, sir. No physical expansion of the jail in the last ten years.

[393] * * *

Recross Examination

Q While you were running around over Catawba Valley and the mountain, did you see any piles of manure? A They would be off on farm property which I was not on.

Q You drove by it. You saw dairy farms and cattle farms and stacks of manure? A Yes, sir.

Q You wouldn't allow that in the City, either, would you, sir? A Not in the populated urban area, no, sir.

[394] Q Isn't your City a populated urban area? A Yes, sir, our City is.

Q And as a matter of fact, your ordinances prohibit the collection and storage of manure? A I would expect so, yes, sir.

* * *

Sam H. McGee

* * *

Direct Examination

By Mr. Cogar:

* * *

What is your position with the City, Mr. McGhee? A I am employed as the City Engineer for the City of Roanoke.

[395] * * *

Q Would you at this time tell the Court how the Engineering Department of the City of Roanoke is organized? A The Engineering Department is composed of the City Engineer, the Assistant

City Engineer, and four main divisions under their direction and control. In addition to these four divisions which I will discuss in a little bit, in a little bit of detail further on, there is a clerical section which does all the typing and so forth necessary for the operation of the department.

The four main operating divisions would be first—If you look at Tab H-2 in the green book—the first division would be the survey division, which is composed of survey parties, which division obtains all of the field data necessary for the remainder of the department to draw the necessary plans and so forth that—for projects on which we are involved.

The next division would be the drafting and [396] design division, which actually draws the plans, draws up the specifications, advertises the projects, tabulates the bids and then administers the actual construction of projects undertaken by the City.

The real estate division purchases or negotiates for the purchase of property, either fee or easement, which is needed for the City projects, be it highways, sanitary sewers, storm drains, airports, what have you. This division would do the negotiations for the purchase of property.

The inspection division inspects all of the capital improvement projects which the City undertakes by contract. This would be sanitary sewer lines, storm drains, some highway projects, projects at the airport and things of this nature.

In addition they inspect all street cuts which are made by private contractors and in addition they inspect all new construction of a public type which would be put into new subdivisions. This would include the sanitary sewers, the storm drains, the streets, the surveying monuments, this type of thing. As the construction progresses by the developer, the inspection division would inspect this.

All of these activities are under the supervision and direction of myself and my assistant.

In addition, my assistant and I are responsible [397] for the review of all subdivision plans within the City of Roanoke as well as areas extending three miles from the corporate limits of the City.

Also we review all building site plans which would have a classification under the zoning ordinance higher than a duplex residential type zoning. In other words, three-unit apartments on up into commercial and industrial sites. All of the site plans are reviewed by our department for drainage, for access to streets and this type of thing.

[399] * * *

Q You have stated that the overall capital improvement program projected over five years is $81 million and some-odd dollars. Is that money to be expended in the existing City as well as the annexation area? A It would be within the entire area of the existing city and the area proposed to be annexed to the City.

[400] Q All right, sir. Let us now, with some degree of specificity, discuss various projects. And let us commence with the sewerage and sanitary sewer service. You were here. I believe, when Mr. Richardson testified, and you heard it stated that you will testify to these red areas shown on Exhibit C-2. What do they purport to represent?

* * *

Q What do those red lines on the board show? A The red areas show areas which are not now currently served by sewer, but which are, at this time, developed almost completely with residential housing units.

[406] * * *

Q Now may we have Exhibit C-5? Will you tell the Court what Exhibit C-5 depicts? A This exhibit, C-5, depicts some areas within Roanoke County which, in our opinion, would need some more or less immediate attention with respect to alleviating storm drainage problems. Up to this time, the storm drains which have been installed in the County have been primarily in your more recent subdivisions. Consequently, you had many areas within the immediate fringes of the existing City which were developed under older ordinances, which did not require the installation of major storm drains.

We found, for instance, the Starmount area, they have culverts under the streets, but they have low back yards and a channel through the back yard, which is about a fourth or a third of the area of the culvert which feeds it. Consequently, this whole area down to Route 117 will flood.

[409] * * *

Q In the interest of moving on with this, would you tell the Court what you have in your capital improvement budget for park facilities? A In our budget?

Q What the City proposes to do in the event of annexation? A In the event of annexation, the City proposes to develop within this five-year period that we are talking about now, five neighborhood parks within the County area in the vicinity of Bonsack, Hollins, Peter's Creek area and someplace in the vicinity of southeast and southwest county.

Q What is the budgeted cost of each of these parks? A Each of these we have budgeted at $70,000, which would include initially purchase of some land and the construction of park shelters, multi-purpose courts, this type of thing.

As I say, this would be the first of a development of these neighborhood parks.

[410] Q What other park facilities are envisioned in the budget? A In addition to the five neighborhood parks which would be built within this period would be the development of what we have called regional parks within the area. One is in the vicinity of the Blue Ridge Parkway on existing publicly-owned property. These would be major facilities with respect to perhaps camp grounds, picnic shelters, more or less left in a natural state.

In addition there would be a new park proposed generally someplace in the area of Poor Mountain, and also further intensive development in the Carvin Cove area which is also owned by the City and which is already designated as one of the existing park facilities of the City. This would be increased in size.

Q And for the two regional parks and the improvements at Carvin Cove you had budgeted what amount? A Some $700,000.

Q What other recreational facilities do you have on the drawing board? A In addition to the multi-use of some facilities of schools such as gymnasiums, there is a need in the Hollins area and in the Shrine Hill Park area for the construction of what would be called a community center. The City has one in [411] Eureka Park consisting of gymnasium and meeting rooms in addition to the normal park development. This will provide additional recreational facilities in these densely populated areas.

Q Did you mention the two areas? A Hollins and the Shrine Hill Park area.

Q And what figures do you have budgeted for those improvements? A $500,000.

Q I believe you have some miscellaneous park development in mind also? A We have something over $200,000 set up for additional park shelters, miscellaneous playing areas, some additions to the transportation museum, not specifically itemized with respect to location but which would go into existing park areas.

Q Would you now state for the Court the total amount proposed to be expended on parks and recreational facilities in the event this annexation should be granted? A The total amount that shows in the budget is $1,765,000.

[418] * * *

Cross Examination

By Mr. Jolly:

Q Mr. McGhee, I wonder if we could have Exhibit C-2 placed back upon the easel.

Directing your attention to the area west of Salem, as I understand it the City of Roanoke proposes a collective system in Westward Lake Estates and Grandview Gardens and Andrew Lewis Place, is that correct, sir? A Yes, sir.

Q Do I interpret the exhibit correctly that those collector systems would hook into interceptors owned and operated by the Roanoke County Public Service Authority? A That is correct.

Q And then from that point to the eastward pass through the interceptor lines owned by the City of Salem? A Yes, sir.

Q And ultimately into the City of Roanoke and the sewage treatment facilities? A Yes, sir.

Q Do I also correctly interpret that exhibit that the City of Roanoke does not propose any sewage services west of the Westward Lake Estates area on up to, say, Dixie Caverns? A I would say not immediately, sir, within the scope of what we have presented within this five-year program, [419] no, sir.

Q Within five years you don't foresee any lines in that area? A Not with present developments, no, sir.

Q Directing your attention to the Barnhart Creek line, on the south, does this exhibit show that they tie in again with the Public Service Authority lines? A No, sir, that Barnhart-Cravens Creek water shed flows to the north. This water shed flows in this direction and would flow into the existing City of Roanoke lines on the river.

Q That was my next question. Where it flows into the line at the river, is that the City of Salem's line or the City of Roanoke's line? A As near as I can tell from this, sir, it is the City of Roanoke's.

Q It looks part blue and part green, doesn't it? A That is right. It is hard to tell from this.

Q And your Exhibit I-5, which is right behind the one on the board now, showing parks, doesn't show anything within the corporate limits of the City of Salem? A No, sir, it does not.

Mr. Jolly: Your witness.

By Mr. Fitzgerald:

[420] Q Mr. McGhee, how long have you been with the City of Roanoke? A Since March of 1969, sir.

Q And how long have you lived in the area? A Since that time.

Q Where did you come from? A I came from Martinsville, Virginia, sir.

Q I don't believe Mr. Cogar asked you this. You live in the County, don't you? A No, sir, I do not.

Q You found a house in the City? A Absolutely.

Q Where do you live? A I live at 2414 Montvale Road Southwest, City of Roanoke.

Q And you moved here in 1969? A Yes, sir.

Q Mr. McGhee, what engineering studies have been done that brought you to the conclusion that these improvements were needed and would be made? A I would say several. First would be the fact that when you look at the exhibit which shows the distribution of housing units within the map area and compare that with the map exhibits C-2, which shows the existing sanitary sewer [421] system, it becomes obvious that these areas are not being served.

In addition to that, the Roanoke County Public Service Authority has proposed and has made a report indicating certain areas which would be served.

Q And you now see me holding that report, don't you? A Yes, sir.

Q You didn't mention it first, though, did you? A I mentioned that second, sir.

Q You are familiar with this report. It was given to you around the first of the year, wasn't it, a copy of it? A Yes, sir.

Q And you know for a fact that every improvement you show on that Exhibit C-2 within the County of Roanoke, that those improvements are proposed to be made in this report, don't you? A Sir, I do not believe the Ore Branch section is proposed.

Q Where is the Ore Branch Section? A That is the interceptor to the south, the most southern line, which extends from the City into the County.

Q From the City into the County? A From the City into the south County, yes, sir.

[422] Q That is this one? A Yes, sir.

Q That is inside the City, mostly, isn't it? A Yes, sir, but the drainage area it would serve is primarily in the County.

Q Which is the one that the Roanoke County Public Service Authority has come to you and offered to—already offered to participate in the cost of a trunkline improvement? A There has been discussions on the Murray Run line.

Q That is the one above that, isn't it? A Yes, sir.

Q With this one exception right here, you say, all the rest of them are contained in the programs for improvements by the Roanoke County Public Service Authority? A I would have to qualify the Murray Run, because I believe their report calls for pumping—the water shed which is currently served by the Public Service Authority out of the Murray Run drainage area into the Mud Lick area. That is the area that has now been cut off from sewer connections and is

Q Mr. McGhee, this improvement—what is the name of this area? A That is the North Burlington Heights area.

[423] Q That is in the program, isn't it? A Yes, sir.

Q If the Roanoke County Public Service Authority? A But the the extension of the Murray Run interceptor is not, sir.

Q I am going around to that. How about the Grandview Gardens and Westward Lake Estates? You know that both of those are in this program, don't you, sir? A Yes, sir.

Q And the Barnhart Creek, Cravens Creek area is in the program, isn't it? A Correct.

Q And the Highfields, Rosecrest area? A Yes, sir.

Q They are all in the program.

You just took the Roanoke County Public Service Authority's study and put it on a map, didn't you? A No, sir.

Q You agreed with it 100 percent, though, didn't you? A Yes, sir.

Q What about the areas of Ardmore? Do you know where that is? A Yes, sir, that is up in North County just under [424] the North Burlington Heights area.

Q In this area here? A Yes, sir.

Q You don't show any improvement there? A That is correct. That is a private system.

Q Are they needed? A I don't know.

Q You don't? Your study didn't show it? A No, sir.

Q Don't you know as a matter of fact that the Public Service Authority of Roanoke County proposes to make improvements in that area? A No, sir.

Q They have never come to you to discuss improvements in that area? A I believe that they submitted a request through the County Board of Supervisors for inclusion of that area into a resolution area.

Q Yes, sir, and does that not indicate to you that the Board of Supervisors and the Public Service Authority both believe that that area needs some improvements in it? A Yes, sir, but there is a private system existing there.

Q Are you going to just continue to let the problem [425] exist, sir? You don't propose any improvement to it, do you? A Well, sir, it is a utility service. You cannot go into their area without—if it is not being served—without their request.

Q You cannot? A No, sir.

Q And if this area is annexed, if there is a problem there you are going to continue to let it exist, aren't you? A No, sir, I would say we would work it out.

Q You would work it out but you don't propose it? A No, sir.

Q How about the Summerdean section? Are you familiar with that area? A Not particularly, no, sir.

Q Do you know where it is? A I believe that is also in North County.

Q Up in this area here? A Yes, sir.

Q You don't propose any improvements there? A No, sir.

Q But you know that the Roanoke County Public Service Authority does, don't you? A No, sir.

Q You don't know that? [426] A No, sir.

Q That area has not asked to be included in this service area? A I don't believe it has, no, sir.

Q How about Bonsack? Do you know where that is? A Yes, sir.

Q Where is that? A It is out 460 East.

Q Do you propose any improvements there? A No, sir, not initially.

Q Are they needed? A I think ultimately as the drainage area develops, yes, sir.

Q But they are not needed now? A Not immediately.

Q Do you know that the Roanoke County Public Service Authority proposes improvements in there? A No, sir.

Q How about the Glenvar area? A That is the area west of Salem.

Q Yes, sir. A We have shown several areas within that location.

Q Are there any improvements to the sewer collection system needed in that area that you don't show? [427] A There could well possibly be some, yes, sir. We did not attempt to analyze the existing system owned by the other utility.

Q You did not? What other utility? A Well, the Roanoke County Public Service Authority. We did not analyze their system.

Q Do you expect them to make the improvements on their system if the annexation is granted? A Yes, sir.

Q Because it is your intention or your plan that the Roanoke County Public Service Authority will continue to own and operate that system? A For the present time, yes, sir.

Q Because you know that that is their expressed desire and expressed intention, is that true? A Yes, sir.

Q What is this gray area down here? A That gray area is a system which is privately owned, operated and maintained.

Q And you intend to let it continue operating the same way it operates? A We are proposing to extend the Ore Branch line up to those systems such that they can connect into the system and have the sewage treated by the City of Roanoke's plant. [428] They are currently being treated down in the Back Creek area water shed and I believe that it has been shown economically and so forth that it is better to have the one treatment plant. This line would be available to take those loads.

Q Who owns this private plant? A I don't know, sir.

Q You have not discussed with the owners of that plant whether or not they want to discharge into your system? A No, sir.

Q Would you charge them anything if they did discharge into your system? A That I can't answer, sir.

Q You can't answer that, sir? A No, sir.

Q Would you recommend as engineer for the city that this area here be allowed to discharge into the City's system without payment? A I would say we would be paid in one way or another, either by metering of the flows from that system or by the acquisition of that sys-

tem and charging the regular sewage charge onto the water, or what have you. In some manner, yes, sir, we would be paid.

Q Have you considered acquiring that system? A No, sir.

[429] Q You have not gone to the owners to see if they are willing to sell? A No, sir.

Q You have the power of condemnation, don't you? A Yes, sir.

Q But that is not in your plan, either? A No, sir, not at this time.

Q Your plan is to let it continue to operate as a private system? Are you sure that the Ardmore system is a private system and doesn't belong to the Roanoke County Public Service Authority? A To my knowledge it is a private system.

Q Your study that you made of the needed improvements showed it to be a private system? A Yes, sir.

Q Do you know who owns it? A No, sir.

Q Would it surprise you to know that it is part of the Roanoke County Public Service Authority? A No, sir. I might ask for how long.

Q What is going to happen, Mr. McGhee, to areas adjacent to your pink areas and the green areas as they develop? Who is going to serve them? [430] A We will.

Q Why not the Roanoke County Public Service Authority? A Well, sir, we propose to expand our system as necessary to serve those areas.

[431] Q But if you expand your system in most of the areas you show here, you have got to flow through their areas, haven't you? A Yes, sir.

Q Have you got any agreement with them to let you flow through their system? A I believe that is covered in the contract.

Q So the contract would have to be amended again? A No, sir, I don't believe so.

Q Has the price you pay coming through the Authority system been established? A I don't know whether it has or not.

Q You don't? A No, sir.

Q There have been no discussions about that, have there? A No, sir.

Q You mentioned a figure of $10,000,000 out of your present $13,000,000 budgeted for sewer improvement was going to be spent on your sewage treatment plant? A Yes, sir.

Q And this is to bring it in compliance with the State Water Control Board's orders, is that correct, the criteria? A Yes, sir, it's to expand the facilities in order [432] to provide for the estimated flows for your 1985, and also to provide additional treatment.

Q Are you, sir, as the Engineer of the City, familiar with the situation as it exists with the State Water Control Board? A To some extent, not completely.

Q Not completely? A No, sir.

Q Do you know anything about a proposed moratorium on sewer connections to the City plants? A I know they had a public hearing set up to discuss proposed rulings which would establish percentages of flow through a plant, which would then decide what the owner of the plant was to do next, yes, sir.

Q I think my question concerned itself with a ban on sewer connections? A I have seen it mentioned, yes, sir.

Q You have seen it mentioned? A Yes, sir.

Q What did you see it mentioned of, or to or from? A I saw it in the newspaper, sir.

Q Is that the only idea you have of the proposed sewer connection ban? A That is the only thing I saw, yes, sir.

[433] Q After you saw it in the newspaper, did you immediately get in touch with the State Water Board to find out what the situation was? A I did not, no, sir.

Q Did anyone? A I imagine that someone with the City did.

Q You just imagine it. Don't you know it? A I believe that the City Manager possibly did. I don't know.

Q Who is he? A Mr. Haney.

Q And you, as the City Engineer, don't know what the discussion was? A No, sir.

Q You don't have anything to do with the communications of the City, do you? A No, sir.

Q Is your Department under Mr. Clark's? A No, sir.

Q You are separate? A My Department is under the City Manager.

Q Have you had the occasion to discuss the sewage treatment problem with other jurisdictions that are going through the same type of problem that Roanoke City in the area is going [434] through? A I have had some discussions in the past with the Water Control Board concerning it, and with our Engineers, yes, sir.

Q You do know that other areas of the State are facing somewhat the same problems of increased need for treatment and things to cope with the new development costs, don't you? A Due to the suddenness of the requirements, I would say that the majority of the facilities in the State are undergoing the same problems, yes, sir.

Q And for treatment facilities that are needed for the size they are needed here, could you say in your judgment, whether or not $10,000,000 to put the improvements into this sewage treatment facility is adequate? A Sir, I believe this figure was submitted by our consultants out of Chicago. And he would have to justify that figure.

Q You haven't heard of that in other jurisdictions the figure is about twice that amount for a similar size treatment facility? A No, sir, I have not.

Q Is any of this funding of these improvements dependent on grants from the Federal Government? [435] A Naturally.

Q And how much of these improvements is depending on a grant from the Federal Government? A Which improvement?

Q Of the sewage treatment plant? A The treatment plant,

some of it at 80 percent is dependent on funding from the Federal Government.

Q Eighty percent? A Yes, sir. This is normal. This is the situation where the money is available, we would be ridiculous not to plan for that funding.

Q The money is available. Aren't you familiar with the situation, sir, that the request for funds, for Federal funds for sewage treatment improvement is about ten times the amount of funds available? A Yes, sir, but we were very fortunate.

Q Tell us how you got to be fortunate? A We have a recreational usage downstream, which puts us in one of the higher categories with respect to the funding, as I understand it.

Q Do you also know that perhaps to a lesser degree, that there are more requests from such jurisdictions that have the same situation, than there are funds available? A This has always been the case.

[436] Q But you are dependent on 80 percent of this money? A Yes, sir. To date, all of our projects have been given the full amount of funds available.

Q How about you, sir, have you had occasion to sit in on these negotiations at all, to renegotiate the contract here? A No, sir.

Q Do you know who from the City has been sitting in on those conversations? A No, sir, I am not privileged to that informatin.

Q You are not. How about the State Water Control Board or State funds, has the City applied for any State funds for any of these projects? A We have in the past, yes, sir. And we have others which are ready to go in at this time.

Q Is it not true that the criteria of the State is that the priority is given, or it has to be a regional facility? A Yes, sir, and that criteria, we meet.

Q Yes, sir, because you have the County of Roanoke and the City of Salem in with you, don't you, sir? A Yes, sir.

Q And if you did not have them in with you, those [437] State funds would not be available to you, would they, sir? A I do not know that for sure, sir. That's not the way it was put to us.

Q You had a man up here about storm drainage. Did you furnish the information that this exhibit was made from? A Yes, sir.

Q When you furnished the information about the needs of storm drainage projects, did you give whoever made this map to ones in the City too? A Yes, sir.

Q Did you tell them not to put it in red on the City, thought? A No, sir.

Q I wonder how come it did not get put in red, do you know? A I can't answer that, no, sir.

Q You mentioned, I believe one drainage problem in the City that you are going to have to correct. What was that? A I mentioned several projects within the City, sir. Which one are you specifically referring to?

Q Where are those projects? You want to come down here and show us? A I mentioned, I believe one major facility in Orange Avenue, which is under construction at this time.

[438] Q Maybe you misunderstood my question. I am not talking about projects under construction, I am talking about drainage problems in the City now. Can you tell us where they are located?

Mr. Cogar: I believe that answer was responsive to the question, if your Honors please.

Mr. Hoback: All right, sir, you can mention that, and any others you may know of.

Q I just want to know where the drainage problems in the existing City are. They are not in red on the map, but you say they are there? A From this point, we have proposed extensions of the system up to take care of the area south of Liberty Road.

Q Then in answer to my question, is this one of the drainage problems of the City (indicating)? A It's one area that does not have storm drainage, and needs it, yes, sir.

Q All right. That is what we are talking about, isn't it, storm drains? A Yes.

Q All right, where else? A We can go down to Garden City

along Melcher Road, we are proposing lines there which would be considered a problem [439] area.

Q This is the drainage area problem in here? A Yes, sir.

Q Where else? A The Link Run area uptown where we have under construction at this time by the Corps of Engineers and City jointly, a project adjacent to the Norfolk-Western Railroad from which would be extended a major system into the downtown area.

Q All right. Where else do you have problems in the City? A I would say these are the most pressing problem areas. Then we have scattered areas throughout.

Q Is the area we pointed to here, is that part of the Williamson Road problem? A Yes, sir.

Q Can you tell us when this area was annexed to the City? A It's my understanding that it was annexed around 1949.

Q Can you tell us when the Garden City area was annexed to the City? A No, sir, I can't.

Q Well, the exhibit will show it. Would it surprise [440] you to know that that was annexed in 1949 too? A No, sir.

Q You may return to your seat. Can you tell us if there was any reason for putting the projects in the County in red, and not putting those projects in the City in red? A I believe one of the reasons was to show specific areas outside of the existing cities where monies would be spent.

Q All right, sir. Now, were you responsible for the information that went on this map, that is, I-5? A No, sir.

Q Who was? A I would imagine the Department of Parks and Recreation, with respect to those facilities owned and maintained by the City. I cannot speak for the other areas shown.

Q You mean the parks and recreation is not under your operation? A Not the operation. The construction and capital improvements, yes.

Q You are not in a position to tell the Court that this exhibit reflects all the parks and recreational facilities of the City of Roanoke, are you? A No, sir. And I did not testify to that.

Q Because you know that there are other parks and [441] facilities in the County that are not on there, don't you? A No, sir.

Q You just don't know at all, is that correct? A I just don't know what the park facilities are in the County, sir.

Q If you don't know what the park facilities are in the County, how are you proposing to build parks in the County? A This is a program which was developed by the Department of Parks and Recreation, and showed the needs as they saw them with respect to what should be provided.

Q It wasn't your determination. I thought you said that these were your recommendations to build these parks? A These are my cost figures.

Q But they are not your recommendation, you don't know whether the parks are needed or not, then, do you? A No, sir.

Q Of your own knowledge, since you have been in this area, sir, do you know of any other parks or recreation facilities in the County that are not shown on the map?

Mr. Cogar: That question has been asked and answered, if your Honors please.

Mr. Fitzgerald: If it has, I apologize and I will withdraw it.

[442] Judge Hoback: I understood him to say he wasn't familiar.

Mr. Fitzgerald: All right, sir.

By Mr. Fitzgerald:

Q Now, you propose improvements to the airport? A Yes, sir.

Q Are these improvements needed now? A In order to keep up with the growth of an airport facility, improvements are always needed. It's—

Q Mr. McGhee—

Mr. Cogar: Let him finish his answer, please, Mr. Fitzgerald.

Mr. Fitzgerald: I thought he did, Mr. Cogar.

Mr. Cogar: No, he didn't.

Q Finish your answer. A As part of a growing airport, improvements and additions to it are always needed. This is a continuing program that has been going on for years.

Q Now, Mr. McGhee, would you tell the Court whether or not the improvements you said are going to be made, are needed now? A Over a period of time, yes, sir.

Q What period of time? A Well, this program is over the next five years, [443] sir.

Q But these improvements are to be made? A Yes, sir, and they are needed within that period of time.

Q And they are going to be made whether this area is annexed or not, because they are needed, aren't they? A I would say so, yes, sir.

Q The annexation of the County has not a thing to do with the needs of the improvement of the airport, did they? A The need for providing a regional airport dictates that these improvements be made.

Q A regional airport? A Yes, sir.

Q Do you know whether or not there have been moves made to make it a regional airport, to be participated in by the other jurisdictions around here, and the City turned them down? A No, sir, I am not aware of those.

Q The City owns the airport now, doesn't it? A Yes, sir, it owns it, operates it and maintains it.

Q Yes, sir. And regardless of where the corporate line of the City is, the demand on the airport dictates the needs for development, doesn't it? A Yes, sir.

[444] Q Not where the lines of the City are? A That's correct.

Q Out of the three million some odd thousand dollars, how much is to be Federal money out of that? A Some of that would be at 50 percent, some would not be. Any of the runway work, the extensions and so forth, anything to the physical construction on the runways and taxiways would be funded at 50 percent.

The ILS system, we participate 50 percent in the cost of land, the remainder of that system is put in by the Federal Government at a cost.

Q Mr. McGhee, I asked you how much. The figure is shown in your budget, isn't it, the $1,560,500? A Yes, sir.

Q That shows the figure, doesn't it? A Yes, sir.

Q Now, you say there is a study under way to determine what and how and where to build a jail and a courthouse? A It's my understanding, yes, sir.

Q It's your understanding. Well, it comes within the purview of your activities, doesn't it, Mr. McGhee? A Well, sir, not the actual negotiations and talks concerning it, no, sir. That is completely outside of my jurisdiction.

[445] Q Your jurisdiction is supervising the building of these things? A That's correct. My jurisdiction is to put the money in the budget that would be provided by counsel, and then administer the construction and so forth of this.

Q In order to put the money in there, you have got to know what they are going to build? A That's correct.

Q And where they are going to build it? A That's correct.

Q Do you acquire the land? A I would say yes.

Q So you have got to know where they are going to build it so you can acquire the land? A That's correct.

Q And you mean to tell me you are not in on the discussions? A No, sir, I am not.

Q About where and what to build? A That's correct.

Q Do you have any idea how long these new facilities will be needed? A Not directly, no, sir.

Q Has it been some years, ten years, perhaps? [446] A I don't know about that figure, no, sir.

Q You don't know? A No, sir.

Q Do you have any estimate of how long they have been needed? A I have only been made aware of it since I have been in Roanoke, sir.

Q Do you have any idea where these facilities are going to be located? A No, sir, I do not.

Q Then if it's true that these facilities have been needed for ten years, in that period of time, no one has made the decision where they are to be located, is that correct? A Sir, I did not say they had been needed for ten years.

Q No, I said if it's true.

Mr. Cogar: It's a very hypothetical question calling for a speculative answer. I object.

Judge Hoback: He has already said he didn't know about it, so sustain the objection.

Q Would these facilities be needed if the whole County were not annexed to the City? A I would say yes, and not just by the City, sir, by everyone in this immediate area.

[447] Q You don't mean that everyone would need the jail, do you? A Yes, sir.

Q What is your plan for this courthouse if the County is annexed? A I, myself, do not have a particular plan for it. I think this all ties back to the studies being made for a regional facility, sir. And I am not in on what might be proposed for this particular facility.

Q No, sir. You have made certain studies for the annexation case, and you propose to annex the whole County and you propose to assume or absorb the facilities of the County. And you recognize this courthouse as one of those facilities, don't you? A Yes, sir.

Q What do you propose to do with it? A I have nothing in here proposed for it. It's already assumed in the operations budget for the continued operation of it, pending the outcome of the studies for a regional facility.

Q So that is the proposal. You will continue to operate this courthouse here, is that right? A I said pending the outcome of the study for a regional facility, yes, sir.

[448] Q But so far as you know, at this point, this courthouse is going to continue to be used? A Yes, sir.

Q Now, you mentioned the construction of fire stations? A Yes, sir.

Q How many did you say? A Four, sir.

Q You said four. Do you have an exhibit on that? A Yes, sir, I believe there is one. One of the stations was left off of it, which was noted after the book was printed.

Q What number exhibit is that? A I don't know, sir.

Q Is it E-3? Now this Exhibit E-3 that has been offered here by the City proposes to show existing fire stations and proposed fire stations by the City of Roanoke.

And the proposed fire stations are supposed to be shown by a red square? A Yes, sir.

Q And we count three, is that correct? A Yes, sir.

Q Were these three included in the four you talked about? [449] A Yes, sir.

Q And you came up with a fourth one? A Yes, sir.

Q And where is that going to be built? A That would be someplace in downtown Roanoke, sir, to replace the existing main fire station.

Q Would you come here and make a mark on the area that you think that ought to go in? A I can point generally. There is no specific site as yet proposed, but it would serve the same area generally as the existing number one station.

Q So somewhere in the area of number one station then? A Yes, sir.

Q Is that needed now? A I don't believe I can say whether it is or not, sir. This is a program based on the need as described by the fire chief.

Q Well, this isn't your building program? A The totals are, yes, sir, but not the specific proposal for where a station is needed or not needed.

Q Well, has the fire chief told you it's needed? A Yes, sir.

Q All right, sir. So it's needed now, isn't it? [450] You don't doubt the fire chief, do you? A I would say it's needed for the future, yes, sir.

Q Where is this, on Brandon Avenue, in that area? A That is shown off of Colonial Avenue in the vicinity of Overland Drive.

Q Did the fire chief tell you that one was needed now too? A Yes, sir.

Q There is a regional report which says both of these are needed too, isn't there? Did you see that? A No, sir, I didn't see that report.

Q How about this one here that is where, on Hershberger Road? A Yes, sir, it's basically depicting an area in the vicinity of the airport.

Q Didn't the chief tell you this was needed to serve this area in the City, as well as the airport? A Yes, sir, that's why it's been placed there.

Q Yes, sir. Who told you that you needed one up here? A The fire chief, sir.

Q And after you build one here to serve the Hershberger Road area, the airport, you need to build one over here (indicating). Where is that, Peters Creek Road? [451] A The vicinity of Peters Creek Road and Cove Road, yes, sir.

Q There is an existing station here, Hollins? A Yes, sir.

Q Are you familiar with that? A Yes, sir. I believe we drove by it the other day.

Q There is one at Electric Road, isn't there? What is that? A It shows a triangle, sir.

Q That is the City of Salem, isn't it? A Yes, sir.

Q I don't see any proposed anywhere else in the County at all; just one, really, in any part of the County. A Sir, I have nothing to do with the proposed fire system itself. I can't answer as to why one might be in one location, as opposed to another location.

That would be something the fire chief would have to be involved in.

Q But so far as you know, these fire stations, perhaps with the exception of Peters Creek Road, are needed regardless of annexation? A Yes, sir.

Q Are you in charge of building libraries too? [452] A I would be in charge of seeing that they got built, yes, sir.

It would not be my program, if a library was needed, it would be my program to see that it got built, after the determination was made that it was needed.

Q Are you in the process of building one at Melrose Avenue? A No, sir.

Q Is there any proposal to build one there? A We have one in the budget proposal, yes, sir, to build one at the Melrose facility.

Q That would be built regardless of annexation, would it not? A I don't know whether it would or not, sir.

Mr. Fitzgerald: We are about at the end of this, if the Court is ready to recess for noon.

Judge Hoback: Whenever you finish.

Mr. Fitzgerald: All right, sir.

Q You mentioned a central garage? A Yes, sir.

Q Where is that to be built? A We don't know, because of the problem of not knowing how large an area we are going to be serving. As soon as that is resolved, we will be able to sit down and get on with [453] it.

Q Is your present garage big enough to serve what you have now? A It's been inadequate for many years.

Q So regardless of the annexation, you are going to have to improve your garage facilities? A Yes, sir, but we want to wait to know how much of an area we are going to be serving, because of where it's physically located, because of various sites which would be better in one place or area.

Q If you knew the area the City was not going to be expanded, you could get on with it, is that right? A I did not make the first statement, no, sir.

Q How about all these capital improvements you are talking about, have all of those been approved by the City Council of the City of Roanoke? A Some of them, yes, sir.

Q I said all of them? A Not all of them, no, sir.

Q This is just your projection of figures? A I would say the entire budget is a projection.

Q And it has not been adopted by the City Council of the City of Roanoke? A No, sir.

Russell R. Henley

[466] * * *

Cross Examination

By Mr. Fitzgerald:

Q Mr. Henley, most of your projects have been done since 1960? A With the exception of the two housing projects. The main portion of the others have been since 1960, yes, sir.

Q And the housing part of it is totally Federally funded, or with whatever revenue you produce from the houses? A It's Federally funded to the extent of guaranteeing the debt service and the interest. The operation is paid for by rental income.

Q Well, then, am I correct that your operation, so [467] far as the housing is concerned, is totally funded and the revenue that you derive is from operations of your housing project? A The operation is a rental income.

Q Do you get income from your housing project from any other source, except from rentals and the funding from the Federal Government? A Not through operations.

Q All right. You don't get anything from the City for that, do you? A No.

Q And you have the power of eminent domain in acquiring property for housing projects, don't you? A Under State law, yes, sir.

Q And have you ever used that? A Yes, sir.

Q In the City of Roanoke? A Yes, sir.

Q The redevelopment projects, I believe you said, are two-thirds Federally-funded and one-third City-funded? A Yes, sir.

Q And you take that money and acquire the land and clear it, is that correct? A Well, it gets a little involved. You first start [468] off with a gross project cost which involves all your expenditures and your cost of operations, carrying it out. Then after this is completed

and you have totaled this amount, when you sell the land, deducting the land proceeds from that cost, gross cost, gives you the net project cost. And this is what is divided between the Federal agency two-thirds and the City agency one-third.

Q Well, do you try to sell the land for enough money to pay for the cost of acquiring the land and leveling the land? A No, it requires an underwriting by the Federal agency. And this represents usually the two-thirds.

Q That is the two-thirds? A Yes.

Q Does the City get back its money? A Well, it can be money or it can be services.

Q I see. So the City receives its one-third back in either money or services? A Well—

Q That is true, isn't it, sir? A If they were putting money up, they would. If they were putting in services, these are the things that support the project, so you could state that the City has put it in itself and would have the benefit of it, even though they [469] paid for it.

Q For instance, when the City used part of the project to build the Civic Center, the City had to come to the Authority to acquire that land, didn't they? A Yes, sir.

Q The Authority had to agree to sell it to the City? A Yes, sir.

Q At a price to be established? A Yes, sir.

Q And how was the price to the City established? A On the basis of fair market value, by two independent appraisers.

Q The City paid for that at fair market value? A Yes, sir.

Q That money went into the redevelopment fund, did it not? A Yes, sir.

Q And the City benefited from that, from that sale? A Well, by purchase, yes, sir, by using the property.

Q Now, does the redevelopment authority have to agree as to what use is to be made of the property on redevelopment? [470] A Yes, sir.

Q The type of use? A Yes, sir.

Q The design of buildings, and things of that sort? A Yes, sir.

Q The Redevelopment Authority controls it pretty tightly, doesn't it, sir? A Yes, sir.

Q And nothing goes there without the approval of the Redevelopment Authority in the redevelopment project? A That's correct.

Q Is the rest of this area, Kimball, I believe you said, is how many acres? A That is 78 acres.

Q Seventy-eight acres remaining? A Well, gross. That includes the streets within the perimeter.

Q Yes, sir. And your plan is, or the Authority's plan is that that be rebuilt into commercial and light industrial uses? A That's right.

Q And that land is for sale to private industry or private business? A Or public.

[471] Q Or public business? A Yes, sir.

Q Are you at the present negotiating any sales for that? A There has been one announced sale, it hasn't been absolutely committed. The United States Post Office plans to utilize eleven acres for a United States Post Office in the area.

Q Is that level land? A It needs considerable grading in some areas, and doesn't in others.

Q How much land did you need that has considerable grading? A I would say all of it needs grading, but if you draw the line between considerable and not considerable, I would say you come out with less than a third of the land that would be in that category.

Q All right, sir, something like, then, one-third of 78 acres is in the not considerable grading classification? A Yes, sir.

Q Have you had any offers for that land? A No, sir, except the Post Office. Nothing has been—we have had an interest in it which is normal, but we haven't actually put it on the market because we have just [472] reached this point in time. And the Post Office is the only committed area.

Q How many acres does the Post Office Department want? A About eleven acres.

Q Have they picked the area? A Yes, sir.

Q Where is that? A It's immediately south of Rutherford Avenue and easterly from Williamson Road.

Q Well, that is in the area that needs considerable grading? A It needs—I would say that that area overall would need less grading than some of the other parks.

Q Less grading, all right. How long has this land been in the condition it's in? A I expect you would go back to the beginning of Roanoke.

Q Oh, no, no, sir. You have demolished buildings there, haven't you? A Oh, yes.

Q And the land is in a certain condition of being vacant now, I take it? A Yes, sir.

[473] Q How long has it been in that condition? A We have been carrying out demolition in stages over the last twelve months, as people were relocated, and the structures became available.

Q I see. But so far, you haven't put it on the market? A No, sir.

Q When do you intend to put it on the market? A Immediately.

Q You mean immediately after this suit, or when? A No, we are in position to go into that now. But we have site improvements to make, considerable grading in the area, street improvements, sanitary sewers and underground utilities, those types of things.

Q Other than these 78 acres, do you have any available land that you are going to put on the market immediately? A We have the downtown project.

Q What is that? A This is about 18 acres with nine gross to be put on the market.

Q When is that going to be put up for sale? A Immediately.

Q How long has that been ready for sale? A We still have

relocation problems and demolition [474] because of the businesses that haven't moved yet. But we are getting to the point now that we will be able to promote the sale and pick up interest, hopefully, for redevelopment.

Q Do you have any other projects programmed for redevelopment? A Nothing official.

Q No, sir? A There are several areas that we have believed required redevelopment.

Q That are right for redevelopment? A Well, we are proposing studies.

Q Well, in your opinion, sir, as the Director, do they look like they should be redeveloped? A Yes.

Q Same as the areas you are already in the process of redeveloping? A I think we would approach redevelopment in these areas on a different basis, because the redevelopment we have done was a complete clearance and change in use.

The areas in the future that we would be concerned with, would be predominantly restoring to a residential use as it was before redevelopment.

Q I see. A This may involve variations of rehabilitation, [475] and that sort of thing.

Q Where are these areas located? A One of the areas is easterly or westerly from Interstate 581, between Orange Avenue and the railroad track, and referred to as the Gainsboro area.

Q How many acres in that area? A Well, you have to draw the line to the west, but the area we probably would be concerned with in making the study?

Q Yes, sir. A To plan for projects this may consist of an area which would involve three to four hundred acres.

Q All right, sir. What other areas are you contemplating? A Well, we are not contemplating any additional areas. There are areas on the south of the railroad track in the southwest area that do require some development from visual observation.

Q What development would you suggest in those areas? A We don't have any plans for that.

Q But you feel there would be need for redevelopment of some sort in the future for that area? A That's right. Then you have your thoroughfare plan being carried out in the area of Tenth Street, which will influence and affect the area.

[476] Q Can you guess roughly how many acres we are talking about in that area that would be in need of redevelopment in the future? A No, sir.

Q No idea? A No, sir.

Q How many blocks? A That would be pure speculation. I don't have any information on it.

Q I see. How many dwelling units total, not included in the 300 acres you talked about a minute ago, but how many dwelling units are either under construction or to be constructed on current projects, total? A Well, I would have to add them up as we go. We have 212 —is that what you mean, under construction?

Q Not occupied at the present time. A Not occupied at the present time?

Q Either under construction, or proposed? A There are 212 elderly under construction and not occupied; there are 48 on Hunt Manor at Eighth and Hunt, that would be 260; and there are 150 under construction, family units on Bennington Street Southeast. I believe that is 410, isn't it?

Q Yes, sir. [477] A They are the ones that are under construction currently, that haven't been completed.

Q Can you give us a rough estimate of how many dwelling units we would be talking about in the area you mentioned to the west of 581, of several hundred acres? A We have no idea, because it's not envisioned that that will be cleared. To some extent, it will be rehabilitated.

Q But you said you were going to rehabilitate it into residential use? A Yes, but this is not far enough in advance for me to make any detailed comments on it.

Q You have no idea how many residential units we are talking about at all? A No, sir.

Q In 300 acres of land? A No.

[478] Q Now, do you know of any private rehabilitation or redevelopment going on in the City? A It is kind of hard to answer because I consider any new building that might be considered redevelopment, so I don't exactly follow your question.

Q I read in the paper the other day about a block of the City being for sale for redevelopment of businesses on Patterson Avenue. Are you familiar with that area? A Yes, I know it.

Q Do you know the block I am talking about? A No, sir.

Q Between 13th and 14th Streets. You are not familiar with that? A No, sir.

Q You are aware of the fact that there is some private redevelopment going on where old buildings are being torn down and new buildings are being built. A I think that is a continuing process.

Q I mentioned Shenandoah Avenue a moment ago. Is that area being considered for redevelopment in any way? A No, except that happens to be a boundary street of the Kimball project, easterly from Williamson Road and 2nd Street.

Q That is part of the Kimball project? [479] A It is part of the Kimball project, yes, sir.

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TRANSCRIPT DATED APRIL 26, 1971

[532] * * *

Roy A. Alcorn

Direct Examination

By Mr. Cogar:

* * *

Q I would like for you at this time to tell the Court what you envision the program to be for the combined system after annexation and what advantages, if any, you see in the annexation of the County. A Exhibit D-20 indicates the proposal for organization and administration of the merged school system that would follow annexation. This particular document lists the organization and administration of the school system, some comments relative to the instructional program, and some comment relative to the housing of the students in the school system following annexation.

Q I believe there is an organization chart to be found in D-22, is there not? [533] A Yes, sir, there is. It is Chart A, located on page 4 of this document, and this represents a proposed organizational chart for the administration of the new or the merged school system.

Q Generally what will the objective be of the Roanoke School Board when annexation becomes effective with respect to the combined system? A The advantages we see in the merged school system are four in nature. One is that by merging the two systems we will be able to eliminate certain duplication of services that both systems now must provide.

Secondly, we think there will be some economies that can be realized in terms of purchasing, the centralization of bulk purchasing and bulk purchasing for schools.

Thirdly, we think there will be a broader program that can be offered to children in the combined school systems, particularly in the area of special education, in the area of vocational education.

Fourthly, the school system, we think, the combined system, will increase the potential of the system to achieve greater excellence in the entire instructional program.

Those, essentially, in a nut shell, I suspect represent the points of view that we have utilized in taking a look at this merged operation.

[534] Q Now in your Exhibit D-20, reference is made to your leveling up. Will you explain to the Court what is meant by that concept? A This is a term that is used in educational circles among those who do a considerable amount of work in determining consolidation efforts. The leveling up concept, in brief, is a searching out of the peaks of strength in either school system or whatever school system are being considered and leveling the entire school system, after merger, up to those strengths.

In other words, the school system after it has been combined with another school system—there ought to be a better school system emerge from both of them.

Q Could you give the Court some examples of what you regard to be the peaks of strength in the City and County systems which would inure to the benefit of the combined system? A I can, keeping in mind that my knowledge of the County operation is certainly not as detailed as it is of the City.

But in business administration, or the administration of the school system, the automatic data processing, as an example—the operation in the County I consider from what little I know about it to be a strong operation. I think [535] it will cost approximately $80,000 a year to run an automatic data processing operation.

We have an automatic data processing operation in the City. The combination of these two particular systems would ostensibly reduce the costs in that area. Only one system would be required for the new school system.

Purchasing, I have already mentioned—certainly bulk purchasing, centralized purchasing, ought to effect some savings. The warehousing operation—the only need in a combined school system is for one warehouse. We only need one maintenance operation and one bus transportation operation. Certainly in the County we would be glad to concede a good transportation network which provides these facilities.

Q With respect to the assimilation of your various programs, could you give us an example of leveling up in that area, in the teaching area? A Well, we could take the area of special education. The City has a most extensive program in special education for the children's problems in learning. I think if I am not mistaken there are six areas of what is called exceptionality. We would expand the services in the new school system to include all of those areas of exceptionality for all children that need them in the new school system.

This would also be true of the services that the [536] school system in the City has in home school counseling services, psychological services, speech and hearing services that would be expanded in the same breadth and depth to the whole operation as now exists in the City operation.

[537] Q What would the effect be in the area of vocational education? A Here it's, I think, a most graphic illustration of the good effect that can come about by consolidation or merger. I believe the County has two trades and industries vocational courses that they are now offering in their school system that we do not offer in the City system. I believe, if my memory serves me correctly, that there are eight programs, vocational programs we offer in the City that are not offered in the County.

If the systems are merged, that means that there will be ten programs in vocational education that will be open to the students of the combined operation, that are not now open to them in total.

Q With respect to the concept of leveling, do you feel that you have hit the most critical aspect of it in your testimony, Dr. Alcorn? A I think so. There are other aspects of it, such as the extension of instructional supervision to other areas that are not now covered, such as libraries, industrial arts, distributive education, home economics, pupil personnel services and vocational adult education. These supervisory services, highly skilled technicians and specialists would be available for the combined school system in these particular areas.

[538] Q All right, sir. What provision would be made for County personnel in the event this annexation would be granted, those in the system at the time of annexation? A We have scanned the annexation Ordinance, and of course the Ordinance stipulates that all full-time personnel in the school system at the time of annexation in the area to be annexed, will be given job security. They will not be reduced in salary. And it's my understanding that we are certainly obligated to try and place them in roles that will be as nearly comparable to the roles they now hold.

And we intend to follow that particular point of view with great care, and to exercise every effort to see that that aspect of the Ordinance is carried out.

Q Well, if one of the goals which you seek to attain by this annexation is to effect certain economies, would not the retention of all personnel tend to defeat that objective? A No, I don't think in a school operation whereby you will have attrition rates in the City running between 12 and 14 percent, we will have the turnover rate running between 12 and 14 percent in the County, I do not know their turnover rate, I suspect it certainly is high if not higher than the City of Roanoke. We feel through attrition we will be able to effect the economies and also take care of the job security aspect.

[539] Q I believe that your projected operational budget for the combined system is to be found at page 73 of the budget, and your capital improvements program is to be found at page 82, is that correct?

A Yes, that is correct.

[540] * * *

(Exhibit received in evidence.)

Q I believe I may have asked you this question before, but some question has arisen over here, Dr. Alcorn. It is the proposal of the

City that it would operate the schools in Vinton and in Salem as Roanoke County does now? A Yes, sir, that is the proposal we have developed for it.

Q What is your proposal with respect to the transportation of children who are presently receiving transportation from the County? [541] A We would provide the same transportation services that are now school-owned transportation services, that are now being enjoyed by the County children and also, I presume, Salem and Vinton.

* * *

Cross-Examination

By Mr. Fitzgerald:

Q You, sir, have described the operations of the program of the City school system of the City of Roanoke. Would you say that in your knowledge, as you have expressed it in your later testimony, that the school systems of the City of Roanoke and the County of Roanoke are comparable in the level of education provided the student in each jurisdiction? A I would have to preface my remarks by saying that I am far more knowledgeable about our City system than I am the County system. But I certainly do gladly concede that the County has a good school system.

Q Mr. Arnold Burton is the Superintendent of Schools of Roanoke County, he operates a very fine school system, doesn't he? A I concede that it's a very fine school system.

Q I believe you told us that there are some offerings in the County school system that the City doesn't have? A Yes, that is correct.

Q There are some facilities in the County that the City doesn't have in the same degree that the County does, is that true? A I presume you are referring, perhaps to transportation facilities, because we do not have a school-owned transportation system in the City.

Q How about your vocational training facilities? A We have two vocational training facilities in the City located at the comprehensive high schools, and serving the same pupils as the Roanoke Education Center.

Q You don't have these facilities at each of your high schools? A We have two major vocational centers.

Q Yes, sir. You don't have these facilities at each of your high schools? A No, we do not.

[543] Q Did you make enough of a study of the Roanoke County School System that you propose to combine with your system to know that it is in the process of being accredited, too? A That the County is in the process of being accredited by whom?

Q In the same program that you have? A I would presume that any good school system would seek the kind of accreditation we are seeking.

Q And you know that the County is? A I presume they are moving in that direction.

Q Those systems have to comply with the State rules and regulations, do they not? A Absolutely.

Q What is the per pupil cost of education in the City of Roanoke? A It is estimated this should this year that the per pupil cost, as figured on the State formula, is approximately $730 per pupil.

Q And what is the per pupil cost in the County of Roanoke, figured on the same basis? A I am not sure of that figure. It is somewhat lower but I am not sure of the exact figure for this year that we are in.

[544] Q Certainly, Doctor, in your examination of the school system that you are proposing to combine with, you have made some study to find out what it was costing to operate that system, haven't you? A I think the 1969-70 figures showed the County about $560 per pupil. I think this is the budget we had at our disposal.

Q Between $550 and $560 and yours is around $700? A That is correct.

Q The school systems, enrollmentwise, about the same, or is the County a little larger than the City? A The County is somewhat larger and will grow correspondingly when they add kindergarten this year.

Q Your system has about 18 or 19,000? A About 19,000, 19281.

Q And the County has about 22,000 to 23,000? A I believe 21,500.

Q And your study of the County system showed that it served partially an urban area and partially a rural area, didn't it, sir? A Our analysis of the documentation that we have received to the interrogatories indicated that that—yes, and of course the topography that we have traveled over also indicated that.

[545] Q You didn't have to look at any book to know that the County of Roanoke School System serves a large rural area as well as an urban area? A Right.

Q And did your study or your observation of the documents that you received show that the County School System was keyed to both urban and rural student needs? A We never made any particular analysis of those particular facets.

Q You would assume that the County School System, being a good school system, would attune itself to the needs of the locality? A Certainly I would assume that.

Q The City school system is an urban school system, isn't it, sir? A Yes.

Q Catering to an urban population? A It is serving the needs of the students in that area.

Q You have no rural areas to serve? A No.

Q I believe you said that the City school system is keyed to—that you judged the system by how well it administered to the lowest and the highest in learning ability? [546] A I think my testimony revealed that if you had ten minutes and you were a layman trying to judge the school system and you only had ten minutes in which to analyze the system, that might be the best way, but I certainly didn't imply that that is the way I judge a school system in its entirety.

Q You agree that some emphasis ought to be put on the large middle? A Indeed we feel that that is where the major emphasis will be because that is where the majority of the students are.

Q In your studies of these two school systems did you come across any comparative figures as to drop-out rate between the two? A We, of course, studied the drop-out rates on a state-wide basis based on the information provided us by the State.

Q No, sir, I am talking about the school system of the City of Roanoke and the school system of the County of Roanoke. You mentioned the drop-out rate of the City, I believe? A Right, and as we studied the State figures that were supplied by the State Board of Education, of course we were interested to some extent in the Roanoke County's figures as [547] well.

Q Because this is a system a little larger than yours that you are proposing to combine with yours. Did you find that rate higher or lower than yours? A I think the figures quoted were about 3.4 percent as compared with 3.6 in Roanoke City.

Q So it is your testimony that it is slightly lower? A Slightly lower.

Q You mentioned the emphasis placed on reading in the school system. Did your analysis of the County School System show that this is a program that the County has been in for a longer period of time than the City School System? A We did not discover that fact because I would expect both systems would be deeply concerned about the teaching of reading, Mr. Fitzgerald. A We did not emphasis that aspect at all.

Q Are the State requirements, now, the State of Virginia requirements, equal to or better than the requirements for accreditation by the Southern group? A The new State requirements that have been [548] promulgated by the State Board of Education come very close to duplicating those requirements of the Southern Association of Colleges and Schools. They have been considerably strengthened.

Q So they are about equal, then? A I would say close to equal.

Q And you were required to comply with the State requirements, are you not? A That is true.

Q So if you are complying with State requirements there shouldn't be any problem with having all the schools accredited, should there? A I think if you had no deficiencies you would be well on the road to Southern Association accreditation.

Q So it is just sort of like joining a club. You prove to them you have the conventions, is that correct? A I don't think it is quite that. I think it is just having the people come in from the college to

inspect the school system, to have the interchange between teachers and these particular survey groups that is very helpful.

And also there is one year of self-study that is exceedingly helpful in searching out your strengths and weaknesses and trying to build on your strengths.

Q You have a self-study and then an outside study and then a self-study of the outside study? [549] A You have a self-study running about a year with the teachers themselves taking a look at the schools.

Q That is to make sure they will comply with these regulations when the outside study comes in? A Not necessarily. That is to help the teachers get a school-wide view of their own location and determine where they can improve and also to search out their strengths.

Q And then you call for the outside study? A And then a group comes in and spends a few days going over your study, plus looking at the school themselves, and then they make reports to the Southern Association as to whether you should or should not be accredited.

Q Can you tell after you make the self-study whether or not you are going to get accredited? A You get an inkling of how you will rank.

Q You know the criteria, don't you? A Yes, by and large.

Q So you can look at the criteria and look at what you have and see how it measures up, can you not? A To a great extent if the faculty is realistic in its observations.

Q Do you call in the outside group to study it if your own study shows you don't measure up? A I think if your own studies show that you do not [550] measure up usually you take another year to see that you measure up.

I might also add that these outside people really are Virginia people. They are not outside the State. They are members of the Virginia Committee of the Southern Association, so we are being judged by a group of our peers.

Q And at the time that you were judged by that group of peers, you are pretty well sure that you are going to meet their standards, aren't you? A By and large.

Q You mentioned the music offering in the schools in the City. I believe you said the teachers go from school to school and offer this music instruction? A We do have music instructors, specialists, at the elementary level and also at the junior and senior high school levels, who do provide music instruction.

Q And they go from school to school? A Yes.

Q Did your study of this system you were offering to combine with show you what the offering was in the County? A We have not got the details on County offerings.

Q You don't know that they have a music program with a school teacher at each school? A We are sure that they have a music program.

[551] Q With a music teacher at each school? A We do not have all the details on those programs.

Q Let's take that point, for instance. Do you intend to provide the same level of music instruction that you provide at the City schools, or go to the County level of instruction? A In any instance whereby we find that the program is stronger we will try our—in the County or in the City—we are going to try to level up to that point.

Q This would mean that where the County has the strongest program, you are going to lift the City up to meet the County? A If that is the situation we find, yes.

Q Can you tell us why the City hasn't lifted itself up to that level at the present time without combining with the County? A We feel that our music program is a very strong and a very solid program and we find it is quite defensible. We would have to analyze very carefully the County operation.

I think we would have to analyze very carefully the County operation and take another look at both of them. From that, indeed, there would be strengths in both programs, I am sure. Out of this would come an amalgam, certainly, that would certainly be hopefully stronger than perhaps either [552] program.

Q Dr. Alcorn, I believe you conceded a while ago in your direct testimony that there were certain things that the County system had that outweighed the programs or levels of service in the City. Is that

true? A I think we did mention certainly an automatic data processing operation and we also mentioned transportation.

Q Do you agree other than transportation and automatic data processing that there may be or are certain programs of the County that are stronger than those of the City? A Let me say that—

Q Without saying what they are? A Let me say this is a possibility. We do not have the depth of information to go into each detail. I cannot say on the stand that in every instance our program is superior in every way.

Q Indeed you have said the converse, haven't you, sir? You said each program has strengths that will draw from the other, didn't you, sir? A I have said the leveling-up concept is what we would utilize.

Q And that recognizes—I will ask you one more time—the fact that the County system has stronger points in some instances than the City system? I believe you have already [553] said it. A In testimony I think we alluded to the two areas in which this may be true.

Q How long have you been studying the County system in this proposal to combine with it? A Of course, ever since we have been here. We did know that annexation might be a possibility but we have not made any in-depth studies, indeed, until we were able to get sufficient information from the County.

Q When did you first attempt to get sufficient information? A Well, it was back a couple or three months ago. I do not know the details, but the interrogatories went out to the County. I don't recall the details.

Q If you find the County does, as you say it is a distinct possibility, have certain programs that are stronger, more extensive than those of the City, I ask you, sir, do you intend to raise the City up to those programs? A We will make every attempt to do so.

Q Had you had occasion to compare the physical educational programs in the elementary schools as between the County and the City? A Not in any depth.

Q Do you know that the County has a physical [554] educational program at every elementary school? A I am acquainted with the

fact that they have a program and I am sure that Mr. Burton will testify to its effectiveness.

Q Did you know that the major elementary schools in the County have a facility for physical education, a gymnasium? A I have not made a detailed study. We have tried to be at every site but we have not made a detailed study of each site.

Q Do you have gymnasiums in every elementary school in the City? A Not in our schools unless they be converted schools.

Q In your present school system do you have gymnasiums at the elementary school levels? A No.

Q Is there any proposal in your capital improvement budget to add those gymnasiums? A We have not gone into the details of the capital improvement program. However, I might add that almost any new elementary school that would be planned today—that I am sure this would be one facet that the school board would give careful scrutiny as to the needs for physical educational facilities at elementary schools.

[555] Q But what you are telling us is that you, at this point, have made no provision for such? A I am saying we neither have nor have not. This is an area we have not gone into in any detail.

Q Well, Dr. Alcorn, I don't want to engage in semantics here, but either you have or you have not. You have not in your program presented to this Court, provided for any gymnasium facilities for elementary schools, have you? A No, we have not, capital improvements program.

Q You told the Court about the advantages of the educational television program that the City of Roanoke is a member of. How many different school divisions did you say utilize the educational television program? A I first quoted, I believe 18, and a further research over the weekend indicated that there are 25 school systems now in this program.

Q And they range all the way from the most rural areas of the State to the Urban area of Roanoke City, don't they? A Yes.

Q And how many channels are used to broadcast these educational television programs? A We have one channel.

Q One channel? [556] A Open channel.

Q And there are 25 school divisions? A Yes.

Q Can you give us an example of some of the most rural counties that utilize this service? A Well, many of the southwest counties utilize it, Floyd and Craig County, and others, I am sure.

Q At any given hour that that channel is broadcasting, it's broadcasting one program, isn't it? A I think the station has tried to get around the inflexibility by repeating the courses, so there is a lot of repetition of the same program being repeated throughout the day.

Q Am I right: At any given moment, there can only be one given program being broadcast? A That's correct.

Q And if one school has seen that program being repeated, it's completely valueless for that school while it's being repeated for some other school? A Unless there is some remedial need for it?

Q So where we have children out of school because of the weather, transportation problems and snow, things of that sort in the mountainous areas of the region, and the television station is broadcasting a certain program, those [557] students miss it, don't they? A Yes, as they would miss any instruction that would be offered the day they did not come.

Q But the one television station with one channel has to rebroadcast that program if those students are to have any advantage from it? A Well, there is a considerable amount of rebroadcasting?

Q Yes, sir. There are advantages, aren't there, sir, of a closed—from closed television circuitry within the school system, aren't there, sir? A There may very well be. I am not familiar enough with cable television to speak with any authority on that subject.

Q You know for one thing, sir, they have more than one channel to broadcast on, don't you? A I presume they would, it would have to be from an economic standpoint. But educationally it may be only one channel from the educational television point of view, I don't know.

Q You know, sir, that they are not restricted to the utilization of one airways channel, don't you? That is one of the advantages of it. A Well, neither is a set located in the school [558] building, they

can certainly pick up all the commercial stations that are being broadcast in that region.

Q Pick up the commercial stations? A Yes.

Q Just to shorten this up, you recognize there are certain advantages of the closed circuit or cable television educational programs over the educational television stations, don't you? A There very well may be, although I am not familiar enough to testify as to what they might be or might not be.

Q Did your study of this system you are offering to combine with, indicate the level of services in the vocational rehabilitation programs? A No. We did not get into that in any extent.

Q You know that the County of Roanoke has a rather extensive vocational rehabilitation program, don't you? A Yes, I do know that they have such a program. I am not familiar with the program to any extent, but I do know they have such a program.

Q You know what the City's program in that regard is, don't you? A I know we are working directly with the vocational rehabilitation people to work with our children. We do not have a special project, but we work with the agency [559] in Roanoke.

Q It's fair to say that the County has a vocational rehabilitation program in its system, and the City does not? A No, I don't think that is so. We deal directly with the vocational rehabilitation agency in Roanoke to provide the services, wherein Roanoke County, I presume, has the operation where it works under the auspices of the Board.

Q You don't know that for a fact? A No, I don't know that for a fact. They have this program in their system, I understand.

Q Isn't that what I said? A I am not sure what you said, Mr. Fitzgerald.

Q You have no idea where the vocational rehabilitation program is in the County? A I don't know in the County. I only know in Chesterfield, that I had such a system in operation that—

Q Let's confine ourselves to the County of Roanoke and the City of Roanoke. A I do not know the details.

Q Assuming that is correct, as you said, they have a vocational rehabilitation program in the school system of Roanoke County and the City does not, it deals directly with the vocational rehabilitation program. What program is the combined system going to have? [560] A Let me come back to your point, and say we do not—I do not accept that. The point is we work directly with the vocational rehabilitation offices in Roanoke, and they in turn provide a counselor that works with our people, our counselors, to search out children who need vocational rehabilitation. Then they are given the help that they need. So I would not accept the response that we do not have a program as such.

We do not offer—

Q I said within your school system. It operates directly with the vocational rehabilitation people, you have said that several times. Would you tell the Court whether it's the County system or City system you propose for this combined system? A We have not made any detailed analysis in this regard, your Honors. I again repeat, we would make a careful analysis and try to hold onto the best aspect of either program.

Q You do not know which is better or which is worse? A At this juncture, we do not know enough about the County operation to make a judgment in that regard.

Q As I understand it, you do not have a vocational rehabilitation department within your system? A We do not have an operation similar to the County's.

[561] Q How about a handicapped children program? A Well, of course we have a special education department that covers a wide range of special education programs dealing with the mentally retardable, educable and trainable. Also dealing with the child who is emotionally disturbed; we also have classes for the minimal brain damage, for the blind child, for the crippled child, for the child in the Juvenile Detention Home, for the child in the hospital. We feel all of these—in the educable mentally retarded classes, we do have work study programs so that these children find some training.

Q Dr. Alcorn, are you familiar with the handicapped program of County school system? A Not in any great detail. I have read

an article, I believe that was published on some of their activities in this area.

Q Can you tell the Court which has the highest level in that realm of handicapped children programs? A Well, it would be depending on what you define as handicapped. But it would be my understanding that the City services for the children, by and large might be more extensive and broader than the County operation. Because they have been in the business so much longer and dealing with the concern over the years.

[562] Q But you have no idea what the County has, do you? A Only in a very superficial way.

Q So you have no basis for saying the County or City is better? A Only by looking at the courses and the information me by the County.

Q That is limited, isn't it? A In some instances, exceedingly limited.

Q You mentioned the number of units of offerings in your high schools. I believe you said the average was 77 units? A Yes, that is the way that the State counts them. However, there are many different ways of counting them, and I think this was illustrated in my testimony.

Q Yes, sir. Would you say that all your high schools had the same offerings? A No, they vary somewhat, although the same basic offerings, I think are found in each high school.

Q Why would you have more extensive offerings in one school than in another? A Primarily because of the number of students. The number of students, I think to a great extent, determine the amount of offerings that a school can offer, and to some extent the characteristics of the school personnel will affect the [563] offerings, because there are a number of electives offered at the high school level.

Q So the composition of students in any given area might very well determine the offering? A Not altogether, although it will have some influence on the offering.

Q What did your study show about the County high schools and their offerings? A We did not go into any detailing in terms of studying the County offerings, other than, of course, the fact we checked

with the State Board of Education document which compared school divisions all over the Commonwealth.

Q I believe you said your school, under the State, had the average of 77. Did your study show that the Andrew Lewis High School in the County had 139 units? A If we were to count our units in the same way Andrew Lewis counted theirs, for instance Fleming High School, the State only counts three units in the English level, one unit for English 10, one unit for English 11 and one unit for English 12, whereas we offer—this I checked over the weekend—approximately 29 courses over there in English. Each of them could count as a unit.

So I am sure that Andrew Lewis, with its modular scheduling approach, has probably counted each of these increments.

[564[Q The City doesn't have a modular approach, does it? A We have many, many varieties with different approaches, although we do not have a system scheduled along the modular lines.

Q How many does the State rate Andrew Lewis? A I do not have those figures.

Q Did you look at the publication? A I do not have them in my head.

Q You can't say that the County High School offering is any less than the City, can you? A I would not be able to make the statement that they are any less on the average. I think the City high school offerings are exceedingly broad, and I think quite defensible from any standpoint.

Q Do you feel that your system is offering a full educational program for the area it serves? A We think that we are—we think that we are offering a program—yes, we would say that.

As I told the Court, we do not feel that they have filled every gap, in fact, I do not know of any school system in the whole Commonwealth that has. But we are quite proud of the extensiveness of our program.

Q It's a system that is organized that if there are any deficiencies, with proper funding, they can be met, [565] can't they, sir? A Yes. Well, the key word is, "proper funding." I guess if you put enough money into a school system, you can almost get whatever the public

wants out of it, if they are willing to put the money into it for those purposes.

Q Yes, sir. Has that been a problem in the Roanoke school system, getting enough money from the City Council? A Well, of course, I am not thoroughly acquainted with every school division in the Commonwealth. But I do not know of a superintendent of schools that gets all he wants to run his schools.

Q Well, can we relate this to the City of Roanoke, now, sir, for the moment? Would you tell us whether or not, in your opinion, you have gotten sufficient funds to operate the City system on? A Yes, I think we have gotten adequate funds. Certainly we have not gotten all we have asked for, because of our ambitious programs that we have for our children that go far beyond terms of adequacy, in many instances.

Q In what fields do you think that you have been denied adequate funds? A We have not been denied adequate funds for our school system in any field in training, education and training.

[566] Q Well, are there any related services that you feel that you have been denied the funds that you sought, so that you can now provide the level of services that you recommend? A I presume you are referring to the recent request for budget for the City School System. If that is what you are referring to—

Q I refer to anything that may come to your mind, sir. A I would say in that regard, that matter is still before City Council and in a City Council Subcommittee, and has not been fully determined, yes.

Q Before the City Council, in a City Council Subcommittee? A Yes.

Q For what year's budget is this? A The School Board request went to the Council in February, if I am not mistaken.

Q And since February has been in Subcommittee? A The middle, last part of February.

Q Who is on that Subcommittee? A Mr. Hirst, the City Manager, Mr. Thomas, the Auditor, Mr. Bob Garland is on the Com-

mittee and Mr. Vincent Wheeler, they are both members of City Council.

Q And you have heard nothing from Subcommittee [567] until now? A Well, there has been some informal communications between the Subcommittee and the School Board from time to time for of course, seeking additional information as to their study and so forth and so on.

Q What kind of study are they conducting, Doctor? A I presume it's a feasibility study to determine the validity of their request.

Q Have you submitted the budget for the 1971-'72 year? A No, we have not. This budget, the School Board still has it in their hands, and have it under scrutiny.

Q And you have been extended the time of presenting that to May 5th, is that correct? A Yes, that's correct.

Q Is anything holding up the submission of that budget? A Other than just an intensive study by the School Board, I would say no.

Q How much money do you request for these buses? A I think it was approximately $375,000.

Q Is that part of that '71-'72 budget? A Well, the '71-'72 budget has not been released by the School Board, and it would not be appropriate for me to [568] discuss it on the stand.

Q Well, somebody else may have to determine that. I am asking you whether or not this request in February for $375,000 for buses is part of your '71-'72 operation? A I would say this: that the request has gone from Council from the School Board, a resolution of the School Board and it is still before Council, and it is still there. And that's all I can respond to that, Mr. Fitzgerald.

Q And what you are telling us is you refuse to divulge any of the details of the coming budget? A Well, I just don't feel that we have yet determined the coming budget, because the School Board still has it under scrutiny. And whatever I testify here might very well not be a fact whenever the School Board actually passes a budget on to the City Council.

[569] Q Yes, sir. But you at least could tell us what the School

Board is proposing as of this date, couldn't you? A Well, the School Board has already proposed, as of the 15th of February, to the City Council to purchase the school buses.

Q That is just one item? A This is one item.

Q You would have— A The School Board has also in open session approved the teachers' salaries for next year and the principals' and school supervisors' salaries, and this will be a part of the budget.

Q So we know parts of it? A This part is open.

Q If the School Board required to present this budget by April 1? A According to the State statute, this indicates that on or before April 1 this budget should be provided the City Council.

Q It is required to be provided by that statute, is it not? A Well, there is a statute giving a deadline, of course.

Q And the School Board has not complied with that, [570] has it? A The School Board has asked the City Council to give some extension of time, which has been granted.

Q Why is it that the School Board has recommended buying $375,000 worth of buses? A Because after a very careful analysis by the School Board of the transportation situation, this is what they determined should be sought from the City Council.

Q I believe you said the City has no School Board-owned or operated school buses? A No, we are in the same position that the great majority of urban centers are in the nation and even in the Commonwealth, in that we do not own our own transportation system.

Q Dr. Alcorn, my questions are going to deal solely with the City of Roanoke, the City of Salem or the County of Roanoke. The City in the year 1971, at February 15, decided it ought to buy how many buses? A We were talking of approximately 50 buses with possibly four replacements.

Q Up until now, and as of now, the bus transportation provided by the—or used by the students within the City, the junior and senior high school students, is public transportation, paid for by the students or their parents to use [571] those buses, isn't it, sir? A Not altogether true. The School Board subsidizes about 2,100 elementary children who ride the buses and live some distance away.

Q My question dealt with the junior and senior high school students. Can you restrict your answer to it? A Yes, I can. I still say that about 650 children at the junior-senior high school level are having their transportation subsidized because they are in the indigent class. The remaining students who ride buses must pay the fares.

Q What are those fares? A Thirty-five cents, I believe, a round trip.

Q Per day? A Yes.

Q Can you tell the Court roughly what that amounts to in a school year per child? A Well, in the neighborhood of $60 or so. I haven't multiplied it, but it certainly would be in that neighborhood.

Q All we have to do is multiply the thirty-five cents per day— A Times 180 days. If they had perfect attendance.

Q The subsidy, you say, is for indigent children, the welfare children? [572] A For the junior and senior high schools, not for the elementary.

Q The welfare cases? A Well, those youngsters that meet the criteria to receive free or reduced lunches are eligible to get transportation.

Q In the elementary school you do provide, at City cost, transportation? A Transportation of approximately 2,100 elementary children, and this has been done, Mr. Fitzgerald, for the last 25 years at the elementary level.

Q How many elementary students do you have? A We have over 10,000 students.

Q And 2,100 of those, roughly, are being transported? A Yes, if they live a mile or more from a transportation route or if they live a mile or more from school or if there is a safety hazard between the youngster's home and the school. We try to get them there at School Board subsidy.

Q And this again is public transportation that the School Board contracts for? A Yes, with the Safety Motor Transit Corporation.

Q You find that type of system unsatisfactory at [573] this time, don't you, sir? A I think we think that we could provide a better

transportation system within the City with our school-owned buses. That is why the School Board took the action they took.

Q You recommended it, didn't you? A Yes, I did.

Q And you wouldn't recommend the spending of $375,000 in one year unless you thought it was going to improve the situation, would you? A That is correct.

Q How is it that as of this time that is needed to improve the situation? That situation has existed for some years, hasn't it? A Well, the transportation, as I said—we have been providing a subsidized transportation for some 25 years for the elementary children. We have found this year, however, that because of the change in the geographic zones brought on by Court order, that we have more children who have to ride buses in those geographic zones than we have had previously, Mr. Fitzgerald, and this has created some strain on our local transportation system.

Q Due to the federal Court telling you what zones you have got to serve or how to serve them, is that correct? A Well, the federal court indicating, of course, [574] that certain things should be done at the junior and senior high school level, the School Board drew the zones.

Q To comply with the court's criteria? A To meet the general criteria of the Court.

Q What was that criteria, generally? A Generally the criteria was to eliminate at the junior and senior high school level, as I understand it, and certainly I can't speak for other than just as a layman—generally to eliminate the all-black characteristics of certain junior and senior high schools, to junior and senior high schools.

Q Was any ratio of racial ratio given you to follow?

Mr. Cogar: I object, if your Honor please. I would like to state my objection fully for the record, if I may.

This case is being tried pursuant to the laws of the annexation statutes of Virginia which provide that this Court will determine the necessity and expediency for annexation, taking into account the best interests of the City, the County, the areas sought to be annexed, the remainder of the County, but I think in some opinions they have mentioned the interests of the State.

[575] In numerous decisions of the Court it has said that factors to be taken into account in reaching this determination are such matters as community of interests, the needs of the area for utilities, fire protection, water supply, the crowded condition of the City, lack of space in the City to meet the needs of the City, past—

Judge Hoback: Are you going to review all of the annexation criteria in your objection to this one question? Limit it to the question asked.

Mr. Cogar: I was simply attempting to indicate that our Supreme Court in the interpretation of our annexation statute has reviewed and repeatedly stated the criteria to be taken into account. In no decided case or in no provision of the annexation laws of the State of Virginia is race a criteria to be considered in an annexation case.

Therefore, I say it is not a consideration which should receive the attention of this Court. It is under—

Judge Hoback: Race is not the issue, sir. We think the cost of pupil transportation, the need for transportation, the over-all picture, is what this Court is trying to get. The objection is overruled.

[576] By Mr. Fitzgerald:

Q Dr. Alcorn, this Court order under which you are operating your school system and under which you are designing your school zones, did it give you any criteria to follow in a proportionate balance of races? A It did not. The district court did not give the School Board any racial balance which it was to follow. The only general direction that I can recall just from memory of the document was just that the Court would consider a school that was 25 percent black to be integrated and 10 percent white to be integrated, and left it largely up the the School Board to come within compliance.

The School Board sought the assistance of the Department of Health, Education and Welfare last summer. They drew—HEW drew up a plan. The School Board didn't care for parts of that plan. They drew up their plan and then the district judge developed his order after scrutiny of both of those proposals, but there was not a rigid racial balance laid upon the shoulders of the School Board by the district court.

Q The 10 percent white balance would be 10 percent white and 90 percent black?

Mr. Cogar: If your Honor please, I don't want to have to be jumping up and down when there is this continued reference to race. May it be understood that [577] we have a continued objection to all references to race?

Judge Hoback: Yes, sir. Let the record show that Dr. Alcorn is the first one that mentioned race. I didn't hear counsel mention it at all, but we are getting at the overall picture of the school system. That is the only way we can be admitting any of this evidence.

Mr. Cogar: I don't want to interrupt any more.

Judge Hoback: We will show a continuing objection and the continuing overruling by the Court.

Mr. Fitzgerald: I might put into the record that the purpose of this testimony is that the Court must determine the expediency of annexation and that in this case the City is offering to combine two school systems—it is their proposition—when the one school system they have is under a federal court order to maintain certain standards. I think since he has proposed to combine the two school systems we must find out whether or not the study has done what the federal court ordered.

By Mr. Fitzgerald:

Q Would you tell us whether or not that is what you mean by 10 percent white or 25 percent black? [578] A I may have to review those figures. It might have been 25 percent white and 75 percent black and 10 percent black and 90 percent white. I don't have those figures.

I have got some of the court order here but I do not have those figures before me. But the racial balance, the rigid racial balance, was not ordered by the district courts.

Q Are you trying to comply with the district court's order? A Yes. We not only are trying to but we are complying with the district court's order.

Q Is the School Board appealing the decision of the Court at the same time? A Yes, the Board is appealing the decision to the Circuit Court of Appeals.

Q Trying to overturn the Court's order? A Certain aspects of it.

Q But in the meantime it is a decision of the School Board of the City of Roanoke to comply? A Absolutely.

Q I am reading from a newspaper article relating to the problem. It says, "Meanwhile the Roanoke City School Board, with the help of HEW, came up with a plan to close all-black Lucy Addison High School and integrate the remaining three high schools 22 to 25 percent black by assigning more [579] black students to downtown Jefferson and two outlying schools in predominently white residential areas."

Does that jog your memory as to the percentage of blacks to whites that you are trying to achieve? A I think if you would look at the school attendance areas that are before you on the map you will not there that the School Board stuck to geographic zoning and most of our Negro population is located in the very core of the City.

So the Board's decision was to extend the geographic zones of each of the outlying schools into the core city to just pick up a portion of the black population. Consequently, it would keep the percentage ratio at about 20 to 25 percent at each school.

Q And that does remind you that the balance you are trying to achieve is 20 to 25 percent black to white? A Only in the schools that immediately surround the two schools that the courts gave us pretty firm direction could not exist as all-black schools.

Q Have you closed Lucy Addison School? A We have not. That school has been kept open by the Judge's order.

Q What is the ratio of black to white in the school? [580] A This year it is approximately 50-50 and this is primarily because all of the seniors at that school were allowed to remain in that school to graduate. Next year our projected figures indicate it would be about 70 percent white and about 30 percent black.

Q Now tell us how this percentage ratio came to be, as 20 to 25 percent black and 75 to 80 percent white? A I think I have already explained it but I will be glad to repeat it. The School Board found—of course when you looked at the ethnic map you found most of the black children living in one core area in the City. The School Board extended the geographic zones of the three outlying high schools,

Fleming, Patrick Henry and Jefferson. The zone was extended down into the core to pick up a part of these children.

Q My question deals with why 20 to 25 percent. Isn't it true that that is the racial make-up of your entire school system? A The entire school system has approximately 25 percent black and 75 percent white.

Q And that is why you were trying to achieve these balances in the various schools, because that is the total make-up of the school system isn't it? A We were not particularly concerned about the [581] balances of such but we were looking for a way that we could find—a way to obey the court order and in such a way not work an undue hardship upon a great number of people, keep our busing to a minimum, and also maintain the high quality of education that the City demands.

Q That is how the 25 percent-75 percent ratio came into being, because that is your over-all composition? A In the City.

Q What is the overall composition in the County? A I do not know.

Q You do not know? A But I know it is considerably less. I do not know the exact figure, three, four or five percent.

Mr. Cogar: Could I inquire as to the materiality of that?

Mr. Fitzgerald: May it please the Court, I would say the materiality is that here is a school system under a court order to achieve a desegregation of its schools based upon a system being a ratio of 25 percent to 75 percent black to white.

This witness offers to combine that system with another system larger with a considerably different ratio, totally, and I want to inquire whether or not he has taken that into account in drawing the attendance [582] lines that he put before this Court on last Thursday.

Judge Hoback: Does that answer your question, sir?

Mr. Cogar: Yes, sir, and I object to it. I think it is a very blatant effort to inflame the passions and prejudices of this Court.

Mr. Fitzgerald: I certainly don't do it for that reason.

Judge Matthews: We don't think we do, or at least I don't, speaking for myself.

Judge Hoback: We will try to keep from being so—influenced, and your objection is overruled again.

By Mr. Fitzgerald:

Q Dr. Alcorn, are you telling us that you devised the combined school system showing different attendance zones, high school, junior high and elementary, with no regard to what this might do to the black and white ratio in the combined system? A We certainly did, and for the simple reason that we find ourselves in complete compliance with the district court's order in terms of meeting the requirement of the desegregated school system and under no circumstances do we propose the busing of children great distances, leaping them across district lines to achieve some kind of balance.

[583] Q Dr. Alcorn, is it true that the federal court entered its order and the evidence was put on concerning the school system as it exists in the City of Roanoke at the present time? A Yes.

Q And not as it would be combined with the County school system, is that correct? A That is correct.

Q Whose school system is this going to be if the annexation is granted and you combine the two systems? A It would be the Roanoke City School System, I presume.

Q Is that going to be an entirely different school system than exists today in size? A It will be in size.

Q Over twice as large? A Yes.

Q And in racial composition and ratios? A Yes, I presume the racial ratios might drop from the present 25 percent to something in the neighborhood of 12 to 14 percent.

Q and it has not occurred to you that the federal court might be very interested in what the racial makeup of the entire school system is if you combine the two? [584] A All I can go by here is the district court order which I think indicated that we are in complete compliance now.

They did not require that we get an absolute racial balance in

school to school throughout the City. Consequently, the other comments of the court order which show up—I would consider to be a rather—an attitude of disfavor toward messy busing, that is all I can go on, Mr. Fitzgerald.

Q So the fact of the matter is that no evidence has been put before the federal court as to what the racial makeup would be in the school attendance zones if these two systems are combined? A No, we have not.

Q All right, sir.

Now, you have told the Court that your attendance zones for all of these schools take into account that the City of Roanoke would provide educational facilities and programs for the City of Salem? A Yes, we took the entire system. This was our instruction, to do so.

Q Is it true that schools within the City of Salem will also be serving areas outside the City of Salem under your plan? A I believe this would be true, from the map and [585] from our attendance zones. This would be correct.

Q You are familiar with the situation that it is true now as the County operates its schools, aren't you? A To some extent, yes.

Q But all you were doing, as you mentioned on Wednesday, with slight exceptions, is just studying the County's attendance zones to the City's, aren't you? A Yes, and in making some lines for the new schools that will be opening.

Q They would have to be made anyway, is that true? A Right.

Q Suppose the schools within the City of Salem—suppose the City of Salem elects to operate its own school system and acquires, one way or the other, the schools within its boundaries. What does that do to your plan of combining the Roanoke City School System with the County School System? A In responding to that hypothetical question, I suspect it would mean that we would have to do some reorganization. Just what, I don't know, but if you would pull out the schools I am sure it would mean some reorganization of the map and the attendance lines and so forth.

Q You have made no study of that? A No, I have not.

[586] Q Why would you assume that the City would elect to continue to have its schools operated by another jurisdiction rather than operate its own schools? Why did you assume one way and not the other? A We are assuming it because that is the present circumstance in which the City of Salem finds itself.

Q You have not had a conference with the City of Salem, the School Board of the City of Salem or the City Council, to determine whether it is their desire? A No, I have not at my level.

Q Has your School Board at its level? A Not to my knowledge, they have not.

Q No one in the City of Roanoke has related to you any conferences with the City of Salem with regard to how they want to operate their school system should this annexation be granted? A No, there has been no communication with me from the City government as to what is the lines and so forth and so on. Certainly I have picked this up in terms of rumor and speculation but that is all.

Q But you have based your recommendations and your judgment that you can combine these school systems on that rumor and speculation? A I have not. I have based our whole plan, Mr. [587] Fitzgerald, upon what the present County System now is, and it does serve the City of Salem.

Q And you know it does so under a contract terminable by either jurisdiction? A Yes, I recognize there is a contract for $435,000 a year plus sales tax and other aspects of it.

Q And you have no basis to know or to believe, other than your speculation, that the City of Salem will continue under that contract if this annexation is granted? A We are just assuming that they will under this particular proposal.

Q Do you have any schools in the City that are loaded above capacity with enrollment? A Yes, we have two schools, particularly, that are above capacity this year. One of them is Woodrow Wilson and the other, I believe, is Jackson. These are two junior high schools and efforts are afoot now to alleviate these crowded situations.

Q You say something is afoot now to relieve this situation? A Yes.

Q You are not talking about this annexation case? A No, this doesn't deal with annexation.

Q What is under way now to deal with this problem? [588] A We are scrutinizing very carefully the lands to see if there are any kinds of adjustments that could be made in the lines to relieve population pressure.

Q And still staying in terms of the federal court order? A The federal court order has not given us a rigid balance.

Q But they have told you to follow some guidelines? A They have indicated they wanted the all-black characteristics of the senior high school and the junior high school eliminated.

Q That is a requirement, isn't it? A But a very broad one. No rigid racial balance is being applied.

Q Broad or narrow, Dr. Alcorn, in trying to change your attendance in certain areas to relieve overcrowded conditions, you have to take it into account, don't you? A Certainly.

[589] Q You mentioned the fact that there are some County students going to City schools, because of this policy if you file a petition for annexation, while it's pending you can go to the schools if they are near you or adjacent to the area? A Yes.

Q Do you know for a fact that there are some City students going to County schools on a tuition basis? A I am sure there must be. But we have been unable to get any definitive action on that.

Q Does the City pay for it, or the individual pay for it? A No, I assume the individual.

Q You didn't find, in anything given you by the County, how many students of the City were going there on a tuition basis? A I don't recall that information, Mr. Fitzgerald.

Q You would assume there are some? A We have several coming in from the County, and there very well may be some from the City going out in the County.

Q You mentioned the Penn Forest School. That is located in the present County, isn't it, the site? A Yes.

Q Is that one under construction? A I understand it's to be constructed, and open [590] by 1972. I am not sure of the status of the school at the present time.

Q You know it's in the County capital improvement plan? A Yes, I do. I do know that.

Q You know that they intend to go ahead and build it? A Yes.

Q You are relying on the fact that that school will be built either by the County or the City of Roanoke, if they should annex the whole County, aren't you? A Yes, that does enter into the plan.

Q Are you relying on the County doing it, or the City? A I presume the County will move right ahead on their construction of programs. And I don't know what will be the wisdom of the Court in terms of when a decree would be effective.

Q Or if, is that correct? A When or if.

Q All right, sir. If the, "if," comes to be, and the County is not annexed to the City of Roanoke, are there any educational school facilities needed in the City, to be built? [591] A Yes, we have proposed in our capital improvement program that there would be some replacement facilities that would be required in the City, and also an addition to a high school.

Q Have you given the amount or the estimated cost of providing these facilities, even if annexation is denied? A Yes, I think in the City Proper it was approximately over $3,000,000, approximately $3,100,000 in replacement construction. And we also indicated that it was our opinion that Broad Street and Academy Street in Salem might need to be replaced in the next—

Q No, sir, we are talking about within the present City of Roanoke now? A Right.

Q What is the total figure? A I believe it is $3,100,000. That is after you eliminate the Broad Street and Academy Street replacement figures as I recall.

This would allow the construction of three elementary schools and a 400-pupil wing in Patrick Henry High School.

Q Is that shown on page 82 of the— A It may not be broken out in terms of Broad Street and Academy Street.

[592] Q Well, of that budget, tell us how much is needed in the present City without annexation being granted? A It looks like $3,270,000.

Q Out of $5,108,000? A Yes.

Q So over half of that—three-fifths of that would be needed in the present City, is that correct? A That's correct.

Q Did your study of this system that you are offering to combine with, show whether or not there were any offerings or units offered in that system of the County that you would delete if annexation were granted? A No, we did not go into it in that department, Mr. Fitzgerald.

Q So at this point, if there are offerings in the County system that are not made in the City system, you can't tell us whether or not you are going to offer them in the City or delete them in the County? A I could say as a matter of principle, that any offering that is being offered in the County and there are sufficient students wanting to take the offering, I think you can almost assume that offering would be continued.

Q Would it be instituted into the City too? A If the need were certainly there, it may be an [593] elective course and it would require certain interest on the part of the students to fill up a class and make it economical.

Q How about offerings such as summer school? A Yes.

Q Does the City have a free summer school program? A They have a free summer school program for children from low income levels, yes.

Q This is the welfare type thing, I mean the indigent type child? A Not necessarily welfare, these are children that come from the lower economic bracket. But they are not all on welfare.

Q They don't have any free summer school program that any child who needs to go to summer school, regardless of his status, can go free? A Not at the elementary level.

Q You have heard of it in the County, you know they have it? A I have heard of that.

I believe in the document we presented to the Court, this was mentioned as one of the possible strengths of the County School System.

Q Do you propose to eliminate that in the County, or institute it in the City? [594] A I am not sure what the budget figures were. But I believe we followed the principle fairly carefully, more than likely the budget would allow this extension.

Q So the City is going to institute something that has been in the County for some years? A In fact, this has aready been under consideration by our School Board on more than one occasion.

Q And turned down? A Not maybe turned down, so much as maybe other priorities coming ahead of it.

Q Dr. Alcorn, if the City doesn't have it and it's been before the School Board on many occasions, it had to be turned down, didn't it? A The Board studies many approaches to education.

Q This is not one they have selected, we will put it that way? A Not at this juncture.

Q All right. You mentioned an advantage of putting of these two school systems together, the duplication of services, and I believe you put into that category the data processing. Do you think the County utilizes data processing to a greater degree than the City School System does? A I would not say a greater degree, but I only have a very superficial knowledge. But what I have heard has [595] been good in terms of their use and other aspects of the program. I think the main thrust of my thought was two systems would cost $160,000, whereas one system would cost $80,000 to operate each year. And certainly one system could take care of the needs of the school system.

Q At a savings? A Hopefully at a savings.

Q Two system $80,000, and two at $160,000? A No, I think you misunderstand me. Two systems at $160,000 and one at $80,000, one system being able to handle both school districts.

Q So $160,000 is not two times $80,000? A Yes, I am sure that's correct, your mathematics is indisputable.

Q All right, sir. Have you or the City School Board contacted the County School Board, or Mr. Burton here, to see whether or not the City can enjoy the use of their Data Processing Center? A We have our own operations in the City, of course, at City Hall. We work with City Hall in terms of their data processing.

We have our school payroll on automatic data processing at this time; we are placing our accounting on automatic data processing. We also have student marking on [596] automatic data processing. We are not neophytes, we only point out to the Court that these two systems would not be needed whenever we combined the system.

Q I believe you said you would utilize the County's data processing? A From the standpoint, if we had to make a choice and if we found no information which would change our thinking, it perhaps would be moving towards the County operation. But that is only a great assumption at this time, a very big assumption.

Q Getting back to the question I asked, Dr. Alcorn, it was simply this: Have you or the City School Board contacted the County School Board, or Mr. Burton, to see whether you could combine any of your system to theirs for savings? A No, certainly not at this juncture.

Q At this juncture, does that mean during the pendency of this case? A I have not made any contact with Mr. Burton.

Q How about the purchasing? A No.

Q Have you made any effort at all to combine the purchasing power of the two school systems? A No, I have made no efforts in that regard. Once school systems are entering into proceedings for annexation, [597] there is an information curtain which seems to fall between them and the communication has to be strictly on a social basis, although Mr. Burton and I enjoy, I think, a very favorable relationship with each other.

Q Does the lack of a Data Processing Center in a school system of a city, inhibit the teaching of data processing and related crafts in your system? A We have elements of automatic data processing that are being taught at our high school now.

Q Are you familiar with the offering of the County using the data processing system of the County? A Only in a very superficial way.

Q You think that is favorable, don't you? A I think anything that would offer training in this area would be favorable.

Q Now, I believe you told the Court that you propose to operate a school bus system for those County students to the same degree and level they are getting at the present time.

Do you propose to extend that system into the City and give them the benefit of it too? A Of course, I can only go on my hopes and feelings. But I would hope after the annexation we would be able to have transportation for the combined school system without having to have a separation in that service.

[598] Q How many buses would that require? A I don't know. We have asked for 50 buses for our own City operation, and it would take a careful analysis to see what would be exactly required after annexation. I expect close to that same amount.

Q You say close to that same amount, 50 buses? A I am guessing, it would probably be in the neighborhood of 50 buses.

Q How many does the County operate now? A In the neighborhood of 140 to 150 buses, according to the information I have.

Q Does your capital improvement budget or your operating budget submitted to this Court, include the acquisition of another 50? A This matter is still before the City Council in terms of a resolution, and it is not included in these figures.

Q No, sir. Well, I am talking about the budget you have given the Court to what you say that the operating budget will be for the 1971-'72 budget.

Mr. Cogar: If your Honor please, I object. He testified for almost ten minutes as to the situation concerning buses, that it's being studied. There is nothing in the budget for it, it can't be because it's under study. Now we are coming right back to it again.

[599] Mr. Fitzgerald: The other question dealt with the existing City as it exists today, and this deals with what he is going to do when he combines the systems, and I would like to pursue it just a moment longer.

Judge Hoback: If it's not in there, he can answer it one way or

the other. I think he has a right to pursue it, but keep it as brief as you can.

Mr. Fitzgerald: All right, sir.

Q I am talking about the budget you have submitted to the Court saying this is the budget for the first six months if the Court sees fit to annex the whole County to the City, for the years 1972-'73. What I am asking is in this operational budget or in the capital improvements budget, have you put a sum in there that you would propose to buy 50 buses? A We do not have a capital improvement acquisition in that particular document. We do have operational expenses involved there.

Q For the 50 buses? A For the total operation.

Q How many is it going to be, 150 buses or 200 buses? A I don't know this juncture. We would have to make that study and determining. I just don't know.

Q What figure did you put in this budget, what did [600] you base it on, 150 buses or 200 buses? A We based it on a per pupil cost of transportation. We are talking about 1972-'73, not '71-'72.

Q All right, let's take it one at a time. What is going to happen in '71-'72? A Well, '71-'72, it's almost a foregone conclusion we would be unable to get the buses in time to open school, if Council acts favorably on our request. So it looks to me like we would have to start school this year without the buses in the City.

Q All right, sir. Let's take what I suppose would be the first actual year you are having here, 1972-'73. Did you base this operating budget, the figures in it, expenses in it based on providing free bus service for all school children, just as is done in the County? A 1972-'73 is based on combined school transportation for both school systems.

Q The same type of school system that is now offered only to County students, is that correct? A That's correct.

Q All right, sir. Now, did you make this budget up on page 73? A Yes, the staff and I worked on it and developed it.

[601] Q I-7? A Yes.

Q The total budget shown on this exhibit is two lines, isn't it, sir? A Yes, sir. This is the one you are showing here (indicating)?

Q Yes. As a matter of fact, it's only one line here, they are both the same, aren't they? A Yes, that's correct, showing the operation.

Q Didn't you have something else that you used to come up with these operating totals? A Yes, we have some backup information that we have used. We have developed certain formula, per pupil cost formulas that we fed into the calculations.

Q Do you have any breakdown of this here with you today, this lump sum figure yourself? A I have only a partial breakdown. But I do have some of the information with me. It's quite voluminous, but there is backup information for those figures.

Q Where did you get this 1971-'72 budget without County, where did you get that figure from? A This was an estimate that we were certainly compelled to come up with before the School Board has adopted its budget, and it is our estimate that we supplied the Court. [602] Of course the School Board budget has yet to be passed.

Q This is the figure that you said that you didn't feel free to divulge, did you not? A This is only an estimate. And I must emphasize and underscore the word, "estimate." It's an estimate for the Court's attention.

Q Wouldn't you base that estimate on what the School Board of the City of Roanoke is working on? A Well, I expect that the estimate will be quite close to what the Board will come up with. But what the Board comes up with will be their prerogative and certainly could differ from that figure.

Q All right, sir. Now, what did you base your estimate of the operating expenses for the County of Roanoke? A Well, in essence what we did there is that—of course, each major category differed somewhat, but we took 60 percent of the estimate of the County's budget operations for 1971-'72, and here again this was somewhat of a guess, but we took 60 percent of that and tacked it onto our total budget, and came up with the figure that you have before you. Because from January 1st to July 1st, the total expenditure at that time indicates that you will spend about 60 percent of your total during that period.

Q So you took the County figure for that period [603] of time? A Yes.

Q You took 60 percent of it? A Yes.

Q And added it to your guess of what the budget will be this year? A Yes, it was an assumption of what it will be.

Q You have used your estimate of the 1971-'72 operating budget of the City of Roanoke? A Yes.

Q To add to that what your operating budget of the County? A We have taken an estimate of the County's operation at $15,000,000.

Q That is this year's? A Yes, this coming year.

Q That is the '70-'71 operation, isn't it? A No, this would be '71-'72. We knew what the '70-'71 operation was, and we estimated about a 10 percent increase over the '70-'71 budget.

Q Ten percent, and took that? A Yes, although there were more detailed analyses category by category.

Q For the '72-'73 budget, what did you do? [604] A Of course we combined the two operations and went up approximate ten percent on the budget, keeping in account too that there would be some student growth in the combined operation.

Q You took the City's '71-'72 estimated budget total? A Yes.

Q The County '71-'72 estimated budget total? A Yes.

Q Added ten percent to it and combined them? A In essence, that is what it came out, although we reached those conclusions in a much more detailed way.

Q But this is generally the result of it? A This is generally the result, Mr. Fitzgerald, which would allow for pupil expansion in the new school system, as well as inflationary costs and expansion.

Q You haven't saved one dollar? A Well, you have to look at the combined operations where there would be in 1972-'73. And if we had some way of knowing that, we probably could reveal some statistics that would be meaningful.

Q You took your best estimate of the operating costs of '71-'72

of the City, your best estimate of the operating costs of '71-'72 of the County, added ten percent and [605] combined them? A It wasn't quite that simple, because we were using the leveling process across the Board, because it's our feeling that two school systems merged ought to be better than either one now existing.

Q If you take the better offerings of both school systems, chances are you are going to up the cost, aren't you? A There is certainly some logic in that.

Q I think you told the Court your intention is to retain all County personnel at their same level of operation? A This is the Ordinance stipulation we will abide by with great care. And as I recall, it indicated that we would retain all full-time personnel in the County operation.

Q Do you have a contract for your employment, Doctor? A For my personal employment?

Q Yes, sir. A Well, I have a stipulation in the Board minutes saying that I have been hired at such and such a salary.

Q For how many years? A For four years.

Q And how many more years has that got to run? A Two more years.

Q You would assume that all school superintendents [606] have a contract running for four years, I believe you said that was the term of a superintendent? A Yes.

Q You would assume Mr. Burton has a contract? A I would assume that.

Q Tell the Court who is going to be superintendent of the schools, if the Court gives us annexation? A Since I am not in the point to make that determination, that determination would be made by the legally constituted authorities, which would be the School Board. I couldn't say what the situation would be.

Q You mean the School Board hasn't told you, their superintendent, what they are going to do in the event of an annexation? A We have not discussed this aspect of it.

Q You, sir, have a four-year contract with two more years to run? A Yes.

Q And Mr. Burton has a contract. That being so, you haven't offered to resign, have you? A No, not yet.

(Laughter.)

Q You have been here, I believe about two years in the City School System, Mr. Burton has been here about nine years [607] in the County School System? A Yes.

Q You did say that the City proposed to retain all the County employees in their same level of operation, didn't you? A No, I think that my testimony indicated that the annexation Ordinance said that they would be retained at the same salary, no cut in salary. And that they would be placed in positions as nearly comparable as possible, which leaves some latitude for the placement of people, although not certainly—there is no latitude in terms of—in terms of salary stipulation.

Q You don't find anything in that Ordinance that says that the City School Board or City of Roanoke will reduce any of its employees to allow County employees to keep in the same job levels that they are in now, do you, sir? A No, I don't think that was the intent of the Ordinance, to reduce or maintain job security across the board.

Q So from reading the Ordinance and from your impression and your discussions with the School Board, if they combine this school system, you would assume that Mr. Burton would not be the superintendent of schools, wouldn't you? A I don't believe that that question deserves an answer from me, sir.

[608] Q Doesn't deserve an answer from you, or you can't give it? A I just don't have an answer for it.

Q Can you, sir, furnish the Court or the County of Roanoke, anything more than this one-line budget? A I presume that—

Q To show how you arrived at these figures? A I presume if given sufficient time, we could dig up our background information and share whatever our work sheets are with the County.

Q Do you have those work sheets with you today, sir? A I do not have all of them with me. I have some of them.

Mr. Fitzgerald: Your Honors, I think it's certainly fair to say this is meager information as proposing the combination of two school systems of nineteen and twenty-one thousand pupils, roughly that apiece. One line each for each year for three years. And I would—

Mr. Cogar: I object to this kind of argument at this stage.

Mr. Fitzgerald: I would ask the Court require the City to furnish us the work sheets, if that's all they have got.

[609] Mr. Cogar: We will be glad to do that.

Mr. Fitzgerald: All right, sir. When may we expect it?

Mr. Cogar: In the next day or so.

Mr. Fitzgerald: Your Honor, the next day or so won't do. We have got considerable study, and we will need—

Mr. Cogar: If your Honor please, Mr. Fitzgerald has had this budget for a week or so.

Judge Hoback: Just a moment, please.

Mr. Cogar: We will get them together.
Can you get them this afternoon?

The Witness: We will certainly see what we can do.

Judge Hoback: Well, we will say in the next day or so, and if Mr. Fitzgerald needs further time to develop it, we will let him have it.

Mr. Fitzgerald: All right, sir, fine. May we have a recess, your Honor, to get my notes straight here?

Judge Hoback: Yes, sir.
(Recess taken.)

[610] By Mr. Fitzgerald:
Q Dr. Alcorn, do you have quite an absentee problem in some of your schools? A Our absentee rate in the City on the average runs about 92 to 93 percent, which I suspect is close to the State average.

Q You don't mean your absentee average runs that high? A I mean our attendance rate and our absentee rate would run between 7 and 8 percent.

Q My question referred to the absentee rate in any particular school. Don't you have a problem in, say, Addison School? A I don't think the absentee rate now at that school is what we could call critical. It is not what we would like for it to be in all instances, but it is not critical.

Q A newspaper report here says that the students enrolled Addison, about a hundred or more are absent each day, most of them white. The absentee rate of about 20 percent is the highest among the City's junior and senior high schools.

Mr. Cogar: What is the date of that article, Mr. Fitzgerald?

Mr. Fitzgerald: February 3, 1971.

The Witness: Of course, the article itself [611] prompted our own inquiries at the school and I would suspect you would find the absentee rate at that school is now running about 14 percent.

By Mr. Fitzgerald:

Q So it is somewhat improved now? A I would think so.

Q From the winter months? A I would think so.

Q Do you feel that 14 percent absenteeism is fairly high? A It is higher than we would like to have it.

Q Are your suspension rates, rates of suspending students, running high in the last year or two? A This last year they have run somewhat higher than the previous year.

Q To be fair, Dr. Alcorn, hasn't discipline been a problem in Roanoke City Schools in the last year or two? A I don't know of any school system in the nation that doesn't have some problems in terms of discipline, and we had it last year, this year, 10 years ago and 15 and 20 years ago, but we have certainly had more adjustment problems this year because of the number of children and youth that have been switched or shifted out of their old attendance lines.

Q Shifting attendance lines tends to create [612] disciplinary problems, doesn't it? A It takes certainly a month or two or three for the youngsters to get acclimated to their new educational environment and certainly there are adjustment problems that do arise.

Q On February 2, 1971, you were give ncredit for saying, in the Roanoke World News of that date, "Dr. Alcorn says the incidence of assaults, harrassments and intimidations has been perhaps more than last year. More students have been suspended from school than during any comparable period heretofore, but the schools keep no record of disciplinary action by race. That is as far as Dr. Alcorn will go."

Is that a fair reporting of what you said, what you related to the press? A I think it reflects the fact that we are maintaining a reasonably acceptable standard of discipline. We are also trying to do it with compassion.

We have had over 2,000 youngsters that have been switched to new school situations this year and indeed I have been quite pleased with our adjustment to date and how we have handled those problems.

Q The same article reports that the City Council has increased the fine for loitering and trespassing on school property from $5 to $50 to $1,000, and up to a year in jail. [613] That would indicate that there has been some problem there, wouldn't it, Dr. Alcorn? A I think it indicated that there is a no-nonsense business about the City Council and the school system in trying to maintain, and we will maintain, proper decorum. Again, we will try to do so always with compassion and with understanding.

Q Do you have a dual system of discipline between any segment of your school enrollment? A We do not.

Q You apply the same rules to all students? A That is certainly my directive to all principals, that this should always be the case, that fairness should predominate in discipline.

Q Do you have any students who desire to take vocational training that have to be transported from their school over to another school to take that training and back to the school that they are assigned to? A Yes, our two vocational centers that we have in the City are just that. They are centers. The youngsters are transported from the high schools on a half-day basis. They spend a half-day in their home high school and they go to the center and then come back.

Q How do they get to the center? A They are bused.

[614] Q Does the School Board pay for their busing over there? A Yes.

Q That is all paid for? A Yes.

Q And do they come back to the school they are assigned to? A Yes, unless they are close to home and then we have made arrangements for individual students to be released if it is in the afternoon, for the day.

Q And they walk home? A If they are close to home.

[616] * * *

Julian F. Hirst

* * *

Direct Examination

By Mr. Davenport:

* * *

Q What is your official position with the City of Roanoke? A City Manager.

Q How long have you been in that capacity? A Since October of 1965.

[724] * * *

Q Mr. First, I invite your attention to Exhibit I-7, which is this brown book, and I will ask you, please, to refer to it. It is the City of Roanoke Projected Operating Budget and Capital Improvement Program. Would you please refer to yours and discuss this with the Court from the point of view of what it purports to show and how you went about preparing it and compiling it? A This has been prepared and submitted as a projected operating budget and capital improvement program, as the general outline of a financial program for the City as it is presently constituted, and for the City in the event the annexation as proposed should be granted.

[726] * * *

I would emphasize respectfully, as Mr. Davenport has noted to me, that this is an administrative budget. It is prepared in accordance with the normal and customary procedures of the City of Roanoke. Our procedure is that the City Manager [727] prepares a proposed budget which is then submitted to the City Council. This budget, both as to the forthcoming year and as to the year beyond—in other words, the third year—has been formulated in this fashion.

The individual departments of the City government have prepared their budgets after a great deal of study, both with respect to the present City and as to the proposed areas sought in annexation. Their individual budgets have been submitted to my office and jointly with the Auditor for the City we have attempted to compile this document.

[728] As I believe has already been stated earlier by Dr. Alcorn, the budget for the operation of the school system has been compiled in the same manner and represents that which has been submitted to me by the superintendent of schools.

* * *

The City of Roanoke has adopted, for a number of years consistently, a balanced budget, that is, the revenues equal and must balance with the expenditures. This is required by the Charter of the City, and this is reflected in this document for each of the years that are indicated in this [729] exhibit.

[733] * * *

In the operating expenditures, the pages that begin with Page 3 and carry on through, the format is identical to that used by the City in its budget documents as have prevailed for a number of years with respect to individual department listings and department categories and our code numbers which are carried in the upper right-hand corner of each of the pages.

We have shown for each department category the projected estimated costs first of personnel services, secondly of operating services, thirdly, as to equipment, that is, purchases of equipment, replacement of equipment, and then fourthly, of course, as to the totals.

* * *

Q You have an item of personal services. There has been a good deal of testimony both from yourself and from some of the other department heads as to the requirement for additional personnel. Are they reflected in these figures [734] under personnel services? A Under personal services in Column 2 for six months and 3 for a full year we have reflected as closely as we can estimate the incorporation of Vinton and Roanoke County personnel into the governmental structure plus the additional personnel that we feel might be necessary to be added.

[735] * * *

A It will be noted on Page 74 there is a contingency reserve. These are funds indicated to be over and above the predicated operational requirements for each of the three year groups.

In other words, in totaling the amount of revenue that would be projected upon this budget and particularly in the event of annexation and comparing that with our estimated expenditure requirements, we come up with a contingency reserve and in the year 1971-72, the second column with six months annexation, this excess of revenue over expenditures totals $349,751. In the third column, 1972-73, this contingency reserve is $2,405,598.

[738] * * *

We reflect further within this document and exhibit, commencing at page 79, a capital improvements program. This, in the main, would be related to bond [739] programs as might be later determined, and I believe Mr. McGhee, in his early appearance, went into this in some detail.

I think the capital improvement program bears repeating again in that the strength of a capital improvement program such as this becomes much more significant through the combination of these two and three governmental jurisdictions. And I think it becomes much more significant that through such a capital program as this, as to what can be forthcoming and what can be brought about within this area.

* * *

Page 81 is the sewage treatment facility; page 82 for the public schools; page 83 for parks and recreational [740] areas; page 84 for the airport; page 85, our buildings and facilities; page 86, our sanitary sewers; page 87, the storm drains; page 88, highway improvement and page 89, urban development.

* * *

Q You personally have reviewed this program and put your stamp of approval on it, have you not? A Yes, sir.

Q It's your exhibit? A I think if I may express and opinion, this is a very fine capital improvements program, and I wish that I could express it out of the sense that we are sitting here today.

The City of Roanoke in 1967 adopted a capital improvement program for a firm five-year period, and a tentative ten-year period. And

this program, which was the basis of a 1967 capital bond issue of 22 and a half million dollars. And when this 22 and a half million dollars was combined with [741] Federal and state matching money, we projected a program of around $53,000,000.

As time evolved from 1967 up to the present time, making allowances for increased funding of other governmental agencies, construction costs and perhaps broader visions that come about through time, we now consider that the original $53,000,000 program is roughly worth about $65,000,000.

I think in addition to this being a fine program, I think it's a rather exciting program. We have put an awful lot of work into it in an attempt to make it a realistic projection. At the same time, we have felt strongly that there is a great challenge in seeing what could be done if these three governmental units are combined. And there is available the base that would be represented in this Valley by the single governmental organization committed to a single program as would be represented as this annexation proposes, that the City of Roanoke and the County of Roanoke and the town of Vinton were to come together.

[742] * * *

Q While we are talking about capital improvement programs, have you familiarized yourself with the last annexation decree entered in the Circuit Court of Roanoke County, in favor of the City of Roanoke, which, to refresh your memory, was entered on May 16, 1967, dealing with the Jefferson Hills area? A Yes, sir, I have.

Q Have you satisfied yourself as to whether or not the City of Roanoke has complied with the conditions and requirements of that decree as such may have matured up to this time? A I am satisfied that the City has complied with all of the instructions of the decree.

Q All right. Mr. Hirst, I wish now, getting to a summary of your testimony and your observations, I wish you would tell the Court what you, as City Manager, have observed as the needs of the City and of the area in general terms. I don't mean the details that have been gone into by other witnesses, and some by yourself and also what the the benefits that you as City Manager visualize can be accomplished if annexation is granted? [743] A It is my judgment, and within the capacity that I seek to fulfill in the City, that there are a combination of reasons as to why this annexation is as important as it is, not only to

the City of Roanoke, but to the County and to the town, and in fact the whole Valley. It would be hard to decide which one reason would be the most important, or which one to take the negative viewpoint, would produce the most detrimental effect if the present situation continues for any stipulated period of time.

[744] I would briefly summarize, as you have suggested, sir, certain reasons that I feel pertain to this case and the reasons for which it has been brought about. There is a need to extend urban government into the area for some considerable distance that surrounds the present City. There is also a need to extend that which urban government represents in organizational services and in capabilities to the surrounding areas of Roanoke County.

I think this is the principle as I as a layman understand it, and the purpose of annexation in the Commonwealth of Virginia, and I think this is the purpose of this case, to provide for the needs of the whole area.

This particular point is, in my judgment, a two-way street. There is a need for this center City, namely Roanoke, to be able to enlarge its boundaries. At the same time there is a need for the surrounding areas, the urbanized areas of Roanoke County, to have the benefit and the use of the urban governmental capabilities and to also at the same time have firmly established a complete unity with the Center City.

Q You have been City Manager for five years, I believe, or almost. What has been your observation as to the community of interest between the various areas represented by the different governmental units in this community, in the Roanoke Valley? [745] A There is no doubt in my mind but that there exists a strong community of interests between Roanoke County, the Town of Vinton and the residents that goes through almost every form of human activity. It is evident in employment patterns, in medical services, in hospital uses, in education, in travel patterns, in cultural and entertainment activities, in the shopping and business pursuits of the people of this area, in church affiliations, in community associations.

The most significant accomplishment in relationship to the factor of community interests that I think emerges from the elimination of the boundary lines as would be eliminated by that which we seek before this Court is that the citizens who live within the County, within the

Towns, and perhaps even within the City, or also within the City, does become more responsive and more responsible to his or her own government.

I have become increasingly surprised in the five and a half years that I have been here when, in the position in which I am in, I go to meet or talk with civic groups to find that in organizations such as the Junior Chamber of Commerce, the Retail Merchants Association, many of our churches such as Belmost Baptist, the Presbyterian, the [746] Kiwani's Club, Rotary Clubs, the various civic organizations—In fact, almost any civic group of this nature—that I find many times if not almost always that the majority of people who are present in these particular organizations or these particular groups live outside of the City of Roanoke.

Through a unity of government I think there is minimized the growth situation not only within this area but across the State and across the country divisions of allegiance that are occurring between suburban and urban areas that are slowly killing both the cities and the suburban areas.

The citizen works in one place and lives in another. He or she sleeps in one place and spends the better part of the day in another. There are situations of the citizen who lives in the County and stays there and comes to work in the City and goes home to supper in the County that night and comes back to the City to a meeting in the evening and goes back to the County to sleep at night. In these types of situations there can be nothing but a division of allegiance and a diminishing of responsibility to areas and to governments.

In our own situation, with the Town of Vinton being within a part of the County, we compound the whole problem by adding another layer into this particular structure. This, I think, is all a part of this concern that we have of the [747] community of interests which exists and still carries with it a concern.

[752] * * *

Q Mr. Hirst, you touched on planning earlier this morning when you were discussing the organization charts. What is your opinion, as a City Manager, of having planning come from multiple sources? A The planning of services that have been discussed at great length in the last week, the planning of capital developments and land developments can only be properly done, in my opinion, in the circumstances

of there being a unity of government. And this, I say, despite the existence of planning districts and regional planning commissions, and the formalizations of various organizations and groups of this type, and without any reflection detrimentally intended on these groups, but there is no substitute, in my opinion, for the single control and the single authority and the single decision-making. There is no substitute again, in my opinion, for the direct chain in the democratic process that produces a single government that not only makes the plans, but carries out the plans.

When there is planning being performed, as we are experiencing here, in one location and in one responsibility, and planning being carried out in another location and in another [753] responsibility, then the loss in motion, the loss in interest, the loss in translation and the loss in effectiveness, is not constructive to the total objectives of the governments within the area.

Q Will regional planning fill that void? A I do not feel so, because one of the obvious reasons for much of the regional and area planning that has been done here for many years and is currently being done, but much of it remains only study and proposals, is because of direct planning by a single unity or lack of planning by single unity of government.

I would respectfully, if I might clarify, say that I am not speaking against regional planning commissions, I am not speaking against regional planning authorities, I would not want to be construed in that direction. But I think if we stand on the mountains around this valley and look out over the cities, the counties, towns, and consider that because of our circumstances, there apparently has to be a regional planning commission or a regional body above all the rest of us to plan and to try to arbitrate between us, then this does not seem to me to be the most effective way to produce the planning development that we need within this area. And I think that this can be effectively produced by a single government through annexation as is proposed here for the greater majority of this [754] Valley.

Single government that plans, implements and directs.

Q Have you found any duplication of services or facilities or paralleling, and whatnot, that you feel annexation will resolve? A Through annexation in this particular instance, I think there would

result the elimination of duplications where they exist, of paralleling of efforts, and of unnecessarily competing services.

[757] * * *

Q Now, I want you to make one more observation to the Court, and I want you to tell the Court what you consider the City's ability to serve the rural area that Mr. Zollman described with its normal requirements? A Well, as to this point, somewhat in general, the present boundaries that are difficult to find, people on one side of the street are in one place, and one side of the street are in another, are producing situations where without any criticism intended, but simply as a matter of objective analysis, there is a difference in status and a difference in services, and a difference in the provision of necessities to people who are [758] living almost side-by-side. We have that in almost the complete ring of the City.

These boundaries were established some few years back, and others many years back. But I think that the surging of the urban development that has taken place within Roanoke County, and also within the town of Vinton, the significance of these boundaries is no longer quite as strong a reason for their location as might have once existed. Now the point of rural or semi-rural areas which may not be particularly a reason per se for this examination, but I think it has some bearing, at least in my opinion, as to the reason of why of the extent of the annexation. It is obvious to us, and has been pointed out, and the Court certainly saw this in its tour of the two days, that there are areas of the County in the outreaches of the County, in the southeast, in the Bent Mountain area, in the Catawba Valley area, and possibly even into the Bennett Springs and Masons Cove area in the North Central, that are primarily rural in nature and rural in character. And for some generations to come, they may remain this way. In fact, who really can predict.

It is quite possible, though, that under what is being proposed in this case, and few of us can really tell what is going to happen with the times, that the predominantly rural characteristics of some of these areas may change, and [759] especially within the Masons Cove and the Bennett Springs area.

The mountains and the terrains of portions of this County, are natural features that cannot be changed, and there is no reason to anticipate, in my judgment, that these areas will not continue to exist,

that they will not survive, or that they cannot prosper under a City form of government just as well as they can under a County form of government. There is not, in my respectful opinion, anything so unique under the County form of government that says that these areas can only exist under that particular arrangement of government.

[760] When we start in the development and our consideration of introducing this proposal initially to analyze the urban areas of this County and to stretch our sites not only as to what exists now but what is potential in the future, we logically went to the edge or to the foot of these mountains.

I do not feel that the rural segments of the County when left to themselves can economically and governmentally survive and support themselves. They must be a part of something else and they are dependent upon something else. They are dependent upon all of the vast urban areas that constitutes the great center of this Valley.

With this in mind, we felt that it was both proper and it was wise as to government and as to economics that the proposals to this Court include the entire Roanoke County.

TRANSCRIPT DATED APRIL 27, 1971

[764] * * *

Mr. Jolly: May it please the Court, we have prepared for the convenience of the Court, small overlays of Exhibit SM-4, which will fit on any of the Roanoke City map exhibits in the book. I think the Court can orient them with the little point up here at the top of the map. This may be of some assistance in following Mr. Hirst's cross-examination and the [765] testimony of some of the other witnesses.

Incidentally, if SM-4 has not been formally offered in evidence, I would like to offer it in evidence as an exhibit at this time.

Judge Hoback: Do you have a number for it?

Mr. Jolly: SM-4, yes, sir.

Judge Hoback: If there are no objections, it will be received as an exhibit.

Mr. Fitzgerald: Our objection, of course, runs to the introduction of these, as it did to the others, if it's anything to show an annexation case proposed by this line. As I understand, the Court admitted it to show this area should not be annexed by the City of Roanoke?

Judge Hoback: Yes, sir.

Mr. Jolly: May it please the Court, at this point it is also being introduced to show that the area north and west of this line should be annexed to Salem, and as I understand it, the original petition in this case was to have an area annexed to Salem and Salem is certainly in an annexing posture in this lawsuit, which as I understand was sent back for all the cases to be tried together. And certainly Salem does not want to be put in a position where it is not [766] in an annexing posture in this particular suit.

Mr. Fitzgerald: May it please the Court, there are two petitions pending to annex territory to Salem. One is the Young case, one is the Willis case. And that's all that is pending to be annexed to Salem.

The City of Salem is not in a posture to annex anything, or propose anything. It's barred five years from the last annexation; I don't believe that has expired. There is no suit pending to annex this territory to the City of Salem.

Judge Hoback: Well, the Court was of the opinion that the first matter to be decided by the Court was whether or not the City of Roanoke should annex the entire County.

Mr. Fitzgerald: Yes, sir.

Judge Hoback: Which is the first problem before the Court. And this particular exhibit, or any other evidence that Salem desires to introduce in opposition to the City of Roanoke requiring the entire County would be pertinent, but not at this time what Salem desires to annex itself.

That is one of the five cases that the Court will have to decide later, in the event the City of Roanoke's petition to annex the entire County is not upheld. But [767] anything that Salem desires to introduce in opposition to Roanoke's claim for the entire County would be admissible on that question.

Mr. Jolly: Yes, sir. Well, for the record, I would like to state that Salem's evidence in opposition to Roanoke's annexation is based primarily on Salem's desire and interest in annexing the western half of the County, or the western portion of the County. But we will restrict our cross-examination in line with the Court's rulings at this time.

Judge Hoback: We can't try all five of them at one time.

[768] Mr. Fitzgerald: I will just say that there is no such case pending before this Court that Mr. Jolly offers.

Judge Hoback: All right, sir.

Cross Examination

By Mr. Jolly:

Q Mr. Hirst, I will direct your attention to Exhibit SM-4 which is the overlay that is now on the map board, the easel over to your right.

When was the first time you saw that yellow line on that map? A The first time I saw that sheet as it is before me and the line that you have brought in was when you submitted it in Court the middle of last week as drawn on that particular map.

Q Prior to the time that SM-4 was brought into the courtroom, were you, as the City Manager of the City of Roanoke, aware of the fact that Salem was concerned with Roanoke's proposal to annex the entire County? A Might I have the question stated again?

Q Yes, sir. Prior to the time that this exhibit was brought into the courtroom were you made aware of the fact that Salem was concerned with Roanoke City's proposal to annex the entire County? [769] A I think I would have to answer that by saying that I was aware that Salem was interested in a portion of this County. You are phrasing that Salem was concerned as to Roanoke's proposal to annex the entire County—I do not know how to answer that one directly. I would say that Salem has been interested in having a portion of the County, a portion of the area that Roanoke is seeking to annex.

Q Mr. Hirst, it is true, is it not, that you have known for some time that Salem was unalterably opposed to Roanoke annexing the western portion of Roanoke County, is that true? A Yes, sir.

Q When did you become aware of this fact, to the best of your recollection? A To the best of my recollection at approximately the time that the City of Roanoke introduced its ordinance seeking to annex the total of the County, as far as the recent matter is concerned.

I think that I had the impression—I will state it as an impression —that at the time that the City was participating with Roanoke County in the consolidation proposal that there was certainly indications to me —and I think that the City—that the City of Salem was interested in a portion of the County in contrast to the City of Roanoke [770] proposing to consolidate with the County for the total of the County.

Q And you—when I say you, I am referring to the City of Roanoke—you, the City of Roanoke, were approached by representatives of the Salem municipal government when this first became general knowledge that the City of Roanoke was interested in annexing the entire County, were you not? A Yes, sir, we were also approached before this current annexation matter.

Q I meant before the annexation ordinance was passed, when it became general knowledge that such an ordinance was being considered you were approached, were you not? A Yes, sir.

Q And I believe committees of the respective governing bodies met and discussed a line of the same general character as the yellow line on that exhibit. Isn't that correct? A I would answer that by saying that persons associated with the government met. They were not, insofar as the City of Roanoke was concerned, committees either officially or unofficially delegated by the City Council to meet for this purpose but they were persons in the City government who either on their own or certainly with the [771] knowledge of the government met with representatives of the City of Salem, yes, sir.

Q I will accept your amendment of my definition of their status. And it was made apparent, was it not, sir, that Salem was so opposed to Roanoke annexing that portion of the County generally to the west of this yellow line? A Yes, sir.

Q And it is obvious why, isn't it, Mr. Hirst? A I don't think that I am qualified to speak as to why Salem might have one position or another.

Q Let's see if you are not, sir. You have overseen the development generally of this case for the City of Roanoke, haven't you, sir? A Yes, sir.

Q And you have certainly, yourself personally and through your subordinates, made a study of the entire governmental setup in the Valley, haven't you, sir? A Yes, sir.

Q And you are familiar with Salem's need and requirements and Roanoke's and the county's and Vinton's generally, haven't you? A Yes, sir.

Q And from looking at Exhibit SM-4, is it not [772] obvious as to why Salem would not want Roanoke to surround it and annex the

western portion of the County? A If I can speak for the City of Salem, I think that perhaps I would be here in opposition to this case, yes, sir.

Q Well, from the exhibits which the City of Roanoke has already introduced—for example, Exhibit C-3 which is the drainage and water shed map—is it not obvious that the area that is to the west and north of the yellow line is a natural drainage area into the City of Salem? A A portion of it, yes, sir, but not the Catawba Valley.

Q Is the Catawba Valley in that drainage area into the City of Roanoke, sir? A No, sir.

Q You say a portion of it. Isn't it by far the majority of it? A The majority of that area in acres or in square miles, yes, sir.

Q Isn't it also true that by far the most heavily developed portion of the area drains naturally into the City of Salem, the Roanoke River water shed? A Yes, sir.

Q Is it not true that you are fully aware of the [773] fact that the City of Salem is at present developing an additional water supply west of the west boundary line of Roanoke County, sir? A Yes, sir, I am aware of that.

[774] Q All of which would indicate in Salem's best interest that that area not be annexed to the City of Roanoke, is that not true, sir? A I think it would be to Salem's interest to oppose it, yes, sir.

Q Just as it's in Roanoke's interest to acquire the Carvins Cove Water Shed area, isn't that true, sir? A Well, Mr. Jolly, we are dealing—we are talking about areas with two different characteristics. I think our seeking of the Carvins Cove area would be for different purposes, I don't think I would directly relate the two.

Q Well, in that question I was directing my attention, perhaps inarticulately, to the water supply concept that we are talking about this moment? A For the purpose, sir, of having some measure of control over that upon which you are dependent, yes, sir, I think the objectives would be simultaneously, would be similar.

Q And if the City of Roanoke is successful in this annexation to the area west and north of the yellow line by traveling and furnishing

proceeding, then it will be necessary, will it not, sir, to furnish services and running pipes or whatever through the City of Salem? A To a considerable degree, yes, sir.

Q Police, fire, not inconceivably school buses, [775] isn't all of that correct, sir? A Yes, sir, there would be a significant movement of vehicles and services through the City of Salem, in order to reach the western portion of what is now the County. Our alternative route would be by the Interstate, or through the Poor Mountain area.

Q Yes, sir. In your direct testimony, you stated, and I think very correctly so, that of the areas which have been referred to as rural, you felt that the Masons Cove area would probably be one of the quickest areas to develop. I am not trying to quote you exactly, but generally isn't that what you stated, sir? A Generally, yes, sir. My statement I think was expressed in the sense that—what has been referred to as the rural areas of the County. There has been included at times, reference to the Masons Valley, Masons Cove, Bennett Springs area. An acknowledging I am not real estate person and an expert in that field, I would express the opinion, though, that perhaps the direction of urbanization would be initially in that direction, rather than to Catawba Valley, Bent Mountain, et cetera.

Q All right, sir. I will ask you to refer back to Exhibit C-3, and tell the Court, where is the natural drainage of the entire area that we have referred to as Masons Cove? [776] A The drainage area of the Masons Cove section is in through the Hanging Rock area, which then comes in through the City of Salem and follows generally coming from the north and running west to that which you refer to as your yellow line, sir.

Q And the eastern edge of the Masons Creek Water Shed, almost exactly follows the eastern corporate limits of the City of Salem, isn't that correct, sir? A Yes, sir.

Q That line was affixed by prior annexation court, you are aware of that? A Yes, sir.

Q As I understand the City of Roanoke's basic concept in this annexation case, as demonstrated by your exhibit, is that there is a large urban area basically in the center, and center east of the Roanoke Valley, is that correct? A That is correct, yes, sir.

Q And that beyond the boundaries of the urban development, they are primarily rural areas, that's correct, is it not, sir? A Yes, sir.

Q And that the City of Roanoke, in order to annex the urban areas and additional room for future growth, realizes that if the rural areas are left hanging, so to speak, they will not be able to support themselves as a viable governmental [777] entity, that's correct? A That's correct. Plus the additional point that I think there is also an inter-dependency between the rural areas and the urban areas, yes, sir.

Q But the basic concept that the City of Roanoke has presented in this case is that the City of Roanoke, in order to get the area which it feels it needs, is willing to assume the responsibility of finishing the necessary governmental services to the rural area immediately, right this second, does not necessarily need, but may need at some time in the future? A Yes, sir.

Q And isn't it true, Mr. Hirst, that as to the areas west and north of that yellow line, other than that portion of the area which has been denoted as urban, most of which is in the present City of Salem, that the only direct interest the City of Roanoke has in it is to assume this responsibility that I have referred to? A I answer you yes, sir. And my yes must take into account all of the conditions that I think you and I established in our exchange on perhaps the original question.

Q Yes, sir. A Yes, sir.

Q Incidentally— A I—

[778] Q Excuse me. A May I say this? That I do not want to create the impression, and it is not the intent of the City in this proceeding with respect to any of those areas to imply or indicate that we are taking them simply because we have to take them and we don't want them. Our position is to the contrary.

Q I understand. But you have been advised, have you not, sir, that under the annexation laws of this State, a City is prohibited from annexing so much of the County as to leave the rest in an untenable position, generally? A That's correct, and I am aware of it, yes, sir.

Q Yes, sir. Mr. Hirst, as an experienced City Manager, and I certainly feel you are, what is your considered opinion, and I will ask you to speak for the purposes of this question, from the standpoint of

the City of Salem. What is your considered opinion on the future growth and development of the City of Salem if it were surrounded by another City, sir? A I think the answer is that the City of Salem would be, as the expression often is, hemmed in. I think the City of Salem would be in a position, and you asked me to speak from Salem's standpoint?

Q Yes, sir. A Which is a unique position for a Roanoke City Manager to be in.

[779] Q You are a unique City Manager, sir. A I will not pursue that point, sir. The City of Salem would be hemmed in, would be blocked in, under my understanding of the statutes of Virginia, which prohibit one city from annexing another. It would be a situation comparable to that existing in the eastern part of Virginia, the Norfolk-Hampton-Newport News area. It would be a position comparable to certainly other sections of the country where there is no opportunity for expansion to a city, and there is no opportunity for growth and development. And I think I would have to admit that Salem has to have that just as we are contending here that Roanoke has to have it.

[780] Q In all of the preconsolidation vote publicity, and especially from the standpoint of the County and the City of Roanoke, wasn't it always anticipated by the leaders in that vote that the then pending annexation suit involving the Glenvar area should be followed through to prevent the very thing we are talking about, to give Salem additional room to grow, to continue as a viable governmental unit? A I can't speak for all the leaders, Mr. Jolly, but I think I would be fair in saying that while a consolidation applied to the entire County, this was discussed a number of times both publicly and, I think, privately without any definite decision, but there was a consciousness of it and awareness of it.

I could express an opinion as to what might have happened if the consolidation referendum had taken place, but perhaps it is not in order for me to do so.

Q You have testified at some length as to the general philosophy of centralization of government and consolidation of various functions and activities in this case. Of course, regardless of the outcome of this annexation proceeding, there still is going to be a City of Salem in Roanoke Valley, isn't that correct? A Yes, sir.

Q And is it not, Mr. Hirst, in your best judgment, [781] in the best interests of Roanoke Valley that that City be a viable, growing, aggressive governmental unit to complement what you hope will be the only other governmental unit in the Valley? A I think if I follow all of your adjectives correctly, yes. I think it is to the best interests certainly of this Valley just as we take the position that for the City of Roanoke we feel it is to the best interests of this Valley and this area that it have the opportunity of being viable and active, et cetera. Yes, sir.

Q Would it surprise you, sir, that on a per capita basis the real estate assessibles in Salem as of 1971 are greater in the City of Roanoke? A Not too much, no, sir, it would not surprise me.

Q When you talked about community of interests you referred to the splendid hospital facilities you have in the City of Roanoke. Of course you are aware and you pointed out on the tour the new Lewis-Gale facility and clinic that is being constructed in the Salem area now. A Yes, sir.

Q And of course the Veteran's Hospital is not an inconsiderable complex on its own, is it, sir? A It is a tremendous facility, tremendous.

[782] Q And all of these things are of direct interest to the whole Valley, are they not, sir? A Yes, sir.

Q As to certain of your evidence relating to additional personnel —and this is for information basically—did I understand you to say that you propose one additional juvenile court judge? A Yes, sir.

Q That would, I assume, be the judge that is now sitting in the County, or at least the same position? In other words, the County and the city of Salem now have a municipal court and a County court judge and a juvenile court judge? A Yes, sir. Our assumption was —and it was purely an assumption—that perhaps Salem would wish to retain its own juvenile and domestic relations court and the City in the annexation proposal would add an additional judge.

This is presumptious on our part to assume the direction of judges. However, we are completely conscious of the considerable amount of work load that is developing in this particular court, and in juvenile and domestic relations. For this reason we felt that divisions were ad-

vantageous. We are not at all posed in our minds against a combination of the Court and perhaps going to two or three judges to handle a [783] combined court.

Q Let me ask you if you would refer to your Exhibit E-3, which is your fire stations and response areas. I am sure this was inadvertent, but doesn't your exhibit show Salem station No. 1 as a County station? A Yes, sir, it does. I for the first time am conscious that it does. That is not correct.

Q The County does have some equipment and I think one employee there, isn't that correct? A Yes, sir.

Q That is a Salem station, isn't that correct? A Yes, sir, it is. That is an error.

Q Referring to that map, Fort Lewis No. 9, Mason Cove No. 10, Catawba No. 4 and the present Salem station by and large include the area to the west and north of the yellow line on the map. That is true, is it not, generally? A Plus the fire station on Electric Road, yes, sir.

Q How many new firemen does the City of Roanoke propose to serve those areas that I have referred to? A We would propose three at Catawba, three at Mason Cove, three at Fort Lewis. That would be a total of nine personnel, with a total of three on duty at any one time.

Q Now if we could go over to F-3, which is your [784] proposed police patrol districts. I believe 13 and 20 plus a small portion from 9 and a small portion of 21 more than include the yellow line area. Isn't that correct, sir? A Yes, sir, generally that is correct.

Excuse me. I was attempting to interpret the line on my map on District 9. Yes, sir, you are correct.

Q Really 13 and 20 are basically there as we are talking about it? A And as you said, a major portion of 21 and a segment of 9, yes, sir.

Q How many new officers would you propose to employ, you being the City of Roanoke, for 13 and 20, let's say? A Let me calculate it in this fashion, which may not be totally accurate. If, as I indicated, 13 and 20 are to be one-man patrolled districts and on the basis of four platoons, this would be eight officers, approximately, deducting it in that way.

Q It would be eight officers for 13 and 20? A Yes, sir.

Q And then how many did you have for 21? A Twenty-one was the district that I believe we amended the exhibit on yesterday.

Q Yes, sir. [785] A That also would be a one-man patrolled district. Again, going to the four platoon arrangement which represents four persons per district in order to maintain one for each 24 hours, that would be four officers for district 21.

Q And No. 9? A Number 9 would be an additional four officers.

Q And only a relatively small portion of those areas, especially No. 9 and to a greater degree, 21, are included in the yellow line area, is that correct? A That is correct, sir.

Q Mr. Hirst, Exhibit SM-4 is now on the board over A-31, City of Roanoke Exhibit A-31, which graphically portrays the results of the consolidation vote, is that correct? A Yes, sir.

Q Would you not relate the consolidation vote as having some bearing on the community of interest feature insofar as the people involved saw it towards the City of Roanoke or the City of Salem? A Yes, sir, I think that is a factor in my judgment.

Mr. Jolly: That is all. Thank you.

By Mr. Fitzgerald:

Q Mr. Hirst, you have been City Manager of this [786] City of Roanoke since 1965, is that correct? A Yes, sir.

Q In looking at your experience sheet in the book, it would appear that your total experience has been the managing of cities or towns, is that correct, or working for cities and towns? A In the municipal government, yes, sir.

[787] Q Well, you have never been the executive of a county or manager of a county, have you, sir? A No, sir.

Q Then you have never administered to any appreciable rural areas, have you, sir? A No, sir.

Q And isn't it true that from your organization of City Government that you have shown the Court here, it's designed to serve the needs of an urban area, isn't it, sir? A Yes, sir.

Q Because the City of Roanoke has no rural areas in it now? A Yes, sir.

Q And has not for years, is that correct? A That's correct, sir.

Q I show you this volume entitled the Code of the City of Roanoke, Virginia, 1956. This was furnished to me, Mr. Davenport, by the City Attorney, Mr. Kincanon, as an up-to-date volume. It is his volume, and I do wish to introduce it, your Honors, but I would like the privilege of withdrawing it and substituting a volume that I will purchase. At the time I got this, one was not available for purchase, or they didn't have all of the complete amendments to it. But it is available now.

This you recognize as your City Code, do you not, [788] sir? A Yes, sir.

Mr. Fitzgerald: I would like this introduced into evidence, your Honors.

Judge Hoback: Will you give it a number, sir? What number is the next county exhibit?

Mr. Fitzgerald: It would be County Exhibit 75. This is to keep the numerical order.

Judge Hoback: All right, sir.

(The document referred to above was received in evidence as County Exhibit No. 75.)

Q And, sir, the laws and ordinances of the City are designed to serve and provide for an urban area, are they not, sir? A They have been developed within an urban area, yes, sir.

Q And certainly they are designed to serve an urban area? A Yes, sir.

Q I believe you said, Mr. Hirst, that you had responsibility or administrative authority over all the operations of the City, except the schools? A Yes, sir. Now I would—if it's—if I am not out of order, I would have to amend that, of course by the [789] constitutional officers who I do not supervise, and other personnel in that group.

Q Yes, sir. I was more interested in the exception of schools.

You do hold some administrative sway over the operation of the schools, don't you, sir? A Only to the extent, Mr. Fitzpatrick—

Q Fitzgerald, if you don't mind? A I am sorry.

Q That is all right, Henry Howell makes the same mistake. (Laughter.)

Q Go ahead, sir. A I apologize.

Q No apology necessary.

For instance, you do now serve on a subcommittee to consider whether or not the School Board should operate school buses, don't you? A I serve on the subcommittee; the purpose of that subcommittee is to determine, as designated by the Council, whether the City should appropriate the funds, as has been requested by the School Board, for the purchase of buses.

Q Well, isn't the result of that determination whether or not the School Board will operate school buses? [790] A This will determine whether or not it will operate school buses.

Q And you serve as one member of a four-member subcommittee, is that correct? A Yes, sir.

Q How long has that subcommittee had that matter before it? A This came to the—the recommendation came to the Council of the City, I believe in the latter part of February, I think I am correct on that, sir.

The Committee reported back to the Council at some point, I believe, sir, in March.

Q What did the Committee report? A The Committee recommended to the Council that City Council not, at that particular time, take action on the request of the School Board. The School Board had requested an appropriation by the Council of some $350,000, I believe, for the purchase of buses.

Q Fifty buses? A Fifty buses.

Q And your Committee recommended that the Council not appropriate the money, and not include it in the budget, is that correct? A That it not be appropriated within the 1970-'71 [791] fiscal year, the fiscal year we are currently in.

Q What did you recommend with regard to the '71-'72 budget? A The recommendation of the Committee did not take any different

position as to the inclusion. The Committee's report back to the Council substantially said that this was a matter which had been introduced outside of the normal order of the budget, it was a supplemental matter to the already authorized budget, that it should be considered at the time the Council took up the coming year's budget for 1971-'72. The Committee further felt, as I think was stated in its written report, that the matter of school buses should be held pending some resolution with respect to this annexation case.

The Committee further stated that they felt that the School Board in its proposal to the Council had perhaps not taken into account all of the factors as to costs, and it was asked that the School Board make further study to ascertain that there was any additional information as to operational costs, so that we might have a more complete report.

Q The School Board had studied it at one time, hadn't it, at least, and made the recommendation to Council? A I would say yes, yes, sir.

Q And your Subcommittee had studied at one time and [792] made a recommendation to Council? A Yes, sir.

Q And your recommendation of the Subcommittee was for the School Board to study it again and see if there was anything else they hadn't found? A Not to see if there was anything that they hadn't found, but it was felt, and we felt that their maintenance cost, their garage operation costs and the question of costs relating to the storage of buses had not been sufficiently included.

Q And you should find out what is going to happen in this annexation case before you make any purchase decision on school buses, is that correct? A That has one bearing, we think.

Q So if the area is not annexed, the City may not acquire school buses. Then if the area is annexed, the City still may not acquire them for the City, is that right? A Within the context of the situation we are up to this point, this is possible.

Q Can you tell us how it is that you can make assumptions and presume to know how you are going to effect fire service and police service if the area is annexed, but you can't make a decision as to school buses, if the area is annexed? [793] A I think one bearing—well, there are two factors related to this, Mr. Fitzgerald. One was taken

into account in the Committee, and a factor related to the Committee's report to the Council was the existence already of a private bus system within the City. And we indicated to Council in the report that we felt that this should be taken into account with whether there was a possibility that there could be blended together, a public and a private system for the transportation of students.

Q You mean not have a unified system? A I think it's possible to use both a public and private system, in my own judgment with—to the extent that I have researched to this point, and still conduct a unified system.

Q You can unify a private and public system, but you can't unify two public systems of Government? A I don't follow you on saying you can't unify two systems of Government.

Q You have told this Court through many, many words, I believe, Mr. Hirst, that you need to make all this one Government here, to unify it, and it's all got to be the City of Roanoke. You can't have a City of Roanoke and County of Roanoke co-existing, cooperating and having joint efforts. But now you tell us that you can take a bus system, a private [794] bus system and make it a combination of a public and private enterprise, and that is all right, you can unify it that way but you can't unify the County and City that way? A Yes, sir, I think you could—it's entirely possible to do this. I think it's possible to determine as to whether the private system can develop itself or can expand itself to serve the present City of Roanoke in school bus transportation.

Q Well, Mr. Hirst, if the Court grants your wish and annexes the whole County to it, it becomes the City of Roanoke, that private bus system will have a franchise in the entire area, won't it? A That's correct. I would assume that—

Q Well, are you telling us that it may be possible that in that event, that this private system will be joined with a public system, the system that exists in Roanoke County, and have some combination of private bus service and public school bus service unified? A I am saying, Mr. Fitzgerald, there are the resources of a private bus system. I would question the advisability of exploring or studying it. I don't think that our Committee, as appointed by the Council to report back on the matter of determining whether the City could buy buses or not buy buses, can totally disregard the existence of a private [795] bus system that has been serving the City.

Now the other factor that is involved in school buses is that perhaps very few of us know precisely what is going to take place in the matter of transportation of school children, whether we are in the City or in the County, or as you described it, a unified County.

[796] Q You don't know what the federal court may require, is that correct? A I do not, sir.

Q And this requirement, whatever it may be, or the requirements to date have not been taken into account, have they, sir, not been considered? A I don't think I am qualified to speak as to what is to be done with or without the federal courts in the matter of—

Q You heard Dr. Alcorn's testimony in full, didn't you? A Yes, sir.

Q The short of it, then, Mr. Hirst, is that this subcommittee that you serve on has been unable to decide whether or not it is feasible to acquire and operate public school buses for the City of Roanoke at this time? A No, sir, I would not answer that question in the affirmative. I don't think that the committee can point-blank say we have not been able to decide.

Q Why haven't you decided, Mr. Hirst? A Because I don't think all the factors are in, all the factors available to us.

Q Then it is true at this time you cannot make a decision because you don't have all the factors? [797] A I don't we have all the information to make a decision, no, sir.

Q So at this time you cannot make the decision. That is true, is it not? A At this time we don't have all the information to make a decision.

Q The City Council is composed of how many members? A Seven.

Q I note that in your proposed budget for the City Council that if this County should be annexed to the City of Roanoke that you propose no increase in personnel services of the City Council. Is that correct? A I believe that is correct, yes, sir.

Q How is the City Council of the City of Roanoke elected, sir? A They are elected at large by the voters, if I follow the intent of your question, sir.

Q They are elected at large? A Three are elected on one election date and two years later the other four are elected. They are staggered on a three-four basis.

Q And every two years is an election? A Yes, sir.

[798] Q They don't have to run from any particular part of the City, do they, sir? A No, sir.

Q They all can live in one neighborhood, conceivably? A This would be possible, yes, sir.

Q And since you propose no increase in the item of personal services for the City Council, we will assume that there will still be seven even after the whole County is annexed to the City, as it is. Is that true? A This is the extent to which I can make an assumption.

Q This is what you based your budget on, isn't it, Mr. Hirst, and this is what you presented to the Court? A Yes, sir.

Q And that same seven will still run at large? That is the proposal, is it not, sir? A Insofar as I know, yes, sir.

Q That is what your Charter calls for, is it not, Mr. Hirst? A Yes, sir.

Q You said, sir, that in your City Attorney's Department there is no proposal to increase the personnel at that office at all? Is that correct? [799] A Yes, sir.

Q In your proposal you would be going from a City of 92,000 to a City of 165,000 or more and upping your territory by 262 square miles and you think that is a reasonable assumption, that there would be no increase in the personnel of the City Attorney's office at all? A In my judgment, I think that office is staffed adequately for the purpose that we are proposing here. It consists of the Attorney himself and three assistants. I would not propose an addition to that office.

Q Are you saying it is overstaffed now? A No, sir, I am not saying it is overstaffed.

Q Adequately staffed now? A I would say adequately staffed and I think also adequately staffed for the purpose of this budget.

Q Is your office adequately staffed now? A Yes, sir.

Q And I note that you propose an increase in your personal personnel from 72,000 to $108,000. A This assumes the affiliation with the present Town Manager of Vinton and the County Executive of the County of Roanoke.

Q Oh, you intend to bring them into your office, do you, sir? [800] A Yes, sir.

Q That is the total difference between $72,000 and $108,000? That is what you are going to pay the City Manager of the City of Vinton and Mr. Matthews, the Executive Officer of the County, is that correct?

What kind of positions are you giving them, Mr. Hirst? A This, sir, I think would have to be resolved with these two people at the time that this took place. I think we would have to—let me just step back a minute and say that we have attempted, as I stated earlier, to provide within this budget for everyone associated with the government of these two areas. My feeling in preparing this budget was that these two people, certainly with their background and their experience, should be properly affiliated with the City Manager's office.

Q When you say affiliated, you mean employed by? A Employed by, yes, sir.

Q Do you think you would need them? A I think I would if I were in that position, yes, sir.

Q You would need more help in your office if this [801] area were annexed? A Yes, sir.

Q But the City Attorney would not? A No, sir.

Q I notice that you treat the Board of Equalization the same way. You don't increase their budget at all, is that correct? A No, sir.

Q Mr. Hirst, have you got any idea how many parcels of land you would be annexing to the City of Roanoke if this annexation were granted? A I have seen the figures. I do not have them right at my finger tips. There are a large number. I do not have the number precisely.

Q Would it be fair to say that there are more parcels of land in the 262 square miles of Roanoke County than in the City of Roanoke? A I think there are. I think that is a correct statement.

Q And I would assume that the Board of Equalization is not overstaffed now, is it, in the City of Roanoke? A The Board of Equalization, sir, is the review board for appeals.

[802] Q For tax assessments, is that true? A Yes, sir. This board is not the—does not perform the assessments.

Q Oh, yes, sir, I am quite well aware of that. A I don't want to leave the impression that we are not providing for additional assessment help.

Q But if any property owner of the City is disgruntled with his assessment, this is the board he comes to, is it not? A That is correct.

Q He appeals the assessment to that board and they have to make a determination as to whether it is properly assessed, over-assessed or under-assessed, don't they? A Yes, sir.

Q And this board is functioning in the City today with whatever personnel $4,700 will provide, is that correct? A That is correct, yes, sir.

Q And you don't figure that this board is going to need any help, or any more help? A I would not—I think the board will have, certainly, more work to do but I think that within the scheduling of meetings as this board performs that it can function on a schedule generally similar to that which it is now [803] doing.

This is the compensation to the members of the board and I do not propose to increase the compensation.

Q Even though their work may be doubled, tripled or quadrupled? A I think, certainly, sir, if it goes to tripled and quadrupled then we have got to review the budget or review their individual allocation but my anticipation is that the board could be adequately provided for on the same basis that it is now set up in this budget.

Q Let's see if there is anything else in the budget that might give an indication of what their work is going to be. Department No. 7 is the Assessor of Real Estate. That department assesses real estate, doesn't it? A Yes, sir.

Q It appraises the value of real estate and sets the assessment, is that correct? A Yes, sir.

Q And it sets it at roughly 40 percent of the appraised market value, is that right? A Yes, sir.

Q I believe you said in your testimony yesterday that this budget for this operation is going to be increased from $68,000 to $115,000? [804] A Yes.

Q There is going to be considerably more work to do, isn't there, Mr. Hirst? A Yes, sir, they are.

Q And I believe you said this was the transition of appraisals into the County area? A Yes, sir.

Q Is that your language? So you have recognized the fact that you are going, I believe you said, to systematically reappraise all of the property in the County, or review it? A Review it, yes, sir.

Q That is why this budget is increased so much? A Yes, sir.

Q And the property is going to be reappraised and you are going to change the assessment ratio from 34 percent or whatever it is now in the County to 40 percent, aren't you, sir? You are going to make it the same as the City, aren't you? A Yes, sir, I am going back to your word "reappraise." I will again use the word "review," yes, sir.

Q But the purpose of this transition of appraisals into the County area is to put the appraising and the assessment of the property of the County on the same basis as that [805] which exists in the City? A Yes, sir.

Q If you are going to change the assessment ratio from 34 percent or whatever it is to 40 percent, every single parcel of land in the County of Roanoke is going to be reassessed, is it not? A Every parcel of land will be reviewed. Every parcel of land—if there is any reassessment—the City—I take this only as an assumption that the County is consistently at 34 percent. This I don't know and we don't know.

Q That is in your exhibit, isn't it? A Yes, sir.

Q You show it at that? A This is the information that is furnished by the State Department of Taxation.

Q You have no reason to doubt it, do you, sir? A No, sir, I have no reason to doubt the State Department of Taxation. We assume that all the properties are consistently appraised or assessed at 34 percent. Whether they all are or not I cannot guarantee.

Q We understand that that is an average ratio, that some may be assessed higher and some lower, but generally speaking you are going to move that 34 percent assessment up [806] to 40 percent, aren't you? A Yes, sir.

Q Doing that, you don't think you are going to need any more help on your Board of Equalization? Don't you think there are going to be some disgruntled taxpayers? Is that your judgment, Mr. Hirst? A I think there will be disgruntled taxpayers, yes, sir. I still feel that this board during the period for which this budget reflects can perform within the $4,700 that is provided for in this budget.

Q I will ask you the same question I have asked in other cases. They are not overly paid now, are they, sir? A No, sir, I don't think they are overly paid.

Q I believe you next mentioned in your testimony a computer system. The City has a data processing center of some sort, doesn't it, sir? A Yes, sir.

Q And your school board uses your City data processing, doesn't it? A Yes, sir.

Q Wouldn't it have been a savings to the City had the School Board acquired the data processing and the City used it? A I think it would have been a savings to the City and a savings to the County.

[807] Q Well, we are just talking about the City now. We will get to the County in a minute. A All right.

Q You understand that the County School Board acquired and set up the Data Processing Center that is used by the County? A This is my understanding, yes, sir.

Q Yes, sir. The City, on the other hand, set up the Data Processing Center that is used by the School Board of the City? A Yes, sir.

Q And isn't it true that if you had done it the way the County did it, it would have been a savings to the taxpayers of the City? A That, sir, is a broad statement. Now I don't know, to say simply that if we had done it as the County did it, it would have been a savings. I can't answer yes to that, because I don't know.

Q Well, isn't there some discount or differential in price of equipment if it's purchased for educational purposes?

You are not aware of that? A I don't know for sure.

Q Have you heard that? A I know that this was—there was some discussion [808] on this at the time we bought the equipment. I frankly don't know. I don't know for sure whether there is a discount or not.

Q Did you assign that to a Subcommittee to study? A No, sir.

Q Your air pollution control, you say that it's been effective in the City? A We contend, yes, sir.

Q Well, does the State agree that it's been effective, the State Air Pollution Control Board, or the officers in charge? A I think so, yes, sir.

Q You said that you thought it better to operate it as an independent agency, rather than under the Health Department, I believe you said? A My statement was that we think it is better to function as an independent agency.

Q You mentioned the fact that the Air Pollution Control in the City had helped control or curtail air pollution from residences and businesses, or commercial, I believe is the word you used. How about industrial users, has it been effective in doing anything with the industries in the City? A Yes, I think it has.

Q Has there been considerable opposition to the air pollution control by any industry in the City? [809] A At the immediately moment, I can't recall. I say that—I may be reminded of something that I don't remember immediately.

Q You don't remember any opposition to air pollution control by the industry within the City? A Oh, there has been opposition, let me not create the impression that everything has been universally accepted without question.

Q Yes, there has been opposition. I was attempting to answer as to a particular industry that might have gone into a major campaign in opposition to the Air Pollution Control Ordinance. That, I don't remember.

We have had opposition from industries, we have had opposition from businesses.

Q Hasn't that opposition of the industry been pretty effective too, sir? A I don't know that it has, sir.

Q All right, sir. You are familiar with the efforts of the County Air Pollution Control? A Some general, yes, sir. I am not intimately knowledgeable as to all of their specific locations, the day-to-day work. But I have a general knowledge of the work of that office, yes, sir.

Q You read in the paper recently that it was [810] commended by the State Control Office for its efforts, the man in charge of it, didn't you, sir? A The new Director of the State, yes, sir, came into the Valley and spoke very highly of the County air pollution efforts.

Q You read that? A Yes, sir, I read that.

Q All right, sir. So you don't fall to the County of Roanoke for its air pollution control efforts, do you? A No, sir, I do not. As to the measure of their success percentagewise in this type of thing, I can't say whether it is good or bad. But I do not fault it critically.

Q I believe even your newspaper in its editorial said that Mr. Bradley deserved a pat on the back. Do you agree with that, sir? A Yes, sir. When you refer to my newspaper—(Laughter.)

Q Well, the City's newspaper, the newspaper published in the City of Roanoke? A Yes, sir, they did.

Q Now, sir, you talked about the airport; much of what is at the Woodrum Field Airport has been put there and paid for either by the Federal Government or the State, isn't that true, sir? [811] A Everything at the airport has either been paid for 100 percent by the City, or 50 percent Federal Government and 50 percent City.

Q The State has contributed nothing? A The State has contributed extremely little. The State has contributed, in the last six years, approximately $10,000.

Q And the Federal Government, in some instances, contributed 50 percent of what has gone there? A All of the runway costs, the construction work, with the exception of the terminal, the parking areas, the runways, is 50-50 Federal-City.

Q Was any improvement made there during World War II by the Federal Government? A I could not testify to that. I don't know.

Q You are not aware of that? A I don't know, sir.

Q All right, sir. Now, you pointed out to the Court yesterday that this airport served the whole region? A Yes, sir.

Q Isn't it true that the County of Roanoke has offered to join with the City and operate that airport as a regional airport, and make a contribution to the capital outlay at that airport, and the City has refused? [812] A I am not aware of a specific offer, no, sir.

Q Well, you said a specific offer. It didn't get to that, Mr. Hirst did it? You are aware of the County's offer, the County's position that it is willing to enter into a regional effort at that airport and make its pro rata contribution to the capital improvements and to the operation of that airport, and it's been rejected by the City. You are aware of that, aren't you, sir? A No, sir, I am not aware of such an offer.

Q What offer are you aware of on the part of the County? A I am not aware of an offer on the part of the County, sir.

Q Have there been any discussions, any expressions of intent that you are aware of by the County? A Not to my recollection at this point. Certainly it has been discussed from time to time.

Q By whom? A As far as going to the point of having committees meet which gives it some official status, I don't know it.

Q Mister— A Excuse me, sir.

Q Who has this been discussed by? [813] A I would classify any discussions that I have heard in the nature of street corner type conversations.

Q By whom? A I don't know of any particular individuals that have discussed this, to my best recollection, as far as an offer being made to the City, to my best recollection at this point.

Q Mr. Hirst, let's get off the offer business, if we may, and get to the point we are talking about now. The discussions that have gone on between the County and the City, can you tell us who in the City and who in the County have discussed this matter of making this a regional airport? A Approximately, I will guess four years ago, there was a report prepared by the Fifth Planning District, by a firm of consultants from Boston. And this was a very detailed study of the Roanoke Airport. That report was presented at a meeting of representatives

of the County, the City of Roanoke and the then town of Salem, and I believe Vinton people also, here in Salem at the building that burned in the recreation park. And following that meeting—may I back up?

One of the points proposed by the consultants in that report was that, and I think I expressed it correctly, that one of the ways in which to—the airport could be operated, would be by an authority, or a joint governmental operation.

[814] Following that meeting, groups of people stood around, and there was some discussion, and this involved the Mayor, members of the Council, members of the Board at that time. And this was within the main room of the building here.

Beyond that, sir, I honestly do not recall any, at any time, discussions between County and City representatives over a proposal or a mutual sharing of operation.

Q Well, Mr. Hirst, if you don't recall a proposal or an offer, or the intent expressed by the Board of Supervisors, you do know that the City took the position that it was not interested in making the airport a regional airport or a joint operation, or turning it over to a regional authority. You know that, don't you, sir? A I don't know that. I don't know that that particular matter or the particular subject that we are on at this point has ever reached a stage of the City taking a position, as you express it.

Q Well, you heard the discussions that night, didn't you, sir? A Yes, sir.

Q By the members of the City Council. You heard them say that they weren't interested in making it a joint airport or turning it over to a regional authority? A I don't recall that that particular type of [815] discussion really reached any type of conclusion. I just remember the people standing around in the room talking, and then we all went out and got in our cars and went home.

Q And the City never pursued it from there, did they? A No, sir.

Q All right, sir. You say that according to the figures that you gave the Court yesterday, that the airport is making a profit, it would appear to me like $300,000 a year of income over expenditures? A Not counting the capital improvements. My statement then went on to

say if the capital costs of physical development of the airport is included, that the City is supporting the airport out of its general fund operation.

Q Mr. Hirst, let's get one thing at a time, now. Am I correct in saying that you said in this proposed budget this year, that the airport will take in approximately $300,000 more revenue than it will expend in operations? A In operations.

Q All right, sir. Now, I believe you told the Court that you projected in the next five years to spend 1.8 million dollars of City funds in improvements to that airport. Do you recall that? A Yes, sir.

[816] Q Isn't that true? A Yes, sir.

Q Well, if you project an excess revenue of $300,000 for this year, with just a little growth in five years, the airport will make the 1.8 million dollars, won't it, sir, to be used, to be reinvested in improvements? A The mathematics of that, yes, sir, work out, yes, sir.

Q Yes, sir. And that excess revenue over expenditures comes from people who live in Roanoke County, Salem, and even Fairfax County, doesn't it, sir? A Yes, sir, I believe Fairfax County is using the airport.

(Laughter.)

Q People from Fairfax County use the airport? A Yes, sir.

Q And whatever we spend or contribute there is going towards making that excess revenue over expenditures? A Yes, sir.

[817] Q Isn't it true, Mr. Hirst, that with the exception of perhaps the sewer treatment plant that is classed as a regional cooperative effort that this City has refused to join in any joint or regional efforts in this Valley that have been recommended by Planning Districts or the Regional Planning Commission or sought by the other governmental entities in this Valley? A No, sir, I deny that statement.

Q What regional or joint efforts have the City been willing to enter into with the other governmental entities in this Valley where they shared the ownership and responsibility and operation of some governmental service or function? A Mr. Fitzgerald, I don't want my answer to sound vindictive, but I think that the reverse has been true.

Q Can you answer my question, sir? What joint efforts where the City would share the ownership and operation of governmental function or service with the other jurisdictions in this Valley has the City entered into? A I don't know—Number 1, I don't know that the City has been approached as to any offer to share on a basis that would be reasonably acceptable in the operation of facilities that might be on a regional basis.

You have already cited the airport, and again [818] I would restate that to the best of my recollection, sitting here at this particular point, I don't recall specific proposals having been made.

Certainly the City can say to Roanoke County or to the City of Salem or to the Town of Rocky Mount, "We would like to have you come in and we will make you a partner or a part-owner of the airport," and I am sure that those good and fine people would do so. But—

Q You don't want them to? A There has to be a proposal. There has to be a basis on which these things—the cost and operation of these things is going to be financially shared.

Q Mr. Hirst, has the City made any proposals to any of these governments that surround it, to enter into joint enterprise with them? A I think the City is in a peculiar situation in this particular period. I don't see how the City is going out and stand on a street corner and say, "We would like for somebody to come and join us in the operation of our water department. We have a multi-billion dollar investment here. Won't somebody please come and put up two billion dollars and we would like to have a partner."

Q Of course that is a profitable business, is it not, Mr. Hirst, the water system? [819] A I don't quite classify it as a terribly profitable business, no, sir.

Q It is not being run at a loss, is it? A We are not at a loss.

Q Mr. Hirst, rather than going out on the street corner and making that pronouncement, has it ever occurred to you or to the City Council, to your knowledge, to come to the Executive Officer of any of these cities or towns in the area or to the governing bodies and say, "Look, that airport serves the entire area and we are making a capital investment in it. We think it ought to be a joint enterprise or a regional enterprise so that we share the investment jointly and share the responsibility jointly. Can't we sit down and work this particular thing

out?" That has never occurred to the City at all, has it? A Certainly it has occurred to the City, sir. I think the City has—I don't the City has taken the position of simply throwing its arm around and encompassing everything that it has and saying that it is its own.

I would almost have to base my answer on the one experience that we have had, and this is the experience with the sewage treatment plant where for five years, to my knowledge, we have been trying to resolve how to mutually share the capital development of that plant and to this date [820] we still haven't come to anything but a great deal of words.

Q Let's take a look at that negotiation for five years. The City appointed consultants to serve on the committee, did it not, sir? A I don't mean to challenge your question.

Q Just answer it. A This is such a broad thing I am not sure as to what specific term. I do not recall the City appointing consultants specifically on the committee.

Q Mr. Hirst, I don't want to engage in semantics. Don't you know that you had a consultant that met with the County consultant and the City of Salem consultants and they sat down to renegotiate a contract. A I understand where you are now.

Q Do you understand me now? A I understand where you are now. I was not trying to develop semantics, no.

Yes, sir, there was a period in this where committees met involving consultants, yes, sir.

Q And those engineering experts, financial experts—Hayes, Seay, Mattern & Mattern was representing the City, wasn't it? A Not necessarily representing the City, no, sir.

[821] Q How did they happen to get into this meeting? Who was paying them to be there? A The City, to my knowledge, did not pay them. They came into this meeting—and this, sir, was about 1967, I believe.

This came about, to the best of my recollection—Mr. Ed Mattern, who was the senior partner in that firm, came to me, as I presume he went to others, but he came to me—and I hope that I quote him directly—and I think Mr. Mattern said generally to me, "I am a citizen of the Valley and I would like to try to work out"—these are my words of interpretation—"work out the dilemma that we are in. How would

you feel," speaking to me, "if I tried to get everybody together?" And I indicated to Mr. Mattern at that point that I felt that it would be a very fine thing if somebody could help resolve this conflict that was prevailing at that time on sewage.

Q The conflict was how much who should pay for what, is that true, mainly? A No, sir, the conflict was much more intricate than that.

Q That was one of the things to be considered? A This was one of the factors in it.

Q Did you ever attend any of those meetings that [822] were had? A Yes, sir. Mr. Mattern, I presume, contacted the County and as a result and I would say at his personal instigation there was at that time a meeting of representatives of the County and representatives of the City of Roanoke.

I think that particular meeting took place here in Salem at what I would call the Health and Welfare Building. I know that there was a meeting with Mr. Mattern there and there was also a meeting in this courthouse to the rear of this courtroom with Mr. Mattern at one point. Out of that joint meeting, or two meetings, it was agreed by the representatives of the governing bodies present that administrative and engineering representatives of the City and of the County would form somewhat of a committee, and legal representatives, too, I should add, sir. Mr. Mattern offered the services of his staff and his offices.

As a result, we met at the firm of Hayes, Saey, Mattern & Mattern for, I would guess, seven, eight, or maybe even up as high as ten times. This firm, to the best of my knowledge, was not employed by the City and they entered the picture through what I would call Mr. Mattern's personal interest in trying as one person to resolve this problem.

Q Now, Mr. Hirst, we get to the fact—I believe [823] you said you didn't recall it before—that there were representatives of the two governments or three governments selected or appointed by someone, were there not, sir? A Yes, sir, the County appointed certain people. I believe I could come reasonably close to naming them. And the City appointed certain people. I was included with the City group.

Q Now I get back to the question I asked some time ago. Who were the people appointed by the City? A I served on it. The City

Attorney served on it. I believe our former director of Public Works was on that committee.

Q Mr. Boyle? A I think so, sir. I am not absolutely sure. We have been through so many committees on this thing.

Q All right, let's talk about this committee now. A Yes, sir.

Q Now that we have gotten to it. Who else from the City? A I honestly don't remember anyone else being on that.

Q Was either Mr. Barranger or Mr. Ed Mattern present at these committee meetings? [824] A Mr. Mattern sat in on perhaps one or two. Mr. Barranger sat in on several.

Q Mr. Barranger is a member of the firm of Hayes, Saey, Mattern & Mattern, is that true? A Yes, sir. Mr. James Strickland who is a member of the firm sat in on a number of the meetings.

Q And there were counterparts from the County of Roanoke? A Yes, sir.

Q Was there anybody from the City of Salem? A I honestly am not sure.

Q And you attended these meetings? A I think I attended about every one of them.

Q The result was that the consultants of the people serving on this committee came up with an agreement, didn't they, sir? They arrived at an agreed settlement of the matter? A I would define it by saying that this group came up with a document that was the nearest that they could reach an agreement.

Q And they recommended this solution to both governing bodies, didn't they, sir? A I carried this resulting work to the Council myself and I submitted it to the Council as being the best [825] that we could come up with. It was not totally agreeable to me.

Q You voted in favor of it, didn't you, Mr. Hirst? A We never took a vote, and again, sir, I am not playing on words with you. We had many unreconcilable points in this and our objective was to try and find out just how close we could come to agreement on the matter of sewage.

Q Mr. Hirst, this committee agreed to recommend to the governing bodies of the City and the County that they accept this proposal, whether you were entirely satisfied with everything or not, didn't it? A I don't think, as a member myself, that I agreed to recommend this to the Council. My position—I am speaking only, sir, as to the City of Roanoke. My position in being involved in this was if we could come up with something that could be recommended, then we would recommend it, but I carried it to the Council, saying this is the best that we could arrive at.

Q Mr. Hirst, tell the Court what the rate is that is charged to the County per million gallons of sewage for treatment. What change was recommended by the committee? A The change in rate, as I best remember, out of [826] particular committee study was to add either interest on debt or depreciation to the formula.

Over the last six years there have been so many controversies on negotiations in this thing that I have a problem in immediately recalling exactly what happened at any one point.

Q Let's see if I can help your memory again, Mr. Hirst. Isn't it true that the payment at that time was $35 per million gallons? A $35.60 for the major segment of that area that is served.

Now, there is a new rate that is applicable to areas that have been introduced into the system within roughly the last year, sir.

Q But the basic rate is $35.60 per million gallons? A That is correct, sir.

Q And the representatives of the County agreed that that be increased to $65 per million gallons? Do you recall that now, sir? A That sounds approximately correct, sir. I will accept that.

Q And that would have wiped out that loss that one of your witnesses testified to that the City was having on [827] the sewer operation, wouldn't it, sir, and given you funds of capital improvement? A No, sir, it would not have wiped out the loss, in my opinion.

[828] Q It would not have? A No, sir.

Q Is that just an opinion—that was not the opinion of the Committee, was it, sir? That was set, designed to wipe out any loss, do you recall that, sir? A The contention of the—the argument, or discussions is a better word within the Committee, was over what factors are

to be included. The position that I am in, sir, is that the figure of $65.00, in my opinion, does not fully cover the cost of the operation of the plant. That is why I answered you the way I did.

Q But every other member in that Committee agreed that it did, isn't that true? A I couldn't say as to every other member. I would say the majority of the people present felt that that was an adequate figure.

Q Yes, sir. And when you presented it to the City Council of the City of Roanoke, they rejected it, took no action on it, true? A They rejected it as being unsatisfactory, yes, sir.

Q And isn't it true, Mr. Hirst, that it was said at the time at that Council meeting, that the reason they didn't want to agree to it was because of the pending annexation [829] case? A No, sir.

Q That was not the reason given. Was it one of the things taken into consideration? A No, sir, this contract—excuse me, this particular stage of the proceedings, if my recollection is correct, was prior to the time that this Ordinance for annexation was introduced. I think that I am correct in my recollection, sir.

Q Mr. Hirst, I didn't ask you about the time interval; the City of Roanoke has been considering an annexation case against the County of Roanoke for years prior to the introduction of that Ordinance, hadn't it, sir? A I expect, yes, sir, this has been going on for some period of time.

Q Yes, sir. And getting back to my question, wasn't it true that one of the things that was considered in rejecting the sewer contract, or the renegotiation of it, was because of the possibility of annexation? A The Council's objections or questions on the sewer contract, as had been submitted, evolved to the best of my recollection, to the provisions that were in it. There were questions on the rate.

I don't think that that particular series of Committee meetings ever fully resolved the matter of participation [830] in capital improvements. There was a question that I think Council raised as to the maximum rate, which I think was $75.00 proposed in that contract, and there may have been something else.

I would have to reply to you, sir, and say that the factor that declined it at that point, had to do with a disagreement with points within the contract itself.

Q Mr. Hirst, my question is: Wasn't there reference or discussion at that time about the effect on possible annexation, whether that was— A This is possible, sir. I do not recall all the discussions that took place when this came up. I—

Q Excuse me. A I can't remember that the Council formally declined this contract to the extent of—I don't mean that they didn't decline it, but I do not recall that it was done by formal action of the Council.

Q As a matter of fact, Mr. Hirst, they didn't. They just left it hanging, didn't they, sir, took no action? A Yes, sir, that seemed to be the result of every series of negotiations that took place on this sewer contract.

Q Here was an offer, wasn't it, or recommendation by a Committee that had been agreed to by the Committee, it came to the City Council, the City Council took no action on it [831] but made it no counteroffer, did it, sir? A No, sir. This took place in 1966, as I recall. The County rejected a proposal of the City that was left on the table; in the summer of 1967, as I recall, just prior to this, the County had declined a proposal of the City.

Q Mr. Hirst, can you restrict yourself to answering my questions? In regard to the recommendation made by this joint Committee to both the governing bodies, it was accepted by the County, and no action was taken on it by the City of Roanoke City Council, but no counteroffer was made by that City Government, was it? A Well, sir, I am still going back—

Q Would you answer my question? The City did not make a counteroffer? A I can't answer it yes or no.

Q Did they make a counteroffer? A I can't answer it yes or no, because you have got too many qualifications in your preface to your question.

Q All right, then I will rephrase my question. This Committee that you remember came up with the recommendation, you carried it to the City Council of the City of Roanoke, you have testified to that. You have testified that the City Council took no action on it at all.

Now at that point, did you recommend, or did the [832] City of Roanoke make any counteroffer on that recommendation? Not what happened years before? A No, the City did not.

Q All right, sir. I believe Mr. Richardson testified the other day for the City, didn't he, sir? A Yes, sir.

Q Did you hear his testimony? A Yes, sir.

Q He testified on page 312 of the record, and I am not quoting everything he said, but said:

"We were asked by the City to review the contract and make a recommendation as to the formula that could be used for service to Salem and the County. That was two years ago.

We prepared a memorandum, sent it to the City, and have not heard anything since that time."

What did you do with that one, sir? A We asked them, this is as to the formula, and the significance of the formula is that this is the basis upon which the rate that is paid per million gallons is determined. And I don't remember the specific time, but I think I recall accurately that during this series of conferences to which you are referring, and I believe that in perhaps one or perhaps two or three other series of conferences, each time we would [833] come down to a point insofar as the City was concerned, where various formula alternatives were presented, we would contact Alvord, Burdick & Howson, and ask their knowledge of these formulas. There was no reason for us to go back to this firm, they had sent us their analysis of the formula, and that was what I had used, particularly in Committee work.

Q And their formula that they recommended was what the Committee agreed to? A I don't know for sure.

Q You don't know for sure? A No, sir. I do not remember what the consultants submitted at that particular time four years ago.

Q You don't recall that the recommendations of that Committee were exactly what the formula that your consultants recommended? A No, sir, I don't recall.

Q All right, sir. We will find somebody else that does, I guess.

You spoke of zoning. You say that you are going to extend the zoning of the City into the County, was that your statement, did I copy it down correctly yesterday? A I don't know my exact words, but extend the application of the City's zoning ordinance into the County, if that is what you mean.

[834] Q That was what I understood you to say. Is that what you propose to do? A Yes, sir.

Q Does the City of Roanoke have the same zoning category as the County of Roanoke? A No, sir.

Q But your proposition is to impose the City zoning districts and regulations on the County, if annexed, is that right? A Our Zoning Ordinance provides, and this—and I think the Code will indicate this, and this is the intended procedure that we would propose to follow. The Zoning Ordinance provides that when an area is annexed to the City, I believe it is RS-1, which is the most general applicable residential zone, it automatically applies within the area until there can be, and I think the Zoning Ordinance has this word, and "orderly" the determination of zoning applicability.

I would not, in my language, say that the City will impose its zoning ordinances on the County. I think that in the event of annexation, that the City would, through its Planning Commission, through whatever other means that may be available, evaluate by normal planning and zoning standards, the County areas, and determine those zones that would be best applicable to the uses existing within the County.

[835] Q Well, Mr. Hirst, it was your testimony that you were going to extend the City zoning into the County? A Yes, sir.

Q And I think we ought to try to see how that can be done, now. Upon the effective date of annexation, you say all of the land of the County would be zoned RS-1? A I think that is the category, yes, sir.

Q And whatever uses are permitted in RS-1, would be uses permitted in the whole County? A Yes, sir.

Q There would be no more Roanoke County, would there, sir? A That's correct.

Q There would be no more Roanoke County Zoning Ordinance, would there? A No, sir, as I understand the law.

Q Yes, sir. So whatever uses you have in your S-1 would be the uses permitted in any part of the County. Now haven't you or the City consultants studied or made a master plan, or plan for the territory of the County you propose to annex? A With respect to specific zoning areas, sir?

Q Yes, sir. How are you going to zone it?
(Pause.)

[836] Q Well, have you, sir? A I am trying to figure the—

Q The implications out, is that what you were trying to say? A Yes, sir. I am trying to figure the implications of the specific zoning areas.

Q Let me worry about the implications, you just worry about the question, sir. A I am going back to the RS-1, and its inclusions in the RS-1.

Q The question was has the City developed a master plan of zoning for the area it seeks to annex? A No, sir.

Q It has not? A No, sir.

Q Have you got any idea how long it would take the City to study, by whatever means, Planning Commission or Subcommittee or what have you, to determine a—putting the entire County of Roanoke under its Zoning Ordinance? A I would think that if—if I may presume some dates, simply for the purpose of a point, that if the City knew—this is April, knew on May 1 that it was going to be successful in this case before the Court, I think studies would immediately commence. And I would believe that within [837] probably two to three months after January 1, again if I may assume dates, that the City would be in a position to have some determination as to specific zoning areas within the County, to the extent that we could go into public hearings and this type of procedure.

Q Mr. Hirst, no consideration has been given, up until now on this, that is what you said, I believe? A No consideration to the extent of specifically relating this to the Zoning Ordinances of the City. Certainly, sir, we have evaluated these areas, what is there, the nature of the areas and this type of thing, yes, sir.

Q And you can tell the Court that actually, so far as the zoning is concerned, you really find no area of the County that is improperly zoned that you know of, do you, sir? A I couldn't answer as to whether under the County Ordinance, an area is properly or improperly zoned. This, I do not know.

Q It has not been brought to your attention by any of the planners or zoning people of the City that the County has lackings in its Zoning Divisions, has it, sir? A It has not been brought to my attention. I know the County has zoning problems.

Q And re-zoning problems? A Yes.

[838] Q As does the City? A Yes, sir.

Q But your planners that you have quite a few of in the City, have not brought to your attention that there is any major deficiencies in the County Zoning Ordinance, have they? A No, sir. No, sir.

Q The City doesn't have any designation such as, "agricultural," in its Zoning Ordinance, does it? A Not specifically, no, sir.

Q Well, not vaguely or specifically? A No, sir, not vaguely or specifically.

Q It has no, "residential estates area," where animals can be kept, horses, things like that, do they? A We do not have a category that says, "residential estate," no, sir.

Q What is the highest residential lot size in this City Zoning Ordinance? A I can't answer that specifically, without going to the Ordinance, sir.

Q You don't know, sir? A Not immediate memory recall, no, sir.

Q You know that there are no two-acre lot size restrictions in the City, don't you, where you have to have two [839] acres to construct a dwelling? A Do I know that there are no two-acre?

Q Yes, sir, in the City, in the City's Ordinance? A I am not clear, sir. Do I know that there are not?

Q Yes, sir. Do you know that there are not in the City Ordinance, any requirement that you have a minimum of two acres or more? A No, that's correct.

Q You say that the City's street numbering plan has been extended by the County into the County? A Yes, sir.

Q Does that— A It has been extended. I don't know that the County, per se, has extended it. I think it has been picked up over a period of years, and is extended.

[840] Q You don't think the County government has had anything to do with that? A It can and it cannot. I am not necessarily saying that the County has specifically projected this.

Q At least it shows the cooperation between the jurisdictions, no matter who has done it, doesn't it, sir? A That is correct, yes, sir.

Q The County people cooperated and coordinated the numbering system? A Whoever has done it. I am not challenging that.

Q You didn't need a unified or unitary government to do that, did you? A No, sir, I didn't require it.

Q You mentioned the fact that you are going to extend the street numbering and street signing of the City into the whole County? A Yes, sir.

Q You are not going over to Catawba Valley and put up street signs and number those farms over there? A I would doubt it.

Q Upon Bent Mountain? A I would doubt it.

Q You are not going to do that, are you, Mr. Hirst? [841] A I would doubt it.

Q This nursing home, I believe you said, is located in Botetourt County? A Yes, sir.

Q You also have a juvenile detention home over there, don't you? A Yes, sir.

Q Was that the County whose courthouse burned down? A Botetourt County, yes, sir.

Q And were the good neighbors of Botetourt requested to help them out and put a courthouse back up over there? A Were the good neighbors of Botetourt?

Q Yes, sir, the County of Roanoke and the City of Roanoke? A No, sir, I don't know of any request that was made, sir.

Q Do you know of any refusal of the City of Roanoke to contribute to the rebuilding of the courthouse in the County that houses two of your agencies? A Well, I know initially on the night of the fire we had a fairly considerable accumulation of our fire equipment in Botetourt County. Now I will go to your second [842] point.

Q No, go to my first point. A All right, your first point. I know that to which you are referring.

Q Just answer the question, please. A There was a proposal introduced by a member of the City Council at one of the Council meetings that the City contribute—I forget the amount or how it was set up.

Q $2,500? A That sounds substantially correct, sir. To the restoration of the Botetourt County Courthouse. The motion didn't carry. And it came back later and was re-introduced and it carried.

Q Was that after the city newspaper, the newspaper published in the City of Roanoke, wrote a blistering editorial? A There were some editorials, sir, yes, sir.

Q And after that the Council appropriated some money, is that correct? A In point of time, yes, sir.

Q Would you say that the City Council or the City Administration has some aversion to either building or helping build a courthouse? A Mr. Fitzgerald, I had nothing to do with the [843] Botetourt County Courthouse, either the burning or the contribution to its restoration.

Q How about the Roanoke City Courthouse? Did you have anything to do with that? A Yes, sir.

Q Does the City or Administration have some aversion to—you need a new one, don't you? A It would be desirable, yes, sir, either a new one or a major rennovation in the present one.

Q Isn't it true that the Hustings Court has brought it right clearly to your attention that there is one needed? A Yes, sir.

Q An improvement needed? A Yes, sir.

Q And hasn't this been brought to the City's attention time and again in the past? A Yes, sir.

Q Wasn't at one time the City served a show cause order by a now-deceased judge, Judge Richard T. Edwards, in 1967, to try to cause the City to rebuild or build a new courthouse and jail? A Yes, sir, this order was issued, I think either in April or perhaps in May of 1967. It was just prior to the [844] bond referendum in May of 1967, I believe, sir.

Q In this letter that you received from Judge Ballou, the newspaper account says that in his letter to the Council the Judge had noted that the late Judge Richard T. Edwards "has issued a show-cause order in January of 1967 for the City to explain why it shouldn't start immediately to provide proper accommodations for the courts of record, the Clerk's Office, record rooms and jail."

"An order of March 7, 1967, continued the show cause hearing on the representation that the City of Roanoke was including $2,500,000 in its capital improvements bond issue for improvements to the municipal building and new annex."

"Judge Ballou wrote during the course of the planning of the new annex Judge Edwards became ill and subsequently died. The annex has been completed with no improvements to the courthouse, the jail or the courthouse facilities."

Are you familiar with the letter that the City received from Judge Ballou? A Yes, sir.

Q You said yesterday, I believe, that no decision has been made about building a courthouse or refurbishing or rennovating the existing courthouse or the jail? A This is correct.

Q And you said that this is mainly because you are [845] waiting for the outcome of this annexation case, is that true? A No, sir, I did not intend to say it that way.

Q What is the City waiting for? A I think this has been held to this point for a number of things, Mr. Fitzgerald. One has been the introduction of the possibility or the consideration of regional facilities relating to the jail, and I bring the jail in because the jail is physically a part of our present courthouse building in the City.

As to regional facilities for the jail, as to regional facilities for the courts, primarily the courts of record within the Valley, I would assume—the matter has been held to this point also because of discussions within the City government involving Judge Ballou as well as members of the courts, the courts of record and the courts not of record, and our own people as to the future, the nature of work to be done in the present courthouse. I acknowledge that this particular suit is a matter of interest to us as to what direction we go in.

Q All right, sir, let's explore that a little bit. A All right.

Q If you annex the whole County then the providing of courthouse facilities for the County and the area being occupied by the City would be the responsibility of the [846] City, won't it, sir? A Yes, sir.

Q Is that true? A That is correct.

Q Just like fire protection and police protection? A Yes, sir.

Q And libraries? A Yes, sir.

Q Sewer systems? A Yes, sir.

Q Water systems? A I will keep saying yes, sir.

Q Civic Center? A So you are not leading me into something here.

Q Oh, I am not going to do that, sir. A Yes, sir.

Q How is it, then, Mr. Hirst, that if all of these other things you have been able to make exhibits for, testify about, put in your budget, upon the merger of the—the proposed merger of the County and the City—you can plan for all of those things but you can't plan for a courthouse? A I don't say that we can't plan for a courthouse, sir.

[847] Q Can you tell the Court why you haven't? A I just attempted to state why we are at this particular point.

Q Can you tell the Court why you can plan for all those other things but you can't plan for a courthouse, or why you did plan for the fire and police and all of those but you didn't make any plans for a courthouse? A Again I go back to what I just said. I think we have had introduced here—and the first item or perhaps three or four that I mentioned. We have had introduced the possibility of certainly regional facilities.

The City can—and this is one of four points. I don't hang my hat totally on this one. The City is—if there is a possibility we recognize the situation in the County, we recognize the situation of Salem, and I think if there is a possibility by joint effort that we can resolve this matter of the needed courthouse facilities and jail facilities within this area, it certainly is to the best interests of the city of Roanoke as it is now constituted to try to resolve these things, if we can, on a mutual basis or a reasonable basis.

Q Mr. Hirst, if you annex the whole County there will be no mutuality left. The County will then be the City and it will be your sole responsibility. Don't you have any [848] plans for providing for courthouse facilities if you annex the whole County? A When we talk about regional, I am assuming we are including—I don't know if we are considering what consideration might apply to the City of Salem and I don't know if we are talking about Botetourt County in the regional matter. I don't know how far they are discussing this.

Q Did you consider the matter of Salem in your sewer and water proposals and things of that sort? You were ready to come up with those with the City of Salem being there, weren't you? A With their physical existence, yes, sir.

Q This newspaper clipping here—You say you are familiar with the letter from Judge Ballou—stated that that show cause order was continued "on the representation of the City of Roanoke that it was included within the $2,500,000 in its capital improvement bond issue for improvements to the municipal annex." Was that bond issue approved? A Yes, sir.

Q Was any courthouse built or any improvements made to the courthouse? A No, sir.

Q Was the Judge dead by then? A Judge Edwards—

[849] Q He had died, hadn't he? A He had passed away. I can't remember immediately exactly when he passed away.

Q So you paid no more attention to the show cause order that had been continued, did you? A I don't relate the Judge's passing to any action or inaction of the City.

Q What did you use the money for? A We still have the money, sir.

Q You still have the $2,500,000? A No, sir. The intent of the distribution of the funds—and this is not a personal interpretation of intent. This is written and was the intent of the Ordinance and so forth, the bond issue. It was that $2,200,000 of the figure that you used was to be applied to constructing a municipal building or a new physical structure adjacent to the courthouse. $300,000 was to be applied to renovation of the present courthouse.

Approximately a year before we had completed the municipal building, the $2,200,000 item, we commenced determining just precisely how we would go about rennovating the courthouse itself, and we became aware through the interest not only of those who occupied the courthouse but our own interests that that amount of money had been set up in 1967 and [850] 1970 not sufficient for certainly what was deserving to the courts and perhaps entitled to the various offices within the building.

From that particular point on the matter has continued. So that the breakdown is $300,000 versus $2,200,000.

Q That is the breakdown? A Yes.

Q The municipal building was built with the $2,200,000, is that correct? A Yes, sir.

Q Did it cost any more than $2,200,000? A If it did it was a very small difference. I think I would be safe in saying not more than $10,000 or $15,000, because that bid came within the funds that were allocated, to the best of my knowledge.

Q And you still have the $300,000 somewhere? A We still have the $300,000, yes, sir.

Q In the bank drawing interest? A I don't know physically whether it is drawing interest or not, sir.

Q But you are just holding it somewhere? A Yes, sir, we are holding it.

Q And this is in deference to the court? A This is in deference to its intent. We cannot [851] spend it in any other direction and we don't particularly intend to.

Q In the meantime, Mr. Hirst, you have built a Civic Center that started out to cost $11,000,000 and ended up costing $14,000,000? A The Civic Center project was started before this, sir.

Q During this time you have built it, haven't you? A Yes, sir.

Q How many years did it take you to build that? A In physical construction, we will be three years.

Q In three years? A In physical construction.

Q Isn't it true, Mr. Hirst, that the City of Salem and the County of Roanoke proposed to the City of Roanoke that they join with them and build one Civic Center to serve the Valley, a unified Civic Center? A I am told that there were discussions. This, sir, took place before my time. Not in the five and a half years that I have been here has there been such a proposal.

Q Mr. Hirst, I don't think from witnesses that we have been told that are going to testify that we are going [852] to have anybody else on the stand that has been here any longer than you.

Is it your understanding that the City of Roanoke was requested, or the proposal was made by the City of Salem and the County of Roanoke, to join in the building of one Civic Center? That is well known in the Valley, isn't it, sir? A The story comes to me with a different slant on it, sir. It is my understanding that they convened some several years ago at the Hotel Roanoke to discuss the matter of a joint facility. I am told that they could not reach agreement. Beyond that, sir, that is—

Q The City of Roanoke had representatives there? That is what you were told? A That is my understanding the City of Salem had representatives and perhaps the County of Roanoke.

Q And the City of Roanoke wouldn't agree to it because it wanted to own the facility, didn't it? A I am not in a position to put an interpretation on something that I wasn't even close to.

Q Mr. Hirst, you know the City of Roanoke did not join into the joint effort of the jurisdictions, don't you? A And I know the Town of Salem and the County of [853] Roanoke didn't join in, either.

Q The City of Salem or the Town of Salem at that time and the County of Roanoke didn't build a Civic Center? A They built one, yes, sir.

Q And they didn't do it jointly? A They did it jointly.

Q But the City of Roanoke did not come along with them, did it? A No, sir, we didn't go up to Salem to build a Civic Center, no, sir.

Q But you wanted Salem to come to Roanoke and join in a Civic Center there, didn't you, sir? A I am on grounds that I am not sure as to what I can say and what I can't say.

Q Just say what you know, Mr. Hirst, or what you have heard. A I have heard that there was a proposal to build one in Roanoke, in the City of Roanoke, that was not agreed to. There was a proposal to try to locate one somewhere halfway between that was not agreed to.

As a result of the meeting, which I picture as taking place in the Roanoke Hotel, everybody departed and they couldn't reach agreement.

Q And the reason— [854] A And I don't even know who was present at the meeting.

Q But you know the reason the City parted company was because the other two jurisdictions wouldn't agree to put it in the City of Roanoke? A That I do not know, sir.

Q How long has the Roanoke Valley Civic Center that was built by the joint effort of the Town or City of Salem and the County of Roanoke—how long has that been finished? Is it over three years? A I would say 1968. I am trying to guess, sir.

Q You mentioned some good features of your Civic Center that you have just completed in the City of Roanoke. Does it have any bad features, sir? A I don't know of any yet, to the best of my knowledge.

[855] Q Is there any problem with parking space? A We do not have adequate parking if we have a capacity—full capacity in the center, no, sir.

Q Mr. Hirst, you don't have adequate parking if you have less than full capacity, do you, sir? A We do not—if we reach a certain point in capacity, we have a shortage of parking on the property.

Q And that point is about 50 percent, isn't it, sir, or less? A It depends on the nature of the crowd, depends on how many cars they bring, sir.

Q Yes, sir, I know. But if they bring cars, they want a place to park them. Now what is— A Let me answer you, sir, this way?

Q All right. A To avoid bouting over this. We have 1700 spaces; if we figure three people per car, we have 5400 people crowd that we could satisfactorily park. The auditorium has a capacity of approximately 2400; the colliseum has a capacity which will range from 8,000 to potentially 11,000. Within those figures, our parking situation evolves.

Q All right. Then it's true what I said, that you have got something less than 50 percent of the capacity, parking provided for less than 50 percent of its capacity, 5400 and [856] 11,000? A Total capacity.

Q That is if you are just using the colliseum. If you throw the auditorium in, you have even got less than that? A Yes, sir.

Q And you say that if the Court sees fit to give the City the whole County, that you are going to exercise your rights of joint ownership of the Roanoke Valley Civic Center, to either get out of it, or close it up. What was your intent there, sir? A I didn't say anything about closing it up, sir.

Q Turning it over to the City of Salem to operate? A We, to the extent that I can speak for the City, are not familiar with the arrangements that exist between the County of Roanoke and the City of Salem as to the operation of the Civic Center. This, we have been unable to specifically find.

It would be our assumption to the extent that we know of the situation that this either operating relationship or ownership relationship, or both, would fall to the City of Roanoke if this annexation suit were accepted. Our best, and we think the fairest resolution of this, would be that we would endeavor to work with the City of Salem in some equitable [857] arrangement, either to turn it over to the City of Salem, or to sell the interest to the City of Salem. We really don't know what it is that we are getting.

Q You say sell it to the City of Salem? A Yes, sir.

Q You mean the then town of Salem, which is part of the County, having paid or been responsible for paying for 50 percent of the Civic Center, and the County having been responsible for 50 percent of it, that the City of Roanoke is going to turn around and sell 50 percent to the City of Salem? A I go back to what I said; we don't know specifically what the arrangement is.

Q Well, assume it's 50 percent? A All right, I will assume that it's 50 percent, sir.

Mr. Jolly: That is an unjustified assumption, but you can go ahead and ask your question.

Mr. Fitzgerald: If you want to give the correct percentage—

Mr. Jolly: It's approximately 25 and 75.

Q Assume the proper percentages, then. A This is the first time I have known that much, sir. I don't know at this point, sir, in what form this 25 percent is, I don't know whether it's original capital investment, [858] whether it is in stocks and bonds, or whatever it might be. If it has to be so, then we are acceptable to sell it.

We are not putting ourselves in a position of holding again to the back of the City of Salem and saying, you know, we are going to run you out.

Q All right, sir. Well, the short of it is, Mr. Hirst, that this annexation would put you in joint ownership in one function, and you would want to get out of it, wouldn't you? A We would apparently have a fourth interest in the operation of that Center.

Q And you would want to get out of that joint effort as soon as you could, wouldn't you? A I don't think we particularly relish wanting to operate two Centers. And we also have deference to the fact that the City of Salem, if I might put it this way, is a majority stockholder in the facility.

Q Where did the additional money come from in the $14,000,000, to build that Civic Center you got downtown over and above the bond issue? A This came from principally two directions. This was $7,200,000 we are talking about, isn't it, sir? A It's $7,000,000, if I may speak in general figures. When I moved down from $7,000,000 to $6.8 million, [859] this represents bonds that have been paid out.

Q I see. It was $7,000,000? A So if I can talk within the $7,000,000, in generalities, and I will go to figures that will specifically break this down. Excuse me one minute.

Judge Hoback: Mr. Hirst, we plan to adjourn at 11:15 for the purpose indicated, and I suggest we defer that until we resume at 1:00 o'clock.

Court is adjourned until 1:00 o'clock.

(Whereupon, at 11:15, court was adjourned, to reconvene at 1:00 p.m.)

[860] Afternoon Session

1:00 p.m.

Judge Hoback: If you gentlemen are ready, we will proceed.

Julian F. Hirst

resumed the witness stand and testified further as follows:

Cross Examination (Continued)

By Mr. Fitzgerald:

Q Mr. Hirst, when recessed for the noon hour, I believe the question was about where the other $7,000,000 came from to build the Civic Center, the $7,000,000 over and above the $7,000,000 bond issue.

A We used, Mr. Fitzgerald, as a total cost for the project $14,075,000. Of this, prior to March of 1968, $1,250,000 had been expended and provided out of the general fund of the City over a period of years beginning with 1962. This included land purchased, a portion of the preliminary architectural fees and so forth.

Deducting the amount prior to March of 1968, leaves a balance of $12,825,000.

Of that $12,825,000, $7,000,000 was provided for by the bond issue of 1967.

The City Council in 1968 levied special taxes for the purpose of financing the difference in construction [861] costs and furnishing of the building as represented by the difference between the $7,000,000 bond issue money and the $12,825,000, or in round numbers, $5,825,000. This was done by three forms of special revenue sources.

One was a 5 percent utility tax which was levied in 1968 for a period of two years and which expired and was removed by the City Council last July 1.

The second form was a 1 percent transient room tax levied at the same time and which expired at the same time at the end of a two-year period.

The third form was an accelerated personal property tax which produced approximately a million and a quarter, or $1,250,000 that became funds available during the construction.

Q That was no special tax. That was just an acceleration of an existing tax? A That is correct, sir.

Q How much did that produce? A Approximately a million and a quarter.

Q All right, sir; go ahead. A This was the plan that was followed. This totals, outside of the $7,000,000, approximately $7,237,000 provided outside of the $7,000,000.

Q Have all the special taxes expired now? [862] A Yes, sir.

Q And that gave you enough money to finish the Civic Center? A With the exception of the bond issue, yes, sir.

[863] Q But not enough money to provide more parking? A No, sir.

Q Now, is $14,000,000 the total cost of the project? A Yes, sir.

Q Or just the total cost to the City? A I don't know of anyone else that is involved in it, sir.

Q Out of the $14,000,000, did you pay for the land? A Yes, sir.

Q At its fair market value? A Yes, sir.

Q And you received none of that money back to the City? A Not to my knowledge, no, sir.

Q From the Redevelopment Agency? A Not to my knowledge.

Q All right, sir. Now, you said this morning that you had the $300,000 that back in 1967, I believe, was left over from a bond issue that was supposed to provide improved court facilities and jail. What fund is that in, sir? A May I make one correction? That the $300,000 did not apply to the jail facilities. That is in what we refer to as the capital improvement fund of the City.

This was bond issue money of 1967, sir.

[864] Q But didn't the City tell Judge Edwards that money for the new courthouse or the rebuilding of the courthouse, or whatever you were going to do and the jail, was in the bond issue, and he continued the show cause order because of that? A Yes, sir, again with the exception of the jail.

Q Yes, sir. And didn't you tell the Court right before the noon recess, that you still had that $300,000 for that purpose? A Yes, sir.

Q And where is it? A It's in the capital—the City's capital improvement fund, from a budgetary standpoint.

Q Where does it show in your Exhibit I-7? A It is reflected, sir, in the capital improvement program on page 85, sir.

Q Well, Mr. Hirst, I believe you said that none of this projected the courthouse, you hadn't decided what to do yet, or the jail? A This page projects the courthouse and jail, sir.

Q It does? It doesn't project libraries and fire stations? A Yes, sir. This building and facilities is not total courthouse and jail, in other words all of this money isn't allocated to that purpose.

[865] Q Yes, sir. I thought that the testimony of the engineer witness was that this was for the libraries and the fire stations, or whatever facilities you are talking about. And that there had been no money appropriated or balance drawn to build a new courthouse and jail? A I believe I understood him otherwise.

Q Well, how much is appropriated or planned in here for the courthouse and jail? A One moment, sir.

Within the figure of $12,237,400 to the upper left-hand corner of page 85, there is provided a projected total amount of $7,090,000 for courthouse and jail facilities.

Q And no one year is that shown to be expended, is that correct? A Not in any one single year, no, sir. It is spread.

Q All right, sir. Now, in this morning's testimony, you were somewhat unsure of what the situation was with reference to your role played in a Committee that dealt with amending the sewer contract between the County of Roanoke and the City of Roanoke.

I show you here a letter dated May the 22nd, 1967, signed by you on City stationery.

Mr. Davenport: May I take a look at it, Judge?

[866] (Document handed to Mr. Davenport.)

By Mr. Fitzgerald:

Q I ask you if that is your signature on that letter? A Yes, sir, that is.

Q And to whom is it written? A Mr. Paul Matthews.

Q And its date? A May 22, 1967.

Q Do you recall that letter? A By reading it, yes, sir. By seeing it, yes, sir.

Q Can you tell us what the purport of the letter is without reading it thoroughly? A May I glance through it, sir?

Q Yes, sir. A To refresh my memory of it.

Q Since it is only a one-page letter, Mr. Hirst, and we only have the one copy, I expect it is best to read it into the record. Would you read the letter? A This is signed by me, addressed to Mr. Paul B. Matthews, Executive Officer, County of Roanoke, Salem, Virginia.

"Dear Paul:

[867] "There are enclosed five copies of a Draft assembled on the basis of the last meeting on April 19, 1967, of the Joint City-County Sewer Subcontract Subcommittee. It is hoped this Draft is accurate with the recollections and notes of all present. It coincides with my notes.

"I made a few other changes which I feel are minor and are for clarification and continuity. Additionally, a definition has been added on the first page, former Par. VIII has been moved to the back and I reworded, with the same intent, our revision of former VIII C. You will note on the last page I took one exception.

"You will note our wish to distribute these copies to Messrs. Jolly, Beavers, Whitlow and Overman. I am sending copies to Messrs. Kincanon, E. K. Mattern and Barranger.

"It was my understanding Mr. Jolly and Mr. Kincanon wish to confer.

"After this, I assume copies should then be sent, possibly through Mr. Mattern, to the Council-Board Committee. From the standpoint of the City Council and its Council Committee Members, I have no idea, at this point, as to their reception, in whole or in part, of this Draft. Possibly at that stage the attorneys may have questions of exceptions they will want to go over with the Council and/or [868] the Board.

"A good deal of time and attention has gone into this by all this Subcommittee. I have enjoyed working with the group and hope the matter may be resolved at the policy-making levels.

"Please let me know if there are any questions.
"Sincerely,
"Julian F. Hirst, City Manager."

Q Mr. Hirst, does that jog your recollection as to who these City Council of Roanoke's sewer committee appointed to this subcommittee to represent the interests of the City? A Yes, sir.

Q Who was it? A To the extent, as I think I indicated and I believe that my recollection this morning was fairly close—myself, Mr. Kincanon, and I still do not recall other members of the City being present with the exception of Mr. Broyles, possibly, who was the former Director of Public Works.

Q Who were you sending copies of this letter and enclosed draft to? A I was sending them to Mr. Jolly, who was the attorney and who sat in with us, and this I did not recall for for certain this morning.

Q My question is who does the letter indicate you [869] were sending copies to? A Oh, excuse me. To Mr. Kincanon, Mr. Mattern and Mr. Barranger.

Q And Mr. Matthews, you said, would send copies to Mr. Jolly, Mr. Beavers, Mr. Beavers, Mr. Whitlow and Mr. Overman? A That is correct. I misunderstood your question.

Q Did you indicate in this letter that you couldn't go along with the draft as agreed at all? A No, sir.

Q Then I show you your letter of June 9, 1967. Is that letter signed by you on the City's stationary? A Yes, sir.

Q Just a minute, until Mr. Davenport has looked at it.

Mr. Davenport: I would like to glance at it.

Mr. Fitzgerald: May it please the Court, I offer the letter of May 22, 1967, as County Exhibit No. 76.

(Exhibit No. 76 for the County was received in evidence.)

By Mr. Fitzgerald:

Q Now I show you the letter of June 9, 1967, and ask you to whom you addressed that letter? [870] A This letter was addressed to the Honorable Mayor Binton O. Dillard, the Honorable Walter M. Lipes, the Honorable Vincent S. Wheeler, the Honorable Minor R. Keffer, the Honorable Paul E. Matthews.

Q What committee was that, or what group of people was that that you addressed the letter to? A This was a joint committee consisting of three members from the City, three members from the County. I was the third member from the City.

Q And you wrote that letter to the other members of the committee, did you not, sir? A Yes, sir.

Q Other than yourself? A Yes, sir.

Q Now would you read that into the record? A "Gentlemen:

"This is written to you as members, together with me, of the Joint Board of Supervisors-City Council Committee assigned sometime ago to the duty of studying the Roanoke City-Roanoke County Sewage Contract, with consideration that the possibility of providing amendments to that contract as might be deemed necessary or desirable. It would, of course, be the required procedure of the Joint Committee that any action as to contract amendments would have to be handled by the [871] City Council and the Board upon recommendation from your Committee.

"Some time ago, also, your Committee in a meeting in Salem assigned to a Subcommittee, headed by Mr. E. K. Mattern and consisting of the certain administrative, legal and engineering personnel of the two governments, the task of conferring and returning to you with any recommendations that such a group might wish to propose. It was the additional assignment of this Subgroup to try to refine the various parts that might be a question in any amendment of the current contract.

"You have been advised by Mr. Mattern that the Subcommittee has completed its work. As a follow-up to Mr. Mattern's advice to you, I include with this letter a copy to each of the draft of an amendment to the contract as was prepared by the Subcommittee.

"It is assumed you will now wish to confer and in the course of conference determine what your next steps, if any might be. As one of those who met with the Subcommittee of Mr. Mattern, I feel that I can assure you that any of us would be glad to meet with you if we can be of any assistance in explaining or elaborating upon this document. Mr. Matthews was, of course, a conferee in the Subcommittee and I am sure that he joins with me in this offer of assistance.

[872] "Respectfully,
"Julian F. Hirst, City Manager."

Q And you enclosed with that the draft of the proposed amended sewer contract as agreed to by the subcommittee on the sewer contract, is that correct, sir? A I would interpret from this letter that I enclosed a draft of the results of that work.

Q Well, see if that draft isn't attached to that letter, sir. A Yes, sir.

Mr. Fitzgerald: I offer this as County Exhibit 77.

(County Exhibit No. 77 was received in evidence.)

By Mr. Fitzgerald:

Q Now, after you submitted that draft to the joint sewer committee composed of two Council members, two Board members, Mr. Matthews and yourself, you met on July 19, 1967, and approved a proposed agreement, is that true, sir? I show you the agreement. A I don't know whether we met on that date or whether we agreed on it.

[873] Q Well, subsequent— A Or agreed on that date.

Q All right, sir. Subsequent to your submitting that draft to the other members of the Committee that you served on, the six-member Committee that I just spoke of, that group met, including yours, and agreed to the proposed amended agreement as recommended by the Subcommittee with certain minor changes in wording, is that correct, sir? And I show you a copy of that agreement. A I, sir, am not sure as to the status of this particular agreement or document that you have given me. I don't know its place in the proceedings that took place at that time. I notice that this is a typed agreement with a number of handwritten notes in it. I don't know—it's on Kind, Jolly, Winston and Clemons legal paper. I don't know its relationship in these proceedings, sir.

Q The note on it doesn't jog your memory, Mr. Hirst? A No, sir, the note says, "Reviewed and approved by City and County Sewer Committees on July 19, 1967." As you said, I frankly don't know which Committees this referred to, and I don't know whether these notes that are handwritten in here were added after the Committee had had it, or whether it is involved in the Subcommittee. I am just not sure.

Q Let's put the question this way, Mr. Hirst: [874] After your Subcommittee recommended to the Joint Sewer Committee composed

of two members of the Board, two members of the Council, yourself and Mr. Matthews, that Committee approved and amended sewer contract, that is correct, isn't it, sir, after you wrote that letter of June the 7th, 1967? A I cannot recall.

Q All right, sir. Your letter— A The six people meeting and agreeing to a contract.

Q And agreeing to present it to the governing bodies of each jurisdiction? A No, sir, I cannot recall that happening. And I am not denying that it may have happened, but I—

Q I see. A I simply cannot recall that such a thing happened.

Q From reading your letter of June the 7th, 1967, you posed no objection to the draft appended to that letter, did you, sir? A No, sir.

Q You said you had enjoyed working with the Subcommittee, didn't you? A I had.

Q You do know that the City Council did not agree, or did not accept the recommendation of the Subcommittee or the Committee? [875] A The City Council did not accept that draft as an agreement that they would enter into at that particular time.

Q And you know the Board of Supervisors of the County did agree to it; I believe you testified to that this morning? A I don't believe that I did.

Q You did not, sir? A I did not realize I had testified to that.

Q Is it true that the Board of Supervisors, to your knowledge, accepted the proposal by the Committee? A It was my understanding at the time that there was.

Q All right, sir. Then there came a later time in October of 1967 that the City, you and the Mayor were afforded a resolution of the Board of Supervisors, were you not? A I don't know offhand.

Q Well, take a look at that resolution and see if you recall receiving that or the City receiving it? A Yes, sir, this, by general election, I believe was forwarded to the City. I remember this in a general sense, yes, sir.

Mr. Fitzgerald: All right, sir. I offer this as County Exhibit 78.

(Document referred to above was [876] marked as County of Roanoke Exhibit 78, and received in evidence.)

Q Now, Mr. Hirst, you stated in your direct examination that harmony of operations cannot exist under the present organization of governments in the Valley, or words to that effect. Why can't there be harmony between the jurisdictions that exist in the Valley? A I don't recall using the word, "harmony," sir.

Q Well— A I don't believe.

Q Well, do you believe that? A I won't say that it cannot exist, I think that anything is possible. I think certainly by experience and observations in the time that I have been here, that harmony is most difficult at all times.

Q Do you think that harmony is going to be any greater if you only have got the City of Salem to deal with? A I think it would remove, or correction, I think it would lessen the contending factors.

Q Do you feel, Mr. Hirst, that in engaging in joint jurisdictional operations and functions, that both jurisdictions that might enter into, or all jurisdictions that might enter into a joint effort, should jointly own whatever facilities are involved? [877] A Are you speaking in the event of just Salem in the City of Roanoke, as proposed?

Q No, sir, I am talking about your proposition that joints efforts wouldn't work, or hadn't worked in the Valley. As I understood you to say, it took unification? A Yes, sir. I still am not sure of the question.

Q Well, in your opinion if the County of Roanoke and the City of Roanoke entered into a joint effort to provide services or facilities for the entire area, do you think that they should both jointly own and operate the enterprises? A I don't think that can be answered with a carte blanche statement. There are too many ramifications as to what facilities we are talking about. The basis of joint involvement, I don't think I can make a single quick answer to that.

Q Well, isn't it true, Mr. Hirst, then in every instance where it's been proposed by the City or County or City of Salem, or both, or by regional planning commissions or consultants that the jurisdictions join in a joint effort, that the City has insisted on owning the facility? A No, sir.

Q It is not true? A No, sir.

Q You mentioned your Civil Defense operation. Do you realize, or do you understand there is a difference in [878] the Civil Defense approach to urban areas and to rural areas? A I don't think in my judgment there is a difference in approach. There certainly may be a difference in degree of applicability, but insofar as approach, no, sir, I don't think so.

Q So you would make the same provisions for Civil Defense in a congested city as you would a rural area? A No, sir, I said as to degree. And I think this depends on the concentration of people, facilities, traffic patterns and this type of thing, sir.

Q You mentioned your Engineering Department, Mr. Hirst, and said that you thought it was a very necessary thing in an urban government, or government for an urban area. I believe it was testified that this arm of the City government had to do with providing for the construction of public facilities? A Yes, sir.

Q I asked, was it Mr. McGhee, was that his name? A Yes, sir.

Q The City Engineer? A Yes, sir.

Q About what he knew about the situation that the City found itself in as regards to the State Water Control Board and its orders, and he said that all he knew was what [879] he had seen in the paper, that he was not privy to the conferences that had been had on that. Is that true? A Yes, sir.

Q Who has conferred on this problem of meeting the requirements and the deadlines set by the State Water Control Board? A Insofar as the specifics of your question as to deadlines, no one has conferred with the State Water Control Board.

Q That has been one of the problems, hasn't it, Mr. Hirst, the State Water Control Board is complaining about? A No, sir. Now your question, and I have got to be technical here because for this testimony and other reasons, your question was as to deadlines. We have received no notice from the State Water Control Board as to any form of deadline.

The only indication we have had from the State Water Control Board was a letter that I received this past Friday—correction, this

past Thursday, which was addressed by the Water Control Board to the County of Roanoke, advising them that they were being permitted to add I think 75 connections. And they made reference to the fact, and I am in a sense paraphrasing from something here, that there was to be —that this was subject to their hearing the City of Roanoke on June [880] the 15th, in regard to the City's sewage treatment facilities.

Now there has been a great deal of newspaper publicity and radio and television comments about the Water Control Board issuing a moretorium about setting a deadline, about setting a hearing for the City of Roanoke to report on what it's going to do with its sewage treatment plant. Until last Thursday, and only through a copy of a letter addressed to the County, we have not been informed in any way, verbally or by writing from the State Water Control Board, that we are involved in or are being subject to a hearing.

On the following day, this past Friday, I wrote a letter to the Water Control Board advising them that we had received a copy of a letter addressed to the County of Roanoke, and also that we have received considerable amount of publicity in this matter. And that if the City is under a deadline, if the City is involved in anything in this particular respect, I would appreciate it if they could advise me as to the significance and the nature of the matter. And I have a copy of that letter here.

Q Mr. Hirst, that's the first time you have heard of a hearing on June 15th? A This is the first time, other than news accounts, I noted, though, other than news accounts, that we have received any form of notice or information with respect to any action of [881] the Water Control Board.

Q Within the last eight days or so, were you or the City requested to submit to the State Water Control Board a time table for making certain water improvements? A Yes, sir, we were.

Q And have you submitted that time table? A We have not submitted the time table. The time table became available to us this past week for the first time, and the time table was introduced into this testimony by Mr. Richardson of our consulting engineering firm, who conferred with us this past week. Because we had just reached the stage where we had a time table.

[882] Q How long ago was that requested by the State Water

Control Board? A I think, sir, last September. I believe I am correct. I will give or take time on it.

Q The City newspaper says almost eight months ago. Would that be a fair statement? A That is substantially correct. These instructions to submit a time table on whatever is to be done with the plant, and the Water Control Board has never told us, really, what they want done with the plant.

But all of this is an outgrowth of the new federal stream pollution standards.

Q How long did the State Water Control Board give you to submit a time table? A The State Water Control Board gave us—and I am attempting to recall Mr. Richardson's testimony, which is correct—I believe they gave us approximately three to four months to submit a time table on whatever is to be done with the sewage treatment plant.

Q When the three or four months had expired did you write the State Water Control Board asking for some extension of time? A We did not write the State Water Control Board as to an extension of time. We wrote the State Water Control Board [883] that we had referred this to our engineers.

We also had verbal conversations with members of the staff of the State Water Control Board. The relationship of the City, and certainly my relationship to the Water Control Board has always been, I think, very good. We are not in any way antagonistic, defensive, with the State Water Control Board. We have always had good communications with the Board.

Q Mr. Hirst, somebody gave the newspapers the idea that there had been a lack of communication between the City and the State Water Control Board. Do you know how they would have gotten that impression? A I am in no position to interpret the analysis of the newspapers upon matters generally.

Q You say that the sewer improvement plan testified to by Mr. Richardson last week here had not been submitted to the State Water Control Board at the time he testified to it? A No, sir, it had not.

Q Has it yet? A It has not. In my letter to the Water Control Board that I referred to written on Friday, two days ago, I advised them that we now had the schedule, that we are reviewing it locally,

and that it will go to them within a period [884] of ten days from last Friday.

Q Mr. Hirst, didn't you present the matter, or your witnesses present the matter to the Court, that this was the program, that it as not subject to review? A This was the program.

Now, sir, this is the time table as submitted to us by the engineers and the time table that I think is satisfactory.

On a local level I would believe, and I think that the requirements of the Board and our relationship with the Board is such, that we would need to supplement that with certain additional data. For example, sir, the time table which I do not have immediately available set a certain period of time between the date that the consultants would submit their final plans to the City and the date that the project could get under construction.

The Board is generally interested in how the City might approach the financing on a local level, whether there would be time required for bond issues, referendum and this type of information. I think this in all proper fashion should be submitted to them supplementary to the time table, and this is what I referred to when I say the local review and local information.

Q Mr. Hirst, you indicated in your testimony, I [885] believe, that you thought the County of Roanoke should have had an engineering department similar to the City's. Are you aware of the amount of construction of facilities, County facilities, that has gone on in the last ten years in the County of Roanoke? A I am aware that there have been construction—the construction of facilities. I am also aware that within the last two years there has been a considerable amount of construction of facilities.

I did not mean to infer in my testimony that I thought the County, by way of reflection, should have an engineering department. I think an urban area should have an engineering department.

Q This State Highway Department takes care of the roads and highways and streets of the County, doesn't it, sir? A Yes, sir.

Q And as a matter of fact you intend for them to do it for some time even if you annex the whole County, don't you? A Yes, sir.

Q You will have an engineering department working in part of the City, is that correct, checking the bridges and things like that? A I would say in the total City, yes, sir.

[886] Q Over and above the State Highway Department doing the same job in the rest of the County area? A Over and above or along with, however it might be expressed. I think we are going into additional matters of attention. I think a good deal of the bridge work, local inspection, will come under the City's obligation when it assumes the—if and when it assumes the County area these become properties of the City, according to my interpretation of what would take place.

We then become involved in the review of maps, property plats, working with property owners on property line locations, storm drainage and plans. We would take over the construction. This would be concentrated into an engineering department.

Q Mr. Hirst, the State Highway Department is going to do all of that in the area that is now Roanoke County, isn't it? A Not all of what I described. I don't think so, sir.

Q Don't you realize that the State Highway Department has its engineers? A Yes, sir.

Q And that they perform a function and that is design and building of highways and bridges, drainage media? [887] A They perform a function—Yes, sir, in those categories, but they do not perform a function in area drainage, as a for instance. I don't think so.

Q And you don't see that as a duplication of effort in the area of the County? A No, sir.

Q You say your Engineering Department helps people to establish boundary lines of their property, property lines and things like that? A This is done when there is a relationship of the boundary line or a question of the boundary line with respect to a street location.

Q Your Engineering Department establishes the right-of-way of the street and consequently the front lines of the property? Is that what you are talking about? A Yes, sir.

Q It doesn't get out there and decide where somebody's dividing line is, does it sir, between private owners? A Not between privately owned property, no, sir.

Q Your health department operation, that is the same State Health Department that the County has, isn't it, sir? A Yes, sir, with the exception that I believe we are perhaps more into the clinic

operation than the County. [888] Yes, sir, it is a State function, a State operation.

Q And you find no fault with the Health Department operated in the County, do you, sir? A No, sir, I don't believe I contend any particular fault with them.

Q And you don't propose any new health facilities within the County, do you? A No, sir.

Q You intend to operate only one Health Department, don't you, sir, if you annex the whole County? A This would be proposed.

Q Do you know what the City of Salem is going to do? A No, sir, I do not.

Q Who is providing that service for them now? A This is provided through the County Health Department. I believe they—that Salem contributes a certain share based on the ratio that I don't have immediately available.

Q So there are two Health Departments, one in the County that serves Salem along with the County, and the City Health Department, is that correct? A Yes, sir.

Q And don't you know that the City of Salem has [889] decided to apply directly to the State to have its Health Department paid for by the State directly? A I don't know definitely that they applied. I think in my testimony I anticipated that that situation would be possible and could be available.

Q So you are going to end up with two health departments in the Valley, is that right? A If Salem set up an independent department there would be two Health Departments, yes, sir.

Q You haven't noticed their proposed budget or the budget for the coming fiscal year that sets it up just that way? A No, sir, I have not.

Q Have you ever heard of a jointly-run Health Department or a Health Department—a joint Health Department for two jurisdictions? A Yes, sir.

Q The City of Roanoke and the County of Roanoke could have one joint Health Department operation, couldn't they? A This could be done, yes, sir.

Q Has the City ever proposed that unification? A No, sir.

Q In your observation of Health Departments as [890] City Manager, have you observed that there may be some difference in providing for the health needs of an urban area and a rural area? A Yes, sir, there are differences.

Q And you say that if you acquire Roanoke County and its Health Department that you would suggest to Craig County to go elsewhere for the services provided to Craig County from Roanoke County, is that correct? A I didn't intend to suggest it only in that bracket. I think that my point in my effort to state it was that it would be a possibility—or may I say at this rate, that Craig County could continue to be serviced by this department or perhaps affiliated with one of the adjoining counties. I would feel, in my judgment, that the latter might be preferable.

Q What has your discussion been with the officials of Craig County? A We have not discussed this with Craig County.

Q You did not discuss it with Craig County, although you are going to make a change probably? A No, sir, we have not discussed it with Craig County.

Q This juvenile detention home that you have spoken of, is that owned by the City solely? [891] A Yes, sir.

Q But it is jointly used by the County of Roanoke and the City of Salem? A Yes, sir.

Q But the project is owned by the City? A Yes, sir.

Q When the City—did you receive any State funds when that was set up? A In construction, yes, sir.

Q And the funds received around the basis that it was a joint facility, weren't they, sir? A That is correct.

Q Because you couldn't receive those funds unless it was a joint facility, could you? A That is correct, there was an obligation for ten years.

Q But the City ended up owning the whole thing, didn't it, sir? A Yes, sir, this was the basis of it.

Q Is that facility about full, used to capacity? A That facility is used to capacity.

Q And recently didn't you tell the County of Roanoke that you were going to up their charges for keeping children from the County there? [892] A Yes, sir, we advised all of the jurisdictions that used the home or at any particular point that had any contract with the City. This goes back to the institution of this home in 1961 where various contracts were made with outlying agencies.

[893] Q At one point, did you advise these other jurisdictions that their rates were going up? A Yes, sir. They have been on a rate, I think I am correct, of $2.00, which is considerably below the unit price, the unit per DM bed-day cost. And I wrote to each of the political subdivisions, and asked them if they would be acceptable to a rate adjustment.

Q Mr. Hirst, when Roanoke County replied that it would be agreeable to get together and work this out, what was the City's reply, what was your reply? A We have not replied to Roanoke County or to the City of Salem, or to the County of Bedford, Boutetourt, Martinsville and the other political subdivisions.

Following this, following writing to each of these and getting acceptances, in a sense, from some and declamations from the others, we then have become more acutely concerned with the accommodation problem.

Q Well, you told them to forget it for the time being, didn't you, Mr. Hirst? You told Roanoke County to forget it for the time being? A Yes, sir, I did.

Q Yes, sir? A Yes, sir. I wrote to Mr. Robrecht, Commonwealth Attorney; he wrote to me, and I wrote back to him and told him [894] we would hold the matter in abeyance, because at the present time we were trying to determine just what can be done with the facilities.

We are in the process of estimating what costs—the City Council I think approximately a month ago formally instructed me to get costs on the expansion of the home, which would include information as to whether shares of cost would come from the State and/or Federal Government.

Q How about from our localities that use it? A We have not contacted them as to sharing in the cost. And this is not for the reason that we would not invite them to share in the cost if this develops to be the plan. But we need detailed—fairly detailed information as to what it would cost to expand this home, and then to what extent the Federal —the State Government might share in it, and as to what extent Federal money under law enforcement and so forth might be available.

Q The State participates only if it's a regional facility, doesn't it, Mr. Hirst? A I am not absolutely sure to whether this is done. This was the policy in 1961.

In the Federal law enforcement administration fund, I think this carries guidelines with respect to regional facilities.

[895] Q Your budget, Mr. Hirst, I believe you said would add one additional judge to the Juvenile and Domestic Relations Court of the City? A Yes, sir.

Q And that judge, or those judges, will sit in a courtroom someplace in the City of Roanoke? A Yes, sir, we indicated that, which would propose to be the facility for this court.

Q All right. And how many judges do you propose to add to your Municipal Court? A I would have to refer to my records on that, sir. I am not absolutely sure sitting here.

Q All right, sir. How many judges do you propose to add to the Hustings Court? A We do not propose any additional judges to the Hustings Court, insofar as this budget is concerned.

Q How about the Law and Chancery Court? A The budget does not propose any additional judges.

Q Do you think that additional judges in those two courts will be needed, or are needed if you annex this entire County? A I am not totally certain, and I think this would have to be something that for a final determination, would have to come about by decisions, this type of thing with respect to [896] the judges of the courts, as to what they would anticipate would be their court scheduling, the distribution of court work. And I certainly wouldn't superimpose myself upon what might be the resulting decisions insofar as they are concerned.

Q What have your conferences with the Law and Chancery Courts and Hustings Court been, what did they tell you they will need

if the whole County is annexed to the City? A I have not, or we have not, either way, discussed with the Courts this particular budget on projecting their court requirements.

Q Does the City pay part of the salary of these judges? A Yes, sir.

Q The City provides the courtrooms for these judges? A Yes, sir.

Q I noticed, Mr. Hirst, that your audit expenses were going to triple. You went from $10,000 to $30,000. Can you explain that? This is your private audit, I believe, it's Department No. 12, independent auditing, you call it. A I would like to refer to my notes specifically on that, sir.

Q It's page 15. A Yes, sir. I have the budget.

[897] Q All right. A I can't answer that specifically without having the opportunity of referring to notes.

Q Well, Mr. Hirst, did you prepare this budget? A Yes, sir. I am responsible for it, yes, sir.

Q And in increasing the independent auditing costs from $10,000 to $30,000, you got to look at some notes? A Yes, sir.

Q Did you have work sheets that these figures were derived from? A Yes, sir.

Q Do you have them with you? A I have them in the courtroom.

Mr. Fitzgerald: May we have those?

Mr. Davenport: Yes, you may have copies of them, if we can make copies. We have got one set of work sheets in the courtroom, is that right?

The Witness: I have the original set, the set in the courtroom.

Mr. Davenport: That is the set that he is working on for the City budget, that he has got to submit to the City Council. They can be made available to him, we will try to get you a copy.

Mr. Fitzgerald: We will make a copy if you will [898] make them available to us right now, we will have them copied before the day is out.

Mr. Davenport: My answer to that, your Honors, is that these papers ought to be under the supervision of him, and I think you have had copies. Are they in process of being made, Mr. Hirst?

The Witness: We have copies in the process of being completed. These copies were started yesterday.

Mr. Fitzgerald: Maybe I can ask Mr. Hirst.

By Mr. Fitzgerald:

Q You don't submit a budget like this to the City Council for approval, do you, sir? A No, sir.

Q It's not in that form, is it? A No, sir. I have never contended it ever was.

Q You didn't contend that the budget was in this form? A Not to the City Council?

Q I see. Do you have the budget that you have submitted to the City Council, that these figures are taken from? A I have the form budget, form budget sheets.

Q You certainly have copies of those? A We are in the process of making a copy of those now, sir.

[899] Q Of the budget you have submitted to the City Council? A I have not submitted a budget to the City Council.

Q You have not arrived at a decision that is going to take a tax rate increase of $1.08 per hundred? A Yes, sir, I have arrived at that decision.

Q You have had to complete your work on the budget, then, haven't you, sir? A Yes, sir. This is it (indicating).

Q And this is what you are going to submit to the City Council? A I am going to submit a complete budget.

Mr. Fitzgerald: That is what we would like to have, your Honor, if we can get it.

Mr. Davenport: You can have it, if your Honor please.

Judge Hoback: Will you fix the time, sir?

Mr. Davenport: If your Honor please, if you will wait until we get to a recess, we will see if we can get it before the day is over.

Judge Hoback: Be glad to have a recess right now.

Mr. Fitzgerald: That will be fine.

(Recess taken.)

[900] By Mr. Fitzgerald:

Q Mr. Hirst, you now have a set of—what is it there? A These are the work sheets of the budget as is contained in this exhibit, sir.

Mr. Fitzgerald: May we have it overnight?

Mr. Davenport: Yes.

Mr. Fitzgerald: All right, sir.

By Mr. Fitzgerald:

Q Mr. Hirst, you mentioned the marketplace that the City operates? A Yes, sir.

Q Does the City charge the people who sell their wares there for space as such? A Yes, sir.

May I answer two questions that you have asked me with respect to the budget that I indicated I would get the information on? Is that in order? I don't want to appear not to answer your questions.

Q It is all right if you have the answers to questions I have asked you and you haven't answered them, yes, sir. A You asked me a question as to the municipal court, the number of judges. The budget proposes to add one [901] additional judge to municipal court.

The last question is to the reason for the increase in the auditing expense, we anticipate that in the event of annexation it would be necessary to conduct independent audits of the financial records of the County. The County follows, I am advised, a different accounting system and in order to audit this material and to interpolate it into our formal accounting, this is the reason for the additional funds, sir.

Q Mr. Hirst, you do have an independent audit of the City's finances, don't you, every year? A No, sir. The City's finances are audited annually, yes, sir.

Q We asked in the motion for production of documents for copies of your annual audit and didn't receive any. Do you have copies of the last five years of audit? A I do not have them here but, yes, sir, there are audits and there are copies of audits.

Q We didn't receive them. Can you bring those tomorrow morning when you come back?

Mr. Davenport: We will.

Mr. Fitzgerald: We never got them.

Mr. Davenport: They were not left with the group of documents listed in that reply?

[902] Mr. Fitzgerald: No, sir, and they are not listed in the reply.

Mr. Davenport: That is an oversight, then.

Mr. Fitzgerald: All right.

By Mr. Fitzgerald:

Q This marketplace, you do rent space to people who use it? A Yes, sir.

Q People come not only from Roanoke County but from Botetourt and Craig and Henry and Bedford and all around and use that, don't they? A Yes, sir.

Q What are the charges for people to use that space? What type of rate do you have? A I do not have with me at this particular moment our schedule of charges. The charges vary with the nature of the facilities.

We have a rental rate for what we call the inside stalls. These are —they are primarily the meat market facilities inside the building. We have floor rental rates applicable to the various stores, small restaurants and so forth around the building. These vary with the facility.

We also have curb rental spaces and I believe these vary with regard to the particular location of the curb [903] spaces.

Q Mr. Hirst, in 1961 in some testimony it was shown that this market operation was done on a business-like basis and it was a profitable operation for the City. I assume it still is? A No, sir, in honesty I do not think I could classify it as a profitable operation in the sense that the City makes money off of it, no, sir.

Q You have no idea what the amount of income is over or under the expenses, do you? A Not without referring to my budget, no, sir.

Q Whatever the rates are that are charged for the rental of these spaces, they are set by the City Council and recommended by you, aren't they? A Yes, sir.

[904] Q Your nursing home area, nursing home facility, that is also in Botetourt County? A Yes, sir.

Q Did I understand you to say that that was filled to capacity now? A Yes, sir.

Q Is that just for City residents? A To the best of my knowledge, only City residents are in there.

Q Now, if you annex this entire County, how are you going to provide for the people in the existing County that are going to become the responsibility of the City, that may need nursing home facilities? A Two aspects of that question:

One is that there is, of course, a turnover in the nursing home. It is not a considerable turnover, but there is a turnover that would be available, the turnover occupancy replacement opportunity to be available to the total County.

We, additionally, have proposed, I believe in our capital program, I think Mr. McGhee mentioned this, a consideration of an addition to the nursing home.

Q But that is to take care of the present City needs, isn't it, Mr. Hirst? A It could accommodate the present City needs, yes, [905] sir.

Q All right, sir. If those needs are produced by 92,000 people, and you are going to add 67,000 people, then somebody is going to have to do without, isn't that true? A Well, I think, sir, the whole area of nursing homes and places for people who are indigent, or in such physical condition in their age that they need private care, is a major problem to all localities.

I would be inclined to question that anybody would ever really build a facility in the present trend of the times, that would accommodate everyone who wanted occupancy in it. We could add the home, and I would anticipate very shortly fill it for the City.

The objective here is that through this proposal of annexation, or if this additional area is added to the City, that the home would serve a wider area, would have a wider base as to the need for expansion, and would be a public facility available to the citizens of the County.

Q Mr. Hirst, as I understood the testimony of your engineer, that this was a project that was planned, that was going to go ahead and

be done without annexation? A I would say that the likelihood, yes, sir, that this would most likely take place.

Q That is a capital improvement program, isn't it, [906] sir? A Yes, sir.

Q Now, you mentioned your personnel department of the City, and indicated that this was perhaps the only agency in the area who tested people and classified them and did functions like that. Do you have a State Employment Commission office anywhere around here? A I, sir, did not state that this was the only agency in the area that did this type of work. I said that to the best of my knowledge, this is the only local government unit that concentrates in a single governmental department, or unit, the functions of personnel.

Yes, there is a State Employment Agency here, sir.

Q Do they provide testing facilities to test the capabilities of people, and try to find them employment in various places? A To a certain degree and in certain categories. They do not, to my knowledge, fulfill the functions, all of the functions that a Government would be interested in in testing.

They do not, to my knowledge, test firemen, they do not test policemen, they would not test promotions, or rather promotional capabilities of employees in service and in employment on a continuous basis.

Q Did you ever hear of a local government whose [907] department heads had the responsibility of selecting employees under them, testing employees to see whether or not they could do a certain job or not? A Yes, sir. I am sure this is done in instances. It has been done in past years in the City.

Our experience has found, or has determined to our judgment, that a much more adequate and perhaps a much fairer testing program is conducted in an area of our particular size, if it's done under an independent agency without the personal relationship, particularly the head of the department conducting under his own standards.

Q Mr. Hirst, you said that in the event the County of Roanoke was annexed to the City of Roanoke, that the City was offering job security to the County employees, and that you were sure that things could be worked out mutually between the two jurisdictions. Do you recall saying that? A I recall saying that it would be our intent or

generally this was the approach of my statement, that we would certainly make every effort, and certainly intend, to the best of our ability, to cooperatively work out the blending of personnel.

[908] Q And didn't you use the word "mutually done." A I probably did.

Q For something to be mutual, it would have to have two entities, wouldn't there? A Yes, sir.

Q If you annexed the whole County, there is going to be no County of Roanoke to have any cooperation with or mutual agreements with at all, is there, sir? A Well, I am not speaking, sir, with respect to mutual agreements. The intent and the direction of that which I have just said is that it would be my personal and official hope —and again let me make an assumption for the purpose of explaining my statement, that if this annexation were granted—let me say again this is May 1—that between then and the effective date of any annexation that through our department heads, the heads of the departments within the County and the Town of Vinton, myself, and my counterparts in the County government and the Town of Vinton government, that we might jointly sit down and work out how these people might best fit in, their capabilities and this type of thing. This is the intent.

Now, of course I recognize, as you say, that effective upon annexation—again I am doing this for purposes of supposition—that it becomes one. But the thrust of what [909] I was saying was that I would hope that we might be able to—that prior to that time we could resolve how best we could apply the personnel of the merging governments.

Q Mr. Hirst, you have done all of this planning, have you, that the annexation would become effective December 31 at midnight, the end of this year, if it became effective? A This is the basis, yes, sir.

Q And that as of January 1, 1972, the County of Roanoke would exist no more. Is that true? A True.

Q And the City of Roanoke would have the responsibility of providing the facilities and services for the entire area? A True.

Q This is true of the school system as well as any other function of government, is it not? A Correct.

Q On December 31, 1971, you have got a school system run,

operated and owned by the City of Roanoke, haven't you? A Yes, sir.

Q The next morning what is going to happen to the contracts with the teachers, the school superintendent, his staff, the attendance areas? That is in the middle of the [910] school year, isn't it, sir? What is going to happen with the schools in the City of Salem on January 1, 1972?

The answer to that is, of course, they are not going to be open New Year's Day, but the following day. A You stole my point, sir.

Q But the salaries are going on, aren't they, sir? A Yes, sir.

Q And their duties and responsibilities are there? A Yes, sir.

Q How are you going to do it? A Well, at the outset of my attempt to answer your question I do not contend to be the authority on the school field. I think this is Dr. Alcorn's field.

I believe that Dr. Alcorn testified to the fact that there would be no changes—and I am attempting to interpret my listening to his testimony—that there would be no changes with respect to school attendance zones within the middle of a year.

I would assume, sir, within the limitations of my capabilities to assume in a matter of this kind, that the determination of the Court would cover certain matters with respect to contracts and this type of thing.

From the area of employment, insofar as I am [911] involved in the City government, to the extent that there would be personnel contracts for employees of the County and the Town of Vinton, in my area of responsibility it would be my intent and our intent to honor those contracts.

To the extent that I can speak for the school superintendent, I think it would be the intent of the school system to honor those as pertain to the school system.

Q Mr. Hirst, you heard the superintendent of schools state that he did not know who was going to be superintendent of schools when this annexation took effect? Did you hear that? A Yes, sir.

Q Do you know? A No, sir.

Q You are sure you are going to be City Manager, though, aren't you? A No, sir.

Q You are not sure of that? A No, sir, I am not sure even without annexation.

Q I intended to pursue that.

So you would leave it to the Court to work it out, all these details of waking up on January 1, 1 972, and there would be no more County of Roanoke; it would be completely abolished? Those are problems you leave to the [912] Court? A No, sir, I don't think we are saying, either Dr. Alcorn or I, that we are leaving these matters to the Court. I think in what we have attempted to present here we have attempted to describe to the best of our judgment those things that we think can be done and should be done and how they must be done.

There are certain matters that certainly we cannot determine at this particular stage for a number of reasons—time, conditions, people and this type of thing. Our effort would be to try to resolve those points between now and then and I am sure that, as in all annexation cases, there are certain areas that are covered by decrees of Court that are beyond the jurisdiction of City Councils or Boards of Supervisors or Managers.

Q In any event, what you are saying is that there are questions that are not possible to answer now? I believe that is what you said. At this time you said that answers were not possible. A I think it is possible to answer a great many questions. I feel that the relationship with those that are unanswerable at this point to those that are answerable is heavily in favor of those that are answerable.

Q My question was, sir, there are questions that [913] cannot be answered at this time? A There are questions, yes, that cannot be answered at this time.

[914] Q Yes, sir. All right, sir. In your plan of merging the County employees with the City employees, will you give consideration to the seniority of employees? A We would recognize the seniority of the County people and the town of Vinton people. And by that, if I follow your questioning, sir, if we were to have come into this organization, let me say an employee of the town of Vinton with 25 years of service, we would recognize that 25 years of service and fit him into the respective unit of government in such a manner that he is no different, insofar as length of service is concerned, with the City of Roanoke employee that has 25 years of service.

Q Mr. Hirst, you will have one retirement program for those employees who were employees of the County of Roanoke and one retirement program for the City employees of the existing City, is that what you said on direct examination? A Yes, sir.

Q And which program are those new employees going to fit into? A The new employees—well, may I break that down? Those employees who come from the County and would come from the town of Vinton who are under the State Supplemental Retirement System and would prefer to remain under that, and certainly there are many employees who have such equity in that system [915] that it would be considerably to their disadvantage to change, they would be carried and continued under the State Supplemental Retirement System.

Q Suppose they wanted it transferred to the City Retirement System? A If they wanted to transfer to the City Retirement System, I think as I stated, they would have the option to transfer to that system.

Q Well, let's just see if there is a problem there that hasn't been answered. Would they be able to take their State retirement equity and put it into the City's retirement plan, or will the City pay for their—the amount they would have paid had they been with the City, or will the employee have to pay that? A The employee would come in—well, you have to go at this in two directions, sir.

Q Yes, sir. A The employee who wants to come into the City Retirement System, there is a certain point within this, as we have looked at the comparison of the two programs to this point, there is a certain point at which an employee can make the transfer, and it would be mutually beneficial to them to make that transfer.

As far as—well, maybe I understand your [916] question after thinking and talking at the same time. The employee who wants to come into the City Retirement System, who would not be in a position, I do not believe at this point, to pay their backup membership, so to speak, and to pick them up and to absorb the equity that they have in the State Supplemental Retirement System.

Q All right, sir. That is my question. A Yes, sir.

Q If I am an employee of the County of Roanoke, and I am taken over by the City of Roanoke and I have been with the County for ten years under the Supplemental Retirement System, but now I

am a City employee and I am a City taxpayer, in order for me to get in under the retirement plan that the other City employees have, I have got to pay all those back payments and lose what I have in the Virginia Supplemental Retirement Program, don't it? A As it would now stand, an employee, after a certain point in equity, would have to make the transfer themselves.

Now not to necessarily play upon your question and because I don't have the answer, and we can't answer this question.

Q That is another of the questions that cannot be answered, is that true, at this time? [917] A No, sir, we can't answer the question because we don't have the employee data on County employees. We don't have length of service, we don't know age information and what would be done, if we were placed in the position of this annexation, I think we would have to take all of the employees of the County, evaluate their age, go into an actuarial study of them.

Q Mr. Hirst, excuse me. Don't you know that your counsel asked for that information in interrogatories and received that information, and that you have had it for several months? A I don't know for sure, no, sir.

Q You did not receive a copy of the number of employees, their length of service, their salary skill from the County? A And their age, sir?

Q Yes, sir, all the data asked for by your counsel? A If we have it, I just don't have certain recall of it.

Q All right, sir. Is the major difference between the Welfare Department of the City and the Welfare Department of the County the fact that the Welfare Department of the County has a Welfare Board?

Mr. Davenport: May I interrupt, your Honors?

[918] Because I don't want to leave an improper impression on the Court. I don't think we asked for that information, Mr. Fitzgerald.

Mr. Fitzgerald: Well, your interrogatories—

Mr. Davenport: I don't think it was asked for. If I am wrong—I have got them all over in the office across the street.

Mr. Fitzgerald: Your interrogatories are filed on record, and they will show whether you did or not. It's our belief they were.

Mr. Davenport: I raise the question now, that's all I want to do, if the Court please.

By Mr. Fitzgerald:

Q All right, sir. The Welfare Department, is the major difference between the Welfare Department of the City and the County, is it they have a Welfare Board in the County and not in the City? A The City has a Welfare Board.

Q Who is on that Board? A The Board consists of the Superintendent of the Department and the Director of the Department.

Q The Superintendent of the Department and the Director of the Department? A Yes, sir.

[919] Q You mean that the Welfare Board consists of those who operate the Welfare Department? A Yes, sir.

Q Do you sit on it? A No, sir. This is provided by the State Statutes within the City.

Q But there is no citizens other than the two that are charged with the duty of administering the Department? A There is an Advisory Board, a Welfare Advisory Board appointed by City Council.

Q Are you on that? A No, sir, this is totally a citizen's group.

Q But they don't have the authority to approve or disapprove of the policies of the Department, do they, sir? A Not formal authority, no, sir.

Q So you have got a Board that approves its own policies or disapproves its own policies, as the case may be? A Well, there is still the City Manager and there is still City Council.

Q So you, in fact, supervise the Welfare Board who supervises itself, is that the organization? A Yes, sir. I am not sure how I can supervise something that supervises itself, but, yes, sir, I will buy that.

Q All right, sir. Do you understand that from [920] your experience with Welfare, that there are some differences between the administration of welfare in an urban area and a rural area? A I don't know. I would not feel that there are great differences in administration between urban and rural areas.

There might have been five, ten years ago, particularly differences in administration between those counties of less population in relation-

ship to those of heavy population. But I think the rules and the regulations and the edicts and the procedures that have come down have pretty well put us all in the same ballpark.

[921] Q Do you have a food stamp program in this City? A No, sir.

Q Are you aware whether there is one in the County or not? A The County has a food stamp program.

Q This would go out the window in the case of annexation of the whole County? A Not necessarily, no, sir.

Q I didn't hear any proposal on your direct examination to continue the food stamp program that the County provides. A No, sir, we provide a commodities program.

Q That is the surplus commodity thing, isn't that true? A Yes, sir. It is commodities, but they no longer use the word "surplus," but it is commodities.

Q If the area is annexed there will be no more Welfare Board to supervise the welfare superintendent and welfare department, will there, as the County has now? A I think there would be that which would take place, yes.

Q You said that the City was employing 26 more welfare people? A This is a proposal that I intend to make to the [922] Council and this is the content of the budget.

Q You wouldn't make the proposal, Mr. Hirst, if it weren't needed would you? A No, sir.

Q And this is a proposal, regardless or irregardless of annexation? A Yes, sir.

Q That you need 26 more welfare workers in the City of Roanoke? A Yes, sir.

Q How many do you propose to add because of or as a result of annexing the whole County? A Our total projected staff, as I remember—would you excuse me one moment, sir?

Q Yes, sir. A We proposed in the budget ultimately in 1972-73—

Q What page are you on? A Page 32, sir.

The staff proposal, if I total my figures correctly at this time, would be 132 and that is broken down by 69 as currently authorized for the City, 37 as we calculate available from the County of Roanoke, and the 26 that you have already mentioned.

Q So the answer to the welfare situation is that [923] you intend to—the need of the County would be exactly what they are provided for now because the other figures are needed for the existing City, isn't that true? A Mr. Fitzgerald, I go back to the statement that I made when I commented on public assistance and public welfare. I don't think that I or anybody else is really capable of projecting the picture with respect to public welfare six months, 12 months or two years hence.

Q Mr. Hirst, all I am trying to get is what you propose here and we can shorten this somewhat if you will stick to that. My question is, there are 69 present positions in the City? A Yes, sir.

Q You propose to add 26 regardless of annexation. You know that the County has 37 welfare employes? A Yes, sir.

Q And you, in the event of annexation, intend to add that 37? A That is correct.

Q All right, sir. That is all I wanted to know.

You went into this matter of planning, a little bit, Mr. Hirst, on direct examination, and you said that there is a problem of planning where you have areas outside your area that need be coordinated with your planning. [924] How many jurisdictions did you have adjacent to the City of Roanoke now? A Immediately adjacent, sir?

Q Well, there is only one way to be adjacent, I believe, sir, and that is to touch against or adjoin. A Yes, sir.

Q How many? A Two.

Q What are those jurisdictions? A The County of Roanoke and the Town of Vinton.

Q And of course the Town of Vinton is a part of the County of Roanoke, is that correct? A Yes, sir.

Q If this annexation is granted, how many jurisdictions will you have adjacent to the borders of the City of Roanoke? A Six, if my count is correct.

Q So the problem is going to be compounded, is it not, sir? A No, sir.

Q Did you count Salem in that six? A Yes, sir, I counted them, and if my six is right.

Q Tell us what they are. [925] A I counted Craig County, Botetourt County, Bedford County, Franklin County, Montgomery County and Floyd County. That is seven. And the City of Salem. I should end up with seven.

Q You should end up with seven? A Yes, sir.

Q Six counties and one city? A Yes, sir.

Q Do you have any reason to believe, Mr. Hirst, that the City of Roanoke is going to be any more cooperative with those seven jurisdictions than they have with the two? A We certainly, I think, enjoy the very best of relationships with those good people in the neighboring counties insofar as I know at this point.

Q But you haven't gotten adjacent to them yet, have you? A No, sir, we have got mountains between some of us.

Q Is the City of Roanoke a part of the fifth planning district? A Yes, sir.

Q Does the City participate in that regional effort? A Yes, sir, we are the major contributor.

[926] Q And do you receive recommendations and reports from that planning district? A Yes, sir, a great many of them.

Q You said in your testimony that it got to be a problem when you got to the last house on the street that was in the City and then the next house was in the County of Roanoke. Do you recall that testimony? A Yes, sir.

Q Mr. Hirst, you are going to have that last house and another house, the next one being in seven possible jurisdictions if the Court grants your request, are you not? It may be a farm, but it could be a house, too, couldn't it, sir? A In one sense, yes, sir, but I think to a minor degree.

[927] Q You said that the City had been blocked from its use of the Brushy Mountain site that the City owned for its refuse disposal

site. Isn't it true that the City applied for either use permit or zoning to use that property, and then later withdrew this application? A The City applied to use this property, the City did not withdraw its request. The City imposed upon itself a condition of moratorium.

Q I see. This was because of the consolidation pending at the time? A Yes, sir. This was done at the request of a Joint Committee that was involved in the advocacy of the consolidation referendum.

Q The City agreed, then, that to push for the use of that site as a refuse disposal site, was going to make some citizens upset, and therefore they might vote against consolidation, is that correct? A Well, this became, or was made, whichever word might be used, an emotional issue, I think, in the consolidation referendum. And I believe it was the judgment of our City Council, if I can evaluate that, that this should be removed from the much bigger subject of the unification of government through consolidation.

And the Council, on the recommendation of this [928] joint City-County Committee, established a moratorium until the date of the decision on—the date of the referendum.

Q I understand from one of the other City witnesses that if this annexation is granted, it's the City's purpose or the Administration's purpose to go ahead and utilize that site, which would then, of course, be in the City, as a refuse disposal area? A It is our interest to, I think initially, be able to go into a regional land fill, and secondarily to that is the fact that this location continues to be, in our judgment, one that is reasonable, is feasible and certainly usable.

Q Then it's your intention to use it, sir, is that right? A It would be our expectation to use it, yes, sir.

Q And this was your expectation had consolidation been successful? A Yes, sir.

Q That you would have gone ahead, then, and regardless of the opposition of citizens of the area, or out of the area, you intended to go ahead and use it then, didn't you, sir? A I am not going to follow that and say completely regardless of the citizens. I don't necessarily inject those remarks or that approach in my answer.

[929] I say at the time of consolidation, the City had petitioned the County of Roanoke, and the County had not I don't think pursued

our petition, so that in the event the referendum had been successful, we still would have been in the same status with the County of Roanoke. And the decision upon our petition would have still rested with the County.

Q I see. Even though it was consolidated into another City? A Well—

Q Is it true that you have not pursued the application for two years, sir? A There has been no formal push given to the application.

Q Has there been an informal push given to it, sir? A I think so, sir, yes, sir.

Q In what form? A In the form of discussions and comments from time to time, with members of the County Government.

Q But you have not asked that the matter be scheduled for hearing at all? A No, sir. There is still pending before the County, our request for scheduling of the hearing.

Q Wasn't it the position of the City that they [930] didn't want to—that they would not join in the use of the Dixie Caverns site unless the City could own it? A Absolutely not.

Q Absolutely not, all right, sir. That was never discussed, ownership of the site? A No, sir.

Q Mr. Hirst, you said in your direct examination that you, although your plan is to allow the Roanoke County Public Service Authority to continue, that you hoped that you would be able to acquire it in the future because it created a complicated situation, is that correct? A Essentially, yes, sir.

Q Well, even if you acquire that system, Mr. Hirst, you have still got the City of Salem's utility facilities, have you not, sir? A Yes, sir.

Q Do you know that the Roanoke County Service Authority has certain sanitation lines in the City of Salem? A Yes, sir. I cannot identify them, but I know they are within the City of Salem.

Q If the City of Roanoke annexes the County of Roanoke, the City of Roanoke would be operating lines in the City of Salem. Do you think that would pose any complications? A I think it would. I

think the City's intent [931] would be to relieve that situation, or to eliminate the situation. Because if we are seeking the objective that I have just described, I certainly don't think we would want to try to perpetuate the City of Roanoke's having lines within the City of Salem, or perhaps vice versa.

This is not said critical of any relationship.

Q Yes, sir. Mr. Hirst, there are considerable amounts of water and sewer lines owned by private utility companies in the area sought to be annexed, are there not, sir? A Yes, sir.

Q And you don't need their permission to take them over, do you? If they become part of the City, you can condemn them, can't you? A It is my understanding this can be done by law, yes, sir.

Q It's unlikely the Roanoke County Service Authority, that is protected in the case of annexation, they are not in that category, are they, sir? Is that your understanding? A This is my understanding. I would assume they are not involved with bond debt, State law and this type of thing.

Q Yes, sir. But you have no program here, you submit no program to the Court or plan to acquire those private facilities, do you, sir? A No, sir.

[932] Q You mentioned the fact that in one case where the City was providing water and the County providing sewers, that you found out that your lines were going to be put on the same side of the street and you changed yours so that they wouldn't be on the same side of the street? Do you recall that? A Yes, sir.

Q The Virginia Department of Highways determines where the rights-of-way of utility lines go, don't they? A Yes, sir, in the final analysis they do determine that, yes, sir.

Q You mentioned in the field of purchasing that you could accomplish some economies by having one unified purchasing system? A Yes, sir.

Q Does the City of Roanoke make use of the State Central Purchasing Department? A We have done so. Not a great deal, no, sir.

Q Are you aware that there are certain jurisdictions of the State that pool their purchasing power and purchase through—although they

are separate jurisdictions, purchase through one of their purchasing departments for all of the jurisdictions? Have you ever heard of that? A Are you referring to the State as the [933] purchasing—

Q No, sir. I am referring to a purchasing department of one jurisdiction, with all the jurisdictions of one area that need police cars, for instance, purchasing them through one of the purchasing departments? A I have heard this discussed in municipal circles. I do not know for sure, personally, that this does prevail, sir.

Q But you have heard it discussed or you have read it in your municipal publications, that for instance the City of Alexandria, the County of Fairfax, the City of Falls Church and the County of Arlington, no matter how much they may fight in other ways, do purchase the bulk of their things through a joint purchasing plan? A This I do not know.

Q You have never heard of that? It is possible, is it not, sir? A I would think it would be possible, yes, sir.

Q Has the City of Roanoke ever suggested this to the other jurisdictions in this area? A No, sir, it has never been suggested to us by them, either, sir.

Q I see.

You have described the library facilities of the [934] City and County, I believe. Mr. Hirst, would you say whether or not the branch libraries, as you call them, in the City are more similar to book stations? They don't have reference works and things of that sort in what you have called branch libraries, do they, sir? A Yes, sir.

Q And they have the same facilities you have in your headquarters library? A No, sir.

Q Have their libraries been losing circulation in certain of the branches, dropping in circulation over the years? A I can't answer you factually. We have had changes as to circulation. We have had changes by virtue of the movement of people.

For example, the Gainsboro Library, which is situated just north of the business area near St. Andrews Church, Roanoke Catholic High School—we have had a decrease in circulation there in comparison with, say, four or five years ago. This has been because of the movement of people. Part of the service area for this library was the Kimball Redevelopment Project. This has effected a decrease in book circulation.

Q So there has been some decrease in circulation? [935] A There has been some decrease. On the other hand, we have had increases in library use in branch libraries.

Q Do you know whether any of the people of the area of Roanoke County or the Vinton area has the use of the Roanoke College Library at all? A I don't know what the procedure is with respect to Roanoke College, sir. I do not know.

Q The library that is proposed to be located, I believe, on Melrose Avenue— A In that area, sir.

Q That is one that you propose to do without annexation? A Yes, sir. My point in stating that the other day was that we think we can better situate it in the event of annexation to be of service to more people.

Q But it is needed in the City now? A Yes, sir.

Q And you say the City has a book-mobile? A No, sir, I did not mean to say that.

Q The County has book-mobile service? A The County has book-mobile service.

Q Do you intend to continue it? A Yes, sir.

Q Are you going to make it run in the existing [936] part of the City? A Yes, sir.

Q Are you going to buy another one? A No, sir.

Q So to serve the existing City with the same book-mobile or book-mobiles the County has somebody is going to have to do without in the existing part of the County, aren't they, sir? A Not necessarily, and I don't think the operation of a book-mobile is such that you bring it into the immediate area of where you have branch libraries.

I think that within the present City we have libraries that are available to the entirity of our population.

Your question, as I understood it, is whether we intended to bring the book-mobile into the City, and I didn't want to answer you no and say we would not bring it into the City.

Q I meant, Mr. Hirst, you intended for the whole City to get the use of that book-mobile? A Yes, sir, the entire proposed City, sir.

Q And you mentioned the fact that the book-mobile would carry reference material to the various parts of the area? Do you remember saying that? A Yes, sir.

[937] Q Do you think a book-mobile carries reference works? A Yes, sir.

Q What are you going to do with Craig County for library services? A I am not aware that I have a responsibility with respect to Craig County. If Craig County is being serviced by a book-mobile—and if it is I am not aware of it at this point—we would certainly continue to provide that service to Craig County.

Q You don't whether the County of Roanoke provides libraries services to Craig County or not? A No, sir, I do not.

Q Anyway, you have not provided for it in the budget, have you? A If it is being provided in the present budget of the County of Roanoke, we have not reduced that budget to any extent such that comparable service could not be provided.

Q All right, sir, let's move to the fire service that you propose. One of your exhibits shows three proposed fire stations and I believe your engineer for the City testified that there was a fourth one to be built in the center of the City to replace No. 1?

[938] Q Those fire stations, I take it, except for the one you show on Peters Creek Road, are needed by the City now without any annexation? A No, Mr. Fitzgerald, I would term both of these fire stations, the one in northwest and the one in southwest, as being marginal insofar as just being a total need from within the City and—

Q Mr. Hirst—Excuse me. A No, go ahead, sir.

Q I was going to say that the Engineer said the fire chief of the City—The fire chief isn't going to testify, so far as you know? A So far as I know, no, sir.

Q So you are the last one of the City that might know something about the fire department, aren't you? A At this point, yes, sir.

[939] Q All right, sir. He said the fire chief told him that these stations were needed now by the City? A Yes, sir.

Q Without any consideration of annexation? A Yes, sir.

Q Now, you are not disputing that, are you, sir? A No, sir.

Q I am reading from the December, 1968 Roanoke Valley Regional Planning Commission report—

Mr. Davenport: What page, Mr. Fitzgerald?

Mr. Fitzgerald: At page 45.

Q It says:

"Five of the City's ten fire houses are over 50 years old, and all but one were constructed prior to 1930. The locations of the stations alone would give a fair indication of their age, since no station is located in an outlying part of the City where concentrated development has taken place in recent years. The newest fire station, No. 11, Garden City, has replaced the volunteer fire company which previously served the area.

As can be noted on the location map, those areas which are conspicuously unserved are the northern part of the Williamson Road area, Eastgate, the Brambleton Road area and the Washington Heights area."

[940] Now, do these proposed fire stations take care of these problems or those problems, rather? A First, I am going to disagree with that statement, I don't think it's correct.

Q What part of it is wrong? A I would have to have it to read the parts that are wrong, sir.

Q I have underlined what I read, if you want to look at it?

(Document handed to the witness.)

A All right, sir. Thank you, sir. As to the age of these stations being more than 50 years old, I don't have age data with me.

Q Is it wrong or right? A I don't know the specific ages of all of my fire stations, sir.

Q All right, sir. A The statement:

"The locations of the stations alone would give a fair indication of their age, since no station is located in an outlying part of the City where concentrated development has taken place within recent years."

Now I will acknowledge that we had areas of the City where we have not—many areas of the City where we have [941] not had concentrated development for many years. And I think that is one of the reasons that we are seeking this annexation.

Secondly, with the district definitions under which this Department functions and the area assignments to each of the stations, it is not particularly necessary that a station be applicable within immediately an area where there may have been development.

For example, sir, there is the area in the western part of the City along Brandon Avenue, north and south of Brandon that is where there has been apartment developments, some housing developments. This station is served—this area is served by the fire station that we identify as being on Memorial Boulevard, sir. This is an old station, I don't know the exact age, but it has some age behind it. This development area is within acceptable run distance from the particular station.

Now, this is one instance, and I think that I can move around the map of the City.

We have had limited development, the Court saw development of apartment complexes, for example, in the southwest, what we term the Riverdale area. There is a new station in that particular area. This becomes a conflicting statement to make, because it refers to concentrated development in recent years, which is a questionable factor.

[942] The second factor is that it isn't necessarily a situation that you have to build a station simply in an area where there is development, because the run time is adequate. Now it says further, sir, and I am reading, "As can be noted on the location map, those areas which are conspicuously unserved are the northern part of Williamson Road area, Eastgate, the Brambleton Road area and the Washington Heights area."

These are not conspicuously unserved. The Williamson Road area is served by the Williamson Road fire station. I think that is probably the second newest fire station in the City.

The Eastgate area is served by the fire station on Jamison Avenue, in generally the southeast area of the City. And it is also in reasonable run distance from the Williamson Road station.

The Brambleton Road area is also served by the station on Memorial Avenue; this is, though, in the area that would be served by this proposed station and southwest. And the Washington Heights area is served by the fire station on Loudon Avenue, and also the fire station on Williamson Road.

These are not unserved, and these are not conspicuously unserved.

Q All right, sir. My question is, does the [943] proposal of your fire chief and your proposal to build these fire stations solve any of

those problems as they are pointed out in there, whether you agree with them or not? A The building of the fire station that is proposed in the northwest at the airport will give us better fire protection, and this we acknowledge, to the north portion of the City.

The fire station proposed from the southwest area of the City will give better and closer fire service to the southwest area of the City. This, we acknowledge also.

Q All right, sir. I believe your proposal to serve the entire County and City, as you propose, you said that you would hope that the voluntary fire companies would stay in existence? A Yes, sir.

Q Because you only propose to put one man at each station at any time, is that correct? A At certain of the stations, I indicated that at other stations there would be a larger complement.

Q Well, at Hollins, you are going to add a number of men there, aren't you, sir, Hollins Station? A I think three on a regular basis. I believe my figure was three, sir.

Q At one time? [944] A Yes, sir.

Q And that Hollins Station will serve, in its designed area, part of the existing City, won't it? A Yes, sir. It can serve a part af the existing City, yes, sir.

Q Who do the people at the airport call in case of fire? A The response for fire calls at the airport is made by the Hollins fire station in the County, and the City's Williamson Road fire station.

Q The Hollins is nearer and it's usually the first there, isn't that correct? A Yes, sir, I think so.

Q And you mentioned the fact that you, in establishing the fire station on Williamson Road, would put equipment in there to go along with the existing equipment at the airport. Could you tell us what equipment exists at the airport? A The airport equipment consists of—excuse me, I am trying to think of the terminology—too, I will call them phone trucks, there is another word for them. These are giant vehicles for the purpose of handling aircraft fires.

Q Does the City operate them? A Yes, sir.

[945] Q You are sure it does? A Well, to be technical, one of the trucks is based at the airport and is operated primarily by Pied-

mont Airlines personnel. The second truck is now stationed at the Williamson Road station, and would be operated by City personnel.

Q So the only fire truck at the airport is a fire truck operated by Piedmont people, who have other duties? A There is also another unit at the airport that is operated by airport personnel.

Q What is that? A This is a truck with a hose and water.

Q Is that the one that is seldom operable? A It has its problems, sir.

Q Yes, sir. How many fire fighters do you keep at the airport now, sir? A We do not keep any at the airport.

Q All right, sir. These volunteer fire companies, you propose to acquire all those fire stations, do you not? A Yes, sir, assuming status of ownership. Now we don't know as to each station.

And may I back up and qualify my answer, because I would anticipate that perhaps some of these stations are owned by volunteer companies, some may be owned by community organizations. And when you ask me and I say yes, we propose to acquire, [946] the City is, I don't think, intending to move out and physically acquire stations or condemn stations, to my knowledge.

Mr. Hirst, haven't you assumed in this case that the County owned all those stations? A Yes, sir.

And that upon annexation, the City was going to assume them? A Yes, sir.

Q Or absorb them? A Yes, sir, this is our assumption.

[947] Q So if some of those stations are now owned by the County but may be owned by the Lion's Club or some private individual, you won't have a fire station there, will you? A There would be a question of what is going to happen to the fire station or where the fire station is going.

Q That is a question that is not answerable at this time, is that correct? A Not as to each individual one, no, sir.

Q How are you going to—Have you had any conversations with the chiefs of the volunteer fire companies? A I have not, sir.

Q So you don't know whether they are willing to operate under a City program, paying City taxes for fire protection, and still do it on a volunteer basis? A No, sir, I do not.

Q And if the volunteer firemen say to the City, "We are paying you the taxes now so you provide the fire protection, we are going home," you don't know what you would do, do you, Mr. Hirst? A I don't think we are in a situation of panic, as your question might imply. I think we have an obligation to provide fire protection the entire City. What we would do in a particular area if the volunteer company walked out or told us to get lost, I am just not sure as to the particular [948] situation.

Q Mr. Hirst, you only plan in most of these stations in the County to have one paid fireman there, don't you? A Yes, sir, on any one shift, yes, sir.

Q At any one time? A Yes, sir.

Q That one man can't operate a fire truck and maintain the station and go fight fires at the same time, can he? A No, sir.

Q So without the volunteer firemen your plan won't work, will it, sir? A Not as it is now set up.

Q That is what we are talking about, that the plan you presented to this Court won't work unless the volunteer firemen continue. A That is correct, as it is now set up, yes, sir.

Q And yet you tell the Court that you have not conferred with the chiefs of the volunteer fire companies about this? A No, sir, I have not.

Q All right, sir.

You mentioned that the City had a rating—what [949] was the rating of the City? A Class 3, I believe, sir.

Q What happens to your rating if the Court should agree to your proposition and annex the whole County to your City? A This I don't know and I don't think it is answerable by anybody at this particular point.

Q Let's pinpoint it to the use of volunteer firemen. What does that do to your rating, Mr. Hirst? You know that, don't you, sir? A Well, volunteer firemen—the use of volunteer firemen is a factor that is taken into consideration by the American Insurance Association in determining its rating. There is a difference in rating points between a full-time fire department and a volunteer fire department.

Q Or a conbination? A Or a combination.

Q A full-time fire department has the higher rating than either a fully-volunteer service or a combination of the two? A That is right, yes, sir.

Q So you would assume your rating would have to go down, wouldn't you? A Yes, sir.

[950] Q What is that going to do to the insurance rates, the fire rates, for insurance in the city? Are they going to go up? A I don't know what bearing it would have on it.

Q What have your conferences with the rating bureau told you? A We have not conferred with the Rating Bureau. The decisions of the Rating Bureau are usually something that are fairly indeterminable. I don't know.

Q This is another question unanswered at this time? A This is another question unanswered at this time, yes, sir.

Q What is the relationship going to be between the City and the Forest Warden Service? What have your conferences with the Forest Warden Service told you about that now? A The Forest Warden Service would continue in the same—insofar as we would certainly anticipate, on the same status that they are performing at this particular time.

Q Mr. Hirst, I haven't seen anything in your budget about that. A No, sir.

Q And you have not planned for it, have you, sir? [951] A Not insofar as local expenditures, no, sir.

Q And you have not conferred with the Forest Warden as to whether or not those services will continue in a City, have you, sir? A No, sir.

Q Another question unanswered. Is that correct? A Yes, sir.

Q How will you communicate with the volunteer firemen in case they agree to provide services for the City? A What form of communication do you mean?

Q Mr. Hirst, are you familiar with how the volunteer fire service operates? A You mean as to fire alarm or response?

Q How the volunteer firemen are called to a fire. Do you know the communications system they have? A I thought you meant as to—

Q Talking? A Talking to each other.

Q That is another problem, as I understand it.

I am talking about calling the communications system to alert and call volunteer firemen to the scene of a fire. What proposal do you have to operate such a system as that? A I don't know how each volunteer fire company [952] operates within its company or area of responsibility.

We are proposing, insofar as the stations are concerned, to set up direct connection with our own communications center with the stations themselves. We would lease lines to the more distant stations.

I don't know insofar as what the relationship of the Bent Mountain Firemen with the Catawba Firemen—how their immediate control system works, but I assume we would take over that which is there and if we can establish in some way a common system this would be done.

Q Mr. Hirst, do you know how volunteer firemen in Roanoke County are alerted and called to the scene of a fire? A I don't know how all of them are. Some of them are called by radio system. The Cave Spring Fire Department is handled by a beeper system, a radio call system. I don't know whether that applies, for example, in Bent Mountain. I don't know how the Bent Mountain Fire Department members are called.

Q You don't know how they are called from their homes or places of business where they may be? A No, sir, I do not.

Q All right, sir.

Mr. Hirst, in regard to parks and recreation, your [953] exhibits couple those two things together, do they not? A Yes, sir. One exhibit, as I recall, the map exhibit, was of the park systems. The second exhibit, as I recall, was of the facilities within the park areas.

Q Don't you have a Park and Recreation Department? A Yes, sir.

Q You operate it as one entity, don't you, one department? A Yes, sir.

Q Do you feel that the National Forest in Roanoke County provides any recreation for the people of the area? A As an area, yes, sir.

Q Because hunting and fishing are recreation to some people, aren't they? A Certainly, sir.

Q Do you feel that the parkways around the mountain-tops of the County provide recreational areas for the people of the area, the City and County? A With respect to the Blue Ridge Parkway, yes, sir, picnicking, camping, and driving and sight-seeing.

Q Picnicking is one of the things I believe you show you had facilities for in some of your parks? A Yes, sir.

Q But there are picnic facilities in the County [954] that you haven't shown on the map or on any exhibit? Isn't that true? A Our exhibit does not include the Blue Ridge Parkway and does not include the National Forest, no, sir.

Q They are there, though, and available to the people of the area, aren't they? A Yes, sir.

Q You have alluded to the number of parks in the City, Mr. Hirst. Are you familiar with this same regional planning report in which you read about the fire services of the City, December 1968, and what it said about the City parks? A I am not familiar in detail with it, no, sir. I know of the report and I think I read it at the time.

Q I will read from that report, Page 37:

"Major deficiencies are identified in the total absence of tot lots and the lack of a sufficient number of playgrounds and athletic fields."

Do you disagree with that? A Yes, sir.

Q Have any additions to those facilities been added since 1968? A There have been additions to our facilities since 1968.

Q I will read further: "Since a large part of the [955] total acreage was given to the City it is not always well located in relation to the population distribution."

Does that problem still exist? A We have not relocated any parks since that particular time. I would question that statement, though.

Q "Most of these gifts were made prior to 1940 and are confined to the oldest sections of the City, namely the southwest section. As a result the newer sections, especially those annexed in 1943 and 1949, are very deficient in park space." A I disagree with that.

Q But the annexation lines of '43 and '49 superimposed on your park map will show that its division of the parks and the relationships thereto, won't they, Mr. Hirst? A Would show the distribution of parks——

Q You take your maps showing the location of parks and apply to that an overlay of the annexations of '43 and '49 and you will see that, won't you? A Yes, sir, you will see the distribution.

Q You mentioned the fact that you assumed or were sure that the people of the County used the park facilities of the City? A Yes, sir.

Q Is it just as valid an assumption if you assume [956] that the people of the City who wish to hunt and fish may go out into the County and do so? A Yes, sir, if they want to hunt and fish.

Q You would assume that there are people in the City of Roanoke who hunt and fish? A Yes, sir.

Q And some in the City of Salem, I think? A You are just restating your question, sir.

Q You mentioned the fact that teams of the County compete in a program with the City in the sports of softball, football and those sorts of things? A Yes, sir.

Q Isn't it true that the teams of the City also participate and compete with the teams of the County in their programs? A Yes, sir. I think the greater weight is to the former.

Q Does the County furnish any recreation facilities to the City? Well, to speed it up, do you receive the use of a portable stage that the County owns and the City uses from time to time in its program? You are not familiar with that? A I am not familiar with a portable stage, no, sir.

[957] Q Now, sir, if we can get to the police, I assume that your Chief of Police will not be testifying, to your knowledge? A Not to this point, sir.

Q Mr. Hirst, will you tell us whether or not the City has acted on the proposal by the County and a proposal by the Commonwealth Attorney of the City, to enter into a mutual aid pack with the County of Roanoke? A No, sir, I don't know that we have received a proposal.

Q You are not aware that the Commonwealth's Attorney of the City of Roanoke has proposed a resolution to the City Council of Roanoke, establishing a mhtual aid pack with the County of Roanoke in law enforcement? A The Commonwealth's Attorney made a proposal, or submitted a proposed resolution to the City which was generally, in substance, as you have stated.

This matter, as I understand it, is now back in the hands of this Joint Committee, or joint group, or however it may be described.

I have heard nothing further from it since. I don't think the matter, to the best of my knowledge, is awaiting any action on the part of the City. It is my understanding it is still in the hands of the joint group.

[958] Q Who is the joint group? That is not the same Subcommittee that is handling the school bus, is it? A No, sir. This is a joint group that I believe consists, and if I am in error as to specific individuals, I will stand corrected, I think the Sheriff of the County is a member of the group, the Chief of Police of the City, the Commonwealth's Attorney of the County, the Commonwealth Attorney of the City—I believe generally it is made up of representatives of the Prosecutors and the heads of the police agencies in the area.

Q Are you sure the City Council has appointed its members of this Committee to work out the details of this? A Not to my knowledge, sir, and my best recollection. It is possible, and this I can't recall for sure, that the resolution as submitted to the Council may have been assigned to me, because it was then—this I am not sure.

Q It may be still on your desk, mighten't it, Mr. Hirst? A Not in the sense that I would read you are inferring. I again would go back to my original point that the matter, as I have understood it from the Commonwealth's Attorney, and also from the Chief of Police, is still under consideration by this joint group. And as such, has not come back to us in a final form.

[959] I was advised by both the Commonwealth's Attorney and by the Chief of Police after this resolution had been submitted to the

City, that they still felt as a group there were refinements that there still were points to be worked out. And as a result, we haven't taken any action on it. And I have not gone back to Council. It is not, and I emphasize this, sir, any intent to lock this up in a closet somewhere.

Q When was this recommendation made to the City Council? A I would have to guess, and I will guess between nine months and a year ago, sir.

Q All right, sir. Would you say, Mr. Hirst, that the police needs of Roanoke County are different from that of Roanoke City? A Now, sir.

Q They don't need police—they do need police officers to the same degree and intensity as the City? A Well, we can go back to the question of what are police needs. If we are going to talk about whether you need one policeman for an area of five square miles in one portion of the total area, and you might need ten policemen for the same square mileage in another area; yes, needs are different.

Q Well, you have recognized that in your proposal, [960] haven't you? A I have recognized that in my proposal. As far as a standard of law enforcement applicable to all citizens, the needs are the same.

Q Let's see, Mr. Hirst. You have, I believe you said, how many police officers per thousand people in the City at the present time? A The figure I used was 2.1.

Q And how many will you have in the City if the annexation is granted? A As I recall, the figure was 1.5. I am recalling from memory, sir.

Q Yes, sir, that is what you testified to. So the police service of the new City that you propose will be less than you have got now in police officers per thousand? A This is correct, yes, sir, insofar as the present City of Roanoke is concerned. Insofar as the County is concerned, it will be raised.

Q Yes, sir, but you are recognizing the fact—we will get to that in a minute and see where these police officers are going to be.

You are recognizing the fact that the needs of the County are not the same as the needs of the City, aren't you, sir, because you are not proposing as many per thousand? [961] A Again, I go back to needs.

Q All right, sir. A In one interpretation, the needs are the same; as to specific areas, the intensity of assignment of personnel, needs are different.

Q All right. Mr. Hirst, do you have enough police officers in the City at the present time? A Mr. Fitzgerald, I am never going to acknowledge that this City has enough police officers, or any area has enough police officers.

Q Well, do you have as many as your Police Chief recommends you have? A The present recommendation by the Chief of Police, in which I join as to the—I want to say quota, quota is the wrong word, as to complement of the force has been authorized by Council. Taking all factors into consideration, I think this is a reasonable quota for the City.

Q How many new police officers did your Chief of Police and you recommend be added in the coming year to the City, regardless of annexation? A Thirty-three, sir.

Q Is this the same number that the Chief of Police recommended to you last year to be added in the current year's budget? [962] A We added, I believe the last addition represented twelve officers.

Q How many did the Chief of Police recommend, Mr. Hirst? A Chief of Police, in relationship to me, I think set up a figure, we used a figure of 24 last year, I think I am correct on that.

Q He said 24 were needed? A Yes, sir.

Q And you decided only twelve were needed, is that correct? A Well, the decision was reached that twelve was perhaps the best figure we could go for at the particular time.

Q First you recommended, Mr. Hirst, that no more police be added, didn't you, last year? A Well, I go back, sir, to the point that I have not recommended, correct, sir. I have not recommended that the City add to its police department, I don't know, for perhaps two or three years.

Q Has the Police Chief been asking for more police officers during those two or three years? A Not in that sense, no, sir.

Q Well, in any sense? A No, sir.

[963] Q Well, last year he asked for 24, and didn't you, at first, reject that request? A The proposal that he and I discussed in the preparation of the budget was on the basis of a figure of, I think 24, as to whether we should seek that in the budget. And my budget recommendation, as I best recall, did not propose any additions to the Police Department.

Q Right. But upon considerable pressure, the City Council added twelve, didn't they? A The City Council, I think the number was twelve.

Q That was over your recommendation or contrary to your recommendation? A Over my recommendation.

Q All right, sir. Now, the Chief of Police came back this year and said he needed 30, how many, 33? A Well, we used the figure of, I think 24 this year. When City Council or members of Council raised the question, this also came up—this came about from a combination of directions.

Q Well, can you tell us what your Police Chief recommended? A We used the figure in going to Council, I believe of 24. And Council itself added the additional eight, resulting in 33 that the Council authorized.

[964] Q Is that in the coming year? A No, this has been added in either March or—I think March, Council authorized that.

Q When are they to be hired? A We have started hiring them.

Q In your current budget? A In the current budget.

Q They have to make an additional appropriation? A Yes, sir.

Q Did you agree that they should be increased back in March? A I have never objected to the addition of police officers.

Q Well, you didn't agree with it a year ago, did you, sir? A Well, there is a difference, sir, between my agreeing to it and my recommending it.

On my disagreeing, I may not recommend something to the Council, but if the Council goes ahead and does something on its own and I have no great objection to it, I certainly am going to agree to it.

Q How many police officers do you have, sworn police officers at the present time, Mr. Hirst? A I believe I used the figure in court of a hundred [965] and—

Q A hundred ninety-one? A Let me read my notes.

Q All right, sir. A I stated yesterday and authorized complement of 195 sworn personnel.

Q How many do you have hired in service, Mr. Hirst? A One moment, sir, please?

Q All right, sir. A If you will allow me the discretion of one or two, I would say 170.

Q On which did you figure your ratio of police officers per thousand people, sir; 195 or 170? A One hundred ninety-five, sir.

Q So you really don't have that many, that is just what is on paper, is that true? A That ratio is based on the authorized complement.

Q I see. Now, I am looking trying to find your proposed patrol areas. I think that is F-3, isn't it, sir? A F-3, sir.

Q On F-4, you show what kind of police protection you are going to have in those areas, don't you, sir? A That shows the district assignments.

[966] Q Now, this first column on the left are a one-man car, 24-hour coverage, is that correct? A Yes, sir.

Q In those districts? A Yes, sir.

Q The second column shows increased police protection, doesn't it, sir, by having one-man cars during daylight hours and two-man cars 7:00 p.m. to 3:00 a.m.? A Yes, sir.

[967] Q And the third column shows increased police protection, two-man cars 24 hours? A Yes, sir.

Q Now, look at that center column and tell me if I am not right that every single one of the districts shown in that column are in the present City except part of 18? A I would believe without checking too closely that that substantially would be correct.