

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING COMMUNITY
GOVERNMENT IN URBANIZING COUNTIES
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 32

**COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
RICHMOND
1979**

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Report of the
Joint Subcommittee Studying Community
Government in Urbanizing Counties

To

The Governor and the General Assembly of Virginia

Richmond, Virginia

February, 1979

To: Honorable John N. Dalton, Governor of Virginia

and

The General Assembly of Virginia

This Subcommittee has examined the problem of community government in urbanizing areas of the Commonwealth. This problem is most pronounced in the Washington suburbs of Northern Virginia, but it is not confined to that area.

Fairfax County is the most populous county in the Commonwealth and one of the most urbanized. Furthermore, it is still rapidly growing. Within the county, there are three incorporated towns and also numerous communities which have some sense of identity. The most well-defined of these communities is Reston.

Reston is one of the "planned towns" which was widely acclaimed in the decade of the 60's. The size and direction of its growth have been carefully planned and directed so as to minimize the negative effects of urban development. Reston is not incorporated and, under both the law establishing the optional form of county government under which Fairfax County operates and the general law relating to town incorporation, it could not be incorporated (§§ 15.1-785 and 15.1-967).

In the past few years, many of the residents of Reston have come to feel that the community should be incorporated as a town. In 1977, the General Assembly passed legislation which would, if reenacted by the 1979 General Assembly, allow the residents of Reston to hold a referendum in order to determine if they should incorporate as a town (Chapter 403, 1977 Acts of Assembly). A bill was introduced in the 1978 General Assembly to reenact this legislation, and it was carried over to the 1979 Session.

With the current problem of Reston before it and the possibility of similar problems occurring elsewhere, the General Assembly directed that a study be made of the general issue of communities within urbanizing areas. The text of the House Joint Resolution No. 171, authorizing the study, follows:

WHEREAS, the large urbanizing counties of the Commonwealth are increasingly faced with issues concerning the most effective means of service delivery and community control over the delivery of services; and

WHEREAS, significant segments of the population of large urbanizing counties of the Commonwealth have experienced a sense of alienation from county government, and feel a need for a stronger community identity directed toward their own communities within a county and a

stronger sense of community identity and of community interest can make a major contribution to the quality of local government and the quality of life of its citizens; and

WHEREAS, differences of opinion exist as to the best means for strengthening the sense of community identity; one view urging preservation of the political integrity of a county and seeking to meet local aspirations through further decentralization of a county's operations, while the opposing view urges that a large urbanizing county cannot provide local government in a responsible and efficient fashion, and should permit and encourage formation of towns or other governmental units; and

WHEREAS, the Commonwealth has an important stake in the proper resolution of these different issues; and

WHEREAS, the vitality of democratic institutions requires a constant reassessment of the workings of government to examine the efficiency and responsibility of those institutions, particularly where these are in question; and

WHEREAS, the General Assembly has been requested to grant a charter to the county of Fairfax, which charter would continue existing political subdivisions within the county, but contains no provision authorizing or permitting any new political subdivisions; and

WHEREAS, Chapter 403 of the 1977 Acts of Assembly provides, subject to reenactment at the nineteen hundred seventy-nine Session, that the citizens of the community known as Reston located in Fairfax County may by referendum incorporate as a town; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on Counties, Cities and Towns of the House of Delegates and the Committee on Local Government of the Senate are requested to conduct a study of alternative means of providing local governmental services within large urbanizing counties and to make recommendations for any modifications in the present governmental structures, including the creation of new towns or other forms of county sub-governments, needed to assure economic efficiency, a recognition of the values inherent in a sense of community identity, and responsiveness to citizen needs and wishes. The study shall incorporate the professional expertise of the academic community and the broadly diverse views of citizens of the Commonwealth, the total study Committee not to exceed fifteen in number; and, be it

RESOLVED FURTHER, That the Chairmen of the Senate and House Committees are requested to appoint to any joint subcommittee conducting this study such citizens and elected local governmental officials as they deem proper.

The Committees are requested to make a report of their findings and recommendations to the next Session of the General Assembly.

The Subcommittee, composed of legislators and leading citizens of Northern Virginia and of Reston, met on numerous occasions during the summer and fall, including the holding of two public hearings, one in Reston and one in Vinton. The Subcommittee had the benefit of discussion with experts in local government and urban affairs from the academic community. Copies of their statements are attached to this report as Appendix B.

During the public hearings, several differing points of view were aired. Many Reston residents appeared and voiced desire for a political structure for the community. They cited dissatisfaction with Fairfax County regarding schools and streets. Primarily, however, they cited the sense of community existing in Reston and the desirability of promoting that sense. The majority of them favored the creation of a new form of government which would not have the same degree of authority as towns.

In Vinton, the Subcommittee heard officials of the town and Roanoke County relate some of the problems of town-county relationships. The most obvious problem was a sense of distrust and tension arising out of the future possibility of annexation. Members of boards of supervisors from surrounding counties had differing opinions regarding town incorporation. Some felt that such incorporation was no longer necessary, would only fragment the county and, thus, should not be allowed. Others expressed the opinion that residents of a community should be allowed to decide for themselves what form of government they should have.

Traditional thinking regarding local government organization has long supported and advocated consolidation and centralization at the local level. In places other than Virginia, which has a comparatively simple system of local government, much criticism has been leveled at the local patchwork of layers of government existing side by side and on top of each other. This network of governments, it is argued, is confusing, duplicative, and inefficient. The ideal arrangement would be the consolidation of governments into a single general-purpose structure.¹

In recent years, however, there has been some serious questioning of the assumptions underlying the advocacy of consolidation. Some authorities actively defend the status quo with its various kinds of governments operating at the same level², while others go on to contend that purported economies of scale do not always necessarily exist for larger governments, and, indeed, at some point, such larger structures may suffer from diseconomies of scale.³

The critics of consolidation have one argument in common—the prime danger of centralization is the loss of the sense of community.⁴ As areas tend to urbanize and grow in population, relations between citizens and government become more and more depersonalized. As public affairs in urbanizing areas become more and more complex and time-consuming, the citizen tends to lose touch with his elected officials. He feels that the government is less able to relate specifically to the needs and desires of his area. In short, he tends to feel alienated from his government.

Many areas within a suburban environment may actually be communities—that is, they share a common identity and common interests. Their sense of community can sometimes be enhanced if there is a governmental organization to which the citizens can relate and which can allow them to exercise a degree of control over the services that effect their lives.⁵ The presence of a government structure legitimates their sense of community and is a visible sign of its existence.

Within the context of present Virginia law, there are two means through which residents of a portion of a county may obtain governmental services in addition to those provided by the county to all its residents. The first is the traditional town, the formation of which is, in effect, barred in urbanizing counties. A town is a municipal corporation, meaning it has a charter, the right to raise and spend money, the right to elect officials, and the authority to exercise certain other powers granted by law. It remains part of the county in the sense that its residents are subject to county property taxes and certain county ordinances.

Historically, towns were created where there was a concentration of people who, by virtue of that concentration, needed certain services not needed by the rest of the county. In recent years, the existence of this situation is not as compelling a justification for town incorporation as it was in the past because of the possibility of establishing sanitary districts. This other method of providing services to a particular area was originally designed for the delivery of water and sewer services, but it has been considerably expanded to include many other services. The establishment and operation of the sanitary district is supported by a special tax levied on just the residents of the district. Before a judge can incorporate a town, he must find that the services desired by the citizens petitioning for incorporation cannot be provided by a sanitary district.⁶

From the point of view of the enhancement of a sense of community, the town is superior to the sanitary district. In the case of the sanitary district, the county board of supervisors serves as the governing body, whereas the residents of a town elect their own governing body.

The primary objection to the creation of a new town, other than from a centralization perspective, is the effect it would have on the county. In the first place, counties and towns both have authority to levy certain types of taxes, with the town being able to preempt the county, although not on real and personal property taxes. Thus, a town could reduce the tax revenue for a county. Of course, this revenue loss could very well be offset by the town assuming delivery of services formerly provided by the county. (See Appendix C for lists of possible tax revenues and powers of towns.) In fact, the analysis by Fairfax County of the question of Reston incorporation indicates that, at the present time and assuming Reston delivery of certain services, the county could very likely save money in the case of town incorporation. The picture is less clear in terms of future impact.

Other concerns over town incorporation are caused more by future possibilities than by present conditions. Towns can try to annex portions of the county, a possibility which usually creates tension in inter-governmental relations. After a period of growth, a town could ask the General Assembly to

grant it city status. Such a development would have the immediate impact of depriving the county of all the taxes levied on the residents of that area, including real and personal property taxes. There would also be a major change in the nature of local relations.

The Subcommittee recognizes that citizens of urbanizing counties are presently prohibited from incorporating additional units of government. The Subcommittee believes that the public interest would be served by permitting citizens of coherent communities the opportunity to form towns or other units of local government clothed with power to exercise such governmental functions as are appropriately and economically performed at the community level. The Subcommittee believes that citizens of urbanizing counties should not be denied this opportunity, recognizing, of course, the desirability of avoiding the proliferation of unnecessary and duplicative governmental units and functions.

The Subcommittee believes there is the possibility that a modified form of local governmental subunit may be needed in Virginia. We believe that the General Assembly should look further at the question of decentralization, keeping the concept of a sense of community in the forefront of its thinking. To provide some practical experience in this regard, we recognize that Reston could serve as a prototype of this new kind of governmental unit.

This governmental unit would be incorporated and granted a charter. This charter would prohibit annexation by the subunit, conversion to city status and the exercise of extraterritorial powers. The governing body would be granted certain specific powers outright and, in a unique arrangement, could exercise other powers only if the county did not disapprove.

The following is intended to serve as a model charter for this form of government:

Charter for Town of

Chapter 1

Incorporation, Form of Government and Boundaries

§ 1.1. Incorporation.—The inhabitants of the territory comprised within the boundaries as set out in § 1.3 and as may hereafter be altered and established by law, shall constitute and continue to be a body politic and corporate, to be known and designated as the town of, and as such shall have perpetual succession, may sue and be sue, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew or amend at its pleasure by proper ordinance.

§ 1.2. Vesting of powers.—Subject only to the limitations imposed by the Constitution of Virginia and by this charter, all powers of the town shall be vested in an elective council, hereinafter referred to as “the council”, which shall enact local legislation, adopt budgets, determine policies, and appoint the town manager, who shall execute the laws and administer the government of the town.

§ 1.3. Boundaries.—The boundaries of the town shall be as follows: (insert boundary references)

Chapter 2

Powers.

Article 1.

Grant of Powers.

§ 2.1. Restriction on powers.—The town of shall have and may exercise only those powers which are enumerated in this charter. Any enumeration of particular powers in this charter shall be held to be exclusive.

§ 2.2. Elections.—The town may conduct elections as provided by general law.

§ 2.3. Adoption of certain sections of the Code of Virginia.—Except as otherwise provided in this charter, the town may exercise those powers set forth in §§ 15.1-837 through 15.1-907 of the Code of Virginia.

§ 2.4. Taxation.—The town may levy and collect all taxes as authorized by general law, except merchants' capital and machinery and tools taxes, as defined in §§ 58-833 and 58-834 of the Code of Virginia; bank stock taxes, as authorized by §58-476.2; and utility consumer taxes, as authorized by § 58-617.2.

§ 2.5. Police.—The town may provided for peace and public order in accordance with the provisions of Chapter 3 of Title 15.1 of the Code of Virginia.

§ 2.6. Planning and zoning.—The town shall have and may exercise those powers relating to planning, subdivision of land and zoning as provided in Chapter 11 of Title 15.1 of the Code of Virginia, except for the provisions of §§ 15.1-467 through 15.1-469.

§ 2.7. Intra-town transportation.—The town may establish and operate a system of public transportation within the boundaries of the town.

Article 2.

Prohibition of Powers.

§ 2.8. Water and sewerage.—The town may not exercise the powers granted in §§ 15.1-854, 15.1-855, 15.1-856, 15.1-875 and 15.1-876, relating to the provision and regulation of water and sewerage facilities.

§ 2.9. Landfill.—The town may not exercise the power of eminent domain for the purpose of acquiring land outside the town boundaries to be used for a sanitary landfill or other means of disposing of solid waste.

§ 2.10. Annexation.—The town may not exercise the powers of annexation as authorized by Article 1, Chapter 25 of Title 15.1 of the Code of Virginia.

§ 2.11. City incorporation.—The town may not exercise the authority to seek incorporation as a city as provided in Chapter 22 of Title 15.1 of the Code of Virginia.

Article 3.

Powers Subject to County Approval.

§ 2.12. Conditional powers.—Subject to the approval of the Board of Supervisors of County as expressed by resolution, the town may exercise the following powers: (i) the provision of fire protection (ii) the provision and operation of public libraries, (iii) the operation outside of town boundaries of a system of public transportation, and (iv) the provision of additional buildings, facilities, personnel, or equipment to supplement the educational facilities provided by the county to the inhabitants of the town.

Chapter 3

Council.

§ 3.1. *Election, qualification and term of office for councilmen and mayor.*—The town of shall be governed by a town council composed of six councilmen and a mayor, all of whom shall be qualified voters of the town, to be elected from the town at large in a non-partisan election. Any person qualified to vote in the town shall be eligible for the office of councilman or mayor.

An election for councilmen and mayor shall be held on the first Tuesday in May, nineteen hundred and on the first Tuesday in May of every year thereafter. The mayor shall be elected for a term of two years. At the election in nineteen hundred, the three candidates for council receiving the highest number of votes shall serve two-year terms and the other three councilmen elected shall serve one-year terms. At the next regular municipal election and each one thereafter, three councilmen shall be elected for terms of two years each.

Councilmen shall enter upon their duties on the first day of July succeeding their election, and shall serve until their term has expired or until their successors have qualified.

§ 3.2. *Council vacancies.*—A vacancy in the council shall be filled by appointment by the remaining members of the council for the unexpired portion of the term, except that, if the unexpired portion of the term at the time the vacancy occurs is for fourteen months or more, the appointment shall run only to the last day of June following the next regular municipal election, at which time the vacancy for the remaining portion of the term shall be filled by election.

§ 3.3.—*Council a continuing body.*—The council shall be a continuing body, and no measures pending before such body, or contract, or obligation incurred, shall abate or be discontinued because of the expiration of the term of office or removal of any council members.

§ 3.4. *Mayor.*—The mayor shall have the same rights and privileges, and be subject to the same duties and prohibitions as a councilman. The mayor shall preside over the meetings of the council, have the same right to speak therein as other members and shall have a vote but no veto. He shall be recognized as the head of the town government for all ceremonial purposes, the purposes of military law, and the service of civil process, and shall authenticate by his signature such documents or instruments as the council, this charter, or the laws of the Commonwealth shall require.

At its first meeting following adoption of this charter, and every two years thereafter, the council shall elect one of its members as vice-mayor. The vice-mayor shall perform the mayor's duties in his absence and shall succeed to the office of mayor for the unexpired portion of term in the event of a vacancy, provided that, if the unexpired portion of the term at the time the vacancy occurs is fourteen months or more, the vice-mayor shall succeed to the office of mayor only until the last day of June following the next regular municipal election, at which the vacancy for the remaining unexpired portion of the term shall be filled by election.

§ 3.5. *Meetings of council.*—The council shall fix the time of its stated meetings and it shall meet at least once a month and, except as herein provided, the council shall establish its own rules of procedure and such rules as are necessary for the orderly conduct of its business not inconsistent with the laws of the Commonwealth of Virginia. A journal shall be kept of its official proceedings, and its meetings shall be open to the public. Four members of the council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the mayor or by any three members of the council, provided that the members of the council are given reasonable notice of such meetings, and no business shall be transacted at a special meeting thereof except that for which it shall be called. If all members are present, this provision may be waived by a majority vote of the council. No ordinance, resolution, motion or vote shall be adopted by the council unless it shall have received the affirmative votes of a majority of the members present.

§ 3.6. *Salaries.*—The council is authorized to fix salaries for the mayor and other members of the council, the members of any boards or commissions established by the council and all appointed officers and employees of the town.

Appointive Officers.

§ 4.1. *Officers.—The council may appoint a town manager, town clerk, town sergeant, town treasurer, town attorney and such other officers and employees as the council deems necessary with such powers and duties as may be delegated by the council. Town officers and employees appointed under this section shall serve at the pleasure of the council.*

§ 4.2. *Bonds.—Officers, deputies and assistants shall execute such bonds as may be required by resolution of the council.*

§ 4.3. *Appointment of one person to more than one office.—The council may appoint the same person to more than one appointive office.*

§ 4.4. *Boards and commissions.—The council may, in its discretion, appoint such boards and commissions as it deems necessary.*

Chapter 5

Miscellaneous.

§ 5.1. *Applicability outside town.—All ordinances of the town, so far as they are applicable, shall apply on, in or to all land, buildings and structures owned by or leased or rented to the town and located outside the town.*

§ 5.2. *Severability of provisions.—If any clause, sentence, paragraph or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the charter but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.*

§ 5.3. *Effective date.—This charter shall be effective beginning*

§ 5.4. *Referendum.—This is act shall not become effective, as to incorporation of the town, until the qualified voters of the proposed town of shall have voted on the proposed charter at a special election to be held The charter shall be published twice a week for at least two successive weeks prior to the election in some newspaper having a general circulation within the proposed corporate limits of the town of Except as otherwise provided herein, the election shall be held in accordance with the provisions of § 24.1-165 of the Code of Virginia.*

The ballots shall be printed to read as follows:

“Shall the community known as be incorporated as a town and operate under the charter as provided by the session of the General Assembly (insert citation of Acts of Assembly)?

YES

NO”

The Subcommittee is aware of the sensitive nature of these recommendations. There are other areas of Fairfax County which are watching with interest this attempt by Reston to incorporate, if only in a limited manner. If Reston is successful, there would undoubtedly be pressure from those other areas for similar treatment. In the past, the county has expressed legitimate fears of being cut up into relatively small municipalities, which event would seriously hamper the county's overall effectiveness.

It is important that citizens experience a sense of community and feel they can relate to their government. The General Assembly needs to experiment with some decentralization in an attempt to balance the sense of community against the values of county integrity and any benefits to be gained from consolidation.

However, it is also clear to the Subcommittee that a solution to the instance of the community government question which is presently in the forefront may be facilitated by the development of a consensus between Fairfax County, as the most directly affected county, and Reston, as the most affected community. This Subcommittee has considered a proposal of the Reston Community Association for an urban town in the form attached hereto as Appendix D. While the Subcommittee has reached no conclusion regarding this proposal, it would appear to be in the best interests of the Commonwealth to provide an opportunity for the joint consideration of the proposal of the Reston Community Association along with the proposal of this Subcommittee by the county of Fairfax and the Reston Community Association and for a report to the General Assembly of the results of that joint consideration prior to September 1, 1979.

The Subcommittee recommends passage of the House Joint Resolution attached hereto in Appendix A expressing the sense of the General Assembly in this regard. This Subcommittee also recommends the date for the reenacting of Chapter 403, 1977 Acts of Assembly be extended until the 1980 Session of the General Assembly as provided by the substitute for House Bill No. 71, also attached in Appendix A.

We think the recommendations contained in this report represent important steps toward the conduct of this experiment. We urge the General Assembly to consider them carefully and then act favorably upon them.

Respectfully submitted,

*Raymond E. Vickery, Jr. (Chairman)

Floyd C. Bagley

William F. Blocher, Jr.

C. Richard Cranwell

*Samuel J. Dennis

Joseph V. Gartlan, Jr.

John T. Hazel

Gladys B. Keating

* See additional statements.

Suzanne H. Paciulli

Charles A. Robinson, Jr.

Charles L. Waddell

Supplemental Statement of Raymond E. Vickery, Jr.:

I concur generally in the report of the Subcommittee. However, in my judgment, the Reston Community Association proposal should have been recommended for enactment at the 1979 Session of the General Assembly.

Supplemental Statement of Samuel J. Dennis:

I am happy to concur with the report of the Subcommittee and its recommendations. For a new community government within a large urban county, new relationships with the county must be developed. The proposals of the Subcommittee and those of the Reston Community Association both seek to accomplish this result, but by different routes. I believe the Reston proposal would probably be more effective in the long run. However, each proposal has its advantages and its disadvantages. Either could lead to a satisfactory result.

- ¹ Robert L. Bish and Vincent Ostrom, Understanding Urban Government: Metropolitan Reform Reconsidered , (Washington, DC: American Enterprise Institute for Policy Research, 1973) pp. 7-10. Also, Jay S. Goodman, The Dynamics of Urban Government and Politics (New York: Macmillan, 1975), pp. 237-279.
- ² Bish and Ostrom, pp. 19-20, 47; also, Goodman, pp. 259-265.
- ³ Howard W. Hallman, Small and Large Together: Governing the Metropolis (Beverly Hills: Sage Publications, 1977), p. 45.
- ⁴ Ibid. , p. 125.
- ⁵ Goodman, p. 276. Also Governance Committee, Reston Community Association, The Advantages and Disadvantages of the Incorporation of Reston as a Town (Reston, Va., Reston Community Association, 1978), p. 14.
- ⁶ Chapter 2 of Title 21 of the Code of Virginia.

APPENDIX A

House Joint Resolution No.

Requesting that the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association consult together concerning the possible form and powers of a proposed town of Reston.

WHEREAS, Chapter 403 of the 1977 Acts of Assembly provides, subject to reenactment at the 1979 Session, that the citizens of the community known as Reston located in Fairfax County may by referendum incorporate as a town; and

WHEREAS, House Joint Resolution No. 171 of the 1978 Session of the General Assembly established a joint subcommittee to study the problem of community government in urbanizing counties and, in particular, the question of Reston incorporation; and

WHEREAS, this joint subcommittee made substantial progress and developed a model charter to be used for incorporation of such communities; and

WHEREAS, the Reston Community Association presented an alternative proposal regarding the functions to be assumed by an incorporated Reston and the relationship of such an entity to Fairfax County; and

WHEREAS, a proposed charter for Fairfax County, excluding the possibility of new town incorporation, has been introduced in the General Assembly, but the resolution of the question is unclear; and

WHEREAS, The General Assembly has before it a measure which would allow urban counties to obtain immunity from annexation and town incorporation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, that the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association are requested to consult together regarding the possible form an incorporated Reston should take and its proper relationship to the county government. The Board of Supervisors and the Board of Directors are requested to report their conclusions and recommendations to the Committee on Counties, Cities and Towns of the House of Delegates and the Committee on Local Government of the Senate by September one, nineteen hundred seventy-nine.

Committee Amendment in the

Nature of a Substitute for

House Bill No. 71

A BILL to amend and reenact the second enactment clause of Chapter 403 of the 1977 Acts of Assembly, relating to incorporating a certain area within a county having an urban county executive form of government.

Be it enacted by the General Assembly of Virginia:

1. That the second enactment clause of Chapter 403 of the 1977 Acts of Assembly is amended and reenacted as follows:

2. That this act shall be effective on and after July one, nineteen hundred ~~seventy nine~~ *eighty* , if reenacted at the regular session of the ~~1979~~ *1980* General Assembly.

APPENDIX B

Statements Presented to Subcommittee

Statement to Joint Subcommittee

Studying Governmental Services

In Urbanizing Areas

Clifton McCleskey, Director

Institute of Government

University of Virginia

July 11, 1978

It is my understanding that the subcommittee is primarily interested in my views on two questions:

1. What powers are lost to a county when a town is incorporated?
2. What might be the consequences of the formation of townships along the lines proposed by the Reston Community Association?

You undoubtedly are already aware that there are no clear and simple answers to those questions. I do not claim any great expertise in either of these two subject areas, but I do have some knowledge of the relevant facts and considerations, and I have tried to think carefully about these questions.

I.

POWERS LOST BY A COUNTY WHEN A TOWN IS INCORPORATED

It is fair to say that town-county relations in general are one of the most neglected areas of public affairs in Virginia today. We know surprisingly little about their day to day working relationships, and not much more about their legal relationships. Though I hope we will be able to shed some light on the subject in the near future, at the moment there is no authoritative treatment of the powers of county government within town boundaries.

Despite the thinness of the available information and data, I am going to offer a few generalizations, organized under two headings—the first pertaining to taxation, where our knowledge is fairly secure, and the second to other governmental powers and activities.

A. County/Town Tax Relationships. The incorporation of a town does not affect the county's legal power to tax property, though it may affect the politics of county taxation (townspeople paying property taxes to both the town and county may desire to limit the latter's rates). However, there are certain county taxes yielding significant amounts of revenue that might be affected by town incorporation. If a town levies (1) business, professional, and occupational license taxes (including gross receipts taxes on utilities); (2) a merchants' capital tax; (3) a bank stock tax; or (4) a consumer utility tax (provided the town provides police and fire and water or sewer services), then the county is barred from levying those taxes. Furthermore, for the motor vehicle license tax, the county must credit town residents with their payments to the town if it also levies that tax.

(I should note that in one important respect that tax situation is reversed: Towns cannot levy the

local option sales tax if it is levied by the county, though they may share in the proceeds of 1/2 of the 1% levy, based on school age population.)

B. County/Town Powers in the Area of General Governmental Activity. It is in this realm that one finds the most uncertainty and confusion regarding the powers of county government within town boundaries. I have not seen an explicit statutory or case law statement on the subject, and my own formulation is so broad as to be of little help. Generally speaking, it appears to me that counties retain power to perform within town limits those functions and services traditionally associated with county government. But what are those traditional county powers? I cannot give you a definitive answer, but an example or two might help. Counties traditionally have been responsible for enforcing state laws within their jurisdiction, and indeed the county sheriff or police department still has the power to enforce state criminal laws (and county ordinances) within town boundaries. However, the county law enforcement officials may not enforce town ordinances, though I understand that towns occasionally contract with the county for that service. But what the county sheriff or county police department actually does within a town depends very much on local practice. In larger towns with their own police department, the county officers may do very little, either because they are unwelcome or because of their own preferences and priorities, or because of a tacit agreement with the town.

Another traditional county power is that of providing educational services. Except for the four towns in Virginia which operate their own school divisions, counties are responsible for the public schools within and without the towns.

Such examples may be of some utility, but we are still faced with the fact that counties have been drawn into a great many activities that do not fit the traditional pattern. To determine what a county may or may not do within towns, it becomes necessary to examine a sizable body of statutory and case materials. I have not made anything like a complete examination of those materials, but my preliminary impression is that in matters not traditionally within the purview of county government one can discern a tendency to give towns a somewhat autonomous status. Often towns and counties will both be given authority to act, with the stipulation that exercise of authority by the town bars county actions within the town.

This tendency is most apparent in the statutes related to land use control, such as zoning, planning, and sub-division control. The zoning of real property has traditionally been a municipal function, and counties in the nation generally have been slow to acquire and to exercise that power (indeed, in my native state of Texas counties still do not have a general power to zone). The Virginia solution has been to give counties a broad grant of power to zone but to prohibit its exercise within town boundaries without the approval of the town council. The same principle is used in dealing with the planning function; county plans are effective within town limits only if approved by the town councils. Similarly, county ordinances specifying setback lines are not applicable in towns having zoning ordinances. And counties must get the approval of the town before implementing county sub-division ordinances in areas outside towns but within their extra-territorial jurisdiction. Thus town incorporation can have a major impact on the powers of the county to control property usage and development.

One can see other signs of the tendency to give towns a degree of autonomy. Before a county board of supervisors can include a town within a sanitary district, it must have the approval of the town council. The General Assembly has also provided that there must be a favorable vote in each town in a consolidation referendum preparatory to county request for a city charter. The same tendency toward autonomy is manifested in the requirement that towns pay the costs of keeping town prisoners in a county jail for infractions of town ordinances and of jurors in cases initiated by town summons.

I emphasize that I am talking about a tendency only. At the same time county powers with respect to some subjects are not limited within town boundaries. For example, counties, cities, and towns are authorized to provide by ordinances for the removal of trash, garbage, weeds on vacant lots, and so on. A county ordinance to that effect (for counties with less than 500 persons per square mile, it must be limited to platted sub-divisions) cannot be implemented within the corporate limits of a town. On the other hand, an almost identical statute authorizing ordinances for the removal of junked motor vehicles does not include any such limitation on county power.

In sum, I know of no very useful principle to enable one readily to determine when counties

are permitted to act within town limits; it is largely a matter of checking the appropriate sources for each particular power or activity. Generally speaking, one finds more restrictions on county powers than might be expected, given the nature of their relationship.

II.

THE TOWNSHIP PROPOSAL

Let me stress at the outset that I have no intimate knowledge of Fairfax County and of the local concerns that prompt this proposal. From the statement of purpose, however, it appears that the proposal very much reflects a slowly growing movement in the nation for de-centralization of local governments. Some proponents of this de-centralization are doubtful that local government fragmentation is really a problem. Others argue that in any case it need not be one, that services best handled on an area-wide basis should be kept there while de-centralizing the responsibility for other services. However, not all are in agreement as to which services require area-wide handling.

I find myself very much in agreement with those persons who bemoan the loss of a sense of community and the spread of alienation and apathy. It is important to recognize, however, that many forces in American society today are responsible for that trend. No one can say with certainty how much local government centralization contributes to it, but my guess is not very much. That is not an argument against experimenting with governmental de-centralization, but is a warning that no miraculous reversal can be expected.

In fact, I am somewhat receptive to the RCA proposal. Perhaps it is time to re-think the way we organize local government in this area; perhaps we can find better ways of delivering public services. The association certainly is to be commended for its efforts to promote discussion of this issue.

So far as the concept is concerned, the RCA proposal seems to break new ground. If I understand the proposal, it calls for the creation of a new unit of government functioning pretty much as Virginia towns do but with a radically different relationship to the host county. Instead of a relationship based on state-enacted general and special (charter) laws, the proposed township and the county would define their own relationship. It is a novel idea, and it just might work.

There will be pitfalls, of course, some of which I think I can already see. Judging from the experience in annexation cases, I expect that it will prove to be quite difficult to establish the "locally recognized boundaries of local communities." It will be even more difficult to establish "the township's fair share" of the county budget allocated to a function to be performed by the township. Many town officials today are quite convinced that they are not getting their fair share of county services; county officials are equally certain that they are.

I question the wisdom of allowing part of existing towns to be included in the township, even with town council's approval. And given the need for flexibility recognized on page 2 of the proposal (second paragraph), I wonder if the requirement of approval by the county board and approval in a township referendum may not prove to be a problem.

Inasmuch as the functions proposed for the township could presumably be performed by a town, I assume the preference for the former is to some extent rooted in the belief that the creation of a new town will not be possible. If I am wrong, and if the preference for a township is based on dissatisfaction with the town concept, then I urge RCA to re-examine its premises. It might be easier - and safer - to attempt to modify county-town relationships in this area than to devise a new form of local government.

Statement prepared by:

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For presentation to:

Virginia Legislative Subcommittee Studying Community Services in Urbanizing Counties
Falls Church (VA), July 11, 1978

Mr. Chairman and members of the subcommittee, I am flattered by the invitation of Delegate Raymond E. Vickery, Jr. to appear before this body. Although I must confess, that I feel somewhat like the student who was asked by one of his professors if he knew the difference between capitalism and socialism. The student indicated that he did: "in socialism, man oppresses man." "What about capitalism?" asked the professor. The student replied, "It's the opposite." And so it is with many of our perceptions about other issues, problems and facts of government.

As I understand the major issue before this body it is whether a group of citizens should have the opportunity to decide for themselves as to the organizational nature of their local public services. At the heart of this question is the issue of centralized vs. decentralized government. At least twice in our history, this issue has been resolved by war; yet, the resolution was for decentralization in one instance and centralization in the other. Perhaps all this shows is that "right" political principles are determined by whoever wins the war. Regardless, we have politically matured to the point that we now resolve most of our political conflicts on the basis of the ballot box rather than the bullet box.

In many studies of government, the possibility of a unified government has been frequently endorsed as a positive solution to the fragmentation which tends to characterize American government. On the other hand, centralized governments tend to have a negative reputation which is many-faceted. The issues, ideas and concerns which have evolved in the conflicts over centralized vs. decentralized governmental operations, have not resolved the conflict. My studies of government, both theoretical and applied, for state and local governments, elected and appointed officials, citizen groups, and the criminal justice system, have led me to conclude that it is simplistic and misleading to argue for centralization or decentralization. Perhaps one of the major advantages of our political systems is that these systems are characterized by their flexibility. As a result, in an analytical study of a state prosecuting attorney system, I recommended a system of district attorneys decentralized by judicial districts. In another study, of an urbanizing area, I recommended the development of an urban county manager form of government. In yet another study of local government, I recommended a decentralized system. The point is, that few of our so-called organizational principles (fundamental truths) are either fundamental or true for all conditions or environments. In fact, one of the major concerns I have about governments is the continuing pattern of mandating a single policy for all units of a similar category. A case in point is the common requirement for a line-item budget for local governments. Without intending to be melodramatic, I would like to express a caveat which I share with my public management students: we need to constantly ask ourselves, whether a proposed action gives the appearance of removing the meaningfulness of the ballot box, and if it does, are we prepared to face the remaining form of citizen redress? While my doctorate of philosophy is in government, I will spare you further philosophical discourse or one in which I pedantically argue that I have resolved the foregoing questions or concerns. Instead, I will focus on a brief analysis of several alternative policies for dealing with the problem of community services in urbanizing counties.

In examining these policies, I have been handicapped by a number of factors, including a lack of specificity as to the problem(s)—now I know how a physician feels when a patient can only say, "I'm sick, help me." Too, a lack of resources (time, personnel funds) to undertake a more thorough study and, often, a lack of data/information have made it necessary to make numerous assumptions and other simplifications. As a result, I do not pretend to have fully explored these alternatives; instead, within the constraints mentioned, I have focused on what appears to be the major alternatives.

There are seven of these alternatives: "do nothing;" mini-county courthouses; citizen participation; smaller electoral districts; creation of a special governance district; creation of a township; and, creation of a town. Obviously, the "do-nothing" alternative has few economic costs in the short run for an urbanizing county. However, it may well have substantial political costs in both the short and long run. Citizens who believe their right of self-determination is being thwarted might attempt to secure, for example, a referendum to change the form of county government. If, for whatever reasons, there were enough of the disgruntled citizens, then such a referendum might prove successful. Since citizens are more likely to vote against something, than to vote for it, this is not an impossibility. Economically enterprised which might be considering the area as a location might view such unresponsiveness as generic: if the county government is unresponsive to the needs of citizens, it might treat the needs of enterprised the same way. It appears foolish to me, to tear down a house because some of the bricks don't fit.

On the other hand, an urbanizing county is under enormous fiscal pressures, particularly in areas where urban services are accepted as a matter of course. It is simply not possible for any unit of government to shift from low service provision to high service provision in a relatively short time period. Under the best of conditions, priorities must be established for the allocation of scarce resources in an equitable manner. Other urbanizing counties in the Commonwealth, Chesterfield County for example, are facing similar problems along with their municipal units. Service demands and resource disparity is a common government problem which appears to be most critical in jurisdictions undergoing population changes. Thus, in many urbanizing areas the "do nothing" alternative may be one of attempting to gradually raise the level of services for the maximum number of citizens. Since it is generally accepted that one of the purposes of our systems of government is to redistribute wealth to some extent, it does not seem inappropriate for some citizens to be paying more for services than others (i.e., \$1.00 payment does not equal \$1.00 benefit). It does seem inappropriate, however, for some citizens to be paying more but receiving fewer services than others. It also seems inappropriate to deny citizens, who desire differential service levels, the opportunity to receive such service if they are willing to pay the costs of differential service. In Illinois, for example, one may pay private firms an extra charge for "expeditious service" in getting automobile licenses. Nonetheless, these considerations mask some difficult questions. For example, who should pay the cost of street improvements, those who directly benefit or all who benefit? In some jurisdictions, the costs of street improvements are distributed throughout the jurisdiction while in other jurisdictions, major arterial improvement costs are distributed throughout the jurisdiction but the costs of neighborhood street improvements are borne by the affected property owners (despite the fact that relatively few streets are solely used by the residents thereof).

The "do-nothing" alternative also may be a self-serving action to the extent that it is directed at precluding a dilution of the fiscal resources of a jurisdiction. Thus, from the existing jurisdiction's viewpoint, the costs of another sub-jurisdiction far outweigh the benefits: not only would there be a resource base reduction but there may be increased coordinative costs.

The mini-courthouse alternative is simply a variation of an idea which appears to have been successful in a number of cities in the United States. The costs of this alternative are dependent upon its scale, and might include additional capital facilities and personnel. Since major county services already appear to be decentralized (e.g., public safety and public works), the benefits of this governmental decentralization alternative may be more symbolic than real. Thus, it is questionable as to whether this alternative would result in any significant change in community services: political control would remain with the county.

The problem of political control might be lessened, however, by the development of a citizen participation organization (CPO) for the urbanizing county. The powers of a CPO might range from advisory opinions to key elected officials to control over selected services. The CPO might be organized without regard to existing sub-county boundaries, on the basis of homogenous communities, existing political districts or new political districts. The members of the CPO might be elected or appointed, although it would seem that the members should be elected if one of the purposes of the CPO is to equitably involve citizens in decisionmaking. For example, in an urban area of 275,000 people, a CPO with elected representatives in ten districts (with an area-wide council composed of a representative from each district) with advisory responsibilities has a direct annual staff and support cost of about \$100,000. Depending upon its powers and organization the CPO does appear to provide citizens with a more direct voice in service decisionmaking. Yet, a CPO does create a "shadow" government and may create substantial costs in terms of increased personnel and faculty needs, or overloads on existing staff and facilities. While these costs may be borne by federal funds (e.g.,

Community Development Act of 1974), the cost of doing one thing is the cost of not doing something else. As a result, the costs of a CPO might mean the elimination or reduction of some current program activity.

Creating smaller election districts might provide the residents of a relatively homogenous community with more direct representation on the County Board. However, it is questionable as to the effects of this upon community services. The community board member would be but one of many members, and it would be unlikely that such representation would significantly alter community service levels.

All four of the preceding alternatives are within the existing authority of any county in Virginia. Too, these alternatives are relatively inexpensive in economic terms for those most directly affected. However, at best, only two of these alternatives represent any serious effort at creating more responsive government. A study by one of our graduate students, Ms. Phyllis E. Hedeman, suggests, for example, that many residents of the Reston community believe they should have greater control over the allocations of their tax contributions in terms of the levels and types of service provided. It would appear that none of the foregoing alternatives could realistically overcome such perceptions. The remaining alternatives would appear to provide a more appropriate response to such perceptions.

Each of these alternatives assume public corporation status. Under Virginia law, as I understand it, there are six basic characteristics of public corporation status (*Hampton Roads Sanitation District Commission v. Smith*, 193 Va. 371, 68 S.E. 2d 497 (1952)): it is a body corporate politic; it has a common seal; it has the right to sue and be sued; it has the power to acquire, hold and dispose of revenues, personal and real property; it may borrow money; and, it is tax exempt.

A special district is both separate from the general government and is a public corporation (*Hampton Roads case*). It appears, however, that special districts are subject to a strict construction of Dillon's rule in the Virginia courts. Nonetheless, special districts are used for a variety of purposes in the Commonwealth. Thus, it might be possible to create a special governance district which would be multipurpose in nature, and in effect, a quasi-municipality. In fact, in the early part of this century, the highest court of the Commonwealth described a special district as an "unincorporated community" (*Strawberry Hill Land Corporation v. Starbuck*, 124 Va. 71, 97 S.W. 362 (1918)). Moreover, since under the Virginia code governing urban counties (15.1-784, para 7), towns which are dissolved become smaller districts in which the county board of supervisors shall establish service charges for existing town services as long as these are desired by the residents of the district, it appears to me that there may be a corollary, to wit: that if citizens of an unincorporated community desire services and are willing to pay for same, then these may be provided by the county board of supervisors.

It would appear that there are two possible types of districts, one in the meaning of Chapter 15.1-784, the other of the type more commonly called special districts. While it is not clear whether the former would be a public corporation (and thus, for example, those affected might be taxed for its services), it is clear that the latter would be. Politically, the former district would be under the direct control of the county board of supervisors while the latter would not be, particularly if its governing body were elected. The costs of either of these districts would vary widely depending upon their services but the costs would be borne by the recipients of the services. It is my understanding that Fairfax County had more special districts than any other county in the state, I do not know that this is still the case. However, it would appear that the County is poorly disposed to argue that governmental fragmentation or a lack of a precedent for special district operations should preclude creating new districts.

Another alternative for dealing with the issues before this body is that of creating townships. Although Virginia once had townships (Constitution of 1864), these were short lived due to their incongruity with Virginia political traditions. The Reston Community Association's proposal for creating a township seems to be a viable alternative in terms of my discussion. It is not clear to me, however, that the specific proposal would qualify as a public corporation under Virginia law. Specifically, I have not discovered references to a common seal, the right to sue and be sued, or the unambiguous power to acquire, hold and dispose of revenues, personal and real property. Given the strict construction of Dillon's rule, these might be fatal defects if not corrected. Too, I believe that its provisions for payments by the county to the township may prove extremely complex to administer in terms of cost calculations. However, these problems do not appear to detract from the

basic viability of the alternative. For example, I find it commendable that the proposal explicitly allows for the township to contract with the county for services. This "Lakewood Plan" is a tested and often used device in many urban areas of the United States which originated in California. Equally important, the proposal appears to directly respond to the concerns of the Reston residents.

The final alternative to be considered is the creation of a town. It seems to me that the creation of a Reston Town would be the most honest response to the concerns of many Reston residents. In assuming that if the residents of the community were permitted to vote on the question, a majority would favor the creation of a town, I am also assuming that these residents tend to believe that they would have greater control over their governance system. I also assume that if a town were established it would provide services such as those provided by other towns in the Commonwealth. To this point, I have avoided detailed cost estimates of alternatives due to the constraints I mentioned early in my presentation. I suggest though, that one peanut of the issue may be the cost/benefits relationship. Ms. Hedeman's study, for example, indicates that Reston residents do not think they are receiving maximum benefits from their tax contributions. It would appear that the alternatives of a town, township or special governance district would be capable of providing a full service public corporation. It should be noted that a full service public corporation may represent one extreme of a cost continuum calculation. (Since none of the alternatives identified are detailed here, it is not possible to develop accurate cost figures for their various configurations). Moreover, it is fiscally prudent to use high estimates of costs and low estimates of benefits under uncertain conditions. Finally, if it is possible to discern the costs at one extreme, then it is possible to ascertain costs for lesser service levels. As a result, I have developed some cost estimates for a town.

These estimates are based on my experiences in working with governments and my understanding of town budgets in the Commonwealth and elsewhere. I have made the following explicit assumptions in developing these figures: (1) there is little or no significant variation between towns in the proportion of funds expended for particular functions; (2) that the community served has about 30,000 residents; (3) start-up costs have been excluded—my guess is that these costs could range from \$1-3 million including land acquisitions, capital facilities, and equipment; (4) that the town is a typical Virginia town, e.g., the county provides health, welfare and educational services, and that the fire department is largely staffed by volunteers; and, (5) that a full service town would have an annual operating budget in Northern Virginia of about \$4.5 million for FY 78-79. (This latter estimate is based on a consideration of the budgets of various, similarly-sized towns and includes a cost escalator of 28%).

If these assumptions are valid, then the costs of the various operating functions would be:

Legislative (1.1%)	\$ 49,500
Town Manger (1.3%)	58,500
Legal Services (1.0%)	45,000
Financial Administration and Employee Benefits (13.3%)	598,500
Personnel, Community Relations and Employee Safety (0.9%)	40,500
Public Safety (21.9%)	985,500
Public Works (28.6%)	1,287,000
Parks and Recreation	139,500
Planning (1.7%)	76,500
Insurance (0.9%)	40,500
Debt Service (1.5%)	67,500
Contingency	58,500*
Payments to Other Funds (0.7%)	31,500
Capital Improvements (22.7%)	1,021,500**

TOTAL	\$4,500,000

* This excludes reserves. The recommended range on such funds is 4-10%.

** This figure may be substantially reduced if the town is not engaging in any significant capital improvement projects. Too, in many jurisdictions, capital improvements are contained in a separate, capital budget.

If the town's revenue sources are similar to other communities, its revenue patterns might be as follows:

Payments from other jurisdictions	33%
Property Tax	28
Licenses, Fees, Fines and Rents	15
General Revenue Sharing	11
Interfund Payments	6
Payments for town services	5
Other	2

In such a pattern, the town would need \$1,260,000 in property tax revenues. Thus, if the town had an assessed valuation of \$571,000,000, the annual operating budget would require (assuming a 97% collection) a tax rate of about \$0.221 per \$100 assessed value (assuming an assessment at 100% of market value). Thus, if the town consisted of only single family residences with a value of \$60,000 each, these units would each have an annual town tax bill of \$132.60. On the other hand, if the corporation is not a town, its entitlement revenues (e.g., payments from other jurisdictions, revenue sharing) would be reduced to some extent. It may be too, that a new town might not be entitled to the full revenue pattern implied above. In either case, the consequence would be a greater reliance on internally generated revenues such as the property tax.

In closing, Mr. Chairman, I would like to make these observations. First, this is a severely constrained analysis. Second, unless there is greater specificity as to the purposes and functions of the various alternatives, it is extremely difficult to develop reasonable cost estimates for each. Third, no effort has been made to calculate the benefits of the various alternatives. In many instances there may be psyche benefits to which economic terms are difficult if not impossible to assign. This does not make these less important. Indeed, it may well be that such benefits are more important because they cannot be valued economically. As a result, it seems to me that the best alternative is to let the affected people decide. Thus, I would recommend that this subcommittee support the passage of HB 34 in the next legislative session. To do otherwise, defeats the purpose of the referendum idea.

APPENDIX C

Listing of Town Functions and Revenues

Activities or Areas Engaged in by Towns

1. annexation
2. elections
3. fire protection
4. garbage disposal
5. health
6. housing
7. land planning
8. libraries
9. manpower training
10. police protection
11. pollution abatement
12. recreation
13. schools
14. sewage treatment
15. streets
16. transportation
17. urban renewal
18. water

Sources of Town Revenue:

1. Real property tax.
2. Tangible personal property tax.
3. Machinery and tools tax.
4. Merchants' capital tax.
5. Local option sales tax.
6. Bank stock tax.
7. A.B.C. profits.
8. Motor vehicle license tax.
9. Business, professional, and occupational license tax.
10. Local consumer utility tax.
11. Miscellaneous:
 - cigarette tax
 - transient lodging tax
 - service charges on certain tax-exempt property
 - fees charged for use of town property
 - water and sewer charges
 - federal revenue sharing

APPENDIX D

Draft Approved by Board of Directors
Reston Community Association
December 13, 1978

AN ACT ESTABLISHING A CHARTER FOR THE

TOWN OF RESTON

Be It Enacted by the General Assembly of Virginia:

Section 1. Incorporation and Boundaries.

The inhabitants of the territory in the County of Fairfax, Virginia, within the boundaries established by Chapter of the Acts of Assembly of 1979, adopted 1979, and as said Act may in the future be amended, shall constitute and continue a body politic and corporate to be known and designated as the Town of Reston, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by ordinance.

Section 2. General Grant of Powers.

The Town of Reston shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held exclusive, and shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations now or hereafter appertaining to and incumbent on the town as a municipal corporation; provided that , any and all exercises by the town of the powers granted in this Charter shall be subject to the limitations set forth in Sections 7 and 8 of this Charter.

Section 3. Grant of Powers in Chapter 18, Title 15.1, Code of Virginia.

The powers set forth in Sections 15.1-837 through 15.1-907 inclusive of Chapter 18, Title 15.1, Code of Virginia, as now exist and as hereafter amended, are hereby conferred on and vested in the Town of Reston.

Section 4. Special Powers Regarding Public Education and Transportation.

The Town of Reston is hereby granted the power to provide for:

- a. Additional buildings, facilities, personnel, equipment or other means to supplement or enhance, with the consent of the Fairfax County School Board, the public education provided by the School Board to the inhabitants of the Town; and
- b. A system of public transportation to serve the transportation needs of the Town.

Section 5. Intergovernment Relations.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof jointly or in cooperation by contract or otherwise with any one or more states or civil divisions or agency thereof or with the United States or any agency thereof.

Section 6. Powers Vested in Town Council.

All powers of the Town shall be vested in the Town Council except as otherwise provided by law or this Charter, and the Town Council shall provide for the exercise thereof and for the

performance of all duties and obligations imposed on the Town by law.

Section 7. Limitation on Certain Powers. County Veto.

(a) The following actions of the Town Council shall not take effect until 60 days after notice thereof is delivered to the Board of Supervisors of the County of Fairfax:

(1) All actions, whether by ordinance or otherwise, which raise revenue in excess of an aggregate annual amount of 1/20th of one percent of the value of the taxable real property of the Town as determined by the County of Fairfax for purposes of the county real property tax;

(2) All actions, whether by ordinance or otherwise, which appropriate or otherwise obligate funds in excess of an aggregate annual amount of 1/20th of one percent of the value of taxable real property of the town as determined by the County of Fairfax for purposes of the County real property tax; and

(3) All ordinances of whatever nature, other than those which raise revenue, or appropriate or otherwise obligate funds within the aggregate annual limits established in (1) and (2) above.

(b) If within sixty (60) days of notice, the Board of Supervisors shall disapprove any such act or ordinance as to which notice is required pursuant to (a) (1), (2) or (3) above, the same shall not take effect.

(c) The Town of Reston shall not have the extra-territorial powers granted to Towns by the Code of Virginia, nor shall it have the power to annex territory, nor shall it have the power to become a city.

Section 8. County Powers Retained.

All ordinances of the County of Fairfax now in effect or hereafter enacted will apply to the Town or Reston in the same manner as if the Town were not incorporated, with such exceptions as may be mutually agreed by the Board of Supervisors and Town Council or as may be otherwise authorized by law and enacted under the provisions of Section 7 above.

Section 9. Town Council. Composition. Qualification. Election. Terms.

(a) The Town Council shall be composed of a Mayor and six (6) Councilpersons elected at large on a non-partisan basis. The Mayor and Councilpersons shall be qualified electors resident in the Town.

(b) The regular municipal election of the Mayor will be held on the first Tuesday of May following approval of this Charter at referendum and every two years thereafter. The Mayor shall serve for a term of two years beginning the first day of July of the year in which elected.

(c) The regular municipal election of Councilpersons will be held on the first Tuesday of May following approval of this Charter at referendum, and every year thereafter. At the first regular municipal election six Councilpersons will be elected. The three candidates for Councilperson receiving the largest number of votes will serve for terms of two years each; the three candidates receiving the next largest number of votes shall serve for terms of one year each. At the second regular municipal election and at each regular municipal election thereafter, three councilpersons shall be elected for terms of two years each. The terms of all elected Councilpersons will begin on the first day of July of the year in which elected.

Section 10. Vacancy in Office of Councilperson.

A vacancy in the office of Councilperson shall be filled by appointment by the remaining members of the Council for the unexpired portion of the term, provided that, if the vacancy occurs more than 90 days before the next regular municipal election, the appointment shall run only to the last day of June following said election, and the vacancy for the remaining unexpired portion of the term shall be filled at said election by the candidate receiving the next largest number of votes after those candidates elected to full council terms.

Section 11. Duties of Mayor. Deputy Mayor. Succession.

(a) The Mayor shall have the same rights and privileges, and be subject to the same duties and prohibitions as a Councilperson except that the Mayor shall preside at all meetings of the Council and shall perform such other duties as may be prescribed by the Council.

(b) At its first meeting following adoption of this Charter, and every year thereafter, the Council shall elect one of its members as Deputy Mayor. The Deputy Mayor shall perform the Mayor's duties in his absence and shall succeed to the office of Mayor for the unexpired portion of a term in the event of a vacancy, provided that, if the vacancy occurs 90 days or more, before the next regular municipal election the Deputy Mayor shall succeed to the office of Mayor only until the last day of June following said election, and the vacancy for the remaining unexpired portion of the term shall be filled at said election.

Section 12. Council a Continuing Body. Meetings. Quorum. Rules. Salaries.

(a) The Council shall be a continuing body and no measures pending before such body, or any contract or obligation incurred, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members.

(b) The Council shall by ordinance fix the time of its stated meetings which shall be at least once per month. Special meetings may be called at any time by the Mayor or three Councilpersons, provided that all members shall be duly notified a reasonable period of time prior to any special meeting. Four members of the Town Council shall constitute a quorum for the transaction of business. The Town Council shall establish its own rules of order and procedure and may punish its own members and other persons for violations thereof.

(c) The salary of the Mayor, for the initial Mayoral term under this Charter, shall be \$1,800 per year. The salary of Councilpersons, for the initial Councilperson terms under this charter, shall be \$1,200 per year. Thereafter, the Town Council may establish from time to time the compensation to be paid to the Mayor and Councilpersons, provided however, no increase in the salary of the Mayor or Councilpersons shall take effect during any incumbent Mayor or Councilperson's term in office in which the increase is voted. Neither the mayor nor Councilpersons shall hold any other office or employment under the Town nor receive any compensation from the town other than the salaries prescribed in accordance with this Section 12c.

Section 13. Town Manager. Town Clerk and other Officers and Employees.

The Council may appoint and fix the compensation of a Town Manager, Town Clerk, Town Sergeant, Town Treasurer, Town Attorney and such other officers and employees as the Council deems necessary with such powers and duties as may be delegated by the Council. Town officers and employees appointed under this Section shall serve at the pleasure of the Council.

Section 14. Referendum. Establishment of Town Government.

(a) This Charter shall take effect only if approved by a majority of the votes cast by qualified electors of the proposed Town in a special referendum to be conducted by the Board of Elections of the County of Fairfax within six months of adoption of this Charter by the General Assembly.

(b) Upon approval of this Charter at referendum in accordance with (a) above, the Board of Supervisors of the County of Fairfax shall take all measures necessary to establish the town government.