

**REPORT OF THE  
COMMISSION ON LOCAL GOVERNMENT  
TO  
THE GENERAL ASSEMBLY OF VIRGINIA  
CONCERNING INCORPORATION OF RESTON**



**HOUSE DOCUMENT NO. 42**

**COMMONWEALTH OF VIRGINIA  
Richmond  
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## MEMBERS OF COMMISSION

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Thomas J. Bliley, Jr., Chairman  
Edward Beck  
Billy Frazier  
Wendell P. Hensley  
William S. Hubbard

**Report of the  
Commission on Local Government  
To  
The General Assembly of Virginia  
Richmond, Virginia  
January, 1980**

After one of its interim subcommittees studied the problem of community government in urbanizing counties, the General Assembly in its 1979 Session requested that the Fairfax County Board of Supervisors and the Reston Community Association consult together regarding the possible incorporation of Reston. (House Joint Resolution No. 290) Those two bodies were asked to report to the Commission on Local Government which in turn was asked to present recommendations to the 1980 General Assembly.

The Fairfax County Board of Supervisors and the Reston Community Association have made their report, a copy of which is included in the Appendix of this report. The two bodies recommend that counties using the urban county form of government, such as Fairfax, be allowed to create chartered communities within their boundaries. These communities would have elected governing bodies, and could be given whatever powers the Board of Supervisors deemed appropriate, including the right to levy a tax. The exercise of any power would be subject to county approval.

The Commission has reviewed this report and the accompanying recommendations and hereby makes its requested report to the General Assembly.

First of all, we commend the County of Fairfax and the residents of Reston for being willing to negotiate this question and for coming to an agreement. We encourage all local governments to attempt to work out their problems on a negotiated basis.

In a large urban setting such as Fairfax County, we feel that there may well be areas in need of community identity in the form of a governmental entity. Consequently, we endorse the recommendation of the Fairfax County Board of Supervisors and the Reston Community Association that urban county forms of government be allowed to create chartered communities, insofar as this concept is not in conflict with the Virginia Constitution, Virginia law or the policies of the General Assembly.

Respectfully submitted,

Thomas J. Bliley, Jr., Chairman  
Edward Beck  
Billy Frazier  
Wendell P. Hensley  
William S. Hubard

**JOINT REPORT  
of the  
BOARD OF SUPERVISORS, FAIRFAX COUNTY  
and the  
BOARD OF DIRECTORS, RESTON COMMUNITY ASSOCIATION  
to the  
COMMISSION ON LOCAL GOVERNMENT**

**CONCLUSIONS AND RECOMMENDATIONS  
ON COMMUNITY GOVERNMENT FOR RESTON**

**December 17, 1979**

House Joint Resolution Number 290 of the 1979 Session of the General Assembly requested the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association to consult together regarding a possible form of self-government for Reston.

We are pleased to advise you that after several months of consultation we have reached an agreement on this question and we recommend that the Virginia Code be amended to permit Fairfax County to establish, by county ordinance, a sub-unit of county government called a "Chartered Community". The requested amendment to the Virginia Code, a draft of the proposed county ordinance, and a detailed statement of the reasons for our recommendations comprise the report we submit with this letter.

It is our joint belief that the establishment of a "Chartered Community" as proposed would meet the needs of Reston for a community government without adversely impacting the county. We further believe that such a sub-unit of county government has a valuable role to play in the County of Fairfax, can be better coordinated with the county government than the traditional town could possibly be, and would be consistent with the philosophy of the urban executive form of county government now embodied in State Law.

Respectfully submitted,

Chairman, Fairfax County  
Board of Supervisors

President,  
Reston Community Association

As requested by House Joint Resolution No. 290, of the 1979 Session of the General Assembly, the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association have consulted together regarding the possible form an incorporated Reston should take in its proper relationship to the county government.

On the basis of these consultations, the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association recommend that the Virginia Code be amended to permit Fairfax County to establish by ordinance a sub-unit of county government called a "Chartered Community", with certain strictly limited powers delegated to it by the county. The required amendments to the Code appear as Appendix I; the draft of a county ordinance for Reston is given as Appendix II.

### Background

The question of some form of community government for Reston is not new. It has been debated within Reston for a number of years. A thorough study of town incorporation was undertaken by the Reston Community Association in 1977, and in 1978 the Association, after eighteen months of work, completed a comprehensive report on *The Advantages and Disadvantages of the Incorporation of Reston as a Town*. Negotiations with the county had begun at least as early as 1975, when the county established two task forces to study the matter. The first legislative action was taken in the 1977 Session of the General Assembly. Chapter 403 of the 1977 Acts of Assembly provided, subject to re-enactment at the 1979 Session, that the citizens of the community known as Reston may, by referendum, incorporate as a town. This chapter was subsequently amended by changing the date for re-enactment to the 1980 Session. House Joint Resolution No. 171 of the 1978 Session of the General Assembly established a joint subcommittee to study community government in urbanizing counties and, in particular, the question of Reston incorporation. The report of this subcommittee was issued in early 1979 as the *Report of the Joint Subcommittee Studying Community Government in Urbanizing Counties to the Governor and the General Assembly of Virginia*, House Document No. 32, Richmond, 1979. House Joint Resolution No. 290 resulted from the work of this subcommittee.

### Need for Community Government

Citizens of Reston have perceived a need for some form of community government primarily to do certain things that is believed can be better accomplished on a community level. The principal needs which would be met by a local community government are as follows:

1. A community government would make a contribution to a sense of community identity that can be made in no other way. Throughout its life, Reston has had a strong sense of community. As it grows to its ultimate size of some 70,000 inhabitants, a community government would help to maintain and strengthen this sense. Also, a community government would contribute to more effective operation of many of Reston's local institutions.
2. A community government would provide an official spokesman, representative exclusively of Reston.
3. A community government would give the Reston community greater ability to make its own decisions on certain governmental matters solely affecting Reston.
4. A community government would provide a structure to conduct certain functions that are normally the responsibility of local government, but that in Reston are in the hands of private institutions.
5. A community government would provide a governmental structure for use if the community wishes to extend local governmental functions beyond those provided generally by the county.

The Joint Subcommittee Studying Community Government in Urbanizing Counties recognized that a sense of community may be enhanced if there is a governmental organization for the community. In its report, the subcommittee concluded ... "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 the 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 added that it ... “believes there is the possibility that a modified form of local government sub-unit 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”. (The subcommittee was thinking, however, of a town with modified powers, rather than of a chartered community as proposed herein.)

#### Reston Proposals for Community Government

The type of governmental sub-unit originally proposed by Reston citizens was the familiar town form of government. The town form was established in state law, and could be made applicable to Reston by simple act of the General Assembly, as was ultimately done by the half-page bill which became Chapter 403 of the 1977 Acts of Assembly. Also, the town form could provide practically all of the powers which the citizens of Reston were likely to want a sub-unit of government to exercise.

As the question of community government was further studied, however, and as discussions with Fairfax County proceeded, various modifications were made in the original proposals. The Reston Community Association sought to find a formula for community government that would provide for closer coordination with the county than can be assured by the traditional town form of government. It sought the best possible compromise between purely local community interests and the broader interests of the county. It sought a situation in which appropriately local functions could be carried on at the local community level, but in which the county would continue to be fully responsible for functions that are better done on a larger scale or over a large area and from a broader point of view. As part of the county, Reston – in its own self-interest – is conscious that a local community government be instituted in such a way that there is no appreciable loss of county efficiency, and no adverse financial impact on the county. Over the past several years, the Reston Community Association has made several proposals for a variety of forms of local government, but in each case with this same underlying objective. The proposal for a chartered community has evolved in part from these earlier proposals, and in part from previous features of the general law.

#### Fairfax County Position on Community Government

The Board of Supervisors has been sympathetic with the needs expressed by Reston for some form of community government, and recognizes the advantages to both Reston and the county that can potentially flow from the establishment of such a government with appropriate structure and powers.

On the other hand, the Board of Supervisors has been concerned with assuring that the structure and powers of the proposed new government would, in fact, be appropriate to the existing circumstances.

The Board has been consistently opposed to the incorporation of Reston as a town. Creation of a town of the traditional type would shift certain revenue sources from the county to the new town, without necessarily shifting the responsibility for provision of services in equal degree. Incorporation of a town would thus have an immediate adverse effect on county finances. At the same time, creation of a town might give rise to some overlapping and duplication of services, with resulting inefficiency in local government operations. Also, the independent borrowing authority of the town could threaten the county’s present excellent credit rating.

In approaching some new form of community government, the Board of Supervisors has similarly been concerned with avoiding serious potential problems. County and community government programs should not be duplicative and wasteful. There should be no dilution of county revenues where there is not a concomitant reduction in county service. There should be no adverse impact on the county’s authority for bonded indebtedness as the result of issuance of bonds by the community government. There should be no use of eminent domain that would remove land unwisely from the county tax base, or that would create problems for the county in obtaining needed easements on the property or using it for county purposes where required. Conflict between

county and community government police power ordinances should be avoided.

For these reasons, it has appeared prudent that the county should be the primary and sole source from which the authority of the new community government is derived. It is deemed important that the necessary enabling legislation be general, and be a permissive delegation to the county which gives the community government no independent status, but places final authority in the county.

#### Recommended Chartered Community Form

The recommended chartered community form of government meets practically all of the stated objectives of both the Reston Community Association and Fairfax County. A chartered community government would satisfy all of the five general needs for community government outlined above. Adoption of the draft county ordinance would give the chartered community most of the powers which the Community Association had identified earlier this year as likely to be desired by a community government. At the same time, the proposed chartered community form of government removes the concerns which Fairfax County has had with respect to the impact of the community government on the efficiency and financial integrity of the county.

The proposed enabling legislation would permit the structure and powers of any particular chartered community to be tailored by the county to the needs and desires of that community. For Reston, the draft county ordinance which has been prepared and attached as Appendix II contains the following major provisions:

1. Establishment : The chartered community would be created by Fairfax County ordinance, subject to approval by referendum within Reston.
2. Governmental Structure : The chartered community would be governed by an elected mayor and six member council.
3. Powers : The chartered community of Reston would have substantive power to:
  - (a) Make recommendations to the Board of Supervisors on land use planning and zoning;
  - (b) Own and acquire property by purchase or gift;
  - (c) Manage and maintain common land, parks, walkways and streetlights;
  - (d) Provide, manage and maintain recreational and related facilities and activities;
  - (e) Operate a public transportation system within Reston and to points outside Reston;
  - (f) Provide refuse collection services;
  - (g) Perform such other duties, functions and services as may be delegated by the Board of Supervisors and agreed to by the council of Reston.

The chartered community council would also have the necessary powers to provide for the exercise and administration of the substantive powers, including the fixing of salaries, and to adopt rules of procedure. It will not have the power of eminent domain, but may request the county to acquire specific property by eminent domain for ownership by Reston.

4. Financing : The chartered community would have the authority to impose real and personal property taxes in addition to and not in place of county property taxes. The chartered community could also charge fees for services. Costs of any new services, costs of contracts with the county to supplement county services, and costs of the mayor and council would have to be borne by such taxes and charges. Borrowing by the chartered community would be permitted, subject to approval by the Board of Supervisors.

Within the scope of the delegated powers, the chartered community council would have full authority to act, without review or veto by the Board of Supervisors (except in the case of borrowing, as described above). The Board of Supervisors, however, would have the authority to revoke any or all of the powers granted to the chartered community.

The draft ordinance appearing as Appendix II reflects the structure and powers of the chartered community of Reston as they have been worked out in our joint discussions. They clearly illustrate the nature of the community government which we have in mind. Some refinement of the details will almost certainly be necessary, however, before the ordinance can be adopted in final form.

### Legal Precedent

In its essential features, the chartered community is similar to the District Commissions originally authorized to be created within counties adopting the urban county form of government. Such authorization appeared in Sections 15.1-789 and 15.1-790, which were included in the original act establishing the urban county form, but which were repealed by Chapter 464 of the 1966 Acts of Assembly without ever having been used.

### Conclusion

Establishment of a chartered community of Reston would substantially meet the needs for community government perceived by the citizens of Reston. Establishment of such a chartered community would not have an adverse impact on the financial position of Fairfax County, nor reduce the efficiency of the county government. In fact, establishment of the township should make a positive contribution to the quality of government in the county as a whole by taking advantage of the heightened sense of community identity within Reston, which should flow from the existence of the new community government. Finally, establishment of a chartered community of Reston would serve the interests of the state in promoting strong and viable units of local government.

It is for these reasons that the Board of Supervisors of Fairfax County and the Board of Directors of the Reston Community Association join in recommending passage by the General Assembly, and approval by the Governor, of the proposed enabling legislation authorizing Fairfax County to establish a chartered community.

## APPENDIX I

An act to amend the Code of Virginia by adding a section numbered 15.1-785.2, relating to the authority of counties having an urban county form of government to delegate authority to thickly settled communities so that such communities may establish a limited form of self-government.

§ 15.1-785.2. Limited self-government for thickly settled communities within a county form of government.—Authority is hereby given to permit a county having an urban county form of government to delegate so much of its authority to thickly settled communities, developed as self-contained communities with commonly recognized geographical boundaries and a population in excess of 30,000 people, within the county as the county board of supervisors may deem to be in the public interest, including authority for such thickly settled communities to elect officials, so that such communities may establish a limited form of self-government as a chartered community, provided that any such election shall conform to the requirements of Title 24.1. Delegations of authority by the county to the thickly settled community shall be under such terms and conditions as are determined by the county board of supervisors and the powers delegated shall be confined to the established boundaries of the thickly settled community. Provided, however, no such delegation shall act to the financial detriment of the county or diminish the county's obligations, powers or responsibilities and any delegation of authority to tax shall be limited to a surtax on real or personal property within the boundaries of the community as assessed by the county. The authority initially delegated by the county to the community shall be effective when approved by a majority of the voters of the thickly settled community voting at referendum. Additional delegations may be made without referendum. Such community governments shall have and exercise only the powers expressly granted to them by the board of supervisors.

Community governments may be established if the voters who reside within the metes and bounds of said thickly settled community shall vote for limited self-government in a referendum hereby authorized and to be held in accordance with § 24.1-165. The urban county board of supervisors upon receipt of a petition as set forth in § 15.1-966 shall transmit such petition to the circuit court, and the circuit court shall enter an order for the holding of a referendum in accordance with § 24.1-165. Upon receipt of the results of said referendum, the circuit court shall enter an order allowing the governing body of the county to delegate authority for limited self-government if a majority of the voters voting in the referendum shall have voted for limited self-government.

## APPENDIX II

### DELEGATION OF AUTHORITY FROM THE COUNTY OF FAIRFAX TO THE COMMUNITY OF RESTON FOR THE ESTABLISHMENT OF LIMITED SELF-GOVERNMENT

Authority : Authority will be that conferred on the County of Fairfax by the enabling legislation and delegated to Reston as a chartered community and permitting it authority to establish a limited form of self-government in accordance with certain specified powers, boundaries and limitations. Boundaries will be expressed in metes and bounds.

Creation : If a majority of the voters within the boundaries voting in referendum, vote to accept the powers, boundaries and limitations set forth by the Board of Supervisors, a chartered community of Reston shall be created. The governing body shall consist of a mayor and a council of six members, each of whom shall be a registered voter of Reston, to carry out the delegated powers. The mayor and council shall be elected on the first Tuesday in May following the referendum approving the establishment of Reston. Elections shall be held on each succeeding first Tuesday in May thereafter. The mayor shall be elected for a term of two years as a full voting member. The initial three candidates for council receiving the highest number of votes shall serve two year terms and the other three members initially elected shall serve one year terms. At the next regular election and on each year thereafter, the council members shall be elected for terms of two years each. The mayor and council members shall take office on July 1 following their election.

#### Powers of Reston Council Will Be Initially Limited to the Following :

- a. Adopt rules for their procedure consistent with state statutes and County ordinances;
- b. Fill vacancies;
- c. Make recommendations to the Fairfax County Board of Supervisors on land use planning and zoning within or adjacent to the township of Reston;
- d. Own and acquire property by purchase, devise or gift;
- e. Manage and maintain the common land, parks, pathways, walkways, trails and streetlights within the boundaries of Reston;
- f. Provide, manage and maintain recreational, sports, social and cultural facilities and activities within Reston that are supplemental, but not duplicative or competitive, to County activities of the same general nature;
- g. Operate a public transportation system within the community;
- h. Provide refuse collection service within the boundaries of Reston;
- i. Perform such other duties, functions and services as may be delegated to Reston by the Board of Supervisors and agreed to by the council of Reston without any requirement for referendum;
- j. Fix the salaries of the mayor and members of the council and the members of such boards and commissions as the council may establish, and for all appointed officers and employees. The initial salary of the mayor shall be \$1800.00 per year and the initial salary of the council members shall be \$1200.00 per year. No increase in the salary of the mayor or council members shall take affect during any incumbent mayor or council members' term of office in which the increase was voted and shall not exceed a total of \$...... for mayor and \$...... for each council member.
- k. Provide for the exercise of and administration of the above powers including the power to raise revenue by placing a surtax on real or personal property within Reston, enter into contracts, sue and be sued, issue bonds, provided that no bonded indebtedness shall be incurred without approval of the Board of Supervisors and the residents of Reston by referendum pursuant to § 24.1-165 of the *Code of Virginia* , hire and discharge officers and employees.
- l. Reston shall not have the power of eminent domain but may request the County to acquire certain lands by eminent domain for ownership by Reston.

Any or all of the powers granted by Charter may be revoked by the County after notice to the Reston Council, opportunity for a public hearing and a majority vote of all members elected to the County Board of Supervisors. Any such revocation shall be final and not subject to review except by the County Board on petition by Reston Council for reconsideration. Amendments of or additions to these powers by the County Board of Supervisors are subject to the same procedures as for revocation except that a majority vote of all members elected to the Reston Council accepting the amendments or additions is necessary before they become effective.

