

RESTON COMMUNITY ASSOCIATION

THE ADVANTAGES AND DISADVANTAGES OF THE INCORPORATION
OF RESTON AS A TOWN

A Report of the Governance Committee

Reston, Virginia

September 1, 1978

Table of Contents

	<u>Page</u>
PREFACE	1
I. INTRODUCTION	3
LEGAL ASPECTS OF INCORPORATION	5
Present Legal Constraints on Incorporation	5
Characteristics of Incorporation Under Virginia Law	6
REPORT FOCUS: INCORPORATION AS A TOWN NOT AS A CITY	8
THE QUESTION OF SCHOOLS	9
SOME MAJOR ISSUES NEEDING FURTHER STUDY	10
Area of a Town of Reston	11
Relationship to Small District 5	11
Relationship to the Reston Homeowners Association	12
Relationship to Clusters	13
II. ADVANTAGES OF INCORPORATION AS A TOWN	14
LOCAL CONTROL	14
Increased Sense of Community Within Reston	15
Contribution to Fulfilling Original Purpose of Reston	15
Increased Pride in Local Government	17
Increased Citizen Participation	17
Responsiveness	19

	<u>Page</u>
Better Representation of Reston	19
HIGHER QUALITY OF SERVICES	21
Street Maintenance and Related Functions	22
Trash Removal	22
Recreation and Parks	23
Police Protection	23
Planning and Zoning	24
Other Services	24
More Convenient Location of Local Government Offices	25
III. DISADVANTAGES OF INCORPORATION AS A TOWN	27
ADVERSE EFFECTS OF INCORPORATION ON THE REGION AND THE COUNTY	28
Increased Difficulty in Solving Regional Problems	28
Decrease in the County's Efficiency	29
Financial Weakening of Fairfax County	30
DISADVANTAGES WITHIN RESTON	31
Possible Deterioration in Relations Between Reston and Fairfax County	31
Possible Adverse Effects on Relations With the Developer	32
Problems in Service Delivery: Lack of Experience	32
Difficulty in Attracting and Maintaining Adequate Professional Staffs	33

	<u>Page</u>
IV. ESTIMATED EXPENDITURES, REVENUES AND TAXES FOR AN INCORPORATED TOWN OF RESTON (FISCAL YEAR 1977-78)	34
EXPENDITURES	36
Mayor, Town Council and Town Clerk	37
Finance Department	37
Police Department	38
Trash Removal	38
Street Maintenance	39
Snow Removal	40
Planning and Zoning Department	40
Town Manager	41
Town Attorney	41
Parks and Recreation	42
REVENUES	42
Real Property Tax	43
Personal Property Tax	44
Business, Professional, and Occupational Tax	45
Motor Vehicle License Tax	46
Cigarette Tax	46
ABC Profit Distribution	46
Consumer Utility Tax	47
Share of County Sales Tax	47
VDH&T Grant for Street Maintenance	48

	<u>Page</u>
Miscellaneous & Revenue Sharing	48
SAMPLE BUDGETS	49
Minimum Level	49
Medium Level	50
Maximum Level	51
V. SUMMARY	53

APPENDICES

APPENDIX A. - TABULAR SUMMARY OF THE POSSIBLE ADVANTAGES AND DISADVANTAGES OF INCORPORATION AS A TOWN	56
APPENDIX B. - POWERS AND FUNCTIONS OF TOWNS IN VIRGINIA	57
APPENDIX C. - BACKGROUND ON THE QUESTION OF SCHOOLS	60
Legal Citations	60
Prospects	61
Some Town Experiences	62

PREFACE

Should Reston be incorporated as a town? -- as a city? What would the benefits be? What are the disadvantages? How much would it cost? What are the legal ramifications? What are the services that might be provided?

The Governance Committee of the Reston Community Association explored these questions and others over a 16-month period beginning in May 1977. This report, The Advantages and Disadvantages of the Incorporation of Reston as a Town, is the result of the committee's deliberations.

The purpose of the report is to set forth the advantages and disadvantages of the incorporation of Reston as a town. It lists all of the advantages and disadvantages the committee could identify. The report raises questions and provides information. It also discusses the legal barriers to incorporation and current and possible steps towards overcoming them.

This report is intended as a tool to be used by the Reston Community Association, other civic groups, elected officials, and the community-at-large in grappling with the complexities of incorporation. It is presented as a basis for broad public discussion of the merits and demerits of incorporation. From this discussion, it is hoped that a consensus may be arrived at and a decision reached as to Reston's position on this vital issue.

Readers of the report may identify areas where more clarification or information is needed. The Governance Committee has specifically noted some of these areas. It hopes that individuals and groups will participate in RCA's ongoing study of incorporation by discussing such issues, providing information, and identifying topics which need to be further studied.

The Committee's series of meetings attracted a varying group of participants, and contributions to the report have been made by many different people, not all of whom have continued with the Committee to the completion of its report. Primary work on drafting the several sections of the report has been done by Therese Martin, Marsha Neuman, M.E. Freeman, Jr., and Samuel J. Dennis (on the basis of the Committee's discussions), and substantial writing and editorial contributions have been made by Linda Morris. The Committee members responsible for this report are as follows:

Joanne Brownsword

Carolyn Lindberg

Samuel J. Dennis,
Chairman

Therese Martin

M.E. Freeman, Jr.

Linda Morris

Marjorie Karpen

Marsha Neuman

Daniel M. Kush

Billie Reed

Lee Libman

Kathleen Skaugen

I. INTRODUCTION

The question whether Reston should -- or should not -- seek incorporation as a town is not one that can be answered by a simple assembly and study of facts. Facts, of course, are essential and helpful, insofar as they can be known. But the answer which the resident of Reston will give to the question is likely to depend as much on values and goals as on facts.

The advantages of incorporation may seem compelling to some residents; the disadvantages may carry more weight with others. Some people may believe that it is of overriding importance to obtain closer-to-home, potentially more responsive local government. Others may feel that such a local government would be inefficient in service delivery, costly, and parochial in its outlook -- and that avoiding these drawbacks is more important than acquiring any benefits that may accrue from a smaller, more responsive government. The advantages of incorporation are presented in Section II, the disadvantages in Section III. Appendix A provides a list of both.

Whether incorporation is desirable or not depends on the subjective importance people attach to the advantages and disadvantages, which are clearly incommensurable and largely immeasurable in any terms at all. It also depends

on people's willingness to pay any additional costs that resulted from incorporation.

The cost, or price tag, of incorporation for an individual Restonian cannot be stated simply. As a generalization, a resident of a town in Virginia pays more local government taxes than he or she would if the town did not exist. If Reston followed the example of the majority of existing towns, the total local tax bill (county and town) of a citizen of a town of Reston would be somewhat higher than if incorporation had not occurred. On the other hand, some of an individual citizen's present expenditures, such as those for trash removal by private concerns, might be reduced, and any such reduction would serve as at least a partial offset to any additional local taxation. Moreover, the amount of additional local taxation, or even whether there would actually be any at all, depends upon the type and quality of services the residents wish the town to provide. At the minimum level of service described in Section IV, there might be no increase in the local taxes because of incorporation. Section IV of the report presents detailed estimates of expenditures, revenues, and resulting real property tax rates for three different budgetary models for a town of Reston, based on three different levels of services.

The remainder of this introductory section of the report includes a discussion of legal aspects of incorporation, the

question of schools, and some major issues needing further study.

LEGAL ASPECTS OF INCORPORATION

Present Legal Constraints on Incorporation

Under present state law, Reston cannot incorporate. Section 15.1-785, Code of Virginia, prohibits new incorporations in counties having the urban county form of government. Section 15.1-967 of the code prohibits new incorporations of towns in counties having more than 200 inhabitants per square mile. Fairfax County has both the urban county form of government and more than 1,400 inhabitants per square mile. Special legislation passed at the 1977 session of the Virginia Assembly (Chapter 403, Acts of Assembly, initially designated as H.B. 34) would permit the incorporation of Reston as a town as an exception to the general laws. By its own terms, however, this special legislation has not gone into effect, and will not take effect unless it is passed again at the 1979 session of the General Assembly.

The Reston Community Association has contended that the residents of Reston should have the option of incorporating if they wish to do so and has consistently supported legislation to that effect including the special legislation passed at the 1977 session of the General Assembly.

Despite these constraints, the issue is not moot and alternative courses of action do exist. Reston residents need to decide whether to continue efforts to obtain legal authority for incorporation. If such legal authority should be granted, they will need to decide whether they wish to take advantage of it. Furthermore, some of the proposals considered in the 1978 Assembly session, but set aside for later action, would effectively require that such a decision be reached in the short period between the end of the 1979 session and January 1, 1980.

Characteristics of Incorporation Under Virginia Law

Virginia law provides for two types of general-purpose local governmental bodies other than counties. These are cities and towns. A city is not part of any county - an arrangement almost unique to Virginia. City residents are governed, at the local level, by their city council, and are not under any county board of supervisors. All local government services are the responsibility of the city, although some of these services may actually be provided by the county on contract with the city. City residents pay no county taxes of any kind.

A town, on the other hand, remains a part of the county within which it has been incorporated. A town is governed both by the county board of supervisors and by the town

council. Local government services are provided in part by the county, in part by the town. Schools are in almost all cases a responsibility of the county, as discussed more fully below. Town residents pay certain county taxes -- most notably the county real property tax -- as well as town taxes, including almost always a town real property tax.

Specific governmental services provided by towns in Virginia vary from town to town, depending upon the size of the town, the size of the county, historical accident, and relative political strength of town and county. In practice, the specific powers and responsibilities of a town are stated in the town's charter. This charter is an act of the General Assembly. (For a general statement of the powers and functions of towns in Virginia, see Appendix B.)

If the legal barriers to Reston's incorporation should be removed and Reston should decide to incorporate, it would need to obtain a charter from the General Assembly. The citizens of Reston, through a charter commission of local residents, would decide what powers they wanted their local government to possess, and would draft a charter that would provide those powers. The draft charter would then be submitted to the General Assembly, and the citizens of Reston would have to convince the General Assembly that the powers proposed in the charter were reasonable and consistent with general state policy and that the charter should be approved.

Any future changes in the charter and the powers that it authorized would follow the same course, with passage by the General Assembly necessary for charter amendment.

REPORT FOCUS: INCORPORATION AS A
TOWN NOT AS A CITY

This study considers the advantages and disadvantages of incorporation of Reston as a town. It does not cover the advantages and disadvantages of incorporation as a city.

Because a city ceases to be part of a county, while a town remains within a county, the results of incorporation as a city are quite different from the results of incorporation as a town. This study is limited to town incorporation for the following reasons:

1. Incorporation as a town may be feasible politically; incorporation as a city would encounter far greater political difficulty.
2. The study of city incorporation is far more complex and time consuming than that of town incorporation -- particularly in estimating costs.
3. Almost all of the work done on the study of the consequences of town incorporation would be directly useful if it should be decided to extend the study to cover the city as well. In such a case, the present study would essentially become the first part of a two-part study.

THE QUESTION OF SCHOOLS

Although most towns in Virginia do not have their own school systems, the Committee examined the possibility of a town of Reston having jurisdiction over its schools. The Committee did so because many residents have expressed an interest in this vital issue.

The Committee attempted to ascertain whether a town of Reston could be designated as a separate school division. Since such a decision would be made by the Virginia Board of Education and General Assembly, the results of our investigation are speculative. From a reading of the Code of Virginia and correspondence with the Superintendent of Public Instruction and Delegate Dorothy McDiarmid (a member of the House Education Committee), it appears that such designation could be possible, though not probable. Such a step would be contrary to the present thrust of greater consolidation of school divisions, and Reston would have to prove that it could provide a quality education.

The town managers of the five Virginia towns having their own school systems were contacted about their experiences. (See Appendix C.) Little of their experiences can be applied to Reston. All of the towns have populations of less than 3,000 and do not anticipate growth. The largest of the school divisions includes only one school, which serves all grades K through 12.

Should Reston seek to be designated as its own school division if it becomes incorporated as a town? The answer depends on the ability of Reston to support financially a quality school system.

- * Could Reston prove to the General Assembly and Virginia Board of Education that it was financially able to support a quality school system?
- * How much would a separate school system cost residents in taxes and what type of education would they be getting for their money?

These are questions that are beyond the abilities or time of the Committee to answer and would require a detailed and complete study of both revenues and costs. The following facts, however, can be cited: (1) we are a growing area in constant need of additional facilities; (2) we do not yet have a large proportion of nonresidential properties in our tax base; and (3) we have a great number of students per 100 taxpayers. These facts suggest that a town of Reston might have to pay a high price for local control of its schools.

SOME MAJOR ISSUES NEEDING FURTHER STUDY

Town incorporation for Reston raises a number of issues beyond the scope of this report. They include the area of the town, its relationship to Small District 5, and its relationships to the Reston Homeowners Association, other home

owner's associations, and townhouse clusters. These issues are important ones and will require extensive community-wide discussion to be resolved. However, the desirability of incorporation can be considered in advance of their solution.

Area of a Town of Reston

The exact area to be included in a town of Reston would need to be decided, of course, in advance of any move to incorporate. Clearly, there is a "core" area consisting of the land that is subject to the Reston Homeowners Association (RHOA) covenants, the undeveloped land held by the Reston Land Company, and the land that is substantially surrounded by these areas (e.g. Deepwood, Stratton Woods, and the industrial strip along the Dulles Corridor). However, there is a question as to what areas bordering on this core should be included.

Relationship to Small District 5

Small District 5, established by Fairfax County to finance the Reston Community Center, is an arm of the County. Although much local input has gone into Small District 5 and the Reston Community Center Governing Board has been appointed on the basis of a local advisory election, ultimate control rests with the Fairfax County Board of Supervisors.

A town of Reston could provide a means of local control. But there are problems. A town of Reston might include an area different from the area of Small District 5; any attempt to transfer responsibility for the community center from the county to the town might encounter, therefore, legal obstacles.

Relationship to the Reston Homeowners Association

Incorporation of Reston would immediately give rise to questions of the town's relationship to the Reston Homeowners Association and other homeowner associations (Deepwood and Stratton Woods, for example). RHOA is not a government, but it has several governmental-like functions. Principal among these are the ownership and maintenance of the open space and recreational facilities and the operation of a recreational program. If Reston is incorporated, these functions might be transferred to the town government. In that case, they would be supported by all property owners, rather than by residential property owners only. But assumption of certain RHOA functions by the town government would create complicated legal and financial problems. For example, what payment would have to be made by the town to RHOA for transfer of the capital facilities -- pools, tennis courts, open space, nature center, etc.? Could the town afford the price, and would it be equitable? Would the recreational program, pools and tennis courts continue to be operated on user fees or

would they be supported by general taxes? Would the town be required to provide capital recreational facilities to those areas not now served by RHOA? What problems of equity of treatment would arise if the town included an area larger than Reston proper?

Relationship to Clusters

Somewhat like RHOA, the various clusters provide services, within the cluster limits, of a type that are in many areas provided by local government. Examples include road maintenance, street lights, snow removal, recreational space. If Reston is incorporated, there exist at least three options for a town of Reston with respect to cluster services: (1) maintain the status quo; (2) provide services to clusters on a fee basis through the town's public works department; and (3) negotiate with private contractors to provide the services, using the town's superior bargaining power.