

TOWN INCORPORATION: A CASE STUDY OF MASSANUTTEN


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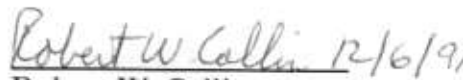
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## I. INTRODUCTION

Local governments in the United States play a vital role in the delivery of services to a vast population. In 1987, 86,186 local governments spent approximately \$428 billion, of which \$359 billion translated into direct expenditures for public services ranging from health and welfare to public safety (Bureau of the Census, 1989, p. 268). While individuals receive a variety of services from all levels of government, many of these are provided at the local level. However, it needs to be understood that not all local governments provide the same services nor are they all inclusive in their delivery.

### TYPES OF LOCAL GOVERNMENT

The term "local government" refers to the geographical and legal subunits that operate within and at the will of the state. These units vary in and among the states according to the legal power and structure under which they function. This, in turn, impacts the number, type, and level of services they are able to provide. Local governments can be divided into four categories: counties, municipalities, townships, and special districts.

**Counties.** Counties are generally contiguous areas which encompass the entire state area. Organized counties are found in all states to some extent except Rhode Island and Connecticut (Bureau of the Census, 1987, p. vi). They were initially established by the states to serve as administrative subdivisions for the purpose of localizing the administration of state functions, including tax collection

and assessment, state law enforcement, and record keeping. Although counties continue to carry out these functions, today their role is not so narrowly defined. Counties are not merely outposts for state government, but provide some local government services to their residents.

Throughout the country, some counties have experienced a tremendous population increase in recent years. The residents of these counties have exerted pressure on county leaders in order that they may receive urban services such as garbage collection, improved street maintenance and enhanced police protection — services historically provided by municipal corporations. In spite of their legal position as an extension of the state, many states have begun to grant counties the proper authority to provide expanded services (Grant and Nixon, 1982, p. 398).

In other instances, growth has not been county-wide but has occurred in isolated areas, creating pockets of urban places in an otherwise rural county. This results in a rural-urban cleavage. Urban residents desire services that rural residents are unwilling to pay for because they do not need the services or will not use them if provided. Often a county cannot afford to cater to the urban segment of the population. The urban community then has two avenues of recourse: to pursue the creation of a special district or to incorporate as a municipality.

**Special Districts.** Special districts, the most numerous of all local governments, are established primarily to serve one specific function, but multipurpose districts do exist. They are created with the intention that those who use or benefit from a service, pay for it. Special districts can be created to provide

services to a small area within a locality or can be used to provide a common service to an entire region. Unlike other types of local governments, most special districts are not governed by elected officials. Most are run by boards appointed by another unit of government, such as a county governing board (Lorch, 1983, p. 276). School districts are the most prevalent of all special districts. Other examples include transit authorities and water and sewer districts.

**Municipalities.** The other option for urban areas is to incorporate as a municipality. Municipal corporations, like counties, are created by the state, but differ in that municipal corporations are formed at the behest of the population. Municipal corporations are somewhat similar to business corporations. Both are chartered by the state and are "artificial persons" in a legal sense; they can own and sell property, sue and be sued, borrow and loan money, enter into contracts and carry on similar business operations (Lorch, 1983, p. 285). The municipal charter "identifies boundaries, governmental functions and powers, organization and structure, means of finance and powers to elect and appoint officials and employees" (Elliot and Ali, 1988, p.239). Whether or not municipalities are able to amend their charters is contingent upon the degree to which home rule has been granted to these localities. Approximately forty-three states have granted some measure of home rule (Wirt, 1989, p. 12). But in Dillon-Rule states like Virginia, charter revisions must be approved by the General Assembly (Constitution of Virginia, 1971, Article VII, Sect. 2).

Municipalities can vary tremendously. It is difficult to compare New York City with a population over 7 million and Los Angeles with a population over 3 million

to a small town like Clinchport, Virginia with a population of 80; yet, both are municipalities (International City Managers' Association, 1989, p. 684, 610). Municipalities may be classified as first class cities, second class cities or towns based on various factors including population size or value of property. "Classifications dictate the governmental form and powers of municipal corporations. Once a community is classified it is subject to all [state] laws governing that classification." (Elliot and Ali, 1988, p. 240) By virtue of the classification system, cities tend to have a larger, denser population and are able to provide more services or a higher level of service than towns, given cities draw upon a larger tax base.

**Townships.** Townships, which are found primarily in the states of the Midwest, are not to be confused with towns. The Bureau of the Census distinguishes townships from municipal governments which are created to serve specific population concentrations. "Township governments exist to serve inhabitants of areas defined without regard to population" (1989, p. viii). Townships were intended to be a rural government and not the principal unit of local government (Lorch, 1983, p.274). In recent years their role has become less significant as counties have assumed many of their functions.

Included in the category of townships are the New England towns, which perform both a municipal and a county function. Where New England towns exist, the counties have not played an important role. In addition, there have been few incorporations in these areas because New England towns are able to provide the desired level of services. Recently, urban growth has resulted in a withdrawal from town government as urban communities have chosen to incorporate (Lorch, 1983,

p. 270).

### **MUNICIPAL INCORPORATION**

The way in which people identify with local government depends upon their experience with any of these four types. Residents of urban areas are dependent upon local government for a variety of services and view local government as a much needed institution. Those in rural areas tend to rely on government for fewer services. These needs are not static and local governments are expected to keep up with change.

One factor which effectuates change is population growth or urbanization. As communities begin to take on urban characteristics, residents demand additional services comparable to those being provided in urban areas. However, local governments frequently lack the necessary resources or authority to meet increased demands. When this occurs and people become dissatisfied with the status quo, options need to be explored.

The number of choices offered to unincorporated areas are primarily limited to the creation of special districts and incorporation. Whether or not one is chosen over the other depends upon the needs and expectations of the affected community. While special districts are more numerous, they tend to be narrow in scope. If a community's major concern revolves around the need for a particular service, or limited services, then the creation of a special district may be the best alternative. On the other hand, "if motives for change include a desire to allow the political

process to determine services priorities..., then the choice will be incorporation as the broad based, politically accountable governing unit," to the extent state law permits (McCarthy, 1975, p. 44). Incorporation would give citizens greater access to the political system through directly elected officials. They would be able to influence, to some degree, service priorities established by the municipality. This would differ from a special district in which priority needs are determined at its creation (McCarthy, 1975, p. 44).

Inherent in any discussion of incorporation is the assumption that communities, by obtaining legal status, will realize an improvement over current government provisions. If incorporation is to be a viable alternative then, the new municipality must be given the proper taxing authority and enforcement power to provide needed services. However, legal empowerment is not the only determinant of long-term success; economic conditions play a vital role in a municipality's ability to provide services. Because the property tax is a major source of local tax revenue, municipalities must have an adequate tax base in order to fund desired services. Therefore, there must be some analysis to demonstrate that municipalities can indeed provide services above and beyond the existing level.

### **THESIS APPROACH**

The focus of this paper will be on town incorporation. Town used in this context refers to municipalities and not to townships or New England towns, as distinguished above. Because local governments vary tremendously across states, it is necessary to limit the analysis, in this instance, to town incorporation in Virginia. The town is Virginia's smallest unit of government and they total 190 in number.



In spite of their size and number, they are instrumental in the provision of services. According to a 1984 study, an estimated average of eight services were provided per town. This compares to five provided per county and eleven per city (Joint Legislative Audit and Review Commission (JLARC), 1984, p. 15). Because towns are part of the county in which they are located, town residents are able to take advantage of some county services not provided by their town.

Specifically, this will be a study of town incorporation as it applies to the community of Massanutten. Massanutten is a resort community of approximately 1,500 residents managed by a property owners' association, which is considering incorporation. This community is located in Rockingham County, a classic example of a rural county that has experienced uneven growth. There are currently seven towns in Rockingham County. If Massanutten is able to incorporate, Rockingham County will rank second in the state in terms of the number of towns per county.

Towns are incorporated by either judicial proceeding by the circuit court of the county in which the community is located or by special act of the General Assembly. The former is more involved since several criteria enumerated in the Virginia Code must be satisfied. At the request of the court, a hearing may be conducted by the State Commission on Local Government in order to determine if the community complies with these criteria. First, the community must have a population of at least 1,000. Second, the population density must be at least 200 persons per square mile. Third, the Commission on Local Government must determine that the "services required by the community cannot be provided by the establishment of a sanitary district, or under other arrangements provided by law



or through extension of existing services provided by the county in which such a community is located" (Code of Virginia, 1950, Sect. 15.1-967.1). Incorporation must also promote the general good of the community. Community refers not only to the area desiring incorporation but also to the county in which the incorporation is to take place (Bennett v. Garret, 132 Va. 397, 112 S.E. 772, 1992).

This thesis examines the level of services currently being provided by Rockingham County and those provided by the present property owners' association versus those that will become the responsibility of the newly formed town. Services to be studied include street maintenance and law enforcement as these are typically the most desired enhanced level of services of incorporating communities.

In addition to service delivery, the goal of promoting the general good of the community is looked at in terms of government accountability, responsiveness, and enforcement powers. This includes an analysis of the governance capability of the property owners' association and the County versus what improvements could be attained by a Town Council. The effect incorporation will have on Rockingham County is addressed as well. The focus is not only on the immediate impact, but will speculate as to what the transitional and future ramifications might be for this area.

To establish a case for Massanutten, information available from other towns that have either recently become incorporated (e.g. Clinchco) or have considered incorporation (e.g. Reston) is relied upon. Supporting information also comes from interviews to be conducted with elected officials and administrators of the affected

jurisdictions, members of the Commission on Local Government Structures and Relationships, and the Commission on Local Government. Literature relating to local government, especially local government in Virginia, and planning has been surveyed.

Because Virginia's local government is unique in its characteristics, such as the low number of local government units, city-county separation and incorporation by judicial proceeding, the second chapter will be devoted to an examination of the town's role in this distinct system (Makielski, 1971, p. 45). The third and fourth chapters are the core of the thesis and address many of the issues discussed above. The third focuses on the "internal" implications of town incorporation with regard to government accountability and responsiveness, power and enforcement capability, and service delivery. The fourth chapter, considers the "external" implications or to what degree Rockingham County will be adversely affected and how the greater community will be better served. Chapter five will draw conclusions and lay out any new findings in the area of town incorporation.

## II. THE ROLE OF TOWNS IN VIRGINIA'S LOCAL GOVERNMENT STRUCTURE

This chapter looks at the role of towns in Virginia's local government structure. To identify this role, data on population and town services are examined. By looking at population over a period of time, it is possible to draw some conclusion as to the stability of towns. Because information on towns is limited, it is easy to surmise that towns in general are small and serve little purpose. While some towns are small, many are comparable in population to some cities and provide services that are equivalent with their municipal counterparts. In addition, many towns serve to close the gap in the services that are provided by counties. In a sense, they cater to the special needs of unincorporated communities within counties that cannot afford to provide these same needs for the entire county or are not desired by the county as a whole.

### TOWN POPULATION

Virginia's local government structure is composed of 41 cities, 95 counties and 190 towns. Although towns outnumber cities and counties, much less is known about them than the other two types of localities. Written information pertaining specifically to towns is limited and seemingly proportional to the size of the town. More data tends to be available for larger towns. In a 1983 Joint Legislative Audit and Review Commission (JLARC) survey, data collection was only attempted for those 130 towns with populations over 500 (1984, p. 119).

Many towns are indeed small in population. The average town population is 2,000 with more than half (51 percent) of the towns having a population of 1,000 or less. The following table shows the population distribution for Virginia towns for 1970, 1980, and 1988. Historical data is given in order to identify population trends. Figures shown for 1988 are an estimate based on 1980 census data. The population statistic for the most recently incorporated town of Clinchco in Russell County, which has approximately 1,000 residents, has been added to the appropriate category in Table 1 (Clinchco community, 1989, p. 9.)

**TABLE 1: POPULATION DISTRIBUTION OF VIRGINIA TOWNS  
FOR 1970, 1980, and 1988**

Population	1970	1980	1988	Net Change (70-'88)
0-500	62	58	60	-2
501-1,000	50	39	36	-14
1,001-2,500	47	53	56	+9
2,501 plus	34	39	38	+4
Total Number	193	189	190	-3
Total Population	310,158	356,283	375,355	+65,147
Average Population	1,600	1,885	2,000	+400
Percent Change	-	15%	6%	21%

Sources: Bureau of the Census, Statistical Abstract of the United States:  
1989. pp. 108-111.  
Makielski, The Virginia Town, I. 1971, p.47.

Since 1970, population among towns has grown by more than 65,000 or 21 percent. Despite this considerable increase over a span of approximately twenty

years, the rate of growth has slowed somewhat from 15 percent for 1970 to 1980 to 6 percent for 1980 to 1988. Data extrapolated from U.S. Census Data indicates that 77 towns (40 percent) have lost population since 1980. Fifty of those had a population of less than 1,000. Of the remaining 112 towns (60 percent), 36 experienced population growth greater than the state average of 12.5 percent. Herndon in Fairfax County, had an estimated growth rate of 75 percent. (Bureau of the Census, 1989, pp. 108-111.)

Based on the population data alone, it appears that towns, especially larger ones, are stable units of government. Many towns have experienced tremendous growth in the past few years. Even though population decline was more predominant among smaller towns, there has been a decrease in the number of towns with populations below 1,000 and an increase in the number of towns above 1,000. Such a shift indicates that even some small towns are experiencing growth.

A town's growth pattern may be influenced to some degree by its geographical location. "Almost 95 percent of Virginia's population increase between 1980 and 1988 occurred in the eastern third of the state known as the 'urban crescent' .... The framework of the crescent is formed by the three major U.S. highways - I-64, I-95, and U.S. 29" (Virginia Department of Planning and Budget, 1990, p. 3-4). Towns inside the urban crescent were more likely to realize an increase in population than those towns outside of the urban crescent. Seventy-nine percent of the towns inside the crescent grew as compared to fifty percent of the towns outside of the urban crescent.

Although not shown in the above chart, town populations cover a wide range. The smallest town, Clinchport in Scott County, has a population of 80. The Town of Blacksburg in Montgomery County is the largest town with 29,190 residents (Bureau of the Census, 1989, p. 110-111). While references are often made to the "small town", several towns are as large or larger than some cities. Twenty-three towns have a population equal to or greater than one or more cities (Bureau of the Census, 1989, p. 110-111). In other words, there are twenty-two cities (more than 50 percent) that are comparable in size to towns. Blacksburg is nearly seven times larger than the smallest city, Norton, which has a population of 4,300 (Bureau of the Census, 1989, p. 112). The next section shows that towns and cities not only have population in common, but also compare in terms of service delivery.

### **TOWN SERVICES**

Town services commonly provided include: refuse collection, law enforcement, fire protection, water and sewer (JLARC, 1985, p. 21). Table 2, below, compares the number of departments responsible for service delivery in 1969 and the number that currently exist. Functions such as refuse collection, water and sewer are categorized under the Public Works heading. The data is broken down to make comparisons of towns similar in size. Because town data is limited, it was necessary to refer to a number of sources including listings in local telephone directories.

Table 2 reinforces the fact that towns with larger populations are more likely to provide a number of services. Almost all of the towns with populations above 2,500 provide services which fall into each category. Smaller towns may lack the

financial resources needed to provide the same services provided by larger towns. Nevertheless, it is difficult to categorize towns as some smaller ones are able to provide these services and some larger ones cannot. In addition, the figures do not account for variations in the level and quality of service among towns providing the same service.

The chart below also indicates that the percentage of towns providing law enforcement and fire protection services has decreased since 1969, while the number of towns providing public works functions has increased. The reason for the shift in the delivery of services is not known, but one can speculate as to what some of the contributing factors may be. A decrease in the provision of law enforcement services could indicate that towns are still providing the funding for police protection, but are no longer involved in direct service delivery. In July 1, 1980, the authority to establish a police department was extended to all counties in the state (Fields and Wiley, 1980, p. 3). As counties began to provide this service, towns in these counties may have decided to get out of the law enforcement business and rely on county police services.

An explanation for the decrease in fire services is even less clear. The percentage of towns providing this service dropped by 3 percent and occurred primarily among smaller towns. Among the possibilities include stringent equipment and training regulations required of fire and emergency services and a growing reliance on volunteers or counties to provide these services.



**TABLE 2: COMMON FUNCTIONAL AREAS OF VIRGINIA TOWNS  
FOR 1969 AND PRESENT**

		1969					
		Fire		Police		Public Works	
Population	# Towns	#	%	#	%	#	%
0-500	62	39	63	34	55	2	3
501-1,000	50	33	66	42	84	13	26
1,001-2,500	47	44	94	44	94	28	60
2,501 plus	34	34	100	34	100	28	82
Total	193	149	77%	154	80%	71	37%

		Present					
		Fire		Police		Public Works	
Population	# Towns	#	%	#	%	#	%
0-500	60	32	53	8	13	7	12
501-1,000	35	25	71	18	51	14	40
1,001-2,500	56	46	82	46	82	40	71
2,501 plus	38	36	95	38	100	36	95
Total	189	139	74%	110	58%	97	51%

Sources: Makielski, The Virginia Town, II. 1971, p.1

ICMA, Municipal Year Book: 1989.

VML Directory, 1989

Center for Public Service, Virginia Statistical Abstract: 1989.  
p. 405-413.

Local Phone Directories

A larger number of towns provide some type of public works service to their citizens. One reason could be due to a change in the funding formula for street maintenance. Although all towns over 3,500 in population have to provide their own street maintenance, this is not the case with smaller towns. Towns with populations under 3,500 can either maintain their own streets or have them maintained by the state as part of the county system. In fiscal year 1979-1980, the amount of money flowing to municipalities for street maintenance increased by about \$14 million (Michie and Mashaw, 1979, p. 43). The increase in funding may have served as an incentive for towns to maintain their own streets.

Another reason for the rise in the number of towns providing public works functions may be attributed to the increasing popularity and acceptance of user fees. In recent years, towns have shown an increasing reliance on user fees as a source of revenue (JLARC, 1985, p. 18). Unlike public safety functions, public works activities such as water and sewer and refuse collection is more easily subject to user fees than other services. This tends to be true because the usage of utilities and refuse collection can be measured; whereas, it is difficult to measure or place a value on the service provided when a police officer arrests a thief in someone's neighborhood. Demands for public works services can be more easily met if a funding source is also available.

Regardless of the reason for the increase, a sharp turn in this trend would not be surprising. Refuse collection and disposal are among the most commonly provided services, but are becoming increasingly more expensive to provide due to mandates associated with landfills and the emphasis on recycling.

The most recent data published on the subject of towns is the JLARC study which was based on a survey of 130 towns with populations above 500. Eighty-four towns responded and sixty-five of those had populations over 1,000. The results showed that 96 percent of towns provide law enforcement, 89 percent provide fire protection, and 99 percent provide some type of public works service, the most common being refuse collection (1984, p. 120). One would expect these percentages to be higher, because of the populations of the towns surveyed.

Other services are also provided, but are not as common as the aforementioned. The most significant of these include parks and recreation, and planning and zoning. The chart below shows the distribution of these services across the same population categories used above. Not surprisingly larger towns are more apt to provide these services than smaller ones. Historical data for these services is not readily available and is omitted from the following table.

**TABLE 3: OTHER FUNCTIONAL AREAS**

Population	# Towns	Parks/Recreation		Planning/Zoning	
		#	%	#	%
0-500	60	0	0	0	0
501-1,000	35	1	3	1	3
1,001-2,500	56	6	11	2	4
2,501 plus	38	28	74	20	53
Total	189	35	19%	23	12%

Source: Same as above.

**Compared to cities.** These services are also common to those provided by cities. Overall, cities provide more services on average than do towns. According to a 1984 survey conducted by JLARC, cities provide an average of eleven services and towns provide an average of eight services (p. 15). However, as indicated below, the services provided by larger towns are similar to those provided by cities of comparable size.

**TABLE 4: SERVICE DELIVERY COMPARISON OF CITIES AND TOWNS WITH SIMILAR POPULATIONS (BETWEEN 4,300 AND 29,190)**

		Fire		Police	
Local Gov't	#	#	%	#	%
*Cities	22	22	100	21	95
Towns	23	22	96	23	100

\*Sources: ICMA, Municipal Year Book: 1989.

Unfortunately, the levels of service provided by these two types of municipalities cannot be measured and compared. For example, data is not available to determine whether police protection is provided by a single part-time officer or by many full-time officers. While service levels cannot be identified and the list does not include all services provided by towns and cities, the data does give some indication as to the similarity of towns and cities of comparable size.

Two explanations for the difference in the provision of planning and zoning functions can be offered. Every locality is required by the state "to appoint a planning commission, to develop a comprehensive plan, and to enact ordinances regulating subdivisions" (Fields and Wiley, 1980, p. 2). Unlike cities, any town may

opt to designate its respective county's commission, with consent of the governing body of such county, by ordinance as local commission of such town (Virginia Code, 1950, 15.443). A second explanation is that the towns have planning commissions, but do not have a planning department per se to staff the commission.

**Compared to counties.** "Most counties have towns within their boundaries (70 out of 95) — only 22 counties contain no towns. Accomack County, with 14 towns, has the largest number of towns..." (JLARC, 1985, p. 119). Towns exist primarily to close the gap in the delivery of "urban" services which are not feasible for counties to provide area-wide or are only desired by a portion of the county. Service delivery was the focal point of a resolution in which the County of Dickenson approved the incorporation of Clinchco and encouraged the Virginia legislature to grant Clinchco a charter. "... [T]he Dickenson County Board of Supervisors has never established a sanitary district to provide services to the residents of the community of Clinchco and... does not have ...[nor] anticipate having sufficient funds available in the foreseeable future to provide services to the community of Clinchco" (Dickenson County Board of Supervisors, 1989, p. 1).

A survey of town and county officials revealed that a greater percentage of towns receive services than do counties. The only exceptions were in the cases of law enforcement and refuse disposal. However, the percentage of towns receiving these services was within 10 percent of the percentage of counties receiving the same services. On the other hand, the discrepancy was much larger for services provided by towns and not by counties. The most significant services were received by at least 20 percent more towns than counties and included street maintenance,

refuse collection, water and sewer (JLARC, 1985, p. 10). On average, towns provide an estimated average of 8 services, while counties provide an estimated average of 5 (JLARC, 1984, p. 15). It must also be remembered that town residents are county residents and have the same access to county services as non-town residents.

Table 5 uses the town data from the previous chart and compares it to data from the counties in which these towns are located. There are a fewer number of counties because more than one town is located in the same county. This sample supports the theory that towns exist to provide services above and beyond those provided by counties. In every instance, these services are provided by a greater percentage of towns than counties. Less than 100 percent of the counties and towns are shown as providing planning and zoning services. As mentioned in the above section, the reason for this can be attributed to the fact that not all localities are able to fund a planning or zoning department to staff a state-required local planning commission.

**TABLE 5: FUNCTIONS OF LARGER TOWNS COMPARED TO  
FUNCTIONS PROVIDED BY THEIR RESPECTIVE COUNTIES**

		Fire		Police	
Local Gov't	#	#	%	#	%
*Counties	19	7	37	0	0
Towns	23	22	96	23	100

\*Source: Virginia Review Directory of State and Local Government Offices.  
1990.

From this data on departmentalized functions, the role of towns as service providers is brought to light. County residents who want enhanced services, but do not want to move to high density urban areas may find that towns are a viable lifestyle alternative. "Approximately 19 percent of Virginia's population lives in the State's more rural areas, including most of the towns..." (Ruehmund, 1991, p .9). Rural areas are often unable to provide enhanced services due to limited resources. Towns are able to fill this void and thereby play a vital role in local government. According to Charles Lohr, Town Manager of Broadway located in rural Rockingham County, being a town makes a great deal of difference in that towns are closer and more responsive to the people; without the town, the County would have to have City Hall branches to satisfy the needs of the community (1990). Town residents of Broadway are accustomed to receiving enhanced services and would not settle for the basic services provided by the County (Lohr, 1990).

Although the information on towns is limited, it does give an indication as to what towns are like in general and what residents can and do expect from town governments and how towns are able to meet these expectations through service delivery. A study of these topics is helpful in anticipating what communities can hope to gain through town incorporation. The following chapter takes this a bit further in looking at the specific case of Massanutten, a resort community located in Rockingham County.



### **III. INTERNAL IMPLICATIONS OF MASSANUTTEN INCORPORATION**

This chapter addresses some of the implications incorporation will have upon residents of Massanutten or "internal" implications. Effects incorporation will have upon the greater community of Rockingham County are reserved for discussion in the following chapter. To assess these internal effects, it is necessary to look at what is currently being provided to this area by the property owners' association and Rockingham County and how a town government might improve the status quo. The assessment will hinge upon three factors: government accountability and responsiveness, power and enforcement capability, and service delivery. However, before looking at these factors, it is necessary to describe the Massanutten community as it is somewhat unique when compared to its potential town counterparts in the county.

#### **PROFILE OF MASSANUTTEN**

Massanutten is located in the eastern portion of Rockingham County at the base of Massanutten Mountain. In terms of size, Massanutten compares quite favorably to the other towns in the County. Table 6 below shows the population of Massanutten and the seven towns in the County.

With population aside, Massanutten differs considerably physically when comparing it with other towns in Rockingham County and elsewhere. Typically, one thinks of a town developing because of its geographic proximity to business or industry or because it is the seat of county government. This is not the case where

Massanutten is concerned. Massanutten is a planned community developed as a year round resort. Business in Massanutten is directly related to resort activities, including skiing, golf course and pro shop, time-shares, and rentals. Unlike other towns, Massanutten, as a potential town, would not be a place that people would happen to pass through or stumble upon on the way to another destination. There are no major roadways in or out of the community and is, in this sense, more like a residential neighborhood than a town. Two maps are provided in the appendix. The first shows Rockingham County. Each town as well as Massanutten have been circled on the map for identification. The second map is a compilation of Rockingham County tax maps showing the portion of the county in which Massanutten is located. The shaded areas on the section enlargement pages indicate the Massanutten Development. The following inserts provide more detail of the shaded areas.

**TABLE 6: POPULATIONS FOR MASSANUTTEN AND EACH TOWN**

Bridgewater	3,370
Timberville	1,850
*Massanutten	1,500
Elkton	1,490
Grottoes	1,460
Broadway	1,350
Dayton	960
Mount Crawford	310

Sources: Bureau of the Census, Statistical Abstract of the United States, 1989, p. 110.

\* Calculation based on data from Litten, Sipe et al., 1987, p.4)

Massanutten also differs demographically from other towns. As a resort community, Massanutten attracts fairly affluent homeowners. Information obtained from the local Board of Realtors indicates that the average home in Rockingham County and Massanutten sells for approximately the same amount. In Massanutten the average house sells for \$105,000 compared to \$99,000 in the County (1991). Although the differential is not tremendous, one would contend that the range of home sales is much greater than the range for Massanutten. Home sales in Massanutten would be clustered around the average. It could also be argued that the price of homes in Massanutten aids in driving the average up for the County as a whole. Even so, there are areas of the county that are more affluent than Massanutten, but they do not comprise whole towns as Massanutten would if incorporated. Therefore, Massanutten has a fairly homogenous population compared to the remainder of the county.

#### **GOVERNMENT ACCOUNTABILITY AND RESPONSIVENESS**

In pursuing town incorporation, communities need to weigh the advantages and disadvantages of doing so. Communities believe incorporation will assist residents in having better control over a government which is closer and therefore, more responsive to their specific needs. A local government will be able to provide for these needs because they will have the necessary authority and power to collect and receive revenue for these purposes.

The case of Massanutten is somewhat unique because a mechanism for providing enhanced services already exists. The residents of Massanutten are mandatory members of a property owners' association. Property owners'

associations, also known as community or homeowners' associations, total 130,000 nationally and are established "through conditions, covenants and restrictions attached to the deed to real property" (ACIR, 1989, p. 3). Purchasers of land become association members automatically and agree to adhere to rules and regulations, as well as pay fees and assessments, for which they enjoy services and facilities provided by the association. In spite of these amenities, there is some potential for improvement through town incorporation.

**Representation.** Although Massanutten functions similar to a local government, differences do exist. The residents of Massanutten are governed by a 12-member board of directors, eleven of which are elected by the residents with the other being appointed by the developer of Massanutten (Massanutten Property Owners' Association, 1988, p. 5). The election and voting procedure is significantly different from those of governments. Voting does not operate on the principle of "one man, one vote," rather on one of "one lot, one vote." Property owners are "entitled to one vote for each lot owned provided that there shall only be one vote authorized for each lot and when there is more than one owner of a lot the vote for that lot shall be cast as the owners themselves determine" (Massanutten Property Owners' Association, 1988, p. 4). In the case of multifamily dwellings, only one vote shall be allowed for the lot on which the dwelling is located (Massanutten Property Owners' Association, 1988, p. 4). In addition, the developer is "entitled to exercise three votes for each unsold lot" (Massanutten Development Company, p. 3).

Massanutten residents are also represented at the county level by an elected member of the board of supervisors. The supervisor not only represents

Massanutten but all residents of Rockingham County living in the same district, including town residents of Elkton and Grottoes. Although there is no reason to doubt the County's receptiveness to Massanutten concerns, the County must consider the interests of all its residents in addressing issues and developing policy.

As a town, Massanutten would be governed by a town council which would be elected on the basis of one man, one vote. This would allow everyone to have equal access to the system and would result in more views and interests being represented. The town government would represent the specific needs of this community and would be able to exercise a degree of flexibility not available to the county because of its large and varied constituency. While Massanutten would still have representation at the county level, a town would be closer to the residents and enable them to exhibit more influence over issues that affect them. The Northern Virginia community of Reston, which is governed by an association similar to that of Massanutten's and has considered town incorporation, has posed a similar argument. A political benefit of town incorporation would be "local control over local issues....[A] locally elected town council would have more flexibility than the county" to respond to the unique needs and characteristic of the community (Reston Governance Task Force, 1988, p. 13).

**Freedom of Information.** The rules of government would change significantly if Massanutten is incorporated. As a municipality, Massanutten would be subject to the Virginia Freedom of Information Act (Virginia Code, 1950, Sect. 2.1-340). Under this act, all meetings are to be open to the public with few exceptions. "A meeting is defined as any gathering together, formally or informally, of a quorum

...of the elected body; it does not matter whether the meeting is announced in advance or whether votes are taken or minutes kept." (Virginia Code, 1950, Sect. 2.1-343). This contrasts significantly to the wording of the Bylaws for the Massanutten Property Owner's Association. According to these regulations, the Board of Directors shall hold six meetings each year as it chooses. "Any and all business may be transacted at any [board] meeting" (Massanutten Property Owners' Association, 1988, p. 8). These Board meetings are not open to members. Member meetings are held once annually. However, as a town, Massanutten would be required to hold public meetings at least monthly or as outlined in its charter. (Wilkenson and Fields, 1979, p. 40).

In addition, no provision is included in the bylaws for public access to official documents. Public access to municipal papers is required of towns according to Virginia State law. "The Freedom of Information Act requires that all official records except those specifically exempted must be open to inspection and copying by any citizen of Virginia during the regular office hours" (Virginia Code, 1950, Sect. 2.1-342).

**Equity.** The Massanutten Property Owners' Association is able to provide a number of services which are funded through annual and special assessments. Annual assessments are levied upon all members at a flat rate. For 1989, property owners were assessed \$350. This amount was applied to everyone equally, regardless of the size of the home or the size of the lot. Those living in a condominium paid the same as those living in a large home. According to the MPOA manager, such a levy is felt to be unfair, because the assessment is not a



function of real property value (Myers, 1990). Having a property tax would allow Massanutten to redistribute the burden in a more equitable manner. The Reston Governance Task Force expressed another concern over this same issue of taxation versus assessments. Unlike the property tax, "an assessment on residential property is not deductible against income taxes" (1988, p. 1).

### **POWER AND ENFORCEMENT CAPABILITY**

**Taxing Authority.** Unlike municipalities, Massanutten is limited in the amount of revenue it can generate to provide enhanced services. The primary source of revenue is derived from annual assessments as opposed to taxes. As a town, Massanutten would have access to a number of revenue sources not currently available. Residents currently pay a number of taxes to Rockingham County. Some taxes, if imposed by the town, would preempt the county's ability to levy them.

Property owners pay real and personal property taxes to Rockingham County. Through town incorporation, Massanutten would have the authority to levy its own property taxes; however, property owners would still be obligated to pay these same taxes to the County. "Towns are limited in the amount of revenue they can generate from real and personal property taxes since imposition is perceived as "dual taxation" (JLARC, 1985, p. II). Six of the seven towns in Rockingham County levy a real property tax (Spengler, 1989, pp.II-1 - II-8). Five towns levy a property tax on motor vehicles in addition to the county levy and four towns levy an additional property tax on machinery and tools (Spengler, 1989, pp.II-30 - II-54). Because Massanutten property owners are already paying both county property taxes and annual assessments, it would seem unlikely that they would be opposed to paying



property taxes to the town as long as the amount is not in excess of annual assessments. In other words, the amount of money being paid out by proposed town residents could be the same with annual assessments taking the form of town property taxes.

Other taxes which could be levied by Massanutten, but would preempt taxes levied by the county, include: motor vehicle license tax, business, professional and occupational license tax and consumer utility tax. "Towns may levy a motor vehicle license tax on motor vehicles, trailers and semi-trailers in an amount not exceeding the state registration license tax" (Mashaw, 1988, p. 125). If a town levies a tax less than that levied by the county, then the difference flows to the county (Virginia Code, 1950, Sect. 58.1-650). Half of the towns in Rockingham County levy a tax on cars and trucks which is five dollars less than the county levy (Spengler, 1989, pp. II-15 - II-29). This amount is then paid to the County. Massanutten residents pay over \$14,000 in motor vehicle license fees to the County (Litten, Sipe, et al., 1987, p. 3). Upon incorporation this revenue would flow to Massanutten.

Six of the seven towns in Rockingham County levy a tax on business, professional and occupational licenses. At present the County does not levy this tax. If Massanutten chooses to levy this tax, then Rockingham County would be prohibited from doing so within the town's boundaries. Another restriction, which applies to all localities, prohibits the levying of taxes on both business, professional, and occupational licenses and merchants' capital of the same class (Virginia Code, 1950, Sect. 58.1-3509). It is estimated that Massanutten could receive at least

\$20,000 from the tax on business, professional and occupation licenses (Litten, Sipe, et al., 1987, Appendix C, p. 2).

The conditions under which a town may levy a consumer utility tax are more restrictive than those above. If the town does not constitute a special school district, then the town must provide police or fire protection **and** water or sewer services in order to levy this tax. Whether or not this implies that such a service could be provided by a public service corporation is not known and has not been tested (McCormack, 1990). The code states that if a town is served by a sanitary district or service authority providing water or sewer, then the town shall be deemed as providing such water or sewer services itself (Virginia Code, 1950, Sects. 58.1-3812 and 58.1-3814). Six towns in Rockingham County levy this tax; however, there could be some debate as to whether an incorporated Massanutten would qualify as it is served by a public service corporation, which is not specifically mentioned in the Code. If Massanutten is permitted to levy a consumer utility tax, at least \$30,000 dollars would flow to the town (Litten, Sipe, et al., 1987, Appendix C, p. 2).

Towns may be able to generate revenue through the imposition of excise taxes, provided authority to do so is granted in the town's charter. Excise taxes include taxes on transient occupancy, restaurant and meals, and admissions. No towns in Rockingham County levy any of these taxes. Rockingham County levies the transient occupancy tax. If a town levies this tax, then the County cannot levy this tax within corporate limits without permission. The same would be true in the case of the restaurant and meals tax. (Virginia Code, 1950, Sect. 58)

Massanutten, as a town, would be entitled to other revenue which would not result from a levy imposed by the town. Towns may receive a portion of 50 percent of the 1 percent sales tax levied by the county. The basis used to determine a town's share of the local sales tax is the ratio that the school-age population of the town bears to the school-age population of the county (Mashaw, 1988, p.124). Towns are not eligible to receive this revenue unless they have complied with their "charter provisions providing for the election of its council and mayor for a period of at least four years" or an agreement permitting receipt prior to the end of the four years is negotiated between the county and the town (Virginia Code, 1950, Sect. 58.1-650). the Town of Broadway receives about \$25,000 (Lohr, 1990).

Towns also receive revenue from the state resulting from the profit of the Alcoholic Beverage Control Commission. A portion of the profit is returned to the locality based upon population (Virginia Code, 1950, Secs. 4-22 - 4-22.1). Broadway receives approximately \$6,000.

In addition to these revenue sources, towns can institute user fees. User fees are different from taxes in that the people who use a service pay for it. Some user fees include charges for refuse collection and recreational activities. Therefore, Massanutten could offer new services that are only desired by some residents. This differs from the present situation in that a majority vote would have to determine the addition of any new services, but all residents would pay for these services regardless of whether they take advantage of them.

**Land use regulation and enforcement.** If incorporated as a town, Massanutten would have the authority to regulate growth and land use. All localities are required by the state to appoint a planning commission, to develop a comprehensive plan, and to enact ordinances regulating subdivisions (Fields and Wiley, 1980, p. 2). Currently, the property owners' association must get approval by the county for its master plan. Upon incorporation, the proposed town of Massanutten would be given more autonomy in developing their plan since the county's jurisdiction is limited to unincorporated areas (Fields and Wiley, 1980, p. 2). Having the authority to develop its own plan would give the residents of Massanutten improved opportunity to shape their community and would be able to enforce these measures without relying on the County to do so. The county currently charges and collects fines for zoning ordinance violations. Upon incorporation, Massanutten would be able to charge and collect fines for zoning ordinance violations, as well as for the violation of any other town ordinance. According to David Myers, manager of MPOA, land use regulation is of particular concern to the association for the very reasons mentioned above (1990).

There is one aspect of land use regulation that raises some questions and that is the administration and enforcement of restrictive covenants. As with most property owners' associations and community associations, there are restrictive covenants which convey with the sale of the land. These are usually more restrictive than any imposed by the locality and are therefore enforced by the association. "Restrictive covenants, intended as a commitment for the benefit of the locality, can present enforcement problems since, in the view of some, these covenants

cannot be enforced by a locality" (Robin, 1980, p. 19). When property owners' associations "transform themselves in to local governments,...[t]his does not usually involve the total dissolution of the association. Instead, certain service functions are transferred to the public agency, while architectural restrictions and other duties are retained by the private association" (ACIR, 1989, pp. 19-20). Accordingly, the Reston Governance Task Force noted that "a town could become the successor organization in performance of all functions of the Association, except for regulation of design and use of residential property" (1988, p. 8).

While the details of the transfer of functions would have to be worked out in the case of Massanutten, it appears that the MPOA would remain in order to carry out covenant administration. The costs and benefits of maintaining MPOA will have to be explored before final decisions are made. The cost of retaining this organization may not be adequate to compensate for providing a single service to Massanutten residents. This restriction is not binding in perpetuity. After a period of twenty-five years from the date of recordation of the plat, which occurred in October, 1971, a petition by a majority of the owners can affect change to the covenants (Massanutten Development Company, p. 3). Therefore, the inconvenience of maintaining the association may only be temporary or incorporation could be delayed. The only other alternative would be to test the restrictions in court, which could prove to be timely and costly.

### **SERVICE DELIVERY**

The services currently provided by the Massanutten Property Owners Association (MPOA) and the services that could be provided after incorporation

would not differ significantly. Governing the Massanutten community currently includes "security and policing; maintenance, improvement and beautification of roads, open areas, recreational and other facilities, and private properties within the community; the enforcement of rules and regulations regarding the use and development of the community and supervision and use of facilities" (Massanutten Property Owners' Association, 1988, p. 1). Through its charter, a town has the authority to provide services which are desirable or necessary. As noted in the previous chapter, these services can vary tremendously. For the purpose of this discussion, it will be assumed that the members of the property owners association would like to continue receiving the same services upon incorporation of this community.

**Police Protection.** Currently, Massanutten has its own police department consisting of eight police officers. This is a service which could easily be transferred to a town government. As a town, Massanutten may qualify to receive state funds to partially cover the cost of providing this service. Funds are allocated to localities according to a special funding formula (Virginia Code, 1950, Sec. 14-84.1). However, these funds are also conditional upon compliance with state mandates regarding officer training and is often a source of contention with towns. Town administrators generally feel that the requirements are "too lengthy or inapplicable to small police forces" (JLARC, 1984, p.123). The degree to which training requirements will place a burden on Massanutten is not known. The benefit of receiving funds may outweigh the cost of meeting training requirements. The town of Broadway in Rockingham County has a population of 1,350 and currently



receives approximately sixteen dollars per resident or \$21,000 per year (Lohr, 1990). In a feasibility study conducted in 1987, it was anticipated that Massanutten could receive approximately \$12,500. Due to the recent slow-down in the economy, Virginia localities are realizing a decrease in many state revenues including aid for police protection. Therefore, this amounts maybe somewhat higher than what would actually be received.

**Street Maintenance.** The MPOA currently funds road maintenance through assessments which are levied in addition to regular assessments otherwise obligated by each member. "Each lot owner within a subdivision shall be responsible for his pro rata share of the cost of maintaining the streets or roads ... including any orderly program for the continued upkeep and improvements...." (MPOA, 1988, p. 16). As a town, maintenance of public roads would be funded through the tax base.

Street maintenance can be provided just as easily by the proposed town. However, transfer of this service raises a number of questions which need to be addressed. Towns may dedicate streets for maintenance by the Virginia Department of Transportation. In order for streets to be accepted "... [they] must be constructed to the Department's standards for the traffic served" (Mashaw, 1988, p. 294) Massanutten would not be accepted because they do not conform to the State's standards and any efforts to bring them in line with these standards would either be very costly or impossible due to the grade (Osborne, 1990).

In order to receive state funds for street maintenance, towns must have a population of at least 3,500 and maintain its streets. These funds are only available



for the maintenance of public roads. (Virginia Code, Sec. 33.1-41.1) According to the manager of the MPOA, the population is a little more than 1,000, significantly less than the stipulation of 3,500 (Myers, 1990). In addition, Massanutten's roads are currently private roads, but can be dedicated to the town for maintenance. Given these specifics, full responsibility and funding for maintenance on public streets would rest with the town. The Property Owners' Association may have to remain to maintain any private streets.

**Public Access.** Not only are the streets in Massanutten private, ingress and egress at Massanutten is restricted. This service is fairly common to property owners' associations. However, this type of security cannot be maintained on public roads. Should Massanutten incorporate, access to public buildings and facilities would have to be granted to the general public. It would be possible to limit access into private residential areas. The responsibility for enforcement would not rest with the town, but would remain with the property owners' association. This same logic would apply to private recreational facilities. If these facilities transfer to the town, then they become open to the public. The town cannot operate and maintain private facilities, but may charge non-resident users.

### **INTERNAL IMPACT SUMMARY**

This chapter does not reflect all of the impacts that may occur due to incorporation. Rather, it outlines some of the major points that will need to be the focus of discussion when the final decisions have to be made. It would be nice to conclude that the community would only be impacted in a positive manner, but this is not realistic. There are several situations in which some tradeoffs need to be

negotiated between the community residents and the MPOA. Although most services can be transferred to the town, the benefits of doing so may not rest well with some of the members. They may be accustomed to having a secured community and private recreational facilities. Nevertheless, not all of the impacts are negative; some of the changes that would occur may give incorporation considerable merit.

Incorporation may have several advantages over maintaining the status quo. Citizens may be better represented by a town government than by the board of directors due to voting procedures established above. A town government by definition may be more responsive to the community by having certain tools available. These tools include proper authority to tax and regulate land use. As a town, the revenue base would be expanded considerably. The more revenue a town has the easier it is to respond to citizen requests for additional services. Finally, land use regulation gives the residents greater control over the future of Massanutten.

#### IV: EXTERNAL IMPLICATIONS OF INCORPORATION

This chapter will examine the effect of Massanutten's incorporation as a town upon the greater community of Rockingham County (population 54,800). The previous chapter examined some of the effects incorporation might have upon the proposed town and its residents. According to the Virginia Code, incorporation cannot compromise the general good of the entire community, including the area from which a town is carved (1950, p.505.) For this reason, immediate impacts and the potential for harmonious town-county relations will be addressed.

##### REVENUE LOSS

As discussed in the previous chapter, incorporation will inevitably mean a loss in some County revenue. If the town decides to levy any of the preemptive taxes, then the county is prevented from doing so. The motor vehicle tax is probably the most significant of these because, it is one that is most likely to be levied by the new town. However, the proposed town could agree to levy a tax which is less than that imposed by the county. In doing so, the county would not be impacted as heavily, since the difference would flow to the county. In addition, Massanutten residents would not be paying any more than they currently are.

If the proposed town's charter permits the levying of certain excise taxes, then the county will need to seek permission from the town in order to levy these same taxes within corporate limits. The only one of these four taxes levied by the county is the transient occupancy tax.

The County will also have to share a portion of 50 percent of the local option sales tax. This is based on the ratio that the town's school age population bears to the school age population of the entire county.

Although the county does not levy a business, professional, and occupancy tax, it does levy a merchants capital tax. Because no category can pay both taxes, should the town impose a business, professional and occupancy tax, then the county may be preempted from levying this tax on some classes.

In terms of exacting dollar amount that the County will lose, it is difficult to determine what the effect will be until the town decides what revenue sources it will need to tap in order to provide necessary and desired services. Finally, these tax sources are not major sources of revenue when compared to the real and personal property taxes, which both can levy without affecting the other jurisdiction. Approximately 42 percent of the revenue raised locally by towns is attributed to property taxes (JLARC, 1985, p. 6). The average percentage for counties is even greater at 75 percent (JLARC, 1984, p. 15). In Rockingham County personal property taxes account for about 79 percent of locally raised revenue (County of Rockingham, 1990, p. 2).

## **GROWTH**

One consequence of growth is an increase in the demand for public education. According to Bill O'Brien, Rockingham County Administrator, this is a larger concern for the County than the loss in revenue. Incorporation will make Massanutten a more open community and become more attractive to people

desiring to move to such a community. As the population grows, the number of families with children also increases. Approximately 65 percent of the County's general fund budget supports education (Proposed Budget, 1989). In terms of education, growth is not necessarily a boon for the County. (O'Brien, 1990) David Myers of the Massanutten Property Owners' Association poses a different argument. "Incorporation will line the County's pocket in that an open community will attract more families and more families will bring more revenue" (Myers, 1990). Additional revenue would flow to both localities especially in terms of increased real and personal property taxes (Myers, 1990). Whether or not the increase in revenue for the County adequately covers the cost of providing public education is hard to measure. However, it would seem that growth will occur in the County regardless of whether or not Massanutten incorporates. The degree to which incorporation would contribute to growth in the County is open to debate and speculation. This is especially true, since it is unknown how much control Massanutten will have over protective covenants after incorporation. To many potential residents, these may be too restrictive and serve as a deterrent to new families desiring to move to Massanutten.

### **DUAL TAXATION**

The issue of dual taxation is spurred by the fact that town residents pay taxes to both the town and the county. The enhanced services provided by the town are often more noticeable and more desirable than county services. Town residents may feel that they are paying for more services than they are receiving. For example, refuse collection is a service often provided by towns and one that benefits many

residents, while health and welfare is a county-provided service and serves a smaller population. The problem at the root of the dual taxation argument is "the great difficulty of ensuring, or even getting agreement on the principle, that towns and non-town residents pay only for the services they receive..." (Fields and Wiley, 1980, p. 3).

For Massanutten, this should be no more of an issue after incorporation, since they are currently paying two organizations for services. The fact that they will be paying two governments may make the residents more aware of the fact. According to Charles Lohr, Town Manager of Broadway in Rockingham County, dual taxation is frequently an issue for new residents, but not for those that are long-time residents (1990).

### **TOWN SERVICES**

The County of Rockingham is a large rural county with seven incorporated towns within its boundaries. With this number of political entities, the potential for conflict seems inevitable. The Town of Grottoes at one time advanced concern about "Rockingham County not agreeing to help the town finance its new sewer system, even though the county had provided fiscal assistance to other towns in the county for water and sewer projects" (JLARC, 1985, p. 36). The Town of Elkton voiced similar opinion over the same issue. "[R]ockingham County is unfairly utilizing county-derived revenue from within the town to help finance a non-town sewer project" (JLARC, 1985, p. 36). Given that Massanutten has long been in a position of providing a high level of service to its residents, the potential for conflict may not be as great. According to the manager of MPOA, the only major concern



to them has been zoning enforcement (Myers, 1990). After incorporating as a town, Massanutten would be responsible for this service within its limits. In addition, there have been a number of instances in which the County has been responsive to the needs of this community. These issues included bus stops for school pupil transportation, 911, naming streets, and designating streets as highways. (Myers, 1990).

### **TOWN ANNEXATION**

Discussion of annexation may seem premature considering incorporation of Massanutten as a town has not taken place, but it is useful noting because it can be a potential source of conflict between counties and towns. Factors contributing to conflict include residents in annexed area not wanting to pay town taxes, impacted businesses not wanting to pay business license fees, and the long-term threat of city incorporation (JLARC, 1985, 37). Several towns in Rockingham County have pursued annexation in recent years. One town, Broadway, reached an amicable agreement with the County. According to the town manager, Charles Lohr, the annexation proceedings were friendly; however, one proviso of the agreement was that the Town would forfeit the right to pursue city status (1990). Relinquishing city status has been a bargaining chip in other incorporations as well and is not seen as a tremendous sacrifice due to the smaller size of the towns. All of the towns in Rockingham County are lacking the minimum population of 3,500 that is required for city status by at least 1,500.

## **COMMUNICATION**

Conflict often arises in any situation in which there is a lack of communication. Much can be learned through effective communication channels in terms of sharing information and discussing topics of common interest. An attempt has been made by the localities in Rockingham County to facilitate information exchange. This group of localities, called the Rockingham Municipal League, includes representatives from all of the towns. The County is also invited to these sessions. The League meets quarterly and is hosted alternately by one of the towns. Although not all meetings are attended by all localities, it does provide a forum for discussing issues which transcend town-county boundaries. These meetings are beneficial in that they create an environment for better understanding and provide opportunities for consensus building (Lohr, 1990). Once incorporated as a town Massanutten would be "eligible" to participate in these meetings. Looking ten years into the future, Bill O'Brien, Rockingham County Administrator, still foresees town-county relationships being based upon open communication (1990).

While it is impossible to identify all the factors which contribute to conflict or encourage cooperation, the points above do target some to the major areas where complications may arise and attempts to predict how relations between the localities will progress with the advent of an additional town in the county. From the information above, it can be determined that incorporation would not compromise the general good of the greater community of Rockingham County. When asked on what basis the County would oppose town incorporation of Massanutten, Bill O'Brien responded that if the residents of Massanutten decide

that this is the course they want to take, then there is "no reason the County would want to oppose incorporation " (1990).

It also needs to be noted that Kevin Miller, the State Delegate from this area, offered no reason why incorporation would be opposed in the General Assembly (1990). In addition, the recently incorporated Town of Clinchco received no resistance from the General Assembly in granting their request to be incorporated (McCormack, 1990). Given these comments, Massanutten should be able to pursue incorporation with relatively little outside resistance from either the local or state level.

## V: CONCLUSION

The purpose of this paper was to examine the advantages and disadvantages of town incorporation. Specifically, town incorporation was explored in terms of its application to the community of Massanutten. In order to do this, it was first necessary to establish a case for the merits of towns. Despite the relatively smaller size of Virginia towns, their population appears to be rather stable. Town populations on average have increased significantly over the last twenty years. In addition, towns provide a number of urban-type services which compare favorably to those provided by cities. Being a town does make a difference to the people who live there, especially in terms of enhanced services and pride in community identity and affiliation.

The second aspect was to look at the effects of town incorporation upon the Massanutten community and to make some comparison between two governance alternatives: towns and property owners' associations. It was discovered that there were a number of advantages and disadvantages to both options. Representation appears to be more equitable in a town, as does the method of collecting revenue. In addition, the town appears to have more authority to enforce rules and regulations. However, there are a number of limitations placed upon a town in providing the same services provided by the association, such as private roads and limited public access. It is over these issues that Massanutten residents will face their greatest challenge. They must decide if the benefits of incorporating outweigh the costs of forgoing governance by a property owners' association.

Finally, the external impacts of incorporation were considered. On the whole, it appears that there is little reason for Massanutten to be apprehensive about the reaction from the greater community. While potential for conflict will exist in almost any situation, it is difficult to predict how this will manifest itself several years from now. Based upon past history of town-county relations and the current relations between the MPOA and Rockingham County, the prospect for open communication and cooperation appears to be great. Should Massanutten chose the course of town incorporation, the resistance may be minimal.

The aspects involved in incorporation are many and not all have been discussed here. Some of the more germane points have been put forth and will hopefully be considered prior to incorporation. The intent of this paper was not to measure the costs and benefits, for only the residents of Massanutten can adequately determine which benefits are more valuable to them and represent their best interest.