

RESOLUTION NO. 722

A RESOLUTION OF THE DENTON TOWN COUNCIL TO AMEND THE TOWN CHARTER BY DETACHING CERTAIN TERRITORY LOCATED ON THE EAST SIDE OF THE TOWN OF DENTON ON THE EASTERN SIDE OF PEARSON ROAD, AND THE NORTHERN SIDE OF FOY ROAD, ON THE SOUTH SIDE OF MARKET STREET AND ON THE WEST SIDE OF MILA ROAD, IN THE THIRD ELECTION DISTRICT, CAROLINE COUNTY, MARYLAND AND CONSISTING OF 29.293 ACRES OF LAND, MORE OR LESS

Introduced by: _____, this 1st day of March, 2010

WHEREAS, the Town of Denton (the “Town”) is authorized by the Town Charter and provisions of Article 23A, Section 19 of the Maryland Annotated Code (the “Code”) to expand its municipal boundaries by annexing lands adjacent to it.

WHEREAS, by Resolution No. 681, adopted by the Town Council on August 7, 2006, the Town annexed certain lands belonging to James Tensley Wright and Myrtle E. Wright (“Wright Property”), David Richard Fortner, Christine Fortner, James Richard Fortner and Brenda J. Fortner (“Fortner Property”), Thomas Davidson and Bonnie G. Davidson (“Davidson Property”); Wayne Sterling Gosnell (“Gosnell Property”) (collectively the “Annexed Property”);

WHEREAS, the Fortner Property is subject to the operation of an Annexation Agreement dated October 2, 2006, between David Richard Fortner, Christine Fortner, James Richard Fortner and Brenda J. Fortner and the Town, and recorded among the land records of Caroline County at FDM Liber 727, folio 346 (“Fortner Annexation Agreement”);

WHEREAS, the Gosnell Property is subject to the operation of an Annexation Agreement dated October 2, 2006, between Wayne Sterling Gosnell and the Town, and recorded among the land records of Caroline County at FDM Liber 727, folio 472 (“Gosnell Annexation Agreement”);

WHEREAS, the Davidson Property is subject to the operation of an Annexation Agreement dated October 2, 2006, between Thomas Davidson and Bonnie D. Davidson and the Town, and recorded among the land records of Caroline County at FDM Liber 727, folio 480 (“Davidson Annexation Agreement”);

WHEREAS, the Fortner, Davidson and Gosnell properties are located on the east side of the Town of Denton on the eastern side of Pearson Road, and the northern side of Foy Road, on the south side of Market Street and on the west side of Mila Road, in the third election district, Caroline County, Maryland and consist of 29.293 acres of land, more or less;

WHEREAS, the owners and residents of the Fortner, Davidson and Gosnell Properties have

requested that the Town detach these properties from the Town limits;

WHEREAS, in Opinion No. 87-060, dated December 30, 1987, the Attorney General opined that municipal corporations have the power to detach territory through a charter amendment (72 Md. Op. Atty. Gen 200);

WHEREAS, the Town Council believes that it has the ability to detach territory by amending its Charter to redefine its corporate boundaries;

WHEREAS, the territory to be detached is shown on a plat titled “DE-ANNEXATION TOWN OF DENTON, CAROLINE COUNTY, MARYLAND TAX MAP 104, GRIDS 21, 22 PARCELS 313, 412, TAX MAP 106, GRIDS 3, 4, PARCELS 5, 162, 244”, dated November 20, 2009 prepared by Lane Engineering, Inc. a copy of which is attached to this Resolution as Exhibit “A” (“De-Annexation Plat”). The territory to be detached is also described in a metes and bounds description prepared by Lane Engineering, Inc., entitled “DESCRIPTION OF AREA OF DE-ANNEXATION THE TOWN OF DENTON, IN THE THIRD ELECTION DISTRICT, CAROLINE COUNTY, MARYLAND, November 18, 2009”, which is attached to this Resolution as Exhibit “B”;

WHEREAS, the Petitioners are the owners of more than twenty-five percent (25%) of the assessed value of the real property lying within the area to be de-annexed and the Petitioners constitute at least twenty five percent (25%) of the persons eligible to sign the Petition pursuant to Article 23A, Section 19(c) of the Maryland Annotated Code (1957, 2005 Repl. Vol., 2006 Supp);

WHEREAS, the owners of the Wright Property do not wish to be detached from the Town of Denton; and

WHEREAS, all of the registered voters or residents residing on the territory to be detached desire to have their property detached from the Town’s corporate limits and consent to the proposed detachment upon the terms and conditions set forth herein.

NOW, THEREFORE, THE DENTON TOWN COUNCIL HEREBY RESOLVES:

Section 1. Modification of Town Boundaries. The corporate boundaries of the Town, set forth in Section C2-2 of the Charter of the Town of Denton, are hereby amended to exclude the territory to be detached described in Exhibits A and B attached hereto, which is depicted on the De-Annexation Plat (Exhibit “A”) and is more particularly described in a metes and bounds description (Exhibit “B”), with a resulting new metes and bounds description of the Town of Denton, set forth in “Composite Description of the Perimeter of the Town of Denton in the Third and Sixth Election Districts, Caroline County, Maryland, November 18, 2009” attached hereto and incorporated herein as Exhibit “C” and further depicted on a plat entitled “Composite Plat for the Town of Denton, Third and Sixth Election Districts, Caroline County, Maryland” dated November 20, 2009 and prepared by Lane Engineering, Inc. which is attached hereto as Exhibit “D”. The plats and legal descriptions

shall be subject to technical review and correction by the Town, or its designee, prior to the public hearing to be held on this Resolution.

Section 2. Application of Town Charter and Ordinances. Upon the effective date of this Resolution, the provisions of the Charter and Code of the Town of Denton, and any local public laws enacted or to be enacted affecting the Town of Denton, shall no longer be effective within the Fortner, Davidson and Gosnell Properties except to the extent that this Resolution or applicable laws provide otherwise.

Section 3. Detachment Plan. There is no detachment plan that would appear to be governed by Article 23A, Section 19(o) of the Maryland Annotated Code.

Section 4. Incorporation of Certain Exhibits. Exhibits A, B, C and D, are incorporated into this Resolution and made a part of hereof, subject to technical correction by the Town's consulting engineer.

Section 5. Annexation Agreements. Upon the effective date of this Agreement, the Fortner Annexation Agreement, the Gosnell Annexation Agreement and the Davidson Annexation Agreement will be rescinded and no longer be of any force or effect.

Section 6. Public Hearing and Public Notice. The Town Council shall conduct a public hearing on this Resolution on May 3, 2010, at 7:00 p.m. at the public meeting room located at the Denton Police Facility, 100 N. Third Street, Denton, or such other location as set forth in a public notice, to consider the same. Prior to the hearing, the Town Clerk shall arrange for the publication of a legally sufficient notice of the hearing in the Denton Times Record four (4) times at not less than weekly intervals, the date of publication of the last such notice shall precede the public hearing by at least fifteen (15) days, in accordance with Article 23A, Section 19(d) of the Maryland Annotated Code. In addition, on the date of the first publication of the notice of the hearing, the Town Clerk shall notify the following persons or agencies of the hearing and shall provide them with a photocopy of the legal notice and this Resolution, including Exhibits:

- (a) the Caroline County Commissioners;
- (b) the Caroline County Planning and Zoning Commission; and
- (c) the Maryland Department of Planning.

The public hearing may be continued with appropriate notice as provided by law.

Section 7. Annexation Expenses. The Town Council has agreed to fund the costs, including, but not limited to, advertising costs, surveying, engineering and legal fees, of this proposed De-Annexation in an amount not to exceed NINE THOUSAND SIX HUNDRED

DOLLARS (\$9,600.00). Any costs above \$9,600.00 are to be borne, jointly and severally, by the owners of the Fortner, Gosnell and Davidson Properties.

Section 8. Registration of Boundaries. Within ten (10) days of the effective date of this Resolution, in accordance with the provisions of Article 23A, Sections 9A, 17(f) and 19(p) of the Maryland Annotated Code, the Mayor of the Town Council, or other Town designee, shall promptly send a copy of this resolution with the new municipal boundaries to:

- (a) the Town Clerk;
- (b) the Clerk of the Circuit Court for Caroline County, Maryland; and
- (c) the Maryland Department of Legislative Services.

Each such official or agency shall hold this Resolution with the new boundaries on record and available for public inspection during normal business hours.

Section 9. No Enclave Created. The proposed detachment of territory will not create any enclave of unincorporated territory that is surrounded by territory within the Town's corporate limits.

Section 10. Posting of Resolution. In accordance with Md. Code Ann. Article 23A, Section 13, the Town Administrator shall cause a full and exact copy of the Resolution to be continuously posted on the bulletin board of the Town Office until June 12, 2010 (the fortieth day after passage calculated in accordance with Md. Code Ann. Article 1, Section 36) and that Town Administrator shall further cause a fair summary of the charter amendment enacted by this Resolution to be published in the Times-Record, a newspaper of general circulation in the Town of Denton, or in any other newspaper of general circulation at weekly intervals in each of the weeks of March 24, 2010, March 31, 2010, April 7, 2010, and April 14, 2010, and that the Town Clerk shall cause to be affixed to the minutes of this meeting appropriate certificates of publication and posting.

Section 11. Enactment. As soon as the Charter Amendment hereby enacted becomes effective (whether as herein provided or by referendum), the Town Administrator shall cause to be delivered to the Department of Legislative Reference all the information regarding the Charter Amendment, this Resolution and any referendum held thereon as may be required by Section 9A of Article 23A of the Annotated Code of Maryland.

Section 12. Effective Date. This Resolution shall be deemed "finally enacted" on the date on which the Denton Town Council indicates its approval of this Resolution by affixing their signatures hereto. This Resolution shall become effective on June 22, 2010 (the fiftieth (50th) day after final passage) unless a proper petition for referendum hereon shall be filed with the Town Council in the form and in the manner prescribed in Section 13 of Article 23A of the Annotated

Code of Maryland.

Conway Gregory, Mayor

Date: _____

Robert Clendaniel, Councilperson

Date: _____

Dennis Porter, Councilperson

Date: _____

Agnes Case, Councilperson

Date: _____

Dean Danielson, Councilperson

Date: _____

I HEREBY CERTIFY THAT THE FOREGOING RESOLUTION OF THE DENTON TOWN COUNCIL, DESIGNATED RESOLUTION NO. 722, WAS DULY INTRODUCED AND READ, AND THEREAFTER ADVERTISED FOR FOUR SUCCESSIVE WEEKS, AND CONSIDERED AT A PUBLIC HEARING AND WAS ADOPTED BY THE DENTON TOWN COUNCIL AT A DULY ANNOUNCED PUBLIC MEETING ON _____, 2010, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE CODE OF MARYLAND AND CHARTER OF THE TOWN OF DENTON.

ATTEST:

Karen L. Monteith,
CLERK-TREASURER
TOWN OF DENTON

Approved for legal sufficiency this _____ day of _____, 2010.

Stephen H. Kehoe, Town Attorney

Date Introduced: _____

Date Amended: _____

Date Adopted: _____

Effective Date: _____