SPONSOR: Rep. D. Short & Sen. Richardson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 414
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BLADES RELATING TO ANNEXATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 3 of the Charter of the Town of Blades by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 3. Annexation of Territory

In the event that it becomes feasible or necessary in the future for The Town of Blades to enlarge its then existing limits and territory, such annexation accomplished in accordance with the following procedures shall be lawful:

(a) If any property owner or owners of a territory contiguous to the then limits and territory of The Town of Blades, by written petition with the signature of each such petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they reside and own property, the Mayor of The Town of Blades shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation or, the Town Council, by a majority vote of the elected members thereof, may, by resolution, propose that a committee, composed of not less than three (3) of the elected members of said Town Council, be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The Town of Blades.

(b) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town and to the territory proposed to be annexed and shall contain the committee's recommendations whether or not to proceed with the proposed annexation and the reasons therefore. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the

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report, a second resolution shall then be passed by the Town Council proposing to the property owners and residents of both the Town and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the committee, the resolution proposing to the property owners and residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of three-fifths of the elected members of the Town Council. If the resolution shall fail to receive the affirmative vote of three-fifths of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one year from the date that the resolution failed to receive the required affirmative vote. The second resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper published in The Town of Blades at least one week prior to the date set for the public hearing, or, if no newspaper is published in the Town, publication shall be had in a newspaper having a general circulation both in the Town and in the territory proposed to be annexed, or, at the discretion of the Town Council the said resolution shall be posted in five (5) public places both in the Town and in the territory proposed to be annexed.

~~(c) Following the public hearing, but in no event later than thirty (30) days thereafter, a resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. The passage of this resolution shall ipso facto be considered the Town Council's determination to proceed with the matter of the proposed annexation.~~

(c) Following the public hearing, the Town Council shall vote on a Resolution to proceed with the annexation, but in no event later than thirty (30) days thereafter. If the Town Council approves the Resolution to proceed with the annexation, then implementation of this decision must wait thirty (30) days, during which the citizenry of Blades have up to thirty (30) days to file a petition with the Town Manager or designee requesting that a referendum be held on the Town Council's decision to annex. If a petition includes over 10% of Blades' eligible voters able to vote in a referendum or if the annexation petition was not initiated by contiguous property owners, then the Town Council shall order a Special Election to be held not less than forty-five (45) days nor more than sixty (60) days after the Town Council vote on the subject of the proposed annexation. The passage of this resolution shall ipso facto be considered the Town Council's determination to proceed with the matter of the proposed annexation. If no valid petition requesting a referendum was presented, the petition to annex was initiated by contiguous property owners, and if the Town Council vote to proceed was unanimous, then no referendum is necessary.

(d)The notice of the time and place of holding the said Special Election shall be printed within thirty (30) days immediately preceding the date of the Special Election in at least two (2) issues of a newspaper of general circulation within the Town, or at the discretion of the Town Council, the said notice may be posted in five (5) public places both in the Town and in the territory proposed to be annexed, at least fifteen (15) days prior to the date of the Special Election.

(e) At the Special Election, every property owner, whether an individual, a partnership, or a corporation, both in the Town and in the territory proposed to be annexed, shall have one (1) vote. Every citizen of either the Town or of the territory proposed to be annexed who is not a property owner shall have one (1) vote. In the case of property owned by a husband and wife jointly, the husband and wife shall each have one (1) vote. In the event that a person is the owner of property in the Town and is also an owner of property in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person is the owner of property in the Town and is also an owner of property in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town, and not in the territory proposed to be annexed. The books and records of The Town of Blades in the case of Town property owners and the books and records of the Board of Assessment of Sussex County in the case of property owners in the territory proposed to be annexed shall be conclusive evidence of the right of such property owners to vote at the Special Election. In the event that an individual holds a Power of Attorney duly executed and acknowledged and specifically authorizing said person to cast the votes of a partnership or corporation at the said Special Election, a duly authenticated copy of the Power of Attorney shall be filed in the office of the Town Administrator. Said Power of Attorney as so filed shall constitute conclusive evidence of the right of the person so named to cast the votes of another person or to cast the votes of a partnership or a corporation at the Special Election.

(f) The Council shall cause to be available the required number of voting machines not less than five (5) days prior to the date of the Special Election.

(g) The form of the ballot shall be approved by a three-fifths vote of the town council, and shall allow voters to vote either for or against the proposed annexation.

(h) The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one of whom shall reside and be the owner of property in the Town, and at least one of whom must reside and be the owner of property in the territory proposed to be annexed. One of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted at a designated location within town limits and the Board of Special Election shall have available, two clearly marked voting areas. A voting machine for those persons, partnerships, or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be placed in one voting area and all votes cast by those persons, partnerships or corporations who are authorized to vote as residents or property owners of the Town shall be

deposited in the other voting area. The polling places shall be opened from 12:00 noon, prevailing time, until 7:00 P.M., prevailing time, on the date set for the Special Election.

(i) Immediately upon the closing of the polling place, the Board of Special Election shall count the votes for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of' void votes, and shall deliver the same to the Town Council. The said certificate shall be filed with the papers of the Council.

(j) Except as provided in paragraph (k) of this Section 3, ~~In~~ in order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from the Town and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for at least a period of one (1) year from the date of the Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Blades shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds for Sussex County, in Georgetown, Delaware, without approval of any board, agency, commission or governing body being required. In no event shall such recordation be completed more than ninety (90) days following the favorable referendum. The territory considered for annexation shall be considered to be a part of The Town of Blades from the time of said recordation. The failure to record the description and plot within the specified time shall not make the annexation invalid but such annexation shall be deemed to be effective at the expiration of the ninety (90) days period from the date of favorable Special Election.

(k) If no referendum is required, the Town Council of The Town of Blades shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds for Sussex County, in Georgetown, Delaware, without approval of any board, agency, commission or governing body being required. In no event shall such recordation be completed more than ninety (90) days following the favorable referendum. The territory considered for annexation shall be considered to be a part of The Town of Blades from the time of said recordation. The failure to record the description and plot within the specified time shall not make the annexation invalid but such annexation shall be deemed to be effective at the expiration of the ninety (90) days period from the date of favorable Special Election.