

History of de-annexation petition and status: Prior to action on a resolution to consent to or to deny the petition for annexation, the governing body of Berkeley within 14 days of the receipt of the petition, referred the petition to its planning board, which reported to the governing body on the impact of the annexation upon the municipality. Berkeley governing body then voted to deny the annexation within 30 days of receipt of the planning board's report. The petitioners (South Seaside Park residents), then went to court. Superior Court judge, Appellate Division and the New Jersey Supreme Court have determined that Berkeley did not have right to deny the petition on the proofs (New Jersey Supreme Court cases attached).

Timeline for Seaside Park response to petition for annexation:

- 1) a petition in writing is presented to the governing body which specifically identifies the boundaries of the land the petitioners want to have become part of Seaside Park.

Form of petition: must be a) signed by at least 60% of the legal voters residing on the land in question; and b) duly verified by one of the signers; and c) have attached thereto the oath of the Berkeley tax assessor of the municipality in which said land is located, or of some other person having access to the assessor's books, setting forth the assessed value of the real estate contained within the boundaries for the preceding year, and the amount of real estate assessed to any of the persons whose names are signed to such petition and d) attached thereto a certified copy of a resolution adopted by two-thirds of the full membership of the governing body of the municipality in which said land is located, consenting to said annexation. Note: because Berkeley voted to deny and it went through court case, final court decision may be substituted for the resolution.

See 40A:7-12. Annexation; petition and contents

- 2) The Seaside Park governing body may, in its discretion, by ordinance adopted by a two-thirds vote, annex the land specifically described in the petition to such municipality.

**Note: Seaside Park may consult with financial, engineering, planning, bond counsel, tax assessor, legal and any other professionals and may ask for input from Planning Board.**

**Planning Board is requested to review report. If governing body votes to accept annexation, the anticipated course of action is, as per planning report, to adopt current standards for the area as a stopgap. Immediately following annexation, governing body, in consultation with Planning Board, will develop new ordinances for South Seaside Park area in accordance with Seaside Park standards and planning goals.**

- 3) As soon as the ordinance is effective, the land described in the petition shall become a part of Seaside Park and is then subject to all Seaside Park ordinances, but no vested rights shall be changed or abrogated by such annexation. Also, After annexation has become effective, all persons residing within the annexed territory shall become residents of Seaside Park and

have the same rights and be entitled to the same privileges and be subject to the same obligations as other residents.

- 4) As soon as the ordinance is effective, the Seaside Park Municipal Clerk shall immediately file a certified copy of the ordinance with the County Clerk and the Secretary of State.
- 5) As soon as the ordinance is effective, the official map of Seaside Park needs to be revised (NOTE: should also immediately introduce ordinance establishing zoning for annexed area). Note: tax assessor should also be prepared to level assessments as of effective date of ordinance.
- 6) Seaside Park is liable to pay a proper proportion of the bonded and other indebtedness of Berkeley attributable to South Seaside park section. That amount is determined by the following procedure:
- 7) The Seaside Park governing body must appoint a committee of three people (this should be done at same time as second reading of the annexation ordinance). The governing body shall decide compensation for the members (if any). If they are compensated, they get paid through payroll.
- 8) On the Monday after the annexation ordinance becomes effective, the Seaside Park committee of three shall meet with a committee of three appointed by Berkeley governing body at the , at 10:00 a.m. At that time, Berkeley will state an account of all the property, real and personal, all debts, dues and demands, all judgments, recognizances and claims and all liens, actions and rights of action belonging to Berkeley, and the fair value thereof to such municipality. Berkeley shall also state an account of all the debts outstanding of such municipality, and the proper proportion or share to be borne and paid by Seaside Park (ie. the portion attributable to South Seaside Park section), and the methods in and times at which payment thereof should be made. Seaside Park's credit shall stand pledged for the final payment of the indebtedness apportioned to it.
- 9) Any actions or suits which shall be pending at the time of any annexation of territory against Berkeley shall remain as against Berkeley.
- 10) Berkeley shall be entitled to collect all taxes and assessments on South Seaside Park properties which remain unpaid at the time of annexation.
- 11) Berkeley does not get to set the amount and terms of payment alone. Either there must be agreement by four out of the six joint committee members – or the matter goes to court for judge to establish a committee. Please see below. If there is an agreement reached, the joint committee shall file a copy of the report with the clerk of each of the municipalities.

- 12) If any member of the committee refuses or neglects to attend any meeting thereof, the remainder shall meet and act. Committee meetings may be adjourned by agreement of the majority present – but that adjournment cannot be for more than one month.
- 13) The joint committee of three members from Seaside Park and three members from Berkeley only have 60 days from the date of its first meeting to agree and file a report. If there is no agreement, and therefore no report, the matter proceeds to court as set forth below.
- 14) If the report is not made and filed within 60 days of the first meeting of the joint committee, Seaside park must “forthwith” apply to the Superior Court assignment judge for an order appointing three commissioners to take the place of and perform the work of the joint committee. While statute is silent, I believe each municipality will be able to submit information and position.
- 15) The judge’s commissioners shall make their report within 30 days from the date of their appointment (unless the judge gives them more time).
- 16) The report of a majority of the commissioners shall be made in duplicate and filed with the clerk of each of the municipalities, and shall have the same force and effect, and be as binding as if a report had been made and filed by the committees. (the statute does not discuss any appeal process from decision of judge’s commissioners).
- 17) The judge’s commissioners shall be paid for their services by Seaside Park and Berkeley. The judge shall, upon application of the commissioners after they have filed their report, fix the amount to be paid to each commissioner, and the respective amounts for which each municipality said municipalities shall be liable. Note: If either town has been unreasonable, an argument can be made that such town should pay all/more of the commissioners’ compensation.