

Process for Consideration of Requested Annexation of South Seaside Park Section of Berkeley Township by Seaside Park

Background

New Jersey law provides that land in one municipality may be annexed to another municipality that shares a common border. To do so, a petition must be presented to the governing body of the municipality that the petitioners seek to join. The petition must be signed by at least 60% of legal voters from the originating municipality and consented to by at least two-thirds of their governing body.

As many are aware, South Seaside Park has petitioned for annexation to become part of Seaside Park. Initially, Berkeley Township did not consent to the petition. However, the New Jersey Supreme Court reviewed the decision and determined that South Seaside Park had met the requirements necessary to present their petition for annexation to Seaside Park.

Q: What is annexation?

Annexation is when land from one town becomes part of another town. Under New Jersey law, the accompanying changes to annexation are immediate and encompass a broad range of public works, emergency services, and other considerations. Upon a two-thirds majority vote of “yes” on the second reading of an ordinance approving annexation, as soon as the ordinance is effective the land described in the petition becomes a part of Seaside Park and is immediately subject to all Seaside Park ordinances and taxes.

Q: What if Seaside Park governing body just votes to reject the petition immediately without doing due diligence?

The petitioners can go to court and ask a judge to force the annexation because the Borough acted arbitrarily and unreasonably, that refusal to consent to the annexation is detrimental to the economic and social well-being of a majority of the residents of the affected land (Note: The New Jersey Supreme Court has already determined that the annexation will not cause a significant injury to the well-being of Berkeley Township). . If the governing body acts without doing due diligence, it will not have evidence to support its position.

Q: What if Seaside Park governing body just votes to accept the petition immediately without doing due diligence?

Seaside Park residents who oppose annexation can go to court and ask a judge to force the annexation because the Borough acted arbitrarily and unreasonably and that consent to the annexation is detrimental to the economic and social well-being of a majority of the residents of the affected land. If the governing body acts without doing due diligence, it will not have evidence to support its position.

Q: What is procedure that the Seaside Park governing body will be following to gather information necessary to evaluate the request for annexation?

The Borough will be using its own professionals where appropriate and will be issuing an RFP to obtain the services of experienced professionals needed to assess planning, financial, community and operational issues implicated by the proposed annexation.

A full report(s) will be prepared and released to the public through the Borough website. A special meeting will be held at which the governing body and public will have the opportunity to hear from and question the professionals who have compiled the report.

A planner familiar with the Borough will be preparing a report on planning aspects including zoning proposals. A hearing to review that report and discuss zoning issues will be held by the Land Use Board.

At some point following these public hearings, the question will be scheduled for a vote at a public meeting. Acceptance of the proposed annexation requires 2/3 of the governing body to vote yes on an ordinance accepting the annexation. An ordinance requires introduction at one meeting and a second vote and a second meeting. The second meeting requires the opportunity for public to comment on the proposed ordinance. If an ordinance to accept annexation is introduced, it is likely that zoning ordinances covering the area to be annexed will be introduced simultaneously.

Q: How long will this take?

There's no statutory deadline for Seaside Park to vote. The governing body's goal is to act before the end of the year, but that cannot be guaranteed.

Q: What happens if the governing body votes not to accept annexation after performing due diligence:

The petitioners can go to court and ask a judge to force the annexation because the Borough acted arbitrarily and unreasonably and that refusal to consent to the annexation is detrimental to the economic and social well-being of a majority of the residents of the affected land (Note: The New Jersey Supreme Court has already determined that the annexation will not cause a significant injury to the well-being of Berkeley Township). Because the governing body will have done its due diligence, it will have evidence to support its position, but the outcome of a court case cannot be guaranteed.

Q: What if Seaside Park governing body votes to accept the annexation after due diligence and residents disagree?

Seaside Park residents who oppose annexation may seek counsel and potentially can go to court and ask a judge to stop the annexation because the Borough acted arbitrarily and unreasonably.

Q: Does Seaside Park owe Berkeley money if annexation is accepted?

Possibly.

- a. Seaside Park becomes liable to pay a portion of debt attributable to the South Seaside Park section of Berkeley. Seaside Park professionals will be making an assessment as to what amount is at issue as part of the due diligence inquiry, Pursuant to statute, the amount is determined by the following process:
 - i. Seaside Park appoints a committee of three people and decides compensation for the members. Berkeley does the same. This Committee will have to be appointed no later than adoption of the ordinance accepting annexation because of the time frame.
 - ii. On the Monday after the annexation ordinance becomes effective, the Seaside Park committee meets with a committee of three appointed by Berkeley at 10:00 a.m. Berkeley will state an account of all the property, debts, judgments, claims and liens, actions and rights of action belonging to Berkeley. Berkeley will also state an account of all the debts outstanding, and the proper proportion or share it believes to be owed by Seaside Park (i.e. the portion attributable to South Seaside Park section), and the methods in and times at which payment should be made. Seaside Park's credit is pledged for the final payment of the indebtedness apportioned to it. Seaside Park will present its analysis and proposal.
 1. If there is no agreement as to the amount and terms by four out of six of the joint committee members within 60 days from the date of first meeting, Seaside Park must apply to the Superior Court for an order appointing three commissioners to take the place of the committee.
 2. The judge's commissioners make their report within 30 days from the date of their appointment. The report of the majority of the commissioners is final.
 3. The judge's commissioners are paid by Seaside Park and Berkeley. The amount paid is fixed by the judge.

Q: Where can I learn more or ask questions?

Please keep watching the website, the governing body will keep you posted as this process continues