

GIANTS NECK BEACH ASSOCIATION
CHARTER AND BYLAWS TASK FORCE/COMMITTEE
January 7, 2012

Present: Page Heslin, Tina Bettera, Nazz Paciotti, Jim Malone
Absent: Marilyn Horton

NOTE: The purpose of this task force/committee is to evaluate the existing charter and by-laws and to propose for consideration by the Board of Governors potential revisions thereto for possible presentation to the Association. This task force/committee is advisory only; it has no decision-making authority or budget. To the extent that potential revisions would require an amendment to the charter of the Association, we need to understand more fully what is involved in achieving such an amendment, as well as the associated risks to our existing structure, to allow the Association to evaluate the issues and make an informed decision. The task force/committee will seek permission from the BOG to obtain legal advice on a number of issues relating to charter revision and corporate/municipal governance, as noted below.

At a meeting commencing at approximately 1:00, the following issues were discussed, based upon input received to date from the membership:

1. BOG terms and Term Limits: It has been suggested that the term length should be shortened from three years to two. Following discussion, preliminary consensus was to propose that the duration of BOG terms be shortened from three years to two, but that the term limits established in the by-laws be extended from two terms to three terms. This maintains the current potential total term of six years, while breaking it into shorter terms to provide greater flexibility. The decrease to a two-year term would require a change in the Charter, which specifies a three-year term, so this will require additional consideration as noted above.
2. Voting Eligibility: A number of issues were discussed relating to possible changes and/or clarifications to voting eligibility within the association, including: whether trusts and corporations should be able to vote if they are titleholders; whether individual residents should be able to vote if the property is owned by a trust or corporation; whether there should be a limit on the number of votes allowable (*e.g.*, one property; one vote); whether renters should be allowed to vote; and whether absentee and/or proxy ballots should be allowed. No consensus was reached on any of these issues, which will be the subject of ongoing discussion. Legal options with respect to the various issues and impacts thereof need to be investigated, including review of actions by comparable beach associations. Any changes would likely require amendment of Charter.

3. Special Assessments: Discussion of whether we want to investigate ability of Association to make special assessments as supplement to tax. No consensus reached as to whether to recommend such action, but we will look into legal options.
4. Tax Structure: Current methodology is established by Charter, so any changes thereto would require Charter amendment. There may also be statutory restrictions based on “special taxing municipality” structure. Need to understand legal implications before discussing further.
5. Budget: Discussion as to whether we need amendment to specify what happens if a budget does not pass at the annual meeting in a given year. Subject to confirmation, preliminary consensus was that no amendment is necessary, due to statutory procedures which allow municipalities to operate at former budget levels until new budget passes.
6. Enforcement of Ordinances: Discussion of whether there should be amendments to change allowable fines, specify enforcement mechanisms, etc. Consensus that this is an increasing issue, particularly with violations in areas of parking, dog waste, noise, and beach rules. Compliance is difficult to achieve when there is no enforcement of fines etc. against violators. To be discussed further.
7. Municipal Status: Discussion of whether – in light of the increasing obligations relating to Association maintenance and governance, and insufficient volunteers to fill the various needs – we should consider dissolving municipal status. Following discussion, the consensus at this time was not to recommend this action to the Board of Governors, because disadvantages outweigh possible benefits. An alternative that has been raised at various association and BOG meetings is to hire a manager to handle many of the things traditionally done by volunteers, but that is beyond the scope of this group.
8. Annual Meeting Date: Discussion of whether we should look into options of changing the date of the Association Annual Meeting from June to later in the summer. There have been periodic complaints by Association members that it is difficult to come in and vote on the annual budget at the first meeting in June with little ability to review and digest information in advance, and moving the budget vote until later would eliminate this issue. The charter allows for the annual meeting to take place anytime before September the 8th; it is the by-laws which set the date as the third Saturday in June. This change could therefore be made without amending the charter. However, there is a state statute which sets the beginning of the fiscal year for municipalities as July 1, so we will need to do further investigation into whether this requires us to start our fiscal year on July 1 and, accordingly, get the budget vote completed in June.

9. Proxies and Absentee Ballots: Some members have asked that the Association allow voting by absentee ballots and/or proxy. Following discussion it was agreed that we should investigate further what the options are in this respect, including whether there are any constraints by virtue of our special municipal status.

Next steps: Request approval from Board of Governors at February meeting to get legal advice re certain issues as noted above. In seeking such advice we will look for an attorney with experience in municipal issues, particularly with respect to beach associations such as our own. This guidance will help inform our discussion and consideration of possible recommendations to the Board.