

Working Toward a Community Solution

Our Group Affiliations: residents, non-residents, homeowners, beach club, plaintiff

Our Goals: Find a community-wide solution to amend the charter

Our Promise: Respect each other, respect the courts decision, include all stakeholders

Why This Workshop Exists

Plaintiffs vs BSFD, March 13, 2020

Summary Judgement Decision: January 27, 2022

Presiding : Judge Taft Carter

**Complaint -> Summary Judgement Decision-> Consent Judgement ->
Charter Revision**

Risk of future litigation:

Amending the charter is a contractual obligation

Charter remains unconstitutional due to dilution

It is not a matter of IF we change the charter, it is HOW

Counts I and II – Can all Residents Vote?

Plaintiff's Claim:

Property ownership requirement is “an unconstitutional restriction of the right to vote” (*Complaint, p. 10*)

Court Decision:

Residents cannot be denied the right to vote based on property ownership (*Summary Judgement, p. 19*)

Outcome: 460 Residents added to the electorate

BSFD Claim:

BSFD Requirements are not subject to the 14th amendment because it is not a governmental body (*Summary Judgement, P. 8*)


Final Ruling: “*The court finds that the BSFD is a quasi-municipal entity that exercises general governmental powers and that the provisions of the BSFD Charter which prevent residents from voting on the basis of property ownership are unconstitutional under the fourteenth amendment of the United States Constitution & Article 1, section 2 of the Rhode Island constitution*”

(*Summary Judgement, page20*)

Outcome: BSFD deemed Quasi Municipality



Count IV – Nonresident Voting

Complaint: BSFD has unconstitutionally diluted residents votes by by allowing numerous nonresidents to vote



*“The right to vote can be denied by a dilution of the weight of a citizens vote just as effectively as by wholly prohibiting the free exercise of the franchise
(Summary Judgement, p.31 :Reynolds)*

*“It is reasonable in some circumstances that local governments could find that nonresident property owners are sufficiently affected by the operations to justify their inclusion in the electorate”
(Summary Judgment, p.38:May)*



*“There may be grave constitutional concerns, even where out of district voters have a substantial interest, where those voters wield such a disproportionate political influence that residents have little or no chance to control their local government”
(Summary Judgement, p.44:Duncan)*

The Deciding Factor: Substantial Interest

An “electorate is unconstitutional where the voters do not have ‘substantial interest’ in the outcome of the election”. (Summary Judgement, P. 40-44:Duncan)

In a Nutshell, Nonresidents’

1. Financial contribution must be meaningful
2. Contribution must be in balance with voting power
3. Cannot dilute the votes of residents

Court Finding:

“The BSFD Charter thereby allows multiple nonresidents, each of whom may possess only a relatively minor property interest to vote in BSFD Elections” (Summary Judgement, P. 42)
The Plaintiffs “ established the existence of an element essential to their case” (Summary Judgment, p. 45/46)

Outcome:

Court lacked sufficient facts to finalize ruling= > settlement to avoid costly trial => Consent

Key Principles Used to Form our Proposal

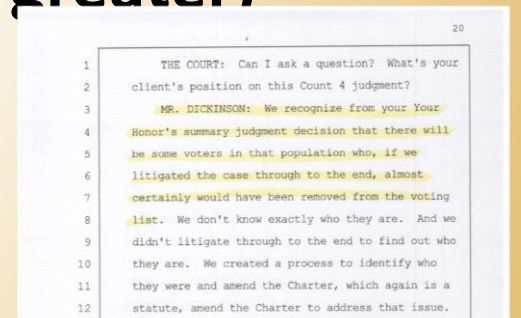
Our Approach:

Use the Summary Judgement as our guide
Consider the concerns of **all community affiliations**

Direct from the Record:

Court Discussion indicating the electorate would need to be reduced

- **All Residents in the BSFD may vote regardless of property ownership**
- **Residents must have the majority of votes (51% or greater)**
- **All nonresidents with substantial interest can vote**
- **Nonresident voting should be adjusted to reflect their financial contribution to the operations of the District**



2024 VOTING ELECTORATE

Residents 1076:

Property Owner 616 votes

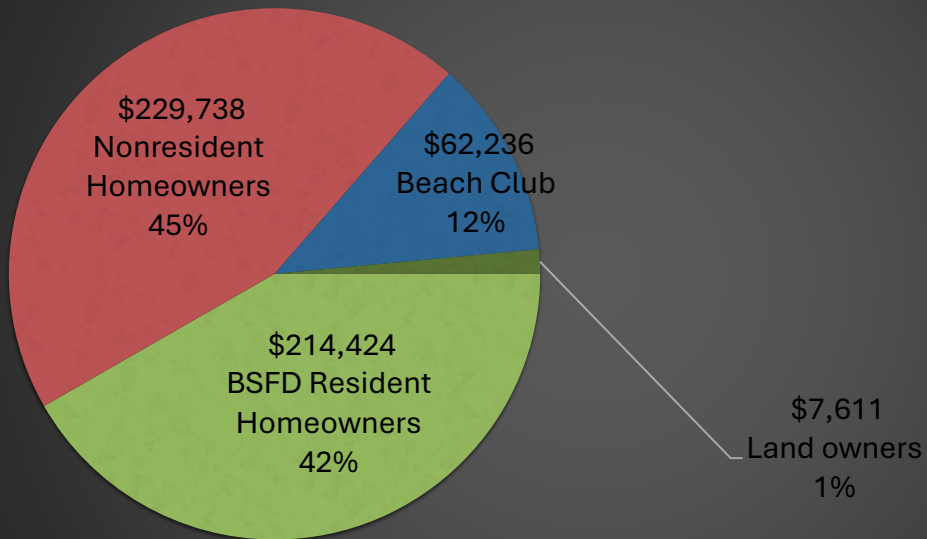
Non property owner 460 votes

Non Residents 2296:

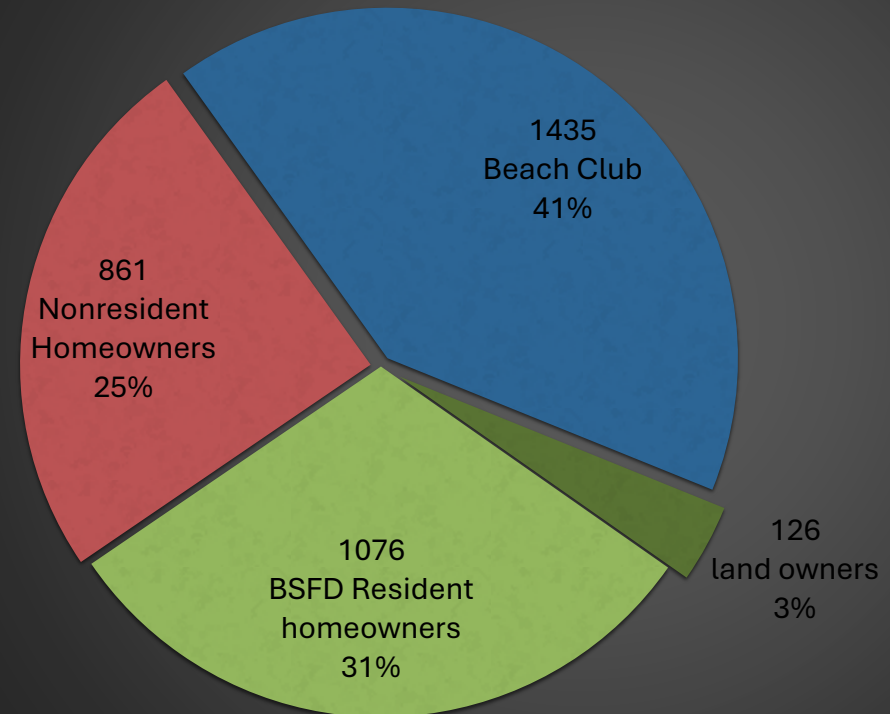
Homeowners: 861 Votes

BSBC Unit Owners: 1435 Votes

Factor 1: Financial Contribution



Factor 2: Voting Power



Testing Possible Solutions

- X** **Current State substantial Interest** -> Residents don't have majority vote -> Nonresident voting greater than
- X** **Residents Only but don't vote** -> Excludes Nonresidents w/substantial Interest -> Nonresident voters fund 57% of budget
- X** **1 Vote/Cabana substantial interest** -> Residents don't have majority vote -> Beach Club voting greater than

Our "All Inclusive" Proposal....

Narragansett Residents and Registered Voters who reside in Bonnet shores (The "Registered Voters") **1076**

PLUS

One Vote for Every Home owned by Non-Residents **537**

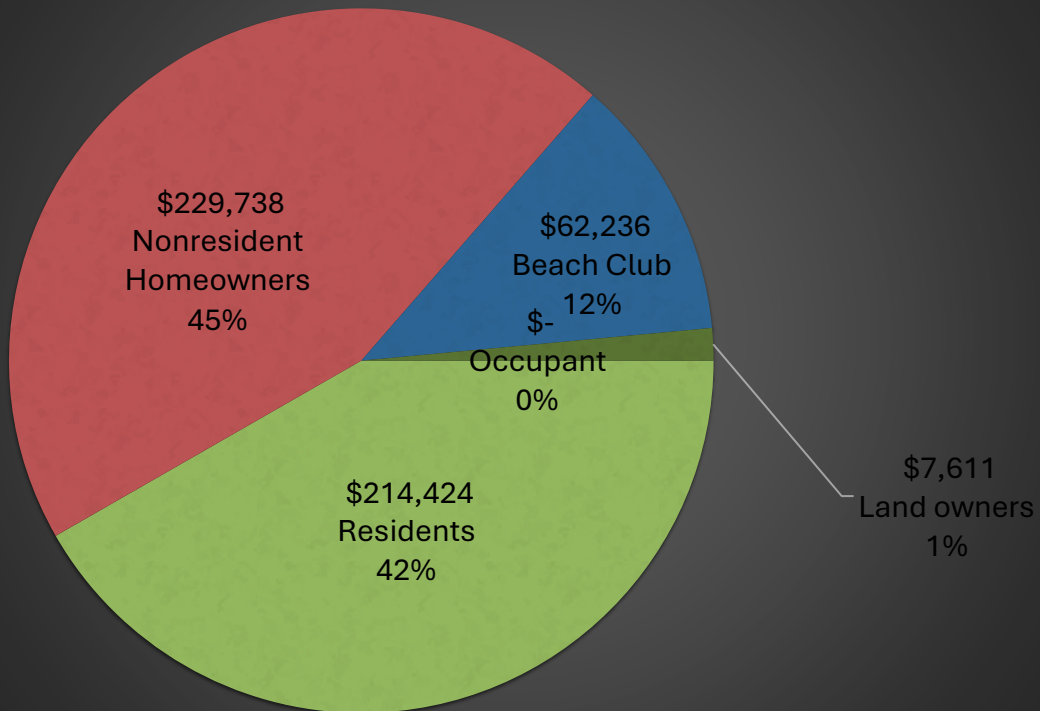
PLUS

One Quarter Vote for Every Beach Club Unit **232**

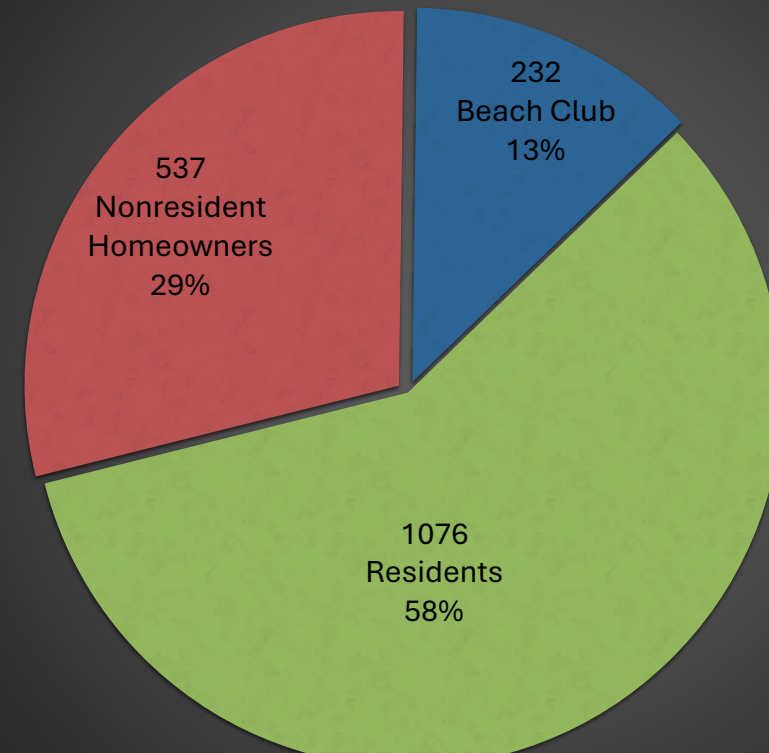
Residents 1076: (58%)

Nonresidents 764: (42%)

Factor 1: Financial Contribution



Factor 2: Voting Power



Testing Possible Solutions

- X** **Current State substantial Interest** -> Residents don't have majority vote -> Nonresident voting greater than
- X** **Residents Only but don't vote** -> Excludes Nonresidents w/substantial Interest -> Nonresident voters fund 57% of budget
- X** **1 Vote/Cabana substantial interest** -> Residents don't have majority vote -> Beach Club voting greater than
- YES** **All Inclusive with substantial interest** -> Residents have majority vote -> All Nonresidents vote -> Nonresidents voting in line

Resulting Benefits of All Inclusive Amendment

- RESIDENTS NOW HAVE THE MAJORITY OF VOTING POWER, AND THEIR VOTES ARE NOT DILUTED!
- NON-RESIDENTS HAVE NOT BEEN DISENFRANCHISED
- NON-RESIDENT VOTING IS IN ACCORDANCE WITH JUDGE TAFT CARTER'S SUBSTANTIAL INTEREST TEST
- DISTRICT WILL BE IN COMPLIANCE WITH CONSENT ORDER

PEACE