

Getting to the Beach

Moderator: Paul Dest, Wells Reserve Director

Paul organized and moderated a series of evenings on beach access during the summer and fall of 2014.

Topics and speakers for this session included the following:

Goose Rocks Beach Agreement

Bob Sherman, Goose Rocks beachfront owner

In 2009, approximately 25% of Goose Rocks Beach beachfront owners entered into a lawsuit against the Town of Kennebunkport to assert their ownership and control of the sandy beach areas. In 2011, a small working committee of beach front owners, back lot beach owners, and town officials began to meet to pursue alternatives to litigation. After lots of back and forth negotiations, an agreement was reached. 80% of the beach front owners not involved in the lawsuit signed the Beach Users Agreement in 2012. It centered on the following key points:

- The Town should not pursue claims of title or prescriptive easements in sandy beach areas.
- Beach front owners would allow recreational uses of both dry and wet sand areas but would have the right to a 25 foot reserved area for special family events.
- The Town would bear responsibility for enforcing such recreation uses and assume liability for any uses of the beach. The town would also establish a fund in the amount of \$2,000 per beach front home (currently \$126,000) that would be used to cover beach expenses, improvement, or repairs. That fund would be replenished as needed.
- Beach use would be “controlled” by limiting both the number of parking spaces (beach stickers are required) and limiting large volume vehicles.

An 8 person Beach Advisory Committee comprised of beach front owners, back lot owners, and other community members was established and structured in a way that no one group could dominate. An important aspect of the Committee was that

it also gave a voice to those community members who are taxpayers but not registered Kennebunkport voters.

Maine Island Trail Association (MITA)

Brian Marcaurelle, MITA

Public access is allowed for all of the islands listed on the Maine Island Trails through handshake agreements with individual landowners. Landowners can set up whatever terms and restrictions they want and they can also terminate the agreement at any time. When and if issues arise, MITA responds and addresses those issues quickly. The goals of both the Maine Island Trails Association and landowners are to maintain good relations and to promote good stewardship on the lands being shared with the public.

Negotiating for Access

Ben Leone, attorney with Curtis Thaxter

Ben advocates a process that generates practical and creative solutions to beach access that do not involve a courthouse. Perpendicular rights of way are critical because you can't use a beach unless you can get to it. Negotiating for access takes less time, costs less money, breaks down barriers and gets to underlying interests, builds community relationships and trust, encourages self-regulation, and allows parties to get creative and address issues that a court cannot.

Ben cited a number of court cases and discussed the Lincoln Institute's 4 Step process for reaching consensus through a "mutual gains approach". His whole powerpoint presentation is available on the Conference website.