

Minutes for Shore Access Subcommittee February 22, 2017

Attending: Larry Libby, Kathleen Rybarz, Doug Stewart (Jeff excused)

1. January Minutes reviewed and approved.

2. Old Business

A. Update on Marboro Beach Project

Going for March town meeting vote.

B. Update on donation from Smith estate to Blunt pond area.

Passed out map and explained where this area is.

Also will be on March town warrant.

C. Update on Pocket Park - Mud Creek Road

Larry's Letter – April meeting of Parks

Commission will discuss next steps. May be too late for May/June town vote/meeting for this year. Zoning steps may be next.

D. Update on Shore Road parcel. None at this time.

3. Other issues for website and other communications

Can place Pocket park information on site after town meeting vote.

Value of clam harvesting for Lamoine to website
tax consequences for land donations.

Information link to state website will be good.

4. New Business - Congrats to Jeff on new addition to his extended family.

5. Follow=up and assignments

6 set meeting dates (bring your calendars).

March 15th 530pm - cancelled did not meet

April 5th 530pm if available. April 19th?

May

June

http://www.accessingthemaine coast.com/private_waterfront_landowners/private_landowners.shtml

Private Waterfront Landowner

Overview

Managing Access

- [How do I control public access?](#)
- [How do I ensure access?](#)

Benefits and Risks of Providing Access

- [What are the benefits of allowing access to my waterfront land?](#)
- [What if someone gets injured while using my land, can I be held liable?](#)

Types of Property Ownership

- [What is traditional land ownership?](#)
- [What is property owned in trust?](#)
- [What is a public trust?](#)

Approaches to Access Ownership

- [Who can own access rights?](#)

Resources

- [Where can I find more information?](#)

How do I control public access?

As a waterfront landowner, what are my legal rights and responsibilities to control public use of my property? What is the scope of my ownership and what are its limitations?

- You have the right to determine who can access your waterfront land:
 - [Invitees](#)
 - [Licensees](#)
 - [Trespassers](#)
- When you choose to voluntarily allow public access to your waterfront, be informed about [liability](#) issues and Maine's Landowner Liability Law.
- You have the right to exclude access to your waterfront land (to [mean low tide](#)).
- If you allow access to any type of user (public or a defined group), you have the right to prescribe the kinds of activities and behavior that are acceptable on your property. To clarify this, you can draft a [Contract for Access](#) with the prospective users or arrange with the prospective users to [buy certain interests](#) in the property.
- Limitations to your rights have to do with [Fishing, Fowling and Navigation](#) a [colonial ordinance](#) that to this day allows people in Maine to use private intertidal areas for one of these three purposes.
- Other limitations imposed by doctrine include the potential for [eminent domain, takings](#) and prescriptive [easements](#).

Besides good will, are the benefits of allowing access to my waterfront land?



- [Tax benefits](#) and affordability.
- Income potential when land trusts or public entities purchase [easements](#)
- If you allow access to any type of user (public or a defined group), you have the right to prescribe the kinds of activities and behavior that are acceptable on your property. To clarify this, you can draft a [Contract for Access](#) with the prospective users or arrange with the prospective users to buy certain interests in the property.

How do I ensure access?

What tools are available to secure and enhance waterfront access or to protect my rights when I provide access?

- [Selling Access](#)
- [Contract for Access](#)

If someone gets injured while using my land, can I be held liable?

[Maine's Landowner Liability Law](#) protects landowners, should someone become injured while using their land. The Maine Landowner Liability law limits the liability of landowners who knowingly or unknowingly provide access to their land for recreational or harvesting purposes, such as clamming. The law also acts as a disincentive to litigation by requiring that the parties bringing a suit against a landowner must pay legal and court fees in the event that the litigant loses. Landowners are not required to maintain their land safe for public use but should be aware that they can be held liable for willfully failing to guard against injury. Since the law was enacted in 1979, no landowner in Maine has been found liable, or at fault, for accidents that have occurred on their land by persons who are using those lands.

For more information on landowner liability, the Maine Department of Inland Fisheries and Wildlife has produced a useful webpage at:

maine.gov/lor/brochures/LandownerLiability_2008.pdf. To see the language of the law itself, please refer to: mainelegislature.org/legis/statutes/14/title14sec159-A.html

Who can own access rights?

Individuals and private user groups, federal, state and local governments, and [land trusts](#) can all own access rights. Ownership can also be held in [trust](#) by governments acting as trustees for the public at large (the public trust doctrine) or land trusts acting as trustees for the intents of the person who donated the land.

What is traditional land ownership?

Traditional land ownership included ownership of the [full title](#), the right to eject (keep out trespassers), the right to transfer (sell or give the land way). Ownership need not be absolute; it can be split, such as by an easements or a [right of way](#).

What is property owned in trust?

Property owned in trust consists of the property itself, the *trustee* or holder of the property (who will often be the manager of the property), and the [beneficiary](#) of the trust, or the person or

organization who receives any benefits from the property. [Land trusts](#) – thought often set up as private charitable organizations rather than actual trusts – assist landowners in conserving their land. Land trusts can act as trustees or whole owners of property.

What is a public trust?

A public trust consists of the same three parts as a regular trust: the trust property (or the public's right to that property), the trustee (the state), and the beneficiary of the trust (the public). The [public trust doctrine](#) is a legal concept that applies a public trust ownership to lands that have traditionally been public, such as submerged tidal lands. Because the state owns such land in trust, it cannot give the land to private owners.

Where can I find more information?

[*Access to Coastal and Inland Waters, the Public Use of Private Lands*](#)

[*Public Shoreline Access in Maine: A Citizen's Guide to Ocean and Coastal Law*](#) (revised). Duff, J. 2004. Orono and Portland, ME: Maine Sea Grant and the Marine Law Institute.

[Maine's Landowner Liability Law](#)

[Private Waterfront Landowners](#) | [Government & Public Entities](#) | [Waterfront Users](#)
[FAQs, Glossary & Resources](#) | [Coastal Access Toolkit](#) | [Common Law & Statutes](#)
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