



RESTORING PUBLIC ACCESS TO COLINDALE BEACH

OCTOBER 25TH, 2018

Overview of Beach Access Issues

- A fresh look at Colindale Beach
- Benefits of Beach Access for the Local Community and Municipality
- Concerns and Constraints
- One Potential Solution: A Public access model based on a Renewable Licensing Agreement

Colindale Beach – Summer 2017



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The Current Public Access Model



Benefits for the Community and County

Re-enabling public access to Colindale beach would:

1. Be desirable for summer residents, permanent residents and owners of vacant land
2. Stimulate construction in the area and bring an end to the perceived “stagnation”
3. Add another “First Class” beach to the Port Hood / Mabou portfolio of “Best Beaches” in Cape Breton and give the area more “gravity” in attracting tourism

Over time, increased investment and increased tourism will produce jobs, greater tourist dollars for the restaurants and shops in Port Hood/Mabou and higher property tax revenues for the County

Chief Concerns and Constraints

The real challenge is to find a public access model which:

1. **Ensures the public is safe** – The beach is not supervised and lacks signage, much needs to be done to address safety concerns, including the risks of drowning. Likewise, the long walking path, if not maintained could lead to injuries for path walkers.
2. **Ensures the beach is not spoiled** with litter, animal waste, overnight campers, ATVs or other nuisances.
3. **Addresses the extensive potential liability** associated with having the public walk through private land and access the beach zone
4. **Is compliant with Provincial legislation** including the Nova Scotia Beaches Act

Understandably, unregulated public access is not an option.

Potential Solution: Renewable Licensing Agreement

Today, we are prepared to offer public access by way of a Renewable Licensing Agreement with the County. Under this arrangement:

1. The Property Owner (The Licensor) would make a gravel-based walking path from Colindale Road to the Protected Beach in Sutherland's Cove.
2. The Property Owner would license the walking path and a portion of the beach area to the County of Inverness and (the Licensee) (and if necessary, the Province).
3. This "licensed" area would then be available for leisure use by the public and for access by County's/Province's employees.
4. The initial term of the license would be 1 year, with a renewability feature provided that key conditions are met
5. Start date: Summer 2020

AREA COVERED BY LICENSE AGREEMENT



The license agreement would cover:

1. The pathway shown, and
2. A portion of the beach above the mean high water mark

Notes:

1. Initially, we resuscitate and repair the legacy path from the Roman Catholic camp.
2. We would bear the cost of reviving the pathway as a measure of goodwill.
3. The walking path is approximately 2,200 feet long.

MAINTAINING AND RENEWING THE LICENSE

To maintain the license, the County would have to fulfill a number of obligations including:

- 1. Maintain the path** to a standard suitable for public use and to **post signs showing the boundary between the path and private lands.**
- 2. Provide appropriate signage on the beach** outlining all relevant provincial and beach regulations, the risks of being in the ocean and the boundaries of the licensed area.

The Licensee may also wish to provide a lifeguard as appropriate.

- 3. Enforce key beach and provincial regulations** including but not limited to:
 - Ensure no littering (including no littering on the path or on private property); remove litter as necessary.
 - Ensure no ATV or motorized vehicle use on the trail or on the beach
 - Ensure no overnight camping
 - Ensure no horses on the trail or on the beach
 - Ensure no hooliganism and no dogs on the beach (or the trail).

Note: While some of these items might not be part of the provinces' beach regulations, the Property Owner wishes to avoid partying and dogs (which can frighten young children, make excessive noise and leave waste).

MAINTAINING AND RENEWING THE LICENSE

4. Provide an indemnification and insurance against all claims and damages that may arise from the use of the pathway and beach area, including but not limited to:

- a) Damages relating to accidents and injuries that may occur on the walking path or on the beach (including drowning) or violations of the Nova Scotia Protected Beaches Act or other provincial regulations.
- b) Damage to the Licensor's property or neighbouring properties, including property covered by the Nova Scotia Beaches Act. Such damage could include damage due to fire, theft, or vandalism.

5. Supply (and service) portable bathroom somewhere along the path, if the Licensor can reasonably demonstrate that bathroom facilities are needed

Note: The above list of conditions should be used as a guideline and may be expanded to incorporate advice from the Property Owner's counsel.

License Renewal and Revocation

License Renewal - The intent of the Licensor would be to renew the license from year to year for up to 5 years provided that the above conditions are met and upon a satisfactory annual review of the arrangement by both the Licensor and Licensee

License Revocation - In the event that the above conditions are breached, the Licensor shall have the right to revoke the License.

Conclusion

We see much public benefit to enabling beach access, but there are very serious concerns, constraints and obstacles. Granting unregulated access to our property is not an option.

We have done our best to study the situation, gather legal advice and propose a public access model which delivers benefits while addressing the key issues.

While the conditions might appear lengthy and onerous, they are necessary to ensure public safety and to protect the beach and property owners from adverse events.

We hope an agreement can be reached.

Either way, we look forward to maintaining a constructive dialogue and improving on the on the status quo.

Other Considerations / Loose Ends

1. Parking – During the term of the licensing arrangement, the Property Owner shall consider dedicating some of its land for parking for up to 10 vehicles near the walking path entrance.
2. Pathway location -- As we have not finalized our property development plans, we reserve the right to alter the location of the pathway over time or to use a driveway in place of the pathway.
3. The County may have to speak to DNR or other provincial bodies to confirm their comfort with the County's involvement in the project given the Province's unwillingness to provide support for public access.
4. While some neighbouring property owners have expressed support for restoring beach access, the reaction of some property owners is unknown.