

# **TOWN OF PALM BEACH**

Information for Town Council Meeting on: August 11, 2020

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TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Ownership and Use of Beach and Accesses Between Wells Road and Root Trail

DATE: July 23, 2020

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## **STAFF RECOMMENDATION**

Town staff recommends to Town Council that the Town continue to maintain public beach access points at Wells Road and Dunbar Road and requests direction regarding beach use and parking.

## **GENERAL INFORMATION**

### ***Beach Accesses***

In 2019, residents along the 100 block of Atlantic Avenue inquired with Town staff regarding ownership and use of the Atlantic Avenue beach access. For several decades, Town staff has managed the beach access point as an extension of the road right-of-way. The maintenance and upkeep performed at the beach access by the Town has been consistent with other public beach access points in other areas of the Town. This has typically included a wooden staircase, a fence, minor landscaping, and limited pavers.

Following a review of historical documentation, including plats, deeds, and previous Town Council meeting minutes, it has been determined by the residents' legal counsel, as well as the Town Attorney's office, that the beach access point at Atlantic Avenue is a private beach access dedicated to the use of the residents in the 100 block of Atlantic Avenue.

Town staff recommends that the Town continue to provide garbage pick-up service at Atlantic Avenue, if requested by the Atlantic Avenue residents. This service is performed at other widely used private beach access parcels to reduce unwanted litter on the beach.

Wells Road and Dunbar Road remain as public beach accesses and will continue to meet the State standards as a secondary beach access point to maintain cost-sharing eligibility for the Mid-Town Beach Nourishment Project.

Atlantic Avenue, Everglade Avenue, Seminole Avenue, and Root Trail are all private beach access points and can be gated at the discretion of both the property owners and those with perpetual access rights. The next public beach access to the south is Sunset Avenue.

### ***Beach Use***

Once the public have entered the beach from one of the designated public access points, questions have been raised about use of the actual beach. Like other beaches in the Town, the beach between Wells Road and Root Trail have components that are on both private property and State lands. The demarcation line between the private and public areas is called the Erosion Control Line (ECL). The ECL was established before the first beach nourishment project in the area so that private properties would not gain land created by a project that used public funding; therefore, State submerged land simply became State emergent land.

Due to the ECL being located mid-berm and on sea turtle nesting habitat, there are limitations on what can be done to discourage the public from getting too close to the improved areas of the private properties. Installing post and rope on the beach is not an option this time of the year. If requested, Town staff can assist the residents with permitting this activity outside of sea turtle nesting season. Post and rope installations have significant and regular maintenance obligations to continue adhering to State regulatory authorizations.

Another solution would be for the private property owners to agree to new temporary construction easements with the Town (with funding relief from FEMA) to replace the vegetated dunes lost during Hurricane Dorian. This project is expected to be constructed this coming winter between November 1, 2020 and March 1, 2021. Sea oats are federally-protected dune vegetation that can buffer the improved private properties from the beach. Signage can be installed in approximately 100-foot spacing to inform beachgoers to stay off the vegetation. With signage, the Police Department could better enforce trespassers.

### ***Parking***

To maintain the secondary beach access, existing parking spaces on County Road must be maintained accessible to the public. Regulated spaces are allowed as long as the spaces are available to the general public. Removal of public parking spaces on County Road would result in a reduction in future State-eligible cost sharing and could also result with the Town being required to return State cost-sharing for recently completed beach nourishment. These spaces can be metered without effecting cost-sharing eligibility.

cc: John Randolph, Town Attorney  
Wayne Bergman, Acting Director of Planning, Zoning, and Building  
Paul Castro, Zoning Manager  
Patricia Strayer, P.E., Town Engineer  
Robert Weber, Coastal Program Manager