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## Important Events in the History of Short Sands Park

The management of Short Sands Park today is truly unique because of its unusual creation and evolution, and it is therefore important to have a shared understanding of its history. This report documents some of the key events along the way. These include establishment of the Park, property transactions, infrastructure development, litigation, municipal regulation, and the agreements regarding park operations. Material is presented in chronological order to allow the reader to understand the progression of events which have led to current circumstances. Copies of important documents are included in the appendices.

For the sake of brevity and consistency, the following names are used:

- Park. The Park known by any of several names – Short Sands Park, Ellis Park, or Ellis Short Sands Park.
  - Trustees. The Board of Trustees of the Park – the people who control and manage the Park.
- Corporation. The York Beach Village Corporation, a municipal entity within the Town of York which existed from 1901 to 1977.
  - Assessors. The Board of Assessors of the Corporation. This is essentially the equivalent of the Board of Selectmen of the Town.
- Town. The Town of York, which took over all Corporation responsibilities when the Corporation was dissolved in 1977.
  - Selectmen. The Board of Selectmen of the Town.

### 1887, August 15<sup>th</sup>. Park Created.

August 15, 1887, is the date on which the Park was established. The land was transferred from the owners (Ellen N. Ellis, Hazen Z. Ellis, Carlos B. Moseley, and William G. Garmon) to Trustees (H.Z. Ellis, Charles Bowden, James Edgeley, and Chauncy W. Clement). The transfer was subject to the following restrictions:

*The land herein conveyed is to be forever used and occupied by the public for a Park and is not to be enclosed by a fence or wall of any description and is to be forever under the management and control of the Trustees, their successors and assigns.*

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*“The Trustees shall have power to organize and select from their number a President, Secretary and Treasurer and adopt suitable By Laws for the protection and management and improvement of said Park. The unanimous consent of the Trustees shall be require to increase their number and in case of the death of a Trustee or the refusal of any one to act for one year the remaining Trustees by unanimous consent may appoint another in his place, but in all other matters a majority shall have power to act. No building not of a public nature shall be erected on said Park, but all buildings and Plank walks shall be allowed to remain so long as they shall be kept by the owners in good repair to the satisfaction of the trustees.”*

The Park was privately owned, but reserved in perpetuity for use as a public park. Management and control of the park rested in the hands of the Trustees. The basic responsibilities of, and ground rules for the Trustees are spelled out in this deed language.

Think about the number of people who have enjoyed this park over the past 123 years, and about its place in the community through the years. The generosity and foresight of the original donors enviable, and the public benefit derived from the donation is simply amazing. In the overall context of York Beach development, creation of this Park was one of a series of extraordinary private undertakings. Others around that time included private establishment of the fire department, creation of a public water system, extension of a railroad spur to the village, and later extension of the street trolley to and through the village area. The Park was a cornerstone in making York Beach the attraction it is to this day.

This deed is recorded at the York County Registry of Deeds at: Book 418, Page 34. A copy of this deed is included in Appendix A.

### **1897, August 27<sup>th</sup>. First Trolley Arrives in York Beach.**

On August 25, 1897, the first trolley arrived in front of the Goldenrod. The significance of this with respect to the Park is that the trolley tracks crossed through the Park property.

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## **1917, July 30<sup>th</sup>. Park Transferred to Corporation Ownership.**

On July 30, 1917, the Trustees transferred ownership of the Park to the Corporation. Because the Corporation was a municipal entity, the Park became publicly owned with this property transfer. The two paragraphs quoted above were each changed in a few important respects, as follows:

*“The land herein conveyed is to be used and occupied forever, by the public for a Park, and is not to be enclosed by a fence or wall of any description and is to be under the management and control of said York Beach Village Corporation its successors and assigns.”*

*“The Corporation shall have power to organize and select a President, Secretary and Treasurer or Trustees, and adopt suitable By-laws for the protection, management and improvement of said ‘Park’, the unanimous consent of the Officers or Trustees shall be require to increase their number and in case of the death of a Trustee, or the refusal of any one to act for one year, the remaining Trustees by unanimous consent may appoint another in his place, but in all other matters a majority shall have power to act. No building not of a public nature shall be erected on said Park but all buildings and plank walks shall be allowed to remain so long as they shall be kept by the owners in good repair to the satisfaction of the Corporation.”*

These revisions blurred the distinction between responsibilities of the Corporation and the Trustees. In fact, the Corporation never appointed any Trustees to the Park.

This deed is recorded at the York County Registry of Deeds at: Book 683, Page 397. A copy of this deed is included in Appendix B.

## **1923, March 17<sup>th</sup>. Trolley Service to York Beach Discontinued.**

On March 17, 1923, trolley service to York Beach, with its route through the Park, was discontinued. The date on which the tracks were removed is unknown.

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## **1950s. Sewer Infrastructure in the Park.**

The York Sewer District was created in 1951, and at that time the various pieces of sewer infrastructure owned by the Town, the Corporation, and others were turned over to the District. Tim Haskel, Superintendent of the York Sewer District, indicated that prior to the construction of the current pump station in 1952 there were large concrete settling tanks where sewage collected and was allowed to settle prior to being discharged either into the Ocean or onto the beach. Subsequently, the pump station re-directed the flow out of the Park north towards the Cape Neddick River. Those concrete tanks still exist under the parking lot, but are not in use as part of the sewer system.

Regardless of the details about the infrastructure itself, the York Sewer District obtained property rights when the Park was owned and operated by the Corporation, before the Trustees were appointed in 1956. Mr. Haskel didn't believe that any easements were provided by the Corporation to the District for the sewer infrastructure that was turned over to the District, but that later sewer infrastructure additions, like the force main out of the pump station, did obtain easements.

## **1956, January 3<sup>rd</sup>. Court Order to Re-Establish Trustees.**

In the early 1950s the Corporation was dealing with parking policy, and apparently in 1954 matters came to a head with regard to the Park and the Corporation. On the March 16, 1954, annual town meeting warrant, Article 20 was to authorize the Assessors to install parking meters and make related rules. (Additional information may well be contained in Corporation records in the Town Clerk's vault.) Per a letter from an attorney representing one of the Ellis heirs to the Assessors dated June 8, 1954, it appears that the Corporation was proposing to fence off the Park and to charge 25¢ per car to park in the parking lot. (This letter is part of an extensive collection of documents relating to this lawsuit, housed in the archives of the Old York Historical Society, filed under the papers of Alpheus Spiller.) In short, the Corporation's action triggered a lawsuit.

The lawsuit essentially challenged the authority of the Corporation to manage the Park, which was viewed as a contradiction of the deeds of trust. The decision that resulted from this case was that the Corporation had no, "authority to

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manage and control said 'Park' by ordinance..." Further, the Court re-established the Trustees as the controlling body in the Park.

The reference for this court decision is a Final Decree issued on January 3, 1956 by Cecil J. Siddall, Justice, of the York County Superior Court for Case No. 1547, Alpheus D. Spiller et als. vs. York Beach Village Corporation et als.. A copy of this decision is included in Appendix C.

### **1966, March 15<sup>th</sup>. Short Sands Park Ordinance Enacted.**

On March 15, 1966, the voters of the York Beach Village Corporation met to adopt the annual budget and to make other decisions on behalf of the Corporation. Article 56 of the Warrant was:

*FIFTY-SIXTH -- to see if the Corporation will enact the following ordinance:*

*All the ordinance and rules and regulations of the York Beach Village Corporation do also apply to that area within the York Beach Village Corporation known as Short Sands Park and are enforceable by the York Beach Village Corporation Police Department.*

The motion to adopt with a minor technical correction was made by Edward Ellis and seconded by James Hansen. "It was a vote in the affirmative." Note that Edward Ellis was the Chairman of the Short Sands Park Board of Trustees several years later (see list of Trustees in the Short Sands Park Regulations dated July 15, 1970, in Appendix F).

It is important to consider the meaning of this Ordinance with respect to the court decision handed down a decade earlier. This Ordinance stated that all the rules and regulations of the Corporation applied within the Park. On its face this seems to contradict the Court decision, which stated that the Corporation had no, "authority to manage and control said 'Park' by ordinance..." In fact, the other rules and regulations were not specifically addressing *management* of the Park - they were addressing broader police power issues such as regulation of business activities on Sundays and holidays, controlling hawkers and peddlers, limiting the sale of food from vehicles, ensuring removal of rubbish, and so forth. Those codes were not intended to usurp management of the Park from the Trustees and were therefore acceptable.

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A copy of this Ordinance as printed in the 1966 booklet of Corporation codes is included in Appendix D.

### **1969, March 18<sup>th</sup>. Short Sands Park Ordinance Amended.**

On March 18, 1969, the voters of the York Beach Village Corporation met to adopt the annual budget and to make other decisions on behalf of the Corporation. Article 34 of the Warrant was:

*THIRTY-FOUR – To see if the Corporation will vote to amend Chapter IV of the Ordinances of the York Beach Village Corporation known as Short Sands Park, so-called, by adding:*

*“Section 1. The area within the limits of the York Beach Village Corporation know as Short Sands Park and Short Sands Beach, so-called, shall be closed to pedestrians and to vehicle traffic between the hours of 1:00 A.M. and 5:00 A.M.*

*Section 2. Exceptions. Operators of vehicles may enter the Park area for the purpose of parking the vehicle with the intention of leaving the vehicle for overnight parking. In parking in the above described area, the operator and passengers must not remain in the area beyond that reasonable length of time that it takes to accomplish parking of the vehicle.*

*Section 3. Penalties. The penalty for violation of the foregoing sections shall be a fine of not more than \$50.00 nor less than \$10.00 for each violation, to be paid to the use of said Corporation.”*

The motion to adopt was made by James Hansen and seconded by John Matthews. With the main motion pending, an amendment was proposed and approved to change the hours in Section 1, and to limit the applicability of the code from June through September. Regarding the main motion, “It was a vote in the affirmative.” Note that John Matthews was a Trustee the year after this vote (see list of Trustees in the Short Sands Park Regulations dated July 15, 1970, in Appendix F).

This Ordinance, as amended in 1969, remains in effect to this day. A copy of this Ordinance as printed in the 1972 booklet of Corporation codes is included in Appendix E.

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## **1970. Bronze War Memorial Plaques Installed.**

At some time in 1970 the Assessors installed a set of 4 bronze plaques on a granite slab near the gazebo. These plaques list Town participants in the Revolutionary War, the War of 1812, and the Civil War. These were part of “The Soldier’s Monument” erected in St. Aspinquid Park in York Beach in 1898. In the 1920s the monument was moved to the vicinity of the York Beach Fire Station. The main part of the monument was scrapped for metal during World War II, and the plaques remained in storage from then until 1970.

## **1970, July 15<sup>th</sup>. Short Sands Park Regulations Adopted by Trustees.**

On July 15, 1970, the Trustees adopted regulations for management of the Park. This is the first reference to such regulations which has been found to date, so it is assumed the Park Regulations originated at this point in time.

These Regulations are much more extensive than the Short Sands Park Ordinance. These regulations divided the Park into four functional areas – the beach, the playground, the parking lot, and the lawn. Specific standards for conduct, behavior and activities were established for each of these areas. Matters such as changing clothes, walking dogs, playing games, having fires, littering, speeding, tempering with parking meters, sleeping on the beach, and so forth were addressed.

These Regulations are interesting in that they completely avoid the matters addressed in the then-existing Short Sands Park Ordinance. There is no question that the Trustees would have known about the Ordinance because one made the motion for the Corporation to adopt the original Ordinance in 1966, and another Trustee seconded the motion for the Corporation to adopt amendments of the Ordinance in 1969. At this point in time there doesn’t seem to have been any conflict or problem about the existence of both a Corporation-adopted Ordinance and the Park-adopted Regulations.

## **1975. Short Sands Park Regulations Adopted by Assessors.**

Correspondence from Attorney Jon Doyle dated July 9, 2010, indicates there is documentation to show that the Assessors and Trustees in February 1975 were

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seeking a legal opinion about Park rules. Apparently there was agreement that the Trustees would “draw up ordinances” and the Assessors would adopt and enforce them.

I have no first-hand documentation to support this claim – I have none of the correspondence referenced by Mr. Doyle, nor do I have Assessors’ minutes. The hypothesis, however, makes sense based on circumstantial evidence. The Corporation published its codes in booklets in 1972 and 1977. Although there were Park Regulations as early as 1970, they were not included in the 1972 Corporation booklet. They were included in the 1977 Corporation booklet, supporting the notion that something happened between 1972 and 1977. Further support for the assertion that the codes were adopted by the Assessors is the fact that the codes enacted by the voters of the Corporation were each titled as chapters in the booklets. When the Park Regulations appear in 1977, they are the only code without a chapter designation. Clearly they are presented as a code of the Corporation, but they are somehow different from all the other codes in the booklet. A copy of these Regulations as printed in the 1977 booklet of Corporation codes is included in Appendix F. (As this code has been amended multiple times, see discussion about “Amendment of Short Sands Park Regulations” for further information about different versions of these Regulations.)

### **1977. Agreement between Trustees and Assessors.**

The legislation which terminated the Village Corporation referenced a “1977 agreement which the park has with the York Beach Village Corporation.” This agreement is referenced in the context of the Town being directed to continue this type of cooperative arrangement. To date a copy of this agreement has not been found, but correspondence with Bill Burnham indicates that the language in the subsequent agreement between the Trustees and the Town dated February 20, 1979, “directly mirrors that” of the 1977 agreement. It would be useful to have a copy of this agreement for historical reference.

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## **1977, October 15<sup>th</sup>. Park Transferred to Town Ownership.**

On October 15, 1977, legislation terminated the York Beach Village Corporation and turned its duties, responsibilities, assets and liabilities over to the Town. All property of the Corporation became Town property as of this date, including Short Sands Park. Of particular relevance to Short Sands Park is the second paragraph of Section 7 of the legislative act, which reads as follows:

*“With respect to Short Sands Park, so called, located in York Beach, the town shall continue the cooperative arrangement which Short Sands Park enjoys with York Beach in sharing duties and responsibilities similar to the 1977 agreement which the park has with the York Beach Village Corporation. The Town of York shall continue the practice of York Beach in enforcing police power ordinances over the park.”*

The reference for the legislation cited above is 180<sup>th</sup> Legislature, Legislative Document No. 1809, H.P. 1601, House of Representatives, May 25, 1977 (Emergency, after deadline). A copy of this legislation is included in Appendix G.

The transfer sets a benchmark for Town codes pertaining to the Park. The versions of the Short Sands Park Ordinance and Short Sands Park Regulations in effect at the time the Corporation was terminated are contained in the Corporation booklet of ordinances dated March 22, 1977. There can be no question that both the Ordinance and the Regulations were in effect on the date which the Town took over for the Corporation.

## **1979, February 20<sup>th</sup>. Agreement between Trustees and Selectmen.**

On February 20, 1979, a two page agreement which specifies the division of responsibilities of the Town and the Park was signed by the Trustees and the Selectmen. In general, the Town is responsible for cleaning the Park, providing lifeguards and police, maintaining certain infrastructure, cleaning the public bathrooms, collecting the trash, covering the Park in the Town’s liability insurance, and other assorted matters. The Park, in turn, is generally responsible for collecting parking meter revenue, maintaining certain infrastructure, paying for certain operating and capital expenses, and managing the Park.

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This is the only agreement to have existed between the Trustees and the Town. A subsequent effort in the early 1990s to negotiate a new agreement never came to fruition.

A copy of this Agreement is included in Appendix H.

### **1979, November 19<sup>th</sup>. Property Donation by Martha F. Gordon.**

Two parcels of land located near Ocean Avenue Extension were transferred from Martha Gordon to the Town of York, with the following restrictions:

*The land herein conveyed is to be forever used and occupied by the public for a "Park" and is not to be enclosed by a fence or wall of any description and is to be forever under the management and control of the Trustees of Short Sands Park.*

This is essentially the same language used in the original deed to create the Park.

This deed is recorded at the York County Registry of Deeds at: Book 2595, Page 244. A copy of this deed is included in Appendix I.

### **1983, August. Park Survey Prepared by H.I. & E.C. Jordan – Surveyors.**

A survey of the boundaries of Short Sands Park was prepared by John P.R. Cyr, Maine Registered Land Surveyor, of H.I. & E.C. Jordan, Surveyors (a division of Edward C. Jordan Co., Inc., of Portland, Maine). This survey brings together very diverse information – historic stream locations, former parcel boundaries relating to the Buswell and Gordon donations, the location of the use easement held by the Ocean House (see below), approximate utility locations, four different layouts of Ocean Avenue along and through the Park, and deed references for properties shown on the plan.

Note: the book and page cited for the original park deed listed on this plan is incorrect. The correct reference is Book 418, Page 34. The plan mistakenly lists the Book as 419.

This plan is recorded at the York County Registry of Deeds at: Plan Book 125, Page 13. A reduced copy of this plan is included in Appendix J.

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## **1985, October 23<sup>rd</sup>. Easement Donation by Seabury Housing Associates.**

Within Short Sands Park there was a use easement for an area 100' by 100' for the use of the Ocean House. The land under this easement has been part of the Park since its original creation, so this donation was simply the release of the easement to use a portion of the Park for other purposes. The easement was given by Seabury Housing Associates to the Town, with the following restrictions:

*This release is give subject to the conditions that no buildings or structures of any kind shall be erected on said 100 square foot area, and that no trees or shrubs of a height greater than 10 feet shall be planted or placed within said area.*

Because the land was already within the Park prior to this donation, the above-stated restrictions are in addition to those imposed by the original Park deed of 1887.

This deed is recorded at the York County Registry of Deeds at: Book 3802, Page 89. A copy of this deed is included in Appendix K.

## **Property Donation by Mary Buswell Crosby.**

It is believed there was a property donated by Mary Buswell Crosby to the Park, but specific documentation regarding this donation has not located. The Trustees are in the process of researching this matter. The property is located adjacent to the Gordon property donation, and the general area is denoted on the 1983 Park plan.

Examination of the Gordon deed (Appendix I) indicates that the description of the two donated lots was based on, "a survey dated October 17, 1919 of property of George E. Gordon, Concordville, York Beach, Maine." The written description of the second parcel does not appear to match the boundary shown on that survey, and that second parcel was owned jointly by Gordon and Alice M. Buswell. In 1923 Gordon relinquished ownership to Buswell (deed in Book 719, Page 308). Could it be that the Buswell donation was, in fact, actually a part of the Gordon donation? A reduced copy of this survey and the 1923 Gordon/Buswell deed is included in Appendix L.

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## **Amendment of the Short Sands Park Regulations.**

Regarding the matter of subsequent updates to these Regulations, the exact sequence of changes is not yet clear. Correspondence from Attorney Doyle referenced earlier indicates that there was an amendment on April 28, 1975. Presumably these amendments are reflected in the Corporation's 1977 booklet printing of these Regulations (see Appendix F). Correspondence from William Burnham, current Chairman of the Trustees, to Stephen Burns dated November 29, 2010, indicates that the current version of the Regulations was enacted in 1993. He also indicates that version has been amended several times since to account for changes to Park hours of operation, parking meter costs, and so forth. At this time the sequence of changes to the Regulations has not been tracked and documented, and the Town does not possess a clean, up-to-date copy of these Regulations.

The mechanism to amend the Regulations is clear, however. The Trustees propose changes to the Regulations, then the Selectmen decide whether or not to adopt the changes proposed by the Trustees. Only the Trustees have authority to propose changes because this is essence of their exclusive park management authority. The Selectmen handle proposed amendments in a manner similar to any other amendment of a code within their jurisdiction – they hold one or more public hearings and then make a decision to enact or reject. The critical difference is that the Selectmen don't have the authority to alter or modify the proposal. The Selectmen essentially have veto power over Regulation changes, but nothing more. If the Selectmen reject the proposed amendment then the existing Regulations remain in effect. If the Selectmen enact the proposed amendment then the Regulations are updated. The Selectmen's adoption makes these Regulations a public rule and enables the legitimate use of its public police powers to enforce the Regulations.

## **Conclusion.**

This is a working document and will always be subject to revision and improvement as additional historical information comes to light, mistakes are identified and corrected, and omissions are found and fixed. This report is offered simply in hopes of compiling documents and references in one place, and of documenting in writing our current state of understanding of the history of Short Sands Park.

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Respectfully submitted,

Stephen H. Burns  
Community Development Director, Town of York

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**Appendix A**  
1887 Park Deed

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**Appendix B**  
1917 Park Deed

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**Appendix C**  
1956 Court Decision

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**Appendix D**  
Short Sands Park Ordinance - As Adopted in 1966

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**Appendix E**  
Short Sands Park Ordinance – As Revised in 1969

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**Appendix F**  
Short Sands Park Regulations – As Printed in 1977

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**Appendix G**  
Legislation Which Terminated York Beach Village Corporation

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**Appendix H**  
Agreement Between Trustees and Selectmen

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**Appendix I**  
1979 Deed of the Gordon Donation

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**Appendix J**  
1983 Park Survey

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**Appendix K**  
1985 Deed of the Seabury Housing Associates Donation

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**Appendix L**  
1919 Survey of the Property of George E. Gordon  
and  
1923 Gordon/Buswell Deed