

The CRAB CAUSE



A Newsletter for Citizens Concerned with Beach Access

Vol. 1 No. 1

FALL / WINTER

1997

A Brief Chronology

During the thirteen months of our existence C.R.A.B. has been very busy. In addition to the many internal, organizational and committee meetings, we have been involving ourselves in statewide efforts to keep the public as well as governmental agencies aware of the growing concern about public beach access. It is rare today to pick up a newspaper and NOT read something pertaining to beach access! Although much of the work has been behind the scenes, the following is a brief composite listing some of our efforts and accomplishments.

- August 1996 - Beach protest held at Bay Point Dunes in response to actions of hired security guard chasing people off the beach.
- C.R.A.B. was formed and our efforts began.
- Had representation at all Point Pleasant Beach Council and selected Board of Adjustment and Zoning Board meetings.
- Held first C.R.A.B. public meeting with keynote speaker Phil Mylod, attorney for Surfrider Foundation.
- Met Governor Whitman and presented her with detailed information packet expressing our concerns with beach access.
- Also met with and presented packets to U.S. Congressman Chris Smith, State Senator Bill Bradley and State Senator Andy Ciesla.
- Mailed same information packet to State Attorney General Peter Verniero.
- Began Letter-Writing Campaign in August 1996 which continues to present time.



Walking the beach with the Deputy Attorney General.

- Attended Blue Acres workshop in Wildwood, NJ.
- Introduced to PPB Council and campaigned for Blue Acres Funding to purchase Paradise Beach in the southern end of town. Received 2,200 signatures on petition supporting this issue.
- Manned booth at Seafood Festival for public awareness and fund raising.
- Sponsored 4 "tubers" in Lion's Club Tube Race and entered float in parade.
- October 1996 - Public hearing concerning purchase of Paradise Beach - Point Pleasant Beach Council rejects application for Blue Acres Funding.
- Met with and began continuing dialogue with representatives of Surfrider Foundation, The American Littoral Society and other "access-aware" organizations.
- November 1996 - Testified before the Senate Natural Resource Committee Hearing in Trenton, chaired by Senator Joseph Kyrillos.

Beach Clean-up at Maryland Avenue.

- Partially due to C.R.A.B. efforts, PPB Mayor and Council was persuaded to keep the municipally-owned Maryland Avenue Beach open, supplying season badges, restrooms and relaxed beach ordinances from the town.
- Toured beaches with Deputy Attorney General as requested by Governor Whitman. Deputy Attorney General also attended Council and Board of Adjustment meetings and has remained in close contact to date.
- General Meeting with keynote speakers Phil Mylod of Surfrider Foundation and Derry Bennett of the American Littoral Society.
- Attended Coastal Alliance Conference in Long Branch and met with Governor, State Legislators, Representatives of the DEP, and County Representatives.
- Point Pleasant Beach Council accepts C.R.A.B. member on Beach Committee.
- Maryland Avenue Beach Clean-up.
- Supported surfers in their efforts to have access to Maryland Avenue Beach.
- Attended Surfrider Foundation meeting targeting beach replenishment and access.
- Helped municipal workers build and install walkway at Maryland Avenue Beach.
- Sent letters to every State Legislator (120) stating our position on beach access.
- Put forth our views at news conference in Sea Bright headed by Assemblymen Cohen and Caraballo.
- Met with Governor Whitman during her bike tour on Labor Day weekend.



Speaking with Governor Whitman.

Mission Statement

To ensure that the public has the right to access our beaches as stated in the Public Trust Doctrine.

Message from the President

One year has passed since the founding of C.R.A.B., Citizen's Right to Access Beaches. I would like to thank all the dedicated, hard working people whose efforts and letter writing have made this organization become a major factor in the quest for reasonable public beach access throughout the state.

It is amazing how, in just one year, the public has learned their rights concerning our beaches according to the **Public Trust Doctrine**. Access to our beaches has become an important issue in this year's upcoming elections and has been a news media focal point ... especially this past summer. Tourism amounted to \$24 billion dollars in 1996 in New Jersey, but yet many beaches are still "off limits" to the public.

C.R.A.B. has made a difference. Through all of our efforts in letter writing, attending town meetings and state conferences, we have helped inform the public, the governor, the attorney general and legislators of the loss of reasonable beach access.

There were some people who thought we were just a few beach goers upset over the closing of Beacon Beach. They believed we would fizzle out or even "return to the sea." We proved them wrong by opening the public's eyes to the loss of access to a natural resource.

I urge you to write the governor, state senators and assembly members to adopt the Public Trust Doctrine as a **STATUTE** and provide a "no loss" liability provision protecting beachfront homeowners and businesses from being sued if a loss occurs on the beach or in the water near their property.

Your letter is a **very powerful tool**. **DON'T JUST COMPLAIN, WRITE!!!**



Not only is this fence unattractive and offensive ... it's dangerous. At very high tides this fence is in the water. Any person who happens to be swimming, surfing, etc. in front of this fence cannot get out of the water. They would have to swim 100 yards or more to reach the safety of land in case of an emergency.

Access and the Public Trust

"All members of the public have the right to use waterfront areas below the mean high water line for recreation. In addition, the general public also has the right to use privately owned dry sand areas above the mean high water line as reasonably necessary for enjoyment of the ocean" ... so states a letter from the Attorney General of the State of New Jersey dated January 15, 1997.

This important statement reaffirms the contention of Citizen's Right to Access Beaches that everyone has the right to use our state's beautiful beaches. Unfortunately, the Public Trust Doctrine, in its present form, is not specific in regard to how much dry sand is available to the public nor does it provide for access over private lands to the water.

Our most recent efforts involve petitioning our legislators to elevate the doctrine from its current status as "case law" or "common law" to a "STATUTE." Once the Public Trust Doctrine becomes a statute, it will no longer be subject to a variety of interpretations, but rather it will become more specific in scope.

At this point, access to public trust lands must be gained through private property and that access often involves a fee. Much has been written lately regarding the state take-over of beaches in an effort to remove beach fees. While we certainly can't argue the benefit of "free beaches" as opposed to paying "beach fees" ... our stated purpose has always been "ACCESS."

At this time Bill #3168 is being discussed in the State Assembly wherein the state will give municipalities funds to run and maintain their beaches .. thus creating free beaches in New Jersey. While this bill seems to deal predominately with beach fees it also touches on the Public Trust Doctrine in its regard to private property and beach access. Obviously we will be very interested in learning the full scope of this bill and how it will impact our mission. C.R.A.B. welcomes dialogue with our elected officials regarding all aspects of access and we will keep you informed as to our findings regarding this bill.

In the Forefront

We can't emphasize enough the importance of writing to our state legislators. One letter from one person to one official will not create much of a stir ... but hundreds of letters to many different officials will certainly create interest.

When an issue is new and/or controversial, or a disturbing event occurs, everyone is ready to act. **WE SAY** we want to write our Congressmen, we want something done ... **BUT** a week or two goes by and work, family and other obligations take precedence over our civic concerns and they are soon forgotten ... **UNTIL** the next disturbing occurrence ... **THEN** we say we definitely will write this time ... **BUT** ...

Most politicians are just like you and me. They may receive a few letters and their interest will be peaked, but other official business will come about and this interest will fade. Not only do we have to make it a point to get our letters written, we must make sure that our elected officials do not forget about our concerns. We have to keep it in the forefront of their minds all year long. This is not just a "summer issue."

Writing Gets Results

Writing letters to your state officials will almost always result in some form of response. Some will be very, very supportive with assurances to look into the matter, some noncommittal with a typical "pass-the-buck" attitude, and others somewhat negative ... but any response serves our purpose. If large numbers of people write to these legislators the "seed of our discontent" will be firmly planted in their minds and they will have no alternative but to take some form of action. Below are a few excerpts from letters received by some C.R.A.B. members.

"... I too have some unresolved questions about public access to these beaches. I have written the U.S. Army Corps of Engineers to get a response on a number of issues related to beach access. Be assured I will get back in touch with you with the Corps' response."
- Bill Bradley, United States Senator

"... I am writing to advise you that your letter to Governor Whitman regarding beach access has been referred to this office for response, and that the issues you raise in your letter concerning public access to the waterfront are under review."
- Peter Verniero, Attorney General of New Jersey

"... I am looking into this matter with the appropriate authorities and will be back in touch with you as soon as possible."
- Frank R. Lautenberg, United States Senator

"... As stated, the area from the high waterline or wet sand does belong to the State of NJ and everyone has the right to cross over any beach area within this high water areas. The action that was taken back in July by the security guard was completely illegal and he had no right to chase you from the water area of the beach."
- Bernard J. Moore, Administrator, DEP

"... I received your letter and agree with you that beaches should be open to the public. I just drove 36 North from West Long Branch to Highlands and was stunned by how few points of access are provided. Let's work together after the election."
- Gordon A. MacInnes, NJ State Senator

"... To implement the Public Trust Doctrine, the NJ Coastal Zone Management Plan provides that development next to coastal waters shall provide public access to the maximum extent practicable, discourages development that limits public access, and precludes Green Acres or Shore Protection funding to municipalities that do not provide public access. N.J.A.C. 7:7E-8.11."
- Peter Verniero, Attorney General of New Jersey

"... Please be advised that Assemblyman Neil Cohen has introduced Assembly Bill 3168. This legislation would establish the "Public Beach Maintenance Fund" and appropriate \$9 million to the fund for reimbursing public beach maintenance costs to municipalities. Through transmission of this letter to Assemblyman Cohen, it is respectfully requested that he review your thoughts on this matter."
- James E. McGreevey, NJ State Senator

"... Thank you for your letter regarding clarity to the Public Trust Doctrine to a statute. I appreciate your bringing this matter to my attention. Should this come before the NJ General Assembly for a vote, I will give your views every careful consideration."
- Paul DiGaetano, Assembly Majority Leader

"... As a frequent visitor to our shore area, I am very familiar with regulations imposed by some entities to assure privacy for members of select groups. The points you raise favoring general public access are valid argument supporting your position. Your suggestion to provide relief through the legislative process also merits serious consideration."
- John Lynch, NJ State Senator

Join C.R.A.B. Today!

C.R.A.B. is still going strong and our crusade is very much alive, but to continue to do so, **WE NEED YOUR HELP!**

With your small \$10.00, tax deductible donation, you will receive both a C.R.A.B. Membership Card and a C.R.A.B. Can Cooler. Your donation will enable us to continue sending information packets and letters to top County and State Government Officials, both Democrat and Republican alike. We will be lobbying to implement state guidelines to enforce the Public Trust Doctrine and create uniformity along the coast. We want **ALL TAX PAYING CITIZENS in NJ** to be able to enter the ocean and use our natural resources.

Join the growing number of informed citizens who are standing up and saying "**We Need Beach Access.**" Make your voice count --- **join C.R.A.B. and it's mission today!** If you are interested in becoming an active member and wish to join, please check it on the attached form below and return it to us.

We also have C.R.A.B. items for sale. If you would like to order any of the items mentioned at the right, fill out the attached form and return it to us with your check or money order. Your merchandise will be delivered promptly.

Please fill out and return the attached form to:

C.R.A.B., P.O. Box 1064, Point Pleasant Beach, NJ 08742

NAME _____

ADDRESS _____

PHONE _____ TOTAL ENCLOSED \$ _____

☐ YES, I am interested in becoming a member.

Enclosed please find \$ _____ for _____ memberships.

☐ I would like to order the following items:

_____ CAN COOLERS at \$3.00 ea.

_____ HATS at \$15.00 ea.

_____ YOUTH T-SHIRTS at \$6.00 ea.

_____ Size 10-12

_____ Size 14-16

_____ ADULT T-SHIRTS at \$15.00 ea.

_____ M _____ L _____ XL _____ XXL (\$17)

_____ CREW SWEATSHIRTS at \$25.00 ea.

_____ M _____ L _____ XL _____ XXL (\$27)

_____ HOODED SWEATSHIRTS at \$32.00 ea.

_____ M _____ L _____ XL _____ XXL (\$34)

The following is an article that appeared in the Asbury Park Press on Sunday, August 24, 1997.

OUR VIEW: Editorials

Guaranteeing access

Beachfront acquisitions deserve candidates' support

With Labor Day soon to kick off the fall election campaign, it's appropriate to consider the issues we want the candidates to address.

High on the list is beach access, so important to the Shore community. The candidates should be urged to support public acquisition of beachfront property, in huge chunks or narrow strips, to provide pathways to the beach for those who simply want to stroll along the strands of sand.

States like North and South Carolina routinely provide beach access with such pathways at the ends of many streets, often accompanied by a small parking lot by the roadside.

New Jersey court decisions have made clear the public's right to walk on that part of the beach between the water's edge and the mean high tide mark. The problem is getting there.

Sue McGowan, a member of Citizens Right to Access Beaches (CRAB), recently told of her encounter last summer with a beach badge checker in Bay Head who wouldn't let her on the beach there. The checker wouldn't recognize McGowan's badge from Beacon Beach in Point Pleasant Beach. McGowan said the beach badge checker turned her away and told her to leave.

In fairness, as recalcitrant as Bay Head has been about beach access, the badge checker was within her rights to stop someone who, for all she knew, might be a freeloader wanting to avoid paying the fee for a day's excursion at the beach. Beach fees, at this time, are a necessary evil, absent the state's ability to take over the cost of staffing and maintaining the beaches.

But if public pathways out to the water's edge were provided by state, county or municipal governments, people like Sue McGowan could enjoy a beach walk without all the hassle.

An organization like CRAB does an enormous public service by spotlighting the need for official action to provide beach access. A year-old citizens' group, its goal is to preserve beach access and educate people about their right of access to the sand below the ocean's mean high water mark. It currently counts more than 100 members.

A prime vehicle for securing such access is the state's Blue Acres program. But oceanfront communities have not seized upon it to the degree that might be expected. The program provides funds — a mixture of grants and low-cost loans

— to purchase waterfront properties vulnerable to storms and flooding along the coast and the Passaic River. Of the \$30 million approved for Blue Acres in a 1995 bond issue, half — \$15 million — was designated for the coast. And of that, \$5 million was appropriated by the Legislature before it recessed for the summer.

Beacon Beach, where McGowan used to spend her summers, passed out of the public purview this summer. Its small boardwalk and two shops were razed last fall to make way for 18 new homes whose owners now have exclusive use of the beach. Nearby Paradise Beach, also in Point Pleasant Beach, now is threatened with extinction. It is scheduled to close to the public in favor of the owners of four new homes expected to be built there after this summer.

But there's hope yet. Although the Point Pleasant Beach Borough Council initially passed up an opportunity to buy the property, citing the expense, the Recreation Commission in neighboring Point Pleasant started taking a hard look at that borough buying it. Now Point Pleasant Beach is considering teaming up with Point Pleasant to buy the property. The parcel is small — 110 feet along the beach — but once developed is lost forever.

That's the kind of land municipalities should explore purchasing to assure access.

Access can also be as simple as a stairway to the beach. Deal, another town which has been recalcitrant over the years on beach access, has decided to seek the approval of the state Department of Environmental Protection to build a stairway down to the Darlington Road beach. It did so in recognition of the frequent use of public access at the foot of that street.

Any question of public access should be silenced by the massive, primarily federally-funded, beach replenishment project working its way up and down the Monmouth County coast. Everyone's dollars have gone into financing the buildup, which has proven effective against storms where completed, and everyone should be allowed to enjoy those beaches their taxes are paying for.

Keeping the beaches public is everybody's business. It also would help to send letters to the candidates for governor and the state Legislature, incumbents and challengers alike, and to members of Congress, urging them to use their offices to help secure more beach access.

Let Us Answer Some of Your Questions

WHAT IS THE GOAL OF C.R.A.B.?

C.R.A.B.'s ultimate goal is to secure and insure access to the ocean for recreational purposes for all citizens.

WHAT DO YOU MEAN BY "ACCESS?"

Simply stated, access means being able to get to a desired destination unimpeded. In our case it is being able to enjoy the sand and surf for a variety of recreational pursuits.

DOESN'T THE "PUBLIC TRUST DOCTRINE" INSURE OUR RIGHT TO ACCESS THE OCEAN ALREADY?

The **PUBLIC TRUST DOCTRINE** holds the ocean's waters and the wet sand area from the mean high tide line in trust for all citizens. In addition it allows for the *reasonable* use of privately owned dry sand as is necessary for the enjoyment of the ocean. Our problem is the area *above* the Public Trust Lands which, in many cases, is privately owned and acts as a barrier preventing the public from getting to the ocean.

ARE THERE ANY OTHER IMPEDIMENTS TO BEACH ACCESS?

That's a good question! Excessive beach fees; limited, restricted or no parking; difficulty in obtaining daily badges or not offering them to the general public at all; and associations that limit access by allowing only selected individuals to use their beaches, are all examples of impediments to access.

WHAT DO YOU CONSIDER "REASONABLE" ACCESS?

Citizens should not have to travel more than a few blocks along the coast to obtain access to the ocean. Also, individuals should be able to choose the atmosphere most suited to their beach enjoyment needs (boardwalk/amusement areas or quieter more secluded areas) if they are available.

ARE YOU SAYING WE HAVE THE RIGHT TO TRESPASS ON PRIVATE PROPERTY?

Absolutely not! We respect the rights of private property owners and do not advocate trespassing. We do, however, feel that access points such as street ends, rights-of-way between properties, etc. should be made available to the public at reasonable intervals.

WHAT ABOUT PRIVATELY OWNED BEACHES THAT CHARGE A FEE TO USE THEIR BEACHES?

We realize that maintaining a clean and safe beach is a costly endeavor. Our concern at this point is not *Beach Fees* but rather *Beach Access* ... being able to get to the beach. As long as a privately owned beach or association makes its facilities available to **ALL** citizens at a reasonable fee we have no objection to such enterprises.

ARE YOU SAYING YOU DON'T SUPPORT THE CONCEPT OF "FREE BEACHES?"

The concept of free beaches has recently been renewed in New Jersey. Remember, we are the only state that charges individuals to use its beaches. If it can be shown that state subsidies can allow municipalities to operate beaches free of charge with no loss of services to beach goers, and still allow each community some control over its beaches, we would support such efforts. We are currently studying the proposals and welcome ongoing dialogue in this area. **ONCE AGAIN WE MUST STATE ... WE ARE MOST INTERESTED IN BEING ABLE TO RETAIN REASONABLE ACCESS TO OUR BEACHES.**

WHAT HAS C.R.A.B. DONE TO FURTHER THE CAUSE OF BEACH ACCESS?

Our current newsletter contains a chronology of our attempts and accomplishments to date. We are proud of our efforts and will continue to educate the public on its rights according to the **PUBLIC TRUST DOCTRINE**.

YOU KEEP MENTIONING THE PUBLIC TRUST DOCTRINE. IF IT IS ALREADY A LAW, WHY SHOULD WE HAVE TO FIGHT FOR WHAT IT STANDS FOR?

That question has a complicated answer. Let's try to simplify it ... The Public Trust Doctrine is known as "common" or "case law." It does not have exact codes like a "statute" does, but rather a set of general guidelines that is left open to many interpretations. It is not specific as to exactly where the "lands" are or, for that matter, how much "dry sand" is available for reasonable enjoyment. Anyone citing the doctrine when defending their position would be subject to individual opinion within its guidelines.

WHAT CAN BE DONE ABOUT THAT?

C.R.A.B. is petitioning legislators asking to codify and clarify the **PUBLIC TRUST DOCTRINE** to a **STATUTE**. If the doctrine becomes a statute, it can be more uniformly interpreted and defended.

ARE YOU PROPOSING ANY MORE LEGISLATION?

Yes. We are also asking for legislation that would provide a **NO LOSS LIABILITY CLAUSE** protecting private property owners who allow citizens to access beaches through their lands. This would protect property owners from lawsuits if someone should become injured through their own negligence, or through no fault of the owner, while on private lands.

WHAT CAN WE DO TO HELP?

If you are interested, please accept our invitation to join our organization. If you live in a coastal community become aware of any changes in zoning along the oceanfront. Attend Council meetings and voice your opinions. Send letters to legislators and newspapers stating your concerns. A lot has been accomplished in a short time, but we still have a long way to go.

Coastal Blue Acres - There is Still a Chance!

In October of 1996 The Point Pleasant Beach Council unanimously voted not to pursue applying for Blue Acres Funding for the purpose of purchasing Paradise Beach. A large asking price, small dimensions and possible high operating costs were some of the reasons cited in their decision making.

One year later, however, it seems that this issue is not dead! Point Pleasant Boro has seen the benefit in owning this property and is now considering applying for Blue Acres Funding to purchase this same piece of land. **WE CERTAINLY ARE ALL FOR IT!** Councilman James Clayton, along with the Point Pleasant Recreation Department, are looking into all the aspects of this purchase and a public meeting should soon be called to decide on submitting this application.

To add to this new twist, Councilwoman Monica Walsh of Point Pleasant Beach has put forth the suggestion that maybe it would be a good idea for both towns to merge together in this acquisition. Evidently this suggestion was spurred by the surprisingly profitable result the town has had with running the Maryland Avenue Beach this year. Obviously, with both towns owning Paradise Beach, all purchasing, operating and maintenance costs would be cut in half for each town. **WE CERTAINLY THINK THIS IS A SMART BUSINESS DECISION!** With Paradise Beach's parking lot and easy accessibility, this could be more profitable than Maryland Avenue Beach.

For those of you who are not familiar with how Blue Acres Funding works, here is a brief explanation: Coastal Blue Acres was created in 1995 as a "sister" Bond Act to the Green Acres Farmland, Historic Preservation Act. The Blue Acres Bond Act contains \$15 million to provide grants and loans to municipalities and counties to acquire land for the purpose of conservation and recreation in coastal areas that have been damaged by storms, may be storm prone, or to protect other land from storm damage. There are 122 municipalities and 8 counties that are eligible to apply for these funds and Point Pleasant Beach and Boro are both eligible.

There are two parts to the Coastal Blue Acres Bond Act: Part one contains \$6 million for the acquisition of unimproved, storm prone land; Part two contains \$9 million for the purchase of lands that have suffered at least 50% reduction in value from storm damage.

Municipalities or counties who are approved for this funding receive a 75% grant which does not have to be paid back, and a 25% loan payable at 2% interest over 20 years. For example:

| PURCHASE PRICE | 75% GIVEN | 25% LOANED | MONTHLY PAYMENT | YEARLY PAYMENT |
|----------------|-----------|------------|-----------------|----------------|
| \$1,200,000 | 900,000 | 300,000 | \$1,517.66 | \$18,211.92 |
| \$1,000,000 | 750,000 | 250,000 | \$1264.71 | \$15,176.52 |
| \$800,000 | 600,000 | 200,000 | \$1,011.77 | \$12,141.24 |

If run properly, profits from the sale of badges and parking (left over after operating expenses are deducted) could easily pay off this loan. Whatever the loan payment figure is, a single town could easily meet this obligation. If both towns join in on the purchase, the obligation for each town would be half.

As the Asbury Park Press stated "This is a Golden Opportunity." Take a moment to call or write to our local politicians to let them know that we shouldn't let this "golden opportunity" pass us by once again. If they hear from enough of us, then they may not let it slip by. The deadline for applications is October 31, 1997.

C.R.A.B.

Citizens' Right to Access Beaches

P.O. Box 1064, Point Pleasant Beach, NJ 08742
732-714-CRAB (2722)



C.R.A.B. welcomes all ideas. If you have an interesting story, an amusing cartoon, or just want to state your opinion, mail your article to the address above and we will give it every consideration when planning our next newsletter.

Cartoon seen in Asbury Park Press, Summer 1997