

BEACH ACCESS CONFLICT CASE STUDY: ST. JOHNS COUNTY, FLORIDA

Location: Ponte Vedra Beach, St. Johns County, Florida

Ponte Vedra Beach is an unincorporated community located along the coast of northeast Florida in St. Johns County. It is bordered by Jacksonville Beach to the north, the Atlantic Ocean to the east, the Guana Tolomato Matanzas National Estuarine Research Reserve to the south, and the Intracoastal Waterway to the west.

Timeframe: 2002 to present

Summary

The conflict at Ponte Vedra Beach began in April 2002 when it was brought to the attention of the Surfrider Foundation that about half of the 14 public beach access points along Ponte Vedra Boulevard were impassible due to overgrown brush or the encroachment of private landscaping from neighboring properties. Surfrider requested that St. Johns County clear the obstructed access paths and also allow parallel parking in the right-of-way along Ponte Vedra Boulevard around the beach access points. As the conflict gained momentum, Ponte Vedra Beach residents quickly became divided on the issue.

In January 2003 the St. Johns County Board of County Commissioners approved an ordinance to ban all parking along Ponte Vedra Boulevard. Frustrated with the county's actions, in January 2004 Surfrider filed a lawsuit to determine their legal standing regarding the impassible public beach access points and the parking ban along the adjacent roadway. In March 2006, the court ruled in favor of Surfrider regarding the obstructed beach access paths, ordering that the obstructions be cleared by the county within six months. Surfrider's complaint concerning parking along Ponte Vedra Boulevard, however, was deemed outside the jurisdiction of the court, as the county may determine appropriate use of its right-of-way.

Following the lawsuit, attention to the conflict waned. In 2009, the Ponte Vedra Community Association expressed concern about the lack of enforcement of the parking ban. As of February 2010, it was reported that five of the beach access points remained obstructed. Representatives at both St. Johns County and Surfrider admitted that the issue had fallen between the cracks as leadership changed hands following the resolution of the lawsuit.

Transferability

Similarly situated coastal jurisdictions can effectively utilize the "Best Practices" discussed below to potentially avoid or minimize conflicts like the one experienced at Ponte Vedra Beach.

Best Practices

- ❖ Emphasize policies that encourage communication, agreement, and mutually beneficial solutions between private property owners, public beach users, and local governments to encourage public access to beaches. Property owners may, for

example, receive a property tax reduction or a limitation on liability as incentives to allow public access.

- ❖ Develop partnerships among diverse interest groups that facilitate a collaborative approach to solving beach access conflicts.
- ❖ Develop proactive legislation and use litigation when appropriate to challenge proposed land uses that potentially conflict with public access to and along beaches.
- ❖ Empower local governments via Florida's "Home Rule" provision, codified in the Florida Statutes Chapter 166 for municipalities and Chapter 125 for counties, to implement local regulations that effectuate fundamental objectives set forth in the State's Comprehensive Plan. One primary objective, Fla. Stat. §187.201(8)(b)(2), seeks to "[e]nsure the public's right to reasonable access to beaches."

Hawaii provides an example of a state that has empowered its local governments to address beach access issues at the local level. In Hawaii, the state's primary role in the coastal areas is to preserve and protect coastal resources within the conservation district and support public access along and below the shoreline (HRS Chap. 205A). Generally, Hawaii's counties have the primary authority and duty to develop and maintain public access to and along the shorelines (HRS §§ 46-6.5, 115-5 & 115-7). HRS § 115-9 provides a remedy and fine of up to \$2000 if private homeowners obstruct existing public rights-of-way to or along the shoreline. Local county planning departments are responsible for enforcement in their jurisdictions.

In Florida, the state's Comprehensive Plan sets an aspirational goal of assuring the public's right of "access to beaches." Although the state initiative is not mandatory, local governments have the power to prohibit homeowners and developers from obstructing public rights-of-way to or along the shoreline.

FULL CASE STUDY DESCRIPTION

History

Modern development of Ponte Vedra Beach (at that time named Mineral City) began in the early 1900s with the mining of minerals from the sand in the area by National Lead Company. As mining profitability slowed in the 1930s, National Lead Company began real estate development of the area, constructing a golf course and changing the community's name to the more affluent Ponte Vedra Beach to increase its appeal. In 1942, National Lead Company sold its interest to Ponte Vedra Beach Corporation, who continued to develop the area into an upscale resort community. Ponte Vedra Beach subsequently became one of the most affluent golf, tennis, and beach destinations in the country (beachmuseum.org 2014). As in many Florida communities, dense private development of the beachfront coupled with increasing coastal population and beach access demand has set the stage for controversy.

The conflict at Ponte Vedra Beach began in April 2002 when it was brought to the attention of the First Coast Chapter of the Surfrider Foundation (henceforth, Surfrider) that many of the public beach access points along Ponte Vedra Boulevard were impassible. Surfrider, a national activist organization, asserts that public beach access is a universal right and has led beach access campaigns across the country. As such, they sent a letter to the St. Johns County Board of County Commissioners requesting that the county (1) improve the public beach access paths and signage along Ponte Vedra Boulevard and (2)

study the possibility of increasing available parking near the beach access points (Sundin 2002a).

While the seven-mile stretch of beachfront in question along Ponte Vedra Boulevard already had 14 county-designated access points, eight of them were reportedly inaccessible due to overgrown brush or the encroachment of private landscaping from neighboring properties (Sundin 2002b). Private obstructions ranged from man-made fences and walls to trees, hedges, and flowers (Abel 2005). Furthermore, Surfrider wanted the county to allow parallel parking in the right-of-way along Ponte Vedra Boulevard around the beach access points, asserting that parking regulations around the access points were being enforced in an “arbitrary manner,” permitting guests of private residents to park during events while prohibiting public parking to access the beach (Woods 2002a). Ponte Vedra Boulevard is 20 feet wide, with a 23-foot right-of-way on either side. Much of this right-of-way has been incorporated into homeowners’ front yards over the years, landscaped with trees and shrubs (Sundin 2002b). To date, the only beach access parking in Ponte Vedra Beach is 248 spaces at Mickler’s Landing, which are often full by mid-morning on busy weekends.

In August 2002, Surfrider organized a public meeting to raise awareness on the Ponte Vedra Boulevard beach access and parking issue, subsequently forming the Ponte Vedra Beach Access Coalition in September 2002 (Woods 2002a). Another citizens group, the United Beach Lover’s Association also formed in the fall of 2002 to advocate for beach access across St. Johns County, including Ponte Vedra Beach (Sundin 2002b). As the issue gained attention, it became apparent that the opinions of Ponte Vedra Beach residents were divided. Some asserted that the access was adequate and that they did not want additional parking. Specifically, residents of the Ponte Vedra Boulevard area cited concerns that additional parking would change the community, lower property values, cause beach overcrowding, and make the area less safe (Woods 2002a). Other residents asserted that they wanted improved beach access, arguing that most of the people using the accesses would be Ponte Vedra Beach residents, all of whom should have access to the beach in their community (Sundin 2002a).

In December 2002, the St. Johns County Board of County Commissioners voted 4-1 to draft an ordinance that would ban all beach parking along Ponte Vedra Boulevard. The county stated that the current parking conditions along the road were unsafe and that constructing formal parking areas would be overly complex, expensive, and destructive to the neighborhood’s character (Sundin 2002b). They also asserted that the 14 beach access points along the road were intended as “neighborhood” access points to be utilized via pedestrians and cyclists. The parking ban ordinance was approved 5-0 in January 2003. The ordinance allowed vehicles to park along Ponte Vedra Boulevard for maintenance activities or deliveries, and for special events with prior written authorization from the county (Sundin 2003). The law is enforced by the St. Johns County Sheriff’s Office, who may issue citations to illegally-parked vehicles while on patrol and in response to calls from residents who live along the road (Matzke 2003). The parking ban resulted in the removal of 75 previously existing paved public parking spaces in the right-of-way adjacent to the Ponte Vedra Inn and Club.

Another suggested option for beach access parking was an additional right-of-way area between Miranda and Corona Roads that extended 34 feet beyond the normal right-of-way and would allow room for a small parking lot. Although ownership of the area was

uncertain, records indicated that Ponte Vedra Corporation attempted to dedicate the land to St. Johns County in the 1930s. It had since been used for underground utilities and incorporated into neighboring yards. County Commissioners indicated that they did not want to use this land for parking (Sundin 2002b), and in October 2003, the Ponte Vedra Community Association voted to recommend that the county vacate the right-of-way. Due to lack of records indicating that the county had ever accepted the deed to the land, the county attorney indicated that vacating the land was necessary for the county to avoid litigation (King 2003). As such, the area was ceded to adjacent private property owners, although the county retained the right to use the land for utilities (King 2003).

Surfrider contacted the Florida Department of Environmental Protection (FL DEP) in October 2003 to determine whether ceding the right-of-way to private property owners violates the Public Trust Doctrine. The Public Trust Doctrine affirms that the state holds land seaward of the mean high tide line in trust for the public, and is included in Article X, Section 11 of the Florida Constitution. While the FL DEP could intercede in the Ponte Vedra Boulevard issue if it was shown that the Public Trust Doctrine was violated, it was uncertain whether the connection between beach access and parking in the right-of-way was strong enough to warrant intervention (Dixon 2003). In January 2004, Surfrider filed a lawsuit against the St. Johns County Board of County Commissioners to determine their legal standing regarding the impassible public beach access points and the parking ban along the adjacent roadway (Mitchell 2004).

The lawsuit, which was initiated by three separate plaintiffs – Surfrider Foundation – South Florida, Inc., The Surfrider Foundation (Florida First Coast Chapter), and Scott Shine (individual and chairman of the Florida First coast Chapter) – was tried before Florida’s Seventh Judicial Circuit Court on November 22-23, 2005. Although St. Johns County initially asserted that the plaintiffs did not have standing to sue, the court found that two of the plaintiffs (Surfrider Foundation – South Florida, Inc. and Scott Shine) did indeed have standing to sue. St. Johns County then responded with a motion to dismiss the complaints made by the plaintiffs. Ultimately, the court dismissed eight of the counts and allowed the following three to go proceed: (1) that the county had allowed the obstruction of several beach access points, which is prohibited by the county code, (2) that the county acted “arbitrarily and capriciously” in allowing private individuals to remove parking spaces in the right-of-way in front of the Ponte Vedra Inn and Club, and (3) the Public Trust Doctrine’s applicability in the obstruction of beach access.

Regarding the first count, Surfrider held that only three of the 14 public beach access points were free of obstructions, and that six were obstructed to the point of prohibiting access to the beach. They claimed the obstructions were in violation of the following sections of county code: (1) Section 8-27, the intent of which “is to mandate that county government define, protect, and enforce the public’s customary rights of beach access and use,” (2) Section 8-28, which states that the county shall not “vacate any approach to the beach or allow the same to be used for private purposes,” and (3) Section 8-29, which indicates that it is “prohibited for any person to create, erect, or construct any structure, barrier, or restraint...that will interfere with....the right of the public...to enter or leave the beach.” In response, the county argued that it was already developing a plan to improve six of the access points, and that the timing of that implementation should not be court-mandated as the construction is expensive and time-consuming (Abel 2005).

In March 2006, Judge Michael Traynor ruled in favor of Surfrider regarding the obstructed beach access paths, ordering that the obstructions be cleared by the county within six months. Surfrider's complaint concerning parking along Ponte Vedra Boulevard, however, was deemed outside the jurisdiction of the court, as the county may determine appropriate use of its right-of-way. Finally, regarding the applicability of the Public Trust Doctrine, Surfrider had argued that the doctrine is applicable to the entirety of the beach, including the dry sand in which the beach access paths are located. Conversely, the county had asserted that the doctrine only applies to land below the mean high tide line, which does not include the beach access paths. Judge Traynor ruled that the Public Trust Doctrine's applicability to the issue did not need to be determined by the court, as the clearing of the obstructed beach access paths had already been ordered.

Following the lawsuit, attention to the conflict waned. In June 2006, the St. Johns County Board of County Commissioners revised the Ponte Vedra Boulevard parking ban ordinance to allow only emergency, public service-related, and oversized vehicles such as school buses, trailers, and tractor trailers to park along the road (St. Johns County 2006). In 2009, the Ponte Vedra Community Association expressed concern about the lack of enforcement of the parking ban (Andres 2009). As of February 2010, it was reported that five of the beach access points remained obstructed. Representatives at both the county and Surfrider admitted that the issue had fallen between the cracks as leadership changed hands following the resolution of the lawsuit (Burmeister 2010).

Acknowledging that the shortage of beach parking in Ponte Vedra Beach will only worsen as the area's population continues to grow, in June 2011 St. Johns County ran a pilot program to shuttle beachgoers to and from the Mickler's Landing beach access. After the parking lot was full, beachgoers could park about 1-mile away at the Ponte Vedra Concert Hall and then ride a shuttle to the beach (Halton 2011a). The shuttle pilot program ran for four consecutive Saturdays, but a permanent program was not implemented, perhaps due to low ridership (Halton 2011b). A parking shuttle was also utilized Labor Day Weekend 2014. The shuttle was reportedly full much of the holiday Monday, but had low ridership on Saturday and Sunday (Clark 2014). County officials indicated that use of the beach access parking south of Ponte Vedra Beach in the Guana Tolomato Matanzas National Estuarine Research Reserve has increased over the years, alleviating the overflow at Mickler's Landing.

Nature of Legal Dispute

The heart of the legal dispute at Ponte Vedra Beach revolves around the conflict between private beachfront property development and the public's interest in access to beaches. Specifically, the issue in this conflict involves perpendicular access, or public access routes to the shoreline. Florida technically has thousands of designated public beach access points. However, as in this conflict, many of these corridors have been compromised by development and adjacent land owners, encroaching vegetation, "hidden, missing, or inaccurate signage, dune walkover access ways closed due to damage or erosion, inadequate or nonexistent parking at public access points, and inadequate or nonexistent beach facilities such as restrooms, lifeguards, sidewalks, or showers" (Holland et al. 1995).

The Ponte Vedra Beach conflict also raises the question of whether perpendicular beach access is protected under the Public Trust Doctrine. The Public Trust Doctrine affirms that the state holds land seaward of the mean high tide line in trust for the public,

and is included in Article X, Section 11 of the Florida Constitution. As part of the lawsuit, Surfrider argued that the doctrine is applicable to the entirety of the beach, including the dry sand in which the beach access paths are located. Conversely, the county asserted that the doctrine only applies to land below the mean high tide line, which does not include the beach access paths. Judge Traynor ruled that the Public Trust Doctrine's applicability to the issue need not be decided by the court, as the clearing of the obstructed beach access paths had already been ordered. As such, it remains to be determined if the Public Trust Doctrine can be applied to perpendicular beach access disputes.

Also at the core of the Ponte Vedra Beach controversy is the relationship between parking availability at beach access points and the public's legal right to access the beach. Surfrider's complaints regarding parking were largely dismissed from the lawsuit, with the exception of one count in which Judge Traynor ruled in favor of St. Johns County, stating that the county retains the jurisdiction to determine appropriate use of their right-of-way. Providing coastal recreational opportunities accessible to the public is a fundamental objective set forth in the Florida's Comprehensive Plan. Specifically, Section 187.201(8)(b)(2) of the Florida Statutes seeks to "Ensure the public's right to reasonable access to beaches." However, as this conflict demonstrates, whether parking is a requisite of "reasonable" beach access is unclear.

Actions and Approaches

Litigation

In January 2004, Surfrider filed a lawsuit against the St. Johns County Board of County Commissioners to determine their legal standing regarding the impassible public beach access points and the parking ban along Ponte Vedra Boulevard (Mitchell 2004). The lawsuit was tried before Florida's Seventh Judicial Circuit Court on November 22-23, 2005. In March 2006, Judge Michael Traynor ruled in favor of Surfrider regarding the obstructed beach access paths, ordering that the obstructions be cleared by the county within six months. Surfrider's complaint concerning parking along Ponte Vedra Boulevard, however, was deemed outside the jurisdiction of the court, as the county may determine appropriate use of its right-of-way. Finally, Judge Traynor ruled that the Public Trust Doctrine's applicability to the issue did not need to be determined by the court, as the clearing of the obstructed beach access paths had already been ordered.

Legislation

St. Johns County enacted an ordinance in January 2003 that banned all beach access parking along Ponte Vedra Boulevard. The ordinance was revised to the following in June 2006:

- ❖ [Ordinance No. 2006-68:](#)
approved – only emergency, public service-related, and oversized vehicles such as school buses, trailers, and tractor trailers may park along Ponte Vedra Boulevard

Police Powers

The parking ban along Ponte Vedra Boulevard is enforced by the St. Johns County Sheriff's Office, who may issue citations to illegally-parked vehicles while on patrol and in response to calls from residents who live along the road.

Public Projects

In March 2006, the Florida Seventh Judicial Circuit Court ordered that the St. Johns County clear obstructed beach access pathways within six months. The county had indicated during the trial that they already had plans to improve the beach access points, including new signage and dune walkovers.

Resolution

The Ponte Vedra Beach beach access and parking conflict was partially resolved via litigation brought against St. Johns County by the Surfrider Foundation in 2005. However, despite a court order in March 2006 that the beach access points be cleared of obstructions within six months, it was reported in February 2010 that five of the 14 access paths remained obstructed. Additionally, the parking issue remained unresolved, as the court dismissed Surfrider's complaints regarding the lack of parking on Ponte Vedra Boulevard around the access points.

St. Johns County tested a beach parking shuttle program in the summer of 2011, but the program was not permanently implemented, likely due to ridership being lower than anticipated. Presently, the population in the Ponte Vedra Beach area continues to grow and parking still runs out by mid-morning at the Mickler's Landing beach access during summer weekends. The public beach access points south of Ponte Vedra Beach in the Guana Tolomato Matanzas National Estuarine Research Reserve have reportedly seen increased use as beach access pressure in the region increases.

Key Stakeholders

- ❖ St. Johns County
- ❖ Ponte Vedra Beach residents
- ❖ Private beachfront landowners
- ❖ Public beach users (residents and visitors)

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