

STRAWBERRY ISLAND

Property and Facilities Inventory

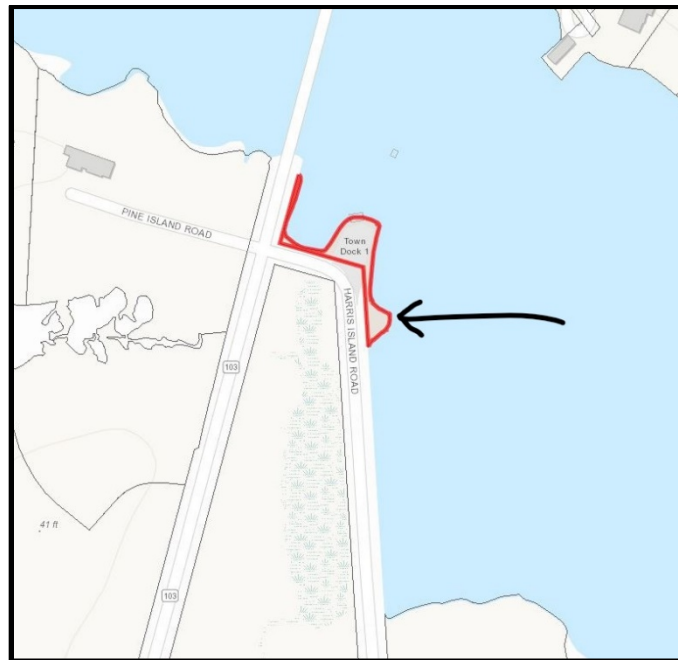
This document is one of a series of staff reports to document important information about properties owned and utilized by the Town of York. It is an attempt to compile and make available relevant information about properties to ensure the institutional knowledge is not lost over time.



May 6, 2019

STRAWBERRY ISLAND

Location: 2 Harris Island Road. While the Town's tax maps show this property and the adjacent Town Dock #1 as being a single parcel, the Strawberry Island purchase was actually just a portion of the depicted parcel, that portion being the lower bump on the map below.



Facility: This property was acquired to, “allow for increased and physically easy access to the water for carry on recreational boating. Kayak rental and guided tours of the York River, an emerging economic opportunity for the tourism economy would be thus enhanced. The island also offers a much needed space for short term small boat and lobster trap storage” (Statement of Fact, Article 4, Special General Referendum, May 21, 2005). It goes on to state that the acquisition also facilitated an expansion of the adjacent pier at Town Dock #1.

Property Acquisition: The sequence of events relating to Town acquisition of Strawberry Island were a bit strange, at least by today's standards, therefore the information presented here is more extensive than usual.

- In the 1999/2000 timeframe there were initial discussions about acquisition of Strawberry Island, but these never came to fruition. A letter from the State

about possible assistance with the purchase, at an anticipated purchase price of \$75,000, also included initial versions of the Project Agreement and the Easement to the State. Handwritten notes by Town Manager Mark Green on that letter indicate that the Town was having problems making this deal in February 2000 and still February 2001 (see pages 34-36).

- In May 2004, pursuant to new negotiations, the Town entered into a combination lease and purchase & sale agreement (see pages 11 – 17). The Harbor Board voted to enter this agreement on May 5, 2004, and the Board of Selectmen entered the agreement by vote on May 11, 2004.
 - Lease terms – May 15, 2004 through December 31, 2005, with an initial payment of \$12,000, and a second payment of \$12,000 if the Town chose to not purchase the property. (The Town did purchase the property and one lease payment of \$12,000 was made.)
 - Purchase terms – if approved by voters in May 2005, the following was established as the payment schedule in the P&S:
 - \$100,000 due within 30 days of closing
 - \$100,000, plus interest, due by January 31, 2006
 - \$50,000, minus half any lease payments, plus interest, due by January 31, 2007
 - NOTE: There was later an e-mail exchange between seller, Sarah Newick, and Harbor Board representative, Joey Donnelly, in June 2005 where the seller agreed to modify the schedule for payments, replacing the second and third payments referenced above with three additional payments of \$50,000 each, with the interest and lease adjustments. This was to extend the timeframe to provide for more time to raise additional funds. Perhaps they knew the requested Land for Maine's Future (LMF) funding had been rejected at that point.
- On September 14, 2004, The Board of Selectmen voted to accept a grant of \$50,000 from the State of Maine (Boating Facilities Division, Bureau of Parks and Lands, Department of Conservation). In accepting this grant, that night the Board signed a Project Agreement which included 13 conditions associated with the grant (see pages 18-23).
- On February 22, 2005, the Board of Selectmen signed and submitted an application for Land for Maine's Future (LMF) funding of \$165,000 for the purchase of Strawberry Island (see pages 24-33).
- Also on February 22, 2005, the Board of Selectmen voted to place the request to purchase Strawberry Island on the May Budget Referendum. (Note: the Board voted to place it on the Budget Referendum, but it ended up on the Special General Referendum.)

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- On May 21, 2005, voters approved acquisition of Strawberry Island by a vote of 2,934 to 431 (see pages 9-10). Here are the ballot question and statement of fact:

ARTICLE FOUR: To see if the Town will vote to approve the purchase of Strawberry Island, of which there will be no tax monies appropriated, \$50,000 may come from the Harbor Board reserve funds and the remaining monies will come from grants.

Statement of Fact: This small but vital piece of shorefront will allow for increased and physically easy access to the water for carry on recreational boating. Kayak rental and guided tours of the York River, an emerging economic opportunity for the tourism economy would be thus enhanced. The island also offers a much needed space for short term small boat and lobster trap storage.

Furthermore, and most importantly, the acquisition of this land would enable the Town to expand Town pier number one, adding much needed flexibility and berthing space for our commercial fishing fleet. This acquisition has been noted as a Town goal, fulfilling State marine policies in support of commercial fishing for over a dozen years in several iterations of the Town's Comprehensive Plan.

- On June 22, 2005 the Town acquired the deed to the property (see pages 6-8).
- On June 27, 2005, a title insurance policy was issued to the Town for this property. The policy was issued by First American Title Insurance Company, and a copy of that policy is in the Town Clerk's vault.
- The Money. Here is where the trail becomes difficult to follow.
 - The ballot question stated, "there will be no tax monies appropriated, \$50,000 may come from the Harbor Board reserve funds and the remaining monies will come from grants." The total purchase price was not specified.
 - The purchase price was \$250,000, minus half the initial lease payment of \$12,000, plus interest of 4% annually because the purchase was to be paid for over time. The following payment schedule was established in the P&S:
 - \$100,000 due within 30 days of closing
 - \$100,000, plus interest, due by January 31, 2006
 - \$50,000, minus half any lease payments, plus interest, due by January 31, 2007

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- The State grant of \$50,000 was obtained 8 months prior, so this money was applied toward the purchase.
 - On July 6, 2005, an article in the York Weekly entitled, "Town closes on Strawberry Island land purchase," indicated \$100,000 was paid at closing, and then captured the essence of the money situation from Acting Town Manager Elizabeth McCann:

"There are no tax dollars involved," McCann said, explaining the effort of the Harbor Board to secure grants and to commit funds from its own reserve account, if necessary, to offset the cost and make public ownership of Strawberry Island a reality.

- On October 3, 2005, Elizabeth McCann, Acting Town Manager, sent a letter to Gloria Layman. The substance of the letter is that the Town is still trying to find the means to pay the remaining \$150,000. She indicates likely rejection of the application for Land for Maine's Future funds because, "it is their opinion that we paid too much for the land." This letter is a good reference point, indicating the Town had paid \$100,000 already, and that the LMF request was likely not approved.
- A memo from Elizabeth McCann, Finance Director, to Sarah Newick on May 2, 2006 indicates the Town had paid \$150,000 to that point, and that \$6,000 from the first lease payment was to be credited against the Town's final payment. Again, another good reference point. Also note, there is an attachment to this memo that reviews available funds in the harbor reserve and it concludes there is enough money there to cover the remaining cost of the purchase.
- Review of all referenda warrants from 2005 through 2007 indicate no further warrant articles were presented regarding payments for Strawberry Island. This is significant because the initial warrant article establishes three basic points:
 - No funding from property taxes;
 - Up to \$50,000 from harbor reserve funds; and
 - Remainder of funding to be from grants.
- Despite the language of the initial warrant, it appears the Town utilized \$50,000 from the State grant and paid the remaining \$200,000+/- from harbor reserve (special revenue) funds.
- It is worth noting that the politics in York were quite difficult at that point in time, particularly with respect to leadership in municipal government. This purchase transpired during a two year period in which Mark Green resigned as Town Manager after a difficult year, Finance Director Jennie

McCann was appointed as Acting Town Manager, Ryan Hada was hired as Interim Town Manager then was let go after 6 months, and Jennie McCann was again appointed as the Acting Town Manager. During this time, two Selectmen were recalled by citizen petition relating to the removal of Ryan Hada. It was a particularly challenging time and it's not really surprising that the details of a transaction like this were overlooked.

Deed References:

- Book 14508, Pages 290-291
- Plan Book 197, Page 48
- See also Book 136, Page 19 (older survey for the Newick family)

Deed Restrictions: The deed referenced above indicates no restrictions. There are limits associated with acceptance of State funds, as specified in the executed Project Agreement. Most significant of these requirements is the issuance to the State of Maine of a perpetual easement, "to assure its continued use as a public recreational boating facility." This easement has not, as of April 18, 2019, been executed and discussions are under way with State officials to fulfill this obligation. Other restrictions and terms are contained in the Project Agreement, a copy of which is included in this document.

Survey and Monumentation: There is a survey by Bill Anderson (RLS #1197) of Anderson-Livingston Engineers, Inc., filed in the Registry of Deeds. Status of monumentation is unknown at this time.

Facility Acquisition/Construction/Alteration: Not applicable as there is no construction.

Relationship to Bond Funds: No bond funds were used for purchase or improvement of this property.

Land Use Permits & Approvals: Not applicable.

Other Information: Not applicable.

Property Deed

Doc# 2005035091
Bk 14508 Pg 0290 - 0291
Received York SS
06/27/2005 3:44PM
Debra L. Anderson
Register of Deeds

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, that SARAH R. NEWICK, FOR CONSIDERATION PAID, hereby grants to INHABITANTS OF THE TOWN OF YORK, a municipal corporation with an address of 186 York Street, York, Maine 03909, with WARRANTY COVENANTS, a certain lot or parcel of land, located in the Town of York, York County, Maine; being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE

IN WITNESS WHEREOF, Sarah R. Newick has hereunder set her hand and seal as of this 22nd day of June, 2005.

Euphelia McLean
WITNESS

Sarah R. Newick
Sarah R. Newick

STATE OF MAINE
York County, ss.

June 22, 2005

Personally appeared the above-named Sarah R. Newick and acknowledged the foregoing instrument to be her free act and deed.

Before me,
Lawrence Walden
Attorney at Law/Notary Public

LAWRENCE WALDEN
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES APRIL 1, 2007

SEAL

MAINE R.E. TRANSFER TAX PAID

EXHIBIT A

A certain lot or parcel of land located on Old Route 103 also known as Harris Island Road on Strawberry Island, in the Town of York, County of York, State of Maine, and being the portion of Lot D (as shown on the plan entitled "Newick Lots, Revised Plan Showing Septic Systems for Lots B, C and D, Old Route 103, York, Maine," dated December 1990, prepared by Anderson-Livingston, stamped by William Henry Anderson, Jr., RLS # 1197, and recorded in the York County Registry of Deeds in Book 197, Page 48 (the "Newick Lots Plan") which is the portion of said Lot D that is northerly of the east-west line running through the point of beginning described below, and based on the Newick Lots Plan and the two deeds to Sarah R. Newick cited below, this northerly portion may be described as follows:

Beginning at an iron pipe set on the east sideline of Old Route 103 which is 406.15 feet North 03° 55' 51" West from an iron pin also on said sideline being the southwesterly corner of said Lot D at the northerly side of the "Private Road" also shown on said plan;

Thence, North 03° 55' 51" West along said easterly sideline of Old Route 103 a distance of 310.00 feet to a point near the Town dock.

Thence N 27° 47' 10" E across the high water mark and the low water mark to the channel of the York River;

Thence southeast along the channel of the York River to a point that lies directly east (N 90° 00' 00" E) of the point of beginning;

Thence N 90° 00' 00" W to the point of beginning.

Meaning and intending a portion of the property that was conveyed to Sarah R. Newick by George R. Newick and Lillian N. Newick in their deed dated November 16, 1984, and recorded in said Registry in Book 3476, Page 238; see also the confirming deed from Lillian N. Newick to Sarah R. Newick recorded in said Registry in Book 4619, Page 243.

END OF DOCUMENT

BERGEN & PARKINSON, LLC
Attorneys at Law
62 Portland Road
Kennebunk, Maine 04043
2P

Ballot Question







SPECIMEN BALLOT SPECIAL GENERAL REFERENDUM YORK, MAINE SATURDAY, MAY 21, 2005

Card 7 of 7

Penalty for willfully defacing, tearing down, removing or destroying a List of Candidates or Specimen Ballot - fine not exceeding One Hundred Dollars.

TOWN CLERK

INSTRUCTIONS TO VOTERS

- A. To vote, complete the arrow(s)   pointing to your choice(s), like this:  
- B. Follow directions as to the number of candidates to be marked for each office.
Person whose name is not printed on the ballot, write the candidate's name on the line provided and complete the a

ARTICLE FOUR

To see if the Town will vote to approve the purchase of Strawberry Island, of which there will be no tax monies appropriated, \$50,000 may come from the Harbor Board reserve funds and the remaining monies will come from grants.

Statement of Fact: This small but vital piece of shorefront will allow for increased and physically easy access to the water for carry on recreational boating. Kayak rental and guided tours of the York River, an emerging economic opportunity for the tourism economy would be thus enhanced. The Island also offers a much needed space for short term small boat and lobster trap storage.

Furthermore, and most importantly, the acquisition of this land would enable the Town to expand town pier number one, adding much-needed flexibility and berthing space for our commercial fishing fleet. This acquisition has been noted as a Town goal, fulfilling State marine policies in support of commercial fishing for over a dozen years in several iterations of the Town's Comprehensive Plan.

Selectmen recommend approval (5-0).

2934

YES  

431

NO  

Lease/Purchase & Sale Agreement

**Strawberry Island
LEASE AND PURCHASE AND SALE AGREEMENT**

1. PARTIES: This Agreement is entered this 11th day of May, 2004 by Sarah Newick, 2 Rivermouth Road, York, Maine 03909 ("Seller"), who agrees to sell, and INHABITANTS OF THE TOWN OF YORK, a body corporate and politic located in the Town of York, County of York and State of Maine ("Buyer"), who agrees to buy, upon the terms and conditions hereinafter set forth, the real estate described in Paragraph 2 hereof.
2. PREMISES: The premises to which this Agreement applies is a certain lot or parcel of land located on Harris Island Road in York, Maine and known locally as Strawberry Island. Bounded on the north by Town Dock #1; on the east by the waters of York Harbor; on the west by Harris Island Road and on the south by the remaining land of Sarah Newick. The southerly boundary of the land is located approximately 140 feet in a southerly direction from CMP Pole #15, at a guard rail post located on the easterly side of Harris Island Road. A legal description of the premises will be prepared by Buyer at Buyer's expense.
3. LEASE OF PREMISES: The Buyer will lease the premises beginning on May 15, 2004 and ending on December 31, 2005 during which time the Buyer will have the sole authority to regulate the use of the property. The Buyer will pay the Seller a lease payment of \$12,000, which shall be due and payable on July 15, 2004. A second lease payment of \$12,000 will be due and payable on July 15, 2005 but only if the Town has not purchased the premises by that date. One half of the lease payment(s) shall be used to reduce the purchase price.
4. PURCHASE PRICE: The purchase price for the Premises is Two Hundred Fifty Thousand Dollars (\$250,000.00), minus one half of any lease payments made by the Buyer. Payment shall be made as follows:
 - A. \$100,000 shall be due and payable at closing to be held within 30 days of the Selectmen receiving authorization from the voters to acquire the property. There shall be no interest due on this payment.
 - B. \$100,000 shall be due and payable on January 31, 2006. Interest of 4% per annum shall be assessed against any outstanding balance beginning on the date voters authorize the purchase of the property.
 - C. \$50,000 minus one half of any lease payments shall be due and payable on January 31, 2007 plus an interest rate of 4% per annum on any outstanding balances adjusted by any pro-rations or other adjustments hereunder.
5. APPRAISAL: The Buyer may obtain an appraisal of the property for the purpose of obtaining grant funds from State agencies.

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6. EMINENT DOMAIN PROCEEDINGS: The Seller acknowledges that the Town may choose to take the property by eminent domain.
7. CONTINGENCIES: In addition to such other conditions to closing as may be set forth herein, the obligations of Seller and Buyer under this Agreement are subject to the following contingencies, any of which, if not met after good faith efforts, shall entitle the other to terminate this Agreement by giving that party written notice of terminating party's intention to do so within the time period specified.
- a. Voter Approval: This Agreement is conditioned on the Buyer obtaining approval from the voters of York at a referendum held prior to 12/31/05. Failure to obtain voter approval will result in the termination of this agreement. If the voters do not approve the purchase of the premises, the Town will be obligated to abide by the terms of the lease described in section 3 of this agreement.
 - b. Title. This Agreement is contingent on Buyer being satisfied with (i) the state of title pursuant to research of the records at the York County Registry of Deeds.
8. POSSESSION AND CONDITION OF PREMISES: Full possession of the Premises, free of all leases, tenants and occupants, is to be delivered at the closing hereunder, the Premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) not in violation of any applicable building, subdivision, and zoning laws. Discovery by Buyer of any latent defect in the condition of the Premises prior to the closing shall be regarded as a material change in condition for purposes of this Agreement.
9. REAL ESTATE TAXES/TRANSFER TAXES: Real estate taxes are to be prorated at closing. Transfer taxes on sale shall be the responsibility of each party to the transaction.
10. BROKERAGE: Seller and Buyer represent to each other that they have not engaged the services of any real estate broker or other person who would be entitled to a fee due to the sale of the Premises and each agrees to indemnify and hold the other harmless from and against any such claims being asserted for services rendered in connection with this transaction based on such party having engaged the services of the claimant. This agreement to indemnify shall survive the closing or termination of this Agreement.
11. DEFAULT/DAMAGES: Should Seller fail to fulfill Seller's obligations hereunder, Buyer may elect to receive a refund of the lease payment, or to pursue such remedies as are otherwise available under Maine law. Should Buyer fail to fulfill Buyer's obligations hereunder, Seller may retain the lease payments, as liquidated damages as Seller's sole and exclusive remedy at law or in equity for Buyer's default without further recourse to Buyer or to pursue such remedies as are otherwise available under Maine law.
12. SELLER'S WARRANTIES AND REPRESENTATIONS: Seller hereby makes the following representations and warranties to Buyer, as of the date of this Agreement and except as noted herein, every date through the date of closing, each of which is true and

correct and is being relied upon by Buyer notwithstanding any investigation made by or on behalf of Buyer:

- a. As of the date of this Agreement, there are no litigation, liens, judgments, violations, or proceedings pending or to Seller's knowledge threatened against or relating to the Premises, nor does Seller know or have reasonable grounds to know of any basis for any such action, or of any governmental investigation relating to the Premises. Should any such matters arise after the date of this Agreement and prior to closing, Seller shall make every reasonable effort to resolve such issues;
- b. As of the date of this Agreement, there is no pending, or to the best of Seller's knowledge, threatened action or proceeding (including, but not limited to, any condemnation or eminent domain action or proceeding) before any court, governmental agency or arbitrator relating to or arising out of the ownership of the Premises or any portion thereof, or which may adversely affect Seller's ability to perform this Agreement, or which may affect the Premises or any portion thereof. Should any such matters arise after the date of this Agreement and prior to closing, Seller shall make every reasonable effort to resolve such issues;
- c. No work has been performed or is in progress at, and no materials have been furnished to, the Premises or any portion thereof, which may give rise to mechanic's, materialmen's or other liens against the Premises or any portion thereof;
- d. To the best of Seller's knowledge, there are no underground oil storage facilities located on the Premises; and
- e. To the best of Seller's knowledge, no hazardous or toxic wastes, substances, matters or materials, including but not limited to any material defined as hazardous or toxic from time to time by applicable state, local and federal law, are stored or otherwise located on the Premises or any adjacent property owned by Seller.

Buyer's performance under this Agreement is conditioned upon the truth and accuracy of Seller's warranties and representations expressed herein as of the date hereof and as of each date through and including the closing.

13. **BUYER'S WARRANTIES AND REPRESENTATIONS:** Buyer hereby makes the following representations and warranties to Seller, as of the date of this Agreement and every date through the date of closing, each of which is true and correct and is being relied upon by Seller notwithstanding any investigation made by or on behalf of Seller:

- a. Corporate Organization. Buyer is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Maine. Buyer has the legal power and authority to enter into and perform this Agreement;
- b. Corporate Authorization. The Board of Selectmen has approved this Agreement and the performance hereof and now will seek voter approval of the purchase prior to 12/31/05.

Seller's performance under this Agreement is conditioned upon the truth and accuracy of Buyer's warranties and representations expressed herein, as of the date hereof and as of each date through and including the closing.

14. MEDIATION: Any dispute or claim arising out of or relating to this agreement or the property addressed in this agreement shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules of the American Arbitration Association. Buyer and Seller are bound to mediate in good faith and pay their respective mediation fees. If a party does not agree first to go to mediation, then that party will be liable for the other party's legal fees in any subsequent litigation regarding that same manner in which the party who refused to go to mediation loses in that subsequent litigation. This clause shall survive the closing.

15. MISCELLANEOUS:

- a. Notices: Any notice, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

To Buyer: The Inhabitants of the Town of York
186 York Street
York, Maine 03909-1314
Attn: Mark Green, Town Manager

To Seller: Ms. Sarah Newick
2 Rivermouth Road
York, Maine 03909

Either party may change its address for purposes of this Paragraph by giving the other party notice of the new address in the manner described herein.

- b. Entire Agreement: This Agreement constitutes the entire agreement between Seller and Buyer and there are no agreements, understandings, warranties or representations between the parties except as set forth herein.
- c. Binding Effect: This Agreement will inure to the benefit of and bind the respective successors and assigns of Seller and Buyer. This Agreement may not be assigned by Buyer without the prior written consent of Seller provided, however, that Buyer may, without the consent of Buyer, assign this Agreement to any entity formed by Buyer for the purpose of acquiring title to the Premises, or to another governmental entity or a land trust like entity.
- d. Modification: This Agreement may not be modified, waived or amended except in writing signed by Seller and Buyer. No waiver of any breach or term hereof

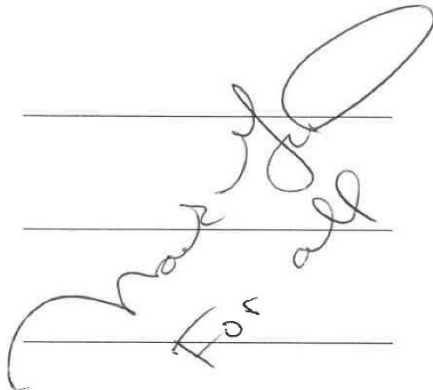
shall be effective unless made in writing signed by the party having the right to enforce such a breach, and no such waiver shall be construed as a waiver of any subsequent breach. No course of dealing or delay or omission on the part of any party in exercising any right or remedy shall operate as a waiver thereof or otherwise be prejudicial thereto.


- e. Construction: This Agreement shall be governed by and construed in accordance with Maine law. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof. All paragraph headings in this Agreement are for convenience of reference only and are of no independent legal significance.
- f. Counterparts: This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.


IN WITNESS WHEREOF, the parties have together executed this Agreement as of the date first set forth above.

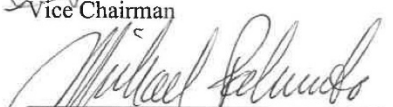
WITNESS:

Inhabitants of the Town of York, Buyer
By its Board of Selectman, thereunto
duly authorized




Chairman


Vice Chairman


Selectman

Selectman

Selectman

Date of execution of Agreement by Buyer: 5/14, 2004.

Sarah R. Newick
Witness

SARAH R NEWICK
Sarah Newick, Seller

Witness
Mason Newick
Witness

MASON NEWICK

Robert N. McGowan
Witness

ROBERTA N MCGOWAN

Witness

Witness

Date of execution of Agreement by Seller: _____, 2004.

Project Agreement with State of Maine



Town of York

186 York Street
York, Maine 03909-1314

Town Manager/
Selectmen
(207)363-1000

Town Clerk/
Tax Collector
(207)363-1003

Finance/
Treasurer
(207)363-1004

Code Enforcement
(207)363-1002

Planning
(207)363-1007

Assessor
(207)363-1005

Police Department
(207)363-1031

Dispatch
(207)363-2557

York Beach Fire
Department
(207)363-1014

York Village Fire
Department
(207)363-1015

Public Works/
Harbor Master
(207)363-1010

Senior Center/
General Assistance
(207)363-1036

Parks and
Recreation
(207)363-1040

Grant House
(207)351-1204

Fax
(207)363-1009
(207)363-1019

www.yorkmaine.org

September 16, 2004

George F. Powell, Director
Boating Facilities Division
Bureau of Parks and Lands
Department of Conservation
22 State House Station
Augusta, Maine 04333-0022

RE: Strawberry Island Boating Facility Grant

Dear Mr. Powell:

Attached please find one executed contract for the Town of York's Strawberry Island Boating Facility Grant. The Board accepted the grant at their September 14, 2004 meeting. I have kept the second signed contract for the Town's records. If you have any question or concerns please feel free to contact me. Thank you for your help in this process.

Sincerely

Karen Steadman
Assistant to the Town Manager

cc: John Bridges, Harbor Master

STATE OF MAINE
BUREAU OF PARKS AND LANDS
BOATING FACILITIES FUND
PROJECT AGREEMENT

RECIPIENT: Town of York

PROJECT TITLE: York Harbor Boating Facility (Strawberry Island)

PROJECT NUMBER: 470

THIS AGREEMENT is hereby made between the STATE OF MAINE, by and through the BUREAU OF PARKS AND LANDS, DEPARTMENT OF CONSERVATION, hereinafter called the "State", and the TOWN OF YORK, hereinafter called the "Recipient".

W I T N E S S E T H

WHEREAS, the State has the authority pursuant to 12 MRSA, Section 1899, to make grants-in-aid to political subdivisions and others for the acquisition, construction, and maintenance of boat facilities; and

WHEREAS, the State agrees to make a grant-in-aid to assist the Recipient in the acquisition of a boat launching site on the Harris Island Road, in the Town of York, said property known locally as Strawberry Island, and shown on Exhibit 1, attached, hereinafter called the "Property";

NOW THEREFORE, for valuable consideration, the State and the Recipient agree as follows:

1. The Recipient shall be responsible for land acquisition, obtaining permits and making improvements, for which the State's maximum cash reimbursement shall not exceed the value as indicated in item 10 below.

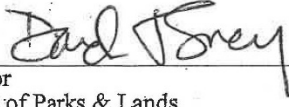
Acquisition only.
2. The Recipient shall be responsible for the operation and management of the Property which is to be acquired with financial assistance from the Boating Facilities Fund and provide for its recreational boating use by the general public in perpetuity. Any lease or assignment of the Property shall not relieve the Recipient of its responsibilities under this agreement. The Recipient shall grant the State of Maine a perpetual easement on the site of the Facilities to assure its continued use as a public recreational boating facility.
3. The Facilities shall be operated and maintained in good order and condition, in compliance with all applicable laws, and in a manner to provide a neat and attractive appearance.
4. The Recipient shall post in a prominent place on the Facilities, and shall maintain in good condition, a sign, indicating the availability of the Facilities to the general public.

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5. If any fees are charged for use of the Facilities, such fees shall be nondiscriminatory in nature and shall have received the prior approval of the State Bureau of Parks and Lands.
 6. All contracts for work on the Improvements shall be awarded through competitive bidding and all contracts, plans, and specifications for such work shall be subject to the prior approval of the State.
 7. The provisions of 5 M.R.S.A., {784(2)}, regarding nondiscrimination in employment, are hereby incorporated into this Agreement by reference as if the same were set out in full herein.
 8. The Recipient shall establish a separate account for all funds expended and received in connection with the Improvements and shall preserve (and permit investigation of) such financial records for three years following final completion of the Improvements.
 9. The Facilities, and all records pertaining thereto, shall at all reasonable times be open and available for inspection by the State, its agents and designees.
 10. The State shall provide a cash reimbursement not to exceed \$50,000 for expenditures made by the Recipient and approved by the State for the acquisition of the Property.
 11. The Recipient shall submit to the State requests for reimbursement of expenses incurred by the Recipient in connection with the acquisition of the Property, together with such evidence as the State may reasonably require supporting such requests. Such expenses may include those indirectly incurred by the Recipient for professional surveys and appraisals conducted in connection with the acquisition of the Property, as well as actual payments made to the Seller.
 12. The Recipient shall indemnify, defend, and save the State, its employees and agents harmless from and against any and all claims, expenses, damages, injuries, liabilities, and costs (including reasonable attorneys' fees and court costs) arising out of or in any way in connection with the construction, operation, use or maintenance of the Property, or any accident, or occurrence therein or thereon.
 13. The State's cash reimbursement described under paragraphs 1. and 10. is contingent upon any improvements being developed in compliance with the Americans With Disabilities Act and Maine State Laws/Maine Human Rights Act.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized agents, executed this Agreement as of the date entered below.

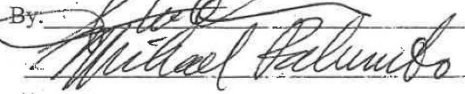
STATE OF MAINE
DEPARTMENT OF CONSERVATION
BUREAU OF PARKS AND LANDS


Date: Apr 14, 2004

By: 
Director
Bureau of Parks & Lands

RECIPIENT

TOWN OF YORK

By: 


(SELECTMEN)



<http://gis.yorkmaine.org/servlet/com.esri.esrimap.Esrimap?ServiceName=yorkims&Client...> 4/28/2004

Application to Land for Maine's Future Program



Town of York

186 York Street
York, Maine 03909-1314

John Dodge

Town Manager/
Selectmen
(207)363-1000

Town Clerk/
Tax Collector
(207)363-1003

Finance/
Treasurer
(207)363-1004

Code Enforcement
(207)363-1002

Planning
(207)363-1007

Assessor
(207)363-1005

Police Department
(207)363-1031

Dispatch
(207)363-2557

York Beach Fire
Department
(207)363-1014

York Village Fire
Department
(207)363-1015

Public Works/
Harbor Master
(207)363-1010

Senior Center/
General Assistance
(207)363-1036

Parks and
Recreation
(207)363-1040

Grant House
(207)351-1204

Fax
(207)363-1009
(207)363-1019

www.yorkmaine.org

February 22, 2005

To Whom It May Concern:

We, the undersigned members of the Town of York Board of Selectmen, do hereby endorse the application of the York Harbor Board to the Land for Maine's Future Board for grant assistance to help purchase the shorefront property known as "Strawberry Island".

This small but vital piece of shorefront will allow for increased and physically easy access to the water for carry on recreational boating. Kayak rental and guided tours of the York River, an emerging economic opportunity for the tourism economy would be thus enhanced. The Island also offers a much needed space for short term small boat and lobster trap storage.

Furthermore, and most importantly, the acquisition of this land would enable the Town to expand town pier number one, adding much needed flexibility and berthing space for our commercial fishing fleet. This acquisition has been noted as a Town goal, fulfilling State marine policies in support of commercial fishing for over a dozen years in several iterations of the Town's Comprehensive Plan.

Thank you in advance for you consideration.

Town of York Board of Selectmen:

Stanley G. Wilson
Stanley G. Wilson, Chair

Michael V. Palumbo
Michael V. Palumbo

Carole Allen
Carole Allen

Torbert H. Macdonald Jr.
Torbert Macdonald

David Marshall



Town of York

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(207)363-1019

www.yorkmaine.org

February 25, 2005

Land for Maine's Future Program
Tim Glidden, Director
State Planning Office
38 SHS, 184 State Street
Augusta, Maine 04333

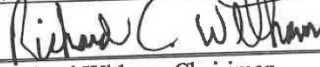
Dear Mr. Glidden,

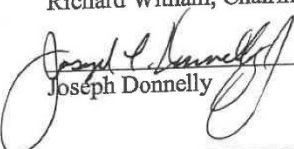
The York Harbor Board is pleased to submit an application to the Land for Maine's Future, seeking support for acquisition of Strawberry Island. Acquisition of this piece of land has been a priority for many years.

We appreciate your consideration in this matter.

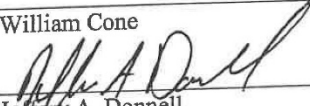
Sincerely,

York Harbor Board Members

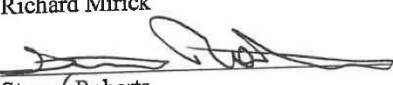

Richard Witham, Chairman

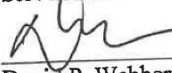

Joseph Donnelly

William Cone


Jeffrey A. Donnell

Richard Mirick


Steven Roberts


David P. Webber

Please use the following application structure and numbering sequence to provide information. If not applicable, please indicate by placing a N/A.

Eight copies of your proposal should be sent to:

Land for Maine's Future Program
State Planning Office
38 State House Station
Augusta, Maine 04333-0038
Telephone #: (207) 287-1485

In addition, one copy of the application must be sent to the sponsoring agency.

- 1) **Applicant** **Town of York**
 186 York Street
 York, Maine 03909

Name, address, and phone number of the applicant and the primary contact person.

- 2) **Agency Sponsor** **Mr. George Powell**
 Maine Department of Conservation
 Bureau of Parks & Lands
 22 State House Station
 Augusta, ME 04333
 1(207) 287-4952

Indicate which of the following is the project sponsor and include a sponsoring letter from the agency:

Department of Inland Fisheries & Wildlife

x Department of Conservation

- 3) **Date of Application**

February 28, 2005.

4) **Project Title/Name - Body of Water**

This is the name by which your proposal will be catalogued by Program Staff

**Acquisition of Strawberry Island, York River,
York Harbor, Maine 03911**

5) **Location of Project**

Provide us with the name of the township and county.

Town of York, York County

6) **Type of Project**

Indicate if your project is an outright acquisition in fee, an easement or a combination.

Our project is an outright acquisition in fee.

7) **Size**

Indicate how many acres your project encompasses and identify fee versus easement acres if appropriate.

.2 acres - at high tide, significant usable land at low tide

8) **Owner(s)**

Include address, phone number, fax, and e-mail (if available) of the current landowner(s). A letter from the landowner(s) indicating their willingness to be considered in the project must be included in the application.

**Sarah R. Newick
2 Rivermouth Road
York, Maine 03909
(207)363-7536**

Letter from Landowner coming separately

Copy of Purchase and Sales agreement attached

9) **Partners**

Other entities participating in this project. Include address, phone, fax, e-mail

Joseph Donnelly (Contact)	John Bridges
York Harbor Board	York Harbor Master
186 York Street	186 York Street
York, ME 03909	York, ME 03909
363-7833 / 351-1423(fax)	363-1000 x 252
<u>jcdjr@maine.rr.com</u>	207-363-1019(fax)

10) **Names of Individuals Knowledgeable about the site/proposal**

List the names of individuals who can speak directly to the access benefits that the proposal will provide.

John Bridges, York Harbor Master
Robert Witham, Chair, York Harbor Board
Joseph Donnelly, Contact, York Harbor Board

11) **Total Financial Summary (see Appendix G)**

Include the following:

- a) Total value of the fee/easement land being considered (the appraised value) **\$1,190,000**
- b) Purchase price (land/interest in land only) **\$250,000**
- c) Estimated "all other" project costs not including land (legal, survey, appraisal)
 - \$2,000 - survey**
 - \$3,000 - appraisal**
 - \$8,000 - engineering**
 - \$2,500 - legal**
- d) Match - break this out into inkind, cash, land, etc. Calculate percentage of match based only on the total allowable project costs. (See match discussion on page 57)

\$15,500 costs associated with appraisal, legal, and engineering
\$50,000 Grant
\$50,000 Harbor Board Contribution

- e) Amount being requested from the Land for Maine's Future Fund

\$ 165,500

12) Project Description

Include a narrative description of the entire project that provides a complete image of the project itself as well as the context surrounding it. Photographs of the property can be very effective. If these are incorporated in the text electronically, please provide the images on a floppy disk with the application (JPEG or TIFF format).

Strawberry Island is the only undeveloped piece of land on the York Harbor waterfront. It is located downstream of the Route 103 Bridge and adjacent to Town Dock 1.

The Harbor Board has wanted to purchase it for several years, but it has not been available for sale until the recent purchase and sale agreement took place. Acquisition of this piece of land by the Town will allow the Town to alleviate infrastructure constraints on supporting and expanding the commercial fishing fleet and also provides for public recreational boating access and fishing access. This has been a recommendation included in our last two Comprehensive Plans. Unlike most land along the harbor, the Island has a gentle sloping gravel bank that reaches from above the high tide mark to below the mean low-tide level thus there is no sensitive marsh or eel grass.

13) Location Information

Provide a selection of easy-to-read locator maps including:

- a) Maine Atlas Base Map - showing project location and regional perspective USGS
- b) Topographic Base Map - showing entire boundary of proposed project, legal access and adjacency of other public and private conservation lands.
- c) Other Maps as Appropriate

14) Demonstration of Need

Indicate whether the project has been designated as a priority water access site (contact LMF staff or the sponsoring agency for further information); or, if it is not, provide documented, credible evidence that supports the need for public access to the associated lake, river or coastal area as determined by the priority criteria described under the Proposal Process in this section (page 54).

Acquisition of this land has been a Town and Harbor Board priority for many years. Its location adjacent to Town Dock 1 provides the Town with the ability to expand the dock and have a substantial carry on access site. There is no other piece of land within the Harbor which has similar characteristics.

15) Suitability for Intended Use

Demonstrate that the property has no legal constraints preventing its development for the intended proposed access and that the physical characteristics of the site are suitable for the intended access.

There are no deed restrictions as the Town will own this property outright. The Town is not bound by the restrictions a private owner would have on utilizing this land.

Copy of the Purchase and Sales agreement attached.

16) Impact on Natural Resources

Describe what if any impact the proposed access will have on the natural resources of the water body and the surrounding land. This assessment is to be performed by the appropriate natural resource agency (DOC, IF&W, DMR), and in consultation with the Maine Natural Areas Program and the State Historic Preservation Office.

The initial proposed use is carry-on access for recreational boaters and fishing and should have no impact on natural resources. Future plans would include expansion of Town Dock #1 in support of the commercial fishing industry. Impact should be minimal on sand and gravel bottom.

17) Existing Public Access on Proposed Water Body

List and describe all other public access sites that exist on the lake or pond along which your parcel is located. If the site is along coastal or riverine waters, list the closest public water access site and the type of site (e.g., boat launch site, place for shoreline angling).

The parcel is adjacent to Town Dock #1, which is the Town's primary working dock. There is a privately owned launch ramp on the other side of the Harbor. There is no existing publicly owned access in York Harbor and no other prospect for public access. There is a public boat launch approximately five miles up river, Scotland Bridge. As it is above Sewall's Bridge, which has low clearance, it is of limited use. There is carry-on access for kayaks three miles further up the river, Rice's Bridge.

18) Value of Fisheries Opportunities

List and document any high value or outstanding fisheries that are currently or will be enjoyed by future users of this access site.

Acquisition of this site enables the Town to expand Town Dock #1, facilitating the off loading of "catch" of fishing and lobster boats. This site will provide for carry-on access, fishing, and can be used for other recreational maritime uses.

19) Expected Demand and Diversity of Uses

Describe the type of use -- either current if it is an existing privately owned site, or anticipated -- at the proposed site and the number of different user groups that will benefit from the proposed site. Also, indicate whether the access is intended to allow new types of boating and if so describe.

This parcel has been owned privately and has allowed no public access. Since the Town has had a signed Purchase and Sales agreement and lease, the parcel has been heavily used by Recreational boaters i.e. kayakers & canoes, as a beach and by local and visiting fishermen.

20) Threat of Conversion to Other Uses Especially Private Development or Non-Water-Dependent Uses

Indicate the degree of threat to development, or the conversion to other non-water dependent uses, of the proposed site.

If this parcel is not acquired by the Town, the Town will not be able to expand Town Dock 1. The existing owner will revert to having the land be private with no trespassing until it is sold. The current owner of the property will sell it and the adjacent residence to a new private owner if the purchase and sale with the Town does not go through. She is unable to afford maintaining the entire property. If the entire property is sold, it is extremely unlikely that a new owner would give public access and is most likely that the new owner would use the site for a private boat launch and dock, not available for public usage.

21) Estimate of monitoring and management costs

A person submitting a proposal to acquire property or an interest in property with funding from the Public Access to Maine Waters Fund shall provide:

- A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity;

This parcel shall be managed by the York Harbor Master and overseen by the York Harbor Board. A Planning Commission has been established that is comprised of members of the Commercial Fishermen, Recreational Boaters, Harbor Board, the York Harbor Master, and Town Selectmen. The Town has reviewed and endorsed the proposed use of this parcel of land for emergency haul out and repairs, recreational carry on boating and fishing.

- Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and

The costs of managing this land will be minimal and will come under the Harbor Masters budget. The Harbor Master visits and oversees activities at Town Dock 1 on a daily basis.

- Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

N/A

Early Correspondence About Purchase and Easement



ANGUS S. KING, JR.
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

FILE
York River
Access
RONALD B. LOVAGLIO
COMMISSIONER

January 13, 2000

Mark Green, Town Manager
Town of York
186 York Street
York, Maine 03909-1314

RE: Proposed Land Acquisition
York Harbor, York, Maine

Dear Mark:

As discussed with you this morning, I am enclosing a draft Project Agreement and a draft Easement for the town's consideration. The Bureau will consider providing a reimbursement of 50% of the cost of the acquisition cost of the parcel of land on York Harbor (50% of \$75,000 equals \$37,500), provided the Bureau receives an Easement over said property.

Please advise me of the town's interest in this proposal.

Yours truly,

Richard W. Skinner, Director
Boating Facilities Division
Maine Bureau of Parks & Lands
#22 State House Station
Augusta, ME 04333-0022
TEL: 287-4952
FAX: 287-3823

Enclosures

RWS/nd

Called Dick
Skinner on 2/11
to tell him we
were having problems
Spoke with him
again in February
of 2002 to tell
him that nothing
had changed

BUREAU OF PARKS AND LANDS
THOMAS A. MORRISON, DIRECTOR



PHONE: (207) 287-3821
FAX: (207) 287-3823
TTY: (207) 287-2213

EASEMENT

DRAFT

The **TOWN OF YORK**, in consideration of One Dollar (\$1.00) and other good and valuable consideration, hereby gives, grants and conveys to the **STATE OF MAINE, DEPARTMENT OF CONSERVATION, BUREAU OF PARKS AND LANDS**, its successors and assigns, rights in real property in the Town of York, County of York and State of Maine, being more particularly described in the legal description attached hereto as Exhibit "A" (property shown on Map #___ as Lot #___ on the tax maps of the Town of York), described as follows, to wit:

A permanent easement for public recreational purposes including, but not limited to, the launching and retrieval of boats, canoes, and kayaks to/from York Harbor.

The real estate to which this permanent easement applies is a portion of the real estate described in the deed from _____ to the Town of York dated _____ and recorded in the York County Registry of Deeds in Book ____, Page ____.

IN WITNESS WHEREOF, Town of York has caused this instrument to be executed by _____, its _____, thereunto duly authorized this _____ day of _____, 2000.

TOWN OF YORK

By: _____

Personally appeared the above-named _____ of Town of York, as aforesaid, and acknowledged the foregoing instruments to be _____ free act and deed, in _____ said capacity, and the free act and deed of Town of York.

Before me,

Notary Public/Attorney at Law

Print Name

j:\easeYork.lwp