

Ordinances & Administration Committee

Monday, October 20, 2015 – 6:00 p.m.

Kyrouz Auditorium – City Hall**-Minutes-**

Present: Chair, Councilor Robert Whynott; Vice Chair, Councilor Bob Stewart; Councilor Joseph Ciolino
Absent: None.

Also Present: Mayor Theken; Councilor LeBlanc; Councilor Fonvielle; Councilor Cox (entered at 6:20 p.m. and departed 6:50 p.m.) Jim Destino; Linda T. Lowe; Leonard Campanello; Chip Payson; Mike Hale

The meeting was called to order at 6:02 p.m. Councilor LeBlanc sat in for Councilor Stewart until 6:12 p.m. There was a quorum of the City Council.

1. Reappointments:

EDIC

J. Ronald Ross

TTE 07/01/18

Mr. Ross did not appear at this meeting and his reappointment was continued until November 9, 2015.

Gloucester Cultural Council

Mary Rhineland McCarl TTE 02/14/18

Ms. Rhineland McCarl said that she has a letter (on file) that her new term should go from 02/14/15 to 02/14/18 as her reappointment had been mistakenly overlooked. She said she wished to continue to serve on the Cultural Council.

Councilors Ciolino and Whynott thanked Ms. McCarl for her service to the city as a volunteer.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint Mary Rhineland McCarl to the Gloucester Cultural Council, TTE 02/14/18.

2. CC2015-032 (Stewart) Amend Chapt 4, Art. II “Dogs” as most recently amended in 2014 by deleting Sections 4-15, 4-15(a), 4-16(b), 4-16(c) and 4-21(c); renumber Sec. 4-22 through 4-23; and adding new Sec. 4-22 “Enforcement and Penalties,” and adding new Sections 4-15, 4-16(a) Rules and conditions for all dogs,” 4-16(b) “Additional rules and conditions for large dogs,” 4-16(c) “Locations where dogs must be leashed or at large with restrictions,” 4-21(c), and 4-22 “Enforcement and Penalties”

Councilor Whynott announced he would allow proponents of the amendment to the “Dog Ordinance” five minutes together to express their views before the Committee took up its deliberation of Councilor Stewart’s Council Order.

PUBLIC COMMENT:

Lynn Klotz, 5 Duley Street, gave a description of the thinking behind the proposed changes to the “Gloucester leash law,” saying that they asked over 200 dog owners for their ideas, looked at dog ordinances in other municipalities, and relied on many years of experience with dogs and Gloucester. He expressed the opposite view of the current dog ordinance in place. He highlighted several areas of the new proposal such as dogs must be leashed downtown except areas designated as off-leash by the Director of the DPW. He also highlighted that there should be some city park and beach locations where dogs may be unleashed, sometimes with restrictions such as, “in the off-season (late fall, winter, and early spring), dogs may be unleashed all day at Stage Fort Park and other city-owned parks, and in the summer months between sunrise and 9:00 a.m.” He added a last highlight, “Dog walkers with leashed dogs may request the walker of an unleashed dog to leash their dog when they are close to each other.” In each case he briefly noted the reasoning behind the suggestions to amend the ordinance. His full written remarks were submitted for the record and placed on file.

Linda Brayton, 527 Washington Street, said the proposed ordinance amendments are comprehensive, complex although offering more options and clearer rules for off leash dogs. She said that in the year that the new dog ordinance has been in place some of the initiatives put in place yielded positive results. She highlighted the Dog Friendly Gloucester Facebook group as an important place for dog aficionados to exchange ideas and be advocates for their dogs. She noted there are about 500 members at this time. Her full written remarks were submitted for the record and placed on file.

Valerie Gilman, 75 Revere Street, said that without responsible pet owners no animal control ordinance will be successful. She spoke about the Mutt Mitt program supported by Dog Friendly Gloucester with the support of the DPW, the Board of Health, the City Council and the city's Administration. She said anecdotally that there have been improvements in the amount of dog waste found throughout the city. She listed the Mutt Mitt stations locations as follows: Stage Fort Park; Stacy Boulevard, Corliss Landing and Brown's Playground, Rocky Neck Park, Goose Cove Reservoir, Burnham's Field and about to be installed, Governor's Park on Commonwealth Street. Her full written remarks were submitted for the record and placed on file.

Valerie Nelson, 7 Sunset Point Road, submitted a link to individual Committee Councilors a report of the Project of the National Animal Interest Alliance, a Guide to Constructing Pet Friendly Animal Ordinances, which she said was used to assist in the development of a comprehensive approach to the ordinance amendments before the Committee. She read an introductory excerpt from the noted Guide. She gave some examples which she said came from their talks with hundreds of members of the Gloucester community, saying She there is a unity, sentiment and purpose about cleaning up dog waste. She pointed out the proposed ordinance is asking for an increase for the fine for dog fouling to be raised to \$200. She highlighted that there are Provisions in the amended ordinance that will reduce the number of dogs ever struck by cars or get lost; roaming dogs are prohibited. There are licensing, vaccination and identification requirements for all dogs. She said off-leash exercise, and playing are necessary for healthy dogs.

Ms. Nelson acknowledged they also spoke to people who want to walk or take their own small dog for a walk without being concerned with boisterous or young dogs jumping on them or impeding their ability to walk unhindered. The amendment provides for on and off days for off-leash dogs on beaches; areas such as the downtown and Stacy Boulevard where no off-leash dogs are ever allowed as well as high traffic areas. There are direct control options also contained in the ordinance. She said the amendments strike a balance between dog owners and their pets that need to be able to freely exercise their dogs and for those who are fearful of them and protecting the non-dog owners rights as well. She said they are working hard to create a balance in the ordinance and asked that it be viewed in its entirety.

COMMITTEE DISCUSSION:

Councilor Whynott said this is not a quick fix. There is mention of Stage Fort Park of ballfields, playgrounds, beaches, and he advised that it all comes under the purview of the Director of Public Works by City Charter and no changes can be made to those areas unless they are proposed by him alone. He noted the Committee already heard from the Police Chief at their last O&A meeting on this matter.

Councilor Stewart said he was the Councilor that introduced this Council Order to amend the ordinance mentioned he had submitted a comprehensive outline of the proposed ordinance which covers every point that his made and cross refers to the effect of the current ordinance. He said the ordinance is a logical order so it is readable by those who need to understand it.

He said the first provision Sec. 4-15 restricts all dogs at any time which the current ordinance doesn't deal with at all. It is important so that people know basic rules, and contains a series of definition.

Sec. 4-16a is now broadened to include leashed or unleashed dogs in all instances 4-16C Locations where dogs must be leashed or at large with restrictions and ballfields, cemeteries, city parks are addressed here and then be followed by enforcement penalties.

Councilor Ciolino noted that second sentence should say that it is under the auspices of the DPW Director, and that it should be noted in Section 4-16 (a). He said that it should be clearly stated that the DPW Director has the authority, which should be in the second section of 4-16(1). **Councilor Stewart** said he will prepare language; it was noted and will meet with the DPW Director to go over the proposed amendments and review this section with him.

Councilor Stewart said the current ordinance is a blanket prohibition any time anywhere on ball fields for dogs. The wording prohibits someone bringing a dog to watch a game. What he tried to do is to make clear A) dogs can never be on any park or ballfields during a period of time (a season) when the fields are in use for athletic events, not just the day of but any time during that period. It makes clear that the ball field is where they are playing for purposes of spectators isn't included and provides that dogs can be there so long as leashed and pick up dog waste and dispose of appropriately. **Councilor Ciolino** noted several years ago, the Council received a petition from the School Department, from teachers and parents, because at that time animals were allowed on the playing fields. Teachers were upset as children would play on the fields and come back into the school with dog waste on their shoes. Parents were upset as were teachers that this was unsanitary. He said that needs to be kept in mind, and they don't want to go backwards. What is contained in the ordinance is based on the premise that dog owners are going to pick up after their pets, he said, and unfortunately not all of them do. He said they have to be careful when

repealing such a rule. **Councilor Stewart** said he would deal with that issue and take the comments into consideration.

The rest of the items in 4-16(a) the ordinance picks up every requirement that is in that section – 13 different items and every one are in this ordinance. Most are in this first section, **Councilor Stewart** pointed. He said a few belonged elsewhere within the ordinance. He reviewed Item (2) in 4-16(a) that dogs must be leashed in any play area where children, other than those of or with the owner or guardian of the dog, are present. **Councilor Whynott** said as of now no dog is allowed in any playground.

(3) The owner/guardian of any dog on public or private property shall remove all feces of the dog from that property and dispose of it as set forth in Section 4-21.

(4) Dogs must be up to date on all legally required vaccinations.

(5) Dogs who have been determined by an Animal Control Officer to have a history of being a danger to the public or to themselves, including but not limited to chasing or attacking other animals or people, chasing vehicles, or doing damage to private or public property, or create a nuisance through excessive barking or repeated trespassing, must be managed by its owner or guardian, including leashing, muzzling or any other controls determined by an Animal Control Officer.

(6) Dogs with contagious diseases must be leashed at all times and shall not be permitted to be in contact with other animals or humans in public areas.

It was noted that both (6) and (7) contain and expand on the current dog ordinance, Sec. 4-16a(3).

(7) At all times off the property of the owner or guardian and not under the care of veterinary personnel; dogs must have a collar on them with current license and rabies vaccination tags attached. For purposes of this provision, if proof of rabies vaccinations is a requirement for obtaining the current license, the license tag shall be deemed to also be a vaccination tag.

(8) is noted to be new. Owners should be able to be contacted by someone who finds their dogs, for the public's and the owner's protection. "Dogs must have on their collar or otherwise on or in their bodies some means to contact the owner of the dog.

(9) is noted as new placed in the ordinance for the safety of other dogs and the public. "Dogs may not be left unattended, except for short intervals but then only if secured." **Councilor Ciolino** noted that on main Street people tie their dogs to a rail or a tree and is done all the time and many businesses leave water out for dogs and never heard of any incidents with dogs. **Councilor Whynott** said dogs should be closer to the owner. **Councilor Stewart** said they don't want people to park their dogs but to be able to observe them.

(10) Dogs younger than 4 months of age must be leashed at all times except in Dog Parks or Dog Areas, and he asked that they should amend that language and would strike "Dog Parks or" and add a provision at the and would provide language to fix the problem.

(11) Current ordinance allows for one person to handle two dogs at once, and this proposal says three dogs, and **Councilor Stewart** pointed out that it is not uncommon to see three dogs with one owner/guardian. He said with four dogs it would require two people or one person for every three dogs. He asked if three is acceptable to the committee. **Councilor Whynott** said common sense has to be used where a 100 lb. person is struggling with several large dogs. **Councilor Ciolino** said he didn't have an issue with the three dogs per owner or guardian. This will be worked on, **Councilor Stewart** advised.

Councilor Whynott, referring to definitions, said most dog owners have retractable leashes that are 12 to 16 feet but on sidewalks and public areas like the Boulevard the leashes should be retracted to 6 feet. He said that needs to be worked into the definition because in the ordinance it says leashes are not exceeding 12 feet in length. **Councilor Stewart** said he would look at this language to amend it.

(12) Owners or guardians must fill in any holes dug by any dog under their stewardship which is the same in the current ordinance but only applicable to beaches, but this would encompass all areas of the city not just beaches.

(13) This is the existing 4-16(b) which prohibits dogs in city-owned cemeteries as does this new ordinance amendment.

Councilor Ciolino questioned #4 saying that if dogs must be licensed, he suggested that fact should be contained in Item #4. It was noted that such a statement is contained in the provision where it speaks to what a dog owner is supposed to carry on them in, 4-16(a) #7 "At all times of the property of the owner or guardian and not under the care of veterinary personnel, dogs must have a collar on them with current license and rabies vaccination tags attached. For purposes of this provision, if proof of rabies vaccinations is a requirement for obtaining the current license, the license tag shall be deemed to also be a vaccination tag." **Councilor Ciolino** suggested that it should be in a different section.

Valerie Gilman, at the request of **Councilor Ciolino**, spoke to item #8 regarding school athletic fields and suggested language which covers "53:20" which takes into consideration when school is in session and goes back

about to what was spoke of four years ago. **Councilor Whynott** noted that would have to be weighed in on by the DPW. He advised the Committee that they will take this all one line at a time and vote on them after they get the input from the DPW Director.

Councilor Whynott recounted the history of the city's leash laws and that in 1976 the first comprehensive leash law was put in place. He said conservatively there are at least 6,000 dogs in the city. He said he had a problem with dogs being off leash in residential neighborhoods. He said there are times when dogs can be off leash on city beaches at certain times which are working. He suggested that dogs can be off leash at Ravenswood Park, Dogtown Common, the already at all the Essex Greenbelt Association controlled lands. He said he would be difficult to convince that dogs should be off leash on city streets and sidewalks. He also expressed his concern for unruly dogs and dog waste around the city, including even at the city's Dog Park.

Section 4-16b Additional rules and conditions for at large dogs.

(1) (2) Dogs must be direct control of owner/guardian at all times. **Councilor Stewart** commented that the ordinance is designed in two ways – it is a listing of the don'ts rather than the do's, and if listing the do's some will be missed. It is the listing of the don'ts that matters and what the police have to enforce, he pointed out, adding that they have tried to put a set of rules in for dogs that everyone must comply with. 4-16b addresses additional rules for dogs at large drawn from the current 4-16a and adding some additional provisions. There are established as direct rules and is important in an ordinance like this that everyone knows the rules. (2) Is in need of amendment, **Councilor Stewart** said.

(4) is a comprehensive provision governing when dogs at large are acting aggressively or otherwise frightening or bothering others. The current ordinance doesn't spell this out. **Councilor Stewart** said this is what people who were opposed to loosening restrictions had expressed their concern over. They have offered a provision that says that "If an at large dog is on a public way or sidewalk with its owner or guardian and another individual with a leashed dog is on the same public way or sidewalk and request the owner or guardian to leash the dog, the owner or guardian shall retrieve and leash the dog until the requesting individual has left the proximity or rescinds the request. If a large dog is on a beach or public park or other are of congregation by the public, and the dog is acting aggressively towards another individual or leashed dog, the individual or the owner or guardian of the leashed dog and request the owner or guardian of the at large dog to leash the dog, the owner or guardian of the at large dog shall retrieve and leash the dog until the requesting individual has left the immediate vicinity of the owner or guardian or rescinds the request. **Councilor Stewart** described for the Committee instances where this subsection of 4-16b would apply.

Councilor Ciolino said it sounds great but in reality it would be hard to make it work. It has to be enforceable and didn't think that it could be done. **Councilor Stewart** said they would have the same discussion about the littering ordinance at the next meeting. If a policeman sees it he can enforce it. There is a deterrent effect, he said, in things like in dog and littering ordinance of a significant fine, for instance. He recalled the Council discussion when he wanted to make the dog fouling fine to \$300 which **Councilor Ciolino** said at that time wasn't enforceable. If a dog was to be leashed and it wasn't and the fine was \$300, it may be thought about twice. Councilor Whynott said scofflaws will not pay attention to such an ordinance which he likened to speeding, and not disposing of dog waste appropriately. **Councilor Stewart** said there will be people who will disobey the law and those who will follow it, but that there aren't just those two types of people. He suggested there is a third group, those in the middle who will obey the law by and large and don't set out to break the law. He said if they can deter that middle group of people and guide them to be more careful in obeying the rules, they will have accomplished a great deal. That is all lawmakers can do which is to set a standard of conduct they think people should follow, he said. He added it is worthwhile to have ordinances that may not necessarily be 100 percent enforceable, and more importantly, to have people deterred by substantial fines can only improve the situation. **Councilor Ciolino** said he agreed with what the Councilor is saying, but that it is better to construct an ordinance that is simple, concise, clear and enforceable. When dog owners come to the City Clerk to license their dogs they should be handed several pages of an ordinance that is easily read and understood.

Councilor Whynott spoke to a Committee and Council process of wanting each subsection of the ordinance amendments to be voted on individually and not to have the Committee or Council vote on the document as a whole. He wanted each subsection to be voted on individually. **Councilor Stewart** acknowledged the concerns of Chair. He pointed out that a short ordinance to cover a great many things can't be done quickly or would it necessarily be desirable. He advised that it took him four months to get the amendments down to four pages.

Section 4-16c is to be deleted from the ordinance and replaced with the following: Sec. 4-16c Locations where dogs must be leashed or at large with restrictions.

Councilor Stewart said this should cause some controversy, noting that there are general rules for leashing dogs -- Dogs must be leashed (A) In high activities other than areas designated as "Dog Parks" or "Dog Areas" or like terms by the Director of the Department of Public Works (B) Downtown, except for areas designated as "Dog Parks" or Dog Areas or like terms except for otherwise designated as off-leash by the DPW Director (C) Stacy Boulevard (D) Stage Fort Park in the vicinity of gathering of more than 12 people (other than Dog Parks or Dog Areas) (E) Shopping malls and other areas having a significant concentration of commercial activity. (f) Sidewalks and foot paths with high volume pedestrian traffic or adjacent to high-speed automobile traffic.

Councilor Ciolino said that 4-16c (d) is not enforceable and questioned its appropriateness.

(2) Dogs may be at large with restrictions as follows:

(A) Stage Fort and other city owned parks: Leashed from May 1 through September 30, except between sunrise and 9:00 a.m.; off-leash permitted at all times from October 1 through April 30.

(B) Beaches. **Councilor Stewart** pointed out that currently there are only two city beaches available to dog owners to run their dogs off leash in the off season on alternating days, Good Harbor and Wingersheek. This is inconvenient for many dog owners, he pointed out. He said this amendment to the ordinance proposes scheduling of other beaches as well.

- (i) From May 15 through Sept. 15, off leash dogs are prohibited on Good Harbor Beach, Half Moon Beach, Niles Beach, Plum Cove Beach and Wingersheek Beach
- (ii) From September 16 through May 14, off leash dogs are permitted on Half Moon Beach, Niles Beach and Plum Cove Beach
- (iii) From April 16 through May 14, and from September 15 through October 14, off-leash dogs are permitted on even numbered days on Good Harbor Beach and on odd numbered days on Wingersheek Beach and from Oct. 15 through April 14 on all days on those two beaches.

Councilor Stewart commented that in the cold months there just aren't a lot of people on the beaches with dogs and because of this there aren't any issues between dog owners, their dogs and non-dog owners.

- (iv) From October 15 through April 14, off-leash dogs are permitted on Good Harbor and Wingersheek Beaches on all days.
- (v) Dogs are permitted off leash at all times on Pavillion Beach, Boulevard Beach and Cressy Beach.

Councilor Whynott said that having dogs on Pavillion beach is not appropriate especially in light of a new hotel adjacent to it and some of the beachfront ownership in question. **Councilor Ciolino** added that since they don't want to encourage dogs running loose on Stacy Boulevard, dogs on Boulevard Beach is inappropriate as it is immediately accessible. Both **Councilor Ciolino** and **Councilor Whynott** said that Cressy Beach isn't appropriate either pointing out that added Cressy Beach is covered with cobbles which can't be removed and because of that dogs can't use that beach. **Councilor Ciolino** said depending on the DPW Director's opinion sub-subsection (v) will likely need to be deleted. **Councilor Whynott** said he had no issue to adding Half Moon Beach. **Councilor Stewart** addressed the fact that Niles Beach is not a city-owned beach but is leased to the city. There is nothing in the lease prohibiting dogs on the beach, but he advised that General Counsel has questions remaining on that issue. **Councilor Ciolino** said part of Niles Beach is privately owned and expressed keeping dogs out of the private section would be an issue. **Councilor Stewart** said he would address these issues as well.

(C) All of the off-leash permissions in this Paragraph (2) are also subject to the requirements of Section 4-16a and 4-16b.

Councilor Stewart suggested that the remainder of the ordinance amendments are simple to deal with and non-controversial. He said there is a provision, 4-21(c) which describes how to remove canine waste. He said he tried to draft something that can be easily understood. He then read the new language in the proposed ordinance.

Councilor Whynott said the majority of people try to obey the law and if they make it more difficult for them to obey it, less will obey it. The city ought to put trash bins out specifically for dog waste disposal of in public places as it can't be tossed into regular waste bins.

Councilor Ciolino asked if the mutt mitts are biodegradable which Ms. **Gilman** confirmed that they were. **Councilor Whynott** said that by making it ordinance that all bags for disposal of dog waste be biodegradable could be problematic. Ms. **Gilman** said that there are receptacles that can be put directly under the mutt mitt stations for dog waste. **Councilor Stewart** said that he was only trying to simplify this part of the ordinance.

Section V which states the present Section 4-22 is renumbered 4-23 and a new 4-22 is inserted to read: "4-22 Enforcement and penalties," which he reviewed.

There was a brief discussion on this section regarding two classes of penalties, dog waste and every other matter related for dogs. There is a \$50 fine for each offense not dog waste related, but no matter whether one infraction,

two or three infractions of the ordinance related to anything but dog waste is violated, the fine remains a flat \$50. The fine for not picking up dog waste and/or improper disposal is set to rise to \$200 as a single violation -- \$200 for each incident.

This matter is continued to November 9, 2015.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:55 p.m.

**Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Memorandum from Councilor Stewart to the O&A Committee 10/20/15 of an outline and explanation of the Proposed Dog Ordinance**
- **“Thinking on proposed changes to the leash law (for the O&A Meeting on 10-20-2015)” submitted by Lynn Klotz**
- **“Diversity and Dog Friendly Gloucester” submitted by Linda Brayton**
- **“Comments to City Council O and A Committee on October 20, 2015” submitted by Val Gilman**
- **Link provided by Valerie Nelson to a report from the Project for the National Animal Interest Alliance, entitled, “Responding to the Data: A guide to constructing successful pet-friendly ordinances: <http://www.naiaonline.org/pdfs/PetFriendlyGuide.pdf>**