

Special Ordinances & Administration Committee

Tuesday, February 19, 2019 – 6:00 p.m.

Kyrouz Auditorium - City Hall

-Minutes-

Present: Chair, Councilor Steven LeBlanc; Vice Chair, Councilor Jamie O’Hara; Councilor Sean Nolan
Absent: None.

Also Present: Councilor Lundberg; Councilor Melissa Cox; Councilor Holmgren; Councilor Scott Memhard; Councilor Hecht; Councilor Gilman; Donna Leete

The meeting was called to order at 6:02 p.m. There was a quorum of the City Council.

1. Memorandum from Human Resources Director re: disclosure of financial interest in a municipal contract for an employee to hold a second municipal position

Donna Leete, Human Resources Director, explained that the city strives to maintain compliance with the State Ethics Commission’s Conflict of Interest Law of which a provision is that a municipal employee cannot hold more than one position for a municipality unless certain exemptions apply. A position was open, that of Matron, for the Police Department with primary job duties (see memorandum on file) for the care of the safety and well-being of female prisoners in the Police Department’s custody. The position is gender specific. The Department lost a long-serving police matron who passed away. A School Department paraprofessional, Ann Aiello, has stepped forward to fill the open position with the Police Department as part-time Matron. She advised she will be provided with training and expressed appreciation for her stepping forward to serve. She reported that she talked to the State Ethics Commission (SEC) to ensure the city is in compliance with state law. Ms. Aiello will perform this job outside of her normal working hours as a paraprofessional for the School Department, she explained, and may be compensated for matron duties up to 500 hours per calendar year. She advised she and Chief McCarthy are confident Ms. Aiello will provide this valuable service. This action by the O&A Committee and the Council will allow Ms. Aiello to take up this part-time position as set up by the SEC.

Councilor LeBlanc conveyed he spoke with the Police Chief earlier and noted she will be a good fit, acknowledging it is not an easy job.

COMMITTEE RECOMMENDATION: On motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend that the City Council under MGL c. 268A, §20(b) appoint Ann Aiello to fill the position of Police Department Matron, not to exceed 500 hours per calendar year.

This matter will come forward at the City Council meeting of February 26 under Committee Report.

2. CC2019-006 (Memhard, Cox, Lundberg): Amend GCO Ch. 4 “Animals” Sec. 4-2 Disturbing and/or feeding of coyotes, gulls and pigeons” to “Feeding or disturbing wildlife”; renumbering Sec.4-3 “Giving away live animals as prize or award” to Sec. 4-4; adding a new Sec. 4-3 “Endangered/threatened wildlife buffer zone”; Sec. 4-16a “Dogs allowed on public beaches at certain times” by striking certain language and adding new language; deleting Sec. 4-16d “Off-leash dog areas” subsection (c); amend Ch. 9 “Trash, Recycling and Litter” subsection (a)

Review & Discussion for all GCO amendments of CC2019-006 by **Alicia Pensarosa**, a member of the Animal Advisory Committee (AAC):

Sec. 4-2: “Feeding or disturbing wildlife.” It was found through research that especially gulls and crows are attracted to the beach eating the eggs or the chicks, a problem not just for the plovers but because of people feeding the gulls and crows they become intrusive scavengers with people on the beaches. Human food isn’t good for these animals nor is it good for anyone else on the beach. Fines are shown to be increased to \$300 which is hoped to act as a deterrent so that less enforcement may be needed.

Sec. 4-3 “Endangered/threatened wildlife buffer zone.” This is a new section for the protection for piping plovers on the beach so that volleyballs, other projectiles, aren’t being thrown near and then intruding in the nesting area of the piping plovers. This prevents accidental harm and people intruding into roped off areas to retrieve balls.

Sec. 4-4 is a number change.

Sec. 4-16. "Dogs allowed on public beaches at certain times" amendments: These changes are based on the plover nesting habits with their arrival in late March or early April; make a nest on the beach. If the plovers are disrupted they will re-nest as they did in the spring of 2018 by relocating from Good Harbor Beach to the parking lot. **Ms. Pensarosa** reported. She advised that the AAC found through research that dogs are the most serious endangerment to the nesting plovers compared to small prey animals. This is why the AAC has recommended dogs off leash date be moved to April 1, a date, she added. She noted that the date coincides with Mass. Div. of Fisheries & Wildlife regulations and U.S. Fish & Wildlife regulations which states that if dogs aren't under control then they should be off the beach. The ACC recommendation of keeping the start date for off-leash dogs on the beaches as Oct. 1st was because after speaking with Chief McCarthy about moving the date back to Sept. 15, he didn't recommend changing the date because there are still too many people on the beaches.

Ms. Pensarosa reported that the AAC looked at ticketing and found gaps in enforcement, not just in writing the tickets but tickets being paid. The number of tickets are being written, appealed or paid don't match up, and is something that needs reexamination, she noted.

She advised that the reason the AAC is recommending that Wingersheek Beach be added to the April 1 date as a preventative measure. She did note that there has been no observation by volunteers of nesting plovers yet on Wingersheek Beach, although plovers are nesting at all surrounding beaches and suggested that either they have tried to nest but unsuccessfully or just haven't been observed to date. She pointed out she had observed juvenile plovers on Wingersheek Beach in the fall. The AAC doesn't want to take more dog privileges away and was why they recommended that Crab Beach will remain off leash for dogs all year.

Sec. 9-8(a). "Littering Prohibited." After volunteering on the (Good Harbor) beach and witnessing trash blowing into the roped-off area, plovers were fighting plastic bags along with predators and other disruptions to their nesting area. This amendment is to protect the plovers and to avoid their having to deal with blowing trash. Increasing the fine isn't in this amendment but would be something to consider moving forward, she added.

COMMITTEE DISCUSSION:

Councilor LeBlanc noted that litter (ordinance) is hard to enforce, and saying that increasing the fine would help as an effective deterrent. He conveyed that he spoke with Police Chief John McCarthy told him that if the ordinance is on the books the Police Department will enforce it. Enforcement won't be easy though, **Councilor LeBlanc** suggested. **Ms. Pensarosa** advised that with the increase in cost of the fines, that revenue will perhaps help to pay for Police and Animal Control overtime to aid enforcement.

Councilor Nolan asked about plovers hatching at Wingersheek, saying that this is the first he's heard of plovers on that beach. **Ms. Pensarosa** advised she knows of no one documenting and researching the piping plover presence on Wingersheek Beach. She reiterated that including Wingersheek Beach is a preventative measure, highlighting that the surrounding Coffins and Crane Beach all have successful nesting plovers.

Councilor LeBlanc acknowledged the presence of Councilors Lundberg, Cox and Memhard, sponsors of the Council Order. **Councilor Cox** asked if these amendments have been vetted by General Counsel. **Councilor LeBlanc** advised that General Counsel informed him he had nothing to do with these amendments coming forward.

Councilor Holmgren, noting she's followed this issue very closely with the Administration since the fall and with the AAC (as Council Liaison), as far as the Administration's plover management plan goes, how will these changes mesh with that management plan which hasn't been presented to the Council to date. **Councilor LeBlanc** noted he spoke with Jim Destino, CAO, who informed him he's meeting with the Mass. Division of Fisheries & Wildlife Thursday afternoon to go over this protocol with them and report back to the Council Tuesday evening. He advised that there may be some amendments generated by the state Division of Fisheries & Wildlife from that meeting. The state wants to make sure the city has a plan in place, he pointed out, and these amendments are the start of a plan. While not necessarily perfect, ordinances may need tweaking as time goes on, but they continue to work towards protecting an endangered species; this is a step in the right direction, he added.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 4 "Animals" as follows:

Sec. 4-2. - ~~Disturbing and/or feeding of coyotes, gulls and pigeons.~~ Feeding or disturbing wildlife.

- (a) No person shall disturb harass, harbor or feed directly or indirectly ~~any~~ gulls, pigeons, ~~terns or~~ waterfowl, coastal shorebirds, or crows on any streets, beach or ~~sidewalk on~~ other public property or anywhere in the downtown area unless properly permitted by the appropriate state and federal wildlife authorities. Violation shall be subject to a \$300 fine per incident/violation.
- (b) No person shall feed either directly or indirectly any coyotes on any public or private property. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-3. – Endangered/Threatened Wildlife Buffer Zone.

Buffer zone of 50 feet around an area will be established around any area designated as protected for wildlife. Prohibited activities in the buffer zone include whiffle ball, Frisbee, soccer, volleyball, paddle ball, kites, inflatable balls and any other activities that involve objects that can fly or roll into the restricted area. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-~~34~~ - Giving away live animals as prize or award.

No person shall offer or give away any live animal as a prize or an award in a game, contest or tournament involving skill or chance. The provisions of this section shall not apply to awards made to persons participating in programs relating to animal husbandry. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

Sec. 4-5-4-14.-Reserved.

Further Review & Discussion for amendments to GCO Ch. 4, Sec.'s 4-16a, and 4-16d "Dogs allowed on beaches at certain times":

Councilor LeBlanc noted that some of the language just voted was already in place such as giving away of live animals as pets, etc., and what was just recommended to the Council contains some housekeeping matters, as well as matters regarding protecting endangered wildlife. He asked where the newly selected dates for dogs allowed off-leash on city beaches

Ms. Pensarosa reiterated that the dates are based on the guidelines of Mass. Division of Fisheries & Wildlife based on plovers nesting habits that dogs need to be off beaches by April 1. The AAC recommended both Good Harbor and Wingersheek only because those are the beaches that have the right environment for plovers to nest. As to the juvenile plover, that was a year old plover, not a chick, she pointed out, and highlighting that no one is monitoring Wingersheek Beach. The plovers could be nesting or trying to nest there, but they don't really know, she added. She advised it is the opinion of the AAC that it is likely easier for enforcement by changing it for both of the city's main beaches, and is a preventative measure. She highlighted that Crane Beach has over 40 nesting piping plover pairs and suggested that eventually some of those plovers will move to other beaches when their nesting grounds get too full.

Councilor LeBlanc noted he spoke with the Police Chief about the April 1 date, and he reported that the Chief wanted a more definitive date which is enforceable. He conveyed it could be raccoons, coyotes, or gulls, disturbing the plovers with vibrant marsh areas nearby. He pointed out they're not blaming certain domestic or wild animals. This is to be proactive to prevent the state from intervening, he conveyed and explained that they want to try to come to a compromise between dog people and non-dog people and at the same time protect endangered species. He advised he sees no issue in voting these amendments forward to the Council and will vote in favor in order to get the entire Council engaged in the discussion.

Councilor O'Hara expressed his agreement with Councilor LeBlanc about the timing, and his concern regarding federal and state regulations being imposed. They need to be responsible and do the right thing, he highlighted, and offered his support to move the amendments forward to the Council.

Councilor LeBlanc advised he would vote for this amendment as stated but at City Council after the public hearing he will offer an amendment so that Good Harbor Beach is protected but remove Wingersheek Beach until they have definite proof that plovers are nesting there.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 4 “Animals” as follows:

Sec. 4-16a. - Dogs allowed on public beaches at certain times.

~~Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper. In addition, unleashed dogs shall be allowed on Good Harbor Beach and Wingersheek Beach, Plum Cove Beach and Cressy Beach on consecutive days in the off season from: October 1 to April 30, annually, subject to the following conditions:~~

~~Off leash all day on even-numbered days at Good Harbor Beach and odd-numbered days at Wingersheek Beach.~~

Good Harbor and Wingersheek Beaches: Dogs shall be prohibited from Good Harbor Beach and Wingersheek Beach from April 1st -Sept 30th annually. In addition, unleashed dogs shall be allowed on Good Harbor Beach and Wingersheek Beach, from: October 1st to March 30th annually, subject to the following conditions: Off leash on even-numbered days of the month at Good Harbor Beach and odd-numbered days of the month at Wingersheek Beach. Plum Cove and Cressy Beaches: Unleashed dogs shall be allowed on Plum Cove Beach and Cressy Beach in the off season from October 1st to April 30th annually.

Plum Cove and Cressy Beaches: Unleashed dogs shall be allowed on Plum Cove Beach and Cressy Beach in the off season from October 1st to April 30th annually.

Sec. 4-16d “Off-leash dog areas” by ADDING: “(c) Dogs shall be allowed on “Crab Beach” off-leash at all times subject to the enumerated conditions contained in Sec. 4-16a.”

Crab Beach: Dogs shall be allowed on “Crab Beach” off-leash at all times subject to the enumerated conditions contained in section 4-16a.

All other public beaches: Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper.

Fine of \$300 per violation. Fines for violations will be double in season for beaches and other off-leash areas as determined.

Review & Discussion for amendments to GCO Ch. 4, Sec.9-8(a):

Ms. Pensarosa noted that it seems that the violations and fines vary and suggested that can be looked at as well. **Councilor LeBlanc** expressed his agreement that people need to be “hit in their pocket” as an effective preventative measure, but that the Committee and the Council must deal with what is before them.

Councilor LeBlanc offered his thanks to the Animal Advisory Committee, Councilors Memhard, Cox and Lundberg and the Administration. He noted that there was a great deal of work done by the AAC and that the O&A Committee relied on their due diligence as well as their recommendations on these matters. He requested individual emails from Councilors with any questions prior to the public hearing on Tuesday, Feb. 26 and they’ll seek answers through the AAC for Tuesday evening. He pointed out that there will likely be compromises that have to be made which is a good thing, he assured. He expressed his appreciation for the members of the Animal Advisory Committee.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 9 “Trash, Recycling and Litter” as follows:

Sec. 9-8. - Littering prohibited.

(a) No person shall throw, **drop, release,** or ~~deposit litter in or upon any street, sidewalk or other public place in the city.~~ otherwise dispose of directly or indirectly into any harbor, river, or pond or on to any beach, or any public property garbage, refuse, rubbish, bottles, cans, containers, paper, cigarette butts, balloons, wrapping material, glass, filth or any noxious or dangerous liquid or solid. Violation shall be subject to a \$300 fine per incident/violation.

These matters will be heard at a public hearing advertised for Tuesday, February 26, 2019.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:45 p.m.

Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Email from Deborah Cramer, 318 Concord Street, as forwarded by Councilor LeBlanc, addressed to the O&A Committee in support of moving the closing date to dogs off leash on Good Harbor & Wingersheek Beaches from May 1 to April 1.
- Email from Margaret Quinn, 45 Shore Road in support of extending the dates that city beaches limit dog activity to encourage shorebirds to nest successfully.