**MEMORANDUM**

 TO: Cape Elizabeth Town Council

 FROM: Ordinance Committee

 DATE: June 3, 2013

 SUBJECT: Fort Williams Miscellaneous Offenses Ordinance Amendment

Introduction

The Town Council referred to the Ordinance Committee the following:

a review of “vendor locations” at Fort Williams Park. More specifically, the town council would like the committee to review with Tom Leahy legal aspects of ordinance provisions relating to the rights of street artists to utilize the park for the sale of goods.

Ordinance Committee

The Ordinance Committee met with John Wall, representing Monaghan Leahy LLC. John Wall reviewed court decisions regarding the first amendment rights of vendors who are expressing themselves through their art.

The committee discussed a possible two-tier approach. The first tier would be an an amendment to the to the Fort Williams section of the Miscellaneous Offenses Ordinance that explicitly authorizes the town council to adopt rules for Fort Williams Park. That amendment is attached.

The second tier would be promulgation of rules, which would be developed in conjunction with the Fort Williams Advisory Committee, and subject to adoption by the Town Council.

The Ordinance Committee expressed concern with preserving the aesthetic, historic and open space characteristics of the park and also respecting the rights of park visitors to express their first amendment rights. They discussed how development of Park rules would protect the park and first amendment rights.

Recommendation

By a vote of 3-0, the Ordinance Committee recommends to the Town Council the amendments to Sec. 12-4-8 and 12-4-9 of the Miscellaneous Offenses Ordinance.