

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

February 7, 2014

8:00 a.m., Town Hall

Present: Kathy Ray, Chair  
          Jamie Wagner  
          Jim Walsh

Fort Williams Advisory Committee: Bill Brownell, FWAC Chair

Staff: Neil Williams, Police Chief  
        Robert Malley, Director of Public Works  
        Maureen O'Meara, Town Planner

The minutes of the January 24, 2014 meeting were approved.

Public Comment

Jana Thompson, Opportunity Alliance, 15 Lydia Ln, South Portland - She explained the Opportunity Alliance was formerly known as PROP and Youth Alternatives. She represents one of the 27 Healthy Maine Partnerships. In 2011, South Portland adopted a Tobacco Free policy and she can provide a fact sheet on several other towns that have adopted or are considering tobacco free policies. She said enforcement has not been a problem in the City of Portland and the result has been decreased litter and second-hand smoke. They use self-enforcement signage and she can provide free signage to Cape Elizabeth.

Lucy Rioux, Opportunity Alliance - Also attending to offer resources to help Cape Elizabeth.

Review of No Smoking recommendation

Bill Brownell is attending on behalf of the Fort Williams Advisory Commission (FWAC). The FWAC recommendation was unanimous.

Ms. O'Meara provided an overview of sample no smoking policies from the City of Portland, State of Maine and other examples across the country. She noted that many places prohibit smoking except in designated locations. If that approach is used in Fort Williams, you would need to handle waste in the designated locations and that contradicts the existing carry in/carry out policy in Fort Williams.

Mr. Walsh noted that New York State has designated places. Mr. Wagner offered that some state parks are massive and you would not be able to police them, but Fort Williams is a relatively small park.

Chief Williams asked how the committee would like to handle e-cigarettes.

Lucy Rioux was recognized and offered that Portland is reviewing e-cigarettes in light of its policy and Chief Williams said he would check with the Portland Police Chief.

Mr. Wagner asked if there is second hand smoke from e-cigarettes and Ms. Thompson offered to provide the committee with more information.

Mr. Walsh asked to get the ranger's perspective. Mr. Malley said the approach by the rangers would be to let people know that there is no smoking. If someone is adamant they will continue to smoke, the police would be called. The emphasis will be on community messaging with only a few signs.

Ms. Rioux offered to provide free signage and Mr. Malley said that the signage will be consistent with overall park signage.

Mrs. Ray asked about chewing tobacco and Chief Williams asked about smoking in a car.

Mr. Brownell said that no tobacco is allowed on the school campus, but Fort Williams is a more public place and not attempting to regulate conduct of students. The FWAC did not address chewing tobacco because it was not considered a significant litter generator. He noted that when the buses unload, people step off the bus and smoke, so signage will be needed there. There has been a significant increase in litter butts at the circle in front of Portland Head Light.

Mr. Wagner asked if we should have a smoking area for the tourists and Mr. Brownell noted the buses are there only 20 minutes. The committee discussed the potential of bus riders walking to the entrance of Fort Williams to smoke. The conclusion is that the distance to the entrance would discourage this practice.

The committee questioned if they should address the whole tobacco use issue, including chewing tobacco, or the more narrow issue of littering. Mr. Brownell supported being consistent with Portland and South Portland. Mrs. Ray asked if the FWAC would support a tobacco free policy and Mr. Brownell said they would probably be ok with that. Mr. Wagner is personally opposed to smoking,

but would prefer limiting town action to addressing litter. If we limit chewing tobacco, are we also going to restrict soda and hot dogs?

The committee discussed how chewing tobacco is disposed of and noted that tobacco pouches are biodegradable. Mr. Brownell asked if people chew tobacco at the park and Mr. Malley said it is hard to detect and noted that if it is spit out, the residue is not the same as litter from a cigarette.

The smoking of medical marijuana was questioned and its use would be included in the smoking prohibition. The committee discussed how e-cigarettes fit into the policy. Mr. Wagner said that e-cigarettes are not smoking because you need combustion. Mrs. Ray noted that e-cigarettes look like smoking and can influence kids.

Mr. Walsh would like clarity to facilitate enforcement. Mr. Wagner was not concerned with the influence on youth but was concerned that enforcement would be more difficult because e-cigarettes look like regular cigarettes. The committee agreed to define smoking and reviewed sample definitions. They discussed incorporating the act of combustion in the definition and eventually indicated support for the City of Portland definition.

Mr. Walsh asked the FWAC to send their thoughts on including e-cigarettes in the prohibition. He then made a motion to recommend the ordinance amendment, with a smoking definition, to the Town Council. The motion was seconded and passed 3-0.

### Public Comment

Winthrop Maclaughlin, 37 Cranbrook, said he attended the meeting to hear the discussion.

The meeting adjourned at 8:45 a.m.