

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

May 28, 2019

7:00 p.m.

Town Hall

Present: Penny Jordan, Chair  
Caitlin Jordan  
Valerie Randall

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of the April 23, 2019 meeting were approved 3-0.

Public Comment/Committee review of Dog Ordinance

Roger Rioux, 5 Bridlepath Way - He is representing the Cape Elizabeth Little League and himself. Dogs should not be on athletic fields. The Fort Williams Park multipurpose field is off-leash in the winter months. Little kids are sitting on the grass during T-ball, there are 10 teams and it isn't healthy. The Fort Williams Committee voted in May; they may change that but have not voted again yet. Dogs have other places to exercise.

Heidi Hansen, 313 Fowler Rd - She supports the ordinance. It is well written and understandable, and she likes the enforcement updates, nuisance, sight and voice control definitions. She has encountered problems at Fort Williams with dogs. She would like to add to subsection (g) 7-1-2 that the responsible party must be in possession of a leash.

Sheila Wellehan, 24 Rocky Hill Rd - This is a terrific update to the ordinance and the Conservation Committee worked hard and included input from stakeholders. She likes the waste removal and voice control requirements. She recommends amending the draft to require dogs to be on leash on streets, sidewalks, etc. She would like a limit on the total number of dogs to be walked at one time off-leash. Scarborough's limit is 2, which she believes is too strict, and Cumberland's is 3, which seems reasonable.

Theresa Fox, 14 Farm Hill Rd - Habitual offenders are people with 4, 5, 6 dogs and they do not pick up after their dogs, which are not under voice control. She wants signage.

Tom Meyers, 4 Sea View Ave - He thanked the Conservation Committee and the town planner. The ordinance amendments include a wise effort to have the

Town Council retain control but also allow some delegation. He supports no dogs on athletic fields. Even if owners clean up, the residue is a hazard. This is really a people ordinance. Enforcement is important and needs to be consistent over the seasons. There are already many off-leash areas. Voice control is the weak piece with a 10' zone of protection where you yell to the owner and the dog jumps on you. Some people will get knocked over. The expectation is that the owner is in control of the animal and risk empowering people to act like a park ranger. This topic is a minefield and Fort Williams is unique.

Heidi Hansen - Off-leash enforcement is in spirit only. The Police will only get involved if there is a problem and they need tools at that point. This is not a test that an animal is always under control.

Tom Meyers - He agrees that enforcement engages only when there is a problem. He wrote the "Sally the dog" letter published in the Cape Courier. He prefers police enforcement to direct engagement. He likes dogs, but not on him.

Councilor Jordan agreed this is a people ordinance.

Sheila Wellehan - A lot of dog owners are concerned when other dog owners are not responsible. I don't like dogs jumping either. Everyone should have a good experience.

Roger Rioux - His wife walks a dog every day and was approached by an off-leash dog in an on-leash area. It creates issues and Cape Elizabeth residents are doing it.

Theresa Fox - We need a way to tell people in the on-leash area where the off-leash area is. Rangers are passing out maps.

The committee discussed the new provision that allows the categories that regulate dog access with a 30 day notice. The Town Council should receive a report when a change is made.

Heidi Hansen - She questioned the rabies tag changes.

Ms. O'Meara said that the changes mirror state law and were recommended by the Town Clerk. She also noted that the on-leash on streets, sidewalks, etc. language was inadvertently removed and will be added back in. She noted the suggestion that dog owners carry a leash with them.

The committee discussed a limit on the number of dogs on town open space. The committee agreed to limit the number of dogs off leash per owners to 3. If there are more than 3 dogs, then all dogs must be on a leash.

Councilor Penny Jordan asked about dogs on the high school playground?  
Councilor Caitlin Jordan said dogs are part of the family, so dogs at playgrounds should be ok if they are on leash. The sanitary problem relates mostly to off-leash dogs.

The committee discussed dogs on playing fields. Councilor Randall felt taking a dog on a field is a nice walk, but is problematic when the dog is off-leash. She supports on-leash on fields.

Roger Rioux - Dogs should not be allowed on athletic fields. People with dogs should be off the field. It is a maintenance issue as well, where we need to treat dead grass.

The committee supported no dogs within the "lined area" of the field, all year.

Tom Meyers - People sit on the grass on the sidelines.

Councilor Caitlin Jordan said that players do not have a choice on the field, while spectators can choose their location. The government should not be responsible for germ consumption.

Councilor Penny Jordan is frustrated we are legislating common sense. The majority of dog owners are responsible.

Councilor Randall said we need more signage, like the educational signage in Robinson Woods that explains the harmful effects of dog feces.

Sheila Wellehan - She noted that Cape Elizabeth is much cleaner than 5 years ago. The Dog community has been proactive in cleaning up waste. The current ordinance language that dogs must be on-leash on fields should be put back into the amendments.

The committee discussed the easels used to post signage on fields. Councilor Randall stated that no dogs should be off leash on athletic fields. The Fort Williams field policy is a poor compromise.

Sheila Wellehan - The Fort Williams Committee used an extensive process to create the current policy and making a change with one vote felt like whiplash.

Theresa Fox - She doesn't want the Fort Williams policy to change. It represents a compromise approved by the Town Council.

Roger Rioux - Changes can be made. Dogs don't need access to the athletic fields as there are plenty of other spaces.

Heidi Hansen - She is concerned with the process. She was surprised with the School superintendent proposal.

Councilor Randall agreed to leave the Fort Williams policy as is because of the process used and the policy was created a short time ago. It was suggested that the Town Council can use the 30-day category tool to make changes. Councilors continued to discuss the desirability of restricting dogs from playing fields for sanitary reasons. They support on-leash inside the lined field.

Tom Meyers - This is kicking the can down the road. We started the Cliff House Beach process in 2017, and it took more time because of the ordinance change needed.

Councilor Penny Jordan wants to look at the whole ordinance again.

Sheila Wellehan - Dog owners pay taxes too and the decision was made by the Town Council.

The committee discussed the Limited Privileges List. Ms. O'Meara explained that this is a management tool that does not require the Police Department to invest hours in a court proceeding and still not have a dog declared dangerous or a nuisance. The Conservation Committee discussed the creation of the list, but the Ordinance Committee may want to flesh out the mechanics. As examples, Ms. O'Meara summarized how the 3 strikes short term rental enforcement and bounced checks policy were structured.

The committee discussed time limits and degrees of time on the list. They agreed that the first time on the list, a dog owner would be required to meet with the Police Department and have a plan to control the dog in future. The second time on the list, the dog owner would not be allowed on town open space with an off-leash dog for 30 days and would be fined \$100. For the third and subsequent times, the dog owner would be banned from town open space with an off-leash dog for 5 years and fined \$500.

Heidi Hansen - She asked if a dog owner continues to allow an off-leash dog, then what?

Councilor Caitlin Jordan reminded the committee that the fee amounts need to be added to the fee schedule. Councilor Randall wants the owner to be served with a notice to advise them of the loss of privileges.

The committee discussed dog waste. Councilor Randall doesn't want language that says you must have something to carry dog feces. Three sentences were deleted. Committee members noted that handicapped person exemptions were sometimes provided, so they were deleted.

Sheila Wellehan - She supports the exemption for the elderly.

Heidi Hansen - She has a slight handicap and can't climb over snowbanks. Others in the dog community help her out. This is common sense and does not need to be in the ordinance.

Roger Rioux - He supports having an appropriate dog waste receptacle instead of a reference to plastic.

Councilor Caitlin Jordan said the handicap exemption is way too broad. What is someone has a "gag reflex?" You should have a plan if you have a handicap or there is no point regulating this by ordinance.

Edits were made to the removal of waste section of the ordinance amendments. The impoundment edits were accepted and agreement to a duration of 14 days to give dog owners time to collect their pet.

The committee reviewed the category list. Councilor Randall questioned the category assigned to the small open space connectors, such as the Fowler Rd connector. Staff noted that the connector is an easement who is a dog lover, so a dogs on leash only designation may create confusion. No change was made.

The committee discussed dog policy in Fort Williams Park. Councilor Randall questioned why Fort Williams Park was a stand alone paragraph in the ordinance. The committee decided to incorporate Fort Williams into the category framework. The committee then discussed policy. Committee members did not want to delay adoption of the amendments. They discussed delaying any policy changes in Fort Williams to a later date. There was also some sense that policy changes are needed.

Councilor Randall asked about linking the open space category list to the Management of Greenbelt and Open Space plan and Ms. O'Meara said the list came from a page in the plan.

Public Comment

Theresa Fox - She thanked the committee

Roger Rioux - He remains concerned about athletic fields.

Next meeting

The next meeting will be held on June 17th at 7 pm in the Town Council chambers. The meeting adjourned at 9:30 pm.