

**Town of Cape Elizabeth
Ordinance Committee Minutes**

June 17, 2019

7:00 p.m.

Town Hall

Present: Penny Jordan, Chair
Caitlin Jordan
Valerie Randall

Staff: Maureen O'Meara, Town Planner, Paul Fenton, Police Chief

Councilor Penny Jordan called the meeting to order. The minutes of the May 29, 2019 meeting were approved 3-0.

Public Comment/Committee review of Dog Ordinance

Ordinance Committee Chair Jordan announced that the committee would be adhering to the standard public comment rules that provide for public comment at the beginning and end of the meeting.

Diane Sterne, 1 Columbus Rd - It is hard for her to comment before understanding what changes are proposed.

Ms. O'Meara noted that the committee meeting package, including the proposed amendments, are on the town website.

Sheila Wellehan, 24 Rocky Hill Rd - She provided comments via email and will review them. This is a great update and she supports the objective to improve management. It makes the parks more pleasant for everyone. The categories are a great idea and the Conservation Committee did a good job. She would like the ordinance to require that any change to a category be on a meeting agenda as a way to provide public notice. The most contentious has been Fort Williams, which is like the town's cathedral. Its unique status should mean that any changes should have significant review.

Roger Rioux, 5 Bridlepath Way - He is concerned with public notice, and perhaps there should be a notice in the Cape Courier. He sent an email today and also called attention to the Cape Elizabeth Little League (CELL) comments. He is concerned with play fields as category 3. Dog use can be a health and safety hazard. Dogs expand holes and leave dog waste that increases the chance of infection, especially with athlete injuries. He is a dog owner and understands that dogs should exercise/socialize, but not on playgrounds and athletic fields. There are up to 150 1-2 year olds sitting on the grass during events. Portland,

South Portland, Augusta and Bangor do not allow dogs on playfields. He supports creating a dog park and would also add a fourth category for dogs not under control. Contact park employees who may hesitate to go on record. Dogs not under control may be a hazard to service dogs, that can cost up to \$30,000. Fort Williams should be a people park first.

Donna Lambert, 11 Appletree Ln - She wants to keep the current Fort Williams off-leash area and is ok with excluding the multipurpose athletic field. Fort Williams is a wonderful resource she visits 4-5 times a week with her dog. Incidents may occur but she sees a caring community. The ordinance changes are a bit confusing.

Tom Meyers, 4 Sea View Ave - He has been involved with the process since this was referred to the Conservation Committee. There has been rich dialogue at the meetings. We rarely get to thoroughly review an ordinance and now is the time to have a full Town Council discussion of dogs in Fort Williams Park. He supports Mr. Rioux's comments. We need enforcement with teeth when the ordinance is adopted. There are a large number of town open spaces already available for off-leash dogs. There are dog owners who do not respect the off-leash boundaries in Fort Williams. We should make the hard choices now.

Larry Sterne, 1 Columbus Rd - The off-leash park land available is in the woods and there is a concern with ticks, so he doesn't use it. His concern with the proposal is that the town could decide at any point to add a leash requirement without further public comment. He is treating this as a proposed ban on off-leash dog areas. He supports keeping dogs off playing fields. Dog areas develop communities and are a substitute when you no longer have kids in school.

Diane Armstrong, 2 Waverly Rd - It's hard to reign in a dog with voice control, and hard to predict what a dog will do with a service dog or a child. She takes her dog Lily to the park every day. People with dogs at the park are very responsible and everyone is very gracious. They collect the dog waste of other dogs and do self-policing. She supports more signage for the off-leash area and agrees that dogs should not be off-leash on the athletic field. She won't walk in the woods because of ticks.

Sheila Wellahan - People who have been active with dog issues don't want a dog park. We have so much park land now and she likes going in the woods. Fort Williams is one of the few places where people with disabilities can get access with their dogs. Her mom was in a wheelchair with an off-leash dog at Fort Williams. She supports voice control requirements.

The public comment period was closed.

Dog Ordinance

Ms. O'Meara provided an overview of the catalyst for the ordinance amendments, with a goal to allow nimble management of open space areas. There needs to be a balance between public comment requirements and authority to rapidly respond to management issues.

Councilor Randall reviewed the process for reviewing the Dog Ordinance Amendments.

Councilor Penny Jordan recognized Chief Paul Fenton. He noted there are records management challenges, however, he and his department have gathered records to provide a snap shot. His information included input from the Fort Williams Park rangers, the Police Department and Scott Smart. From April 20-May 24th, 19 warnings for off-leash dogs in the leashed area were issued in Fort Williams Park. There were also 3 dog bites, including citizens with and without dogs. He shared that Scott Smart is routinely removing plastic bags with dog waste deposited in the habachi grills.

The committee reviewed the changes to the draft ordinance. They discussed the property manager designation and the associated public process. In order to provide the public comment opportunity where the School Superintendent is designated the "property manager," any category change would appear on the School Board agenda, presumably as an informational item for which an opportunity for public comment would be provided. The timely manner exception to notify the Town Council was deleted from the draft.

The committee decided to include Fort Williams Park in the category management structure rather than as a stand alone town property in the ordinance. The committee also decided to keep the existing leashed/off-leash areas in Fort Williams Park. Councilor Rand noted that having options for Fort Williams and flexibility was a benefit.

The committee reviewed the Limited Privileges List structure discussed at the previous meeting and agreed the draft amendments reflected the committee's discussion.

The committee asked Chief Fenton if he wanted the ordinance to reference the Animal Control officer or the Police Department or both? He likes Animal Control Officer or Police Chief.

The committee was satisfied with the streamlined Dog Waste amendments.

The committee reviewed the Property Management Category List. Committee members want to have the full Town Council discuss regulation of dogs on athletic fields. Councilor Caitlin Jordan suggested one option for consideration is to require dogs to be on-leash year round with the assumption that dog waste is more likely to be cleaned up when a dog is on leash. Councilor Randall noted that the text of the ordinance puts all athletic fields in category 2 (on leash) during the athletic season.

With the review complete, the committee voted 3-0 to recommend the Dog Ordinance Amendments to the Town Council for consideration.

Staff will provide a final copy for approval by Ordinance Committee Chair Penny Jordan, with the intent to forward the recommendation in time for the July 8th Town Council meeting.

Public Comment

Ordinance Committee Chair Penny Jordan opened the meeting to public comment.

Roger Rioux - He is disappointed that no category for off-leash and not under control was provided. The Town should not allow dogs on the school playground, even on-leash. He will speak with the School Superintendent and all Town Council members.

Donna Lambert - She supports the committee vote. The community of responsible dog owners in Fort Williams will make it safe. Children and off-leash dogs can mix. She has seen dogs on the playground with families. If there is abuse, the Police Department can address it with fines. She likes the Town Council making decisions for Fort Williams Park.

Diane Sterne - Posting on the town website doesn't work because folks don't visit the town website. It should be posted on the property in question instead. She likes the unleashed/not under control category idea because puppies are never under control and some dogs will act aggressive when leashed.

Tom Meyers - He thanked Chief Fenton for being proactive with data and for the Police Department presence at Cliff House Beach Park. He is disappointed that some tough choices on athletic fields were not made by the committee and hopes we will keep dogs off athletic fields by designating fields category 1.

Sheila Wellehan - She emphasized that voice control is essential and the price of freedom. It's possible and necessary to preserve access to public spaces. She has a new dog and it's on a leash. Bowdoin College allows dogs off-leash on athletic fields. We should share the resource and balance needs. Thank you for being responsive to suggestions.

Next meeting

Absent any pending items, the next meeting will be scheduled once there is a referral from the Town Council. The meeting adjourned at 8:30 p.m.