

Ordinances & Administration Committee
Monday, November 9, 2015 – 6:00 p.m.
Kyrouz Auditorium – City Hall
-Minutes-

Present: Chair, Councilor Robert Whynott; Vice Chair, Councilor Bob Stewart; Councilor Joseph Ciolino
Absent: None.

Also Present: Councilor Steven LeBlanc; Linda T. Lowe; Chip Payson; Bill Sanborn; Councilor-Elect Val Gilman

The meeting was called to order at 6:00 p.m.

1. Reappointments:

EDIC

J. Ronald Ross

TTE 07/01/18

Mr. Ross, 243 Atlantic Road, reviewed briefly his work history and community involvement for the Committee, noting that he is retired.

Councilor Ciolino said that he's known Mr. Ross for some time and that he is a capable individual. **Councilor Stewart** added his approval of Mr. Ross's reappointment.

MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Whynott) present, to recommend that the City Council reappoint J. Ronald Ross to the EDIC, TTE 07/01/18.

2. Memorandum from General Counsel re: Amendment to GCO Sec. 5-19. "Inspection of buildings erected on pilings" and Report of Ad Hoc Committee on same (Cont'd from 10/05/15)

Bill Sanborn, Building Inspector, said that an Ad Hoc Committee was formed at the behest of the Committee and noted the submitted documentation and that before the Committee is an ordinance amendment as a result of the work of the Ad Hoc Committee through four meetings. (Note: the Ad Hoc Pilings Committee consisted of Chip Payson, General Counsel; Bill Sanborn, Building Inspector; Councilor Bob Stewart and three members of the public with experience with pilings issues).

Councilor Stewart noted the definition of the word "sound" is at issue. There is no definition of sound in the state law or in local ordinance. He said that if a licensed engineer gives an opinion that a piling is sound and it turns out it isn't sound, not because of anything the engineer did incorrectly (in order to prove it is sound there is magnetic resonance testing). The professional engineer would be in the same position as a lawyer – if it is his opinion that a piling is sound and it turns out it falls down the next day from internal issues, he would most likely be sued for malpractice. Therefore the expense of getting an engineering report that says that is far more than the expense of getting an engineering report that says the engineer went in and did all of the inspections the Building Inspector and engineers agreed over time to be the proper procedure, and that these are the recommends to ameliorate the situation, he indicated. He said his belief is that the term is: (a) sound is not defined anywhere, and (b) results in doubling of the cost.

Councilor Whynott asked what the word, "sound" is replaced with in the body of the ordinance amendment. **Chip Payson**, General Counsel, said "sound" appears in only two instances and highlighted them to the Committee. He suggested replacing the word "sound" with "safe." **Councilor Stewart** recommended that it say a written document produced by an engineer that indicates that the engineer has visually inspected the pilings in accordance with the Building Inspector recommended procedures, has done so, and recommends that the following changes be made. He said that everybody who does this work has agreed that these are the things that you look at. If they see something they don't like, make a recommendation to fix it. The Building Inspector really wants to know what has to be done and what he should have these property owners do to make their pilings safe, he said.

The word "sound" was removed from Sec. 5-19 (a) definitions completely, and from Sec. 5-19 (b)(1) and replaced with the word "safe." Additionally, the draft wording of the definition of "Reports" was refined further by the Committee with input from **Mr. Payson** and **Mr. Sanborn**.

Councilor Stewart moved and Councilor Ciolino seconded a motion to accept the amendments to GCO Sec. 5-19 as now presented.

DISCUSSION:

Tobin Dominick, 22 Wheeler Street, representing the Cape Ann Marina, expressed concern as to what will be imposed on pilings owners and asked if the Ad Hoc Committee met with a structural engineer as to what an inspection entails and understood what an inspection takes. She noted not every piling on her property is the same or has the same use and said her property is very large compared to many waterfront owners. She said this is a blanket ordinance which requires a structural engineer to put their name on something that some firms would not want to commit to for a length of time the ordinance recommends. She noted the timeframe the report is good for is five years and potentially 10 years. She said structural engineers were uncomfortable signing off for a five-year period and that a 10-year period would be something they would not support. She said this is a serious issue for marina owners and that more time and consideration should be taken. She said she found no city or town who has such an ordinance. She suggested more time and consideration should be given to this ordinance amendment.

Councilor Whynott pointed out that this is an existing ordinance and that this new offered amendment makes the ordinance friendlier.

Councilor Stewart said the Ad Hoc Piling Committee eliminated all of the provisions that said that an engineer has to say it is safe for a certain period of time, and that they eliminated the provision this evening that said the engineer has to render an opinion that the pilings are sound. The ordinance says they're inspected, a report is submitted to the building inspector with recommendations for the piling(s) repair(s), he pointed out. He said the engineers are not being asked to comment on the interior of the pilings because of what the concerns Ms. Dominick is raising. He said a structural engineer was not consulted.

Councilor Whynott said that several buildings have fallen into the water in recent years, and this is an on-going public safety concern.

Councilor Stewart and **Councilor Ciolino** said they wouldn't object to a structural engineer to review this ordinance and discussed that matter with **Councilor Whynott**. **Mr. Sanborn** said that if an engineer looks at a property and doesn't feel comfortable putting his name on a report that is to stand for five years, there is nothing in the ordinance that says he can't go back to three as was done in the past. This ordinance has been in place for some time, and that there are three properties in the city that have complied every three years. He pointed out his department hasn't had any problems with engineers. He noted when the ordinance was first enacted some time ago they met with engineers and came up with an ordinance they could work with. He said have not had any issues in his dealings nor have property owners complained they've had issues with engineers doing the inspection work. He said if they send this ordinance amendment out to engineers they would be reverting back to the beginning pointing out it took four meetings to come up with the amendment before the Committee. He said in his opinion that giving this ordinance amendment to two engineers will stall the matter.

Ms. Dominick asked if "visual" safety is the criteria, could the Building Inspector do the visual inspection. She added that she is in favor of making the ordinance work for people. **Mr. Sanborn** said he can but there was an issue in the city with a building collapse that was on pilings which highlighted the need to amend the pilings ordinance. He said that this ordinance affects the whole city, not just one property owner, and that if engineers say they won't sign a report for a five year span but will for a three-year timeframe, his department would accept it. He pointed out that on work such as a new bulkhead should be able to be confirmed to be good for ten years by an engineer, because that it is the life expectancy of the bulkhead. **Ms. Dominick** expressed her concern that a visual inspection is not an appropriate inspection given internal factors that can destabilize a piling. **Mr. Sanborn** said that they can go to the full testing of every piling but that would be a terrific burden on each property owner.

Councilor Ciolino asked **Mark Lacey**, 47 Rocky Neck Avenue, member of the Waterways Board and Ad Hoc Pilings Committee member, if he was satisfied with the results of the ordinance amendment before the Committee and he responded that he was. **Councilor Stewart** said the Ad Hoc Committee tried to balance the needs of the city with the economic impact to property owners.

Councilor Ciolino congratulated the Ad Hoc Committee for their work, and pointed out that if the ordinance doesn't work as intended once in place, it can be reworked in the future if necessary.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 5-19 by DELETING Sec. 5-19. Inspections of pilings." in its entirety and to ADD:

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection except where the context clearly indicates a different meaning:

Engineer shall mean a structural engineer licensed by the Board of Licensing of Professional Engineers in the Commonwealth of Massachusetts.

Notification shall mean a written and dated notification produced by the building inspector.

Other property shall mean all property supported by, or built at least in part upon, pilings that are not residential such as retail, business, commercial and industrial.

Pilings shall mean, for the purposes of this section, property with a structure or structures on it.

Ramp shall mean a gangway connecting the piling supported structure or one's property to a float.

Report shall mean a written document produced by an engineer that indicates that the engineer has visually inspected the pilings and they appear to have no visual material defects. If there are visual material defects the engineer shall make recommendations for repairs.

Residential property shall mean one and two family structures supported by, or built at least in part upon, pilings.

Structure shall have the same meaning as defined in the zoning ordinance and include those that are supported by, or built at least in part upon, pilings.

(b) Requirements: notifications; time limits.

(1) Property owners of structures supported by, or built at least in part upon, pilings are required to keep those structures safe at all times.

(2) Effective _____, 2016, the building inspector shall issue notification to property owners and require them to have their pilings inspected, by an engineer.

(3) Notification shall be issued every ten years thereafter for residential property owners and every five years thereafter for all other property owners.

(4) Within 30 days of the issuance of a notification, the owner shall demonstrate to the building inspector that either the structure owner has entered into a contract with an engineer to inspect the structure and the pilings upon which it sits and issue a report a copy of which shall be delivered to the building inspector after it has been issued, or the property owner shall produce a report issued within the five year period prior to the notification for the building inspector by an engineer.

(5) Upon production of a report by the property owner to the building inspector, the building inspector may, in his/her discretion, postpone the next notification for up to ten years.

(6) If the building inspector shall determine that by continuing use of the structure in question until it is inspected and a report has been issued, the building inspector may order the owners of the property to cease occupancy until such time as repairs are completed and until such time as the structure and the pilings upon which it sits are inspected and a new certificate of occupancy is issued.

(7) The building inspector shall keep a log book of all notices sent and all reports received beginning _____, 2016.

(8) Failure to timely supply the report of the engineer, to perform the repairs, or cease occupancy may constitute a continuing violation of this section and may be subject to penalties under Section 1-15.

(c) Exemptions. Structures that are not covered by this section are as follows:

(1) Ramps and floats;

(2) Bridges which are required by state or federal laws or regulations to be periodically inspected;

- (3) Boardwalks for single-family residential use which are eight feet wide or less; and
- (4) Any piling supported structure less than or equal to 400 square feet in total footprint;

However, the building inspector retains jurisdiction to require emergency repairs to any such boardwalks or structures of less than 400 square feet which, at any time, he/she deems to be unsafe.

(d) *Penalty.* The penalty for violation of this section is \$300.00 per day and may be applied at the discretion of the building inspector if a notice under clause (b)(1) properly addressed to the owner has been issued.

(e) *Enforcing persons.* The persons responsible for enforcing this section are the building inspector and the police.

This matter will be advertised for public hearing.

3. *CC2015-031 (LeBlanc) Request Traffic Commission to conduct speed study & investigate whether Kent Circle should be a one-way street and to amend GCO Sec. 22-270.1 "Resident Sticker Parking" re: Kent Circle (Cont'd from 10/05/15)*

Councilor LeBlanc explained that residents on Kent Circle reached out to him about their neighborhood's traffic issues and held a well-attended neighborhood meeting at Kent Circle to discuss and survey the situation. The residents requested that Kent Circle be made one way. The Traffic Commission made a recommendation (on file) that agreed with the request of the neighbors.

Councilor Ciolino suggested there could be an issue when the Blynman Bridge is up when traffic is backed up. **Councilor LeBlanc** said that this is what the entire neighborhood wants. It is a blind corner coming from Western Avenue to Essex Avenue, and a resident pointed out there have been six car accidents in the immediate area. This is the recommendation of the Traffic Commission, he reiterated, at whose meeting there was a good turnout of residents as well.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-267 "One-way streets-Generally" by ADDING "Kent Circle for its entire length from its intersection with Essex Avenue in a southwesterly direction to its intersection with Western Avenue."

Councilor LeBlanc said the neighbors asked for resident sticker parking only, as during the summer there is no parking for the neighbors due to out-of-town visitors to the city. He reported that the recommendation of the Traffic Commission was to institute seasonal resident sticker parking (for which a beach sticker will also work as the same permit).

Councilor Ciolino asked if the Police Department enforced the resident sticker parking only, especially seasonally. **Assistant Chief John McCarthy** said they get to the various areas when they can and will enforce what is in the ordinance. He and **Councilor LeBlanc** discussed a concern whether a yellow line was solid or broken but it was determined by a review of a Google Earth visual that the yellow line was broken.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-270.1 "Resident Sticker parking only" by ADDING "Kent Circle for its entire length on the westerly side (houses) from May 1-September 15 only."

These matters will be advertised for public hearing.

4. *CC2015-033 (Cox) Request to amend GCO Sec. 22-269 "Stop Intersection" by adding a stop sign on Shepherd Street for eastbound drivers on Shepherd Street at its intersection with Pleasant Street (Cont'd from 10/05/15)*

Note: At the Oct. 22 Traffic Commission meeting the Commission did not recommend this amendment.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 0 in favor, 3 opposed, to AMEND GCO Sec. 22-269 “Stop intersections” be Amended by ADDING Shepherd Street at its intersection with Pleasant Street with a stop sign facing traffic proceeding in the eastbound direction.”

This matter will be advertised for public hearing.

5. *CC2015-034 (McGeary) Amend GCO Sec. 22-145 “General Prohibitions” by deleting paragraph (a) in its entirety and adding a new paragraph (a) and amend Sec. 22-291 “Tow-away zones” re: Wise Place (Cont’d from 10/05/15)*

Councilor Whynott noted that Wise Place is a private road and that only fire lanes can be instituted by the city on a private road.

Attorney Meredith Fine, 85 Eastern Avenue, representing Anthony and Dianna Frontiero, 4 Wise Place said they have been working with Attorney Joel Favazza on this matter for some time. She said that the second of road in question is not actually part of Wise Place, but a piece of city-owned land at the end of Wise Place. **Attorney Joel Favazza**, 111 Main Street, representing Terry Greel of 3 Wise Place and Ross Robinson of 5 Wise Place, said this is a piece of Conservation Commission controlled city-owned land. This is former a piece of private property that abutted Wise Place that was given to the city in the 1980’s so any parking spaces spoken of are strictly on city-owned land. **Ms. Fine** added that the Conservation Commission and the Traffic Commission have agreed to the creation of three parking spaces with certain restrictions on that piece of city-owned land under the Conservation Commission’s control. The Clerk of Committees highlighted an email (on file dated 10/22/15) giving the same information to the Committee which advised that the Conservation Commission had voted on 10/21/15 to accept the provisions proposed by the Traffic Commission for three parking spaces and the hours of operation 7 a.m. to midnight at the conservation land at the end of Wise Place. The conservation agent said he would work with the DPW Director to place suitable obstructions to alert vehicle owners of the designated parking spaces and its restrictions.

Attorney Fine explained: This was a large piece of property; a small piece is uplands and most is marsh behind the Stop & Shop supermarket. The woman who left it to the city said that it had to be used for conservation purposes and if not used for that purpose it had to revert to the Essex County Greenbelt Association. At the same time before the property was left to the city, neighbors all parked there for decades because Wise Place is almost an alley and with nearly no place to park. Her client runs a small auto body shop for which he has a Special Council Permit and parks cars there that he was working on as well. The issue came to a head between the Frontiero’s and the Greel’s across the street. It ultimately went to the Conservation Commission, and a compromise was worked out where had the matter go to the Traffic Commission. The Commission looked at the road which **Ms. Fine** said was unsafe, and the Commission felt there needed to be some parking to get cars off the street. With the Conservation Commission also in agreement with the recommendation of the Traffic Commission, three parking spaces are recommended to be created on this city-owned property controlled by the Conservation Commission with no overnight parking.

Attorney Favazza said his clients are in agreement with the compromise.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, opposed, to recommend that the City Council Amend GCO Sec. 22-145 “General prohibitions” by DELETING in its entirety paragraph (a) and ADDING new paragraph (a) as follows:

“(a) No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road or parkway under the control of the city, including land under the supervision and/or control of the Conservation Commission, in violation of this chapter or any other traffic ordinances or orders adopted by the city council, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police official or traffic sign or signal; and in particular in any of the following places:...”

Councilor Ciolino questioned the wording of the motion with regards to enforcement. It was noted that the following motion is based on the recommendation of the Conservation Commission and that of the Traffic Commission as well. **Attorney Favazza** said the concern was that there would be vehicles left for long periods of

time. Given the character of the neighborhood it will be self-governed; the Committee was assured by the attorneys. He noted the land, per the deed restriction is under the Conservation Commission's control, and that the Council's role is to codify the Conservation Commission's recommendations, he said.

There was a brief discussion between **Councilor-Elect Gilman** and **Councilor Stewart** on enforcement of the ordinance with **Ms. Fine** concerning enforcement of the change in the ordinance. **Ms. Fine** said that the neighbors submitted a petition that their preference was for no regulations for parking in this area. She said it wasn't accurate to say the neighbors agreed necessarily. This is what the Conservation Commission and Traffic Commission agreed to. The neighbors would prefer overnight parking.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-291 "Tow Away zones," be Amended by ADDING as follows:

"Wise Place, the entirety of the land under the supervision of the Conservation Commission extending from the edge of the Wise Place Right of Way between and easterly of 3 and 5 Wise Place. The foregoing notwithstanding, within the confines of the three space parking area designated by the city with permanent or semi-permanent markers, the provisions of this subsection shall be applicable only between the hours of 12 p.m. and 7 a.m. or at any time when more than two cars are parked in the designated area."

These matters will be advertised for public hearing.

6. CC2015-036 (LeBlanc) Amend GCO c. 22, Sec. 22-270 "Parking prohibited at all times" re: Emerson Avenue

Councilor LeBlanc said there is no parking on Emerson Avenue from Centennial Avenue to Pathways for Children. That organization reached out to him to allow parking in front of their building for pick up and drop off for their services. It is only for half hour parking, and this makes it legal.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-279 "Thirty-minute parking" by DELETING "Emerson Avenue, northerly side, from its intersection with Griffin Court and Emerson Avenue..."

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-279 "Thirty-minute parking" by ADDING Emerson Avenue northerly side at a point beginning 280' from its intersection with Griffin Court in a westerly direction to pole # 7997."

7. CC2015-037 (LeBlanc) Request City Council amend GZO Sec. VI definition of "Junk Yard" and Amend GCO Chapter 19, Sec. 19-30(b), Sec. 19-32, Sec. 19-1, Sec. 19-1(3), Sec. 19-1(4)

This matter is continued to December 7 pending a recommendation from the P&D Committee.

8. CC2015-038 (Stewart) Amend GCO c. 22, Sec. 22-269 "Stop Intersections" re: Leonard Street

Note: At the October 22 Traffic Commission meeting the Commission did not recommend this amendment.

After a brief discussion by the Committee on the matter, **Councilor Stewart** asked the matter be continued to the next meeting so that he might receive clarification from the Traffic Commission as he understood the matter differently than what was expressed in their meeting minutes.

This matter is continued to December 7.

9. CC2015-032 (Stewart) Amend Chapt 4, Art. II "Dogs" as most recently amended in 2014 by deleting Sections 4-15, 4-15(a), 4-16(b), 4-16(c) and 4-21(c); renumber Sec. 4-22 through 4-23; and adding new Sec. 4-22 "Enforcement and Penalties," and adding new Sections 4-15, 4-16(a) Rules and conditions for all dogs," 4-

16(b) “Additional rules and conditions for large dogs,” 4-16(c) “Locations where dogs must be leashed or at large with restrictions,” 4-21(c), and 4-22 “Enforcement and Penalties” (Cont’d from 10/20/15)

The Committee reviewed Councilor Stewart’s redrafted Dog Ordinance Amendments dated 11/7/15 (placed on file) based on feedback from the Committee and Mike Hale, DPW Director as follows:

Sec. 4-15 is hereby deleted and replaced with the following:

Sec. 4-15. Dogs Running At Large Restrictions.

Section (a) No person owning or keeping a dog in the city shall permit such dog at any time to run at large on public property, other than as set forth in Sections 4-16a through 4-16c, or to run at large on private property without authorization by the owner.” The amendment was accepted as presented by the Committee.

Section (b) Definitions: for purposes of Sections 4-15, 4-16a, 4-16b and 4-16c, the following terms shall have the following meanings:

- 1. “Leashed” attached to a leash not exceeding 12 feet in length,” with the addition of the statement, “or ,” as suggested by Councilor Whynott.**
- 2. “At large” without a leash on and in the hands of the owner or another competent person,”** statement was accepted as presented.
- 3. This definition will now say “Dog Owner” (rather than “owner) as the term pertains to a dog, the legal owner or one of the legal owners of the dog.** The amendment was accepted as presented by the Committee.
- 4. This definition will now say “Property Owner” as the term pertains to property, the legal owner or one of the legal owners of the property, or the person or one of the persons in possession of the property, including but not limited to a tenant of the owner thereof.** The amendment was accepted as presented by the Committee.
- 5. “Guardian” a competent individual accompanying a dog in the place of the owner.** The amendment was accepted as presented by the Committee.
- 6. “Competent person” an individual who is physically and mentally capable of controlling a dog on its leash.** The amendment was accepted as presented by the Committee.
- 7. “Direct control of dog” the voice, leash, electronic or other means of preventing a dog from leaving the immediate vicinity of the owner or guardian thereof or returning a dog which has left that immediate vicinity to that immediate vicinity.**

Councilor Stewart said that when he met and reviewed the ordinance amendments with the DPW Director, he objected to the use of voice control as a means of direct control. **Councilor Whynott** said that voice control stops when another influence comes into play with a dog and doesn’t work. **Councilor Stewart** said that he will talk with the DPW Director again. **Councilor LeBlanc** said this is to create an ordinance to encompass everyone. He said there needs to be a happy medium but that for voice control there is no happy medium. He said they have to be proactive and don’t want to have to come back and amend the ordinance again after a dozen incidents where people said they have their dogs under voice control but in reality did not. **Mr. Payson** expressed his concern that there are too many variables in the definition of voice control. **Councilor Whynott** offered the example that his dog is under voice control and stays with him 99 percent of the time, except if it sees a duck or a squirrel and then voice control fails. He said that the K-9 officer had expressed during a demonstration that there are distractors even for his dog. **Councilor Stewart** said he would deal with this issue in the next draft.

- 8. “Athletic fields” Athletic fields regularly used for athletic contests and practices. Dogs are not permitted on any public athletic fields at any time.** The amendment was accepted as presented by the Committee.
- 9. “Play areas” are areas designed for children to play.** The amendment was accepted as presented by the Committee.
- 10. “Dog Areas” or “Dog Parks” Specific lands or areas which are designated by the Director of the Department of Public Works pursuant to Sec. 4-16(d), as off-leash dog areas.** The amendment was accepted as presented by the Committee.
- 11. “Downtown”** In response to a question by **Ms. Lowe**, **Councilor Stewart** noted that presently in the draft the area of the downtown is shown as a site map. He said this will need to be defined by metes and bounds in order to be incorporated into the Code of Ordinances and that he is working to have this information for the next draft.

II. Sec. 4-16a is deleted and replaced with the following:

(1) Dogs are not allowed on city owned athletic fields including grandstands, bleachers or other viewing areas at any time, whether leashed or unleashed, and are not allowed on privately-owned athletic fields unless permitted by the owner and under such conditions as the owner shall direct. Councilor Stewart said he will review this subsection based on comments by the Committee regarding the issue of the use of the term “privately-owned athletic fields.”

(2) Dogs must be leashed in any play area where children, or other than those of or with the owner or guardian of the dog, are present. Councilor Ciolino expressed his concern about this section and Councilor Stewart said he would offer an amendment in the next draft of this subsection.

(3) The owner/guardian of any dog on public property shall remove all feces of the dog from that property or private property without property owner’s permission and dispose of it as set forth in Section 4-21. Councilor Stewart said he and Mr. Hale agreed that the dog feces is an issue overall. He said he would check this wording after members of the Committee, Councilor LeBlanc and Mr. Payson offered some brief input.

(4) Dogs must be up to date on all legally required vaccinations. The amendment was accepted as presented by the Committee.

(5) Dogs who have been determined by an Animal Control Officer to have a history of being a danger to the public or to themselves, including but not limited to chasing or attacking other animals or people, chasing vehicles, or doing damage to private or public property, or create a nuisance through excessive barking or repeated trespassing, must be managed by its owner or guardian, including leashing, muzzling or any other controls determined by an Animal Control Officer. The amendment was accepted as presented by the Committee.

(6) Dogs with contagious diseases must be leashed at all times and shall not be permitted to be in contact with other animals or humans in public areas. The amendment was accepted as presented by the Committee.

(7) At all times off the property of the owner or guardian and not under the care of veterinary personnel, dogs must have a collar on them with current license and rabies vaccination tags attached. For purposes of this provision, if proof of rabies vaccinations are a requirement for obtaining the current license, the license tag shall be deemed to also be a vaccination tag. The amendment was accepted as presented by the Committee.

(8) Dogs must have on their collar or otherwise on or in their bodies some means to contact the owner of the dog. The amendment was accepted as presented by the Committee.

Councilor Stewart discussed with Assistant Chief McCarthy about all the unlicensed dogs in the city of which there is a substantial number, and a recently instituted program by the Police Department to encourage dog owners to register their dogs. Assistant Chief McCarthy offered that the new program appears to be making headway with many dogs now being registered. Linda T. Lowe, City Clerk, said that the Police Department program to encourage dog owners to license their unlicensed dogs licensed has made headway with about 200 dogs never registered/licensed now registered and licensed.

(9) Dogs may not be left unattended, except for short intervals but only if secured. Short intervals for this purpose, are no longer than twenty-minutes if the dog is on public property, a public street or a public walkway, and if the dog is on private property, such as permitted by the owner of the property. Councilor Stewart said he would further refine this subsection after brief comments by the Committee concerning issues on the use of the term “private property” and how it may be interpreted.

(10) Dogs younger than 4 months of age must be leashed at all times except in Dog Areas other than Dog Parks; and are not permitted at any time, leashed or unleashed in Dog Parks. This amendment was accepted as presented by the Committee.

(11) No more than three dogs may be under the control of one owner or guardian without an additional competent person in attendance for each one to three additional dogs. This provision shall not apply to any guardian who is licensed or otherwise approved as a professional dog walker by an agency of the city.

Councilor Stewart made note of the discussion he had with the DPW Director on this subsection. Mr. Payson pointed out that by licensing professional dog walkers; it would be a whole body of law and have to be created. Ms. Lowe confirmed the city doesn’t license dog walkers now. Councilor Ciolino suggested four replace the word “three,” noting and confirming with Ms. Lowe that in the Zoning Ordinance defines a dog kennel with four or more dogs, and that is why he suggested that the number of dogs be changed to, “four.” The sentence that begins with, “This provision” and ends with “agency of the city.” was requested to be removed by the Committee.

(12) Owners or guardians must fill in any holes dug by any dog under their stewardship. The amendment was accepted as presented by the Committee.

(13) Dogs are not permitted at any time in city-owned cemeteries. The amendment was accepted as presented by the Committee.

III. Sec. 4-16b is deleted and replaced with the following:

Sec. 4-16b. Additional rules and conditions for at large dogs.

(1) **Dogs must be under the direct control of owner/guardian at all times.** Councilor Whynott said he was not in favor of dogs off leash in residential areas. Councilor Stewart said he would work on this subsection.

(2) **Dogs are not permitted to be at large if not under direct control of owner/guardian.** This subsection was to be reviewed by Councilor Stewart as well related to comments about subsection (1).

(3) **The owner or guardian of a dog must carry a leash for each dog under its auspices who is off the property of the owner or guardian.** The amendment was accepted as presented by the Committee.

(4) **If an at large dog is on a public way or sidewalk with its owner or guardian and another individual with a leashed dog is on the same public way or sidewalk and requests the owner or guardian to leash the dog, the owner or guardian shall retrieve and leash the dog until the requesting individual has left the proximity or rescinds the request. If an at large dog is on a beach or public park or other area of congregation by the public, and the dog is acting aggressively towards another individual or leashed dog, if the individual or the owner or guardian of the leashed dog requests the owner or guardian of the at large dog to leash their dog, the owner or guardian of the at large dog shall retrieve and leash the dog until the requesting individual has left the immediate vicinity of the owner or guardian or rescinds the request.**

Councilor LeBlanc said as written this will cause issues between dog owners and non-dog owners and is not workable. Councilor Whynott asked that the entire subsection be removed. Councilor Stewart said he would look into this subsection before its deletion and asked for an opportunity to rework it.

III. Section 4-16c is deleted and replaced with the following:

Sec. 4-16c Locations where dogs must be leashed or may only be at-large with restrictions:

(1) Dogs must be leashed:

(A) **In high activity areas, other than areas designated as “Dog Parks.”** The amendment was accepted as presented by the Committee.

(B) **Downtown, except for areas designated as “Dog Parks.”** The amendment was accepted as presented by the Committee.

(C) **Stacy Boulevard.** The amendment was accepted as presented by the Committee.

(D) **Stage Fort Park in the vicinity of gatherings of more than twelve (12) people (other than Dog Parks).** The Committee recommended this subsection say only the words, “Stage Fort Park,” and highlighted the comments of the Stage Fort Park Advisory Committee which the O&A Committee had requested (on file).

(E) **Areas open to the public having a significant concentration of commercial activity.** After a discussion amongst the Committee and Councilor LeBlanc, Assistant Police Chief McCarthy said that by keeping this subsection enables enforcement.

(2) Dogs may be at large with restrictions as follows:

(A) **Stage Fort and other city-owned parks: Leashed from May 1 through September 30, except between sunrise and 9:00 a.m.; off-leashed permitted at all times from October 1 through April 30.** The Committee said that this is removed. Councilor Whynott and Ciolino pointed out that the Stage Fort Park Advisory Committee said to not allow dogs off leash in Stage Fort Park. Councilor LeBlanc said signage would have to be placed around Stage Fort Park’s Half Moon Beach and that it would be at issue as it is conflicts with having no dogs off leash in Stage Fort Park at all, and he asked how it would be able to be enforced. Councilor Stewart said he would deliberate on this further.

(B) Beaches.

(i) **From May 15 through September 15 dogs are prohibited on Good Harbor Beach, Half Moon Beach, Niles Beach, Plum Cove Beach and Wingersheek Beach.**

(ii) **From September 16 through May 14 off leash dogs are permitted on Half Moon Beach, Niles Beach, and Plum Cove Beach.**

(iii) **From April 15 through May 14, and from September 16 through October 14, off-leash dogs are permitted on even numbered days on Good Harbor Beach and on odd numbered days on Wingersheek Beach and from October 15 through April 14 on all days on those two beaches.**

(iv) **From October 15 through April 14, off leash dogs are permitted on Good Harbor Beach and Wingersheek Beach on all days, provided that those entering shall do so through entrance portals or other pathed entranceway which are not locked. Parking area gates or other gates**

locked by city authorities will not be made accessible for this purpose and requests to unlock them will not be approved by city authorities.

General Committee discussion on (2) (B) was as follows:

Councilor Stewart discussed the concept of dogs off leash on city beaches in the off season in terms of the times – that there is the season directly after the summer season restrictions end, and then there is the “cold” season where very few people walk the beaches at all. **Councilor LeBlanc** said he could be in favor of adding Half Moon and Cressy’s Beach but that if the dogs run onto the park it becomes the issue. He said Plum Cove and Niles Beaches are open to the road and preventing dogs from running into the street is problematic and was why those beaches weren’t included by the Ad Hoc Dog Committee and are not in the current ordinance. **Councilor Stewart** said he didn’t see the issue with dogs on Plum Cove Beach highlighting it was the owner’s responsibility to control their dog and keep them from bolting into the street. **Assistant Chief McCarthy** said that cars speed on the roadway at Plum Cove at 35 to 40 miles per hour. He said that Good Harbor and Wingaersheek Beach both are controllable and owners hook their dogs to their leashes because they have a ways to go before gaining the roadway, but that isn’t the case with Plum Cove and Niles Beaches. **Councilor Stewart** said the people who live in Lanesville want Plum Cove Beach available to them with their dogs. **Councilor Whynott** said that he is for adding a couple of beaches but that the varying of times beaches are available is too complicated. He said that Cressy’s Beach, Half Moon Beach, and pointed out that the Boulevard “beach” is a shoreline revealed at low tide and is not an official city beach, but he said he had an issue with the dates beaches are available and that he preferred the odd/even scheme for off leash dogs on the city beaches. **Assistant Chief McCarthy** said that the even/odd days are working and while they have written a great deal of violations this year, no one has been written up twice. The odd/even scheme for off-leash times for Good Harbor and Wingaersheek Beach also assists in enforcement.

Councilor Ciolino said he would agree to Niles Beach and Plum Cove Beach being added. **Councilor LeBlanc** said if someone parks in the ball park lot across Washington Street from Plum Cove Beach, and a dog on the beach spies a dog across the street there is the chance one or both dogs will bolt.

It was noted that the dates in subsection (i) the dates disagree with the current dog ordinances. **Councilor Whynott** said the days for off leash dogs on beaches has to be odd and even days. **Assistant Chief McCarthy** asked the dates to stay with the same scheme for city beaches as now utilized for Good Harbor and Wingaersheek Beaches in the off season from an enforcement perspective.

Linda Brayton, 527 Washington Street, pointed out that while there are vast tracts of woodlands with trails open to dogs and their owners through the Essex County Greenbelt Association that she wasn’t able to take advantage of those facilities because it was difficult for her dog and her overriding concern that her dog could run from her and be lost. She said it was also uncomfortable as a single woman alone walking in those areas. She pointed out that Plum Cove Beach has a fence and a barrier. She said she never saw dogs run for the roadway. She expressed her concern that the Committee is narrowing the scope of the originally proposed amendments to the ordinance.

Meg Herman, 17 Walker Street, commented that a compromise only works if both parties respect it. She said no matter when she’s walked on the beaches there were dogs running loose and had many incidents with dogs and their owners that were difficult.

There was a discussion about any additional beaches would have to be on an odd/even schedule as well for enforcement purposes.

All of Section (B) will be reviewed by Councilor Stewart taking into consideration comments by the Committee and that of Assistant Chief McCarthy and Councilor LeBlanc. It was noted that the area below Stacy Boulevard from the Fishermen’s Wives Statue to the area of the tennis courts at low tide should be available year round for off-leash dogs.

The Committee did not get to review proposed amendments to Sec. 4-21(c) which deals with the means of removal of canine feces and Sec. 4-22 Enforcement and penalties.

This matter is continued to December 7, 2015.

10. Outstanding Parking Issues remaining for Atlantic Road referred back to the O&A Committee from the September 8, 2015 City Council meeting (Cont’d from 10/05/15)

Councilor Whynott said he's consulted with the city's Engineering Department and received measurements and that the observation parking is on the landward side of Atlantic Road across the street from city-owned property. He explained the process by which the Committee and Council needs to finish amending the Code of Ordinances.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 (Ciolino) opposed, to recommend that the City Council AMEND GCO c. 22, Sec. 22-272 Same - Saturdays, Sundays, holidays by deleting "Atlantic Road, both sides, between Nautilus Road and Farrington Avenue, on Saturday afternoons, Sundays, and holidays."

Councilor Stewart said that is the only spot in that area and is the least likely to bother anyone, he suggested that five parking spaces would be adequate. **Councilor Whynott** said he would agree with five spaces. The motions were refined with input from **Assistant Chief McCarthy**.

Councilor Ciolino expressed his continued objection to the creation of any parking spaces on Atlantic Road.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 opposed, to recommend that the City Council AMEND GCO c. 22, Sec. 22-272 Same-Saturdays, Sundays, holidays ADDING "Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 opposed, to recommend that the City Council AMEND GCO Sec. 22-279 "Thirty-minute parking" by ADDING Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:45 p.m.

**Respectfully submitted,
Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Second draft of proposed amendments to GCO Chapt 4, Art. II "Dogs" as most recently amended in 2014 by deleting Sections 4-15, 4-15(a), 4-16(b), 4-16(c) and 4-21(c); renumber Sec. 4-22 through 4-23; and adding new Sec. 4-22 "Enforcement and Penalties," and adding new Sections 4-15, 4-16(a) Rules and conditions for all dogs," 4-16(b) "Additional rules and conditions for large dogs," 4-16(c) "Locations where dogs must be leashed or at large with restrictions," 4-21(c), and 4-22 "Enforcement and Penalties" dated 11/7/15 submitted by Councilor Bob Stewart