

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, February 26, 2019 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul Lundberg; Vice Chair, Councilor Steven LeBlanc, Jr.; Councilor Melissa Cox; Councilor Valerie Gilman; Councilor Kenneth Hecht; Councilor Jennifer Holmgren; Councilor Scott Memhard; Councilor James O’Hara

**Absent:** Councilor Nolan

**Also Present:** Joanne M. Senos; Jim Destino; Kenny Costa; Chip Payson; John Dunn; Vanessa Krawczyk; Grace Poirier

The meeting was called to order at 7:00 p.m. The Council President announced that this meeting is recorded by video and audio in accordance with state Open Meeting Law.

**Flag Salute & Moment of Silence.****Oral Communications:**

**Name:** John Feener, Community Preservation Committee (CPC) member

**Address:** 45B Warner Street

**Subject:** The CPC is now accepting CPA Grant funding eligibility applications for the next funding cycle due by March 1, 2019. With the city’s 400<sup>th</sup> celebration around the corner, new wording has been added to the application that certain projects will be eligible to make the celebration better than ever for the community. Members of the community were urged to submit their applications for consideration by the CPC.

**Presentations/Commendations:** None.

**Confirmation of New Appointments:** None.

**Consent Agenda:**

- *CONFIRMATION OF REAPPOINTMENTS*
  - *MAYOR’S REPORT*
1. Memorandum from Fire Chief re: acceptance of a Student Awareness or Fire Education Grant in the amount of \$4,354, and a Senior SAFE grant in the amount of \$2,600 (Refer B&F)
    - *INFORMATION ONLY*
    - *COMMUNICATIONS/INVITATIONS*
    - *APPLICATIONS/PETITIONS*
  1. PP2019-001: Request by Comcast to install UG conduit from existing sidewalk Comcast vault 27 ft. to 4 Bass Rocks Road (Refer P&D)
    - *COUNCILORS ORDERS*
  1. CC2019-007 (Nolan): Amend GCO Ch. 21 “Streets, Sidewalks and Other Public Places”, Art. II. “-Laying out, Altering or Discontinuing Streets”, Sec. 21-35. “-General authority of city council” be AMENDED to designate from Concord Street to Salt Marsh Lane as a walking path, with signage to preserve and protect the road while restricting motor vehicle traffic (Refer O&A)
  2. CC2019-008 (Memhard): Amend GCO Ch. 22 “Traffic and Motor Vehicles” Art. VI “Traffic Schedules” Sec. 22-269 “Stop Intersections” by adding Hillside Road at its intersection with Grapevine Road (Refer O&A & TC)
    - *APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS*
  1. City Council Meeting: 02/12/2019 (cancelled), 2/13/2019 (Approve/File)
  2. Standing Committee Meetings: B&F 02/21/19 (under separate cover), O&A 02/18/19 (no meeting), Special O&A 02/19/19, P&D 02/20/19 (Approve/File)

**Unanimous Consent Calendar:**

1. Communication from Councilor Gilman regarding her recusal from P&D’s review of the Dogtown nomination to the National Register of Historic Places to avoid a potential conflict of interest (Info Only)

**Items to be added/deleted from the Consent Agenda and Unanimous Consent Calendar:**

**Councilor O’Hara** asked to remove Item #1 under Councilor Orders, “CC2019-007 Amend GCO Ch. 21 “Streets, Sidewalks and Other Public Places”, “Art. II.-Laying out, Altering or Discontinuing Streets”, Sec. 21-35 “General authority of city council” be AMENDED to designate from Concord Street to Salt Marsh Lane as a walking path, with signage to preserve and protect the road while restricting motor vehicle traffic” and asked that it be withdrawn at the request of Councilor Nolan who was unable to attend this evening’s meeting. **By unanimous consent of the Council CC2019-007 was withdrawn**

**By unanimous consent of the Council the Consent Agenda was accepted as amended; and by unanimous consent of the Council the Unanimous Consent Calendar was accepted as presented.**

**Committee Reports:**

**Budget & Finance: February 21**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a donation from Joseph C. Baillageon in the amount of \$100.00 for the Gloucester Archives Department for the purpose of funding the Gloucester Archives Department Vault Construction Project in Fund 3318.

**DISCUSSION:**

**Councilor Cox** thanked Mr. Baillageon for his donation.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to accept under MGL c. 44, §53A, a donation from Joseph C. Baillageon in the amount of \$100.00 for the Gloucester Archives Department for the purpose of funding the Gloucester Archives Department Vault Construction Project in Fund 3318.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A ½, a tangible donation from Joseph Orlando of Orlando & Associates Law Firm; Jamie Mathison on behalf of One Ocean, One Love Shop; Elizabeth DeAngelis on behalf of Cape Ann Power Yoga; Tom Schauer on behalf of Friends of the Gloucester Dog Park and Aaron Weagle with a total value in the amount of \$495.00 for 5 Sidewalk Buttler cigarette receptacles to be installed in high foot traffic areas for the purpose of reducing cigarette litter.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to accept under MGL c. 44, §53A ½, a tangible donation from Joseph Orlando of Orlando & Associates Law Firm; Jamie Mathison on behalf of One Ocean, One Love Shop; Elizabeth DeAngelis on behalf of Cape Ann Power Yoga; Tom Schauer on behalf of Friends of the Gloucester Dog Park and Aaron Weagle with a total value in the amount of \$495.00 for 5 Sidewalk Buttler cigarette receptacles to be installed in high foot traffic areas for the purpose of reducing cigarette litter.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoice for the maintenance agreement with Konica Minolta Business Solutions for servicing municipal copiers, Invoice #247809016 dated 09/30/2017 for a total of \$1,036.88 from FY2018 and \$675.93 is the portion of the invoice to be paid with FY2019 General Fund, Information Technology-Repair & Maintenance, Office Equipment Account budgeted funds.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, that in accordance with MGL c. 44, §64 approve payment of a prior year invoice for the maintenance agreement with Konica Minolta Business Solutions for servicing municipal copiers, Invoice #247809016 dated 09/30/2017 for a total of \$1,036.88 from FY2018 and \$675.93 is the portion of the invoice to be paid with FY2019 General Fund, Information Technology-Repair & Maintenance, Office Equipment Account budgeted funds.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2019-SA-29 in the amount of \$20,000.00 (Twenty Thousand Dollars) from the Building Stabilization Fund-Undesignated Fund Balance, Account #7700-359000, to GHS and O'Maley Security Upgrades, Engineering & Architectural Services, Account #770005-530006 for the purpose of designing security upgrades to Gloucester High School and the O'Maley Innovation School security systems.

**DISCUSSION:**

**Councilor Cox** explained that this is the second step to a three step process to better secure the High School and the O'Maley Innovation Middle School. The first step was a study; the second step is the design of the system upgrades, and the third step is implementation, so the Council isn't done hearing about the cost of the project, she indicated.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Nolan) absent, to approve Supplemental Appropriation 2019-SA-29 in the amount of \$20,000.00 (Twenty Thousand Dollars) from the Building Stabilization Fund-Undesignated Fund Balance, Account #7700-359000, to GHS and O'Maley Security Upgrades, Engineering & Architectural Services, Account #770005-530006 for the purpose of designing security upgrades to Gloucester High School and the O'Maley Innovation School security systems.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted in 3 favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2019-SA-30 in the amount of \$63,000 (Sixty Three Thousand Dollars) from the General Stabilization Fund, Undesignated Fund Balance Account #7500-359000 to CIP17 Haskell Dam Reconstruction Project, Infrastructure-Seawall Reconstruction, Account #50475-588009 for the purpose of funding a final change order for the Haskell Dam Reconstruction Project.

**DISCUSSION:**

**Councilor Cox** explained that this appropriation from the General Stabilization Fund is for a remainder of items that came in over bid for the Haskell Dam Reconstruction Project.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Nolan) absent, to approve Supplemental Appropriation 2019-SA-30 in the amount of \$63,000 (Sixty Three Thousand Dollars) from the General Stabilization Fund, Undesignated Fund Balance Account #7500-359000 to CIP17 Haskell Dam Reconstruction Project, Infrastructure-Seawall Reconstruction, Account #50475-588009 for the purpose of funding a final change order for the Haskell Dam Reconstruction Project.**

**Ordinances & Administration: February 18 (holiday-no meeting)  
February 19 (Special)**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council under MGL c. 268A, §20(b) appoint Ann Aiello to fill the position of Police Department Matron, not to exceed 500 hours per calendar year.

**DISCUSSION:**

**Councilor LeBlanc** explained the following: The Human Resources Director reported to the O&A Committee that there is a provision under the Conflict of Interest Law that a municipal employee cannot hold more than one position for a municipality unless certain exemptions apply. The position of part-time Matron with the Police Department became open with primary responsibility for the care of the safety and well-being of female prisoners in the Police Department's custody; the position is gender specific. A School Department paraprofessional, Ann Aiello, has stepped forward to fill this open position. Ms. Aiello will perform this job outside of her normal working

hours as a paraprofessional for the School Department and may be compensated for matron duties up to 500 hours per calendar year. This action by the Council will allow Ms. Aiello to take up this part-time position as proscribed under the law by the State Ethics Commission.

He added that he knows Ms. Aiello very well, also noting that her husband is a Gloucester firefighter.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, under MGL c. 268A, §20(b) to appoint Ann Aiello to fill the position of Police Department Matron, not to exceed 500 hours per calendar year.**

**Planning & Development: February 20**

**There are no matters under this heading for Council action.**

**Scheduled Public Hearings:**

1. **PH2019-010: SCP2019-003: Washington Street #742, Map 116, Lot 33 pursuant to GZO Sec. 5.5 "Lowland requirements" and Sec. 5.5.2 construction on land less than 10 feet elevation above U.S.G.S. datum**

**This public hearing is opened at 7:15 p.m.**

**Those speaking in favor:**

**Robert Gulla**, Architect, 593 Essex Avenue, explained that he was present on behalf of Rick and Lisa Accardi, property owners (also present), but made no statements related to the Special Council Permit to the Council although he noted that he was available to answer any Councilor questions on the application should they arise. **Council President Lundberg** advised that the Council would proceed through its public hearing process and when the Committee Report was brought forward if there are any Councilor questions they would call upon Mr. Gulla.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:16 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a Special Council Permit (SCP2019-003) to Rick and Elisabeth Accardi, 1 Fair Street, Newburyport, MA, pursuant to GZO Sec. 5.5.2 Lowlands Requirement for a property at Washington Street #742, Map 116, Lot 33, owned by Rick and Elisabeth Accardi for the purpose of constructing a principal building on less than 10 feet elevation above U.S.G.S datum to be built at Elevation 10 pursuant to a plan set (A1, A-3, A-4, A-5) submitted with the application dated January 16, 2019 rendered by Robert Gulla Architecture, signed by Robert S. Gulla, RA, dated 12/20/18. This Special Council Permit is in harmony, intent and purpose of the Zoning Ordinance and poses no hazard to the health or safety of the occupants thereof.

**DISCUSSION:**

**Councilor Gilman** explained that the parameters for the approval of this Special Council Permit are very narrow under the Zoning Ordinance Sec. 5.5.2, and it was the unanimous estimation of the P&D Committee that the applicant met those parameters, as well as the six criteria under the Zoning Ordinance Sec. 1.8.3. She added that the lowland portion of the property as to the topography remains unchanged. All permitting has been received from the necessary boards, she pointed out, noting that the property is under Elevation 10. The new dwelling will be moved three feet from the water towards the leeward side of the property. She reported the current dwelling has deteriorated beyond repair, and the owner will make all the necessary renovations. She pointed out that the Applicants, having worked with the neighbors as much as possible, did make some concessions. She asked for the Council's support.

**Council President Lundberg** noted this lowland permit is an arcane part of the Zoning Ordinance having not been used in about 12 years. Everything else the applicant has needed to do, with the ZBA, the Mass. Department of Environmental Protection, they have done. The Zoning Ordinance, he explained, requires the City Council to certify that the occupants will be safe -- if the tide comes up too high their water and sewer won't be inundated by the tides.

He suggested that this section of the Zoning Ordinance should be eliminated as it is superseded by other regulations. He asked that the Council endorse this application for a Special Council Permit

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Nolan) absent, to grant a Special Council Permit (SCP2019-003) to Rick and Elisabeth Accardi, 1 Fair Street, Newburyport, MA, pursuant to GZO Sec. 5.5.2 Lowlands Requirement for a property at Washington Street #742, Map 116, Lot 33, owned by Rick and Elisabeth Accardi for the purpose of constructing a principal building on less than 10 feet elevation above U.S.G.S datum to be built at Elevation 10 pursuant to a plan set (A1, A-3, A-4, A-5) submitted with the application dated January 16, 2019 rendered by Robert Gulla Architecture, signed by Robert S. Gulla, RA, dated 12/20/18. This Special Council Permit is in harmony, intent and purpose of the Zoning Ordinance and poses no hazard to the health or safety of the occupants thereof.**

2. **PH2019-011: Amend GCO Ch. 4 “Animals” by AMENDING Sec. 4-2 “Disturbing and/or feeding coyotes, gulls and pigeons” by renaming section to “Feeding or disturbing wildlife”; AMEND Sec. 4-3 “Giving away live animals as prize or award” by renumbering to “Sec. 4-4”; ADD new section 4-3 “Endangered/Threatened Wildlife Buffer Zone”; Sec. 4-16a “Dogs allowed on public beaches at certain times” by striking certain language; DELETE Sec. 4-16d, subsection (c) and add language of subsection (c) and add language of subsection (c) to Sec. 4-16a AND amend GCO Ch. 9 “Trash, Recycling and Litter” Sec. 9-8 “Littering prohibited” by AMENDING subsection (a)**

**This public hearing is opened at 7:23 p.m.**

**Those speaking in favor:**

**Alicia Pensarosa**, Chair of the Animal Advisory Committee (AAC) conveyed the following information (written statement placed on file):

- A brief review of AAC history of involvement with the issue of piping plovers on Good Harbor Beach was touched on. Dogs off leash were observed entering roped off nesting areas. Due to disturbances from animals, high storm tides, etc., the nesting plovers moved to the Good Harbor Beach parking lot, but it had been suggested dogs were the main reason the birds moved off the beach.
- Dog ordinance amendments were considered necessary to protect this endangered species;
- Trash is also a disturbance to the nesting plovers;
- Dogs are recommended to be off Good Harbor Beach as of April 1 each year;
- Changes to the city’s trash ordinance is also recommended;
- Updates to the wildlife feeding ordinance are recommended as are violations be raised to \$300 per incident/violation.
- Ken Whittaker, Conservation Agent has made a comprehensive plan for the city to manage the plovers; City Administration has taken this plan and the AAC recommendations seriously;
- Piping plover monitors were diligent in their observation to protect the nesting plovers;
- Amendments to Sec. 4-2 are recommended to prevent predators being attracted to the nesting area;
- Amendments to Sec. 4-3 to create a buffer zone is recommended to prevent activities too close to the nesting area;
- Amendments to Sec. 4-16a are recommended to remove off leash dogs on Good Harbor Beach and Wingersheek Beach (added for consistency) by April 1<sup>st</sup>. It was noted the largest sighting of nesting plovers is adjacent to Wingersheek Beach, and the roll back of the off leash dates to April 1 was noted as a loss of 15 days given the even-odd day schedule of the two beaches;
- Amendment to Sec. 9-8 Littering Prohibited is recommended, not only to protect the piping plovers but also for the citizens of Gloucester, pets and other wildlife.

**Council President Lundberg** noted the significant work done by Councilor Holmgren, the Council’s liaison to the AAC to whom he offered his thanks. He reported that the Administration has convened a management group to come up with a Plover Protection Plan (the Plan) which is still being worked on. He pointed out the Council wasn’t voting on the Plan; the Council’s focus is on the changes to the Code of Ordinances related to littering and dogs off leash on city beaches.

**Jim Destino**, CAO, conveyed that when plovers showed up last spring the situation presented the city with some challenges. He thanked Councilor Holmgren who joined the (management) group, the DPW, the Police Department, the AAC and the volunteers who spent many hours at the beach monitoring the plovers to ensure their

safety. He highlighted the work of the city's Conservation Agent, Ken Whittaker who did an "outstanding job" coordinating the volunteers and other agencies involved. He reported the city had a meeting with U.S. Wildlife and the Mass. Division of Fisheries & Wildlife and the Essex County Greenbelt Association, Mr. Whittaker and he. He noted they have put together a comprehensive Plan for the upcoming nesting season which was called a thoughtful document by federal and state representatives and that the city is on the right track. He noted the plan covers issues such as education, better signage, better enforcement, better scheduling for volunteers, etc. He pointed out that the regulating authorities commented on and offered suggestions to the Plan, and it has already been updated -- the suggestions mostly referenced state and federal regulations. He advised that those same authorities pointed out the city were in conflict with their regulations regarding dogs, and that this is something they felt strongly needed to be rectified. He further conveyed that the Administration supports the adoption of this evening's amendments to the dog ordinances. The city will monitor and continue to evolve the Plan, and he expressed it is hoped they'll have the same robust group of volunteers as monitors this year. He noted that the DPW is already working on signage. He reported that ECGA advised they would play a major role assisting the city in its efforts. He added that the city is committed to doing a better job this spring for a successful piping plover season through education and enforcement of the amended ordinances.

**Council President Lundberg** offered his thanks to the volunteers.

**Kim Smith**, 22 Plum Street, lauded the AAC for the job they've done and their recommendations. She called the Plan admirable with worthy points in it. She mentioned sending photos to the Council showing many dogs disrupting the nesting area taken April 28 and 29, 2018 and expressed concern as to the disruption the animals caused to the nesting area.

**Cara Walker**, Coastal Water Bird Specialist for the Mass. Division of Fisheries & Wildlife, 1 Rabbit Hill Road, Westboro, expressed the support of Mass. Wildlife for the ordinance amendments to bring the city into line with state and federal guidelines for the management and protection of piping plovers. She explained that by the institution of these amendments it will protect the city from liability or potential "take" of piping plovers (NOTE: "Take" is defined under state and federal species laws as not just direct harm but also harassment or interference of normal breeding or feeding activities). There are penalties associated with take both for individuals and land owners, in this case the city, she added. They are supporting the changes for both Good Harbor and Wingaersheek Beaches as there is nesting history at both, noting as recently as 2012 a plover did nest on the public section of Wingaersheek Beach, and continue to nest the adjacent private Coffins Beach with many nests. She pointed out she was attending the public hearing at the request of Councilor O'Hara.

**Maureen Vallis**, 2 King Philip Road, spoke in support of the ordinance amendments.

**Jennie Meyer**, 15 Great Ledge Lane, urged support of banning dogs at both Good Harbor and Wingaersheek Beaches as of April 1<sup>st</sup> (written statement previously submitted with update to statement placed on file).

**Heather Hall**, 9 Essex Avenue and **Deborah Cramer**, 318 Concord Street speaking for Ms. Hall, asked that the Council limit dog access beginning April 1<sup>st</sup> from Good Harbor and Wingaersheek Beaches (written statement placed on file).

**Julie Wyman**, 947 Washington Street, as a dog owner she is in support of the ordinance amendments to protect the piping plovers on both Good Harbor and Wingaersheek Beaches. She noted she was a volunteer to observe and protect the plovers at Good Harbor Beach (written statement placed on file).

**Catherine Ryan**, 17 High Rock Road, a beach piping plover volunteer 2016-2018, along with her entire family in 2018 speaking to that benefit, and expressed her support of the proposed ordinance amendments (document showing examples of family's monitoring log placed on file).

**David Amero**, 3 Harbor Road, urged passage of the ordinances highlighting that enforcement and removal of trash from beach areas was critical and noted his frequent observations of dogs on the beach every day off leash.

**Preston Curtis**, 21 Haskell Street, expressed concern for dogs off leash not only on dogs on days permitted but on days when they're supposed to be on leash. He urged enforcement to uphold the ordinances.

**Fara Bates**, 10 Davis Street, spoke of her negative interaction with off-leash dogs on the beach, expressing her support of the ordinance amendments and asked for better enforcement of the ordinances.

**Cruz Ferreras**, 3 Haskell Street #2, noted she is a dog owner that stopped taking her dog to the beach because of unruly dogs and dog owners and expressed her support of the ordinance amendments.

**Hazel Hewitt**, 16 Haskell Street, a piping plover volunteer, spoke in support of the ordinance amendments.

**Cindy Dunn**, 93 Wheeler Street, recounted her involvement with the previous two Dog Ad Hoc Committees and added her support of enhanced enforcement of the ordinance sections applicable to the issue of dogs and litter. She advised she was not in favor of rolling back the spring date for off leash dogs on Wingaersheek Beach. She reminded the Council they can always revisit the ordinance if they find plovers are nesting on Wingaersheek Beach and to amend it accordingly.

**Linda Brayton**, 527 Washington Street, spoke to changes to the dog ordinances and the protection of the plovers. She urged focusing on the larger issue of human disturbance of the plovers' nesting areas by utilizing clear simple, accurate visible signs. She spoke to enforcement of ordinances (written statement placed on file).

**Cheryl Reed**, 12 Middle Street, expressed concern for the "us against them" mentality regarding dogs and their owners. She conveyed she didn't support the roll back of the date to ban off leash dogs from Wingersheek Beach. She expressed support for clear signs, higher fines and better enforcement (written statement placed on file).

**Leontine Hartzell**, 10 Hammond Street, added her support for the ordinance amendments, signs that are clear, and better enforcement. She expressed support for the roll back of the date of the ban for off leash dogs for both Good Harbor and Wingersheek Beaches.

**Those speaking in opposition:**

**Tom Shower**, 302 Cobblestone Lane, expressed he never viewed a problem between dogs and the plovers with dog owners being respectful and saw no reason to roll back the date ban for off leash dogs on Wingersheek Beach.

**Peter Cooney**, 36 Warner Street, voiced his objection to the date roll back for dogs banned on Wingersheek Beach off leash but expressed support for the ordinance amendment on litter. He showed a picture of Good Harbor Beach in May with trash strewn about not caused by dogs (photo placed on file).

**Kathleen Clancy**, 78 High Popples Road, expressed that she was not in support of Wingersheek Beach banning off leash dogs April 1, and also urged better signage.

**Brook Welty**, 15 Allen Street, #1, expressed support for the roll back date for off leash dogs banned on Good Harbor Beach but not for Wingersheek Beach. She urged improvements to signage at the beaches.

**Catherine Gunn**, 44 Pleasant Street, expressed support for the protection of piping plovers, mentioning areas for off-leash dogs not on beaches such as Ravenswood Park noting those areas' weather dependency for use. She suggested that there aren't that many opportunities for dogs to run off leash. She urged the compromise to leave Wingersheek Beach alone for dogs' off-leash.

**Communications:**

**In Favor of Amendments but exclude Wingersheek Beach - by email:**

Nicole Andrade, 3 Haskell Court

Brooke Welty, 15 Allen Street, #1

Hugo Burnham, 24 Edgemoor Road, exclude Wingersheek and other beaches

Stephen Sacca, 20 Edgemoor Road

George & Chantal Hackford, 371 Western Avenue

**In Favor of Amendments by email:**

Bob Roland, 18 Marina Drive

Marcia Schloss, 7 Prospect Terrace

Jennie Meyer, 15 Great Ledge Lane

Barbara Kelley, 23 Folly Point Road

Brenda Malloy, 43 Rocky Neck Avenue

Bill Thoms, 1174 Washington Street

James Liebmann, 10 Folly Point Road

Elaine Mosesian, 8 Salt Island Road

Kim Smith, 22 Plum Street

Deborah Cramer, Concord Street

Margaret Quinn, 45 Shore Road

Jochem O. Stuppe, Ph.D., 5 Blake Court

Colleen Murdock, Pew Avenue

Christopher Anderson, Michelle Barton, Meadow Anderson, Atticus Anderson, 24 Highland St.

Stacy Fisher, 320 Concord Street

Larry Oakes, 4 Clay Court

Ann Jo Jackson, 21 Salt Island Road

M.J. Boylan, 85 Mt. Pleasant Avenue

Jay Featherstone, 13 Prentiss Road

**Opposed to Amendments by emailed letter:**

Eileen Murphy, 6 Mason Court - no action should be taken until plovers return & choose to nest at Good Harbor Beach

**Councilor Questions: None.**

**This public hearing is closed at 8:45 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 4 "Animals" as follows:

Sec. 4-2. - ~~Disturbing and/or feeding of coyotes, gulls and pigeons.~~ Feeding or disturbing wildlife.

- (a) No person shall disturb harass, harbor or feed directly or indirectly ~~any~~ gulls, pigeons, ~~terns or~~ waterfowl, coastal shorebirds, or crows on any streets, beach or ~~sidewalk on~~ other public property or anywhere in the downtown area unless properly permitted by the appropriate state and federal wildlife authorities. Violation shall be subject to a \$300 fine per incident/violation.
- (b) No person shall feed either directly or indirectly any coyotes on any public or private property. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-3. – Endangered/Threatened Wildlife Buffer Zone.

Buffer zone of 50 feet around an area will be established around any area designated as protected for wildlife. Prohibited activities in the buffer zone include whiffle ball, Frisbee, soccer, volleyball, paddle ball, kites, inflatable balls and any other activities that involve objects that can fly or roll into the restricted area. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-~~34~~ - Giving away live animals as prize or award.

No person shall offer or give away any live animal as a prize or an award in a game, contest or tournament involving skill or chance. The provisions of this section shall not apply to awards made to persons participating in programs relating to animal husbandry. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

**Sec. 4-5-4-14.-Reserved.**

#### **DISCUSSION:**

**Councilor Cox** moved to amend the main motion by striking the phrase "anywhere in the downtown area" and in its place adding the phrase "anywhere in the city." The amendment was seconded by **Councilor LeBlanc** with **Councilor Hecht** adding his endorsement of the amendment.

**The amendment to Sec. 4-2(a) to strike the phrase, "anywhere in the downtown area" and in its place adding the phrase, "anywhere in the city" was approved by the City Council on a vote by a vote of 8 in favor, 0 opposed, 1 (Nolan) absent.**

**Councilor Gilman** raised an objection to increasing the fine for violations to \$300 saying it seemed high, noting it was imperative for Sec. 4-3 but for subsections (a) and (b) she viewed it as excessive. She offered an amendment to Sections 4-2(a) and 4-2(b) by striking the phrase, "\$300 fine per incident/violation" and adding the phrase in its place, "\$100 fine per incident/violation" which was seconded by **Councilor Holmgren**.

**Councilor Cox** asked what the fine was before the original proposed amendment. **Councilor Gilman** expressed her belief it was \$100. **Councilor Holmgren** advised she found the fine in the city's Beach Regulations, Sec. M, "...punishable by fines up to \$100 per violation." **Joanne M. Senos**, City Clerk, confirmed that the Code of Ordinances lists the fine currently as \$100 per incident/violation

**Councilor LeBlanc** advised he wouldn't support the amendment. Citing the number of permits he's held through the state and the city to hunt, fish and clam for many years, he conveyed that he and many like-minded sportsmen have to know what the rules and regulations are in order to legally hunt, fish and clam before they undertake that activity. Just as a permit holder has to know the rules, he pointed out, so do dog owners, be they residents or visitors to the city alike. He put forward that a \$300 fine per violation sends a clear message and is a preventative measure.



The amendment to revert the fine per incident/violation to \$100 was defeated on a City Council majority voice vote.

**MOTION:** On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to AMEND the Code of Ordinances, Chapter 4 “Animals” as follows:

Sec. 4-2. - ~~Disturbing and/or feeding of coyotes, gulls and pigeons.~~ Feeding or disturbing wildlife.

- (a) No person shall disturb harass, harbor or feed directly or indirectly any gulls, pigeons, ~~terns or~~ waterfowl, coastal shorebirds, or crows on any streets, beach or ~~sidewalk on~~ other public property or anywhere in the city unless properly permitted by the appropriate state and federal wildlife authorities. Violation shall be subject to a \$300 fine per incident/violation.
- (b) No person shall feed either directly or indirectly any coyotes on any public or private property. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-3. – Endangered/Threatened Wildlife Buffer Zone.

Buffer zone of 50 feet around an area will be established around any area designated as protected for wildlife. Prohibited activities in the buffer zone include whiffle ball, Frisbee, soccer, volleyball, paddle ball, kites, inflatable balls and any other activities that involve objects that can fly or roll into the restricted area. Violation shall be subject to a \$300 fine per incident/violation.

Sec. 4-~~34~~ - Giving away live animals as prize or award.

No person shall offer or give away any live animal as a prize or an award in a game, contest or tournament involving skill or chance. The provisions of this section shall not apply to awards made to persons participating in programs relating to animal husbandry. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

**Sec. 4-5-4-14.-Reserved.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 4 “Animals” as follows:

Sec. 4-16a. - Dogs allowed on public beaches at certain times.

~~Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper. In addition, unleashed dogs shall be allowed on Good Harbor Beach and Wingersheek Beach, Plum Cove Beach and Cressy Beach on consecutive days in the off season from: October 1 to April 30, annually, subject to the following conditions:~~

~~Off leash all day on even numbered days at Good Harbor Beach and odd numbered days at Wingersheek Beach.~~

Good Harbor and Wingersheek Beaches: Dogs shall be prohibited from Good Harbor Beach and Wingersheek Beach from April 1st -Sept 30th annually. In addition, unleashed dogs shall be allowed on Good Harbor Beach and Wingersheek Beach, from: October 1st to March 30th annually, subject to the following conditions: Off leash on even-numbered days of the month at Good Harbor Beach and odd-numbered days of the month at Wingersheek

Beach. Plum Cove and Cressy Beaches: Unleashed dogs shall be allowed on Plum Cove Beach and Cressy Beach in the off season from October 1st to April 30th annually.

Plum Cove and Cressy Beaches: Unleashed dogs shall be allowed on Plum Cove Beach and Cressy Beach in the off season from October 1st to April 30th annually.

Sec. 4-16d “Off-leash dog areas” by ADDING: “(c) Dogs shall be allowed on “Crab Beach” off-leash at all times subject to the enumerated conditions contained in Sec. 4-16a.”

Crab Beach: Dogs shall be allowed on “Crab Beach” off-leash at all times subject to the enumerated conditions contained in section 4-16a.

All other public beaches: Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper.

Fine of \$300 per violation. Fines for violations will be double in season for beaches and other off-leash areas as determined.

#### **DISCUSSION:**

**Councilor LeBlanc** moved to amend the main motion, seconded by **Councilor Holmgren**, to GCO Ch. 4, Sec. 4-16a - Dogs allowed on public beaches at certain times” by striking the first paragraph and adding the following language:

“Good Harbor Beach: Dogs shall be prohibited from Good Harbor Beach from April 1<sup>st</sup> - September 30<sup>th</sup> annually. In addition, unleashed dogs shall be allowed on Good Harbor Beach from October 1<sup>st</sup> to March 31<sup>st</sup> annually, subject to the following conditions: Off-leash on even-numbered days of the month at Good Harbor Beach.

Wingaersheek Beach: Dogs shall be prohibited from Wingaersheek Beach from May 1<sup>st</sup> - September 30<sup>th</sup> annually. In addition, unleashed dogs shall be allowed on Wingaersheek Beach from October 1<sup>st</sup> to April 30<sup>th</sup> annually, subject to the following conditions: Off-leash on odd-numbered days of the month at Wingaersheek Beach.”

**Councilor Gilman** expressed her support for Councilor LeBlanc’s amendment and cited her review of 31 letters she received on the issue, briefly recounting the results. She pointed out that no one made a statement this evening that a leashed dog was okay, which is a provision under the 1993 Division of Fisheries & Wildlife (regulations). She highlighted information that had been conveyed that a nesting plover hasn’t been spotted on Wingaersheek Beach since 2012. She expressed that this amendment was a fair compromise.

**Councilor Hecht** expressed concern that dogs are a possible deterrent to the nesting of plovers. He asked how many years Crane Beach has been closed to dogs that there is major nesting of plovers at that beach, and whether there could be the same result from a ban on dogs at Wingaersheek Beach.

**Councilor Holmgren** advised she and Ms. Pensarosa visited with the Trustees of the Reservation, in November, and believed she had that information and would seek it out now.

**Councilor LeBlanc** advised the Council isn’t here to create wildlife habitat but to protect “what’s in front of us.”

**The amendment to Sec. 4-16a regarding dates for off-leash dogs on Good Harbor and Wingaersheek Beaches by ROLL CALL passed on a vote of 5 in favor, 3 (Memhard, O’Hara, Cox) opposed, 1 (Nolan) absent.**

**Councilor LeBlanc** offered an amendment to Sec. 4-16a.--Dogs allowed on public beaches at certain times” by including as the second to the last paragraph, the following: “Unless renewed or made permanent by the city

council and signed by the mayor, the provisions of this section shall expire on the occasion of the last scheduled meeting of the Ordinances & Administration Committee during the month of December 2019.” The amendment was seconded by **Councilor O’Hara**.

After a brief discussion on the actual language of the sunset clause by the Council and confirming the date as December 2019, **the amendment to Sec. 4-16a for a sunset clause under Sec. 4-16a passes on a majority voice vote of the City Council.**

**Councilor Holmgren** offered the following amendment:

**Wingaersheek Beach: Dogs shall be prohibited from Wingaersheek Beach from May 1<sup>st</sup> - September 30<sup>th</sup> annually. In addition unleashed dogs will be allowed on Good Harbor Beach and Wingaersheek Beach from October 1<sup>st</sup> - April 1<sup>st</sup> annually and dogs may be allowed from on Wingaersheek Beach April 1<sup>st</sup> - April 30<sup>th</sup> off leash on consecutive days annually.”** **Councilor Gilman** seconded the motion for the purpose of Council discussion.

**Councilor LeBlanc** advised that he wouldn’t support the amendment this year, as the sunset clause will allow the Council to revisit this matter in December 2019 saying that there has been a compromise. At the time of the revisit in December they can consider such a suggestion.

**Councilor Hecht** spoke to the odd-even scheme of dogs off leash at Wingaersheek and Good Harbor Beaches, he suggested his support.

**Councilor Gilman** expressed empathy for those who don’t appreciate being approached by unleashed dogs, and for people afraid of dogs or owners who have dogs that are unapproachable by another dog on unleashed days, this would create more issues. She advised she wanted people to be able to use the beaches in harmony and being respectful to each other’s rights and wouldn’t support the amendment.

**Councilor Memhard** expressed appreciation for Councilors Hecht and Gilman’s opinions, asking if and when nesting piping plovers are observed at Wingaersheek Beach prior to the date to be put in place regarding off leash dogs, what the plan of action is in place, and would the state regulations kick in. **Council President Lundberg** advised the city doesn’t have discretion, they have to take action, and all the restrictions on the nesting of piping plovers for Good Harbor would have to be placed on Wingaersheek Beach right away.

**Councilor Holmgren** withdrew her amendment based on the discussion of the Council expressing her thanks.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O’Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan), absent, to AMEND the Code of Ordinances, Chapter 4 “Animals” as follows:**

Sec. 4-16a. - Dogs allowed on public beaches at certain times.

~~Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper. In addition, unleashed dogs shall be allowed on Good Harbor Beach and Wingaersheek Beach, Plum Cove Beach, and Cressy Beach on consecutive days in the off season from: October 1 to April 30, annually, subject to the following conditions:~~

~~Off leash all day on even-numbered days at Good Harbor Beach and odd-numbered days at Wingaersheek Beach.~~

Good Harbor Beach: Dogs shall be prohibited from Good Harbor Beach from April 1<sup>st</sup> - September 30<sup>th</sup> annually. In addition, unleashed dogs shall be allowed on Good Harbor Beach from October 1<sup>st</sup> to March 31<sup>st</sup> annually, subject to the following conditions: Off leash on even-numbered days of the month at Good Harbor Beach.

Wingaersheek Beach: Dogs shall be prohibited from Wingaersheek Beach from May 1<sup>st</sup> - September 30<sup>th</sup> annually. In addition, unleashed dogs shall be allowed on Wingaersheek Beach from October 1<sup>st</sup> to April 30<sup>th</sup> annually, subject to the following conditions: Off leash on odd-numbered days of the month at Wingaersheek Beach.

Plum Cove and Cressy Beaches: Unleashed dogs shall be allowed on Plum Cove Beach and Cressy Beach in the off season from October 1st to April 30th annually.

Sec. 4-16d "Off-leash dog areas" by ADDING: "(c) Dogs shall be allowed on "Crab Beach" off-leash at all times subject to the enumerated conditions contained in Sec. 4-16a."

Crab Beach: Dogs shall be allowed on "Crab Beach" off-leash at all times subject to the enumerated conditions contained in section 4-16a.

All other public beaches: Dogs shall be prohibited from public beaches from May 1 to September 30 annually. Dogs shall be allowed on public beaches from October 1 to April 30 annually and shall be under the control of the owner or keeper.

Unless renewed or made permanent by the city council and signed by the mayor, the provisions of this section shall expire on the occasion of the last scheduled meeting of the Ordinances & Administration Committee during the month of December 2019.

Fine of \$300 per violation. Fines for violations will be double in season for beaches and other off-leash areas as determined.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances, Chapter 9 "Trash, Recycling and Litter" as follows:

Sec. 9-8. - Littering prohibited.

(a) No person shall throw, ~~drop, release, or deposit litter in or upon any street, sidewalk or other public place in the city.~~ otherwise dispose of directly or indirectly into any harbor, river, or pond or on to any beach, or any public property garbage, refuse, rubbish, bottles, cans, containers, paper, cigarette butts, balloons, wrapping material, glass, filth or any noxious or dangerous liquid or solid. Violation shall be subject to a \$300 fine per incident/violation.

#### DISCUSSION:

**Councilor LeBlanc** thanked the Animal Advisory Committee and the plover volunteers for the time they've invested on this issue, to Councilors Holmgren, Cox, Lundberg and Memhard. Recounting that compromises are difficult and don't always make everyone happy, he conveyed that what has been done this evening will please the majority which he indicated was a start.

**Councilor Gilman** offered a Request that the Mayor through the DPW Director consider placing sawhorses with warning signs at the entrance of the footbridge on Good Harbor Beach, beach's parking lot entrance; the beach entrance next to the Good Harbor Beach Motor Inn and between the private and public sections of the beach consistent with the requirements noted on page 11 of the 1993 Mass. Division of Fisheries & Wildlife regulations pursuant to piping plover areas to better inform the beach-going public.

**Councilor Holmgren** thanked the AAC for their hard work; the Administration and Councilors for taking this issue seriously; and to especially thank all the volunteers and those that came to speak. She expressed that she was encouraged by the comprehensive management plan put forward by the Administration and department heads. An ordinance change supports this management plan which she conveyed was why she supported the April 1<sup>st</sup> date for Good Harbor Beach. She expressed that the protection plan includes better and more prominent signage at beach entrances. She let the volunteers know that they should call the police if they see people littering, plovers being disturbed or for dogs on the beach when they shouldn't be there. She pointed out that there were only 11 calls to the Animal Control Officer compared to the concern expressed this evening. She expressed her agreement that enforcement was an issue and advised she had reached out to Governor's Council member Eileen Duff asking why animal ordinance tickets are so frequently dismissed on appeal. She in turn spoke with the Gloucester District Court

Clerk Magistrate who conveyed that: 1) the city's signage (dog ordinance) is not clear. Recognizing that the city has gone through many adjustments to the dog ordinance over the past five years it is time for the city to install clear and easy-to-follow signs for residents and tourists in light of prioritizing accommodations to make the city more appealing to tourists; 2) Many cases have been dismissed at the District Court level because repeat offenders who live in the city have refused to pay the dog ordinance fines; and the District Attorney's Office has not been willing to prosecute so the Court's hands are tied. She conveyed it is arbitrary and unfair saying that it doesn't support the thousands of law-abiding taxpaying citizens of the city, citing that it must be addressed -- the same for litter and for other beach violations. She pointed out that the ordinances are on the books; they must be enforced or they are "worth nothing." She highlighted this is a "disservice" to the city's Police Department who work very hard on everyone's behalf. She advised she'd submit a Request to the Mayor on both of these matters.

**Councilor Hecht** expressed appreciation for the sunset clause to aid him being able to vote in favor because they're dealing with nature -- avian nature, dog nature and human nature. He advised he will follow the issue closely this season and look forward to the review at the end of the year.

**Councilor O'Hara** explained that the issue has come about because of a potential violation the city was exposed to last year. The city has to follow the laws be they state or federal, and have no choice but to protect the plovers, he pointed out. He noted he appreciates dogs, but they owe it to protect an endangered species and in turn find a place for dogs to run.

**Council President Lundberg** noted that enforcement is a common theme, saying that it is the obligation of the city to enforce this. He advised that budget season is soon upon the city administration and Council, and it is anticipated that there will be meaningful resources dedicated to enforce the ordinance which will be part of the Council's discussion. He gave the example of the Sawyer Free Library's recent security issue which was solved creatively. He advised he would anticipate the same creativity from the Administration to solve the enforcement issue. He again expressed his thanks to the AAC and the volunteers for their dedication.

**MOTION: On a motion by LeBlanc, seconded by Councilor O'Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to Amend the Code of Ordinances, Chapter 9 "Trash, Recycling and Litter" as follows:**

Sec. 9-8. - Littering prohibited.

(a) No person shall throw, ~~drop, release, or deposit litter in or upon any street, sidewalk or other public place in the city.~~ otherwise dispose of directly or indirectly into any harbor, river, or pond or on to any beach, or any public property garbage, refuse, rubbish, bottles, cans, containers, paper, cigarette butts, balloons, wrapping material, glass, filth or any noxious or dangerous liquid or solid. Violation shall be subject to a \$300 fine per incident/violation.

3. PH2019-012: Amend GCO Ch. 11 "Hawkers, Peddlers, Transient Vendors and Special Events" by AMENDING Article I – "In General" Sec. 11-1 "Definitions"; Article II "Hawkers and Peddlers" Sec. 11-3 "Local license/permit requirement for fixed vending locations; procedure to obtain"; Sec. 11-6 "Conduct of Business"; Sec. 11-7 "Business prohibited between certain hours"; Sec. 11-9 "Revocation and expiration of permit"; Sec. 11-10 "Fixed vendors during special events; parades"; Sec. 11-11 "Permit required; fee"; DELETE Sec. 11-12 "Special event permit fees for fixed vending locations" and AMEND and RENUMBER the following sections: Sec. 11-12 "Books, magazines and other publications; licensing, registration required"; Sec. 11-13 "Meats, butter, certain other food products – Licensing"; Sec. 11-14 "Same - Inspection of products"; Sec. 11-15 "Same – penalty for possession, use of unsealed or false weighing or measuring device"; Sec. 11-16 "Temporary permits to sell articles for charitable purposes"; Section 11-17 "Violations; fines"; DELETE Article III "Transient Vendors" Sec. 11-18 "Application"

**This public hearing is opened at 9:26 p.m.**

**Those speaking in favor:**

**Chip Payson**, General Counsel, advised that these amendments to the Hawkers and Peddlers ordinance have gone through a number of iterations. He highlighted that Councilor Cox started this process several years ago. The Municode review brought this matter to the forefront. With members of the Administration and Councilor Cox they have a fine draft of updates to language for Chapter 11 before the Council for their consideration.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:29 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Advisory Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 11 "Hawkers, Peddlers, Transient Vendors and Special Events" as follows:

**AMEND "ARTICLE I. - IN GENERAL Sec. 11-1. - Definitions" by ADDING:**

*"Schedule of Fees means any fee schedule or list of fees as periodically updated and provided by the city clerk's office."*

**AND AMEND "ARTICLE II. - HAWKERS AND PEDDLERS" as follows:**

Sec. 11-3. - Local license/permit requirement for fixed vending locations; procedure to obtain.

(a) Anyone either principal or agent that sells from a fixed location and not licensed or required to be licensed under the definition in M.G.L. c. 101 as a transient vendor or hawker and peddler must first procure a permit from the local licensing authority for the sale of goods, wares, or merchandise allowed to be sold under the provisions of M.G.L. c. 101, § 16. A ~~L~~ local permit is required for vendor holding only a state license.

(b) Applicants for a fixed location permit for those areas established by this chapter within the city, shall follow the sealed bid procedure, as outlined in subsection (c) of this section. The cost for such permit shall be not less than \$200.00 annually with no maximum, established by the city council. Permits will be issued for up to ~~seven~~ six specific locations throughout the city, as approved by the city council. The city council shall have the right to adopt and implement further lawful regulations and restrictions consistent with this article.

(1) Prior to bidding for a fixed location, a vendor shall be required to provide proof of valid, current cityhawkers and peddlers license and proof that they are a disabled veteran as defined in section 11-1.

(2) Vendors shall disclose general scope of sales.

Approved permits and assigned locations shall be chosen by sealed bid procedure by the city's purchasing department, ~~city~~ on or before the first business day in February, 9:00 a.m., of each year.

(c) Sealed bid procedure will be as follows: Sealed bids will be submitted to the city's purchasing department, ~~city~~, following public notice and from the first secular day in January to the last business day in January, each year. Further, all bids received to be opened by the purchasing department, will be accompanied by a certified or cashier's check in the amount of the bid, payable to the city. Unsuccessful bidders' checks will be returned immediately following the bid opening. The sealed bid will be date and time stamped in the purchasing department. The purchasing department will open the sealed bids and if there is a tie between two or more vendors on the bid amount, then the bidder/vendor who is a disabled veteran shall be given preference over all other bidders provided they meet all other bid requirements.

Sec. 11-6. - Conduct of business



(5) All hawkers and peddlers, except those permitted for a fixed location by the licensing commission under section 11-3 or those permitted by the special events committee under section 11-10, shall be moving at all times other than when servicing a customer. For vendors on foot or animal, moving shall be walking in a normal manner along a street, path or way with all goods, wares, merchandise or services. For vendors operating from vehicles, moving requires the vehicle to be driven along a street, path or way, stopping only to service customers and allow traffic to pass.

(6) No one shall sell or offer for sale on any public street, way or public place in the city, within 2,000 feet of any school in the city, between the hours of 8:00 a.m. and 4:00 p.m. on days when ~~the school~~ of the city are in session.

Sec. 11-7. - Business prohibited between certain hours.

(b) Door-to-door solicitations require pre-approval by the chief of police; no door-to-door vendor shall sell or offer for sale their goods, wares services or merchandise door-to-door after 6:00 p.m.

The usage of all public parking spaces must adhere to the Code of Ordinances and shall be allowed during business hours only.

(c) Fixed vendors may continue to sell or offer for sale their goods, wares, services or merchandise from their fixed locations during special events.

Sec. 11-9. - Revocation and expiration of permit.

(a) Any permit granted by the licensing commission and/or the city clerk's office under this ~~section~~ chapter may be revoked by the licensing commission and/or the city clerk's office for good cause after reasonable notice to the permittee and a hearing upon the grounds of the revocation. Any permittee who violates any provisions of this article on three occasions shall be deemed to have provided sufficient cause for revocation of that permit. Unless sooner revoked, any permit granted by the licensing commission under this section shall be valid for the stated period and upon ~~or~~ expiration of any permit, such permit, shall revert to the city licensing commission.

(b) The enforcing agent shall be the police department, the health department and/or the building department. Said enforcing agent shall have the authority to issue tickets with fines consistent with this chapter.

(c) The police department, ~~the health department and/or the building department~~ shall have the authority to remove, and/or shut down ~~or arrest~~ vendors who are in violation of this chapter; the police department shall also have the authority to arrest vendors who are in violation of this chapter.

Sec. 11-10. ~~Fixed~~ Special events; transient vendors ~~during special events~~; parades.

(a) There shall be a Special Events Committee comprised of the following city staff: the city clerk or his designee, the building inspector or his designee, the department of public works director or his designee, the chief of police or his designee, the fire chief or his designee, the emergency medical services director, the health department food inspector, the harbor master or his designee and the community development director or his designee. The Committee shall meet monthly and shall post notices of its meetings.

(b) The Special Events Committee shall review all special events applications and shall assist applicants with any necessary approvals including approvals by the city council.

The Committee may in its own discretion refer any application to the city council for consideration. If city council approval is required due to the proposed closure of any road, the application shall be referred directly to the planning & development committee who shall have the authority to approve the special event permit.

~~(ac) Vending from fixed locations, other than those specified in section 11-5 may be granted by the licensing commission, upon recommendations made by event organizers.~~  
City sanctioned Special events/parades shall be designated with restricted vending areas based on public safety considerations. Transient vendor permits shall be approved by the city clerk's office and the chief of police. For the purpose of this article, special events/parades shall be limited to:

- (1) Fishtown Horribles Parade.
- (2) St. Peters Fiesta Procession.
- (3) Labor Day fireworks.
- (4) First Night Celebration-Middle Street Walk.
- (5) Gloucester Schooner Festival.
- (6) Sidewalk Bazaar.
- (7) Downtown block parties.
- (8) All annual city council approved events.

~~(bd)~~ No vending ~~will~~shall be allowed on the Memorial Day Parade route.

~~(ee)~~ No vending ~~will~~shall be allowed within 300 feet of a cemetery within the city during Memorial Day or other special observance ceremony.

~~(df)~~ The Special Events Committee and/or the licensing commission may recommend and the City Council may approve additional special events, parades relevant to this section.

~~(eg)~~ Thirty~~Forty-five~~ days prior to any event, the event organizing committee shall submit their application for a special event permit, an application for transient vendor permits and a list of fixed vending locations along said transient vendors along with all applicable application fees with their specific permit to for the city clerk's office for referral to and review by the licensing commission's special events advisory committee for approval. ~~Fixed locations shall be within the restricted areas relevant to the event as approved by the licensing commission.~~

~~(f)~~ Notwithstanding subsections (d) and (e) there shall be a Special Event Advisory Committee comprised of the following city staff: ~~the city clerk, the building inspector, the assistant department of public works director, the assistant chief of police, the assistant fire chief, the emergency medical services director, the health department food inspector, the harbormaster and the community development tourism manager.~~ The committee shall review all special events applications and shall assist applicants with any necessary approvals including approvals by the city council as referenced in section 11-10(a)(5). If city council approval is needed, the application shall be referred directly to the Planning & Development Committee who shall have the authority to approve the special event permit. The Special Event Advisory Committee shall meet monthly and shall post notices of its meetings.

Sec. 11-11. — Special event Permit; transient vendor permit required; fee.

~~Permits will be issued to approved fixed vendors within the restricted areas of special events by the licensing commission. The fee for a permit issued shall not exceed \$100.00.~~



(a) Permits shall be issued for the special event/parade date and/or rain date only in each calendar year by the special events committee.

(b) Permits shall be issued for one transient vendor in one location and cannot be duplicated or transferred.

(c) All applicants for permits must complete applications provided by the city clerk's office and the police department and pay all application fees to the special event organizer prior to receipt of a permit.

~~(1) Site specific vendor submitting photograph and application receives two free badges. For each additional badge, the cost will be: \$25.00 per badge.~~

~~(2) Special event vendor submitting photograph and application receives one free badge. For each additional badge, the cost will be: \$25.00 per badge.~~

~~Sec. 11-12. Special event permit fees for fixed vending locations:~~

~~Fees generated by the issuing of permits for fixed vending locations relating to special events listed in section 11-10, shall be paid directly to the events organizing/sponsoring committee for the event, subject to all limitations as stated in the vending ordinance or as shall be, at any time, enacted by the city council.~~

Sec. 11-1~~2~~3. - Books, magazines and other publications; licensing, registration required. Before doing any business in the city, any hawker, peddler or transient vendor of magazines, publications, books, or magazine or book subscriptions must be duly licensed by the director of standards of the commonwealth. Furthermore, such a hawker, peddler or transient vendor must record his name and residence with the chief of police of the city and receive a record number and a solicitor residence with the chief of police of the city, which must be carried on his person at all times, in addition to any permits/licenses issued by the licensing commission or director of standards.

Sec. 11-1~~3~~4 ("4" is struck). - Meats, butter, certain other food products—Licensing.

(a) *Required; exception.* Before selling any meats, butter, cheese, fish and fresh fruit or vegetables, any hawker, peddler or transient vendor must either be duly licensed by the director of standards of the commonwealth or permitted by the licensing commission; provided, however, that this section shall not apply to any person who peddles only fish obtained by his own labor or his family or to any person who peddles only fruits, vegetables or other farm products produced or raised by himself or his family.

(b) *Qualifications of applicant; inspection, sealing of weighing, measuring devices.* The licensing commission shall have authority to grant a permit under this section to any person of good moral character. No such permit shall be issued until a certificate from the sealer of weights and measures stating that all weighing and measuring devices intended to be used have been duly inspected and sealed. The health department shall have authority to grant a food permit under this section for all food (including meat, butter and cheese) except fish, fruits, vegetables and honey.

(c) *Fee; issuance.* Any permit issued by the licensing commission under this section shall be issued by and signed by the city clerk, as clerk of the commission, upon payment of a permit fee ~~of \$54.00~~. Every hawker, peddler and transient vendor, so permitted shall be assigned a number by the city clerk, who shall keep a record of all permits issued.

Sec. 11-1~~4~~5. - Same—Inspection of products.

Any meats, butter, cheese, fish and fresh fruit or vegetables offered for sale by ~~any hawker, peddler or transient~~ a vendor must be inspected by the ~~board of~~ health department.

Sec. 11-156. - Same—Penalty for possession, use of unsealed or false weighing or measuring device.

Any hawker, peddler or transient vendor of any meats, butter, cheese, fish and fresh fruit or vegetables who use, or possesses with intent to use, any false, condemned or unsealed weighing or measuring device shall be subject to a penalty not to exceed:

(1) \$50.00 for each use or possession of a false or condemned measuring device; and

(2) \$20.00 for each use of an unsealed measuring device.

Sec. 11-167. - Temporary permits to sell articles for charitable purposes.

The licensing commission shall, under such conditions as it may deem proper, grant to any organization engaged exclusively in charitable work, or to a part of any incorporated organization of veterans who served in the military services of the United States in time of war or insurrection, a special permit authorizing it, upon a particular day and for a charitable purpose named in such permit, to sell, through its accredited agents in the streets and other public places within the city, or in any designated part thereof, flags, badges, medals, buttons, flowers, souvenirs, and similar small articles; provided that no person under age 16 years of age shall be accredited as such agent, that each agent shall wear in plain sight while engaged in selling such articles, a badge provided by such organization or post and approved by the licensing commission, bearing upon it the name of such organization or post the date on which the permit is to be exercised, and that no such agent shall be authorized to make or attempt to make such sales in front of any private premises against the objection of the owner or occupant thereof. The exercise of the permits hereby provided for shall be subject to the provisions of all statutes, ordinances, bylaws, rules and regulations not inconsistent herewith. ~~The fee for such a permit shall be \$5.00.~~

Sec. 11-17. - Violations; fines.

(a) Penalties for failure to adhere to this chapter shall be as follows:

(1) The penalty for the first violation shall be a written warning.

(2) The penalty for the second violation shall be \$50.

(3) The penalty for the third violation shall be \$100.

(4) The penalty for the fourth and subsequent violations shall be \$200.

(5) Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(b) Further, any event organizing committee found to have misrepresented the number of transient vendors or failed to include all transient vendors in the list of transient vendors required under section 11-10 may be fined under subsection (a)(4) of this section, shutdown or barred from holding said event in the future.

### ~~ARTICLE III. — TRANSIENT VENDORS~~

~~Sec. 11-18.— Application:~~

~~Every person before commencing business as a transient vendor within the city shall file with the chief of police, on a form issued by the police department, a written application signed under the penalties of perjury containing the following information:~~

~~(1) Name of applicant.~~

~~(2) Address of applicant.~~

- ~~(3) Applicant's height, weight, eye and hair color.~~
- ~~(4) Applicant's social security number.~~
- ~~(5) The length of time for which the right to do business is desired.~~
- ~~(6) A brief description of the nature of the business and the goods to be sold.~~
- ~~(7) The name and home office address of the applicant's employer. If self-employed, it shall so state.~~
- ~~(8) If operating a motor vehicle: the year, make, model, registration number and owner's address.~~

By unanimous consent of the Council the reading of the amendment language were waived.

**DISCUSSION:**

**Councilor Cox** offered her appreciation to the Administration, Mr. Payson in particular along with Ms. Senos the Building Inspector and Health Department. She noted it was a collaborative effort that came down to her, Mr. Destino, Ms. Senos and Mr. Payson in order to produce the final product. She pointed out that many parts of this chapter intertwine regulations with special events -- who pays, how much, and when. Removed from the ordinance was any opportunity for subjective decision-making and replacing it with an objective review process. She noted that there is now a clean, concise ordinance for the Special Events Advisory Committee to follow.

**Councilor LeBlanc** offered his support, noting all the amendments were vetted at the O&A Committee. Citing that Councilor Cox, Mr. Payson and Ms. Senos went through the ordinance chapter thoroughly, he conveyed these amendments make it clear what can and can't be done by tightening parameters.

**Council President Lundberg** expressed agreement with Councilor LeBlanc, and offered his thanks to Councilor Cox for guiding these amendments through the revision process.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to Amend GCO Ch. 11 "Hawkers, Peddlers, Transient Vendors and Special Events" as follows:**

**AMEND "ARTICLE I. - IN GENERAL Sec. 11-1. - Definitions" by ADDING:**

*"Schedule of Fees means any fee schedule or list of fees as periodically updated and provided by the city clerk's office."*

**AND AMEND "ARTICLE II. - HAWKERS AND PEDDLERS" as follows:**

Sec. 11-3. - Local license/permit requirement for fixed vending locations; procedure to obtain.

(a) Anyone either principal or agent that sells from a fixed location and not licensed or required to be licensed under the definition in M.G.L. c. 101 as a transient vendor or hawker and peddler must first procure a permit from the local licensing authority for the sale of goods, wares, or merchandise allowed to be sold under the provisions of M.G.L. c.

101, § 16. ~~A~~ Local permit is required for vendor holding only a state license.

(b) Applicants for a fixed location permit for those areas established by this chapter within the city, shall follow the sealed bid procedure, as outlined in subsection (c) of this section. The cost for such permit shall be not less than \$200.00 annually with no maximum, established by the city council. Permits will be issued for up to ~~seven~~ six specific locations throughout the city, as approved by the city council. The city council shall have the right to adopt and implement further lawful regulations and restrictions consistent with this article.

(1) Prior to bidding for a fixed location, a vendor shall be required to provide proof of valid, current ~~city~~hawkers and peddlers license and proof that they are a disabled veteran as defined in section 11-1.

(2) Vendors shall disclose general scope of sales.

Approved permits and assigned locations shall be chosen by sealed bid procedure by the ~~city's~~city's purchasing department, ~~city~~ on or before the first business day in February, 9:00 a.m., of each year.

(c) Sealed bid procedure will be as follows: Sealed bids will be submitted to the ~~city's~~city's purchasing department, ~~city~~, following public notice and from the first secular day in January to the last business day in January, each year. Further, all bids received to be opened by the purchasing department, will be accompanied by a certified or cashier's check in the amount of the bid, payable to the city. Unsuccessful bidders' checks will be returned immediately following the bid opening. The sealed bid will be date and time stamped in the purchasing department. The purchasing department will open the sealed bids and if there is a tie between two or more vendors on the bid amount, then the bidder/vendor who is a disabled veteran shall be given preference over all other bidders provided they meet all other bid requirements.

#### Sec. 11-6. - Conduct of business

(5) All hawkers and peddlers, except those permitted for a fixed location by the licensing commission under section 11-3 or those permitted by the special events committee under section 11-10, shall be moving at all times other than when servicing a customer. For vendors on foot or animal, moving shall be walking in a normal manner along a street, path or way with all goods, wares, merchandise or services. For vendors operating from vehicles, moving requires the vehicle to be driven along a street, path or way, stopping only to service customers and allow traffic to pass.

(6) No one shall sell or offer for sale on any public street, way or public place in the city, within 2,000 feet of any school in the city, between the hours of 8:00 a.m. and 4:00 p.m. on days when ~~the school~~ of the city are in session.

#### Sec. 11-7. - Business prohibited between certain hours.

(b) Door-to-door solicitations require pre-approval by the chief of police; no door-to-door vendor shall sell or offer for sale their goods, wares services or merchandise door-to-door after 6:00 p.m.

The usage of all public parking spaces must adhere to the Code of Ordinances and shall be allowed during business hours only.

(c) Fixed vendors may continue to sell or offer for sale their goods, wares, services or merchandise from their fixed locations during special events.

#### Sec. 11-9. - Revocation and expiration of permit.

(a) Any permit granted by the licensing commission and/or the city clerk's office under this ~~section~~chapter may be revoked by the licensing commission and/or the city clerk's office for good cause after reasonable notice to the permittee and a hearing upon the grounds of the revocation. Any permittee who violates any provisions of this article on three occasions shall be deemed to have provided sufficient cause for revocation of that

permit. Unless sooner revoked, any permit granted by the licensing commission under this section shall be valid for the stated period and upon ~~or~~ expiration ~~of any permit, such permit,~~ shall revert to the city licensing commission.

(b) The enforcing agent shall be the police department, the health department and/or the building department. Said enforcing agent shall have the authority to issue tickets with fines consistent with this chapter.

(c) The police department, ~~the health department and/or the building department~~ shall have the authority to remove, and/or shut down ~~or arrest~~ vendors who are in violation of this chapter; the police department shall also have the authority to arrest vendors who are in violation of this chapter.

Sec. 11-10. ~~Fixed~~ Special events; transient vendors ~~during special events~~; parades.

(a) There shall be a Special Events Committee comprised of the following city staff: the city clerk or his designee, the building inspector or his designee, the department of public works director or his designee, the chief of police or his designee, the fire chief or his designee, the emergency medical services director, the health department food inspector, the harbormaster or his designee and the community development director or his designee. The Committee shall meet monthly and shall post notices of its meetings.

(b) The Special Events Committee shall review all special events applications and shall assist applicants with any necessary approvals including approvals by the city council. The Committee may in its own discretion refer any application to the city council for consideration. If city council approval is required due to the proposed closure of any road, the application shall be referred directly to the planning & development committee who shall have the authority to approve the special event permit.

(~~ac~~) ~~Vending from fixed locations, other than those specified in section 11-5 may be granted by the licensing commission, upon recommendations made by event organizers. City sanctioned~~ Special events/parades shall be designated with restricted vending areas based on public safety considerations. Transient vendor permits shall be approved by the city clerk's office and the chief of police. For the purpose of this article, special events/parades shall be limited to:

- (1) Fishtown Horribles Parade.
- (2) St. Peters Fiesta Procession.
- (3) Labor Day fireworks.
- (4) First Night Celebration/Middle Street Walk.
- (5) Gloucester Schooner Festival.
- (6) Sidewalk Bazaar.
- (7) Downtown block parties.
- (~~5~~8) All annual city council approved events.

(~~bd~~) No vending ~~will~~shall be allowed on the Memorial Day Parade route.

(~~ee~~) No vending ~~will~~shall be allowed within 300 feet of a cemetery within the city during Memorial Day or other special observance ceremony.

(~~df~~) The Special Events Committee and/or the licensing commission may recommend and the City Council may approve additional special events, parades relevant to this section.

(~~eg~~) ~~Thirty~~Forty-five days prior to any event, the event organizing committee shall submit their application for a special event permit, an application for transient vendor permits and a list of ~~fixed vending locations along~~said transient vendors along with all

~~applicable application fees with their specific permit to for the city clerk's office for referral to and review by the licensing commission special events advisory committee for approval. Fixed locations shall be within the restricted areas relevant to the event as approved by the licensing commission.~~

~~(f) Notwithstanding subsections (d) and (e) there shall be a Special Event Advisory Committee comprised of the following city staff: the city clerk, the building inspector, the assistant department of public works director, the assistant chief of police, the assistant fire chief, the emergency medical services director, the health department food inspector, the harbormaster and the community development tourism manager. The committee shall review all special events applications and shall assist applicants with any necessary approvals including approvals by the city council as referenced in section 11-10(a)(5). If city council approval is needed, the application shall be referred directly to the Planning & Development Committee who shall have the authority to approve the special event permit. The Special Event Advisory Committee shall meet monthly and shall post notices of its meetings.~~

Sec. 11-11. — ~~Special event permit; transient vendor permit required~~; fee.

~~Permits will be issued to approved fixed vendors within the restricted areas of special events by the licensing commission. The fee for a permit issued shall not exceed \$100.00.~~

~~(a) Permits shall be issued for the special event/parade date and/or rain date only in each calendar year by the special events committee.~~

~~(b) Permits shall be issued for one transient vendor in one location and cannot be duplicated or transferred.~~

~~(c) All applicants for permits must complete applications provided by the city clerk's office and the police department and pay all application fees to the special event organizer prior to receipt of a permit.~~

~~(1) Site specific vendor submitting photograph and application receives two free badges. For each additional badge, the cost will be: \$25.00 per badge.~~

~~(2) Special event vendor submitting photograph and application receives one free badge. For each additional badge, the cost will be: \$25.00 per badge.~~

~~Sec. 11-12. — Special event permit fees for fixed vending locations.~~

~~Fees generated by the issuing of permits for fixed vending locations relating to special events listed in section 11-10, shall be paid directly to the events organizing/sponsoring committee for the event, subject to all limitations as stated in the vending ordinance or as shall be, at any time, enacted by the city council.~~

Sec. 11-1~~2~~3. - Books, magazines and other publications; licensing, registration required.

Before doing any business in the city, any hawker, peddler or transient vendor of magazines, publications, books, or magazine or book subscriptions must be duly licensed by the director of standards of the commonwealth. Furthermore, such a hawker, peddler or transient vendor must record his name and residence with the chief of police of the city and receive a record number and a solicitor residence with the chief of police of the city, which must be carried on his person at all times, in addition to any permits/licenses issued by the licensing commission or director of standards.

Sec. 11-1~~3~~4 (“4” is struck). - Meats, butter, certain other food products—Licensing.

(a) *Required; exception.* Before selling any meats, butter, cheese, fish and fresh fruit or vegetables, any hawker, peddler or transient vendor must either be duly licensed by the director of standards of the commonwealth or permitted by the licensing commission;



provided, however, that this section shall not apply to any person who peddles only fish obtained by his own labor or his family or to any person who peddles only fruits, vegetables or other farm products produced or raised by himself or his family.

(b) *Qualifications of applicant; inspection, sealing of weighing, measuring devices.* The licensing commission shall have authority to grant a permit under this section to any person of good moral character. No such permit shall be issued until a certificate from the sealer of weights and measures stating that all weighing and measuring devices intended to be used have been duly inspected and sealed. The health department shall have authority to grant a food permit under this section for all food (including meat, butter and cheese) except fish, fruits, vegetables and honey.

(c) *Fee; issuance.* Any permit issued by the licensing commission under this section shall be issued by and signed by the city clerk, as clerk of the commission, upon payment of a permit fee ~~of \$54.00~~. Every hawker, peddler and transient vendor, so permitted shall be assigned a number by the city clerk, who shall keep a record of all permits issued.

Sec. 11-1~~45~~<sup>46</sup>. - Same—Inspection of products.

Any meats, butter, cheese, fish and fresh fruit or vegetables offered for sale by ~~any hawker, peddler or transient a~~ vendor must be inspected by the ~~board of~~ health department.

Sec. 11-1~~56~~<sup>57</sup>. - Same—Penalty for possession, use of unsealed or false weighing or measuring device.

Any hawker, peddler or transient vendor of any meats, butter, cheese, fish and fresh fruit or vegetables who use, or possesses with intent to use, any false, condemned or unsealed weighing or measuring device shall be subject to a penalty not to exceed:

(1) \$50.00 for each use or possession of a false or condemned measuring device;  
and

(2) \$20.00 for each use of an unsealed measuring device.

Sec. 11-1~~67~~<sup>68</sup>. - Temporary permits to sell articles for charitable purposes.

The licensing commission shall, under such conditions as it may deem proper, grant to any organization engaged exclusively in charitable work, or to a part of any incorporated organization of veterans who served in the military services of the United States in time of war or insurrection, a special permit authorizing it, upon a particular day and for a charitable purpose named in such permit, to sell, through its accredited agents in the streets and other public places within the city, or in any designated part thereof, flags, badges, medals, buttons, flowers, souvenirs, and similar small articles; provided that no person under age 16 years of age shall be accredited as such agent, that each agent shall wear in plain sight while engaged in selling such articles, a badge provided by such organization or post and approved by the licensing commission, bearing upon it the name of such organization or post the date on which the permit is to be exercised, and that no such agent shall be authorized to make or attempt to make such sales in front of any private premises against the objection of the owner or occupant thereof. The exercise of the permits hereby provided for shall be subject to the provisions of all statutes, ordinances, bylaws, rules and regulations not inconsistent herewith. ~~The fee for such a permit shall be \$5.00.~~

Sec. 11-17. - Violations; fines.

(a) Penalties for failure to adhere to this chapter shall be as follows:

- (1) The penalty for the first violation shall be a written warning.
- (2) The penalty for the second violation shall be \$50.
- (3) The penalty for the third violation shall be \$100.
- (4) The penalty for the fourth and subsequent violations shall be \$200.
- (5) Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(b) Further, any event organizing committee found to have misrepresented the number of transient vendors or failed to include all transient vendors in the list of transient vendors required under section 11-10 may be fined under subsection (a)(4) of this section, shutdown or barred from holding said event in the future.

### **ARTICLE III. -- TRANSIENT VENDORS**

~~Sec. 11-18. -- Application.~~

~~Every person before commencing business as a transient vendor within the city shall file with the chief of police, on a form issued by the police department, a written application signed under the penalties of perjury containing the following information:~~

- ~~(1) Name of applicant.~~
- ~~(2) Address of applicant.~~
- ~~(3) Applicant's height, weight, eye and hair color.~~
- ~~(4) Applicant's social security number.~~
- ~~(5) The length of time for which the right to do business is desired.~~
- ~~(6) A brief description of the nature of the business and the goods to be sold.~~
- ~~(7) The name and home office address of the applicant's employer. If self-employed, it shall so state.~~
- ~~(8) If operating a motor vehicle: the year, make, model, registration number and owner's address.~~

4. PH2019-013 Amend GCO 2 "Administration", Sec. 2-429; Ch. 3 "Amusements" Sec. 3-30; Ch. 4 "Animals", Sec. 4-16(a); Ch. 6 "Cemeteries", Sec. 6-4; Ch. 12 "Marshlands" Sec. 12-23 and 12-24"; Ch. 13 "Noise", Sec. 13-2; Ch. 14 "Offenses and Miscellaneous Provisions", Sec. 14-13 and 14-16; Ch. 18 "Schools", Sec. 18-6; Ch. 19 "Secondhand Goods", Sec. 19-53; Ch. 21 "Streets, Sidewalks and Other Public Places", Sec. 21-87; Ch. 22 "Traffic and Motor Vehicles" Sec. 22-1 Sec. 22-2, Sec. 22-56, Sec. 22-57, Sec. 22-58, Sec. 22-59, Sec. 22-60, Sec. 22-61, Sec. 22-64, Sec. 22-90, Sec. 22-92, Sec. 22-93, Sec. 22-94, Sec. 22-93; Ch. 23 "Utilities", Sec. 23-19

**This public hearing opened at 9:34 p.m.**

**Those speaking in favor:**

**Mr. Payson** conveyed that before the Council is the second and final round of the Municode Code of Ordinances changes. The first changes made last year were "low hanging fruit" with little or no drafting involved. These changes required some minimal drafting of new language or amending of language. He touched on the engagement of Municode which is the website company that houses the city's Code of Ordinances, and the Zoning Ordinance for a top to bottom review, and then made recommendations how to tweak the city's Ordinances so that they are up to date and in compliance with state and federal law.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:35 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend



the Code of Ordinances as presented through a memorandum from General Counsel dated January 10, 2019, pages 1 through 18.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to Amend the Code of Ordinances as presented through a memorandum from General Counsel dated January 10, 2019, pages 1 through 18.**

**Other Business:**

**1. Discussion of procedure for the City Council's confirmation of the Police Chief candidate**

**Council President Lundberg** conveyed the following information: The Council passed a revision to the ordinance last year governing the selection of the Police Chief, and that (selection) process is about done. The Mayor is considering two finalists, and she will come forward to recommend the final candidate. The revised ordinance now in place was noted in part. Councilor Cox, Chair of B&F, and Councilor LeBlanc, Chair of O&A, and he have discussed that it would have been B&F reviewing the contract and O&A reviewing the appointment. Instead of Councilors and the final candidate for Police Chief attending two meetings, when the Council knows there are a final candidate and a contract, they will refer these two matters to the Committee of the Whole. The Council will sit as a Committee and ask questions of the candidate and the Administration on the contract at a Special Meeting.

He noted that he'd circulated some vetted questions the Council may want to ask of the final candidate. The meeting of the Committee of the Whole won't be a public hearing; he pointed out, and encouraged members of the public to submit their questions to Councilors or to the City Clerk to be asked at the meeting.

**Councilor Cox** advised that the most fair and equitable way to go about this process was to convene a Committee of the Whole and not have multiple Standing Committee meetings. She asked that each Councilor ask one question at a time, move to the next Councilor until all have asked one full round of single questions, and then return to the first Councilor and ask a second round of individual questions, and so on.

**Councilor LeBlanc** expressed his understanding of the question methodology. This is an Administrative hiring and a confirmation through the Council, he pointed out. If they're going to ask questions, he suggested that the questions need to be submitted first to Human Resources Director to ensure they are appropriate to be raised in a public venue and that there needs to be guidelines as to the kinds of questions that can be asked. **Council President Lundberg** noted that he had circulated questions several months ago to the Council that were all based on the MRI Report so if there are other questions, he agreed they should be vetted.

**Mr. Destino** suggested that this should be handled as they do for any other department head, with "general decorum." Because of the timing of this appointment, the Administration is managing their money in the Police Department FY19 budget; the new Chief could start in FY19 and be paid with budgeted funds. The "real" funding, he pointed out, will be in the next fiscal year cycle -- confirmation may be first and the funding may be discussed and then voted on through the FY20 budget process. **Councilor Cox** advised this makes good sense so that the candidate doesn't come before multiple committees if they don't need a funding request for FY19.

**Council President Lundberg** noted that he and Mr. Destino briefly discussed they would hold a Special Council meeting for the Committee of the Whole and will work out the date. **Mr. Destino** noted the final interviews were yesterday, and it is hoped for a decision very soon.

**Councilor Memhard** expressed appreciation to Mr. Destino and Ms. Krawyck for circulating interview videos of the candidates terming it, "helpful insight." **Mr. Destino** noted an additional exercise before the Mayor and he had the final interviews yesterday. They had the Committee and key department heads sit down with the candidates to have a discussion not only about interaction through their departments with the new Chief but how they work as a team, which he termed as a successful and worthwhile process.

**Councilor Hecht** clarified the Council question process at the Committee of the Whole meeting with **Council President Lundberg**.

**Councilor Cox** expressed concern for scheduling with the budget season coming forward. **Mr. Destino** noted that the Administration has to offer the job to the candidate, negotiate the contract, and then put forward the candidate for confirmation. One candidate is from out of state, and each candidate has a different scenario when they would be able to start the job in the city. It is hoped to wrap this up before the budget review starts, he added.

**For Council Vote: None.**

**Unfinished Business: None.****Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:**

**Update of the Waterways Board by City Council Representative, Councilor Steven LeBlanc**, who highlighted the following matters:

- Several members of the Waterways Board were recently before O&A for reappointment.
- The Harbormaster will go before the Seaport Economic Council tomorrow for \$1 million grant to fund the Harbormaster's Office building renovation.
- Mooring and mooring float permitting is now entirely on line.
- The building and installation of kayak racks at strategic points in the city is starting this year at different public landings.
- Plans are being finalized with the Army Corps of Engineers for the dredging of the Annisquam River.
- Preparation for the upcoming boating season is underway -- it is anticipated that this year will be the busiest season yet for the city's waterways and the Harbormaster's Office.
- Marketing of the city's water sheet amenities is continuing through Discover Gloucester.

**Councilors' Requests to the Mayor:**

**Councilor Memhard** announced that from March 17 to March 19 is the International Seafood Expo in Boston.

**Councilor Cox** noted that Thursday, Feb. 28 she will take her turn as the celebrity bartender at the Cape Ann Brewery, benefitting Cape Ann Animal Aid.

**Councilor LeBlanc** expressed his appreciation for a great City Council meeting.

**Councilor Hecht** noted that on Feb. 28 there is a Harbormaster's building design meeting; and touched on the designing and installation of wrought iron planters for Main Street.

**Councilor Gilman** expressed appreciation for the DPW's efforts working in conjunction with National Grid for cutting back vegetation and trees from power lines to prevent outages. She mentioned on March 12 at the Council meeting the Essex North Shore Superintendent and the Business Manager will be making a presentation to the Council.

**Councilor O'Hara** announced another blood drive at the Magnolia Library on March 11 (call 1-800-Red-Cross).

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:00 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*

**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:****PH2019-011 Written Statements:**

- Alicia Pensarosa, 38 Derby Street
- Maureen Vallis, 2 King Philip Road
- Jennie Meyer, 15 Great Ledge Lane
- Deborah Cramer, 318 Concord Street
- Julie Wyman, 947 Washington Street
- Catherine Ryan, 17 High Rock Road
- Hazel Hewitt, 16 Haskell Street
- Linda Brayton, 527 Washington Street
- Peter Cooney, 36 Warner Street - Photograph of Good Harbor Beach, 5/4/18