

**CHARTER COMMISSION MEETING  
TUESDAY, FEBRUARY 23, 2010 – 7 P.M.**

**Chair Ladakakos opened the regular meeting at 7:00 p.m., in the High School Cafeteria. The following members were in attendance:**

**John Bird  
William Gombar  
Tianna Higgins  
Paul Ladakakos  
Ronald Regis  
Michael Vallante  
Jerome Begert  
Laura Bolduc, excused absence  
Jayne Flaherty, excused absence**

**The members of the Charter Commission and members of the audience stood with a Pledge to the Flag.**

**Chair Ladakakos recognized Jerome Begert as the new Town Council appointment, replacing Kenneth Blow, who had resigned.**

**Chair Ladakakos asked for a motion to accept the minutes of the February 9, 2010 meeting.**

**Vice-Chair Bird made a motion to approve the minutes, seconded by Commissioner Vallante.**

**VOTE: Unanimous**

**Chair Ladakakos stated that at each meeting one Charter Commission member will read the sections, going sentence by sentence. Commissioner Higgins did it last time, and Chair Ladakakos stated he would read them tonight.**

**Chair Ladakakos read section 407. There were no comments.**

**Chair Ladakakos read section 408.**

**Commissioner Regis mentioned “under this Charter” should be included in the sentence, “...except as otherwise herein specifically provided [under this Charter]...”**

**Commissioner Higgins thought that was covered under “otherwise herein specified”, already in the Charter.**

**Chair Ladakakos read section 409 and 409.1. He stated the whole section needs a lot of work.**

**There was discussion regarding the qualifications of the Town Manager.**

Commissioner Gombar stated that will be in Article V.

Commissioner Higgins said that will change if the position of Town Manager changes.

Commissioner Regis stated, under 409.1, the word “administrative” should be added in the sentence, “The Town Council shall appoint an [administrative] officer of the Town...”

Vice-Chair Bird mentioned the word “employee” instead of “administrative officer”. Vice-Chair Bird then stated he would like to add “after the examination of the qualifications of all applicants” in the following sentence: The Council [after the examination of the qualifications of all applicants] shall appoint the Town Manager for a six (6) month probationary period...”

Commissioner Gombar thought they needed to look at the process as a whole instead of putting it in piece meal, advising it would muddy the waters.

Vice-Chair Bird also questioned the verb “appoint” vs. “hire”.

Commissioner Vallante stressed the importance of doing a Town Manager evaluation. The Town Manager should get a written statement a year before the evaluation so he knows what is expected of him.

Vice-Chair Bird mentioned the word “shall” being changed to “may” in the sentence, “After the probationary period, the manager shall [may] be given a two (2) year contract...” and the wording changed to “a two (2)-year contract of not more than two (2) years duration. ”

Chair Ladakakos brought up the issue that the recorder was not working this evening. The Town Clerk advised the recorder was borrowed from the Planning Department, and the exterior microphone wasn’t included. The microphone in the recorder was not picking up any voices.

There was discussion on the fact the Charter Commission has to have its own voice recorder.

Vice-Chair Bird made the motion, seconded by Commissioner Begert to authorize the Town Clerk to purchase a voice recorder.

**VOTE: Unanimous.**

Chair Ladakakos then read section 409.2.

Vice-Chair Bird stated that if the number of Councilors is increased, all of the numbers of Councilors reflected in this section will need to bump up to four.

Commissioner Vallante stated the Charter should be gender neutral. In this section, “to him” and “his” should be deleted: “...but the regular salary of the manager shall continue to be paid to him during the period of suspension. If removal is voted, the Town Manager shall be paid any unpaid balance of his salary to the date of removal”.

**Commissioner Regis stated he believes if the Town Manager is suspended, the salary should still be paid “unless gross negligence is involved”.**

**Vice-Chair Bird inquired in the last sentence, “...shall be paid any unpaid balance of his salary to the date of removal”, what the unpaid balance would be.**

**Commissioner Vallante thought that would include sick days, vacation and comp days.**

**Commissioner Gombar mentioned that what if he left on a Tuesday, but pay day wasn’t until Thursday, it would cover those days.**

**Vice-Chair Bird said the words “the two year term” should be crossed out in the second paragraph and the words “the contract term” added to read: “...nonrenewal of the contract of the Town Manager at the end of [the contract term] ~~the two-year term~~ which may be done by majority vote of the Council...”.**

**Chair Ladakakos read section 409.3a.**

**Commissioner Regis mentioned the Town Manager recommends, but the Town Council actually votes on the person.**

**Commissioner Gombar stated the Town Council confirms the Town Manager’s choice.**

**Vice-Chair Bird mentioned there wasn’t a Director of Public Safety any longer, and that should be changed to the Police Chief and Fire Chief.**

**Commissioner Regis stated that none of the positions mentioned in the Charter have job descriptions but the Town Manager.**

**Commissioner Vallante thought in fairness that all should have job descriptions in the Charter.**

**Commissioner Gombar said that maybe in the Charter, the Town Council should do the job description.**

**Vice-Chair Bird mentioned that we have a plumbing inspector and electrical inspector, but they aren’t mentioned in the Charter.**

**Commissioner Higgins said the job description of the Code Enforcement Officer should include Plumbing and Electrical Inspector.**

**Chair Ladakakos stressed the importance that appointees have the education needed to perform their job.**

**Commissioner Vallante stated there should be a short statement regarding qualifications.**

**Vice-Chair Bird recommended an addition to the last sentence, “...shall be appointed [upon nomination] by the Town Manager, ~~subject to confirmation~~ by the Town Council,**

[and the Town Council may reject any nominations whereupon the Town Manager shall provide another nominee for the position].

Commissioner Gombar thought “another nominee” should be changed to “replacement nominee”.

Commissioner Regis added they should also include “after examination of the qualifications” at the end of the 409.3a.

Chair Ladakakos read 409.3b.

Vice-Chair Bird inquired as to whether intergovernmental groups like the Transit Committee, should be included in the Charter.

Commissioner Higgins was concerned about including those types of transitory committees that may be disbanded in five years.

Commissioner Regis stated that “all other nonelective statutory and advisory officers, boards, commission and committees” already covers that area.

Vice-Chair Bird recommended removing “under paragraph B” from the sentence, “The Town Council may remove any of its appointees ~~under paragraph (b)~~ above...”

Commissioner Gombar was concerned about removing employees from the Town Manager’s purview—that it needs some pondering. He then mentioned the possibility of interjecting a paragraph to have the Town Council create job descriptions for each position, and Commissioner Vallante voiced agreement. Commissioner Gombar also mentioned maybe having the Town Manager create the job descriptions and having the Town Council approve them, placing that under the Town Manager’s job description.

Commissioner Vallante stated that both the job description and the qualifications should be included, with Chair Ladakakos voicing agreement.

Chair Ladakakos read section 409.4.

Commissioner Regis stated there were people that were receiving stipends for jobs other than the job they were hired for, i.e. the Fire Chief receiving a stipend for being responsible for the television.

Vice-Chair Bird thought they should not put in the Charter that the Fire Chief shall be the appointed officer responsible for the television work. He also felt that such changes should be by resolutions or order, not by ordinance.

Commissioner Begert felt that the Town Council has flexibility to assign duties unless dictated in the Charter, and it should not migrate.

Vice-Chair Bird said the last sentence should be removed: ~~“Subject to any provisions of this Charter to the contrary, the Council may, however, vest in the Manager all or part of the duties of any office except the Department of Education.”~~

**Commissioner Higgins was concerned about removing the ability to hold any other jobs in the municipality.**

**Commissioner Regis stated the qualifications need to be in the Charter. He used an example that if the Waste Water Treatment Plant Superintendent left, the Town Manager should not be able to take on that responsibility unless he has the qualifications. Vice-Chair Bird and Commissioner Vallante concurred.**

**Commissioner Begert recommended adding limiting language. Place in the Charter what they can't do, but leave the flexibility to the Town Council.**

**Chair Ladakakos read section 409.5.**

**Vice-Chair Bird wants to add, "Ordinances may only be established for purposes of maintaining and fostering public health and safety of the townspeople". He would like the attorney to advise if he believes there may be any other reason to have an ordinance.**

**Commissioner Higgins felt this was the Town Council's job.**

**Chair Ladakakos read section 409.6.**

**Commissioner Regis inquired if this section pertained to the Town Council or Town Manager.**

**Commissioner Higgins stated it pertains to the Town Council.**

**Vice-Chair Bird thought the Town Council should be able to inquire as individual members or as a whole.**

**Commissioner Vallante stated this opens a lot of issues.**

**Commissioner Regis was concerned that any Town Councilor will do this at any time.**

**Commissioner Higgins stated that it depends on the inquiry.**

**Commissioner Begert said this annunciates the power of the Town Council vested in them by the voters. He believes that if a resident asks a question, the Town Council should be able to ask the department involved that question. He was concerned about weakening the sentence, and allowing for renegade employees.**

**Chair Ladakakos stated there was a department head that was terminated in the past, and he wants to know how to prevent a department head being arbitrarily terminated. He believes the Town Council has too much power with Department Heads.**

**Vice-Chair Bird said the Town Council should have the authority to look into any department to make sure they're doing their job.**

**Commissioner Vallante was concerned about individual councilors making inquiries and circumventing the manager of that department.**

**Vice-Chair Bird said they should go to the department heads first.**

**Commissioner Regis said the Town Council should be going through the Town Manager when dealing with departments.**

**Commissioner Gombar thought all inquiries should be made in a public session instead of going to the office of a department head.**

**Commissioner Begert said the department head should be offered the option of having the questions in public or private.**

**Chair Ladakakos said if it's a personnel issue, it should be in executive session, and include the Town Manager and the person the issue is in reference to, and air it out. He is against any Town Councilor making inquiries alone.**

**Commissioner Higgins stated that just like any citizen, they can inquire, but the department head doesn't have to answer.**

**Commissioner Begert directed a question to Gary Curtis, a resident and elected member of RSU #23, asking him if he would prefer someone to call him or have to answer questions in a public meeting.**

**Gary Curtis responded that if it involved harassment and intimidation, he wouldn't want that to happen. The Town Manager is their filter and conduit to the rest of the employees. The Town Manager is there, and the Town Council should be making use of him.**

**Commissioner Begert was concerned that if the Council can only ask the Town Manager the question they need answered immediately, and the Town Manager was on vacation, and the Assistant Town Manager was sick, who would they ask, the Town Clerk?**

**Commissioner Vallante stated this section is regarding inquiries and felt these scenarios were going beyond that scope. Maybe they should add something in the Charter that after asking the same question two or three times, a different way of dealing with it should kick in.**

**Chair Ladakakos read section 409.7. There were no comments.**

**Chair Ladakakos read section 409.8.**

**Commissioner Vallante stated he felt the word "restrict" was unnecessary.**

**Commissioner Higgins stated it was already regulated in 409.5. Why does the Charter need to go into specifics?**

**Commissioner Gombar was concerned that it gives the legal authority to create zoning rules.**

**Commissioner Begert said it also gives the Town Council the authority to create a Comprehensive Plan Committee.**

**Chair Ladakakos read 409.9.**

**Commissioner Regis was concerned that the Town has an ordinance where people cannot stay in accommodations of under 900 square feet for more than 30 days, but people were doing that, and it's costing the Town a lot of money in the school system.**

**Commissioners Begert and Gombar felt this section may be a state mandate.**

**Vice-Chair Bird said they should re-do section 409.9 to read that they will "provide for shelters in cases of emergencies", and remove the current wording.**

**Chair Ladakakos stated the Charter Commission needs to refer sections 409.8 through 409.11 to the Town Attorney for clarification, inquiring as to why they are currently in the Charter.**

**Chair Ladakakos read 409.12.**

**Vice-Chair Bird said they should remove that section if possible.**

**Commissioner Gombar was concerned that this section gives the Town Council authority, with Commissioner Vallante concurring.**

**Section 409.12 will also be referred to the attorney.**

**Chair Ladakakos read section 409.13. There were no comments.**

**Chair Ladakakos read section 409.14.**

**Commissioner Vallante said they should add "person" to the end of the sentence, so the sentence should read, "...by law to any official of the Town or to any statutory or advisory board, commission, committee, or person".**

**Vice-Chair Bird wanted to add that the Town Council may set policies under which the Town Manager and the Department Heads shall operate and conduct affairs of the Town.**

**Commissioner Higgins agreed with the Town Manager part, but wasn't sure about the Department Heads.**

**Commissioner Regis felt that monies being brought into the town for a specific performance should be used for that purpose only, i.e. sewer impact fees should only be allowed to be used for waste management, and not be placed in the general fund.**

**Commissioner Gombar said that would not be placed under this section, that the Charter Commission will get to that part later.**

**Chair Ladakakos read section 409.15.**

**Chair Ladakakos felt that section should remain.**

**Commissioner Gombar thought that personal property, in small dollar amounts, should be allowed to be sold via electronic auction, instead of requiring the sealed bid process—possibly using the cut off amount of \$2,000.**

**Chair Ladakakos read section 409.16.**

**Commissioner Vallante said there should be clear, specified procedures for the Town Council placing property out to bid. They need to look at this carefully.**

**Commissioner Higgins thought they should look at other municipal Charters and see how they handle selling tax acquired property.**

**Members agreed that the part that refers to the referendum vote being required for leasing real property for more than three years or selling real property, should remain.**

**Commissioner Regis felt that was placed in the Charter because of the Ballpark, and should remain.**

**Vice-Chair Bird said there should possibly be an addition after the words “referendum vote”—“or, in case of condemnations, sold to any other than the original owner without first offering it to the original owner for the price paid minus any expenses incurred by the original owner because of the condemnation”.**

**Commissioner Gombar concurred, stating he originally brought that up after a Connecticut court case. He wants to ensure that if the Town Council takes property, that if they don’t use it for the intended purpose, they must sell it back to the original owner for the original cost.**

**Commissioner Vallante thought they should strike the last sentence, stating he was concerned that the Town Council can “in its discretion, accept or reject any or all bids”. He feels they should not be allowed to do that—maybe adding in a clause that they have to give the losing bidders a reason behind their decision, so it is not made arbitrarily.**

**Commissioner Begert stated that is the same as the procedure banks use to reject bids.**

**Commissioner Vallante said that this is a municipality, not a bank, and there needs to be procedures or guidelines so everyone knows the rules.**

**Commissioner Higgins said it may be in state law, and agreed that they should show just cause as to why they did not choose the low bidder.**

**Chair Ladakakos was concerned about the sealed bid process, stating that all bids should go through a central repository, like the Town Hall. He stated in the past 20-30 years, others have gotten a hold of the sealed bids and underbid others.**



**Commissioner Begert stated that in the private sector they use the right to reject any and all bids—maybe they can't perform the job. They also use credit checks.**

**Commissioner Higgins felt they should define “discretion”.**

**Chair Ladakakos added there should always be a Clerk of the Works, hired by the Town to protect the Town's interests. He was concerned that if an inspector works for the hired contractor, they will only be looking out for the contractor's interests and not the Town's.**

**Chair Ladakakos then stated at the next meeting the Charter Commission will begin with 410.**

**The meeting ended at section 409.16. Section 410 will start the next workshop.**

**The meeting was adjourned at 9:15 p.m.**

**Respectfully Submitted.**

**Kim McLaughlin  
Town Clerk**

**I, Kim McLaughlin, Town Clerk of Old Orchard Beach, do hereby certify that the foregoing document consisting of nine (9) pages is a true copy of the original Minutes of the Charter Commission Meeting held February 23, 2010.**

**Kim M. McLaughlin**