

CHARTER COMMISSION MEETING
TUESDAY, JANUARY 25, 2011 – 7 P.M.

Chair Gombar opened the regular meeting at 7:00 p.m., in Town Hall, Council Chambers. The following members were in attendance:

Jerome Begert
John Bird
William Gombar
Ronald Regis
Michael Vallante
Jayne Flaherty [excused absence]
Tianna Higgins [excused absence]

The members of the Charter Commission stood for a Pledge to the Flag.

Town Clerk, Kim McLaughlin, read Attorney Vaniotis's answers to Question #1 and #2:

Question 1. In reading Section 702 of the Charter, how do you interpret when the Public Hearing occurs in the process? Can it be set up to have two public hearings?

Answer: Under the current language of Section 702, the public hearing needs to occur sometime between when the Manager submits the budget and when the Council votes on the budget. The Charter could be revised to require two public hearings, in which case it should be specific about the timing of the two in relation to one another. Keep in mind that under the current language the Council always has the option of holding public hearings in addition to the one required by the Charter.

Question 2. Since the beginning of the Fiscal year begins July 1st, is it possible to place wording in the Charter that the last day the Town Council can work on the budget is May 30th, and there is a month buffer zone if there is a problem?

Answer: The Charter could impose an earlier deadline on the Council, but I am not sure I understand why that would be an improvement over the current system. The "hard" deadline is the beginning of the fiscal year, and it seems prudent to allow the Council up until that time to deal with the budget for the forthcoming fiscal year. To require the Council to stop work on the budget by May 30th would limit the

ability of the Town to deal with both information and circumstances which might change during that last 30 days.

Commissioner Begert stated he spoke with a Town Councilor who thought that May 30th was too long of a time. The Councilor was concerned about when the school budget arrived, stating that hedging their bet on the school budget may cause an unnecessary tax increase. He further stated the Councilor recommended a two-week buffer, just in case time was needed to break a tie.

Commissioner Regis stated the Town Council already has that option.

Vice-Chair Bird stated he was concerned about leaving the Town Manager's budget as the default budget.

Chair Gombar read Section 702.1:

“Sec. 702.1. An exact statement of the financial condition of the Town including all dedicated and undedicated fund balances;”

Commissioner Regis motioned, seconded by Commissioner Vallante, to accept Section 702.1 as currently written in the Charter.

VOTE: Unanimous.

Chair Gombar read Section 702.2:

“Sec. 702.2. An itemized statement of appropriations recommended for current expenses, and for permanent improvements with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the two preceding fiscal years. An increase or decrease in any items shall be indicated;”

Commissioner Regis motioned, seconded by Vice-Chair Bird, to accept Section 702.2 as currently written in the Charter.

VOTE: Unanimous.

Chair Gombar read Section 702.3:

“Sec. 702.3. An itemized statement of estimated revenue from all sources, other than taxation; a statement of taxes required and comparative figures from the previous and next fiscal year;”

Commissioner Regis motioned, seconded by Commissioner Vallante, to accept Section 702.3 as currently written in the Charter.

VOTE: Unanimous.

Chair Gombar read Section 702.4:

“Sec. 702.4. Such other information as may be required by the Town Council.”

Commissioner Begert motioned, seconded by Vice-Chair Bird, to accept Section 702.4 as currently written in the Charter.

VOTE: Unanimous.

Chair Gombar read Section 703:

“Sec. 703. Budget Establishes Appropriations.

From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies, departments and purposes therein named.”

Commissioner Begert motioned, seconded by Commissioner Regis, to accept Section 703 as currently written in the Charter.

VOTE: 4-1 (Vice-Chair Bird against).

Chair Gombar read Section 704:

“Sec. 704. Budget Establishes Amount to be Raised by Property Tax, Certification to Town Assessor.

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Manager and filed with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year. A copy shall also be filed with the Town Clerk.”

Commissioner Regis motioned, seconded by Vice-Chair Bird, to amend Section 704 as follows:

“Sec. 704. Budget Establishes Amount to be Raised by Property Tax, Certification to Town Assessor.

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Manager and filed with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year. A copy shall ~~also~~ be filed, concurrently, with the Town Clerk, and posted on the Town website, along with the budget summary.”

VOTE: Unanimous.

Chair Gombar read Section 705:

“Sec. 705. Budget Summary.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax. The budget summary shall also be itemized by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.”

Commissioner Regis motioned, seconded by Commissioner Vallante to accept Section 705 as currently written in the Charter.

VOTE: Unanimous.

Chair Gombar read Section 706:

“Sec. 706. Expenditures and Departmental Revenue.
The budget for all departments, including the Department of Education, shall include all proposed expenditures. The Town Council shall make a gross appropriation for each department, including the Department of Education, for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent of the Council and subject to the provisions of Section 708. The Department of Education budget shall be expended under the direction and control of the School Board.”

Vice-Chair motioned, seconded by Commissioner Vallante, to amend Section 706 by deleting the references to the Department of Education, and to delete the last sentence as follows:

“Sec. 706. Expenditures and Departmental Revenue.
The budget for all departments, ~~including the Department of Education,~~ shall include all proposed expenditures. The Town Council shall make a gross appropriation for each department, ~~including the Department of Education,~~ for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent of the Council and subject to the provisions of Section 708. ~~The Department of Education budget shall be expended under the direction and control of the School Board.”~~

Commissioner Begert thought it should remain because the municipality does designate a gross amount to the RSU.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend Section 706 by changing the word “make” to “indicate”.

Vice-Chair Bird stated he was concerned about handing out bags of money to departments. They should spend the way they are appropriated. Currently, they have no compulsion to spend the way they should. He understands the need for some flexibility, but is concerned with giving out the bags of money without any strings attached.

VOTE: 2-3 (Commissioners Vallante, Regis and Chair Gombar against). Motion failed.

Chair Gombar read Section 707:

“Sec. 707. Work Program, Allotments.

Before the beginning of the budget year, the head of each office, department or agency shall submit when requested by the Town Manager a work program for the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.”

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend the first part of Section 707:

“Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Council and ~~when requested by~~ the Town Manager a work program for the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, and the purposes to which they are to be put, for the entire next budget year.”

Vice-Chair Bird said this would guarantee the Town Council would be in the loop.

Commissioner Regis was concerned about taking the authority away from the Town Manager.

Commissioner Vallante stated this was not a function of the Town Council at this point in the budget process. It is the function of the Town Manager. It muddies the water to include the Town Council at this phase.

Commissioner Begert said that if the Town Council got this information early in the process, they could advocate for keeping it in the budget process if they wanted to.

Commissioner Vallante stated if it is added now, it appears the Town Council would be mandated to act at this time in the process.

Vice-Chair Bird amended his motion, seconded by Commissioner Begert, to read:

Sec. 707. Work Program, Allotments.

Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Council for informational purposes and to the Town Manager when requested by the Town Manager a work program for the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, and the purposes to which they are to be put, for the entire next budget year.

VOTE: 4-1 (Commissioner Regis against).

Commissioner Regis motioned, seconded by Commissioner Vallante, to add “requested by” back into the first sentence in Section 707.

Commissioner Vallante stated he would like the Town Manager to weigh in on this question. It may tie his hands. He was wondering if this was appropriate.

Commissioner Regis motioned, seconded by Commissioner Vallante, to table the Section 707 amendment to add “requested by” back in, until after the Town Manager and Town Attorney have given their input. [Tabling takes precedence]

VOTE: 5-0 Motion to table failed.

Commissioner Regis motioned, seconded by Commissioner Vallante, to amend Section 707 by adding “when requested by the Town Manager” back in, as follows:

“Sec. 707. Work Program, Allotments.

Before the beginning of the budget year, the head of each office, department or agency shall, when requested by the Town Manager, submit to the Town Council for informational purposes and to the Town Manager ~~when requested by the Town Manager~~ a work program for the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, and the purposes to which they are to be put, for the entire next budget year.”

VOTE: 3-2 (Vice-Chair Bird, Commissioner Begert, against).

Chair Gombar read Section 708.

“Sec. 708. Transfer of Appropriations.

At the request of the Manager the Council may by resolution transfer an unencumbered appropriation balance or portion thereof including surplus between the general accounts.”

Commissioner Vallante motioned, seconded by Commissioner Regis to accept Section 708 as currently written in the Charter.

Commissioner Begert said in the past, transfers were not dependent on the request of the Town Manager.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend the motion to insert “or on its own initiative” to Section 708:

VOTE ON AMENDMENT: 4-1 (Commissioner Vallante, against)

VOTE ON AMENDED MOTION: 4-1 (Commissioner Vallante, against)

Chair Gombar read Section 709.

“Sec. 709. Appropriations Lapse at End of Fiscal Year.

Except as otherwise provided by law, all appropriations shall lapse at the end of the fiscal year, and all surpluses shall be appropriated by the Town Council during the ensuing fiscal year.”

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend Section 709 as follows:

“Sec. 709. Appropriations Lapse at End of Fiscal Year.
Except as otherwise provided by law, this Charter, or order of the Town Council, all appropriations shall lapse at the end of the fiscal year, and all surpluses shall be appropriated by the Town Council during the ensuing fiscal year.”

VOTE: Unanimous.

Chair Gombar read Section 710:

“Sec. 710. Borrowing in Anticipation of other Revenues.
In any fiscal year, in anticipation of the collection or receipt of taxation and of other revenues of that fiscal year, the Council may, by resolution, authorize the borrowing of money by the issuance of negotiable notes of the Town, each of which shall be designated "Special Revenue Note for the Year" Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year in which the original note shall have been issued.”

Commissioner Regis motioned, seconded by Commissioner Vallante, to accept as currently written.

Commissioner Vallante withdrew his second, and Commissioner Regis withdrew his motion.

Commissioner Vallante motioned, seconded by Commissioner Regis, to amend Section 710 as follow:

“Sec. 710. Borrowing in Anticipation of other Revenues.
In any fiscal year, in anticipation of the collection or receipt of taxation and of other revenues of that fiscal year, the Council may, by resolution, authorize the borrowing of money by the issuance of negotiable notes of the Town, each of which shall be designated "Special Revenue Note for the Year" Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year in which the original note ~~shall have been~~ was issued.”

VOTE: Unanimous.

Commissioner Regis stated he would like to work on a section regarding sewer impact fees for specific purposes and not placed in the general fund. Once a project is paid, he wants to know why the Town can continue to charge impact fees.

Vice-Chair Bird stated he believes that vehicle excise tax money should be dedicated to roads.

The Town Clerk will inquire with the Town Attorney reference placing dedicated expense funds in the Charter.

ARTICLE IX

Commissioner Regis stated he would like the Planning Board to have three-year staggered terms like the Zoning Board of Appeals. He would like an interpretation from the Town Attorney.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to insert prefatory language into Article IX by adding three paragraphs:

“Sec. 901. Planning Board.

This Board has both advisory and quasi-judicial functions.

It serves as an advisory committee to the Town Council to develop plans, ~~and~~ draft ordinances and review and approve subdivision plans to guide the present and future development of the Town. It shall request input and advice on such plans, ordinances and sub-divisions from the Conservation Commission, Director of Public Works and The Waste Water Treatment Plant Superintendent at least 30 days prior to considering such plans, ordinances and sub-divisions.

It also serves as an independent Board to hear and rule on sub-division permits, site plan reviews, conditional use permits, building permit limitations, etc.”

VOTE: Unanimous.

Commissioner Vallante motioned, seconded by Commissioner Regis to lay the remainder of Section 901 on the table.

VOTE: Unanimous.

Chair Gombar read Section 902:

“Sec. 902. Zoning Board of Appeals.

There shall be a Zoning Board of Appeals composed of five (5) members and two (2) associate members which shall be appointed by the Town Council, have such powers and perform such duties as are provided by the laws of the State of Maine and ordinances duly adopted by the Council. The members of the Zoning Board of Appeals shall serve staggered three (3) year terms and shall serve until a successor has been appointed and qualified.”

Vice-Chair Bird motioned, seconded by Commissioner Begert, to insert a prefatory statement at the beginning of Section 902:

“This Board serves as an independent, quasi-judicial Board to hear and rule on appeals from decisions or actions of the Code Enforcement Officer or to grant variances from standards laid down in the Zoning Ordinance, etc.”

VOTE: Unanimous.

Vice-Chair Bird had further language he would like to add into Section 902.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to table further discussion on Section 902 until Commissioner Higgins can be present. Also, to e-mail the recommended changes to this section for her review.

VOTE: Unanimous.

Chair Gombar read Section 903:

“Sec. 903. Conservation Commission.

There shall be a Conservation Commission composed of five (5) members, and two (2) Alternates who shall be appointed by the Council. Members of the Conservation Commission shall serve staggered three (3) year terms under 30-A M.R.S.A. § 3261 and shall serve until a successor has been appointed and qualified. The Conservation Commission shall be responsible for the care and superintendence of the public parks and shall have such powers and perform such duties as are provided by the laws of the State of Maine and the ordinances duly adopted by the Council, including the powers and duties of tree wardens. The Conservation Commission shall have the power to form subcommittees and/or advisory boards as they deem necessary.”

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend Section 903 by adding a prefatory statement as follows:

“The function of this Commission is to serve as an advisory commission to all parts of the Town Government in matters affecting the environment of the Town.”

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to amend Section 903 as follows:

“There shall be a Conservation Commission composed of five (5) members, and two (2) Alternates who shall be appointed by the Council. Members of the Conservation Commission shall serve staggered three (3) year terms under 30-A M.R.S.A. § 3261 and shall serve until a successor has been appointed and qualified. The Conservation Commission shall be responsible for the care and superintendence of the municipal trees, public parks, Town-owned open and/or undeveloped spaces and significant natural resources, and shall have such powers and perform such duties as are provided by the laws of the State of Maine, this Charter and ~~the~~ ordinances duly adopted by the Council, including the powers and duties of tree wardens. The Conservation Commission shall have the power to form subcommittees and/or advisory boards as they deem necessary.”

Commissioner Vallante inquired if they were establishing a Tree Warden? He thought that Public Works needed a tree warden or an arborist.

Commissioner Begert didn't believe a Tree Warden position needed to be created in the Charter.

Chair Gombar was concerned how this amendment may change who has authority.

Vice-Chair Bird stated that the Memorial Park Committee wanted to remain part of the Conservation Commission. They interface with the Public Works Department, who actually does the work. The Town Manager wants it this way. It's a hybrid. Basically, the Town Manager said we have a way to make it work, and we don't want to move it.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to add another paragraph to Section 903:

“The Conservation Commission's primary responsibility is to increase awareness of the value of our natural resources, work to identify and reduce potential damage to these natural areas and to proactively work with town staff, other committees, and local organizations to encourage sustainable stewardship of these resources.”

Vice-Chair Bird stated this wording is from Scarborough, and was recommended by the Chair of the Conservation Commission to explain what the Commission does.

Commissioner Regis stated he didn't believe this paragraph was needed, and Commissioner Vallante concurred.

VOTE: 2-3 (Commissioners Vallante and Regis, Chair Gombar, against). Motion failed.

Vice-Chair Bird wanted to then recommend Saco's version as follows, but a motion was not made:

“The Commission ~~also~~ conducts research into local land use and makes recommendations to the Planning board to assist in preservation and enhancement of natural resources of the City. The Commission also provides environmental and technical assistance to the Planning board during the Board's review of development proposals and the development of new land use ordinances.”

Commissioner Regis thought Saco's was worse than Scarborough's, as it gives them even more power.

Commissioner Begert said since we have similar geographic resources as Scarborough, the paragraph recommended from Scarborough would be a good fit.

Meeting adjourned at 8:58 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 ten (10) pages is a true copy of the original Minutes of the Charter Commission Meeting held January 25, 2011.

Kim M. McLaughlin