

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP.
Tuesday, November 29, 2011
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, November 29, 2011. Chair Bob Quinn opened the meeting at 7:03p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Robin Dayton
Councilor Sharri MacDonald
Councilor Michael Coleman
Town Manager Jack Turcotte
Assistant Town Manager V. Louise Reid
Attorney Geoff Hole – Bernstein & Shur**

Chair Quinn indicated that the purpose of this workshop is to discuss the Charter. Recognizing the amount of time that was spent by the Charter Commissioners over the past two years, it is important that the Council have knowledge to implement the changes that were approved by the voters in the November election and the passage of the four items on the ballot. Basically the Charter will not go into effect until July 1, 2011.

Discussion began on Referendum Question Number 1 – Number and Terms of Town Councilors. Section 201.1 – Council to be composed of seven members; six three-year terms and one one-year term; each of whom shall be elected by the registered voters of the Town and shall serve until a successor is elected and qualified. The six three-year terms of the Town Council shall be staggered at three year intervals. The one-year term shall expire annually. All terms shall expire on the third Monday in November of the term year. No Councilor is eligible to serve more than seven years. It was explained that the terms of the Town Councilors elected in 2011 for two year terms shall expire in 2013 and the first regular municipal election of November 2012 shall elect the two Town Councilors for a three-year term and two Town Councilors for a two year term and one Town Councilor for a one year term. The six three year terms of the Council will be staggered and expire at three year intervals; the one year term will expire annually. It was also noted that Candidates must specify on their nominations papers whether they are seeking election for one year or a three year term and can only be elected for that which they have specified.

Referendum Question Number 2 discussion indicated Charter modifications enacting term limits of not more than seven consecutive years for Town Councilors. Term limits go into effect with the 2012 election. Council seats elected prior to November 2012 shall not calculate into the term limit formula.

Referendum Question Number 3 dealt with Education. This modification replaces the existing language referencing the School Board/Department of Education with language recognizing the existence of Regional School Unit #23. It is required by the recent laws requiring the reorganization of schools into the regional school units. There was discussion on the designation change from public school operation by Old Orchard Beach to public school operation in Old Orchard Beach. These modifications address revising the provisions in the July 1998 Charter to provide for the public schools in Old Orchard Beach should the RSU 23 cease to exist. One major change is that all reference to the OOB School Board has been removed. The term “Educational System” is used as the replacement to include the RSU. The new revised Charter deletes any references to a School Board and department of education and updates the document to refer instead to the Regional School Unit. Should the RSU cease to exist, the document will go back to refer to the previous school structure.

Referendum Question Number 4 was a collection of modifications regarding other changes that were recommended by the Charter Commission. It included renumbering, a uniform system of headings, catch-lines and citations to State statutes including grammar changes. Major changes included the Town Clerk’s term from two years to four years in 2014. The salary of the Town Clerk shall be determined by averaging the compensation of the top eight department heads. There was discussion in detail by the Council relative to the changes in the issuance of general obligation bonds of \$250,000 or more to be subject to overrule by referendum regardless of whether or not they are for capital improvements or capital equipment. Changes to the issuance of most general obligation bonds of \$500,000 or more to be voted upon by the voters in a referendum regardless of whether or not they are for capital improvements or equipment.

Further understanding of these changes includes the fact that a time to file a referendum from 20 days to 30 days was changed and the petition percentage of registered voters was discussed in detail. There was a discussion about the difference in a petition geared toward ordinances which required 10% of the number of votes cast in the last gubernatorial election and provides that the Council may not repeal a referendum vote for 365 days from the date of the referendum. It was noted that changes in the time to file a referendum was increased from 20 days to 30 days and the requirement for petition signatures needed to file a referendum from 10% of the registered voters of the Town to 10% of the number of votes cast in the last gubernatorial election. The time for the Council to revisit the results of a referendum vote was changed from 180 days to 365 days. It was noted that the number of voters required to sign a recall petition was raised from 20% of the qualified voters of the Town to 20% of the number of votes cast in the last gubernatorial election.

There were opinions on the extent of the changes to the Town Manger’s contract and whether a contract is needed at all and the timeline of the probationary period relative to a two year contract. Concern was expressed with a section of the new changes that states that after a six month probationary period, the Town Manager “may be given a contract of not more than two years.” There were some who felt it should say “shall” instead of “may.” It was indicated that the Charter does not require any contract after a six month probationary. The Attorney indicated that it would mean that there would not have to be a contract but if there was one it could not be for more than two years. It was suggested by a Charter Commission member that this was a grammatical error and was intended to mean the Town Manager may not be given a contract of more than two years. It was advised by the Attorney that the Town not

take on an at-will employee and would recommend a contract agreement when hiring a new Town Manager. The Charter also requires department heads to be nominated by the Town Manager and confirmed by the Town Council. The list of Department Heads includes a Park Director which the Town does not currently have. The question was asked if this means the Town needs to have a Parks Director and not having a specific answer, this is one of the questions to be researched by the Town Attorney. The Charter also requires a lawyer to be appointed every year by the Town Council and the questions was asked if this meant a particular lawyer or a firm and the Attorney directed that it was firm, because municipalities face a complex range of potential legal issues.

Further discussion related to property acquired by condemnation and to be sold by the Town must first be offered to the original owner. There were conflicts in this issue because there are areas where no one would have an interest in a piece of land to another piece of property where perhaps the Town had put a lot of money into repairing, etc, only to decide there was no interest in it. The question was asked if the money could be recouped upon the return of it to the original owner and the attorney said that the Town could not usurp additional funding for expenses. It was determined by the Charter Commission that the term “relative” means related by blood, marriage, or law including spouses, children, grandchildren, great-grandchildren, parents, brothers, sisters, nephews, nieces, grandparents, uncles, aunts, great-grandchildren, first cousins or domestic partner relationships. Discussion also revolved around the limitations on eminent domain authority.

An enormous amount of time as spent on the question of prohibition on voting on contracts in circumstances where a Councilor or a Councilor’s relative (and relative relationships were discussed as well) has a financial interest and to include a more comprehensive definition of “relative.” It was clearly stated by the Attorney that the Councilor must remove themselves from voting on such issues and if that individual does not do so the Town Council has the responsibility to intervene and require removal from the vote.

The Town Council must also provide the Town Manager annually with a list of expectations under the newly revised Charter. The list of expectations will provide a basis for evaluation. This requirement gives the Council a lot of latitude and discretion on what the expectations are going to be and they could change from year to year. The concern was also raised about having the manpower and the money needed to implement all the Charter changes passed by voters. It was noted several times that the goals behind the changes were to provide more public oversight and input into municipal affairs, along with requiring more transparency, while also more clearly defining the role of public officials to prevent overreaching. There was some indication by Council that the public did not understand all the ramification of these changes. One of the other specific changes expanding the Charter will be seen in the budgeting process which requires the creation of a Finance Committee which has oversight of the newly created capital improvement plan. A five year capital spending plan is a requirement. And once those funds are approved, that money shall only be spent for those purposes unless the Town Council declares an emergency. A line-items appropriation for each department instead of approving a gross spending amount is required as well. Also the line-item amounts can not be exceeded without Town Council approval. Under the revisions approved, the Town Council must also notify the Manager and department heads of any expected budget limits six months prior to the beginning of the budget year. The changes require all department heads to submit their proposed budgets, along with a projected work

plan and an explanatory message, to the Town Manager 120 days prior to the beginning of the budget year. In terms of the Town Council the new Charter not only expands the number of people on the governing board, it also allows any member to place an item for discussions or action on the agenda instead of leaving those decisions solely up to the Council Chairman.

The following three questions are to be researched and brought back to the Council by the Town Attorney:

Section 409.3: Are we required to have a “Parks Director” or does the Charter give us the ability to have one if we want to – same with “Emergency Management Director?”

Section 502.1: Which employees that are appointed by the Town Manager must be “appointed or reappointed” annually by July 1st of each year?

Section 409.1: Does the Town Manager have to have two separate contracts (one for his probationary period of six months and another for up to two years) or can it be combined into one contract, but voted on twice (once for initial appointment and then for contract appointment?)”

The hour being late, it was decided to adjourn and schedule another Charter workshop sometimes in Janaury.

Chair Quinn thanked everyone for coming and the Town Council Workshop closed at 9:20 p.m.

Respectfully Submitted,

V. Louise Reid
Town Council Secretary

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of four (4) pages is a true copy of the original Minutes of the Town Council Workshop of November 29, 2011.

Louise Reid