

CHARTER COMMISSION MEETING
TUESDAY, AUGUST 24, 2011 – 7 P.M.

Chair Gombar opened the regular meeting at 7:03 p.m., in Town Hall, Council Chambers. The following members were in attendance:

Jerome Begert
John Bird
Jayne Flaherty
William Gombar
Tianna Higgins [absent]
Ronald Regis [absent]

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

Motion made by Vice-Chair Bird, seconded by Commissioner Flaherty, to amend the minutes of August 10, 2011, as distributed, using Vice-Chair Bird's recommended changes.

VOTE: Unanimous.

Motion made by Vice-Chair Bird, seconded by Commissioner Flaherty, to accept the amended minutes of August 10, 2011.

VOTE: Unanimous.

Chair Gombar moved on to Item 2, consider the ballot question summaries supplied by the attorney.

Vice-Chair Bird motioned, seconded by Commissioner Flaherty, to accept Question One as follows:

Referendum Question No. 1

Shall the Town of Old Orchard Beach approve the charter modifications regarding changing the number of Town Councilors from five (5) to seven (7) and changing the terms of Town Councilors, as recommended by the Charter Commission and reprinted below?

Sec. 201.1. Town Council. The Town Council shall be composed of seven (7) members, with six three-year terms and one one-year term, each of whom shall be elected by the registered voters of the entire Town, and shall serve until a successor is elected and qualified. The six three-year terms of the Town Council shall be staggered, and expire 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 consecutively.*]

[*This part of Sec. 201.1 is not being voted on with Question One. It is part of Question Two.]

Sec. 1002.1. Transition to New Charter.

The provisions of Section 202 notwithstanding, the terms of the Town Councilors elected in 2011 for 2-year terms shall expire normally in 2013 and the first regular municipal election in November 2012 shall elect two (2) Town Councilors for three-year terms and two (2) Town Councilors for two-year terms, and one (1) Town Councilor for a one-year term.

All succeeding elections under this Charter shall elect two (2) Town Councilors for three-year terms and one (1) Town Councilor for a one-year term, thereby providing elections for a Town Council composed of seven (7) members, with six (6) Town Councilors having three-year terms and one (1) Town Councilor having a one-year term by the year 2014.

The six three-year terms of the Town Council will be staggered, and expire at three year intervals. The one-year term will expire annually.

Candidates for Council shall specify on their nomination papers whether they are seeking election for a one-year term or a three-year term and may be elected only for the term so specified.

Sec. 1004. Terms of Current Officials.

The terms of members of the Town Council, elected at the regular municipal election on November 8, 2011 shall expire on the third Monday in November, 2013.

Words of Explanation

These modifications change the number of members of the Town Council from five to seven, change the terms of the Town Councilors, and set forth the necessary transitional provisions for these modifications.

VOTE: Chair Gombar, Vice-Chair Bird, Commissioner Flaherty, yes; Commissioner Begert, no. Motion passes 3-1.

Commissioner Begert motioned, seconded by Vice-Chair Bird, that each of the four questions should have titles, as follows:

1. Number and terms of town Councilors
2. Town Council term limits
3. Education
4. All other changes

VOTE: :Unanimous

Vice-Chair Bird motioned, seconded by Commissioner Flaherty, to accept Question Two as follows:

Referendum Question No. 2

Shall the Town of Old Orchard Beach approve the charter modifications enacting term limits of not more than seven (7) consecutive years for Town Councilors and establishing when the term limits shall commence as recommended by the Charter Commission and reprinted below? [The sentences in Section 201.1 in brackets are not included in this question. That part of Sec. 201.1 is not being voted on with Question Two. It is part of Question One.]

Sec. 201.1. Town Council. [The Town Council shall be composed of seven (7) members, with six three-year terms and one one-year term, each of whom shall be elected by the registered voters of the entire Town, and shall serve until a successor is elected and qualified. The six three-year terms of the Town Council shall be staggered, and expire 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 Town Councilor is eligible to serve more than seven years consecutively.

[*This part of Sec. 201.1 above, in brackets, is not being voted on with Question Two. It is part of Question One.]

Sec. 1002.2 Term Limits.

Term limits shall go into effect with the 2012 election. Council seats elected prior to November, 2012 shall not calculate into the term limit formula.

Words of Explanation

These modifications limit the terms of Town Councilors and establish when term limits commence.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Flaherty, to accept Question Three as follows:

Referendum Question No. 3

Shall the Town of Old Orchard Beach approve the charter modifications replacing the references to the School Board/Department of Education and reviving provisions in the July 1998 Charter to provide for the operation of public schools in Old Orchard Beach should Regional School Unit #23 cease to exist, all as recommended by the Charter Commission and partially reprinted and summarized below?

ARTICLE VI. EDUCATION

In the event that Regional School Unit #23 should cease to exist and no other provisions have been made for the operation of public schools in Old Orchard Beach, then the provisions of the Old Orchard Beach Charter governing education in effect in July, 1998, shall be revived and shall apply to the same extent as if adopted as part of this Charter and shall remain in effect unless and until replaced or superseded by amendment to this Charter or by state law.

Summary of additional changes

- Article II, Secs. 201, 202 and 203. *Deletes references to School Board.*
- Article III, Sec. 305. *Deletes references to School Board.*
- Article IV, Secs. 409 and 414. *Deletes references to Department of Education and School Board.*
- Article V, Sec. 502.7. *Deletes reference to Department of Education.*
- Article VII, Secs. 702 and 706. *Deletes references to Department of Education and School Board.*
- Article IX, Sec. 904. *Deletes reference to School Department, and changes from public school operated by Old Orchard Beach to public school operated in Old Orchard Beach.*
- Article X, Secs. 1004, 1004.1 and 1005. *Deletes reference to School Board.*
- Article XI, Secs. 1102 and 1104. *Deletes references to School Board.*

Words of Explanation

These modifications replace the existing language in Article VI referencing the School Board/Department of Education with language reviving the provisions in the July 1998 Charter to provide for the operation of public schools in Old Orchard Beach should Regional School Unit #23 cease to exist. These modifications are required by the recent changes in the law that require, with certain exceptions, the reorganization of schools into regional school units.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Flaherty, to accept Question Four as follows:

Referendum Question No. 4

Shall the Town of Old Orchard Beach approve the charter modifications regarding all other changes as recommended by the Charter Commission and partially summarized below?

Summary of other changes:

- A uniform system of headings, catch-lines and citations to state statutes has been used. Sections and subsections have been added or deleted consistent with the recommendations of the Charter Commission. Grammar and phrasing changes have been made. Other changes have been made which are minor housekeeping changes. Explanatory language describing the makeup, functions and roles of various parts of the Town government and operation has been added to make it easier to understand how the Town government works. Major substantive changes are individually described below. Section number references are to the proposed new section numbers.
- Article I
 - *Renumbers current section 102, Powers of the Town, to 103, and creates new section 102, "Town Governance," which identifies the three branches of town government, Legislative and Policy-making, Administrative, and Adjudicative and Advisory, and describes the makeup and roles of each.*
- Article II
 - *Sec. 201.2. Changes the Town Clerk's term from two years to four years.*
- Article III
 - *Sec. 301(C). Changes the issuance of most 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.*
 - *Sec. 301(D). Changes the time to file a referendum from 20 days to 30 days, 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, and the time for the Council to revisit the results of a referendum vote from 180 days to 365 days.*
 - *Sec. 302. Changes the number of voters who can petition for the enactment of an ordinance from 10% of the registered voters of the Town to 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.*

- *Sec. 303. Changes 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.*
- *Sec. 305.1. Changes the number of voters required to sign a recall petition from 20% of the qualified voters of the Town to 20% of the number of votes cast in the last gubernatorial election.*
- **Article IV**
 - *Sec. 409.1. Changes the town manager's contract after the probationary period from a term of two years to specify a term of not more than two years.*
 - *Sec. 409.15. Requires property acquired by condemnation and to be sold by the Town to be first offered to the original owner.*
 - *Sec. 412. Changes to include a prohibition on voting on contracts in circumstances where a councilor or a councilor's relative has a financial interest and to include a more comprehensive definition of "relative".*
 - *Sec. 414.2. Sets the compensation of the Town Clerk as not less than an amount equal to the average of that of the top eight department heads.*
- **Article V**
 - *Sec. 502.1. Adds an appeal to the Town Council from a disciplinary action of the Town Manager.*
 - *Sec. 505. Moves current Sec. 505, "General Assistance," to Sec. 507, adds new Sec. 505, "Town Clerk," and outlines more comprehensively the Town Clerk's role.*
 - *Sec. 506. Provides for the appointment of a Chief of Police and Fire Chief rather than Director of Public Safety, provides for an Emergency Management Director, and defines their roles.*
 - *Sec. 507. Creates a Department of Finance, with the Town Treasurer as Director of Finance, and moves the Department of General Assistance and Tax Collector to the Department of Finance.*
 - *Sec. 511. Creates a Waste Water Department.*
 - *Sec. 512. Moves provisions regarding assessment, formerly found in Article VIII, to new Sec. 512.*
- **Article VII**

- *Sec. 701. Specifies the fiscal year as July 1 to June 30, subject to the Council changing the fiscal year by ordinance.*
- *Sec. 702. Adds language requiring the Town Council to notify the Town Manager and department heads of an expected budget limit figure six months prior to the beginning of the budget year, and requiring each department head to submit a budget, a projected work plan and an explanatory budget message to the Town Manager 120 days prior to the beginning of the budget year.*
- *Sec. 706. Changes to require that the budgets for all departments include carryover dedicated accounts and to require the Town Council to make line-item appropriations rather than gross appropriations for each department.*
- *Sec. 710. Creates a new section establishing a capital improvement program for the Town.*
- *Sec. 711. Creates a new section authorizing the Town Council to create by ordinance dedicated expense accounts.*
- **Article VIII**
 - *Discusses more comprehensively the functions of the Planning Board, the Zoning Board of Appeals, the Conservation Commission and the Recreation Board, and establishes a Finance Committee, whose composition and responsibilities are established by the Town Council by ordinance.*
- **Article IX**
 - *Sec. 914. Establishes a procedure whereby voters may file a complaint against members of the town government who violate a provision of the Charter, and provides sanctions for such violation.*
 - *Sec. 915. Limits the Town's eminent domain powers.*
- **Article XI**
 - *Sets out necessary transitional provisions not contained in prior articles.*

Words of Explanation

This question enacts all of the changes recommended by the Charter Commission not covered by Questions One, Two and Three.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Begert, to accept the Ballot questions proposed Charter.

VOTE: Unanimous.

Vice-Chair Bird motioned, seconded by Commissioner Flaherty, to authorize the Chair to deliver the recommended Charter and questions to the Town Clerk.

VOTE: Unanimous.

Meeting adjourned at 7:35 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 eight (8) pages is a true copy of the original Minutes of the Charter Commission Meeting held August 24, 2011.

Kim M. McLaughlin