

CHARTER COMMISSION MEETING
TUESDAY, MAY 25, 2010 – 7 P.M.

Vice-Chair Bird opened the regular meeting at 7:00 p.m., in Town Hall, Council Chambers. Chair Ladakakos was unable to attend tonight's meeting due to surgery. The following members were in attendance:

John Bird
William Gombar
Jerome Begert
Jayne Flaherty
Tianna Higgins
Ronald Regis
Michael Vallante
Chair Ladakakos, absent due to surgery
Laura Bolduc, absent

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

Vice-Chair Bird read item #1, acceptance of the April 27, 2010 minutes.

Commissioner Begert stated he had corrections to make to the April 27, 2010 [see attached].

Commissioner Flaherty stated that on page 4 of Commissioner Begert's amendments, third paragraph, he stated that "Mr. Curtis refused, insisting that it is otherwise obtainable", she wanted the minutes to reflect that Commissioner Begert did not quote that sentence by Mr. Curtis verbatim.

Commissioner Vallante stated his understanding of what Mr. Curtis stated was that it was available elsewhere, and that is why he didn't need to supply The Plan.

Vice-Chair Bird then went over the attributed quotes from Commissioner Begert with Commissioner Regis and Commissioner Higgins.

Commissioner Gombar made a motion, seconded by Commissioner Regis to accept the April 27th, 2010 minutes, including Commissioner Begert's amendments and Commissioner Flaherty's amendment.

VOTE: Unanimous.

Vice-Chair Bird read item #2, accept the minutes of May 11, 2010.

Commissioner Begert made a motion to amend page 2, fifth paragraph, "Vice-Chair Bird recommended this section ~~by~~ be placed under Administration..." and page 4, fourth paragraph, "Vice-Chair Bird then suggested the following, stating that hopefully it would serve as an ~~impetuous~~ impetus to get the budget adopted..."

Commissioner Vallante motioned, seconded by Commissioner Flaherty to accept the minutes of May 11, 2010 as amended.

VOTE: Unanimous.

Commissioner Gombar inquired if the Town Council had granted the Charter Commission the extension requested, to which Vice-Chair Bird responded in the affirmative.

Commissioner Bird stated that since the Chair of the Planning Board was present, he would like to start discussion on that section of the Charter, Article IV, Section 901.

Mr. Winch stated that section 901 doesn't describe what the Planning Board does, other than to enforce the laws of the State of Maine. Per Attorney Chris Vaniotis, the Planning Board is a quasi-judicial board.

Vice-Chair Bird stated the Planning Board is also advisory to the Town Council, i.e. when the Town Council is drafting zoning ordinances, the Planning Board drafts the ordinance, and is involved in the Subdivision process. Vice-Chair Bird then read his recommendation for this section:

“ARTICLE IX. ADJUDICATIVE & ADVISORY MUNICIPAL DEVELOPMENT

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 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, etc.

~~There shall be a~~ Town Planning Board shall be composed of five (5) members and two (2) alternates which shall be appointed by the Town Council, and have such powers and perform such duties as are provided by laws of the State of Maine, this Charter and ~~the~~ ordinances duly adopted by the Council. Each member of the Planning Board and each alternate shall be appointed for a term of two (2) years and shall serve until a successor has been appointed and qualified.

The Planning Board shall direct the Town Planner and other Planning Department staff in assisting it in its duties.

~~Sec. 901.1. Subject to confirmation by the Council, the Town Manager shall appoint a Town Planner and a Code Enforcement Officer for a six (6) month probationary period during which they may be removed by the Manager with or without cause. After the probationary period, and subject to confirmation by the Council, the Town Planner and the Code Enforcement Officer shall be given two (2) year contracts subject to removal for cause by the Town Manager during the term of the contract, after notice and~~

~~hearing. The Town Planner and the Code Enforcement Officer shall be given at least 60 days notice of nonrenewal of contract. The Town Planner and Code Enforcement Officer shall attend all meetings of the Planning Board and the Zoning Board of Appeals, or send a designee or request the Town Attorney to advise and assist these Boards, when they are unavailable. [Moved to Article V]~~

Mr. Winch stated that it is all pursuant to Maine law. He then read Scarborough, Maine's Charter section that refers to the Planning Board: "**Section. 701. Planning Board.** There shall be a Town Planning Board which shall be appointed, have such powers and perform such duties as are provided by the ordinances of the Town and the general laws of the State of Maine."

Vice-Chair Bird observed that this is just "boiler plate", and having the Charter only state that the Planning Board's function is to administer state laws is not very educational to the public when they're reading the Charter. The Charter should explain what the Planning Board does, including regulating subdivisions. He inquired if State Law stipulates Planning Board particular functions.

Mr. Winch responded that it just covers public meetings.

Commissioner Higgins stated that she doesn't believe a detailed description of what the Planning Board does needs to be in the Charter. She is on the Planning Board, and they do more than Subdivisions, such as allowing Conditional Use Exceptions, etc. Commissioner Higgins also stated time frames do not belong in the Charter.

Vice-Chair Bird was concerned that if a different Planning board chose not to care about sewers, and weren't going to listen to the Public Works Department, there would be a problem. By having this requirement in the Charter, it puts them on notice that they must do that.

Mr. Winch stated the charter should be straight forward. Scarborough's is succinct, using one sentence to describe the Planning Board.

Commissioner Begert stated that during the second go around of the Charter, the Charter Commission should search other websites for ideas on succinctness.

Mr. Winch agreed, stating there was no need to re-invent the wheel.

Vice-Chair Bird stated that actually for Old Orchard Beach, that is exactly what the Charter Commission is supposed to be doing—looking at the wheels of the Town and re-designing or re-inventing them, if and as necessary to improve them.

Mr. Winch stated that the Charter is not an ordinance, and what you put into the Charter is permanent.

Vice-Chair Bird agreed and stated that that is why it is the solution to a problem. The ordinances are temporary, and can come and go at the whim of the Town Council.

Commissioner Begert stated that the Charter needs to be succinct, yet improved.

Commissioner Vallante stated that as a group, the Charter Commission will decide how succinct this document needs to be at a later date.

Commissioner Regis stated that the Planning Board should have three-year terms like the Zoning Board of Appeals.

Mr. Winch agreed with the three-year terms for the Planning Board.

Vice-Chair Bird inquired of Mr. Winch if he agreed with his [Vice-Chair Bird's] recommendations for wording, to which Mr. Winch replied that "it states what we do".

Commissioner Vallante stated that he would like a hard copy of Vice-Chair Bird's recommendations.

Vice-Chair Bird apologized for not having the time to print out copies of his recommendations, and would get them to the Commissioners.

Commissioner Higgins was concerned that the recommendation from Vice-Chair makes it seem as though the Planning board only does subdivisions. She doesn't want the public to think that is all the Planning Board does.

Commissioner Regis stated that everything Vice-Chair Bird recommended the Planning Board already does, reiterating how thorough the Board is.

Vice-Chair Bird stated that it was in an ordinance, not in the Charter, and ordinances can change.

Commissioner Flaherty said that it makes sense if the Charter is a skeleton and the skeleton should be clear and succinct so it won't need to be changed for a decade. Ordinances are the meat and organs to be replaced.

Vice-Chair Bird stated that if the process of getting input from the Public Works Department, etc. is valuable and should not change, it should be part of the Charter.

He then recommended that the Commission discuss section 901.1 [Town Planner and Code Enforcement Officer] stating their positions should be moved to Article V under administration.

Mr. Winch and Commissioner Higgins stated moving those positions to Article V makes sense.

After asking if there was anything more to be discussed about the Planning Board, Vice-Chair Bird stated the Commission should discuss section 903 next because Andrea Berlin [Chair of the Conservation Commission] and Ginger McMullin [Vice-Chair of the Conservation Commission] were present.

Commissioner Higgins read Section 903.

Mrs. Berlin stated the Conservation is responsible for Veteran's Memorial Park. That is not a Conservation issue and recommends it be omitted from the Charter. The Conservation

Commission wants to focus on other things. These service contracts belong under the Recreation Department or the Public Works Department.

Commissioner Begert inquired how the Veteran's Memorial Park being under the Conservation Commission was created.

Mrs. Berlin responded that it started with volunteers. As the park grew, the group wrote grants. They have now reached the point where it is a lot of work.

Vice-Chair Bird stated that maybe Memorial Park should be defined as "not-a-park" by the Town Council with an ordinance, similar to the Ballpark not being considered a park. Let it stand on its own. It needs a full-time person to supervise it.

Commissioner Begert asked if agriculture falls under the Conservation Commission, and if recreation activities could be diverted.

Mrs. Berlin responded that Jason [Webber, Recreation Director] keeps the calendar for use of the park.

Commissioner Begert recommended removing the tree warden from Conservation and move 90% of what Memorial Park does to the Recreation Department. He then inquired how the Conservation Commission would describe their duties.

Ms. McMullin stated that "supervisor of the parks" is outdated. The Conservation Commission should be advising the Planning Board on open space (our natural resources), not being "hands on".

Vice-Chair Bird read quotes from Scarborough and Saco Conservation Commission mission statements supplied by Ms. McMullin.

"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." (Scarborough)

"The Commission 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." (Saco)

Mrs. Berlin stated that the Conservation Commission needs to catalog the natural resources per State Law. They need to work on that to aid the Planning Board in making decisions on what should be allowed and what should be prohibited.

Ms. McMullin stated the Conservation Commission should be a neutral body, a voice for natural resources.

Vice-Chair Bird stated that Memorial Park should stand alone.

Commissioner Higgins was concerned about removing Memorial Park from the Conservation Commission duties, because that could leave all the parks in limbo.

Vice-Chair Bird stated the Town Council needs to redefine Memorial Park as not being a park.

Commissioner Vallante recommended a Parks Department be added to the Charter.

Commissioner Begert stated the Charter shouldn't be inventing and deleting departments. They should be fine tuning the interface. He further stated that Commissioner Higgins was correct in that the Town Council should have the role in inventing/deleting roles of the Conservation Commission.

Commissioner Higgins then recommended that the Charter Commission discuss this with the Town Council, to see if they're in agreement with inventing/deleting departments being in the Charter.

Commissioner Gombar stated the Charter should be a skeleton and specifics should not be in the Charter. Who has the role of supervising the parks should be in an ordinance, instead. He was in agreement the Charter Commission should talk to the Town Council.

Vice-Chair Bird stated that when the Charter Commission has a public hearing, he would hope the Town Council would be in attendance.

Commissioner Begert was concerned that the public may perceive the Charter Commission as being delegated what to do by the Town Council, and he wants the public to be aware that it not the case.

Commissioner Vallante stated the Charter Commission can create a parks department, further stating the document creates many departments. The Charter gives the structure, and then ordinances delegate the day-to-day functions.

Vice-Chair Bird read the State Law on Conservation Commissions:

Title 30-A, Section 3261. Conservation commissions

Unless otherwise provided under their home rule authority, municipalities may establish conservation commissions as provided in this section.

1. Appointment of commissioners. The municipal officers may appoint at least 3, but not more than 7, conservation commissioners. Members shall initially be appointed for terms of one, 2 and 3 years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of 3 years each. Members shall serve until the appointment of their successors.

The commission may recommend to the municipal officers that associate members be appointed to assist the commission as the commission requires. Associate members are nonvoting members. Their terms of office shall be for one, 2 or 3 years.

2. Duties of commission. The commission shall:

- A. Keep records of its meetings and activities and make an annual report to the municipality;
- B. Conduct research, in conjunction with the planning board, if any, into the local land areas;
- C. Seek to coordinate the activities of conservation bodies organized for similar purposes; and

D. Keep an index of all open areas within the municipality, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the municipal officers or any municipal body or board, or any body politic or public agency of the State, a program for the better protection, development or use of those areas, which may include the acquisition of conservation easements.

(1) Any body politic or public agency of the State conducting planning operations with respect to open areas within a municipality having a conservation commission shall notify that conservation commission of all plans and planning operations at least 30 days before implementing any action under that plan.

3. Powers of commission. The commission may:

A. Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary;

B. Have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all money appropriated for the improvement of those parks;

C. Acquire land in the municipality's name for any of the purposes set forth in this section with the approval of the municipal legislative body; and

D. Receive gifts in the municipality's name for any of the commission's purposes and shall administer the gift for those purposes subject to the terms of the gift.

4. Park commission under previous law. This section does not require a municipality which has previously created a park commission under prior law to establish a conservation commission. Any such park commission previously created may continue to operate as originally established.

Commissioner Higgins noted the duties of Tree Warden are not under State Law. She also stated that maybe it is time for a Parks Committee.

Commissioner Begert stated that because the Conservation Commission can disburse funds, the parks were placed under them.

Ms. McMullin recommends placing the Supervision of Parks as a stand alone.

Mrs. Berlin stated that Jason [Webber, Recreation Director] has three full-time people now. Maybe he can work with the Public Works Department in supervising the parks.

Commissioner Regis recommended that Jason take over the duties of supervisor of the parks.

Commissioner Higgins inquired what the Charter Commission can do to help the Conservation Commission.

Commissioner Begert stated that the Conservation Commission should be included in any conversation the Charter Commission has with the Town Council.

Commissioner Vallante stated that whatever the Charter Commission decides will have to be voted on by the residents. This should set up the skeleton. They just need another bone in the hand.

Ms. McMullin inquired what the schedule for the Charter is going to be.

Vice-Chair Bird responded that currently they are fact-finding—gathering information from departments by inviting them to the meetings. The second time the Commission reviews the Charter, they will make decisions on wording and draft a Charter. They'll publish the draft and send it to the Town Council and hold a public hearing. After public input, the Charter Commission will go through the Charter one last time, make necessary changes, and come up with the final version to go to referendum.

Commissioner Begert noted the Charter Commission has until November, 2011, before this needs to be on a ballot.

Mrs. Berlin and Ms. McMullin then left the meeting at 8:30 p.m.

Vice-Chair Bird noted that the Chair of the Zoning Board of Appeals, Ray DeLeo, did not attend tonight's meeting.

Commissioner Higgins stated she is also a member of the Zoning Board of Appeals, and can represent that Board at tonight's meeting.

Vice-Chair Bird stated they had already discussed the Recreation Board, and that Jason [Webber, Recreation Director] suggested removing that section.

Commissioner Flaherty recommended that something should take the place of the Recreation Board in that section.

Commissioner Higgins stated there should be a Parks and Recreation Department like other Towns.

The discussion then turned to the Zoning Board of Appeals.

Commissioner Higgins stated she has been a member of the Zoning Board of Appeals for at least five years. This section, 902, is straight forward. They do miscellaneous appeals, administrative appeals, and variances. They follow state mandates and Town ordinances. She doesn't feel the need to expand this section in the Charter.

Vice-Chair Bird recommended the following changes to put it in line with the new Shoreland Zoning Rules:

“Sec. 902. Zoning Board of Appeals.

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.

There shall be a Zoning Board of Appeals created in accordance with the provisions of 30-A M.R.S.A. section 2691 and 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, this Charter and the 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.

The board of appeals shall annually elect a chairman and vice-chairman from its membership and shall adopt rules to govern its proceedings in accordance with this Article.

Sec. 902.1 Minutes.

The board of appeals shall keep minutes of all its proceedings and actions taken and the minutes shall, at a minimum show the following:

- (1) The vote of each member upon each question.
- (2) The absence of any member during a vote on any question.
- (3) Abstention of a member from voting on any question because of a conflict of interest.

Sec. 902.2. Notification of public hearing.

(a) Posting notice. Before making a decision on any appeal or other matter before it, a notice from the chairman of the board of appeals of the matter shall be published and posted in the town office at least ten days in advance of the public hearing.

(b) Abutters. The notice of the public hearing shall be sent to the owners of all properties which touch any lot line of the property which is the subject of the hearing (referred to as "the subject property") or which is located across a street from the subject property and which touches any line which could be drawn from any part of the subject property at right angles to the street sideline opposite the subject property. The applicant shall mail the notice of public hearing by certified mail, return receipt requested, at least ten days in advance of the hearing. At the time of the hearing the applicant shall submit to the board of appeals proof of mailing in the form of certified mail receipts. Failure of the applicant to produce such proof of mailing shall cause the board to reschedule the hearing until the proper notice has been provided. For purposes of this subsection, the term "owners" means those persons identified as the owners of the property in the records of the town tax assessor.

Sec. 902.3. Meetings and Decisions.

(a) *Times.* Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the board may determine, and they shall be open to the public.

(b) *Quorum.* A quorum shall consist of any three regular or alternate members, all of whom shall be present when any action is taken.

(c) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(d) When the Board of Appeals reviews an administrative appeal of a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

(e) *Code Enforcement Officer's attendance.* The Code Enforcement Officer shall attend all public hearings and may present to the board all plans, photographs, or other material he deems appropriate to a proper understanding of the appeal.

(f) *Applicant's case first.* The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the chair. All persons at the hearing shall abide by the orders of the chairman.

(g) *Representation by agent or counsel.* At any hearing, a party may appear in person or be represented by agent or attorney.

(h) *Rebuttal.* At the discretion of the chairman, rebuttal may be permitted by any person present of any testimony presented on the opposing side.

(i) *Expression of sentiment forbidden.* The board shall not request and the chairman shall not permit, by show of hands, voice vote, or any other means, an expression of sentiment among those present of approval or disapproval of the appeal.

(j) The person filing the appeal shall have the burden of proof.

(k) *Continuance of hearings.* Hearings shall not be continued to other times except to obtain additional evidence which cannot be produced at the scheduled hearing and only after unanimous vote of the those members present to continue the hearing.

(l) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of any decision to be mailed or hand-delivered to the

applicant and, for property located in any shoreland zone, to the Department of Environmental Protection, within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the Town Council.

(m)Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(n) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

(o) Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

Sec. 902.3. Administrative appeals.

(a) The board of appeals shall have the power and duty to hear and decide administrative appeals, on a de novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the code enforcement officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals. The board may affirm or reverse in whole or in part or may modify the code enforcement officer's order, decision or determination. The affirmative votes of three members of the board are required to grant an administrative appeal.

(b) An administrative appeal may only be granted by a majority vote of the entire board.

Sec. 902.4. Variance appeals.

(a) Generally. The board of appeals shall have the power and duty to grant variances only under the following conditions:

(1) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(2) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(3) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of Ordinances to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

A copy of each variance request involving activities in any shoreland zone, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(b) *Conditions not applicable for issuance of variance.* No nonconforming use of neighboring lands, structures or buildings in the same district or nonconforming uses of lands, buildings or structures in other districts shall be considered to be grounds for the issuance of a variance.

(c) *Variance granted only by majority.* The affirmative votes of at least three members of the board are required to grant a variance.

Sec. 902.5. Miscellaneous appeals--Limited reduction of yard size; limited expansion of lot coverage.

(a) Authority. The board of appeals shall have the power and duty to hear and decide requests for a limited reduction of required yard size or limited expansion of lot coverage for structures located outside of any shoreland zone, located on a lot solely in residential use in order to permit:

- (1) The expansion or enlargement of an existing building or structure; or
- (2) The construction of a new building or structure on a vacant nonconforming lot of record.

(b) Vote required; conditions. A limited reduction of yard size or limited expansion of lot coverage may only be granted by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this chapter.

Sec. 902.6. Same--Nonconforming means of egress construction.

(a) Generally. The board of appeals shall have the power and duty to hear and decide requests for the construction of means of egress stairways or ramps in order to permit:

- (1) The expansion of a stairway which is legally nonconforming with regard to space and bulk requirements solely to conform to the building code as adopted by the town.
- (2) The construction of a means of egress on a structure that is required by the town fire prevention code or that is required to make a structure or use accessible to a person with a disability.

(b) Vote; conditions. An appeal to permit a nonconforming means of egress construction may only be granted by a majority of those members present and voting and may include such conditions and safeguards as are appropriate under this chapter.

Sec. 902.7. Limitation of powers.

The board of appeals shall not have the power to authorize the issuance of permits for conditional uses. The planning board shall have jurisdiction over conditional uses as provided in this Charter.”

Commissioner Vallante inquired if Vice-Chair Bird’s recommendation for introductory language would be in addition to what is currently in section 902.

Vice-Chair Bird responded in the affirmative. He said a good part of it will be needed because of up-coming Shoreland Zoning changes.

Commissioner Higgins stated the Charter Commission should discuss Boards and Committees appointed by the Town Council. Commissioner Higgins was concerned that the Town Council should discuss appointments with Town staff, and the Town Council should be informing the

applicant of their decision in a timely fashion. She says there should be better guidelines for appointments. She further stated the Town Council should not be able to decide appointments based on a “whim”.

Commissioner Regis concurred.

Gary Lamb, Town Planner, was present, and suggested that all applicants should be required to come before the Town Council at a meeting.

Vice-Chair Bird stated that although no one has the right to be re-appointed, it is a waste of resources if a current member is doing a good job, wants to continue, and has experience, and the Town Council chooses not to re-appoint. He disagreed with mandating the Town Council have all applications vetted by staff—it’s not a staff function. It is a function of the Town Council.

Commissioner Higgins stated that if a person takes the time to apply for a Board/Committee, the Town Council should at least discuss the application with the applicant.

Commissioner Gombar recommended that something be placed in section 409.3 regarding appointments to Boards/Committees.

Commissioner Begert concurred that it is a good idea for applicants to appear before the town Council.

Vice-Chair Bird stated that maybe re-appointments should be dealt with under the Town Council powers section of the Charter.

Commissioner Regis commented that language should be added that within 60 days of applying, the applicant should be notified as to whether they are being re-instated or not.

Commissioner Flaherty stated that a viable, excellent candidate should not have to guess why they are not on an agenda for re-appointment, that people deserve an explanation.

Mr. Lamb inquired if the Charter Commission has plans for Attorney Vaniotis to come back, again. He stated the Charter Commission has a tough job, and should have legal representation present to guide them.

Commissioner Flaherty stated that the Charter Commission will seek Attorney Vaniotis’s input because they don’t want to spend time on something they can’t do.

Vice-Chair Bird stated that if the Charter Commission has questions as they go through the Charter, the Town Clerk, Kim McLaughlin, is given the questions and she relays them to Attorney Vaniotis.

Commissioner Gombar inquired why the section on the Zoning Board of Appeals calls for associate members, yet the other committees call for alternate members, and these should be standardized.

The Town Clerk, Kim McLaughlin, advised she believed the term “associate” is under State Law, and that is why the wording is different in that section.

Vice-Chair Bird stated that Jill Eastman did not attend tonight's meeting, so the Charter Commission will begin with Article VII at their next meeting, and asked the Town Clerk to invite the Finance Director, again.

Commissioner Vallante stated that it's important to have the Finance Director present to ask her opinion on Article VII.

Vice-Chair Bird stated that the Charter Commission needs to talk to her about the dedication of funds, etc.

The meeting was adjourned at 9:02 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 eleven (11) pages is a true copy of the original Minutes of the Charter Commission Meeting held May 25, 2010.

Kim M. McLaughlin