

CHARTER COMMISSION MEETING
TUESDAY, SEPTEMBER 28, 2010 – 7 P.M.

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

Jerome Begert
John Bird
Jayne Flaherty
William Gombar
Tianna Higgins
Paul Ladakakos
Ronald Regis
Michael Vallante

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

Motion made by Commissioner Begert, seconded by Vice-Chair Bird to accept the minutes of September 14, 2010.

VOTE: Motion passed unanimously.

Noticing members of the public were not present at the beginning of the meeting, Chair Ladakakos advised that the public hearing would be opened when the public arrived.

Town Clerk Kim McLaughlin read the response from Attorney Vaniotis, dated September 21, 2010.

See next page.

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September 21, 2010

Kim McLaughlin, Town Clerk
Town of Old Orchard Beach
1 Portland Avenue
Old Orchard Beach, Maine 04064-2245

Re: Charter Commission Questions

Dear Kim:

I am responding to the questions from the Charter Commission posed in your September 16th e-mail.

1. a) **Can the Charter mandate that a “background check” be done on elected officials? When can it be mandated (i.e. before they take out papers, after they return papers and before placed on the ballot, or before taking office if elected)?**

The Charter could mandate that a background check be done on elected officials, provided the background check were limited to a specific qualification for holding the office. For example, the Charter could specify that a person convicted of a felony criminal offense is not qualified to hold office; the background check would then be for the purpose of determining whether that qualification was met. The background check could be conducted at any of the three points you described in the question – before nomination papers are made available, after return of the papers but before placement on the ballot, or before taking office if elected. I would suggest that the earliest of those three possibilities makes the most practical sense, because it would occur before voters become involved in the process. Waiting until after the election occurs could create significant complications.

- b) **If a “background check” can be mandated, can a candidate be disqualified if they are a felon?**

The Charter can provide that a person with a felony conviction is not qualified to serve as an elected official. The Old Orchard Beach Charter currently provides that a sitting member of the Town Council forfeits office if “convicted of a crime which

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is punishable by imprisonment for more than six months....” (That term of imprisonment is the dividing line under Maine law between what used to be called “felonies” and “misdemeanors” – terms no longer used in the Maine Criminal Code.)

- c) **If a “background check” can be mandated, who would be authorized to conduct that background check? (i.e. Town Council, Town Manager, Police Chief)**

The background check would have to be undertaken by a neutral official (presumably the Police Chief) and the determination as to whether the candidate met the qualifications for office would also have to be made by a neutral official (probably the Town Clerk). If the Commission is interested in pursuing this concept, I would be happy to help with some language.

2. **Can the Charter mandate that a candidate for Town Clerk have “computer literacy skills”, and how would that be quantified?**


While possessing “computer literacy skills” would be an appropriate part of a job description for an appointed town clerk, it is very difficult to attach that kind of qualification to an elected position. It might be possible to identify some standardized, objective test or some professional certification that could be used to pre-qualify candidates before they could take out nomination papers, but that concept is really inconsistent with the principle that it is the voters who make the choice concerning an elected official.

3. **Can it be placed in the Charter that a candidate must be a United States citizen?**

Yes.

Please let me know if you or the Commission need further clarification on any of these questions.

Sincerely,



Christopher L. Vaniotis

CLV/lc

Commissioner Begert believed a background check should be done on all elected officials.

Vice-Chair Bird was concerned about qualifications, and specifically, in regard to the Town Clerk's Office, the opportunities for identity theft. He felt a background check, at least for the Town Clerk, was warranted.

Commissioner Begert believed a background check should be done on all elected officials.

Commissioner Flaherty stated the voters should be making the decision. How would it be set up for a candidate to show proof they possess the necessary skills?

Commissioner Begert was concerned that the Town Clerk has access to personnel records, and could also have an effect on the Treasury. If there is a consensus, to be consistent, all elected officials should have a background check.

Vice-Chair Bird stated that he didn't want to go that far. He agreed the Town Clerk should have a background check, but felt the Town Council and RSU officials were generalists and didn't need to have a background check done.

Commissioner Regis felt all elected officials should have a background check.

Commissioner Higgins stated that Charter Commission does not have access to anything, and should not have background checks administered.

Commissioner Begert insisted the Town Clerk and RSU representatives should have background checks administered. He said the RSU officials have access to student records, and was concerned about what they could do with those records.

Chair Ladakakos stated that all department heads should have a background check administered because they handle the financial assets of the Town.

Commissioner Gombar stated the members should first discuss what the condition would be to disqualify a candidate—felon, etc.

Commissioner Begert stated the Town Attorney could help the Charter Commission write that.

Commissioner Vallante stated that each department should be done separately.

Commissioner Flaherty inquired of the Town Clerk if candidates running for office sign on their nomination papers that they're not a felon.

Town Clerk Kim McLaughlin stated that when a candidate signs their nomination papers, they're stating that they'll meet the qualifications for the office.

Commissioner Regis stated that when candidates take out nomination papers, they should sign a form stating that they will or will not agree to a background check, and they should pay for that background check.

Chair Ladakakos was concerned where it stops on background checks.

Chair Ladakakos then opened the public hearing on item #1, Town Council—number of Councilors; length of terms; term limits; wards, at 7:25 p.m.

There was one member of the public in the audience (other than a member of the press)—Branimir Viducic, 1 Banks Brook Road, Old Orchard Beach.

Mr. Viducic stated that where he works, the government issued a background check for him.

Mr. Viducic spoke of term limits. He said Town Councilors should serve no more than three terms. He also felt that wards were unnecessary in a Town this size. He said the amount of Town Councilors should be increased to seven.

Vice-Chair Bird asked Mr. Viducic's opinion on six Town Councilors, and Mr. Viducic responded that it should not be an even number. You need someone to break a tie.

The public hearing was closed at 7:48 p.m.

Chair Ladakakos read section 201.1.

Commissioner Regis motioned, seconded by Commissioner Vallante to amend the Charter to read seven Town Councilors.

VOTE: Unanimous.

Commissioner Higgins motioned, seconded by Commissioner Begert (for discussion), to amend the Charter for Town Councilors to be limited to two, three-year terms, with a two, two, and three elected per year process of rotation.

Commissioner Begert felt three years was too long, and would be voting against the motion.

Commissioner Flaherty stated that two years may be more palatable than three years for candidates. A two-year commitment may make more people want to run.

Commissioner Gombar recommended six Town Councilors with three-year terms and one with a one-year term, for a total of seven Town Councilors.

Commissioner Higgins stated that Town Councilors invest a lot of time to learn the ropes, and then their term would be almost over if they had a one-year term.

Chair Ladakakos stated he liked Commissioner Higgins's motion.

Commissioner Begert rescinded his second to Commissioner Higgins' motion and Commissioner Higgins removed her motion.

Commissioner Higgins made a motion, seconded by Commissioner Gombar to three-year terms with a two, two, three term breakdown for seven Town Councilors.

Vice-Chair Bird, seconded by Commissioner Gombar, made an amendment to the motion to provide for six three-year terms and one one-year term, for a two & one, two & one, two & one, elected per year process of rotation. [There would be three people elected every year—two for three-year terms and one for a one-year term]].

Commissioner Higgins felt the Town Councilor with the one-year term would always be treated unfairly by the other councilors.

VOTE ON THE MOTION TO AMEND: Commissioners Begert, Bird, Flaherty, Gombar, Regis, Vallante and Chair Ladakakos for; Commissioner Higgins against. Motion passes 7-1.

VOTE ON THE AMENDED MOTION: Commissioners Begert, Bird, Flaherty, Gombar, Regis, Vallante and Chair Ladakakos for; Commissioner Higgins against. Motion passes 7-1.

Vice-Chair Bird stated the Commission needs to discuss term limits.

Commissioner Regis motioned, seconded by Commissioner Higgins to set two three-year term limits. The one-year Town Councilor would have a term limit of six years.

Commissioner Gombar stated it should be set as a six year, consecutive limit.

Commissioner Higgins inquired how long the break between terms should be.

Vice-Chair Bird stated that the Town Councilors should have to wait a minimum of one year between terms, and he felt a Town Councilor should not serve more than two three-year terms consecutively.

Commissioner Vallante stated there should be a seven-year, consecutive term limit, and then they would have to take one year off.

Commissioner Begert stated the Town Councilor with the one-year term should not have a term limit.

Commissioner Gombar motioned to amend the motion on the floor, seconded by Commissioner Vallante that no Town Councilor is eligible to serve more than seven years consecutively without at least a one-year break from such office.

Commissioner Vallante questioned the one year break, inquiring if it was appropriate or if it should be longer.

Vice-Chair Bird inquired if the Councilor should be off the Town Council for a year before they can run, again.

Commissioner Gombar thought the wording may be cleaner if it were to read that a Town Councilor cannot serve for more than seven years within a ten-year period.

Vice-Chair Bird felt the Charter Commission didn't need to name the length of the break.

Commissioner Flaherty stated they would need it, because if it isn't named, that it basically prohibits a Town Councilor from ever running for the office, again.

Commissioner Vallante asked if the Charter Commission would agree that a Councilor that runs for a one-year term, can then run for a three-year term, but not vice-versa.

Commissioner Begert felt that the year should be a "solid year", so if there was a Special Election, the Councilor that just completed a term could not run for that office. It needs to be articulated.

Commissioner Higgins stated that the break should be the largest of the two terms, so it should be a three-year break, not a one-year break.

Commissioner Vallante rescinded his second, and Commissioner Gombar rephrased his motion to read, "No Town Councilor is eligible to serve more than seven years consecutively without at least a three-year break from such office."

Commissioner Flaherty inquired if, by having term limits, the Town would run into a position that there would not be enough people to run for office.

Vice-Chair Bird felt that wouldn't occur.

VOTE: Unanimous

Chair Ladakakos read section 202.

No comments.

Chair Ladakakos read section 203.

Vice-Chair Bird made a motion, seconded by Commissioner Higgins, to add “and this Charter” for Sec. 203 to read: “Registered voters of the Town shall be nominated for the Town Council, Representatives of the Education System, and Town Clerk by use of nomination papers in accordance with the State Statutes and this Charter in governing Town elections.”

Chair Ladakakos read section 204.

No comments.

Commissioner Gombar made a motion, seconded by Commissioner Regis, to accept section 204 as is.

VOTE: Unanimous.

Chair Ladakakos read section 205.

Commissioner Higgins made a motion, seconded by Commissioner Gombar to accept section 205 as is.

VOTE: Unanimous.

Chair Ladakakos read section 206.

Commissioner Gombar motioned, seconded by Vice-Chair Bird, to accept section 206 as is.

Commissioner Begert stated that Wardens should be U.S. citizens. Also voters should be U.S. citizens, and would like the Charter Commission to discuss this in the future.

VOTE: Unanimous.

Chair Ladakakos read section 207.

Commissioner Gombar made a motion, seconded by Commissioner Regis, to accept section 207 as is.

VOTE: Unanimous.

Commissioner Gombar stated a new section 208 should be added to list the qualifications of registered voters.

Commissioner Higgins stated she isn't concerned if election officials are U.S. citizens.

Commissioner Vallante stated that there should be an attorney's opinion whether registered voters can be mandated to be U.S. citizens by local Charter.

Vice-Chair Bird motioned, seconded by Commissioner Gombar, to add:

“Section 208, Qualifications for Registered Voters. A registered voter must be a citizen of the United States of America to vote in municipal elections, and meet all other state requirements.”

VOTE: Unanimous.

Chair Ladakakos stated the Charter Commission will begin with Article III (Initiative and Referendum) at the next meeting.

The meeting was adjourned at 9:05 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 September 28, 2010.

Kim M. McLaughlin