

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP
Tuesday, June 21, 2016
TOWN HALL CHAMBERS
Following the Town Council Meeting**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, June 21, 2016 following the Town Council Meeting. Chair O’Neill opened the meeting at 7:30 p.m.

The following were in attendance:

**Chair Shawn O’Neill
Vice Chair Joseph Thornton
Councilor Kenneth Blow
Councilor Jay Kelley
Councilor Michael Tousignant
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid**

Absent: Chair Shawn O’Neill
Councilor Michael Tousignant

The Workshop this evening was to address possible Charter changes and also to address some issues regarding the Ballpark Ordinances.

- **Charter Changes:** At the Council’s request staff is preparing a number of proposed charter changes for the Council to consider for the ballot in November. These proposed changes will be an agenda item at the June 23 Council workshop.
 - **Term limits:** Remove the language setting a limit of two terms, or seven consecutive years of service for Town Councilors.
 - **Sale of property:** Currently sale of Town property, including tax acquired and surplus property, is allowed by sealed bid only. This process does not always provide the highest possible price to the Town. For example in selling the old ladder truck it is likely to the Town’s advantage to work with a broker that can reach a national market for such a specialized vehicle. Another example is that using an auction service may be a preferred way to dispose of surplus public works or police vehicles. The proposed language change would require a competitive bid process rather than a sealed bid process.
 - **Conflicts of interest:** Existing language prevents an employee who is a relative of a Town Councilor from receiving any increase in compensation. The proposed language would allow an increase in compensation but require the Town Councilor to recuse himself from voting on any increase in compensation.

- **Advertising of agendas:** The charter requires that the agenda for meetings of the Town Council and all other Town boards, committees or commissions be printed in the daily newspaper. This adds considerable expense. The most recent Town Council meeting agenda cost over \$900 to print in the Journal Tribune. The proposed change would require the agenda to be posted in Town Hall and also on the Town's website 3 days prior to the meeting.

The Council consensus on these changes to the Charter were well received by the Town Council. Comments were made by Robin Dayton and Jerome Begert regarding the conflict of interest as it related to salary increases to a department head who has a relative serving on the Town Council. The fairness of this decision has been discussed on many occasions and the change will require the relative serving on the Council not remove himself or herself from that particular vote.

It was noted that the four changes would be brought forward to the Town Council and the setting of a public hearing at the July 19th Town Council meeting, with the Public hearing to be held on August 2, 2016.

DRAFT CHANGES TO CHARTER

Sec. 201. - Town Council, Town Clerk.

Sec. 201.1. Town Council. The Town Council shall be composed of five (5) members, with two-year terms, each of whom shall be elected by the registered voters of the entire Town, and each of whom shall serve until a successor is elected and qualified. The two-year terms of the Town Council shall be staggered, and expire at two year intervals. 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.~~

Sec. 409. - Enumeration of Powers.

Sec. 409.14. Dispose of real and personal property acquired through nonpayment of taxes, when deemed in the best interest of the Town, by ~~sealed competitive bids,~~ by competitive bid, including, but not limited to auction or use of a brokerage firm. ~~except that the~~ The Council, in its discretion, may sell the property to the former owner for a sum not less than the total of all back taxes, interest, and costs;

Sec. 409.15. Sell, or offer to sell, by ~~sealed competitive bids,~~ competitive bid, including, but not limited to auction or use of a brokerage firm, surplus property of the Town provided that no real property acquired in any manner other than through nonpayment of taxes may be offered for sale, leased for more than three years, or otherwise disposed of without a referendum vote or, in the case of condemnations, sold to any other than the original owner without first offering it to the

original owner for the price paid minus any expenses incurred by the original owner because of the condemnation. ~~Invitations for bid shall be published at least thirty (30) days prior to the date for the opening of bids. The Town shall give public notice of the process at least 30 days before the deadline for disposition.~~ The Council may, in its discretion, accept or reject any or all bids.

Sec. 412. - Conflicts of Interest.

No relative of a Town Councilor or the Town Manager shall be appointed to any compensated Town office or any position appointed by the Town Council or shall be hired for a position in any Town department under the direct control of the Town Council so long as that Councilor continues to serve on the Town Council. If the relative was serving in any such position at the time of that Councilor's election, ~~the Councilor shall recuse him/herself from voting on any increase in that relative's salary or compensation, relative shall not receive any increase in salary or compensation which is approved during that Councilor's term of office~~ except for salary or compensation increases which are commensurate and proportional to salary or compensation increases received by non-union Town employees or Town employees covered under a collective bargaining agreement. ~~A Councilor with a relative serving in a compensated Town office or position shall recuse him or herself from consideration or acting on matters directly related to the compensation or salary of their relative.~~

No Town Councilor may vote on any contract while employed by the contractor or subcontractor or in which the member or a relative has a financial interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of those members present and voting, excluding the member being challenged.

As used in this section, the term "relative" means related by blood, marriage, or law, including spouses, children, grandchildren, great-grandchildren, parents, brothers, sisters, nephews, nieces, grandparents, uncles, aunts, first cousins or domestic partner relationships.

(Ref. of 11-4-2014, eff. 11-18-2014)

Editor's note— The amendment to [section 412](#) was approved by the voters at the November 4, 2014 Election, and the council voted on November 18, 2014 for it to take effect on November 18, 2014.

Sec. 904. - Public Bulletin Board.

There shall be an official public bulletin board located outside the Town Clerk's Office in the Town Hall. The agenda of each meeting of the Town Council, and all other boards, committees, and commissions shall be posted, or cause to be posted, on this bulletin board and on the town internet web site by the Town Clerk, at least three (3) working days prior to the meeting. ~~and a copy of the agenda shall be printed as a legal advertisement in a newspaper of general circulation in the Town at least twenty-four (24) hours prior to the meeting.~~

No action shall be taken on agenda items which have not been posted ~~and published~~ in accordance with this section, unless the Council, commission, committee or board determines that an emergency exists. The declaration of emergency by the Council, commission, committee or board shall be conclusive. Dates, times, and meeting places of all regular and special meetings, public hearings and workshops shall also be posted on the bulletin board in accordance with this section.

A failure or malfunction in the town internet website shall not require the postponement of any hearing or action by the Town Council or any other board, committee or commission provided the agenda was posted on the official public bulletin board as required by this section.

Sec. 904.1. Public Access to Meetings. All regularly scheduled meetings and budget workshops of the Town Council shall be video recorded and broadcast on a local cable access channel pursuant to Federal laws governing local access. Additionally, in the event an issue arises causing significant public interest or significant community changes which will be discussed at a meeting other than a regularly scheduled meeting, all reasonable attempts will be made by the Town Council Members to have the meeting video recorded and shown as soon as possible on a local public cable channel. Two copies of all meetings so videorecorded, shall be given to the Town Clerk, to be maintained as an archival record of said meetings and available to the public for review.

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.~~

EXAMPLE TIME LINE FOR CHARTER AMENDMENT FOR NOVEMBER 8th, 2016 ELECTION:

DATE OF ACTION	ACTION PERFORMED BY	ACTION
June/July	Town Council/Town Attorney	Workshop on item if needed/Town Attorney to put together wording for proposed Charter amendment and brief explanation for public hearing and ballot.
August 16 th , 2016	Town Council	Set public hearing date of September 20 th , 2016.
August 17 th , 2016	Town Clerk	Nomination Papers available.
August 17 th , 2016	Town Clerk	Send notice of public hearing to newspaper for advertising at least seven days prior to public hearing, post on bulletin board in Town Hall and on Town website.
September 20 th , 2016	Town Council	Public Hearing on Charter Amendment, and Order Town Clerk to place Amendment on ballot.
September 21 st , 2016	Town Clerk/Town Attorney	Town Clerk sends e-mail to Town Attorney for letter stating the Amendment does not violate State Laws or US Constitution/Maine Constitution (due back within 7 days).
	Town Clerk	Post Charter Questions on the bulletin board.
	Town Clerk	Send to Journal Tribune for September 23 rd posting/Post on Town Website.
September 26 th , 2016	Town Clerk	Deadline for Nomination Papers.
November 8 th , 2016	Town Clerk	ELECTION DAY

November 21 st , 2016	Town Council	Town Council will Canvass and Certify results of Election.
	Town Council	There must be at least 1,300 voters that vote yes or no on the Charter Amendment question. State Law requires at least 30% of the voters that cast a ballot in the Gubernatorial Election (4,332) vote on this issue, with the majority voting yes. If the Charter Amendment passes, the Town Council can place on their November 21 st Special Meeting agenda to Order the Amendment to take effect immediately. If not, it will take effect the beginning of the next fiscal year (July 1 st , 2016).
November 22 nd , 2016	Town Clerk	If Charter Amendment is approved, send copies to the Secretary of State and Maine State Library.

- **Ballpark Ordinance Changes:** Ballpark Manager Guy Fontaine has requested that the Council consider making changes to the ordinance in the following areas. These proposed changes will be on the agenda of the June 23 Council workshop.
 - **Allow non-residents to serve on the Ballpark Commission.** The Ballpark Commission consists of seven members and two alternates. Currently there are four members with three vacancies (and two alternate vacancies). The proposal is to allow up to three non-residents to serve because the Ballpark needs to reach a regional audience in order to attract economically viable events. The rationale is that the Ballpark benefits when a non-resident is interested in serving and brings a skill-set that can contribute positively to the operations.
 - **Prohibit dogs from the Ballpark:** Currently there are many people who bring their dogs to the parking lot and grounds of the Ballpark for the purpose of letting them run free. In most circumstances the dogs arrive by automobile and are let out by the owner, who may or may not leave the vehicle. Usually the owner does not pick up and remove the dog's feces. As a result the grounds are inundated with dog feces.

There was discussion between Robin Dayton, Chief Dana Kelley and Guy Fontaine regarding dogs being allowed in the Ballpark. Although there have been ongoing issues with dog owners not cleaning up after their dogs and also use of the cars in the ballpark area with the dogs chasing after the cars that have been dangerous and unsafe. A dog was killed by its owner who was driving the car. Robin Dayton indicated that she felt there were other ways of limiting the issues and problems that are existing and that these should be considered before removing a privilege for an owner and their dog. It is a discussion that will continue as it did not seem to have consensus on the Council to move this forward to a public hearing.

Guy Fontaine, Ballpark Commission, has requested consideration be given to changing the ordinance to allow up to three positions on the Ballpark Commission to be given to non-Old Orchard Beach residents to help promote local engagement from surrounding communities. The remaining four slots would remain open to Old Orchard Beach residents ensuring that the majority vote remains with the Town citizen's vote. His reason for including non-residents is that the Ballpark has been able to attract customers and attendees from the region in order to be successful. Also the Commission would benefit from members who bring experience and knowledge about managing and operating an events venue. Expanding Commission membership outside of Old Orchard Beach will help in getting that type of expertise on the Commission.

Attached to this memo is the ordinance as it stands at the present time but any change would be made to Section 2-398, not 2-233 which would be a caveat only covering the Ballpark.

The discussion on the ability for individuals living outside of Old Orchard to serve on the Ballpark Commission was important and the consensus of the Council that this would be a good way to involve individuals outside of Old Orchard and a good marketing tool as well. Some of the concerns raised were that there needs to be a quorum composed of Old Orchard Beach members but that perhaps two or possibly three at the most members outside the community would bring in some additional interest and grow the opportunity for suggestions for programming. It was, however, stated that the Chair and Vice Chair should serve with members of the Old Orchard Beach community. It was suggested that this move forward with setting of a public hearing at the July 19th agenda of the Council and with the Public hearing happening on August 2, 2016.

- **Sec. 2-398. - Appointment, vacancies, term.**

The ballpark commission ("commission") shall consist of seven members appointed by the town council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the commission shall be filled by the town council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the commission serve at the will of the town council and may be removed by vote of the council at any time for any reason. Commissioners shall attend at least 75 percent of commission meetings held during a calendar year, either in person or by telephone or video conferencing. Commission members shall actively contribute their efforts to various tasks (e.g., meeting participation, timely completion of assignments, sub-committees) important to the usefulness of the commission's powers and duties.

- **Sec. 2-233. - Appointments and qualifications.**

(a)

Appointments to any advisory board or committee shall be made by the town council only after the appointee has completed an application for membership to the committee. Applications may be obtained from the office of the town clerk or from the town manager.

(b)

Each appointee shall have his principal place of residence or shall be an owner of real estate property located in the town for the length of his term. A vacancy shall occur when an appointee ceases to be a resident or an owner of real estate property or if a member shall be convicted of a crime involving moral turpitude. The vacancy shall be filled by a subsequent appointment by the town council. Any appointee who consistently misses meetings without reasonable cause may be removed by the town council.

(c)

The spouse of any member shall not be appointed to serve on the same committee, and no appointee shall serve on more than two committees at any one time.

(Ord. of 6-16-1992, art. I, § 2; Ord. of 10-17-1995)

- **Sec. 2-396. - Ballpark defined.**

For purposes of this division, the term "the Ballpark" means the municipal facility located on Ballpark Way off of E. Emerson Cummings Boulevard, commonly known as the Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas. The Ballpark operates as an enterprise fund.

(Ord. of 3-16-2010, § 1; Ord. of 1-21-2014)

- **Sec. 2-397. - Ballpark commission formed.**

Pursuant to section 409.4 of the Charter, there is hereby created an agency of the town by the name of the "ballpark commission."

(Ord. of 3-16-2010, § 2)

- **Sec. 2-398. - Appointment, vacancies, term.**

The ballpark commission ("commission") shall consist of seven members appointed by the town council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the commission shall be filled by the town council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the commission serve at the will of the town council and may be removed by vote of the council at any time for any reason. Commissioners shall attend at least 75 percent of commission meetings held during a calendar year, either in person or by telephone or video conferencing. Commission members shall actively contribute their efforts to various tasks (e.g., meeting participation, timely completion of assignments, sub-committees) important to the usefulness of the commission's powers and duties.

(Ord. of 3-16-2010, § 3; Ord. of 2-1-2011(1); Ord. of 1-21-2014)

- **Sec. 2-399. - Powers and duties.**

Subject to town council oversight, the commission is responsible for developing the Ballpark's business planning including improvement, maintenance, financial tracking, marketing, operations, and long-term property enhancements, offering recommendations to the town manager and town council for consideration and approval. Operations may include, but is not limited to equipment, materials, vendors and park users.

In order to carry out that responsibility, the commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the town council and subject to the town's established purchasing and procurement procedures.

Scheduling events, subject to issuance by the town council of special events permits under [chapter 42](#), article IV, division 5 of the Town Code.

Raising funds to be used exclusively for the improvement, maintenance and operation of the Ballpark through the sale of advertising or other promotional activities and through soliciting and accepting donations on behalf of the town, all in accordance with the town's established finance and accounting procedures.

All such funds received by the commission shall be remitted to the town treasurer for deposit in a dedicated revenue account denominated "the Ballpark Fund."

Soliciting, supporting and organizing the efforts of volunteers to assist in the improvement, maintenance and operation of the Ballpark as a community facility.

With the approval of the town manager, obtaining the assistance of town employees in connection with the improvement, maintenance and operation of the Ballpark.

Performing such other duties and responsibilities and exercising such other powers as the town council may, from time to time, by order, assign to the commission.

(Ord. of 3-16-2010, § 4; Ord. of 1-21-2014)

- **Sec. 2-400. - Meetings.**

The commission shall establish a schedule of regular meetings, which shall provide for at least 12 meetings per calendar year. The commission shall meet at least monthly during June, July, August and September. The commission chairperson may call special meetings as he or she deems necessary.

(Ord. of 3-16-2010, § 5)

- **Sec. 2-401. - Quorum, procedure, officers.**

Four members of the commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the commission requires a majority vote of those members present and voting. The commission may adopt additional rules, not inconsistent with this division, for the conduct of its activities.

The commission shall choose annually a chairperson, vice chairperson, secretary, and may choose a financial liaison from among its members. The secretary shall maintain a permanent record of the commission's meetings. The financial liaison will maintain records of purchase orders, invoices and other financial documents including the town financial director's monthly

reports. Original financial records, including purchase orders, invoices and other financial documents, are maintained by the town finance director.

(Ord. of 3-16-2010, § 6; Ord. of 1-21-2014)

- **Sec. 2-402. - Authority to appoint agents.**

The commission may, with the consent of the town manager and the town council, designate one or more of its members or, qualified non-members if authorized in writing by the town manager or town council, to serve as the commission's agents for carrying out the commission's responsibilities. Such agents may not, however, bind the town to any contractual or financial commitments unless expressly authorized to do so by the town council.

(Ord. of 3-16-2010, § 7; Ord. of 8-25-2010; Ord. of 1-21-2014)

- **Sec. 2-403. - Report to the council.**

On a quarterly basis, starting on the 16th of June, 2010, the commission shall submit to the town council a written report on the status of improvements, maintenance and operations at the ballpark, including a summary of the commission's activities during the immediately preceding three months.

(Ord. of 3-16-2010, § 8)

- **Sec. 2-404. - Ballpark is land owned by the public but not considered a park.**

The Ballpark, as defined in this division, is intended to be operated as a sports/entertainment/events and recreation area and not as a public park subject to the care and superintendence of the conservation commission. The Ballpark's operation shall not be considered a recreation program subject to oversight by the recreation board.

(Ord. of 3-16-2010, § 9; Ord. of 1-21-2014)

Comments from Chief Dana Kelley

I would suggest that we ask the Council to create an ordinance making the Ballpark off limits to pets, it is not a dog park, but is being used as one. I know what you are talking about because in the summer I sometimes run through that area and constantly have to dodge the piles of crap. It is too bad that a few irresponsible dog owners ruin it for everyone. Who did you ask for signs? I do not recall speaking with you about this. I will ask public works to post signs and ask that the park be checked frequently, but I do not believe that will solve the problem. The chances of us just happening to be there at the right time is slim to none. A better solution would be to prohibit dogs completely. The ordinance says that no one can be in there one half hour before sunrise

and one half hour after sunset. With all the activities taking place in there including the community garden, that would be close to impossible to enforce. My guess is that most of the problem you are having occurs during daylight hours anyway, so the closing and opening times aren't necessarily the problem. Another solution might be to somehow close access to the park at the designated times, chain, fence, gate, etc, I'm not sure just how. I will do what I can to help you with this, but frankly, I don't think signs and extra patrols alone will do it. We would have to be there to catch them, and I cannot guarantee that that would happen often enough to matter. Give me a call and we can discuss this further. In the meantime, I will ask Public Works to post signs.

Chief Kelley

From: Guy Fontaine [<mailto:gfontoob@aol.com>] **Sent:** Friday, June 03, 2016 9:30 AM **To:** Dana Kelley; Timothy Deluca **Cc:** Larry Mead; Will Watson **Subject:** Serious problem at Ballpark

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on- -----, at 6:30 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 14, Animals, Section 14-10, is hereby added to the Town of Old Orchard Beach Code of Ordinances, as follows:

Sec. 14-10 Animals

Notwithstanding any other section of this chapter, it shall be unlawful for the owner of any dog or other animal to permit such dog or other animal, to enter upon and remain within the area known as the Ballpark, unless permission is issued by the Town Manager or his designee.

The workshop concluded at 8:45 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 eleven (11) pages is a copy of the original Minutes of the Town Council Workshop of June 21, 2016.

V. Louise Reid