

TO: Voters of the Town of Ogunquit
FROM: Ogunquit Charter Commission
DATE: September 16, 2016
RE: Final Report

In reviewing the Town Charter, the Commission felt, that while most of the Town Charter has served us well and will continue to do so, there were a few modifications that could improve the charter for a more orderly flow of government and better service to the Townspeople.

In addition to obvious grammatical corrections and clarification of some language, the following modifications are also recommended:

1. Charter modification to: **Article I - Grant of Powers to the Town, Section 102 – Powers of the Town, §102.11**

PROPOSAL: Establish, maintain, ~~conduct,~~ **approve, permit and/or finance recreational facilities;** and may charge for the use thereof.

REASON: *Change is to clean up the current language.*

2. Charter modification to: **Article II - Town Meetings, Section 203 – Town Elections, §203.1**

PROPOSAL: **203.1 TERM LIMITS**
Term limits shall be established for all elected members of the Town of Ogunquit Select Board and Budget Review Committee. Term limits shall consist of two (2) consecutive terms. Limits shall include any term or portion of a term of office. An individual who is affected by the term limit restriction shall be eligible for election to a Board or Committee once a one (1) year period has passed since the restriction took effect.

3. Charter modification to: **Article II - Town Meetings, Section 206 – Warrant Article(s) by**
Petition of Voter

PROPOSAL: WARRANT ARTICLE(S) BY PETITION OF VOTERS

Article(s) for the Warrant of any Town Meeting may be requested of the Select Board. The article(s) may be inserted in the Warrant of an Annual or Special Town Meeting upon receipt of the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the town at the last gubernatorial election but in no case less than ten (10). If a petitioned article calls for an illegal act, the Select Board may refuse to put it on the warrant since it would not be effective if adopted. If the Select Board “unreasonably refuses” to place a petitioned article on the warrant petitioners may seek relief from a notary public in accordance with 30-A MRSA §2521(4). If the Select Board declines, the article(s) shall be inserted in the Warrant of an Annual or Special Town Meeting upon the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the Town at the last gubernatorial election.

REASON:

Change is to keep in line with current State Statute and to clarify the petition process.

4. Charter modification to: **Article III - Select Board, Section 308 – Meetings and Voting, §308.2**

PROPOSAL:

308.1.3C.

Each Select Board member in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest or the appearance of a conflict of interest clearly exists, in which case, the member must **disclose the interest and** abstain. ~~Otherwise, members in attendance will vote in one of the following responses, in favor, against or present. A member voting present will be considered part of the quorum. The record will show votes in favor, against and present~~ **abstention.**

308.1.4D.

A member with a conflict of interest or the appearance of a conflict of interest shall ~~recuse~~ **disclose the interest and recuse** him ~~or~~ herself and shall ~~leave the room~~ **move to the public section area** until such time as the matter involving the conflict of interest is closed and the Select Board is ready to move to the next item on the agenda. **In no case shall an abstaining Select Board member participate in an official capacity in discussion or deliberations regarding the matter as to which the member has abstained;**

however, such member may speak as a member of the public during that portion of the meeting when the public is being heard.

REASON:

Change is to clarify the conflict of interest section of the Charter. Change also allows for a Board member to participate in the discussion as a member of the public.

5. Charter modification to: **Article III - Select Board, Section 310 - Powers of the Select Board, §310.2**

PROPOSAL:

310.2 Appoint, remove or provide for the election of such officials and members of boards, commissions and committees as ordinances and statutes may require. All appointments shall be in writing and signed by the **Select Board**. **The Select Board shall have the power to remove for cause after notice and hearing those appointees over whom they have jurisdiction, to the extent required by state law and/or this Charter. Forfeiture of office of an appointment to a board, commission or committee shall be governed by the provisions of Section 803 of this Charter.** ~~Appointments may be removed by the Board under the provisions of Section 804 of this Charter.~~

REASON:

Change is to clarify language for the Select Board Appointments and the removal of the Select Board Appointments. Prior language referenced Section 804 of the Charter which is the recall procedures. Select Board appointments cannot be recalled.

6. Charter modification to: **Article III – Select Board, Section 310 - Powers of the Select**

Board, §310.12

PROPOSAL:

310.12 Enter into and execute contracts on behalf of the Town concerning matters authorized by Town Charter, Town Meetings or State statutes. **Designate the Town Manager to sign and execute contracts, in accordance with the Town's purchasing policies, with the exception of union contracts, on behalf of the Town by a vote of the Select Board.**

The designation may be for an indefinite term contiguous with the Town Manager's term of office.

A written record of all action taken shall be signed by

the Select Board and maintained by the Town Clerk.

The Select Board may by majority vote suspend or rescind the designation of the Town Manager to sign and execute contracts.

REASON:

Change is to authorize the Select Board to grant the Town Manager the authority to sign, after Select Board approval, contracts. This currently is the procedure.

7. Charter modification to: **Article III – Select Board, Section 310 – Powers of the Select Board, §310.16**

PROPOSAL:

310.16 The Select Board shall issue a **Results of Annual Town Meeting Information packet** ~~written Mid-Year Report~~ each ~~February~~ **January** updating the citizens of the Town on the Articles passed at the last Annual Town Meeting and any subsequent Special Town Meetings. ~~This report shall also summarize the important activities and issues currently before the Select Board. The Mid-Year Report shall cover the first six (6) months of the current Fiscal Year.~~ **This Report shall be the Information Packet mailed out prior to Annual Town Meeting and/or Special Town Meeting, if applicable, with the results and status of each article voted on at the Annual Town Meeting and any subsequent Special Town Meeting**

~~Notice of this report shall be given seven (7) calendar days prior to its issuance. Notice shall be posted in three (3) conspicuous places and on the community public access channel (WOGT). This “Town of Ogunquit Mid-Year Report” shall be posted on the town website (townofogunquit.org) and copies shall be available in Town Hall. The first item on the agenda at the Select Board’s meeting following the “Mid-Year Report” shall be a public forum for questions and comments.~~

REASON:

Change is to allow for the removal of the Select Board Semi-Annual Report and report on the Annual and Special Town Meeting through the informational packet mailing. The Informational Packet mailing will have the result of each article voted on at the respective Town Meeting.

8. Charter modification to: **Article V – Financial Procedures, Section 504 - Revenue and Expenditures**

PROPOSAL: Section 504 REVENUE AND EXPENDITURES

Anticipated revenues and taxation shall be identified on each appropriation account. The budget for all departments shall include all proposed expenditures, **revenues and other funding sources.**

Total expenditures shall not exceed total ~~income~~ **revenues and other funding sources.**

The gross appropriation for each department shall not be exceeded except by vote at a Special Town Meeting or as provided for herein.

~~Amounts may be transferred by the Select Board within a department as long as the approved total departmental budget amount is not exceeded. Transfers between departments (Warrant Articles) shall be allowed only as a final adjustment at the end of the fiscal year following a public hearing at a Select Board Meeting. This transfer is limited to an amount not to exceed Twenty Five Thousand Dollars (\$25,000) for any one department and not to exceed 1% (One Percent) of the total municipal operating budget for the departments overall. Amounts above these limits require approval at a Special Town Meeting. (STM 11/05/13)~~

504.1 The Select Board shall have the authority to transfer appropriations between departments without exceeding the Town Meeting approved total budget. Such authority may be exercised during the fiscal year or at the end of the fiscal year, subject to a public hearing before taking such a vote. This authority is limited to an aggregate of a \$25,000 transfer to any one department and total transfers between departments shall not exceed 1% of the total municipal operating budget for the departments overall.

504.2 The Select Board shall have the authority to determine that a Capital Improvement Project is completed or abandoned, and to transfer up to \$25,000 in excess funds to another approved Capital Improvement Project.

The transfer may be completed during the year or at year end. Transfer(s) to be capped at \$25,000 annually. Transfer(s) are subject to any restrictions on the use of the funds by the funding source and to a public hearing prior to completing

the transfer.

REASON:

Changes are at the recommendation of the Town Treasurer to allow for easier budget transfers throughout the fiscal year. Current Charter allows for transfers to take place only at the end of the fiscal year. Also allows for a transfer from a completed Capital Improvements Project. All transfers require a public hearing.

9. Charter modification to: **Article V – Financial Procedures, Section 505 – Borrowed Funds**

PROPOSAL:

Section 505 BORROWED FUNDS

The Town Treasurer, with approval from **the Town Meeting, Special Town Meeting or** the Select Board, is authorized to borrow money for approved expenditures in anticipation of revenue and taxation collection.

505.1 Such borrowings shall include, but not be limited to:

A. General Obligation Bonds

B. General Obligation Bond Anticipation Notes

C. Revenue Anticipation Notes

D. Tax Anticipation Notes

E. Operating Leases and;

F. Capital Leases

REASON:

Change is to clarify the funds that could be borrowed. Per the recommendation of the Town Treasurer.

10. Charter modification to: **Article V – Financial Procedures, Section 506 – Independent Annual Audit**

PROPOSAL:

Section 506 INDEPENDENT ANNUAL AUDIT

~~Prior to the end of the fiscal year, the~~ Select Board shall designate ~~either the Maine Department of Audit or~~ a private firm of certified public accountants to make an independent audit of accounts and other evidence of financial transactions of the Town government for the current fiscal year and to submit its report and a management letter to the **Select** Board. Such accountants shall not maintain any accounts or records of Town business, but shall post-audit the records and

documents maintained by the Town and any separate or subordinate accounts maintained by another office, department, or agency of Town government.

This information shall be published in the Annual Report which shall be made available to the voters ~~within~~ **no less than** 90 days ~~of the close of the Town's Fiscal Year. Extensions to this time line due to mitigating circumstances may be voted by an affirmative vote of the Select Board. In any case, the Annual Report must be available to the public ninety (90) days~~ prior to the Annual Town Meeting.

Upon acceptance of the audited Financial Statements by the Select Board, the Audited Financial Statement shall be made available to the public on the Town's website.

REASON:

Change is to outline the auditing process and to clean up current language in the Charter.

11. Charter modification to: **Article VIII– Boards, Committees and Commissions, Section 801- Town Boards, committees and Commissions**

PROPOSAL:

Section 801 TOWN BOARDS, COMMITTEES AND COMMISSIONS

The Select Board shall appoint a Board of Assessment Review, Planning Board, Zoning Board of Appeals and any other Boards as required by State Statutes. All boards shall conduct their business in accordance with the rules set forth in this Charter. ~~Members of these boards shall be registered voters of the Town of Ogunquit.~~
Members of boards required by law shall be registered voters of the Town of Ogunquit. No eligible member may serve on more than one required committee or board simultaneously. Members of appointed Boards, Committees and Commissions, not required by law, shall be registered voters, property owners or full time residents of the Town of Ogunquit. Registered voters and property owners from adjacent municipalities may also be considered for the Select Board's approval of an appointment to a appointed Board, Committee or Commission, provided that the Ogunquit residents, property owners who comprise the respective Board, Committee or Commission are in a majority.
The Select Board may also create and appoint members to other Town committees as needed.

REASON:

Change would allow for members of appointed boards to be either registered voters, property owners or full time residents of Ogunquit. Also added is to allow registered voters and property owners from adjacent municipalities to be appointed to a board, committee or commission, Ogunquit residents and property owners will be in the majority of any board, committee or commission. This is currently the case among several boards and committees according to their by-laws.

12. Charter modification to: **Article VIII– Boards, Committees and Commissions, Section 801– Town Boards, Committees and Commissions § 801.1**

PROPOSAL:

801.1 The Select Board is responsible for each board and committee’s purpose (mandate) and direction. **The Select Board must select members for each Board required by State stature.** The intent of this section is to provide guidance to all official volunteer boards and committees.

REASON:

To clean up existing language.

13. Charter modification to: **Article VIII– Boards, Committees and Commissions, Section 803– Forfeiture of Office**

PROPOSAL:

At any time during a term, an appointed municipal board, commission or committee member shall forfeit office by an affirmative vote of at least a majority plus one of the Select Board, **after notice and hearing if required by law,** for any of the following reasons:

REASON:

Change adds the requirement of a public hearing.

14. Charter modification to: **Article IX– General Provisions, Section 909 – Conflict of Interest**

PROPOSAL:

Any official or employee who has any financial interest, direct or indirect, in any contract with the Town or in the sale of any land, material, supplies or services to the Town or to a contractor supplying the Town, shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as an official or employee in making of such sale or in the making or performance of such contract. Any official or employee who willfully conceals such a financial interest or willfully violates the requirement of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge, express or implied,

of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Board. **The member with a conflict of interest shall recuse him/herself and shall move to the public section area until such time as the matter involving the conflict of interest is closed and the Select Board is ready to move to the next item on the agenda.**

REASON:

Change is to clarify the conflict of interest section of the Charter. Change also allows for a Board member to participate in the discussion as a member of the public.

15. Charter modification to: **Article IX– General Provisions, Section 910 – Appearance of Conflict of Interest**

PROPOSAL:

Section 910 APPEARANCE OF CONFLICT OF INTEREST

Even if no personal financial conflict of interest exists, a board, commission, or committee member should avoid the appearance of a conflict by disclosing **the facts underlying the potential conflict and, where appropriate, abstaining from** ~~the reason for abstaining from a discussion and voting~~ **on the matter** in order to maintain the public's confidence in the board's, commission's, or committee's work. An appearance of a conflict exists when a reasonable person could conclude from the circumstances that participation would be perceived as inappropriate. As with the conflict of interest described in Section 909, ~~the member should excuse him/herself from the room during the discussion and vote.~~ **a member who abstains from voting due to the appearance of a conflict of interest leave the room shall move to the public section area until such time as the matter involving the interest is closed and the Select Board is ready to move to the next item on the agenda. In no case shall an abstaining Select Board member participate in an official capacity in discussion or deliberations regarding the matter as to which the member has abstained; however, such member may speak as a member of the public during that portion of the meeting when the public is being heard.**

REASON:

Change is to clarify the appearance of a conflict of interest section of the Charter. Change also allows for a Board member to participate in the discussion as a member of the public.

Complete copies of the Charter, with all of the modifications indicated, are available from the Town Clerk and on the Town's website (www.townofogunquit.org). We request that the current Charter continue in force until such time as the proposed revisions are voted on.

Thank you,

Ogunquit Town Charter Commission

Paul Breen

Cynthia Douglass

Lesley Mathews

Chris Murphy

Michelle Tourangeau