

**TOWN OF OLD ORCHARD BEACH
SPECIAL TOWN COUNCIL MEETING
Monday, September 24, 2012
TOWN HALL CHAMBERS**

A Special Town Council Meeting was held on Monday, September 24, 2012 in the Town Council Chamber. Chair Quinn opened the meeting at 7:04 p.m.

The following were in attendance:

Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Sharri MacDonald
Councilor Robin Dayton
Councilor Michael Coleman
Assistant Town Manager V. Louise Reid

Absent: Town Manager Mark Pearson

The Town Council Chair indicated that the purpose of the Special Meeting this evening is to conduct a Public Hearing and to get input from citizens relative to the Referendum Item:

BE IT ORDERED:

That a public hearing will be held at the Old Orchard Beach Town Office on September 24, 2012 at 7:00 p.m. to consider the following proposed amendment to the Charter:

[Amend section 414.2 by adding the underscored text and deleting the text in strikeover type, as shown below:]

Sec. 414.2. ~~Compensation of the Town Clerk shall be set at the compensation not less than equal to the average of that of the top eight (8) Department Heads, as of the adoption of the fiscal year budget.~~ Reserved. Salary Formula Repealed.

The purpose of this amendment is to allow the Town Council to determine the basis for the Town Clerk's compensation.

VOTE: Unanimous.

That a public hearing will be held at the Old Orchard Beach Town Office on September 24, 2012 at 7:00 p.m. to consider the following proposed amendment to the Charter:

[Amend section 201.2 by adding the underscored text and deleting the text in strikeover type, as shown below:]

Sec. 201.2. Town Clerk. The Town Clerk shall be elected by registered voters of the town. The term of the Town Clerk shall expire at ~~four (4) year~~ two (2) year intervals on the third Monday in November, in the gubernatorial and presidential election years. The Town Clerk shall be elected for a term of ~~four (4) years~~ two (2) years, and shall serve until a successor is elected and qualified.

The purpose of this amendment is to limit the intervals of service of the Town Clerk.

The Town Council Chair called the Public Hearing at 7:07 p.m.

The consideration to undo some of the Charter changes that went into effect July 1, 2012 is the reason for the Public Hearing this evening. This involves the rate of pay and the term of office for the Town Clerk. Under the Charter amendments, the term of office for the position of Town Clerk will be expanded from two years to four years, effective 2014 and the new salary for the new fiscal year was adjusted to be more in line with other departments. The fairness of this issue related to other department heads was questioned as well as the fact that non-union employees have not had a raise since 2008. Councilors have expressed concern about what would happen if voters elected an unqualified or incompetent person as Town Clerk, who could be on the job for four years instead of two. Members of the Charter Review Commission said they recommended the changes relating to the office of the Town Clerk specifically to keep that position independent of the Council. John Bird, a member of the Charter Review commission, said he was disappointed that the Council has not given the Charter longer to take effect and see how things proceeded. He indicated that it is essential that the independence of the Town Clerk's office be maintained free from any pressure from any other sources in Town government. Independence and unbiased actions in supervising and running our elections and maintaining the record of the proceedings of the Town is absolutely necessary for the existence of a free and open government in Old Orchard Beach. Members of the Council indicated that people may not have realized what they were voting for in the "grab-bag" of things that were on the referendum last year. The referendum item contained more than one issue; actually contained several; and people did not have the opportunity to vote on each one individually. Changes to the Town Clerk's salary and term of office were included in the last question on the ballot which had a "mishmash" of items including grammar changes and other administrative details. Voters may not have understood the consequences of the

new way of calculating the Clerk's salary. Since the new Charter formula was implemented, the Town Clerk's annual salary changed from \$54,200 to \$68,800.

Messrs. John Bird and Jerome Begart, members of the Charter Commission, reminded the Council that the Town office is, by Charter, State statutes and Town ordinances, meant to be an independent, unbiased and nonpartisan office, since it is responsible for the running of fair and impartial elections, recording, archiving and maintaining clerical affairs of the Town, receiving and maintaining official copies of Minutes and records of the Town Council and other bodies, and other official duties including issuance of birth, marriage and death certificates, various other licenses and permits and the recording of them. The Town Clerk of Old Orchard Beach is independently elected by the Town voters, and is the Deputy Registrar of voters. In its own way, the Town clerk's office has responsibilities easily equal to, although different from, that of the Police, Fire, or Public Works departments for the proper operation of the Town. It is essential, he said, that the independence of this office be maintained, free from any pressure from any other sources in Town government. Independence and unbiased action in supervising and running our elections and maintaining the record of the proceedings of the Town is absolutely necessary for the existence of a free and open government in Old Orchard Beach. It was felt by the Charter Commission that under the old Charter, there were ways that other parts of the Town government could reward or punish the Town Clerk for doing or not doing as they wished. To ensure the independence of this office, the elected Charter Commission determined that the compensation of the Town Clerk should be calculated by a means that would not allow the possibility of undue influence to occur. They determined that it would be fair, considering the importance of the office that the compensation of the Town Clerk should be set "not less than equal to the average of that of the top eight department heads," as of the adoption of the fiscal year budget. This would be ~~no~~ not be equal to the top compensation level of department heads, but not (as it has been) the lowest either but somewhere in the middle. This also has an advantage in fairness in that if the other department heads' salaries rose in response to inflation, etc., so would that of the Town Clerk, but if, due to budget cuts or other emergencies, other department heads' salaries had to be cut, again so would that of the Town Clerk.

Others spoke regarding the issues included Ed Dimond who expressed his opinion that perhaps the Town Clerk had not been paid a fair salary before based on the salaries of the other department heads and perhaps the question remains in the amounts of the other salaries. He also indicated that he felt a four year time frame considering all the record keeping that the Town Clerk must maintain should be left at the four year limit. Paul Ladakakos spoke several times and indicated his unhappiness with the Council bringing this up when the Charter Commission of which he had been a member had given every opportunity for input prior to the passage of the Charter changes. He also encouraged that the salary be allowed to stay and that the work of the Town Clerk is invaluable in record keeping and in municipal skills. Pat Holland agreed with the comments about maintaining the work of the Charter Commission and questioned why the Council would be questioning the decision of the voters who voted in favor of this before. There was agreement that the \$14,547.24 increase was substantial and again it was noted that other non-union employees have not had a raise in almost five years. Guy Fontaine spoke as well indicating that it is not important what the Council members personally feel but rather what the citizens who

voted expressed in their vote. He also agreed that the services provided by the Town Clerk are not only highly respected but municipally necessary for the furtherance of the citizens. Bill Gombar, Chair of the Charter Review Commission, made a suggestion about how the salary situation could be addressed in a different way and perhaps that would diffuse the concern. Dana Furtado scolded the Council on bringing this forward at this time when there was little focus on the work of the Charter attendance and their input to their work. Councilor Dayton reminded everyone that a former Councilor had been assigned to the Charter Commission but did not continue during the finalization of the Charter changes. Jerome Begart, a member of the Charter Review Commission spoke in great length about his personal opinion on the matter. He reiterated the work of the Charter Commission and again brought to memory that little attendance by members of Council or the public gave input or reaction to the changes that were made and they were certainly public since they were televised meetings over a two year period and the opportunity to review them on the web site. He continued at some length about fiscal responsibility and other issues passionate to his opinion.

It should be noted that there were comments made during the evening by Councilors who expressed their opinion as to why this should, or should not go forward. Councilors Coleman and Dayton indicated that they felt the Question Four presented on the passage of the Charter was very convoluted and included several issues – some good and some not so acceptable – and that the citizens did not have the opportunity to vote on the items individually and that had they had that opportunity the results would have been better. The Chair indicated that in answer to the question posed as to why this was being brought forward at this time, he responded – “why not.” This is a time for a review of something that was done and that a second look would be a good thing, not a negative thing. There was a great deal of discussion and explanation by Councilor Coleman about the time line for this vote being the Presidential election when there is a larger voting population that turn out and would give a more definitive decision of the actual popular vote of the Old Orchard residents. Councilor Coleman indicated that in order for a Charter change vote to be valid, there needed to be a turn out of at least 30 percent of the voters who showed up at the last gubernatorial election. Voting on the referendum question this November would ensure enough voters. Councilor MacDonald argued that the attendance at other less attended elections still maintained a good sampling of the voting population of our Town. All the Councilors appreciated the work of the Charter Commission and did not agree that this in any way showed disrespect to the work of the Committee. Councilor Coleman explained that the Town Clerk changes of salary and time limit were lumped into a broader question and when voting for the question he felt that not everyone was aware they were voting on a \$14,000 increase for the Town Clerk’s salary. It should be noted again, he said, that should another department head get a raise, that would up the Town Clerk’s salary again. Councilor Dayton reminded everyone that the Town Clerk’s salary is not in line with other Towns and this raise will put her way over the average Town Clerk’s position for the size of our community. Councilor MacDonald felt that it did not pass the straight-faced test.

Attached to the Minutes is a Letter from Carl D’Agostino of 37 Date Street, expressing his opinion on the Public Hearing this evening. The Letter was not read entirely into the

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Minutes by the Chair because it referenced an individual which would have to be addressed in Executive Session.

TOWN OF
Old Orchard Beach THE FINEST, CLEANEST BEACH IN THE WORLD

Office of the Town Manager
1 Portland Ave
Old Orchard Beach, ME 04064

Mark Pearson, Town Manager
P: (207) 934-5714
F: (207) 934-0755
Email: mpearson@oobmaine.com

To: Kim McLaughlin, Town Clerk
From: Mark A. Pearson, ^{MAP} Town Manager
Date: August 9, 2012
Re: Adjustment of Town Clerk Salary

Please find below the calculations I used to determine your salary pursuant to the revised Town Charter effective July 1, 2012.

Calculation of Town Clerk's Salary¹
(Based on top 8 department head salaries)²

	Salary
1 Finance Director	\$ 80,000.00
2 Assessor	\$ 78,273.00
3 Police Chief	\$ 75,989.00
4 Director of Public Works	\$ 68,578.00
5 Fire Chief	\$ 68,508.00
6 Superintendent Wastewater	\$ 66,970.00
7 Recreation Director	\$ 56,000.00
8 Town Planner	\$ 56,000.00
	total \$ 550,318.00
	average \$ 68,790.00
9 Tax Collector	\$ 50,682.00
10 Code Enforcement Officer	\$ 48,100.00
11 Emergency Management Director	\$ 1,000.00
12 Plumbing Inspector	\$ -
13 Electrical Inspector	\$ -
14 Health Officer	\$ -
Town Clerk current salary	\$ 54,242.76
Amount of increase/annual	\$ 14,547.24
Amount of increase/hourly	\$ 7.56

¹ Town of Old Orchard Beach Charter effective July 1, 2012 (Sec.414.1.Compensation)

² Town of Old Orchard Beach Charter effective July 1, 2012 (Sec.409.3. [List of Department Heads])

Upon completion of the discussion and input by the public, the following motions were made:

MOTION: Councilor Coleman motioned and Councilor Dayton seconded:

**MOTION SETTING DATE FOR REFERENDUM ELECTION
ON THE TOWN CLERK'S SALARY**

Motion to order the Town Clerk to place on the ballot for the regular town election to be held on November 6, 2012 the following referendum question:

Shall the Town of Old Orchard Beach approve the Charter amendment reprinted below?

[Amend section 414.2 by adding the underscored text and deleting the text in strikeover type, as shown below:]

Sec. 414.2. Compensation of the Town Clerk shall be set at the compensation not less than equal to the average of that of the top eight (8) Department Heads, as of the adoption of the fiscal year budget. Reserved. Salary Formula Repealed.

**ORDER SETTING DATE FOR REFERENDUM ELECTION
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**VOTE: Yea: Councilors Coleman and Dayton and Chair Quinn.
Nea: Councilor MacDonald and Vice Chair Tousignant**

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to:

**MOTION SETTING DATE FOR REFERENDUM ELECTION
ON THE TERMS OF SERVICE FOR THE TOWN CLERK**

Motion to order the Town Clerk to place on the ballot for the regular town election to be held on November 6, 2012 the following referendum question:

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**VOTE: Yea: Councilors Coleman and Dayton and Chair Quinn
 Nea: Councilor MacDonald and Vice Chair Tousignant**

**MOTION: Councilor Dayton motioned and Councilor Coleman seconded to
 Adjourn the Special Town Council meeting 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 eight (8) pages is a true copy of
the original Minutes of the Special Town Council Meeting of September 24, 2012.**

V. Louise Reid