

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



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MEMORANDUM

DATE: October 4, 2017

TO: Ayer Finance Committee
C/o Mr. Scott Houde, Chairman

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Overview of Article 3: An Act Establishing A Town Manager for the Ayer Special Fall Town Meeting on October 23, 2017

Dear Ayer Finance Committee,

I am pleased to provide the Finance Committee with an overview of Article 3: An Act Establishing A Town Manager which will be before the Special Fall Town Meeting for consideration on October 23, 2017. I look forward to meeting with the Finance Committee at your meeting on October 4, 2017 to further discuss and answer any questions the Finance Committee may have. Additionally, the Town Clerk and I will be hosting a Public Information Forum on Articles 1-4 on Tuesday, October 10, 2014 at 6pm in the Frist Floor Meeting Room of Town Hall. Thank you for your time and consideration.

What the Article Does:

- The Article is the result of many years of discussion and experience by the Town as well as recommendations by various authorities including the Massachusetts Division of Local Services; Massachusetts Department of Revenue; the DLS Report on Ayer, and the Draft 2017 Town of Ayer Master Plan recommendations. The Article is intended to codify the duties and responsibilities of the Town Manager (many which are the same as the Town Administrator); centralize and professionalize the personnel and procurement functions of the Administration and provide formal mechanisms for the Town Manager to delegate certain authorities to appropriate personnel to ensure the continuity of governmental operations as well as provide a formal contingency and succession planning mechanism. Additionally, the Town Manager form of government is intended to further professionalize the Administration of the municipal government by removing political and intergovernmental conflicts with respect to personnel matters. This is an industry best practice in the field of municipal government and the increasing trend of municipalities in the 21st Century.
- From a procedural matter, the Article if adopted by Town Meeting would then be submitted to the State Legislature. The State Legislature needs to approve the Article. Upon Legislative approval the Article will go into effect. The incumbent Town Administrator will become the first Town Manager for the balance of his term (until June 20, 2019) at which time the Board of Selectmen will have the option to reappoint. Please note that the incumbent Town Administrator has publically maintained that he will not request or expect any additional compensation and/or reclassification as a result of the change from Town Administrator to Town Manager.

What the Article Does NOT Do:

- The Article does not change any of the authority and powers of the Ayer Town Meeting.
- The Article does not change the authority/powers of the Board of Assessors; Board of Health; Conservation Commission; Finance Committee; Parks Commission; Planning Board; or any of the other Town's existing Boards, Commissions, and Committees (with the exception of the Personnel Board).
- Though the Article does provide limited changes in authority/duties of the Town Manager in the areas of personnel, procurement, and administration; the Article does not change the authority of the elected Board of Selectmen as the Chief Executive Body of the Town.
- The Article does not change the Town's Budgetary Processes; Capital Planning Processes; and the existing Appointment process for volunteer boards, commissions, and committees under the Board of Selectmen.

Authority and Duties (BOLDED Sections Highlight Changes):

Section (A): The Town Manager will be able to hire and fire Department Head level positions with the consultation and approval of the Board of Selectmen. The Town Manager will be able to hire and fire non-department head positions in consultation with the respective department head but will not require Board of Selectmen approval. Please note that the Town Manager will issue a bi-weekly personnel action report to the BOS (a public document) and must hire and fire in accordance with the Town's personnel policies; respective collective bargaining agreement; personnel contract; and or other governing document.

Section (B): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (C): The Town's personnel system will be centralized under the Town Manager. The Town Manager will be responsible for the maintaining and administering the Town's personnel policies; rules and regulations; personnel by-laws and collective bargaining agreements. This section would abolish the appointed volunteer Personnel Board and centralize the personnel system under the professional Town Manager in consultation with the Department Heads, Board of Selectmen, and Finance Committee. The Town's existing personnel policies would remain in place at this time as would the Town's classification and compensation system. Additionally, the majority of Town Employees are governed by existing collective bargaining agreements.

Section (D): The Town Manager will be authorized to fix the compensation of all appointed officers and employees within the limits established by the budget and Town Meeting. Additionally, compensation of all non-union employees will continue to be governed by the Town's Classification/Compensation System and all union employees will be governed by their respective collective bargaining agreements. The Town Manager will consult with the Finance Committee and Board of Selectmen regarding all financial matters in terms of compensation and/or employee financial benefits.

Section (E): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (F): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (G): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (H): **The Town Manager will have full jurisdiction over the rental and use of all Town facilities. Currently the Town Administrator has authority over Town Hall per the Board of Selectmen. Please note that with this change, the Town Manager though having full jurisdiction will delegate authority of the Fire Station to the Fire Chief; Police Station to the Police Chief; and DPW Facilities to the DPW Superintendent. Additionally, Parks Commission retains jurisdiction over Parks property.**

Section (I): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (J): **The Town Manager will have authorization to procure and execute all contracts under MGL Chapter 30B without Board of Selectmen approval. All contracts are still subject to the budget and Town Meeting Approval. Additionally all contracts remain governed by applicable MGL and are subject to review and verification of funds by the Town Accountant. The Town's Capital Planning process remains in place.**

Section (K): The Town Manager will negotiate all collective bargaining agreements subject to BOS approval and subject to the budget and appropriation by Town Meeting.

Section (L): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (M): **The Town Manager will be authorized to sign the Payroll Warrant and Accounts Payables Warrant. Please note that both Warrants currently are and will remain public records and the Town Manager will issue a biweekly report on both Warrants at the BOS meetings.**

Section (N): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (O): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (P): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Section (Q): The Town Manager will be authorized to legally delegate any authority/function as Town Manager to a subordinate officer or employee authority (with the exception of signing warrants).

Section (R): There is no change in the authority and duties of the Town Manager from the Town Administrator in this section. However this now clearly and officially codifies these functions.

Temporary Absence or Vacancy:

This article provides a codified procedure for temporary absences and vacancies of the Town Manager. Currently there exists no clear, official contingency and/or succession planning mechanism(s).

Temporary absence: Town Manager with a letter to Town Clerk and BOS may designate a qualified town administrative officer or employee to exercise the powers and duties of the Town Manager during a temporary absence or disability not in excess of 10 (ten) business days. After the ten business days, the Board of Selectmen may revoke such designation.

Vacancy: Any vacancy of the Office of Town Manager shall be filled as soon as possible by the Board of Selectmen. The BOS may appoint an interim Town Manager for a period of up to 6 months and may renew that period one time for an additional 6 months.

Removal and Suspension:

- The Board of Selectmen by majority vote of the entire board may terminate, remove or suspend the Town Manager from office; provided, however, that further conditions applicable to termination, removal and suspension may be addressed by the terms of any contract between the BOS and the town manager.

Transitional Provisions:

- The office of Town Administrator shall be abolished upon the effective date of this act and the office of the Town Manager shall in all respects be its lawful successor. The incumbent Town Administrator holding office as of the effective date of this act shall become the Frist Ayer Town Manager and shall serve for a period of time equivalent to the remainder of his appointed terms as Town Administrator.

Attachment: Article 3 of the October 23, 2017 STM Warrant

ARTICLE 3: AN ACT ESTABLISHING A TOWN MANAGER

To see if the Town will vote to authorize the Board of Selectmen to file a petition with the General Court for special legislation establishing the position of Town Manager, as set forth below; provided that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition, or take any action thereon or in relation thereto:

An Act Establishing the Position of Town Manager in the Town of Ayer

SECTION 1. TOWN MANAGER

There shall be established in the town of Ayer the office of town manager, who shall be appointed by the board of selectmen for a term not to exceed 3 years. The town manager shall be a person of demonstrated ability with administrative experience in public management or business administration and who is qualified by reason of education and experience. The town manager shall devote full time to the duties of said office and shall not engage in any other business or occupation during the term of the town manager's employment unless approved by the board of selectmen in advance. The town manager shall hold no elective office in the town during the town manager's tenure as town manager, but the board of selectmen may appoint the town manager to any non-elective office or position consistent with the responsibilities of the town manager, and such office or position shall be deemed to be part of the position of town manager. The board of selectmen shall annually set the compensation of the town manager in an amount not to exceed that appropriated by town meeting for such purposes. Additional terms and conditions of employment may be established by contract between the Ayer board of selectmen and the town manager in accordance with section 108N of chapter 41 of the General Laws.

SECTION 2. POWERS AND DUTIES

The town manager shall be the chief administrative officer of the town, responsible to the board of selectmen for the effective management of all town affairs placed in the town manager's charge by this act, bylaw, the board of selectmen, or town meeting. The town manager shall be responsible for the implementation of town policies established by the board of selectmen. The powers and duties of the town manager shall include, but not be limited to, the following:

- (A) Appoint and remove members of multiple-member bodies as well as all department heads, officers, subordinates and employees, except employees of the school committee and firefighters. The town manager shall, prior to appointing a department head subject to the policy direction of a multiple-member body, consult with such multiple-member body. Appointment or removal of a department head or member of a multiple member body shall take effect 15 days following notice to the board of selectmen of such action, unless the board of selectmen shall sooner vote to approve or reject such appointment or removal. All appointments and removals made by a temporary or acting town manager under section 3 of this act shall be approved by the board of selectmen;
- (B) Manage, supervise and be responsible for the efficient and coordinated administration of all town functions under the town manager's control by this act, bylaw, town meeting or the board of selectmen, including all appointed officers and their respective departments, and coordinate

the activities of all town agencies, including those under the control of other officers and multiple-member bodies elected by the voters, and to authorize the town manager to reasonably require persons so-elected or appointed, or their representatives, to meet with the town manager for such purposes, or, at the town manager's request, to provide such information as may be necessary and appropriate to have available for purposes of such coordination;

- (C) Be responsible for the town personnel system, including but not limited to, administering personnel policies and practices, rules and regulations, personnel by-laws and collective bargaining agreements;
- (D) Fix the compensation of all appointed officers and employees within the limits established by town meeting;
- (E) Attend all regular and special meetings of the board of selectmen unless excused in advance by the chair of the board of selectmen, and the town manager shall have a voice, but no vote, in all of the proceedings of the board of selectmen;
- (F) Keep the board of selectmen fully advised concerning the status of all matters referred by the board of selectmen to the town manager and as to the needs of the town; and recommend to the board of selectmen and other elected and appointed town officers and agencies such measures requiring action by them or town meeting as the town manager may deem necessary or desirable;
- (G) Attend all town meetings and, as authorized by the moderator, answer questions that relate to matters over which the town manager exercises supervision;
- (H) Have full jurisdiction over the rental and use of all town facilities and property except property under the control of the school committee, conservation commission, and board of library trustees; provided, however, that the town manager shall be responsible for the maintenance and repair of all town buildings and facilities placed under the town manager's control by this act, by by-law, by vote of town meeting, or otherwise;
- (I) Establish and maintain a full and complete inventory of all real and personal property of the town;
- (J) Serve as the chief procurement officer for purposes of chapter 30B of the General Laws and be responsible for purchasing all services, supplies, material and equipment for all departments and activities of the town, including execution of contracts therefor; provided, however, that the town manager shall examine, or cause to be examined, the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency; and provided further, that the town manager shall be responsible for the disposal of all supplies, material and equipment that have been declared surplus by any town agency. All contracts for purchase of services, supplies, material and equipment negotiated by a temporary or acting town manager under section 3 of this act shall be approved by the board of selectmen;
- (K) Negotiate collective bargaining agreements and all other contracts involving any subject within the jurisdiction of the office of the town manager, including contracts with town employees other than employees of the school department involving wages, hours and other terms and

conditions of employment; provided, however, that all such contracts shall be subject to ratification and execution by the board of selectmen;

- (L) Assure that full and complete records of the financial and administrative activities of the town are kept and render, as often as may be required by the board of selectmen, a full report of all town administrative operations during the period reported on;
- (M) Sign warrants for payment prepared and signed by the town accountant in accordance with section 56 of chapter 41 of the General Laws; provided, however, that 1 selectman designated by vote of the board of selectmen shall approve all warrants for payment in the absence of the town manager or in the event an acting or interim town manager has been appointed in accordance with section 3 of this act;
- (N) Inquire or make investigation, at any time, into the conduct of office or performance of duties of any officer or employee, department, board, commission or other town agency;
- (O) Ensure that all provisions of the general laws and any special laws applicable to the town, town by-laws and other votes of town meeting and the board of selectmen that require enforcement by the town manager or officers subject to the direction and supervision of the town manager, are faithfully executed, performed or otherwise carried out;
- (P) Act as the liaison with and represent the board of selectmen before state, federal and regional authorities;
- (Q) Delegate to any subordinate officer or employee authority to exercise any power or perform any function or duty which is assigned to the office of the town manager, other than the signing of warrants for payment; provided, however, that all acts performed under any such delegation shall be deemed to be the acts of the town manager; and
- (R) Perform any other duties as are required to be performed by the town manager by town by-laws, town meeting, the board of selectmen or otherwise.

SECTION 3. TEMPORARY ABSENCE OR VACANCY

- (A) Temporary absence—By letter filed with the town clerk and board of selectmen, the town manager shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of town manager during a temporary absence or disability not in excess of ten business days, which person shall, when acting in that capacity, be known as the acting town manager. Following the expiration of such period, the board of selectmen may revoke such designation and appoint another qualified town administrative officer or employee to serve as the temporary town manager until the town manager returns. The powers of an acting town manager shall be limited to matters not permitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.
- (B) Vacancy—Any vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen; provided, however, that pending such permanent appointment, the board of selectmen shall appoint a qualified town administrative officer or employee to perform the

duties of the office on an acting basis, which person shall be known as the interim town manager. Such appointment shall not exceed 6 months, but 1 renewal may be voted by the board of selectmen not to exceed a second 6 months. Compensation for such person shall be set by the board of selectmen within the appropriation made by town meeting for the office of town manager.

SECTION 4. REMOVAL AND SUSPENSION

The board of selectmen by majority vote of the entire board may terminate, remove or suspend the town manager from office; provided, however, that further conditions applicable to termination, removal and suspension may be addressed by the terms of any contract between the board of selectmen and the town manager.

SECTION 5. TRANSITIONAL PROVISIONS

The office of town administrator shall be abolished upon the effective date of this act, and the office of the town manager shall in all respects be its lawful successor. The appointed town administrator holding office as of the effective date of this act shall become the first Ayer town manager and shall serve for a period of time equivalent to the remainder of his appointed term as town administrator or sooner vacating of office. A town manager shall thereafter be appointed by the board of selectmen in accordance with section 1 of this act, and previous service as the town administrator shall not disqualify such person from being appointed as the town manager under this act.

Board of Selectmen: Recommends 3-0 (Voted 10/3/17)
Finance Committee:

Simple Majority Vote

Explanatory Note: Upon approval of the article, it will be submitted to the State Legislature for approval. Upon approval by the State Legislature, the incumbent Town Administrator shall become the Town Manager. Public Information Forum on Articles 1 - 4 to be held on October 10, 2017 at 6pm at the Ayer Town Hall Presentation to be made at Town Meeting. This change has been recommended by the Massachusetts Division of Local Services; Massachusetts Department of Revenue; and the DRAFT 2017 Master Plan.

ARTICLE 4: AN ACT ESTABLISHING AN APPOINTED TREE WARDEN

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation changing the office of Tree Warden from elected to appointed, as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment, and to authorize the Board of Selectmen to approve such amendments as are within the scope of the general public objectives of the petition:

An Act Establishing the Appointed Office of Tree Warden in the Town of Ayer

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be established in the town of Ayer the appointed position of tree warden. The tree warden shall be appointed and