

**Major discussion points**

1. One of the three big questions in these sections is: What powers/authority does the mayor have beyond those of the other individual commissioners? Such authority should be specified in Section 13.
2. A second is: What is the division of powers/authority between the Town Manger and the Town Council? Such authorities should be specified in Sections 16 and 23. To some extent the answer to this question depends on what one believes should be the operative chain of command (see next point).
3. Finally: How is the chain of command for appointed officers and employees structured? This should be clearly articulated in 16(a) (and possibly reiterated in Section 19).

In terms of the chain of command, there seem to be three options. If we can agree on one (or to recommend multiple options) the rest becomes easy.

- A flat organizational structure in which the Town Manager has hiring, promoting and firing authority equally over all appointed town officials, employees and agents/contractors.
- A departmental structure in which the Town Manager directs a group of department heads, who in turn are responsible for the performance and staffing of their individual departments.
- A hybrid structure in which the police and beach patrol are treated as semi-autonomous departments and the “admin side” is collectively under the control of the town manager (or alternatively, under control of a head of administration to whom the Town Manager delegates operational authority). One rationale for differentiating the police and beach patrol from code enforcement and maintenance might have to do with the special certifications required of their staffing and other specific personnel regulations.

The draft amendments incorporated in these working documents are based on my understanding of the consensus of the committee and are subject to change as we discuss these issues.

Sec. 13a Specific duties of the Mayor. We have frequently discussed the unique responsibilities of the Mayor. Accordingly, I have added language to permit emergency actions by the Mayor; to define the Mayor as spokesperson for the Council; and authorize the Secretary to act in the Mayor’s absence. Are there other specific powers we want to recommend for the Mayor?

- “The Mayor shall have the authority to issue temporary orders to authorize the Town response and the expenditure of Town funds in the face of a declared State- or

- National emergency to be in effect until such time as an emergency meeting of the Town Council can be convened provided the Town Manager is able to obtain the consent thereto by at least two other Commissioners by phone or email.”
- “The Mayor shall also serve as the liaison between the Town Council and the Town Manager and as the official spokesperson for the Town Council.”
  - “In cases where the Mayor is absent or incapacitated, the Secretary of the Town Council shall serve in the Mayor’s place.”

Sec 15b Qualifications of Town Manager. There was some thought to adding a minimum set, but to also provide for changing circumstances. Marcia was going to provide some guiding language.

Sec 15c Term of appointment, chain of command & removal of Town Manger. As per our discussions re: term and removal, the following draft language has been added.

- “The Town Manager shall be appointed for a fixed term and shall report to the Mayor acting on behalf of the Town Council. The Town Manager’s performance shall be evaluated by the Town Council at least once a year. The Town Manager may be removed for just cause by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting by the Commissioners present.”
- “At the end of the Town Manager’s contractual term of employment the Town Council may act so as not to renew or extend the Town Manager’s contract without cause by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting.”

Sec 16a Chains of command. Overall this sub-section needs serious thought and possibly total revision.

As it stands, it tries to lay out a chain of command for the various departments, but there are still significant questions as to what are the relevant departments and if the qualifier “created by the Town Council” is necessary. The following seem to conceive of departments (created by the Town Manager) with department heads and ones created by the Town Council (police and beach patrol). Does this distinction make any sense? Do the following amendments address our collective concerns?

- “... and to that end, the Town Manager shall have the authority to make such appointments, to hire such employees at such compensations as appropriate for each position or level or qualification, to promote and to remove from such employment,

subject to such rules and regulations as may be adopted by the Town Council, provided in the case of any employee of a department or division with a department head other than the Town Manger that prior to taking any personnel action the Town Manager shall take into consideration the recommendation of the cognizant department head.”

- “All such department or division heads are responsible for the expedient and efficient operation of their respective department or division, to ensure that their department or division adheres to its budget, and to see that all Town policy and laws under the purview of their department or division is faithfully executed.”
- “All employees may be removed at any time for just cause provided the provisions of the Town Employee Manual are properly followed.”
- “The Town Manager shall seek input from the Town Council for personnel actions regarding heads of departments or divisions created by the Town Council but otherwise shall be the ultimate judge of the competence or incompetence of any such person recommended for hiring, promoting or termination.”

In this last case, an alternative would have the police chief and beach patrol captain hired by the Town Council with input from the Town Manger.

Sec 19a Police. In the draft amendments, I have tried to place the police chief under the town manager but with control over the members of the police force. I am not sure this captures everyone’s input, but maybe it is a start.

“The Town Council may, at its discretion, establish a police force and make such rules and regulations as may be necessary for the organization, government and control of a Police Force. Said Police Force shall preserve peace and order, and shall compel obedience within the Town limits to the ordinances of the Town and the Laws of the State of Delaware. The Police Force shall have such other duties as the Town Council shall from time to time prescribe. A qualified Chief of Police shall be hired to head said police force department if so created by the Town Council. The Chief of Police shall serve as a direct report to the Town Manager. Qualifications for said Chief of Police shall be established by the Town Manager with the approval of the Town Council. The Chief of Police shall serve the Town under a contract with a term not to exceed five (5) years and may be removed from the Office of Chief of Police for cause at any time during said employment contract by the Town Manger with the approval of the Town Council. The Town Manager may act so as not to renew or extend the employment contract of the Police Chief for any reason provided such action is approved by the Town Council and due notice is provided to said Chief of Police. It shall be the duty of the Chief of Police to see that the laws and ordinances of the Town are faithfully executed. The Chief of Police shall be responsible for proper administration of all of the affairs of the Police Force and for all matters related to the preservation of peace and order and other duties prescribed by the Town Council and to that end,

shall have the authority over all Police Force personnel actions, including removal of any Police Force employee for cause, for establishing appropriate rules and regulations for efficient and effective departmental operations, and for adherence to the departmental budget. The Chief of Police shall be subject to the direction of the Town Manager acting on behalf of the Town Council.”

19b Beach Patrol. When we have a draft recommendation for 19a, it probably can be adapted for the beach patrol.

23(a)16 Accommodation tax. Now would be a good time to see what the State is considering and possibly removing the exclusion for leases exceeding 1 year and/or commercial rentals.

### **Minor issues**

15d and 16j Temp/interim Town Manger. Provision is made for temporary replacement of the Town Manger due to absence or disability and for an interim town manager in these sub-sections. Based on current practice and committee discussions, both have been amended to prohibit an elected or appointed official or town employee from serving in either position. Is this what we want to recommend?

15k Staffing plan and evaluations. Added as per earlier discussions.

“The Town Manager shall be responsible for ensuring a staffing plan for all active employees, officers, and agents is maintained and updated annually or as needed as position descriptions and requirements change. Also that annual performance reviews are conducted by the cognizant department heads. In the case of the Town Manager such annual performance review shall be conducted by the Town Council and the results communicated to the Town Manager by the Mayor.”