

Executive Summary

At the Board of Selectmen's retreat in June 2015 to establish Board goals for FY16, the Selectmen endorsed the goal to review a possible Town Administrator/Manager change. Ron Ricci and Tim Bragan were tasked with this item and requested to make a report to the Board by the second meeting in January.

A working group was assembled by Town Administrator Tim Bragan, and Town Moderator Bob Eubank agreed to lead the discussions. The working group met seven times.

The Selectmen's goals in considering this change were to increase operational efficiency, to reduce complexity of governance, and to increase volunteerism.

In order to understand how such changes could be made and have been made in the Commonwealth, the group researched written material on this subject. Additionally, a town manager and a town administrator recommended by the Massachusetts Municipal Association met with the group to share their insights and experience. Two former Harvard Town Administrators, Paul Cohen and John Petrin, later visited with the group to share their knowledge. The group subsequently researched the existing structure and responsibilities of the Harvard Board of Selectmen and its Town Administrator.

The group identified three areas for operational improvement which met the objectives of the selectmen: Warrant Approval, Personnel Appointments, and a formal delineation of the Town Administrator in the budget process. The net effect of these changes would be to provide the Town Administrator with more formalized authority in these areas, and to allow the Board of Selectmen to operate on more of a policy making level.

The working group recommends the following items for consideration by the Board of Selectmen:

- Employee appointments below the level of Department Head (and excluding the Fire Department staff) be made by the Town Administrator.
- Responsibility for discipline of Town employees under the Board of Selectmen be delegated to the Town Administrator.
- Authority to approve payroll and vendor warrants be delegated to the Town Administrator.
- The current budget process is codified: the Town Administrator approves operating and capital budgets for departments under the jurisdiction of the Selectmen prior to presenting said budgets to the Board of Selectmen for approval. Approved budgets are then presented to the Finance Committee and/or the Capital Planning and Investment Committee as appropriate.
- The working group sees no need to change the title of the Town Administrator to Town Manager; the set of responsibilities assumed has no impact on the titular designation.

Given this relatively limited scope (i.e., explore how to improve efficiency in Town operations and allow the Selectmen to remain focused on policy-setting), a Home Rule Special Act is recommended as the most inclusive and effective approach. This approach also is mindful of Harvard's tradition of open Town Meeting. A Home Rule Special Act would require passage by a majority town meeting vote on the warrant article proposing the act. If passed, this would be followed by a petition to the General Court to enact the proposed Special Act, then approval of the Special Act by the House of Representatives and Senate, and finally signature by the Governor.

How the Process Started

At the Board of Selectmen's retreat in June 2015 to establish Board goals for FY16, the Selectmen endorsed the goal to review possible Town Administrator/Manager change, and to make a report to the Selectmen by the second meeting in January.¹

A working group was assembled² which had over one-hundred years' experience serving as elected or appointed members of Harvard boards, committees, commissions. At the first meeting in early November, Ron Ricci clarified the intent behind the BOS goal, which was to determine how to improve efficiency in Town operations and allow the Selectmen to remain focused on policy-setting.

Working Group Investigation

Background Research and MMA Input

The group reviewed a range of materials³ and solicited the assistance of outside speakers. The first two speakers were offered by Massachusetts Municipal Association: Julie Jacobson (Town Manager, Auburn) and Andy Sheehan (Town Administrator, Middleton). Both professionals had served for many years in local municipalities and highlighted their experiences implementing organizational change. Ms. Jacobson started her position in Auburn with twenty-two years' prior experience as Assistant City Manager in Worcester. Her reflection on the charter process was that 'there needs to be a strong impetus for change; if you don't have a strong impetus, it's a mistake to head in that direction.' She highlighted structural and procedural changes she'd implemented in Auburn and reinforced that change should be made to address a structural problem, not an organizational or performance problem.

Former Town Administrators' Perspectives

John Petrin (Town Administrator, Burlington) and Paul Cohen (Town Manager, Chelmsford) later visited the working group to share their knowledge, given their understanding of the operational processes in Harvard.

The group noted that the scope of John and Paul's roles seemed relatively similar, although there was a difference in their titles. Subsequent research and discussion confirmed that within the Commonwealth, a variety of titles exist for the management position responsible for supporting a board of selectmen. The title of 'Town Administrator' encompasses positions with a wide range of authority: in some communities, a Town Administrator has broad appointing and administrative authority; in others the position may have only those duties and responsibilities assigned by the board of selectmen.

In both Chelmsford and Burlington, appointing authority resides with the Town Administrator (subject to confirmation by the Board of Selectmen and/or a waiting period); in turn, this grants the Town Administrator, versus the appointing authority, responsibility for employee discipline. In Harvard, the authority for disciplinary action is imposed at the discretion of the appointing authorities and the department head. Employee disciplinary hearings are awkward public meetings: the Selectmen are required to become intimately familiar with an employee's behavior and day-to-day operations, the employee is subject to their performance/behavior being subject to public (and press) scrutiny. In conjunction, John stressed that there's a risk of liability assumed by the Town when Selectmen – who

¹ http://www.harvard.ma.us/Pages/HarvardMA_BComm/BOS/Board%20of%20Selectmen%20goals%20-%20FY2016%20-%20accomplished.pdf

² Appendix: Working Group Participants

³ Appendix: Materials Reviewed

may or may not be aware of State and Federal guidelines on employee's right to privacy – participate in the investigation and review of an employee's infractions.

Both John and Paul discussed the evolution of municipal functions within the Commonwealth and from their perspective, within Harvard. Rick Maiore's experience, as a Selectman during the transition from the 3-member board to a 5-member board, was likewise recounted.

Assessment of Current Responsibilities

The group subsequently researched the existing structure and responsibilities of the Harvard Board of Selectmen and its Town Administrator.

Board of Selectmen

Harvard's five-member Board of Selectmen has five categories of responsibility under state law:

The power to prepare the town meeting warrant

By law, the selectmen are charged with calling town elections and town meetings and with publishing the warrants for them. While the Finance Committee, appointed by the Moderator, play an active role in examining the warrant and making recommendations on each article, the Board of Selectmen will also make recommendations on each warrant article. The selectmen govern what appears in the warrant, as well as the order of the articles. While State law gives petitioners the right to demand a town meeting and to submit warrant articles, the selectmen actually issue the call, establish the date, time, and place, and in general organize matters up to the point that the moderator calls the gathering to order.

The power to make appointments to town boards and offices

The selectmen's appointing authority in Harvard is broad, although other elected boards and committees and the town moderator have some appointment responsibility. In most cases, however, the selectmen have the power to appoint more local officials than does any other person or group. This responsibility can be an enormous one; for example, it can extend beyond hiring the police chief to the entire police force.

The power to employ professional administrative staff and town counsel

A town's legal representatives must be designated by the board of selectmen. This power to appoint town counsel is, in effect, the power to direct all legal affairs of the town. No town official can be defended, nor can he or she bring suit through the town counsel's office, without the selectmen's approval. In most cases, documents that would bind the town legally must be approved by the town counsel.

The power to sign warrants for the payment of all town bills

The town treasurer may not issue a check unless a majority of the board of selectmen signs a warrant of authorization. This affects the town's payroll, as well as every provider of goods and services. Other boards, committees, department heads, and town officials may approve whatever payrolls and bills they wish, and certainly they should be required to do so before the warrants come to the selectmen, but the bills cannot be paid until the selectmen sign off on them.

The authority to grant licenses and permits

The Board of Selectmen is the local licensing authority, with the ability to issue licenses and permits for a broad range of activities, such as sale of alcoholic beverages, entertainment provided by an innholder,

lodging houses, blasting operations, automobile dealers, junk dealers, pawnbrokers, parking lots, storage and sale of gasoline, theatrical events, restaurants, and many other purposes.

Town Administrator

Harvard's Town Administrator, under the direction of the Board of Selectmen, administers and supervises all phases of the Board's responsibilities. This encompasses day-to-day administrative coordination and direction to department heads under the jurisdiction of the Board of Selectmen, including the Inspectors, Dog Officer, Fire and Police Chiefs and the Director of the Department of Public Works, as well as to all boards and commissions that report to the Selectmen. Working with the Finance Director, the Finance Committee and on behalf of the Selectmen, the Town Administrator coordinates budget preparation for all departments of the Town, and prepares and implements the operating budgets for the Selectmen's office. The position additionally serves as the Selectmen's representative with the Finance Committee, and reviews and makes recommendations to the Board of Selectmen on all budget requests of departments reporting to the Selectmen.

Assessment of Current Operations

Following these meetings, the group identified three areas for operational improvement: Warrant Approval, Personnel Appointments, and a formal delineation of the Town Administrator in the budget process.

Warrant Approval

The Town Accountant is obligated by state law to review all departmental requests for payments and to approve, via his/her signature, all warrants. Other boards, committees, department heads, and town officials may approve whatever payroll expenditure and bills they wish, but the Town Treasurer may not issue a check (for either payroll or the provision of goods and services) unless a majority of the Board of Selectmen sign a warrant of authorization.⁴

Additionally, town employees must receive compensation within seven days following the close of a pay period⁵; many times Selectmen meetings and payroll periods don't match up. These stipulations require selectmen to consistently get to Town Hall (outside of meetings) to sign warrants.

Personnel Appointments

The Board of Selectmen is the appointing authority for Finance, Police, Cable, Council on Aging, Public Works, Inspectors, Veteran's Agent, and Dog Officers. All current employees have been appointed by the board of selectmen (generally annually; some for three years), and new employees do not begin employment until appointed (unlike Library, School, and Park and Recreation employees).

Although the number of regular full-time Town employees is comparably small, vacancies in position typically require the employee to appear at a Selectmen's meeting (usually with their Department Head). In the past year, for example, a long-term driver for our MART van had been recommended for appointment to a part-time program coordinator. The candidate had been selected following rounds of interviews with the Department Head, the Human Resources Director, and the Chair of the COA Board, successfully passing a background check, and having five years' prior work experience in that Department. A week-and-a-half later, he was appointed.

⁴ MGL Ch 41, S. 56

⁵ MGL Ch 149, S. 148

Budget Process

The Town Administrator produces the operating budget for the office of the Board of Selectmen, and in conjunction with the Finance Director compiles the Town departments' budgets, and then shepherds Town departments' submissions to the Board of Selectmen for their review and approval prior to review by the Finance Committee. A similar process occurs with capital budgets, although the earlier capital budget submission deadline means that the Capital Planning and Investment Committee reviews the submissions prior to the Board of Selectmen review.

Working Group Recommendations

Within the areas identified above, the working group recommends for consideration by the Board of Selectmen the following changes, and the following process:

Delineate Responsibilities

Addressing responsibilities for appointments, warrant approval, and role in the budget process could be defined in a Home Rule Special Act, which would be drafted by Town Counsel. Recommendations are:

- Employee appointments below the level of Department Head (and excluding the Fire Department staff) are made by the Town Administrator.
- Responsibility for discipline of Town employees under the Board of Selectmen be delegated to the Town Administrator.
- Authority to approve payroll and vendor warrants be delegated to the Town Administrator.
- The Town Administrator approves operating and capital budgets for departments under the jurisdiction of the Selectmen prior to presenting said budgets to the Board of Selectmen for approval.

Engage Town Meeting

Harvard's precedence for organizational change was most recently reflected in the Home Rule petition presented at the 1993 Annual Town Meeting which created the finance department and the shared Finance Director/School Business Manager position. The Home Rule petition (Article 8) was discussed, debated, subject to three modifications from the floor, and ultimately passed.

Given the relatively limited scope (i.e., explore how to improve efficiency in Town operations and allow the Selectmen to remain focused on policy-setting), a Home Rule Special Act may be the most effective approach. This approach also is respectful of Harvard's tradition of open Town Meeting, considered by many residents – and the Secretary of the Commonwealth to be, “the purest form of democratic governing...a valuable means for many Massachusetts taxpayers to voice their opinions and directly effect change in their communities.”⁶ Such an Act would require passage by a majority town meeting vote on the warrant article proposing the act. If passed, this would be followed by a petition to the General Court to enact the proposed Special Act, then approval of the Special Act by the House of Representatives and Senate, and finally signature by the Governor.

⁶ <http://www.sec.state.ma.us/cis/cistwn/twnidx.htm>

Appendix A: Working Group Participants⁷

Robert Eubank, 17 years' experience, currently serving as Town Moderator

Rick Maiore, 31 years' experience, currently serving as Building Committee Chair and Water & Sewer Commissioner

Victor Normand, 26 years' experience, currently serving as Personnel Board Chair and member of Master Plan Steering Committee

Ron Ricci, 12 years' experience, currently serving as Board of Selectmen Chair

Marie Sobalvarro, 8 years' experience, currently serving as HR Director/Assistant Town Administrator

Janet Vellante, 22 years' experience, currently serving as Town Clerk

Alice von Loesecke, 4 years' experience, currently serving as Finance Committee Chair

⁷ Years experience serving as elected and/or appointed officials for the Town of Harvard

Appendix B: Materials Reviewed

“Case Study: The Charter Process in Groton, MA,” Massachusetts Municipal Management Association, 2009.

“Chapter 23 of the Acts of 1995: An Act Establishing a Board of Selectmen/Town Administrator Form of Government in the Town of West Boylston”

“Several Options Exist for Changing Local Government Structure,” and “Data Show Strong Growth of Management and Administrative Positions,” Mark Morse, Municipal Advocate, Vol. 22 No.2

Summary of Town Special Act Charters/Creation of Town Managers/Administrator Position

Overview document ‘Powers Vested with the Board of Selectmen,’ Harvard bylaws, internal document

Massachusetts Municipal Association, ‘Ask the MMA’ quick link

“Reorganization Update: 1st Quarter Status Report,” Julie Jacobson, Town Manager, Town of Auburn, 2011.

FY2015 Employee Appointments, Harvard Board of Selectmen

FY2015 Committee Appointments, Harvard Board of Selectmen

Town of Wayland: Town Administrator job description

Town of Rutland: Town Administrator job description

Town of Topsfield: Town Administrator job description

Town of Groton: Town Manager job description

Town of Sandwich: Town Manager job description

Town of Hanson: House 4524, ‘An Act Establishing a Town Administrator in the Town of Hanson’

Town of Grafton: Article 4, Home Rule Charter, Town Administrator

Town of Canton: Town Administrator job description

Town of Boxborough: Town Administrator job description

Town of Harvard: Town Administrator job description