

Change in Form of Government:
Topsfield, MA

History

The Problem:

The previous town government consisted of an Executive Secretary, 3-member Board of Selectmen, and various elected boards managing the public works functions. Department heads were answerable to these elected boards depending on which board was responsible for their appointment. In the late 1990's and early 2000's the town of Topsfield had a lot of infrastructure projects as well as substantial building projects involving the school and library. At the same time, the town felt the pressure of the Proposition 2½ limits, challenges of budget cuts and reduction in local aid distributions at the state level, and the need for a substantial override for school projects. As a part time Board, the Selectmen felt that they could not adequately address all these issues effectively and so they created the Town Management Committee to study the need for reorganization of the town's management structure.

The Change Process

The Committee:

The Town Management Committee was created in the spring of 2003 to address the issue of "Restructuring Town Government to Meet the Needs of the Future." The Board of Selectmen recruited key stakeholders to serve on the committee including; five former selectmen, one former school committee member, one person who formerly served on both the finance and school committee and a current finance committee member.

The committee met for the first time in July 2003 and every two weeks thereafter. The Selectmen attended the meetings on an ongoing basis to keep a dialogue open between the board and the committee. The committee also met with boards that would possibly be affected by the changes being discussed. Meetings included discussion of consolidation of town departments, hiring of a town administrator, increasing the Board of Selectmen from three to five members, elected vs. appointed positions, town charters, regionalization of services, cost effectiveness, etc. Additionally the committee received input from Boxford, Georgetown, Danvers, Hamilton, Essex, Wenham, Saugus, Rowley, Manchester, Salisbury, Middleton, Swampscott and Ipswich. It reviewed other town's legislation, talked to other town administrators and received help from the Massachusetts Municipal Association.

This Committee met for 18 months before it made recommendations to the Board of Selectmen.

Recommendations:

Findings and recommendations were presented to the Board of Selectmen in December 2004. The committee recommended centralizing town government and creating a town administrator with appointing authority. This position would be able to expedite the decision making process by advising the Selectmen on key issues.

Other changes included:

- Expansion of the Board of Selectmen from three to five members
- Eliminate the position of Executive Secretary, the Capital Program Committee, and the Personnel Board vesting these functions in the Town Administrator.

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- Create a single Public Works Department under the supervision and control of the Board of Selectmen, thereby abolishing the elected positions of Board of Road Commissioners, Board of Water Commissioners, and Parks and Cemetery Commissioners.

Special Legislation Timeline

The town chose to make these changes using special legislation. They had used this same process to change from a dry to a wet town through three special acts in 2003. The timeline for this process was the following:

- March 1, 2005: Special Town Meeting to ask for town meeting approval of five articles including two Special Acts to be placed on the ballot: a Special Act for the expansion of the Board of Selectmen and a Special Act for the Establishment of a Department of Public Works. All articles were approved and the board was given the authority to approve amendments. (The complete text of the town meeting articles can be found as Appendix A).
- May 5, 2005: The Special Acts were approved at the Town Elections and subsequently sent to the state legislature for enactment.
- December 6, 2005: The Board of Selectmen approved the “Amendment for the Special Acts to Expand the Board of Selectmen”.
- December 29, 2005: The Special Act for the Expansion of the Board of Selectmen was enacted into law as Chapter 170 of the Acts of 2005 signed by Lt. Governor Healy.
- May 4, 2006: Town Elections yielded the filling of newly created Selectmen positions. This new five member board would hire for the newly created position of Town Administrator.

Hiring the Town Administrator

A search committee including the Personnel Board Chairman was formed to interview the first round of applicants. This committee recommended three finalists to the Board of Selectmen who made the final decision.

New Town Administrators: Positive Changes and Challenges

Positive Changes made by new Town Administrator:

“**Baby Steps**”: The Town Administrator realized that incremental changes are necessary to make people feel comfortable.

Kept existing key staff and boards:

1. Executive Secretary: The previous Executive Secretary had not applied for the position of Town Administrator. The new Town Administrator reorganized the departments and kept this person on to oversee purchasing and coordinate administrative tasks for the zoning and planning Boards.
2. Personnel Committee: The former members of the Personnel Board were kept on as an advisory group. The department heads had felt that this was an advocate group for them so it was important to keep them.

Creation of several forums to hear from town staff:

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1. After taking office, the Town Administrator met with each staff member and the selectmen individually to talk about their individual issues, what they expect from the town administrator and what the specific department issues were.
2. Upon completing these interviews, the Town Administrator held the first of monthly Department head meetings to review her finding and discuss approaches to resolving issues raised in the interviews.
3. The Administrator created three teams (Financial, General Services and Public Safety) which were made up of related departments in the following way:
 - Financial Team: Accountant, Treasurer/Collector, Purchasing Agent, Principal Assessor
 - General Services Team: Library, Town Clerk, Parks and Cemetery, Council on Aging
 - Public Safety Team: Fire Chief, Police Chief, Inspectional Positions, Department of Public Works, Water and Conservation

Each team holds a monthly meeting to discuss issues specific to their area of expertise. Teams then report back to the entire senior staff at the monthly Department head meetings.

Challenges:

Fear: The single biggest obstacle to effectuating change is the fear of the unknown. Therefore, the new town administrator needs to find ways to put the staff at ease, assessing their individual strength and building on those strength as an integral component of moving the organization forward.

Staffing changes:

1. The Executive Secretary had two clerks working for her. These positions were eliminated to fund the new Town Administrator's position. Therefore, early reorganization necessitated that a way be found to create a full time secretary to the Administrator and the Board of Selectmen.
2. This required the elimination of the Land Use Coordinator's position, Funding from the elimination of that position also went towards providing part time clerical assistance to both the Cemetery Department and the Board of Health.

Annual Appointments: Due to an imperfection in the Town meeting vote that created the position of Town Administrator, the Administrator does not have the appointing authority that was envisioned by the Management Committee. Therefore, the Town Administrator only makes three appointments with the bulk of appointments still made by the Board of Selectmen.

Procedural Problems

Department of Public Works:

Upon submission, the state legislature made changes to the language of the Special Acts approved by Town Meeting on March 1, 2005 and by ballot on May 5, 2005. Legally, the town is required to then have and an additional binding vote by the town.

Due to the language of the Special Act to expand the Board of Selectmen, the state legislature allowed the Board of Selectmen to have a binding vote of just the board. This happened on December 6, 2005. Conversely, due to a public works statute, the Special Act to Establish the

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Department of Public Works required a town wide binding vote. This revote happened in May 2007 and the special act was not approved.

Possible reasons given for this outcome were the press and many new residents wondering why this change was needed since the current structure was working. Additionally, there was concern about who would be the new public works director and among current public works staff that approval of establishing this new department would mean loss of jobs. It is also important to note that the original special act passed by less than 100 votes when presented on the May 2005 ballot.

Town Administrator Position:

In a letter dated June 13, 2007 the State Office of the Attorney General questioned the procedure through which the town adopted the Town Administrator position. The letter referred to Article 3 and 4 presented at the March 1, 2005 Special Town Meeting. The letter gave approval to the creation of a Town Administrator position by by-law with the understanding that, in accordance with GL Chapter 41, Section 23A, the Town Administrator acts “by and for the selectmen in any matter which they may assign to him relating to the administration of affairs of the town...”

This is noted in contrast to the Home Rule Procedures Act and G.L. c. 43B, Sections 10 and 13 which allow the creation of a town manager, position through a home rule or charter wherein the town administrator/manager carries out the daily business of the town subject only to the provisions of the charter and the policy guidelines of the governing board.

These differences in creation and authority are noted to remind the town of Topsfield that though the language of their adopted by-law is “replete with the phrases ‘shall act as the agent for the Board of Selectmen’ and ‘shall be responsible to the Board of Selectmen’” it should be mindful to not allow the position to grow “in its powers and duties” in a way that “may brush up against the constitutional requirements necessary for the creation of a town manager”.

Finally, the letter reminded the town of the by-law review process. G.L. c. 40, section 32 requires the Town Clerk to submit proposed by-law amendments 30 days after the adjournment of town meeting. These particular by-laws were adopted at a meeting adjourned March 1, 2005 and were not received by the Attorney General’s office until March 19, 2007.

Issues unique to Topsfield

In 2005, when the Selectmen were working on implementing the articles as passed at the March 1, 2005 Special Town Meeting, one Selectman was hospitalized due to complications during surgery. A second Selectman resigned his position. This left the third Selectman and Executive Secretary responsible for completing the procedure for enactment of the special articles. One meeting was even held, with permission of the Essex County District Attorney, at the rehabilitation center in an effort to have a quorum for voting in the amendments to the Special Act for the Expansion of the Board of Selectmen. A special election was held on February 16, 2006 to elect a new Selectman to fill the vacancy left by the resignation of the third selectman.

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Some town staff credits the problems caused by these two particular issues on the Board of Selectmen as being partly responsible for both town staff and residents acknowledging the need for a professional Town Administrator.