

MAYOR
ROGER BOURKE

TOWN COUNCIL
CAROLYN ANCTIL
JOHN BYRNE
SHERIDAN DAVIS
ELISE MORGAN



TOWN OF ALTA
P.O. BOX 8016
ALTA, UTAH 84092

TEL (801) 363-5105
(801) 742-3522
FAX (801) 742-1006
TTY 711

February 15, 2023

**DETERMINATION REGARDING CONDUCTING TOWN OF ALTA PUBLIC MEETINGS
WITHOUT AN ANCHOR LOCATION**

The Mayor of the Town of Alta hereby determines that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location pursuant to Utah Code section 52-4-207(5) and Resolution 2020-R-12. The facts upon which this determination is based include: The percent and number of positive COVID-19 cases in Utah has been significant since May 27, 2020. The seven-day average for cases on February 8, 2023 was 195, with 37.6% of the state's cases in Salt Lake County. As of February 9, 2023 there have been 5,270 deaths reported in Utah due to COVID-19.

The February 23 and March 8, 2023 Town Council meetings will not have a physical anchor location. All attendees will connect remotely. Attendees may join the webinar by registering for the meeting through the Town website www.townofalta.com or the meeting can be watched on YouTube. Additionally, comments may be emailed to the Town Clerk jen@townofalta.com.

This determination will expire in 30 days on March 17, 2023.

BY:

Mayor Roger Bourke

ATTEST:

Jen Clancy, Town Clerk

STAFF REPORT

To: Town of Alta Mayor & Town Council

From: Cameron Platt Polly McLean, Town Attorneys

Date: February 22, 2023

Re: Town Manager Authority/Duties

Following the Town Council's ("Council") discussion of creating a town manager¹ position, staff revised the draft ordinance to clarify that the appointment and removal of the town manager will be by the Mayor but also require the advice and consent of the Council.² This maintains a single point of authority through the office of the Mayor but requires the Council to have input and approval in selecting or releasing a town manager.

The remaining issue is whether the Council wants to delegate all or specific authority and duties from the Mayor and/or Council to the town manager position. To aid the Council in its discussions, the authority and duties of the Mayor and Council are listed below. The Town Staff need specific direction from the Council on how to proceed forward with this topic and are prepared to answer questions during the Town Council meeting or later. Pursuant to the Council's direction, staff will draft the required documents to enact or amend an ordinance.

Mayor's Authority/Duties UCA § 10-3b-104

- Chief Executive Officer Duties
 - All employees report to Chief Executive Officer;
 - Keep the peace and enforce the laws of the municipality (practically and currently applied by delegation to the Marshal's Office by the Mayor); This function can be split between criminal and civil enforcement;
 - Ensure statutes, ordinances, and resolutions executed and observed;
 - Sign contracts provided for in budget, ordinance, or resolutions;
 - Cancel or waive fines or forfeitures;
 - Report the condition and needs of the municipality to the Council;
 - Recommend for Council consideration any measure that the mayor considers to be in the best interests of the municipality;
 - Deputize residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;
 - Release a person imprisoned for a violation of a municipal ordinance;
 - At any reasonable time, examine and inspect the official books, papers, records, or documents of the municipality or any officer, employee, or agency of the municipality;

¹ The staff report uses the term "town manager" as the title of the position the Town is creating to replace the Town Administrator. The actual title of this position can change if the Council prefers another term.

² The revisions are in redline format from the original draft ordinance.

- With the council's advice and consent:
 - assign or appoint a member of the council to administer one or more departments of the municipality; and
 - appoint a person to fill a municipal office; or a vacancy on a commission or committee of the municipality;
- Perform all duties prescribed by statute or municipal ordinance or resolution;
- Mayor's Judicial, Legislative, or Ceremonial Duties may not be delegated.
 - Regular and voting member of the Council
 - Chair of Council meetings and presides at all Council meetings
 - Exercises ceremonial functions for the municipality;
 - Ex officio positions held by the Mayor.

Town Council Authority/Duties UCA § 10-3b-105³

- Legislative Duties—may not delegate legislative duties.
- Town Council is the legislative body of the municipality and exercises the legislative powers and performs the legislative duties and functions of the municipality
 - Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality;
 - Prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;
 - Require by ordinance that any or all appointed officers reside in the municipality;
 - Create any office that the council considers necessary for the government of the municipality;
 - Provide for filling a vacancy in an elective or appointive office;
 - Perform any function specifically provided for by statute or necessarily implied by law;
- Any executive or administrative power . . . duty or function that: has not been given to the mayor under Section 10-3b-104. This is a “catch-all” provision.

Conclusion

The Mayor and Council must decide how to proceed forward with this topic and give direction to staff on the organization of a town manager position. Staff are prepared to answer questions during the Town Council meeting or later. Pursuant to the Council's direction, staff will draft the required documents to enact or amend an ordinance.

³ Utah law § 10-3b-403 mentions that the Council may delegate its “executive or administrative power” to a town manager. In practice, however, the Council only has these executive or administrative power if they are removed from the Mayor.

STAFF REPORT

To: Town of Alta Mayor & Town Council
From: Cameron Platt Polly McLean, Town Attorneys
Date: February 22, 2023
Re: Town Manager Authority/Duties

Following the Town Council's ("Council") discussion of creating a town manager¹ position, staff revised the draft ordinance to clarify that the appointment and removal of the town manager will be by the Mayor but also require the advice and consent of the Council.² This maintains a single point of authority through the office of the Mayor but requires the Council to have input and approval in selecting or releasing a town manager.

The remaining issue is whether the Council wants to delegate all or specific authority and duties from the Mayor and/or Council to the town manager position. To aid the Council in its discussions, the authority and duties of the Mayor and Council are listed below. The Town Staff need specific direction from the Council on how to proceed forward with this topic and are prepared to answer questions during the Town Council meeting or later. Pursuant to the Council's direction, staff will draft the required documents to enact or amend an ordinance.

Mayor's Authority/Duties UCA § 10-3b-104

- Chief Executive Officer Duties
 - All employees shall report to Town Manager;
 - Appointed officials will coordinate with the town manager in day to day activities, subject to state law, but are accountable to the Mayor and Council;
 - Keep the peace and enforce the laws of the municipality (practically and currently applied by delegating criminal enforcement to the Marshal's Office by the Mayor); civil code enforcement will be through the Town Manager;
 - Ensure statutes, ordinances, and resolutions executed and observed;
 - Sign contracts provided for in budget, ordinance, or resolutions;
 - Cancel or waive fines or forfeitures;
 - Report the condition and needs of the municipality, and make recommendations in the best interests of the Town, to the Council.
 - Deputize residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;
 - Release a person imprisoned for a violation of a municipal ordinance;

¹ The staff report uses the term "town manager" as the title of the position the Town is creating to replace the Town Administrator. The actual title of this position can change if the Council prefers another term.

² The revisions are in redline format from the original draft ordinance.

- At any reasonable time, examine and inspect the official books, papers, records, or documents of the municipality or any officer, employee, or agency of the municipality;
 - With the council's advice and consent:
 - assign or appoint a member of the council to administer one or more departments of the municipality; and
 - Appointment of the Town Manager, Town Clerk, Marshall, & Planning Commission members remain with Mayor and Council
 - appoint a person to fill a municipal employment position or a vacancy on a committee of the municipality;
 - Perform all duties prescribed by statute or municipal ordinance or resolution;
- Mayor's Judicial, Legislative, or Ceremonial Duties may not be delegated.
 - Regular and voting member of the Council
 - Chair of Council meetings and presides at all Council meetings
 - Exercises ceremonial functions for the municipality;
 - Ex officio positions held by the Mayor.

Town Council Authority/Duties UCA § 10-3b-105³

- Legislative Duties—may not delegate legislative duties.
- Town Council is the legislative body of the municipality and exercises the legislative powers and performs the legislative duties and functions of the municipality
 - Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality;
 - Prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;
 - Require by ordinance that any or all appointed officers reside in the municipality;
 - Create any office that the council considers necessary for the government of the municipality;
 - Provide for filling a vacancy in an elective or appointive office;
 - Perform any function specifically provided for by statute or necessarily implied by law;
- Any executive or administrative power . . . duty or function that: has not been given to the mayor under Section 10-3b-104. This is a “catch-all” provision.

Conclusion

The Mayor and Council must decide how to proceed forward with this topic and give direction to staff on the organization of a town manager position. Staff are prepared to answer questions during the Town Council meeting or later. Pursuant to the Council's direction, staff will draft the required documents to enact or amend an ordinance.

³ Utah law § 10-3b-403 mentions that the Council may delegate its “executive or administrative power” to a town manager. In practice, however, the Council only has these executive or administrative power if they are removed from the Mayor.

1-15-1 TOWN MANAGER OFFICE CREATED; ADMINISTRATIVE PROVISIONS

- A. Office Created: The office of the Town Manager, which shall be known as "Town Manager", is created and established pursuant to Utah code section 10-3b-403. The Town Manager shall be referred to as the Town Manager and is the chief administrative officer of the Town.
- B. Control: The powers, duties and functions of the office of Town Manager shall be subject to the control and policies of the Town ~~Council~~pursuant to Town ordinance and resolution.
- C. Appointment: The ~~Town Council~~Mayor shall appoint the Town Manager with the advice and consent of the Town Council, ~~who shall be appointed~~ on the basis of education and experience in administrative, executive abilities and qualifications.
- D. Bond: Before taking office, the Town Manager shall furnish a fidelity bond, at the expense of the Town, in the amount of one million dollars (\$1,000,000.00), conditioned upon the faithful performance of his or her duties, with a corporation licensed to do business in this state as a surety. Such bond shall be filed with the Town Clerk after the Town Manager is appointed and ~~being~~ approved by the Town Council.
- E. Term Of Office: The Town Manager shall serve at the pleasure of the Mayor and Town Council and may be removed at any time, with or without cause, by a majority vote of the Town Council.
- F. Employment Agreement: Nothing in this chapter shall be construed as a limitation on the power or authority of the Town Council to enter into any employment agreement with the Town Manager with additional terms and conditions of employment not inconsistent with any provisions of this chapter.
- G. Salary: The salary and other compensation of the Town Manager shall be established by the Town Council in accordance with Utah law.
- H. Office And Time Spent: The Town Manager shall maintain an office in the Town offices and shall spend such time in the performance of the duties of Town Manager as is necessary or may be required from time to time ~~by the Town Council~~perform the duties as assigned in Town ordinance or resolution. The Town Manager shall not accept any outside employment in addition to employment by the Town without prior approval of the Town Council.
- I. Residence: The Town Manager need not be a resident of the Town at the time of the Town Manager's appointment or thereafter.
- J. Resignation: Before voluntarily resigning from the position of Town Manager, the Town Manager shall give the Town Council at least thirty (60) days' written notice of his or her intent to resign.

1-15-1 TOWN MANAGER POWERS, DUTIES, OBLIGATIONS

A. Town Manager Duties: Pursuant to the policies and programs established by the Town Council, and under the direction and oversight of the ~~Town Council~~Mayor and except as otherwise set forth by the Town Council in ordinance, resolution, motion, or this code, the Town Manager shall:

1. Manage the internal affairs of the Town; develop, recommend and implement Town policies, practices, rules, regulations and procedures; report to the Mayor; report to the Town Council at least monthly; advise the Town Council regarding policy options and implementation procedures; carry out legislative directives and decisions; and administer contracts.
2. Establish and maintain effective working relationships with the Mayor, Town Council, ~~the~~ Town staff, employees, citizen committees, special interest groups, media, contractors, public vendors and representatives from other municipal, county, special district, state and federal agencies.
3. Consistent with the direction of the ~~Town Council~~Mayor, be responsible for the full and effective use of Town personnel by establishing, in consultation with the Town attorney, department directors, division heads or~~and~~ other management employees, overall department objectives, priorities and standards consistent with the goals, direction, and objectives of the Town Council; serve as a facilitator in the achievement by Town departments of Town Council goals by coordinating effective implementation of Town service levels, ordinances, resolutions, rules, regulations and directives; exercise managerial control to ensure that the Town government and its respective departments function in the most efficient and effective manner.
4. Except for the purpose of inquiry, the Town Council and its members shall deal with the administration solely through the Town Manager and neither the Council, nor any member thereof, or the Mayor shall give orders to any subordinates of the Town Manager, either publicly or privately.
5. Represent the Town at various meetings or other functions and respond to requests or inquiries about Town policies, rules, ordinances, regulations, resolutions or services rendered by the Town government.
6. Enforce all applicable laws, ordinances, rules, regulations, and policies of the Town. Assure that all franchises, leases, permits, licenses, contracts and privileges granted by the Town are fully performed and observed. [May need to split out criminal/civil violation enforcement]
7. Recommend and prepare for consideration by the Town Council and advisory committees long range strategic plans and programs to provide for the health, safety, and welfare of the current and future inhabitants of the Town; furnish reports to the Town Council as requested.
8. Except as otherwise provided, be responsible for the overall personnel management, function, and implementation of Town personnel ordinances, rules, and regulations that have been adopted, approved, or revised by the Town Council; coordinate personnel ordinances and rules and regulations adopted by the Town Council; coordinate personnel functions with staff such as recruitment,

selection, and appointment; monitor personnel actions, promotion, discipline, demotion, separation and reclassification; coordinate personnel decisions with department directors; coordinate activities of individuals rendering professional services under contract with the Town.

9. The Town Manager may examine and inspect the books, records, and official papers of any office, department, agency, board, or commission of the Town and make investigations and require reports from or about all personnel.
10. The Town Manager shall promptly notify the Mayor and Town Council of any emergency existing in the Town, or in a Town department or body.
11. Create all necessary departments as approved by the Town Council. Create all necessary departments, sections, and offices necessary for the government of the Town; prepare recommendations for the Town Council regarding the addition, deletion, or reduction in municipal services.
12. Attend and participate in all meetings of the Town Council unless otherwise excluded by the Town Council in a closed executive session, but shall not have a right to vote in said meetings.

~~13. Approve and sign commercial and residential subdivision plats on behalf of the Town.~~

~~14.~~13. Perform all other duties and obligations, and exercise the powers set forth by ordinance, resolution, regulation, or directive imposed by the Town Council.

- B. Department Cooperation: It shall be the duty of all ~~subordinate~~ employees to cooperate with the Town Manager in administering the affairs of the Town efficiently, economically, and harmoniously.
- C. Planning And Land Use: Notwithstanding the foregoing, the Town Manager shall exercise no authority over the planning commission or an appeal and variance hearing officer.
- D. Performance Evaluation: The Town Council shall evaluate, at least annually, the performance of the Town Manager.
- E. Powers Of The Mayor Not Delegated: Nothing in this chapter shall be construed to delegate to the Town Manager the legislative and judicial powers of the mayor, the mayor's position as chief executive officer of the Town pursuant to Utah code section 10-3b-104(1)(a), chairperson of the Town Council, or any ex officio position which the mayor shall hold.
- F. [Designate chain of succession of Town Manager?]

If, because of natural or human-caused disaster or emergency situation, absence, disability or death, the Town Manager is unable to carry out the duties imposed by this chapter, the duties and authorities of the Town Manager shall be exercised by one of the following municipal officials, in the order indicated, until the Town Manager or a person

higher on the priority list becomes capable of exercising such duties:

1. Mayor;
2. Mayor Pro Tem;
3. Council Members in order of seniority on Town Council;

The exercise of interim successor duties pursuant to this subsection shall be promptly reported to the members of the Town Council as soon as practical by the person assuming those duties.