

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.