



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

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March 25, 2021

OML 2021 – 41

Donald Coburn
Chair, Select Board
Town of Monterey
435 Main Road, P.O. Box 308
Monterey, Ma 01245

By email only: admin@montereyma.gov

RE: Open Meeting Law Complaint

Dear Mr. Coburn:

This office received a complaint from John Weingold on September 7, 2020, alleging that the Monterey Select Board (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.¹ The complaint was originally filed with the Board on June 23, and you responded, on behalf of the Board, by letter dated July 1. The complaint alleges that the Board i) failed to create sufficient minutes of meetings; ii) deliberated outside of properly posted meetings; iii) failed to discuss certain topics, such as the Town Administrator job description and the Collins Center report, listed on meeting notices; and iv) placed an article on the Town Warrant without any open session discussion. All of these allegations are deemed to have occurred during meetings held between March 18 and June 10.

We appreciate the patience of the parties while we reviewed this matter. Following our review, we find that the Board violated the Open Meeting Law by deliberating outside of a properly posted meeting via email. We find that the Board did not violate the Open meeting Law in the other ways alleged. We decline to review allegations that pertain to the sufficiency of notices of seven meetings held between April 18 and May 20, as well as the sufficiency of minutes of five meetings held between March 18 and April 22 for the reasons discussed below. In reaching this determination, we reviewed the original complaint, the Board’s original and supplemental responses to the complaint, and the complaint filed with our office requesting further review. We also reviewed the notices and open session minutes of the Board meetings held on May 13, May 20, June 3, and June 10.

¹ All dates in this letter refer to the year 2020.

FACTS

We find the facts as follows. The Board is a three-member public body; thus two members constitute a quorum. The complainant is a member of the Board.

In March, the Collins Center for Public Management at UMass Boston issued a report reviewing the functions and services performed at Monterey Town Hall and whether the Town would be better served by having a Town Administrator. Between January 1 and February 24, prior to the issuance of the report, all three Board members² provided suggestions and comments on the report to an individual at the Collins Center; the suggestions and comments were emailed directly to the individual at the Collins Center but were also copied to all Board members. Specifically, the emails included members' thoughts and opinions on whether certain sections of the report should be rephrased or removed, whether characterizations of the Town were false or misleading, and whether Board members' generally agreed with the conclusions reached in the report regarding the need for a Town Administrator. Additional facts will be presented where applicable in the Discussion section that follows.

The Board duly posted notices for meetings to be held on May 13, May 20, June 3, and June 10. One topic listed on each of these four notices was the following: "Continue work on Town administrator job description, review of Collins Center report recommendations and process for moving forward in recruitment." The May 13, May 20, June 3, and June 10 meetings were held as planned. However, the Board did not discuss the Town Administrator topic or the Collins Center report during any of these four meetings.

DISCUSSION

I. The Board Did Not Violate the Open Meeting Law by Failing to Discuss a Topic Listed on Meeting Notices.

The Open Meeting Law requires that public bodies post notice of every meeting "at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays" and that the notice include "the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting." G.L. c. 30A, § 20(b).

The complaint alleges that the Board included a topic on the notices of nine meetings held between April 18 and June 10 but did not discuss that topic. Complaints alleging violations of the Open Meeting Law must be filed with the public body within 30 days of the alleged violation. G.L. c. 30A, § 23(b). When an alleged violation occurs during an open meeting, the alleged violation is reasonably discoverable at the time it occurs. See OML 2014-85; OML 2012-52.³ Here, all nine meetings were held in open session. As such, any violation concerning

² We note that the complainant did not become a member of the Board until July 2020. As such, when we refer to Board members, we specifically mean Kenneth Basler, Donald Coburn, and Steven Weisz. Kenneth Basler is no longer a member of the Board but Donald Coburn and Steven Weisz are still members of the Board.

³ Open Meeting Law determinations and declinations may be found at the Attorney General's website, <https://www.mass.gov/the-open-meeting-law>.

the notices and discussions that occurred during those meetings could have been discovered at the time the meeting occurred. See OML Declination 12-18-20 (Pembroke Board of Health); OML Declination 3-3-14 (Sterling Board of Selectmen). Where the complaint at issue here was filed with the Board on June 23, we limit our review to the Board meetings held on June 3 and June 10 and decline to review any allegations raised in the complaint for meetings held between April 18 and May 20.

The notices for the June 3 and June 10 meetings included a topic to discuss the job description for a new Town Administrator and review the Collins Center report. However, the Board did not discuss either of these matters during the June 3 or June 10 meeting. While the Open Meeting Law requires that a meeting notice list all topics the chair reasonably anticipates will be discussed during a meeting, the law does not prohibit a public body from removing, postponing, or declining to discuss a topic listed on a meeting notice. See OML 2014-35; 2012-23. In fact, the Open Meeting Law does not require a public body to discuss any topic. See OML 2015-73; OML 2014-98; OML 2013-64; OML 2012-23. Thus, the Board did not violate the Open Meeting Law by deciding not to discuss the topics at its June 3 and June 10 meetings.

The complaint also alleges that the Board placed “Article 19” on the Town Warrant without any open session discussion. This allegation does not identify when such discussions occurred, and our office will not conduct broad audits of public bodies based on such generalized allegations. See OML 2014-119; OML 2012-106. The Board admits that it did not discuss this article but “that it has been on the annual warrant for many years.” However, as previously stated, the Open Meeting Law does not require a public body to discuss any topic nor does it require a public body to deliberate on a matter prior to voting on that matter. See OML 2019-130. To the extent that the complainant is concerned that the Board exceeded its authority in placing such an article on the Town Warrant, the Division of Open Government is charged specifically with reviewing complaints to determine compliance with the Open Meeting Law, G.L. c. 30A, §§ 18-25. Thus we decline to review, and offer no opinion on, whether any actions taken by the Board could be a violation of some other law, including Town bylaws, outside the scope of the Division’s review. See OML Declination 1-19-16 (Southborough Zoning Board of Appeals); OML Declination 3-11-13 (Abington Conservation Commission).

II. We Find the Board’s Meeting Minutes to be Sufficiently Detailed.

The Open Meeting Law requires that a public body “create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.” G.L. c. 30A, § 22(a). When reviewing minutes for compliance with the Open Meeting Law, we look for substantial compliance with the accuracy requirement. See OML 2016-105; OML 2013-64. By substantial compliance, we mean that the minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. See OML 2012-106. Meeting minutes must include more than a statement that a public body held a discussion about a specified topic; the law requires that the minutes summarize the discussions that were held. See OML 2019-167; OML 2018-8.

With respect to the requirement to list in the minutes all documents and exhibits used by the public body during the meeting, the Open Meeting Law does not define what it means for a document to be used at a meeting but, at a minimum, it is clear that where a document is physically present, verbally identified, and the contents are discussed by the members of a public body during an open meeting, it has been “used” for purposes of the Open Meeting Law. See OML 2014-12; OML 2012-42. As such, any documents that are physically present, verbally identified, and discussed during a meeting must be separately listed in the minutes. It is not enough that those documents are simply referenced in the body of the minutes or that the minutes include a digital link to the documents. See OML 2019-29; OML 2018-70.

The complaint alleges that minutes of Board meetings held between March 18 and June 10 are either insufficiently detailed or inaccurate. We decline to review the sufficiency of the minutes of Board meetings held on March 18, April 1, April 7, April 15, and April 22 where the minutes of these five meetings were approved by the Board during meetings held between April 1 and April 29. When a public body approves open session minutes, any complaints regarding the sufficiency or accuracy of those minutes must be filed within 30 days of the meeting during which they were approved. See OML Declination 9-4-12 (Manchester-by-the-Sea Zoning Board of Appeals); OML Declination 5-14-12 (Sheffield Planning Board). The complaint here was filed on June 23, more than 30 days after the date that the Board approved these five sets of minutes, and we therefore find these allegations to be untimely and decline to review them. See OML Declination 10-21-20 (Massachusetts Maritime Academy Board of Trustees); OML Declination 7-2-18 (Pembroke Planning Board); OML Declination 1-13-14 (Ashfield Select Board).

With respect to the minutes of Board meetings held on May 13, May 20, June 3, and June 10, we find that the complaint was filed within 30 days of the dates that each of these four sets of minutes were approved, which was between June 3 and June 17, and therefore consider these allegations to be timely. Specifically, the complaint alleges that these minutes are i) inaccurate because they do not include enough detail regarding the Board’s discussions of a new Town Administrator position or the Collins Center report and ii) insufficiently detailed because they fail to include a list of documents used during each meeting that pertain to the Town Administrator position. Although the notices for each of these four meetings included a topic to discuss the job description for a new Town Administrator and review of the Collins Center report, the Board did not discuss either of these topics during the May 13, May 20, June 3, or June 10 meetings. Because the Board did not discuss the Town Administrator position or the Collins Center report during its May 13, May 20, June 3, and June 10 meetings, the minutes necessarily do not include any reference to those topics. See OML 2020-75 (our office reviews meeting minutes to ensure that they accurately reflect the discussions that take place during meetings). As such, we find that the minutes are accurate and sufficiently detailed, and the Board therefore did not violate the Open Meeting Law.

III. We Find that a Quorum of Members Improperly Deliberated via Email.

The Open Meeting Law was enacted “to eliminate much of the secrecy surrounding deliberation and decisions on which public policy is based.” Ghiglione v. School Board of Southbridge, 376 Mass. 70, 72 (1978). The Open Meeting Law defines a “meeting,” in relevant

part, as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. The law defines “deliberation” as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that ‘deliberation’ shall not include the distribution of other procedural meeting [sic] or the distribution of reports or documents that may be discussed at a meeting, provided than no opinion of a member is expressed.” Id. For the purposes of the Open Meeting Law, a “quorum” is a simple majority of the members of a public body. Id.

The complaint generally alleges that a quorum of the Board deliberated by email between March 18 and June 10 to discuss the Town Administrator position and the Collins Center report. Complainants must allege violations with a degree of specificity, as our office will not conduct broad audits of public bodies based on generalized allegations. See OML Declination 3-20-12 (Wilmington Board of Assessors). Here, we confine our review to the emails that were exchanged among the Board between January 6 and February 24 and which were provided to this office by the complainant.⁴

We find that the emails contain improper deliberations because these emails reached a quorum of the Board and included members’ opinions on or suggested resolutions of matters to be discussed by the Board and within the Board’s jurisdiction, namely, issues regarding whether to hire a Town Administrator. See OML 2018-118; 2015-3; OML 2014-108; OML 2013-136; Boelter v. Board of Selectmen of Wayland, 479 Mass. 233, 243 (2018). Moreover, we note that a February 10 email sent from Board member Donald Coburn to the other two Board members to also be improper deliberation where it included an attachment containing his thoughts and opinions regarding the Board’s “next steps” with respect to a possible Town Administrator position, even though the body of the email did not contain his thoughts and opinions. See Boelter, 479 Mass. at 241 citing Revere v. Massachusetts Gaming Comm’n, 476 Mass. 591, 610 (2017) (“the Legislature specified that no opinion of a board member could be expressed in any documents circulated to a quorum prior to an open meeting”). The expression of an opinion of by one public body member on matters within the body’s jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. See OML 2016-104; OML 2015-33; OML 2012-73. Moreover, the Open Meeting Law does not carve out an exception to the definition of “deliberation” for discussions that do not result in a decision or vote. We find that the Board violated the Open Meeting Law by deliberating among a quorum via email and order the Board to publicly release these emails within 30 days of receipt of this determination, if it has not already done so.⁵

In his request for further review, the complainant also suggests that the Board deliberated outside of a properly posted meeting “on a Google Group which is by invitation” and that “scheduling emails contain opinions about ‘priorities’ of the issues and members’ opinions.” We

⁴ We also reviewed two emails dated January 1 and January 2 that were sent from one Board member to either the individual at the Collins Center or to the Board’s Administrative Assistant but not to any other Board member. The Administrative Assistant and the individual at the Collins Center are not members of the Board or otherwise subject to the Open Meeting Law; therefore, these emails do not constitute improper deliberation where they were not shared with a quorum of the Board, even though they contained the thoughts and opinions of a Board member. See OML 2018-132; OML 2017-199; OML 2017-69; OML 2015-77; OML 2011-52.

⁵ We note that these emails have already been released to the complainant.

generally decline to review an allegation that was not included within the original complaint to the Board because the Board has not had an opportunity to respond to it. See G.L. c. 30A, § 23(b); 940 CMR 29.05(3). We find that these allegations were not raised in the original complaint and thus we do not review their merits. However, we remind the Board that while the Open Meeting Law does not restrict an individual's right to make comments to the general public via social media, it does apply to communication between or among a quorum of a public body outside of a meeting. See OML 2017-111. The communicator's intent in posting to a social media platform is relevant; whether other members of the public body happen to see the communication is not determinative. When comments are made in a social media group that is closed to the public, it is reasonably inferable that posts are directed solely at the members of that group, and, when a quorum of a public body belongs to a closed group, especially if the group is small, it becomes likely that posts and comments are targeted towards the other public body members. See OML 2018-145. In addition, a communication between a public body member and the chair for the purpose of adding a topic to a meeting agenda is not deliberation, even if the discussion is between a quorum of the public body, so long as discussion is limited to the request to add the topic to a meeting agenda. See OML 2016-7; OML 2013-4. It is not permissible, however, for the public body member to follow up on that request with a statement about why it is important that the topic be addressed by the public body or to advocate support for a certain position with respect to that topic. See OML 2014-76. We recognize that it is sometimes difficult to determine whether, under the circumstances, a given communication constitutes deliberation under the Open Meeting Law, and therefore our office specifically cautions public bodies on the use of social media and electronic communications. See OML 2017-88; OML 2014-80.

CONCLUSION

For the reasons stated above, we find that the Board violated the Open Meeting Law by deliberating via email and we order the Board to publicly release the emails within 30 days of receipt of this determination to the extent it has not already done so.⁶ In addition, we order immediate and future compliance with the law's requirements, and we caution that similar future violations could be considered evidence of intent to violate the law.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

⁶ The Board may publicly release the e-mails by reading their content during a meeting and listing the e-mails in the meeting minutes, or by referencing the emails during a meeting and posting the e-mails along with the minutes on the municipal website.

Sincerely,



KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: John Weingold: By email only – johnweingold@gmail.com

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Wednesday, March 18, 2020 2:02 PM
To: kenn@montereyma.gov; steve@montereyma.gov
Cc: admin@montereyma.gov
Subject: Job description for administrator

These are useful ones I found on line: 1. Town of Lanesborough mass. town manager description; 2. Town administrator Hingham, mass. ; 3. Town of Lexington , mass., town manager; 4. Melissa had the draft of the Monterey Review Comm, which draft was never approved.

Don

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Thursday, March 26, 2020 8:27 AM
To: kenn@montereyma.gov; steve@montereyma.gov
Cc: admin@montereyma.gov
Subject: Agenda Items for next week's SB meeting

As I continued reading other town's procedural and substantive approaches in preparation for my drafting of a job description for a town administrator for Monterey, it struck me that we have not yet debated the recommendations on this subject contained in the Collins Center Report. After re-reading that report, it seemed to me that there are a number of issues that should be resolved before or along with the drafting of the job description. Therefore, I propose the following agenda sub-items under the general topic of "Review of the Collins Center Report." I would like them listed on the agenda as follows:

1. Should we first codify the administrator's authority and responsibilities in a by-law as strongly recommended by the Collins Center and DLS?
2. Should we seek assistance of an experienced external facilitator/executive search consultant to guide the by-law development?
3. If use of the by-law process, and the delays inherent therein, is considered too cumbersome, should we nevertheless seek outside help in drafting the job description for the administrator?
4. Should the administrator be part-time or full time?
5. Should we try to hire a retired interim administrator and define his or her part-time job as including the development of a by-law or job description without a by-law?
6. Should there be an interim job description for the interim administrator?
6. Should we use a committee to interview candidates for the interim position?
7. Should the SB as a first step have informal discussions with candidates for interim administrator in deciding on a path forward?
8. Should the above issues not be addressed until meetings can be in-person?
9. Should we develop a written plan with time frames for each step of the plan?
10. Are there other sub-issues that need discussion prior to adopting an approach?

I've only begun to think about 1 through 10, and this email is not meant to be a comment on how the questions should be answered. But these are issues raised by the Collins Report that some might think we should address.

Don

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Thursday, March 26, 2020 5:04 PM
To: Sarah.Concannon@umb.edu
Cc: kenn@montereyma.gov; steve@montereyma.gov; admin@montereyma.gov
Subject: Fwd: interim town administrator.
Attachments: INTERIM TOWN ADN.3_16.odt

Hi Sarah,

I hope this email finds you and your family safe.

You had indicated a willingness to provide some informal help to the town as we went forward with this project.

One of our issues is whether we should try to hire a permanent administrator now or an interim administrator. Attached is my first draft of a job description for an interim administrator. I would very much welcome any comments from you on it and any suggestions you might have to make it better.

Sincerely,

Don Coburn, member Monterey Select Board.

-----Original Message-----

From: dscoburn <dscoburn@aol.com>
To: kenn <kenn@montereyma.gov>; steve <steve@montereyma.gov>; admin <admin@montereyma.gov>
Sent: Thu, Mar 26, 2020 3:38 pm
Subject: town administrator. FORGOT TO ATTACH. SO SORRY.

INTERIM TOWN ADMINISTRATOR

The Interim Town Administrator (“ITA”) shall serve part-time as chief administrator for the Town of Monterey until a permanent Town Administrator is appointed, or until either the ITA or the select board decide to end such service.

The tasks assigned to the ITA shall include general management of the property, personnel and processes of the town government as required or allowed by the General Laws of the Commonwealth - initially in consultation with and subject to the approval of the select board. The responsibilities shall include, but not be limited to, day-to-day management of department heads; carrying out policy directives of the select board; preparing town meeting warrants; recommending policies to the select board; managing the planning and development process for operating and capital budgets; coordinating IT management; supervising grant writing; addressing human resource issues; acting as procurement official; maintaining an up-to-date knowledge of laws, regulations and best practices relating to municipalities; and attending select board meetings to provide advice and information on the state of the town.

The ITA shall also assist the select board with these tasks: 1) developing a selection process for the Town Administrator (“TA”); 2) developing a detailed job description for the TA position; 3) drafting a by-law defining the job of TA, which by-law shall also define those actions of the TA which can and cannot be taken without select board approval.

The ITA should be a retired Town Administrator or Town Manager with substantial experience serving as an ITA in other towns that were seeking a permanent administrator.

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Friday, March 27, 2020 6:27 AM
To: kenn@montereyma.gov; steve@montereyma.gov; admin@montereyma.gov
Cc: Sarah.Concannon@umb.edu
Subject: Second Draft of Job Description for Town Administrator
Attachments: INTERIM TOWN ADN.3_16.odt

Good morning all.

Here is a redraft which has some minor changes plus the addition of a paragraph describing personal traits that the interim administrator should have.

Don

Second Draft of job description for the:

INTERIM TOWN ADMINISTRATOR

The Interim Town Administrator (“ITA”) shall serve part-time as chief administrator for the Town of Monterey until a permanent Town Administrator is appointed.

The tasks assigned to the ITA shall include general management of the property, personnel and processes of the town government as required or allowed by the General Laws of the Commonwealth - initially in consultation with and subject to the approval of the select board. The responsibilities shall include, but not be limited to, implementing policy directives of the select board; day-to-day management of department heads; recommending policies to the select board; managing the planning and development process for the operating and capital budgets; preparing town meeting warrants; coordinating IT management; supervising grant writing; addressing human resource issues; acting as procurement official; and maintaining up-to-date knowledge of laws, regulations and best practices relating to municipalities.

The ITA shall also assist the select board with these tasks: 1) developing a hiring process for the Town Administrator (“TA”); 2) developing a detailed job description for the TA position; and 3) drafting a by-law defining the job of TA.

The ITA should be a retired Town Administrator or Town Manager, preferably with substantial experience serving as an ITA in other towns that were seeking a permanent administrator.

In particular, as Monterey transitions to a permanent, single administrative executive, the ITA skills should include the ability to relate frankly, respectfully, and sensitively with the select board, department heads, and other employees to convincingly demonstrate the advantages to all of the new form of local government.

Monterey Town Administrator

From: kenn@montereyma.gov
Sent: Sunday, March 29, 2020 12:39 PM
To: Monterey Administrative Assistant
Cc: steve@montereyma.gov; don@montereyma.gov
Subject: Town Administrator
Attachments: town administrator 2.pages; town administrator 2 word.docx

Steve and Don

I was looking back over recent minutes to try and discover when we decided that we had made a decision to move forward with an interim town administrator. I thought I must have missed a meeting or two. When was it decided to use the collins center as our editor? I feel totally out of the loop.

The Collins Center was nice enough to offer assistance in searching for a town administrator but if each of us decides, on their own, what that assistance is the offer will soon be withdrawn. I'm really at a loss.

So... As we decided last week. We would each write up a job description, share that description with other board members and discuss it with each other.

If we don't work together on this there is little point.

Please, no more contact with Collins Center until we all discuss what the process is and how best they can help us.

Kenn's draft of a town administrator job description- see attached

The Town Administrator shall be the administrative officer of the Town of Monterey, reporting directly to the Board of Selectmen and acting as their agent. He/she shall be responsible for the effective and professional administration of the affairs of the Town.

As with most small towns service expectations are high. but resources in real dollars terms are limited.

The Town Administrator shall act as the Town's HR coordinator. He/she shall be responsible for ensuring that all pertinent policies are in effect, employees are aware of their rights and obligations, job descriptions are up to date and that job descriptions accurately describe the position and responsibilities,.

The Town Administrator shall assist the Board of Selectmen in the recruitment and selection of department heads under their jurisdiction. He/she shall perform and conduct the annual performance review for all department heads

The ideal candidate will have a proven track record of developing municipal employees to their full potential. Monterey has a a dedicated and talented work force that will benefit by a proven leader that is willing to share his/her experience and knowledge.

The Town Administrator shall act as the grant coordinator of the Town. He/she shall collect and distribute information on grants, establish uniform procedures for grant applications with our existing grant writers, prepare or assist in developing grant proposals and shall monitor all town grants to ensure fiscal and program compliance.

While the position of town administrator has relatively strong powers, as an old New England town, Monterey retains a strong tradition of making decisions through consensus. The

town administrator must be attuned to this tradition and be comfortable working in an environment where political power is diffuse and citizens expect broad consultation on significant decisions

Well-developed oral and written communication skills are essential. Open, accurate and timely communication with Select Board members, other town government entities, department heads, the public, the many volunteers and employees needs to be integrated into the normal operational practices of the Town. The town administrator must be skilled and comfortable serving as a major public spokesperson for the Town and will actively participate in shaping a strategic message to citizens. Monterey has a number of elected and appointed boards, commissions and committees that are integral to the governance of the Town. Many of the boards, commissions, and committees possess defined statutory powers. All need support and collaboration from the town administrator.

The administrator must be comfortable working in a small town where relationships are always on a face-to-face basis and there are no buffers between staff and management and between town employees and citizens.

Able to demonstrate a background in guiding the development of a shared strategic vision for the community. The ideal candidate must be a coalition builder, equally at home with private sector, non-profit sector and community leaders. The ideal candidate must be able to exercise leadership within town government and within the community. He/She must be

comfortable working with and managing town government often characterized by vigorous debate among well-informed citizens who are active in local decision-making.

Oversees the preparation of the town annual operating budget, ensuring that the presentation of budget information is complete, consistent and accurate. Establishes procedures for the completion and submissions of departmental budgets to the Finance Committee for the upcoming fiscal year and provides assistance to both the departments and the Finance Committee. Integrates budget process with the Finance Committee.

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Sunday, March 29, 2020 4:07 PM
To: kenn@montereyma.gov; admin@montereyma.gov
Cc: steve@montereyma.gov; don@montereyma.gov
Subject: Re: Town Administrator

Kenn, I did not say we decided to have an interim town administrator. In fact, we haven't actually even decided to have any administrator, interim or permanent. After we interview people we may find that none of them would be satisfactory in either job. We didn't decide to use Sarah as OUR editor. Nor did we decide that we had to approach her only as a group with such questions as she might have. There is no loop you are out of. I personally wanted her input on this.

I frankly don't like the tone of your message, but I will assume it may be virus uneasiness.

And if Sarah is willing to talk to me, I will fee absolutely free to do so.

In short, back off my friend. You really don't get to decide everything yourself.

In fact on this issue, you may well no longer be involved when the decisions are being made.

Don

-----Original Message-----

From: kenn <kenn@montereyma.gov>
To: Monterey Administrative Assistant <admin@montereyma.gov>
Cc: steve@montereyma.gov <steve@montereyma.gov>; don@montereyma.gov <don@montereyma.gov>
Sent: Sun, Mar 29, 2020 12:40 pm
Subject: Town Administrator

Steve and Don

I was looking back over recent minutes to try and discover when we decided that we had made a decision to move forward with an interim town administrator. I thought I must have missed a meeting or two. When was it decided to use the collins center as our editor? I feel totally out of the loop.

The Collins Center was nice enough to offer assistance in searching for a town administrator but if each of us decides, on their own, what that assistance is the offer will soon be withdrawn. I'm really at a loss.

So... As we decided last week. We would each write up a job description, share that description with other board members and discuss it with each other.

If we don't work together on this there is little point.

Please, no more contact with Collins Center until we all discuss what the process is and how best they can help us.

Kenn's draft of a town administrator job description- see attached

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Tuesday, March 31, 2020 4:05 PM
To: kenn@montereyma.gov; steve@montereyma.gov
Cc: admin@montereyma.gov
Subject: Fwd: Town Administrator
Attachments: Monterey Interim edits SEC.docx

-----Original Message-----

From: Sarah E Concannon <Sarah.Concannon@umb.edu>
To: dscoburn@aol.com <dscoburn@aol.com>
Sent: Tue, Mar 31, 2020 3:55 pm
Subject: RE: Town Administrator

Hi Don,

Actually we think that the language you have about the Select Board's role is fine. You may naturally see some evolution in the relationship as both the SB and ITA get comfortable with the arrangement.

Please see the attached for a rewrite of the section where you talk about the ITA candidates' prior experience. We feel the rewritten language is preferable from the HR perspective as opposed to what you had.

Best,
Sarah

From: dscoburn@aol.com [mailto:dscoburn@aol.com]
Sent: Tuesday, March 31, 2020 2:06 PM
To: Sarah E Concannon <Sarah.Concannon@umb.edu>
Subject: Re: Town Administrator

[EXTERNAL SENDER]

O, great, ty Sarah. best, don

-----Original Message-----

From: Sarah E Concannon <Sarah.Concannon@umb.edu>
To: dscoburn@aol.com <dscoburn@aol.com>
Sent: Tue, Mar 31, 2020 1:55 pm
Subject: RE: Town Administrator

Hi Don,

I will get to it today. I'm just on a series on conference calls for another hour or so. Expect it this afternoon.

Best,
Sarah

Second Draft of job description for the:

INTERIM TOWN ADMINISTRATOR

The Interim Town Administrator (“ITA”) shall serve part-time as chief administrator for the Town of Monterey until a permanent Town Administrator is appointed.

The tasks assigned to the ITA shall include general management of the property, personnel and processes of the town government as required or allowed by the General Laws of the Commonwealth - initially in consultation with and subject to the approval of the Select Board. The responsibilities shall include, but not be limited to, implementing policy directives of the Select Board; day-to-day management of department heads; recommending policies to the Select Board; managing the planning and development process for the operating and capital budgets; preparing town meeting warrants; coordinating IT management; supervising grant writing; addressing human resource issues; acting as procurement official; and maintaining up-to-date knowledge of laws, regulations and best practices relating to municipalities.

The ITA shall also assist the Select Board with these tasks: 1) developing a hiring process for the Town Administrator (“TA”); 2) developing a detailed job description for the TA position; and 3) drafting a by-law defining the job of TA.

The ITA should be an experienced Town Administrator or Town Manager, preferably with substantial experience serving as an ITA in other towns that were seeking a permanent administrator. Retired Town Administrators or Managers are encouraged to apply.

In particular, as Monterey transitions to a permanent, single administrative executive, the ITA skills should include the ability to relate frankly, respectfully, and sensitively with the Select Board, department heads, and other employees to convincingly demonstrate the advantages to all of the new form of local government.

Monterey Town Administrator

From: dscoburn@aol.com
Sent: Wednesday, April 1, 2020 7:50 AM
To: kenn@montereyma.gov; steve@montereyma.gov
Cc: admin@montereyma.gov
Subject: Questions regarding the TA/ITA decisions

QUESTIONS THAT MIGHT BE ASKED IN COMPARING THE PROPOSED JOB DESCRIPTIONS AND IN DECIDING AS BETWEEN HAVING A "STRONG" OR "WEAK" TOWN ADMINISTRATOR

1. Who is the audience to which the job description is aimed? Applicants, Employees, or Town Meeting? And/Or someone else?
2. What purpose is intended to be served in addressing each of the above audiences?
3. Should the town meeting have the final say (by vote on a by-law) as to whether or to what extent the Town Administrator should be "strong" vis a vis the Select Board? (For example, in particular, can the Town Administrator hire? discipline? or fire employees, and should some employees be exempt from such control; e.g., police officers?)
4. What are the advantages or disadvantages of having an interim administrator? (For example, in getting the employees to buy in to the new system? In giving more flexibility to the development of the system, including modifying the ITA role, or switching to another ITA?)
5. If the long form job description is chosen, what language will be used for advertising the job?
6. Are we more likely to get an experienced ITA if the job is part-time and of limited duration?
7. How would the role of the interim administrator differ from a permanent administrator?
8. Given the current and rather consuming dire circumstances, should any hiring be put off until things settle down?
9. Is it wise to choose an applicant without being able to have interviews in person?
10. Are there advantages to having the Select Board interview and hire an ITA rather than having an appointed committee perform that task, and yet leaving initial interviews to the appointed committee with regard to the permanent TA?

11. If we use an appointed committee to interview and make recommendations for TA or ITA, should that process be governed by a by-law?

I drafted these questions for myself and then decided that they might be of interest to you.

Don

Monterey Town Administrator

From: Kenn Basler <kennhb@gmail.com>
Sent: Wednesday, May 6, 2020 7:19 AM
To: Monterey Administrative Assistant
Cc: Donald Coburn; Steve Weisz
Subject: Thoughts on TA
Attachments: Kenn's thoughts on TA.pages

After much thought and contemplation I have firmly come down on the side of a 6 month to a year interim town administrator. The coronavirus crisis has caused all of us to pause, take a deep breath and look at the town in ways that we may not have been aware of just 3 months ago. There is no question in my mind that the town would benefit from a structure that would allow the day-to-day operations to be managed by a component, knowledgeable individual allowing the Select Board to focus on policy. We're almost there but there are a number of steps we must take before we cross the finish line. This is not a process that should be hurried and would be greatly helped by the guidance of an individual that has a strong, municipal leadership background. This individual should also have a history of successful HR leadership and the communication skills that would be expected. For me, I am strongly drawn to a retired town administrator that has a proven track record. This would allow us to gradually transition to this new (for us) government without the issues that presented during our last town administrator fiasco. I am concerned about the timing. Do we go ahead now in these uncertain times or wait until we know more about what the future looks like. Tough decision

We need to decide on format and process. Should we look for an interim or proceed with a formal hiring.

Let's talk about this at the next meeting. The following is a reworking of my prior thoughts and a possible job add if we decide on an interim.

The Interim Town Administrator shall be the administrative officer of the Town of Monterey, reporting directly to the Board of Selectmen and acting as their agent. He/she shall be responsible for the effective and professional administration of the affairs of the Town.

The Interim Town Administrator shall act as the Town's HR coordinator. He/she shall be responsible for ensuring that all pertinent policies are in effect, employees are aware of their rights and obligations, job descriptions are up to date and that job descriptions accurately describe the position and responsibilities.

The Interim Town Administrator shall assist the Board of Selectmen in the recruitment and selection of a permanent Town Administrator. He/She will, working with the Select Board, coordinate the process necessary to achieve a successful outcome. This will include:

- a. Creating a bylaw for the Town Administrator position
- b. Creating a job description
- c. Creating an interview panel that will recommend to the Select Board final candidates

Well-developed oral and written communication skills are essential. Open, accurate and timely communication with Select Board members, other town government entities, department heads, the public, the many volunteers and employees needs to be integrated into the normal operational practices of the Town. The interim town administrator must be skilled and comfortable serving as a major public spokesperson for the Town and will actively participate in shaping a strategic message to citizens. Monterey has a number of elected and appointed boards, commissions and committees that are integral to the governance of the Town. Many of the boards, commissions, and committees possess defined statutory powers. All need support and collaboration from the town administrator. Able to demonstrate a background in guiding the development of a shared strategic vision for the community. The ideal candidate must be a coalition builder, equally at home with private sector, non-profit sector and community leaders. The ideal candidate must be able to exercise leadership within town government and within the community. He/She must be comfortable working with and managing town government often characterized by vigorous debate among well-informed citizens who are active in local decision-making.