



BRIDGEWATER TOWN COUNCIL

Tuesday, May 15, 2012

7:30 PM

Memorial Building, 25 South Street

AGENDA

A. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- a) March 14, 2012
- b) March 20, 2012
- c) April 12, 2012

B. ANNOUNCEMENTS FROM THE PRESIDENT

C. PROCLAMATIONS - None

D. CITIZEN OPEN FORUM

E. APPOINTMENTS

Candidates for the Planning Board

- a) Raymond Ajemain
- b) Patrick Driscoll
- c) John Gerrish
- d) Thomas Hall

F. HEARINGS

- a) 7:35 P.M. PUBLIC HEARING: Loan Order #O-2012-017: Water Fencing & Equipment
- b) 7:45 P.M. PUBLIC HEARING: Loan Order #O-2012-016: Sewer Equipment
- c) 7:55 P.M. PUBLIC HEARING: Loan Order #O-2012-011 – Levy Multipurpose

G. LICENSE TRANSACTIONS

H. PRESENTATIONS - None

I. TOWN MANAGER'S REPORT

J. DISCUSSIONS

K. SUBCOMMITTEE REPORTS

L. LEGISLATION FOR ACTION

M. OLD BUSINESS

- a) Ordinance #2011-008: Pawn Shops
NOTE: This measure may not be finally approved at this evening's meeting if further amendments are voted.
- b) Resolution #R-2012-003: Associate Town Counsel
*** This legislation was not referred to a committee for review. The 14-day requirement as specified in the Town Council Rules and Procedures – XVIII. Readings - has elapsed and the matter may be considered by the Town Council.*
- c) Ordinance #D-2012-009: Legislative Director
*** This legislation was not referred to a committee for review.*
NOTE: This measure may not be finally approved at this evening's meeting as it requires advertisement pending any amendments proffered by the Town Council.
- d) Ordinance #2011-013: Administration and Fiduciary Oversight of Budget – Approval Requirements (Councilor Berolini)
*** This measure was relieved from the Rules & Procedures committee on 11/22/2011 by vote of the Town Council (7-2). The Finance Committee voted to “not recommend” this item: 6-0 (meeting held 12/28/2011).*
*** This measure was duly advertised on 1/5/2012 pursuant to Section 2-9 of the Home Rule Charter and may be acted upon should there be no further amendments offered.*
- e) Order# O-2012-015: Contracts Requiring Multi-Year Approval
*** This legislation was not referred to a committee for review. The 14-day requirement as specified in the Town Council Rules and Procedures – XVIII. Readings - has elapsed and the matter may be considered by the Town Council pending approval of proposed amendments.*

N. NEW BUSINESS

- a) Resolution# R-2012-006: Remedy to Whispering Woods
(Sponsor: Councilor Colombotos)
- b) Resolution# R-2012-007: Town Council Support of the High/Broad Street Traffic Light Project *(Sponsor: Councilor Wood)*

O. CITIZEN COMMENTS

P. COUNCIL COMMENTS

Q. EXECUTIVE SESSION

R. ADJOURNMENT



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Order: O-2012-017

Introduced By:	Town Manager (at the request of the Treasurer/Collector)
Date Introduced:	March 20, 2012
First Reading:	April 24, 2012
Second Reading:	May 15, 2012
Amendments Adopted:	
Date Adopted:	
Date Effective:	

Proposed Order #O-2012-017

LOAN ORDER: WATER FENCING AND EQUIPMENT

ORDERED that the sum of \$147,530.00 be appropriated to purchase new equipment listed below, including costs incidental or related thereto; that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$147,530.00 pursuant to Chapter 44 or any other enabling authority; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto:

	Item
15,262	Fencing
86,483	Dump truck
45,785	Service truck
147,530	TOTAL

*Explanation: Fencing around Sprague Hill Tower ---replacing, security Issue
Water Dump Truck – Replacing a 1988 Ford Dump—has more than passed its useful life
Water Service Truck – Replacing existing vehicle –this vehicle sees heavy daily usage and is becoming maintenance intensive*

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• Measure included on 3/20/12, 3/29/12, 4/3/12 and 4/10/12 agendas, but not taken up. • 4/24/12: Referred to Council Budget & Finance Committee • 4/25/12: Sent to Finance Committee for consideration • Duly advertised as Public Hearing in Enterprise 4/30/12 • Duly posted on Town's webpage	• • 5/2/12: Vote approved 5-0



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Order: O-2012-016

Introduced By:	Town Manager (at the request of the Treasurer/Collector)
Date Introduced:	March 20, 2012
First Reading:	April 24, 2012
Second Reading:	May 15, 2012
Amendments Adopted:	
Date Adopted:	
Date Effective:	

Proposed Order #O-2012-016

LOAN ORDER: SEWER EQUIPMENT

ORDERED that the sum of \$5,070,500.00 be appropriated to reline sewer main lines, including costs incidental or related thereto; that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$5,070,500.00 pursuant to Chapter 44 or any other enabling authority; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

Explanation: This is rehabilitation work to the sewer collection system

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• Measure included on 3/20/12, 3/29/12, 4/3/12 and 4/10/12 agendas, but not taken up. • 4/24/12: Referred to Budget & Finance Committee • 4/25/12: Sent to Finance Committee for consideration • Duly advertised as Public Hearing in Enterprise 4/30/12 • Duly posted on website 5/1/2	• • 5/2/12: Vote approved 5-0



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Order: O-2012-011

Introduced By:	Town Manager (at the request of the Treasurer/Collector)
Date Introduced/First Reading:	March 6, 2012
Second Reading:	March 20, 2012
Third Reading:	March 29, 2012
Fourth Reading:	April 24, 2012
Fifth Reading:	May 15, 2012
Amendments Adopted:	
Date Adopted:	
Date Effective:	

Proposed Order #O-2012-011

LOAN ORDER: LEVY MULTIPURPOSE

ORDERED that the sum of \$155,372.00 be appropriated to purchase new equipment listed below, including costs incidental or related thereto; that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$155,372.00 pursuant to Chapter 44 or any other enabling authority; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

	item	yrs
25,432	Town phone system	5
25,432	Town Permitting software	5
45,777	Dump truck (Highway)	10
35,334	Lawn mower (Recreation)	10
23,397	Tasers (Police)	5
155,372	TOTAL	

Explanation:

This is to purchase new equipment and software for several town departments. Principal and interest is expected to be paid from the tax levy. Please note that maintaining some borrowing capacity within levy limit is recommended by our financial advisor. This will replace retiring levy debt.

ROLL CALL VOTE REQUIRED: 2/3 AFFIRMATIVE VOTE OF FULL COUNCIL (6) REQUIRED FOR PASSAGE

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• Measure not referred to any committee on 3/6/12. • This measure requires publication and Public Hearing. • 4/25/12: Sent to Finance Committee for consideration. • Measure advertised as Public Hearing in Enterprise 4/30/12. • Measure posted on Town Website 5/1/12	• Return to full Council for consideration and amendments before referring to Finance Committee. • Measure on 3/20/12 agenda. More information needed. • 3/29/12 Measure postponed to 4/24/12 to be considered after budget presentation. • 5/2/12: Finance Committee vote Recommend 5-0.

ROLL CALL VOTE REQUIRED: 2/3 AFFIRMATIVE VOTE OF FULL COUNCIL (6) REQUIRED FOR PASSAGE



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Ordinance: #2011-008

Introduced By:	Councilor Pitta
Date Introduced/Public Hearing:	September 6, 2011
Second Reading:	January 17, 2012
Third Reading:	February 15, 2012
Fourth Reading:	March 6, 2012
Fifth Reading:	March 29, 2012
Sixth Reading:	May 15, 2012
Amendments Adopted:	January 17, 2012, March 6, 2012
Date Adopted:	
Date Effective:	

Proposed Ordinance #2011-008 (as amended)

Pawn Shops

ORDERED that, Dealers in Junk, Antiques, Second-Hand Articles, Gold, Silver, Other Valuable Secondhand Items and Pawnbrokers No person who makes a business of purchasing or purchasing and selling, or who keeps a place of business in the Town of Bridgewater for purchasing or purchasing and selling, either gold, silver, other precious metals, including catalytic converters, other precious or semi precious gemstones, art objects, painting, jewelry, rugs, antiques, furniture, furs, computers and computer equipment, video equipment, audio equipment, cameras, other electronic devices such as video game systems, games, software, shall engage in such business or open such place of businesses unless duly licensed by the Town of Bridgewater.

Definitions:

A Second hand Dealer is a person or business who, makes an outright purchase of personal property that has been used.

A Consignment Dealer is a person or business who, without taking ownership of goods or merchandise displays the merchandise for sale for a specified period of time and, upon sale, delivers the proceeds or a portion thereof, as agreed, to the owner. For purposes of this Ordinance, Consignment Dealers shall be licensed as Second Hand Dealers and shall comply with all record keeping and retention requirements of Second Hand Dealers.

A Pawnbroker is a person or business, who offers loans to individuals who use their personal property as collateral. These items are called pledges or pawns. For purposes of this Ordinance, Pawnbrokers shall be licensed as Second Hand Dealers and shall comply with all record keeping requirements of Second Hand Dealers. Application for license: Each application for a license under this section shall set forth the name and address of the business being licensed as well as the principal(s) of the business, their dates of birth and current addresses. The Chief of Police or his designee shall conduct a character investigation upon the applicant. The Town Manger may refuse to issue a license to a principal(s) who is deemed "unsuitable" to operate such business or whose registration has been revoked for violation of this Ordinance previously, or who has been convicted of a felony and may deny a license if the applicant has been convicted of anyone or more of the following listed offenses:

ROLL CALL VOTE: PASSAGE REQUIRES AFFIRMATIVE VOTE OF MAJORITY OF FULL COUNCIL (5)

- a. breaking and entering; entering; or breaking;
- b. defrauding an insurer;
- c. larceny;
- d shoplifting;
- e. uttering fraudulent checks;
- f. unlawful or fraudulent use of credit cards;
- g. unlawful taking of money or other goods;
- h. buying, receiving or concealing stolen goods;
- i. making or publishing false statements;
- j. firearms or weapons violations; and,

The license shall be in force until the 1st day of January unless sooner revoked.

Record of Purchases

Every dealer, clerk, agent or other person in charge of such premises shall record, in legible written English language, at the time of the purchase, the detailed description of each item purchased including serial number(s) if present, the price paid for the item, the name, date of birth, current residence, giving a street and number of the person from whom the purchase was made. Such name, date of birth, and residence being obtained by the production of a photo identification issued by the Commonwealth of Massachusetts, passport, or out of state driver's license containing a photo of the seller. At the time of purchase the day, date and hour of the purchase shall also be recorded. Further, a statement shall be taken from the seller of the item, as to the manner in which such item was obtained by the seller, which statement shall be entered on such record.

An electronic photograph clearing showing the item shall be taken of each item along with the identification presented. Each dealer or keeper of the shop shall also take a photograph of the person presenting such item and ID which will also be maintained for the permanent record, and available for inspection by the Chief or his designee. No entry on such record shall be changed, erased, obliterated or defaced. Such record shall be maintained on a form approved by the Chief of Police and shall be in duplicate form. The original and a copy of the electronic photograph shall be delivered, either electronically or by hand, to the Chief of Police or his designate by the opening of business on the nearest Monday and Thursday following said purchase. The duplicate copy shall be kept in some suitable place by the owner or dealer and shall be available for inspection by any person authorized by the Chief of Police. Video Game Systems and related games for those systems are exempt from the photograph requirement as long as the complete purchase is held together as a unit for seven (7) days and the seller's information has been properly recorded.

Every dealer, at his expense, will be required to record all such information on a form prescribed or participate in an electronic data base for recording and transmitting such data immediately, including color pictures, to the Chief of Police or his designee. All items purchased must be photographed individually or separated in a singular photograph so they can be easily identified.

Articles Purchased to be Kept for 21 Days Before Resale or Removal From Town

Nor such item purchased or received by any dealer or keeper of a shop shall be removed from the Town or sold or otherwise disposed of, nor its identity changed for at least twenty-one (21) days from its date of purchase or acquisition unless permission in writing has been obtained from the Chief of Police or his designee. Games for Video Game Systems may be released for resale after seven (7) days. Catalytic converters may be released after five (5) days. Per MGL c140 §71, any item taken in by a Pawnbroker or Pawn Shop, must be retained by them for a period of no less than 4 months from time of deposit.

Purchase From Persons Under Eighteen Years of Age Prohibited

No person or keeper of a shop shall directly or indirectly receive or buy any such items from any person under the age of eighteen (18) years.

ROLL CALL VOTE – PASSAGE REQUIRES AFFIRMATIVE VOTE OF MAJORITY OF FULL COUNCIL (5)

Display of License

Each such dealer or keeper of a shop shall have conspicuously displayed his license at the place where he does business.

Reason to Believe Items are Stolen

Every dealer, clerk, agent or other person in charge of such premises shall immediately report to the Bridgewater Police Department any persons and items they have reason to believe may have stolen or be in possession or stolen items.

Repeat Sales

Every dealer, clerk, or agent shall be required to report to the Chief of Police or his designee any person who offers for sale any such items defined above on three (3) or more occasions in any 30 day period, or four (4) or more occasions in a 60 day period.

Revocation of License

A violation of any provision of the license or subsequent rule or regulation that may be passed shall be sufficient cause and reason to revoke said license. The Town Manager, may at any time, with or without cause, revoke said license.

Penalty for Violation of Article

Any person, firm, or corporation violating any provisions of this Article shall also be fined of twenty dollars (\$20.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues

Per c140 §55 \$20 is max fine.

Examination and Inspection of Records, Articles and Merchandise

The Chief of Police or his designee shall at all times have the authority to inspect or examine alt books, records, photographic images, articles and merchandise therein.

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• This measure was referred to the Public Safety Committee on 9/6/11 • This measure was relieved from the Public Safety Committee by a unanimous vote of the Council on 1/3/12 • Amendments voted at 1/17/12 Council Meeting • This measure has been duly advertised. • Further amendments to be considered on 3/6/12. • Amendments voted at 3/6/12 meeting. Final review/advertising approval 3/20/12 • Measure not taken up 3/20/12. Final review/advertising approval 3/29/12 • This measure has been duly advertised. • Measure included on 4/24/12 agenda, but not taken up. • 5/1/12: Measure postponed to 5/8/12. • Postponed to 5/15/12	• No action taken

ROLL CALL VOTE – PASSAGE REQUIRES AFFIRMATIVE VOTE OF MAJORITY OF FULL COUNCIL (5)



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Resolution: R-2012-003

Introduced By:	Councilor Peter Colombotos
Date Introduced	March 20, 2012
First Reading:	March 29, 2012
Second Reading:	May 15, 2012
Amendments Adopted:	
Date Adopted:	
Date Effective:	

Proposed Resolution #R-2012-003

A RESOLUTION REGARDING "ASSOCIATE TOWN COUNSEL"

WHEREAS: Section 5-3, paragraph (a) of the Town Charter indicates there is "*a* legal officer" (emphasis added)

WHEREAS: There is no mention of the existence of a legal department in the Charter

WHEREAS: Even if there were a legal department, the Town Counsel, *not* the Town Manager, would have responsibility for hiring department subordinates,

BE IT RESOLVED: That the Town Council hereby does not recognize the hiring of any individual for the position of Associate Town Counsel.

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• First reading 3/29/12 • This measure was not referred to a committee. • This measure does not require publication. • This matter may be considered for action as 14 days has elapsed per Section XVIII of the Council Rules and Procedures. • Measure included on 4/24/12 agenda, but not taken up. • 5/1/12: Postponed to 5/15/12 meeting.	•

ROLL CALL VOTE: PASSAGE REQUIRES SIMPLE MAJORITY



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Ordinance: D-2012-009

Introduced By:	Councilors Michael Demos and Kristy Colon
Date Introduced:	April 10, 2012
First Reading:	April 10, 2012
Second Reading:	May 15, 2012
Third Reading:	
Amendments Adopted:	
Date Adopted:	
Date Effective:	

Proposed Ordinance #D-2012-009

LEGISLATIVE DIRECTOR

AN ORDINANCE PROVIDING FOR AN ANNUAL APPROPRIATION SO THAT TOWN COUNCIL MAY EMPLOY SUCH RESOURCES, STAFF AND EXPERTS AS ARE NECESSARY TO CONDUCT THE BUSINESS OF THE TOWN COUNCIL.

Whereas, the Bridgewater Home Rule Charter requires that the Town Council shall begin a review of all town by-laws, to analyze and amend as necessary, as a result of charter implementation;

Whereas, the Town Council is responsible for reviewing all proposed measures to assure that measures passed by the Town Council do not violate federal or state constitutional requirements, and to assure that measures do not conflict with and are not inconsistent with any general or special laws, as the Attorney General no longer provides this review for the Town since it has adopted a city form of government;

Whereas, The Town Council must have appropriate resources available to accomplish its duties as describe above;

Whereas, the Town Council must establish and maintain a codification of the town ordinances, orders, and measures, so that members of the public may have adequate notice of the town's laws;

Whereas the Town Council is required to establish by ordinance and maintain, administrative code of all town agencies and to append the administrative code to the Charter;

Whereas, drafting and interpreting ordinances require expert knowledge and experience not normally possessed by persons elected to the Town Council;

Whereas, under the Bridgewater Town Charter, Bridgewater now has a city form of government, the legislative responsibilities of the Town must be assured by the Town Council; and

Whereas, all persons elected to the Town Council, while serving on a part-time uncompensated basis, must nonetheless assure that legislative functions of the Town are performed in accordance with the law;

NOW, THEREFORE, pursuant to Sections 2-8 of the Bridgewater Home Rule Charter, the Town Council does ordain as follows:

Section 1. The Town Council shall determine what expertise is required for the proper and professional direction of all legislative activities of the Town Council. The Town Council shall determine how many hours per week are required to perform these responsibilities. The Town Council shall determine the compensation to be paid and all other terms and conditions of employment. The Town Council may enter into an employment contract if believe it necessary and beneficial.

Section 2. The legislative director employed by the Town Council shall recommend to the Town Council, the resources and research tools required within the cost guidelines established by the Town Council. The Town Council shall, if it deems appropriate, make an annual appropriation for the resources so approved.

Section 3. The legislative director shall be available to draft, or assist with drafting, any proposed legislation at the request of any Council member. The legislative director shall review all legislation and amendments thereto, to ascertain whether the proposed legislation and the legislative process in not inconsistent with any constitutional, statutory, or Charter requirement. The legislative director shall review all prior bylaws, ordinances and other prior measures prior to final passage of the proposed legislation to determine whether the proposed legislation conflicts with any prior town laws. If such a conflict is suspected, the legislative director shall recommend legislative amendments to eliminate the conflict. The legislative director shall assure that each proposed measure includes a legislative file that includes all documents introduced in support or opposition of the proposed measure to assure that the proposed measure, if passed, will sustain a challenge that the measure is arbitrary or capricious and therefore unlawful. The legislative director shall propose a legislative process to the Town Council. The legislative director shall obtain or prepare, informational materials that will assist any members of the public who desire to submit a citizen initiated measure as provided in the Town Charter.

Explanation:

To provide for an annual appropriation, subject to the sufficiency of revenues, to enable the Town Council to effectively fulfill its legislative obligations and duties as required by the Charter, general law, and the Constitution of the Commonwealth.

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• First reading 4/10/12 • This measure was not referred to a committee. • Measure was included on 4/24/12 agenda but not taken up. • 5/1/12: Measure postponed to 5/8/12 • 5/8/12: Measure postponed to 5/15/12 • This measure requires publication pending any Council amendments.	•



Bridgewater Town Council

In Town Council, May 15, 2012

Council Ordinance: 2011-013

Introduced By:	Councilor Michael Berolini
Date Introduced/First Reading:	October 18, 2011
Second Reading:	December 6, 2011
Third Reading:	February 7, 2012
Fourth Reading	May 15, 2012
Amendments Adopted:	None
Date Adopted:	
Date Effective:	

Proposed Ordinance #2011-013

ADMINISTRATION AND FIDUCIARY OVERSIGHT OF BUDGET **APPROVAL REQUIREMENTS**

Due to the ongoing need to ensure that Bridgewater continues to hold spending to the budgeted appropriations approved and set by the Council and because the hiring of staff has long term budget implications beyond the current fiscal year, and because the Town Council needs to be able to provide policy oversight on the long term spending requirement of the budget.

ORDERED: Pursuant to Section 6-5 of the Bridgewater Home Rule Charter, which allows the Town Council to provide ordinances on procedures for the administration and fiduciary oversight of the budget, the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to require the Town Manager to:

- Get approval from the Town Council by majority vote prior to taking any steps to backfill or hire any new personnel in any town department;
- Get approval from the Town Council by majority vote prior to taking any steps to reallocate, reclassify, upgrade or downgrade any position in any town department;
- Prior to bring forward any request to do any of the above, the town manager will provide documentation to the Town Council at least one week in advance of the Council meeting to support any request by the Town Manager to hire, backfill, reallocate, reclassify, upgrade, or downgrade any position. This information will include the impact on salary amounts, fringe benefits, sick leave buyout and any other expenditure relating to this action.

Explanation:

Due to the ongoing need to ensure that Bridgewater continues to hold spending to the budgeted appropriations approved and set by the Council and because the hiring of staff has long term budget implications beyond the current fiscal year, and because the Town Council needs to be able to provide policy oversight on the long term spending requirement of the budget.

Committee Referrals and Dispositions:

Referral(s)	Disposition(s)
• Rules & Procedures Committee (10/18/11) • Measure referred to Finance Committee • This measure has been duly advertised on 1/5/12. • This measure was included on the 1/17/12 and 2/15/12, 2/28/12 3/6/12 and 3/20/12 agendas, but not taken up. • This measure was postponed on 3/29/12 for further council considerations for amendments. • Measure included on 4/24/12 agenda, but not taken up. • 5/1/12: Measure postponed to 5/8/12. • 5/8/12: Measure postponed to 5/15/12.	• 11/22/11: Reported deadlocked. Measure relieved from further consideration by Rules & Procedures. Bring back before Council 12/6/11. • 12/28/11: Finance Committee voted Not Recommended (6-0)



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012,

Council Order: O-2012-015

Introduced By: Councilor Michael Berolini
Date Introduced: March 29, 2012
First Reading: April 3, 2012
Second Reading: May 15, 2012
Amendments Adopted:
Date Adopted:
Date Effective:

Proposed Order #2012-015 (Proposed amendments)

Contracts Requiring Multi -Year Appropriations

ORDERED: Pursuant to the Bridgewater Charter Section 4-2 (15), the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to require that:

All contracts that require multi-year appropriations, ~~including the Police Chief's Contract that was recently approved by the town manager but not approved by the Council,~~ shall require approval from the town council. ~~before being implemented.~~

In addition, the appropriation provisions of the Police Chief Contract require the vote of the Town Council pursuant to M.G.L. c. 44, § 33A. and pursuant to the Town Charter, which requires that the Town Council vote to approve all appropriations.

The provisions of the Police Chief Contract that involve the length of office and methods of removal of the Police Chief must be determined by a vote of the Town Council.

The Town Council shall vote to select an attorney who specialized in Massachusetts Labor Law, Civil Service laws, and Collective Bargaining under Massachusetts law to determine whether the Police Chief contract, as written comports with or is in violation of Massachusetts law relating to recitals in the Police Chief Contract that assert that the Police Chief is included under the Civil Service laws and relating to the recitals that assert that the Police Chief is a One Person Collective Bargaining Unit where superseding state statutes do not support and conflict with these assertions.

Once a special labor and employment attorney is selected and approved by the Town Council, the Town Council shall by vote, elect two of its members to be the liaison to the labor counsel and to submit the questions in this order to the attorney for an opinion.

Comment [amh1]: Proposed added language – M. Berolini

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Explanation:
The Bridgewater Charter specifically states that under Section 4-2 (15):

The town manager shall be the chief administrative officer of the town and shall be responsible to the town council for the proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties and responsibilities of the town manager shall apply to all municipal departments excluding the Bridgewater Raynham Regional School District, and shall include, but shall not be limited to, the following:

(15) to be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment. The town manager may employ special counsel to assist in the performance of these duties. Insofar as they require appropriations, contracts shall be subject to the approval of the town council.

Since multi-year contracts require appropriation in future years, set by the council, any contracts for multi year purposes shall require approval from the town council. This is also important to maintain accountability and the necessary checks and balances in our government that was a key concept in developing our Charter. In addition:

1. For the present fiscal year, the Contract proposes to increase the Chief's present rate of pay and therefore requires a 2/3 vote of the Counsel. If in the alternative, the contract is determined to be a new position or new appointment, the statute requires that the Council make a supplemental appropriation for the present fiscal year, regardless of whether funds are available. In either event, the vote of the Town Council is required.
2. The Town Charter requires that the Town Council vote for all appropriations. The contract calls for increase appropriations for Fiscal years 2013 and 2014. The Town Council must vote to approve the increase in salary called for in the Contract. There is no circumstance where the town manager may commit the Town to pay increased appropriations for these years without a vote of the Council. Without an vote of approval, the Town Manager has performed a legislative act by committing the Town to appropriations for fiscal years 2013 and 2014. The Town Manager has no legislative or appropriate power granted to him under the charter.
3. Without Town Council vote of approval of appropriations required by the contract, the appropriation provisions of the Police Chief Contract are void and unenforceable and subject to challenge by future Town Councils and the public.
4. Where the Town Council recognizes that the Charter provides that the Town Manager determines whether the Town should remove the Police Chief, the charter requires that the Town Council vote to determine the length of office and the methods for removal. The Police chief Contract dictates the two provisions, which violate the Charter as the Town Manager does not have this legislative power.
5. Under the present language of the Police Chief Contract, the Town Manager grants the Police Chief a term of office for life, unless the Police Chief voluntarily resigns or he is removed for just cause. The Contract limits the salary and some benefit provisions for the Police Chief to three years, but it does not limit his term office to three years.
6. The Contract violates the Town Charter in that only the Town Council may vote to determine the length of office and methods of removal of the office of the Police Chief. Section 5-1 (a) Ordinance - Subject only to the express prohibitions in any general or special law or the provisions of this charter, the town council may by ordinance, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part, establish such new town agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such agencies. The Town Manager may only submit his recommendation for such pursuant to Section B. Under either provision, the vote of the Town Council is required.

- 89
- 90 7. Officers whose appointment or election is by a city council, town council or subject to its confirmation.
- 91 G.L.c. 31, § 48. Civil service offices and positions; exemptions.
- 92
- 93 8. G.L.c. 31, § 51. Cities; civil service offices and positions. (2) the office or offices of chief of police or chief of
- 94 fire department, or the officer performing similar duties, whatever his title, in cities which vote pursuant to the
- 95 provisions of sections fifty-four and fifty-five to accept the applicability of the civil service law and rules to
- 96 such office or offices; which has not occurred.
- 97
- 98 9. Contrary to the language inserted by the Town Manager, M.G.L. c. 105E has no provisions for a “one-person”
- 99 collective bargaining unit. Collective bargaining requires 2 or more employees. You cannot collectively
- 100 bargain for just yourself.
- 101
- 102 10. Also, Chapter 105E, section 3, specifically excludes chiefs of departments from collective bargaining units.
- 103 Who is the chief and the Town Manager claiming the labor organization to be? |
- 104

Comment [amh2]: Proposed added language – M. Berolini

105 *Committee Referrals and Dispositions:*

Referral(s)	Disposition(s)
• This measure was not referred to a committee. • Measure included on 4/24/12 agenda, but not taken up. • 5/1/12: Measure postponed to 5/8/12 • 5/8/12: Measure postponed to 5/15/12	•

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Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Resolution: R-2012-006

Introduced By: Councilor Peter Colombotos
Date Introduced: May 15, 2012
First Reading: May 15, 2012
Second Reading:
Amendments Adopted:
Date Adopted:
Date Effective:

Proposed Resolution #R-2012-006

REMEDY TO THE WHISPERING WOODS PROBLEM

Resolved: That the Town Council of Bridgewater, Massachusetts in Town Council assembled vote on the following remedy to the Whispering Woods Issue:

Per Section 2-6, C, (2) of the Bridgewater Home Rule Charter:

“The town council shall be responsible for ensuring that the charter, the laws, the ordinances and other plans, policies and orders for the government of the town are properly implemented and enforced.”

Whereas: There is clear evidence that the permitting process for Whispering Woods was not followed in accordance with the statutes and regulations of the Commonwealth and associated local bylaws, and

Whereas: The Whispering Woods project has caused significant material damage to abutters of the project,

It is resolved that the Town Council recommends that the Town Manager engage the services of a peer review consultant with expertise in hydrology to furnish the following:

- An assessment of existing conditions on and off the project site
- A description of pre-construction conditions on and off the project site
- The completion of forensic review to account for the change in conditions related to both the permitting process and changes made to the land (should refer to the reports from the [Board of Health](#) and [Attorney Murphy](#), and other relevant documents)
- The provision of remedies to resolve the storm-water run-off and recharge issues at, and caused by, the Whispering Woods project

An amount not to exceed \$5,000 shall be appropriated to implement this order.

Explanation:

By all accounts, the Whispering Woods project permitting process was imperfect and the project was not built according to local, state and federal laws and regulations. In order to ameliorate the negative impact the project has (and continues to have) upon neighboring properties, it is imperative to ascertain the conditions related to the project and determine how to improve them. This would be best accomplished by hiring an engineering consultant with a specialty in peer review.



Bridgewater Town Council

In Town Council, Tuesday, May 15, 2012

Council Resolution: R-2012-007

Introduced By: Councilor William Wood
Date Introduced: May 15, 2012
First Reading: May 15, 2012
Second Reading:
Amendments Adopted:
Date Adopted:
Date Effective:

Proposed Resolution #R-2012-007

TOWN COUNCIL SUPPORT OF THE HIGH/BROAD STREET LIGHT PROJECT

WHEREAS, the intersection of High Street and Broad Street in Bridgewater, Massachusetts has been clearly identified as a dangerous intersection; and

WHEREAS, intersection improvement has been an identified project at the Massachusetts Department of Transportation since 2002; and

WHEREAS, citizens have urged action through a petition drive including two thousand signatures; and

WHEREAS, the existing conditions represent a daily and ongoing danger to our community,

BE IT RESOLVED: That the Town Council of the Town of Bridgewater, Massachusetts in Town Council assembled, respectfully requests via letter that the Massachusetts Department of Transportation, through the Old Colony Planning Council and the Metropolitan Planning Organization make signalization improvements to the intersection of High and Broad Streets, identified as MassDOT project #663660, a high priority. The Town Council further requests that the MPO make every effort to include this project in the "Transportation Improvement Plan" for Fiscal year 2013.

Explanation: May 15 to June 19 is the public comment period to prioritize the next TIP and a comment from the Town Council regarding project #663660 will be significant.