

Article 10, Police and Fire Commissioner Titles, Petitioner's Amended Motion

To amend the By-Law for "Board Of Selectmen, §3.1.2, "General Authority, The Selectmen shall exercise general supervision over all matters affecting the general and financial interest and welfare of the town" by adding immediately afterwards the following new provision:

§ 3.1.2.A, Police and Fire Commissioners: In accordance with and to implement the Selectmen's responsibilities under applicable Laws, the Selectmen shall be designated both "Police Commissioners" and "Fire Commissioners."

FURTHER¹ EXPLANATION for AMENDED MOTION & for *OPPOSING REFERRAL*

1. Why amend? to make even more obvious its limited intent: merely to codify a tradition:

Responding to arguments for "referral," the petitioner will move only the first 12 words, of the original version. The resistance of some Town officials to making official these two important titles has been downright amazing. Nobody has ever questioned the first sentence of David Turner's 1997 memo, "*Sometime before the memory of man remembereth the Selectmen acquired the additional title of Police Commissioners,*" even in the 13 years since. He went on to say, but it was never publicized and surprised everybody when heard about it, that the titles had never been codified. That was the technical – if not the more important psychological and governmental – impetus for this article, signed by *12 former selectmen* and our state rep. It seemed stunningly simple – a "conservative" no-brainer – to eliminate a largely unseen cloud of ambiguity and equivocation that seemed to be used like a fingers-crossed and unspoken footnote by a few knowing officials, wholly unsuspected by nearly all Town Meeting Members and citizens, who welcomed the titles' connotations about civilian control.

Efforts to refer this are at best ironic, especially the two stated concerns, that it's "complex" (it isn't) and that it might "change" things (it doesn't), sometimes adding "if it ain't broke, don't fix it." What's "broke" isn't the titles or their implications, but their unofficial status -- and our officials' affirmation and occasional explicit use of the titles with unspoken doubts about them. Everything else has been un-broken since "*before the memory of man remembereth*" – except occasional selectmen's leadership reticence (e.g., the 2007 townhall incident, as Town Meeting later voted). Would such reticence be *improved* by *dropping* the titles? No! But their codification, especially by Town Meeting, can only help, and in any event would end the psychological cloud from the ambiguity.

We now simplify our already-simple article, deleting its second half, taken essentially from the statute, c.41, §97,² called "weak chief law" (we prefer "strong selectmen"). Since those straightforward words have prompted some questions, and they add nothing, we delete them.

2. Why Vote the Merits Now, and Not Take the "Easy" Route to Refer It?:

If anything's been proven by the "referral" push, especially by the selectmen, it's that there must be subconscious ambivalence, not about the titles – used many times over the years by the

¹ See Comb./Rpts. 10-1 to 10-4. NB: the "**Fire** Commissioner" title has seen much less controversy, and will not be the main focus of either this explanation or the debate; but its importance & history is very similar to that for Police.

² c.41, §97: "In towns accepting this section ... there shall be a police department *under the direction of the Selectmen*, who may ... make suitable regulations governing the department." (emphasis added)

two Chiefs and their predecessors, by selectmen and TMM's, by the public, and by the media with nobody flinching or wincing – but about the titles' full implications, i.e., that the selectmen are our public safety leaders. Yet that's precisely our cherished tradition, dating back at least to 1921, when Town Meeting chose the “strong selectmen law,” c.41, §97 (see fn.2, *above*).

Why is this so important; why should the titles be *embraced*, not “studied”; and why should it be done immediately? First, adoption of the titles presents *no real issues*. More generally, and more than other departments, public safety raises many conflicting and compelling values – crime control vs. civil liberties, public safety vs. privacy, life-and-death for fire/police officers vs. budget constraints, etc. These difficult value judgments must come *from the community*, not from either an appointed Chief or an appointed Town Administrator, even ones as stellar as ours.

Addressing some of the other alleged reasons (excuses?) to refer or study:

- Someone asked what “*inter alia*” suggested, in our original “*responsible, inter alia, to make suitable regulations and policies.*” Although it seemed obvious, it's now deleted.
- At one meeting it was suggested that David Turner opposed codifying the commissioner titles. In fact, his 1997 memo proposed *either dropping or codifying* it somewhere: “References in the Manual to “Police Commissioners” should either be replaced ... or, *in the introduction, the Board of Selectmen should be designated for further reference as ‘Police Commissioners.’*” Our 2009 request to codify them was ignored, so here we are.
- CTO&S's majority recommends awaiting a fall proposal (two members dissenting) transferring to the Town Administrator the selectmen's power to hire and fire all department heads. Article 10, based on §97, is legally and practically independent of that idea – which (due in part to the discussions about this article) will probably end up excluding the Chiefs, anyway; and this should be laid to rest before the CTOS proposal is debated.
- Without answering every creative “question,” two stubborn facts are: (1) some are formulas for studying the titles to death (e.g., wanting “better” titles, or to “define” the roles); and (2) *none* (e.g., potential legal liability) have been serious questions since “*before the memory of man remembereth.*” So why now? What's the sudden beef?
- Some have belittled the article by citing only the first half of its main rationale, “for important symbolic *and psychological* reasons,” and also ignoring our analogy that the “Founding Fathers emphasized ‘*civilian control* over military,’ and – because titles matter for all in the chain of command having titles – called presidents “*Commanders-in-Chief.*” Was that title only for “symbolic” reasons? The commissioner titles are important – to the public safety departments, to the selectmen, and to the citizens – especially for such *paramilitary* organizations, e.g., the selectmen's two biggest §97 responsibilities for police, making “*suitable regulations*” and adjudicating discipline.

Finally, while public safety issues are extraordinarily important, there's nothing that needs to be studied. §97's “*under the direction of the Selectmen*” is very broad responsibility, and neither needs nor can have a detailed road map. This article reaffirms core Brookline traditions and should be settled *before hiring a new Town Administrator*. Delaying or, especially defeating, it (now or later, since it would return!) – an idea whose time long ago hath come --- would be distressing, disempowering the selectmen and (through them) 247 TMM's and Brookline's citizens.