



# BRIDGEWATER TOWN COUNCIL

Tuesday, January 8, 2019

7:30 p.m.

Academy Building

66 Central Square

Council Chamber, Room 203

Bridgewater MA

## MEETING AGENDA

Joint Meeting with the Town Manager, Finance Committee and  
School Committee Chair (or designee)

A. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

a) December 18, 2018

B. ANNOUNCEMENTS FROM THE PRESIDENT

C. PROCLAMATIONS

D. CITIZEN OPEN FORUM

E. APPOINTMENTS - *None*

F. HEARINGS

a) **7:35 p.m.:** Order O-FY19-036: Transfer Order - Capital Transfer - Lease Payments

*At their meeting held 12/18/18, the Budget & Finance Committee voted 3-0 to recommend approval of this measure. The Finance Committee meets 1/7/19. Their disposition will be provided upon receipt. This measure has been duly advertised for a public hearing in the Enterprise and on the Town's website, therefore may be finally considered this evening, pending Finance Committee disposition.*

G. LICENSE TRANSACTIONS

a) Petition P-2019-001: Common Victualler Annual Renewal - Flippin' Burger's

b) Petition P-2019-002: Second Hand Gold/Pawn Shop Annual Renewal - Gamestop, Inc, dba, Gamestop #3776

H. PRESENTATIONS - *None*

I. TOWN MANAGER'S REPORT

J. DISCUSSIONS

a) **Joint Meeting with Town Manager, Finance Committee and School Committee Chair (or designee)**

b) Sign Ordinance Compliance (*Councilor Colombotos*)

K. COMMITTEE REPORTS

L. LEGISLATION FOR ACTION

a) Order O-FY19-013: Highway Garage - Spring Street

*The Community & Economic Development Committee met 1/3/19 and will provide their disposition to the full Council.*

b) Order O-FY19-035: Acceptance of a Gift

*At their meeting held 12/18/18, the Budget & Finance Committee voted 3-0 to recommend approval of this measure. The Finance Committee meets 1/7/19. Their disposition will be provided upon receipt.*

c) Order O-FY19-037: Acceptance of Other Revenue from American Tower

*Budget & Finance Committee meet 1/8/19. They will provide their disposition to the full Council. Finance Committee meet 1/7/19. Their disposition will be provided upon receipt. This measure may be finally considered pending the disposition of both committees.*

d) Resolution R-FY19-003: Air Space Resolution

*The Community & Economic Development Committee meet 1/3/19 and will provide their disposition to the full Council.*

M. OLD BUSINESS

a) Ordinance D-FY19-004: General Ordinance - Acceptance of MGL c.40, Section 22A, 22B, 22C Concerning Parking Meters

*At their meeting held 12/18/18, the Budget & Finance Committee voted 3-0 to recommend approval of this measure. The Finance Committee meets 1/7/19. Their disposition will be provided upon receipt. This measure requires advertising, therefore may not be finally considered this evening.*

RECEIVED  
TOWN CLERKS OFFICE  
BRIDGEWATER, MA.  
2019 JAN - 4 A 11:42

N. NEW BUSINESS

- a) Order O-FY19-038 - Adoption of MGL c. 147 s. 21A - Authorizing the Appointment of Police Cadets – *(Town Manager at the Request of the Police Chief)*
- b) Order O-FY19-039: Home Rule Petition - Authorizing the Town of Bridgewater to Appoint Police Cadets *(Town Manager at the Request of the Police Chief)*

O. CITIZEN COMMENTS

P. COUNCIL COMMENTS

Q. EXECUTIVE SESSION

*Pursuant to MGL Chapter 30A, Section 21(a) (2): To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.*

R. ADJOURNMENT



# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-036

Introduced By: Town Manager  
 Date Introduced: December 4, 2018  
 First Reading: December 4, 2018  
 Second Reading: January 8, 2019  
 Amendments Adopted:  
 Third Reading:  
 Date Adopted:  
 Date Effective:

## Order O-FY19-036

### TRANSFER ORDER - CAPITAL TRANSFER – LEASE PAYMENTS

**ORDERED** pursuant to Section 6-4 of the Town of Bridgewater Charter, that the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to appropriate and transfer **from** below schedule Source of Funds **to** below schedule of Use of Funds:

| Source of Funds                  | Account No.     | GL Account Description              | Amount               |
|----------------------------------|-----------------|-------------------------------------|----------------------|
| Capital Stabilization Trust Fund | 80105-596010    | Transfer to GF Capital Project Fund | \$ 46,964.07         |
| Ambulance Fund                   | 25015-596010    | Transfer to GF Capital Project Fund | \$ 128,595.05        |
| <b>Total:</b>                    |                 |                                     | <b>\$ 175,559.12</b> |
|                                  |                 |                                     |                      |
| Use of Funds                     | Account No.     | GL Account Description              | Amount               |
| FY 2019 Capital Items 2019       | 10220219-586000 | Ambulance Lease Payment#3           | \$ 61,025.03         |
| FY 2019 Capital Items 2019       | 10220219-586001 | Ambulance Lease Payment#1           | \$ 67,570.02         |
| FY 2019 Capital Items 2019       | 10420219-586000 | Plow & Sand Lease Payment#1         | \$ 46,964.07         |
| <b>Total</b>                     |                 |                                     | <b>\$ 175,559.12</b> |

*Explanation: Transfer of Funding for Lease Payments included in the Upcoming Capital Plan.*

### Committee Referrals and Dispositions:

| Referral(s)   | Disposition(s)  |
|---|---|
| <ul style="list-style-type: none"> <li>Budget &amp; Finance Committee</li> <li>Finance Committee</li> <li>This measure was duly advertised for a public hearing in the Enterprise and on the Town's website, therefore may be finally considered this evening.</li> </ul> | <ul style="list-style-type: none"> <li>12/18/18: Vote 3-0 recommend approval</li> <li>Meet 1/7/19. Disposition will be provided upon receipt</li> </ul> |

**ROLL CALL VOTE – REQUIRES 9/10 OF THOSE PRESENT AND VOTING.**



## Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Petition: P-2019-001

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Date Introduced: January 8, 2019

Amendments Adopted:

Date Adopted:

Date Effective:

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Relative to:

### **COMMON VICTUALLER ANNUAL RENEWAL – FLIPPIN’ BURGERS**

WHEREAS, a licensee operating at a location in the Town of Bridgewater requires authorization to continue the operation of its establishment; and

WHEREAS, a Common Victualler licensee late-filed their renewal application and is subject to a renewal annually; and

WHEREAS, Requisite inspections have been satisfactorily completed by the Building Inspector and Fire Department; and

WHEREAS, Tax Collector’s Office has submitted its recommendation for the renewal candidate<sup>1</sup>; and

WHEREAS, the Bridgewater Town Council, acting as the Legislative body of the Town has such licensing authority and with consideration of no adverse recommendations being received from the Building Inspector, Fire, Police, and Health Departments who have oversight authority, it appears that the public good so requires such license be granted;

**The Town Council of the Town of Bridgewater, Massachusetts, pursuant to Chapter 140 - section 2 and section 4 respectively of the Massachusetts General Law (M.G.L.), in Town Council assembled approve the petition, as submitted, and that the individual applicant be granted a license to continue its operation as a Common Victualler for a period of one year - January 1, 2019 to December 31, 2019.**

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# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Petition: P-2019-002

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Date Introduced: January 8, 2019

Amendments Adopted:

Date Adopted:

Date Effective:

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Relative to:

**SECOND HAND GOLD/PAWN SHOP ANNUAL RENEWAL – GAMESTOP, INC, DBA GAMESTOP**  
**#3776**

Applicant:

Gamestop, Inc. d/b/a Gamestop #3776  
233 Broad Street  
Bridgewater MA 02324

WHEREAS, one applicant operating at the aforementioned location desires a license to continue the operation of Second-Hand Gold/Pawn Shop/Resale of items; and,

WHEREAS, the applicant late-filed their application for the operation of a Second-Hand Gold/Pawn Shop/Resale of Items and is subject to renewal annually; and,

WHEREAS, All requisite inspections have been satisfactorily completed by the Inspector of Buildings and Fire Department; and,

WHEREAS, the Tax Collector's Office has reported no outstanding obligations for the renewal candidates; and,

WHEREAS, Said applicants have complied with the policies and requirements of the Town of Bridgewater, as well as, applicable state laws governing its industry; and

WHEREAS, the Bridgewater Town Council, acting as the Legislative body of the Town have such licensing authority and with approval Bridgewater Building Inspector/Zoning Enforcement Officer, Police and Fire Departments who have oversight authority, it appears that the public good so requires such licenses be granted;

**The Town Council of the Town of Bridgewater, Massachusetts, pursuant to M.G.L.A. c. 140, § 70 in Town Council assembled approve the petition, as submitted, and that the aforementioned applicant be granted a license to continue its operation of second-hand gold/pawn shops/resale of items for a period of one year - January 1, 2019 to December 31, 2019.**

**VOICE VOTE – REQUIRES MAJORITY OF THOSE PRESENT AND VOTING.**



## Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-013

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Introduced By: Councilor Dennis Gallagher  
Date Introduced: July 10, 2018  
First Reading: July 10, 2018  
Second Reading: January 8, 2019  
Amendments Adopted:  
Third Reading:  
Date Adopted:  
Date Effective:

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### Order O-FY19-013

#### HIGHWAY GARAGE – SPRING STREET

**WHEREAS**, the property on Spring Street formerly used as the Highway Garage is largely unused, it is therefore;

**ORDERED**, that the town Manager begin the clearing out process and seeking out alternative locations for equipment that needs to be kept.

**FURTHER ORDERED**, that the Town Manager seek bids/quotes for the demolition of the building.

#### *Committee Referrals and Dispositions:*

| <b>Referral(s)</b>   | <b>Disposition(s)</b>   |
|--|---|
| <ul style="list-style-type: none"><li>Community &amp; Economic Development Committee</li></ul> | <ul style="list-style-type: none"><li>Meet 1/3/19 – Disposition will be provided to full Council.</li></ul> |



# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-035

Introduced By: Town Manager  
 Date Introduced: December 4, 2018  
 First Reading: December 4, 2018  
 Second Reading: January 8, 2019  
 Amendments Adopted:  
 Third Reading:  
 Date Adopted:  
 Date Effective:

## Order O-FY19-035

### ACCEPTANCE OF GIFT

WHEREAS: Massachusetts General Laws, Chapter 44, §53A, states as follows:

“An officer ... of any city or town ... may accept grants or gifts of funds from ... from the commonwealth ... or an agency thereof, ... and may expend such funds for the purposes of such grant or gift ... with the approval of the city manager and city council...;” and

Now, therefore, in accordance with Chapter 44, §53A of the Massachusetts General Laws, the Town Council votes to take the following action:

**ORDERED that the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to accept the gift of donations not to exceed \$1,000 to expend the gift in accordance with stated purpose thereof.**

Explanation:

*At the request of the family of the late Carl H MacDermott, formerly of Hemlock Drive, donations to Veteran needs, in his memory to be made available by the Bridgewater Veteran’s Services*

Committee Referrals and Dispositions:

| Referral(s)   | Disposition(s)  |
|---|---|
| <ul style="list-style-type: none"> <li>Budget &amp; Finance Committee</li> <li>Finance Committee</li> </ul> | <ul style="list-style-type: none"> <li>12/18/18: Vote 3-0 recommend approval</li> <li>Meet 1/7/19. Disposition will be provided upon receipt</li> </ul> |



# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-037

Introduced By: Town Manager *(at the request of the Finance Director)*  
 Date Introduced: December 18, 2018  
 First Reading: December 18, 2018  
 Second Reading: January 8, 2019  
 Amendments Adopted:  
 Third Reading:  
 Date Adopted:  
 Date Effective:

## Order O-FY19-037

### ACCEPTANCE OF OTHER REVENUE FROM AMERICAN TOWER

WHEREAS: Massachusetts General Laws, Chapter 40, §5B, authorizes the Town Council to accept and appropriate revenue sources that are deemed one-time revenues to the Capital Stabilization Fund, or take any other action relative thereto, and;

WHEREAS: The Town of Bridgewater has received a payment of \$630,000 in accordance with the lease agreement with American Tower;

**ORDERED that the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to accept the payment of \$630,000 and appropriate it to the Capital Stabilization Fund to appropriate and reserve in accordance with stated purpose thereof.**

Explanation:

*The Town negotiated an agreement with American Tower for the long-term lease of the property off of Burrill Avenue currently used for the cellular tower. This is the first and largest payment by American Town which the Town Manager, on the advice of the Finance Director, recommends placing in the Capital Stabilization Fund for future capital needs.*

Committee Referrals and Dispositions:

| Referral(s)   | Disposition(s)  |
|---|---|
| <ul style="list-style-type: none"> <li>Budget &amp; Finance Committee</li> <li>Finance Committee</li> </ul> | <ul style="list-style-type: none"> <li>Meet 1/8/19. Will provide disposition to full Council.</li> <li>Meet 1/7/19. Disposition will be provided upon receipt.</li> </ul> |





## Bridgewater Town Council

In Town Council, Tuesday January 8, 2019

Council Resolution: R-FY19-003

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Introduced By: Town Manager (*at the request of the Master Plan Committee*)  
Date Introduced: November 27, 2018  
First Reading: November 27, 2018  
Second Reading: January 8, 2019  
Amendments Adopted:  
Date Adopted:  
Effective Date:

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### Resolution R-FY19-003

#### AIR RIGHTS RESOLUTION

**WHEREAS**, the Master Plan Committee (“MPC”) is responsible for facilitating the Bridgewater Comprehensive Master Plan of the Town of Bridgewater, Massachusetts<sup>1</sup>, dated November 2002, as updated from time to time (the “Master Plan”); and

**WHEREAS** Chapter 8 - The Transportation System of the Master Plan specifically sets forth that the purpose of transportation planning in the Master Plan is to proactively address issues brought on by residential and commercial growth in the community<sup>2</sup>; and

**WHEREAS** - the Town has been approached by parties proposing transportation systems in the Town involving the lease of air rights; and

**WHEREAS** the MPC has made a preliminary evaluation of the Town’s ability to lease such rights and found that:

1. Any city or town by the adoption, amendment or repeal of local ordinances or by-laws, may exercise any power, or function which the general court has power to confer upon it, which is not inconsistent with powers reserved to the general court by Section 8 of Article 89 of the Amendments to the Constitution<sup>3</sup>;
2. Nothing in this article shall be deemed to grant to any city or town the power to... (2) levy, assess and collect taxes ... (4) dispose of parkland... however, the forgoing power may be granted by the general court in conformity with the constitution. <sup>4</sup>
3. The principle that air rights are held by a land owner extends to English Common Law, “Cojus est solum ejus est usque ad coelum et ad inferos - to whomever the soil belongs, he also owns to the sky and to the depths.”<sup>5</sup>
4. In 1963 the Commonwealth of Massachusetts enacted Chapter 81A, Section 15 of the Massachusetts General Laws restricting the Boston Redevelopment Authority’s use of the air rights, proving in the negative that such rights run to any Municipal Entity controlling the subject land.<sup>6</sup>
5. That Cities have all the powers of towns in the Commonwealth<sup>7</sup> and that the town council shall have control over real estate property of a town<sup>8</sup>
6. That the Town’s exercise of its powers in this regard are more likely to survive a challenge if the Town establishes empowerment and consistent treatment of such power prior to the need to exercise such power.

**THEREFORE**, the MPC recommends that:

- 1) The Town Council adopt such resolutions as:
  1. Specifically grant the Town Council the ability to lease the air rights in any public right of ways, easements, or property over which it has control, or
  2. That the transfer of such air rights be treated in conformity with the Town’s ability to dispose of its interests in any other real estate property.

**NOT FOR ACTION – FIRST READING ONLY.**

*Committee Referrals and Dispositions:*

| <b>Referral(s)</b>   | <b>Disposition(s)</b>   |
|--|---|
| <ul style="list-style-type: none"><li>Community &amp; Economic Development Committee</li></ul> | <ul style="list-style-type: none"><li>Meet 1/3/19 – Disposition will be provided to full Council.</li></ul> |

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1 Town of Bridgewater Administrative Code, 2014, Ch. 1, Article III, 20(b)

2 Comprehensive Master Plan, 2002, Ch. 8

3 MGL, Ch.43B, §13

4 MA Article 89, §7

5 American Society of Planning Officials, Information Report No. 186, May 1964

6 The Development of Roadway Air Rights: Boston's Future, A Slave to Its Past, §III, Schulte, Andrew, Boston College Environmental Law Review,

7 MGL Ch. 40, §1

8 MGL Ch. 40, §



# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Ordinance: D-FY19-004

Introduced By: Councilor Edward Haley  
 Date Introduced: December 4, 2018  
 First Reading: December 4, 2018  
 Second Reading: January 8, 2019  
 Third Reading:  
 Amendments Adopted:  
 Date Adopted:  
 Effective Date:

## Ordinance D-FY19-004

### GENERAL ORDINANCE - ACCEPTANCE OF MGL c.40, SECTION 22A, 22B, 22C Concerning Parking Meters

Whereas, the Town Council adopted Parking Ordinance Ch. 260, Article XV on February 27, 2018, and;

Whereas, the Town Council wishes to adopt the appropriate mechanism to segregate the revenues generated by implementation of the Parking Ordinance, and;

Whereas, the Municipal Modernization Act created the appropriate mechanism for the segregation of revenues and the expenditure of those revenues on the acquisition, installation, maintenance and operation of parking meters and other parking payment and enforcement technology, the regulation of parking, salaries of parking management personnel, improvements to the public realm, and transportation improvements, including, but not limited to, facilities for biking and walking.

**ORDERED** that the pursuant to Article II, Section 2-2 of the Bridgewater Town Charter, the Town Council accept the provisions of MGL c.40, Sections 22A, 22B, and 22C and further authorize the Town Manager to carry out the provisions contained therein.

**Explanation:** *These three provisions of MGL c. 40 authorize a retained revenue account out of which the Town can pay for its paid parking program, upgrades to paving and striping, upgrades to sidewalks, creation of bike lanes and safety improvements, and leases, purchases, and eminent domain takings of land for additional parking facilities, and other parking-related expenses. This Ordinance allows the Finance Department to set up a special revenue account for the deposit of revenues and the payment of expenses without affecting the general fund.*

#### Committee Referrals and Dispositions:

| Referral(s)   | Disposition(s)  |
|---|---|
| <ul style="list-style-type: none"> <li>Budget &amp; Finance Committee</li> <li>Finance Committee</li> <li>This measure requires advertising, therefore may not be finally considered this evening.</li> </ul> | <ul style="list-style-type: none"> <li>12/18/18: Vote 3-0 recommend approval</li> <li>Meet 1/7/19. Disposition will be provided upon receipt</li> </ul> |

**NOT FOR ACTION – REQUIRES ADVERTISING.**



# Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-038

Introduced By: Town Manager *(at the request of the Police Chief)*  
 Date Introduced: January 8, 2019  
 First Reading: January 8, 2019  
 Second Reading:  
 Amendments Adopted:  
 Third Reading:  
 Date Adopted:  
 Date Effective:

## Order O-FY19-038

### ADOPTION OF MGL c. 147 s. 21A – AUTHORIZING THE APPOINTMENT OF POLICE CADETS

**WHEREAS**, The Town wishes to develop a police cadet program within its Police Department, and  
 WHEREAS, Massachusetts General Law permits the development of such a program upon acceptance of the provisions of MGL c. 147, s. 21A;

**ORDERED**, that the Town Council assembled adopt MGL c. 147, s. 21A and authorize the Town Manager to take any action relative thereto to implement a Police Cadet program.

Explanation:

*The Police Chief has requested that the Town adopt the specific provision of Massachusetts General Laws to allow for the police cadet program.*

Committee Referrals and Dispositions:

| Referral(s) | Disposition(s) |
|-------------|----------------|
| •           | •              |



## Bridgewater Town Council

In Town Council, Tuesday, January 8, 2019

Council Order: O-FY19-039

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Introduced By: Town Manager (*at the request of the Police Chief*)  
Date Introduced: January 8, 2019  
First Reading: January 8, 2019  
Second Reading:  
Amendments Adopted:  
Third Reading:  
Date Adopted:  
Date Effective:

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### Order O-FY19-039

#### **HOME RULE PETITION – AUTHORIZING THE TOWN OF BRIDGEWATER TO APPOINT POLICE CADETS**

#### **WHEREAS,**

The Town of Bridgewater seeks to employ police cadets under certain circumstances;

**ORDERED**, that the Town Council requests the Town Manager to present to the General Court a Home Rule Petition to read substantially as set forth below and to request its representatives in the General Court to introduce legislation seeking a special act to read substantially as set forth below to allow the appointing authority of the Town of Bridgewater to appoint police cadets under certain circumstances to the Police Department of the Town and to authorize the General Court with the approval of the Town Manager to make constructive changes in perfecting the language of the proposed legislation to secure passage, or to take any other action related thereto.

#### **AN ACT AUTHORIZING THE APPOINTING AUTHORITY OF THE TOWN OF BRIDGEWATER TO APPOINT POLICE CADETS UNDER CERTAIN CIRCUMSTANCES TO THE POLICE DEPARTMENT OF SAID TOWN:**

SECTION 1. Notwithstanding the provisions of chapter thirty-one of the General Laws, any person who has completed not less than one year of service as a police cadet in the police department of the town of BRIDGEWATER under the provisions of section twenty-one A of chapter one hundred and forty-seven of the General Laws may, subject to a program established by the appointing authority of said town be appointed to fill a vacancy in a position in the lowest grade in the police force of said town, without certification from an eligible list prepared under the provisions of chapter thirty-one of the General Laws; Such program shall include provisions for recruitment of applicants for appointment as police cadets in said town and for appointment from an eligible list prepared after a competitive examination administered under the supervision of the appointing authority of the town.

SECTION 2. Not more than thirty-three and one-third percent of the total number of appointments to the regular police force of the town of BRIDGEWATER in any calendar year shall be made under the provisions of this act. The appointing authority of said town shall report in writing to the personnel administrator in said division of personnel administration any appointment made under the provisions of this act.

**NOT FOR ACTION – FIRST READING ONLY**

SECTION 3. The appointing authority of the police department of the town of BRIDGEWATER shall institute appropriate recruitment procedures for such police cadet force in order to effectuate the purposes and, to the extent practicable, shall be consistent with the provisions of section twenty-six of chapter thirty-one of the General Laws and consistent with basic merit principles and which realize the purposes of this paragraph.

SECTION 4. This act shall take effect on January 1, 2019.

Explanation:

*The Police Department is proposing to hire a limited number of cadets to the Department this year and in future years. This special legislation allows the Department to hire a cadet with no less than one year with the department as a full-time officer without going through the full civil service process, as long as the Department follows a defined and written procedure to conduct such hiring.*

*Committee Referrals and Dispositions:*

| <b>Referral(s)</b> | <b>Disposition(s)</b> |
|--------------------|-----------------------|
| •                  | •                     |