

DRAFT Minutes of Wayland Personnel Board Meeting
Open Session - Wednesday, February 7, 2023 at 4 p.m.
Virtual Meeting via Zoom Videoconference

Note: Pursuant to Chapter 2 of Acts of 2023, this meeting of the Personnel Board was conducted with remote participation using a Zoom videoconference. No in-person attendance of members or the public was permitted. Public comment was available by Zoom.

Members Present:

Mary Ellen Castagno ("MC")
Deborah Cohen ("DC")
Paul Morenberg - Minute Taker for 02/07/2024 ("PM")
Maryanne Peabody – Chair ("MP")
Jill Zukerman ("JZ")

Also Present:

Human Resources Manager Katherine Ryan ("KR")
Carol Martin, Select Board ("CM")
Carolyn Murray, KP Law ("C. Murray")
Bill Whitney, Select Board ("BW")
Robbie Boullard, IT monitored Zoom for public comment during the meeting.

1. Call to Order

MP called the meeting to order at 4:01 p.m. The meeting is being recorded.

2. Announcements and Public Comment

None.

3. Discussion of Memorandum from Town Counsel re Personnel Board Role and Town Manager Act

MP welcomed C. Murray to the meeting.

C. Murray was asked to look at Town Manager Act ("TMA") and Personnel Board Bylaw and to identify areas of conflict or shared responsibilities. She explained that Town manager is COO and CFO for Wayland. Town manager has authority to manage department heads. He serves as the Select Board's agent for collective bargaining and personnel evaluations. In any cases of obvious conflicts between TMA and PB bylaw, TMA would prevail.

C Murray noted there are certain areas that may involve collaboration, such as developing salary schedules. The development of personnel policies would be a PB function. However, day to day application of personnel policies would be the responsibility of the Town Manager.

C. Murray attended meeting with Cherry Karlson and the Select Board about the Town Manager Act. They attended hearings. She does not recall discussion of conflicts between Act and PB bylaw. However, it was known that passage of Town Manager Act would require changes to the Town Code.

In response to a question from PM, C. Murray agreed that Town Manager Act could be amended to correct any unintended consequences, but any changes would require significant time and legislative action.

DC inquired if other towns had to make changes to PB since adoption of Town Manager Act. C. Murray is aware of changes in other towns where personnel management was not working well. In some towns, PBs have ceased to exist. She explained that the Town Manager Act changes a horizontal management system to a more vertical one, consolidating most managerial functions under a town manager.

DC asked if there were no PB in Wayland, would town meeting have to be involved to eliminate or change PB? C. Murray responded that would depend on the objectives. If Town wants to amend Chapter 43 and clarify joint issues, a Town meeting could amend Chapter 43 to do so. However, if goal was to strengthen PB and take back authority under Town Manager Act, that would need to go to Town Meeting initially, and state legislature action would be required to approve changes.

ME noted that some towns had eliminated personnel boards, but more had retained them. Of 26 towns that were surveyed, only 10 towns had eliminated their personnel boards. About 16 towns had personnel boards working in a full capacity.

C. Murray has not done any survey. Her firm works with about one third of Massachusetts cities and towns. KP Law could do a further survey. The key issue is what does Wayland want?

PM asked if Town manager or Select Board indicate a desire to eliminate or weaken PB? C. Murray responded that the goal is to resolve any areas of conflict.

Carol Martin ("CM") stated that the Select Board made request for assistance from town counsel to identify any areas of conflict, and to explore where functions may be split

MP noted that it is unfortunate that Town's focus is conflicts. When there is a discussion of "split" authority, MP wants clarification about the role of PB board, and language that describes the Board's functions.

C. Murray stated that Chapter 43 defines the role of the PB. This included administrative classifications. However, TMA now says that town manager is responsible for daily administration and hiring. There may be areas of "split" or joint responsibility. Conducting surveys or studies and providing recommendations might fall under PB, except for schools. PB could collect data.

DC inquired about approving classification changes. PB has done that historically. As C. Murray is saying this function belongs to Town Manager, should PB not be considering any role in classifications? PB also had a role in the past in certain collective bargaining discussions.

C. Murray stated that town manager is Select Board's agent for CBA negotiations. That would not come before PB. Town Manager can consolidate department or functions, subject to any CBAs. PB could provide input, but someone must have authority, and that is the town manager under the Act. MP noted that Towns plans to undertake salary classification review, which is complicated and expensive. Budget is about \$65K for survey. Internal equity and external market factors are to be considered. It would be foolish not to have PB input, and there could be negative financial consequences.

MP noted that employee grievances require further discussion. This is a responsibility of the town manager. However, if the employing agency believes that TM has not addressed grievance sufficiently, there should be another review to avoid litigation. We need to better define roles.

C Murray does not disagree with MP's comments. Clarifying language may be necessary. She is in favor of bright lines to clarify roles. There will be future conflicts without clarifications. Some grievances may involve an independent review by PB. However, employee discipline matters are ultimately determined by the Town Manager. For example, a 5-day suspension should not be appealable to PB.

KR explained that PB is involved in grievance process for Fire Department, Police Department, and possibly DPW teamsters. She believes there is no PB involvement in ASCME grievances, but KR will check.

MP stated there should be PB input about our role. She suggested watching videos on the Town Manager Act. DC agreed that PB should reflect on our where PB can contribute, and we should come prepared to discuss what is important to PB members.

DC has believed for some time, and since the adoption of the Town Manager Act, that the PB needs a new vision. The PB could still be beneficial, but perhaps not in its current role. Our board has HR people and lawyers who could provide guidance in an advisory capacity on a monthly basis. There is less justification for an ongoing role in wage classification and step decisions. The PB does not have financial information, and it does not have access to current budgets. The PB makes certain recommendations in a vacuum without such financial information.

DC believes that the best example of personnel boards can be found in Hopkinton, Needham, and Winchester. In these towns, the board's focus is to provide advice on policies. The PB could potentially help with job descriptions. For example, does a position need a college degree? Is it exempt position? We can be helpful in these ways. We can also offer guidance on policy development, which many of us do professionally.

JZ agreed with DC's comments. It might not be useful for PB to reclassify positions. However, there is a lot of historical knowledge, and this could help HR and the town manager to think through scenarios and to avoid unintended consequences.

PM added that we should not be involved in setting wage and step classifications, but perhaps we could review summary reports periodically to stay informed. The PB should be taking a lead on policy making, as the town manager does not do this. PM also added there may be a further role for the PB in helping to resolve employee conflicts with management. The PB could potentially offer ADR assistance or EEO advice.

ME stated that the PB should monitor wages and classifications levels. For transparency, the Town's people should know what pay levels are. For example, is Wayland paying wages at the 75 percentile? Without PB involvement, how would the Wayland residents be informed about wage levels?

ME agrees that PB would function in an advisory capacity. Town manager handles day to day administration, and but PB has a role in developing policy and providing advice and guidance to HR.

MP noted that town manager is the Town's chief administrative and operating officer. The Select Board is the town's chief executive. Town manager does not set policies, but enforces them. He coordinates with board and departments and seeks necessary input. The PB functions as the eyes and ears of town residents, and the PB wants to ensure equity and fairness for town employees. We ask tough questions, but we have a reputations for collaboration with town management and boards.

MP wants verbiage to describe distinctive roles. For example, we have a role in personnel files under the current bylaw, but this is the job of the town manager. He does evaluations of department heads, with input from relevant boards. Some may require input of PB, some may require advice and consent. There may be some role in dispute resolution. But the verbiage has to be defined.

MP noted that we reviewed 26 towns and their PB bylaws. The bylaw should include policy development. However, there may also be a role in considering pay increases, longevity, etc. Some towns have preserved this personnel board function in their bylaws.

BW noted that we are going to lose C Murray at 5. CM states that

BW stated that the Select Board has not discussed. However, HR has knowledge of specific personnel issues, which KR deals with on a daily basis, and Select Board prefers to stay out of the weeds. Town Manager will keep Select Board apprised of his views. PB suggestions are helpful. C. Murray will redline Chapter 43 bylaw and create a draft for HR manager and Town Manager

C. Murray noted that we are all having growing pains with Town Manager Act. We now have a strong leader position. The Select Board has made adjustments. C. Murray is speaking on behalf of herself. She appreciates the very thoughtful comments. C. Murray left the meeting.

ME noted that we should have people with knowledge involved. DC observed that it seems we will be involved going forward.

CM noted that she would like to consider input from PB and Town Manager. At that point, Select Board will be able to discuss. CM is waiting for a draft article that clarifies the PB's role.

MP asked if the Select Board will consider the PB's input about the article. CM said that C. Murray will incorporate what she has heard today.

PM noted that he would like to see a more advanced draft, which reflects input from us, the Select Board, the Town Manager, and HR.

MP would like to see a draft article that reflect the PB's input. MP asked if C. Murray would have input from the Select Board.

CM noted that all stakeholders will have input before anything is finalized. This includes Finance, the Select Board, and the PB.'

BW noted there is a submission deadline, but the Select Board can work with interested parties up to point it goes to print. CM noted this may take time, and she's unsure if this will be ready for Town Meeting.

MP noted that the process would take time, and PB will provide further input.

4. Discussion of Proposed Warrant Article to Amend Chapter 43

The PB tabled this discussion for a later meeting.

5. HR Manager Report.

KR provided a summary of her report. There was a 3.8 FTE change in total.

Fire Department is adding 1 FTE for a new position, and funding needs to be replaced as grant.

Buildings is hiring a new land use coordinator to support the Zoning Board of Appeals. Need is great, and looking to a full-time employee. In response to MP;'s question KR noted land use coordinator would report to Buildings Coordinator.

Assistant to Town Manager is starting next week. They are excited, as they will be fully staffed.

Town has stabilized its workforce. However, DPW is struggling to find CDL licensed people; DPW has made 2 offers. Town Building is fully staffed.

KR noted that a Protection Against Retaliation Policy will be developed soon. KR also wants to change non-union policies on vacation and benefits, which are out of date.

Finally, KR- she is working on work from home / flex policy. She has reached out to colleagues in other towns. DC inquired if Town employees are asking for this, or is the policy needed to making hiring easier? KR responded, "all of the above." During interviews, candidates are asking about this. Also, since the pandemic, many Town employee are working from home. We do not have a formal policy, and there should be consistent standards.

MP noted that remote work is a big issue in a private sector. Some companies are requiring staff to come back, but many employees still want to work from home. In Wayland, there must be some to staff to interface with public.

We may also need a new policy on FLSA due to new guidance regarding independent contractors. Deb noted that adoption of a final federal rule is still pending. However, Town does not really have independent contractors. KR agrees.

6. Open Session Meeting Notes.

Personnel Board members reviewed and made changes to the Open Session meeting minutes from January 7, 2024. The PB reviewed minutes and discussed minor edits. MP took a roll call vote to approve the minutes as amended:

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|----|-----|
| PM | Yes |
| DC | Yes |
| JZ | Yes |
| MC | Yes |
| MP | Yes |

The motion carried 5 in favor, 0 against.

7. Topics Not Anticipated within 48 Hours of Meeting

None.

8. Personnel Board Members' Reports and Concerns

None.

Next Meeting Date

Next meeting is scheduled for Monday, February 26, 2024 at 4:00 p.m. It will be recorded if possible.

The PB also set a tentative second meeting date for Monday, March 4, 2024 at 4 p.m.

Discussion of Need for Executive Sessions and Adjournment from Executive Session

PB discussed going into executive session to review Executive Sessions Notes from the December 19, 2023 meeting pursuant to M.G.L, Chapter 30A, Section 21(a)(3).

MP stated that the PB would adjourn from the Executive Session and would not return to open session.

MP took a roll call vote to adjourn the open meeting and go into executive session:

PM Yes

DC Yes

JZ Yes

MC Yes

MP Yes

The motion carried, 5 in favor, 0 against.

The Personnel Board left open session to go into executive session.

Open Session Meeting adjourned at 6 p.m.

Document attached:

Memorandum from Carolyn Murray, KP Law - Analysis of Role of PB After Adoption of Town Manager Act

Session Law – Acts of 2022 – Chapter 33

Wayland Bylaw: Chapter 43 – Personnel

Personnel Board Policies Chart

FY 2025 Recommended Town Budget Memorandum

January 17, 2024 Open Meeting Notes

Respectfully submitted,

Paul Morenberg