



## **MEMORANDUM OF UNDERSTANDING**

### **BOARD OF PUBLIC WORKS; BOARD OF SELECTMEN; TOWN ADMINISTRATOR; AND DIRECTOR and DEPARTMENT OF PUBLIC WORKS.**

#### **I. PARTIES**

This Memorandum of Understanding ("MOU") is made by and among the Wayland Board of Public Works ("BoPW") and Wayland Board of Selectmen ("BoS"), including their appointed agents, the Wayland Town Administrator ("TA") and Director, Wayland Department of Public Works ("DPW"), all with a principal place of business of 41 Cochituate Road, Wayland, Massachusetts, 01778.

#### **II. PURPOSE**

The parties to this MOU are committed to delivering the highest quality municipal services in a fiscally responsible and operationally responsive manner to the Town of Wayland citizens that they serve.

The purpose of this MOU is to better identify and clarify the roles and responsibilities of the BoPW and DPW, to set forth the expected level of communication, cooperation and collaboration among the BoPW, DPW, TA and BoS in order to achieve this purpose, and to set forth the manner in which the BoPW can most efficiently and effectively exercise its authority and jurisdiction. Nothing herein replaces or supercedes the provisions of Chapter 347 of the Acts of 2008 establishing a Department of Public Works or the amended Chapter 151 of the Code of the Town of Wayland, both effective July 1, 2009, as may be amended from time to time.

#### **III. SPECIAL ACT, TOWN CODE AND TOWN MEETING DOCUMENT**

Chapter 347 of the Acts of 2008 authorizing the establishment of the DPW ("Special Act") and §151 of The Code of the Town of Wayland, as amended ("Town Code"), are attached hereto. The parties also acknowledge the responsibilities and authorities of the BoPW as set forth in the document entitled, "STATUTORY POWERS AND RESPONSIBILITIES TO BE TRANSFERRED TO BOARD OF PUBLIC WORKS", also attached hereto, which was distributed at the 2008 Annual Town Meeting when the DPW and BoPW were created.

#### **IV. FISCAL, RATE-SETTING, POLICY AND OVERSIGHT ROLE OF BOARD OF PUBLIC WORKS**

Pursuant to the Special Act and Town Code, the BoPW sets policy for the DPW and its various divisions. For purposes of this MOU, the parties agree that the term "policy" is a broad set of principles or high-level strategic plan governing the provision of public works services provided to citizen customers and

community groups, including levels of service and the means and schedule by which services are provided, financial management, and guiding decisions made by the DPW Director and his/her designees in conducting DPW operations. The development of policy and budget requires the DPW Director to identify alternatives so that the BoPW may choose among these options or develop a different policy and/or budget approach. Adopted policies will be used by the DPW Director and his/her designees to execute operations and to assist in DPW decision making. The task of implementing policy and managing budgets is the responsibility of the DPW Director under the operational and administrative direction of the TA.

*a. Fiscal and Rate-Setting*

Pursuant to the Special Act and Town Code, the BoPW reviews and provides board approval of operating and capital budgets for the DPW on an annual basis. The BoPW also sets rates and fees for the following services provided by the DPW, including but not limited to: water (including policy for appropriate reserve levels), transfer station stickers and related fees, permits and cemetery charges.

In order for the BoPW to fulfill its rate-setting and fiscal obligations, it requires that the DPW Director or his/her designee timely provide, upon vote of the BoPW, financial, budgeting and technical reports in the form and content as specified by the BoPW, either from internal or external sources.

*b. Policy and Oversight*

The BoPW depends upon the best judgment of the DPW Director to bring before it in a timely manner items which may require BoPW's attention including but not limited those items specified below. In order to achieve the purpose of delivering the highest quality municipal services in a fiscally responsible and operationally responsive manner to the Town of Wayland citizens that they serve, the parties agree to the following framework of guiding principles and examples which include, but by no means are limited to:

Matters which shall be brought to the BoPW for discussion, consultation or decision:

- Preliminary consideration or discussion of contracts with vendors impacting service delivery means or schedule, inter-municipal agreements, or other legal matters that are not otherwise protected from disclosure to the BoPW by law;
- Anticipated award of contracts for expenditures for materials or services in excess of \$25,000 or assignments under the open engineering consultation contract in excess of \$10,000;
- Reallocation of expenditures that deviate by \$10,000 or greater from approved budget;
- Approval of change of vendors for water, highway, or transfer station operations (including recycling and solid waste disposal) that cause a deviation from current policy or practices impacting citizen customers;
- Approval of changes to the town's recycling program;
- Approval of new construction or modification to a playing field or park of \$10,000 or greater;
- Approval of significant changes, modifications or repairs to roads, bridges, parks and cemeteries;
- Approval of repairs or new installations of \$10,000 or greater (capital projects or capital maintenance projects);
- Approval of use of alternative energy and acceptance of grants or rebates related to energy efficiency; and
- Approval of disposition of equipment, property or land.

Consistent with its oversight responsibilities, the BoPW should be notified and made aware of the following items (list is not meant to be exhaustive, but rather provides examples as guidance):

Prompt notification to BoPW of time-sensitive information and correspondence:

- Notice of any intended changes, other than salary, in the status of DPW division heads (i.e., parks, highway, water, etc.);
- Deployment of DPW resources and personnel during unusual or unanticipated events such as major storms, floods, power outages and other emergencies or catastrophes, whether man-made or natural;
- Notice/claim of violations of the Open Meeting Law;
- Receipt of a Public Records Request (correspondence of BoPW); and,
- Notices of violations, complaints, subpoenas or other formal adjudicatory process by any local/state/federal agency or public utility concerning any aspect of DPW operations.

Notification to BoPW with submission of agenda packet for BoPW meetings:

- Receipt of a Public Records Request (department records);
- Communications with other elected or appointed boards or committees or from citizen customers;
- Traffic calming requests;
- Personnel actions including hire, retirement, suspension or dismissal of all regular (i.e., non-seasonal) DPW personnel; and,
- Requests or inquiries or similar communications by any local/state/federal agency or public utility concerning any aspect of DPW operations.

## **V. APPOINTMENT, EVALUATION AND EMPLOYMENT OF DPW DIRECTOR**

Pursuant to the Special Act and Town Code, the DPW Director acts by and for the BoPW in carrying out its responsibilities and in the exercise of its authority and powers, and serves under the operational and administrative direction of the TA. The DPW Director is appointed by the TA in consultation with the BoPW. Effective October 1, 2014, the TA agrees to consult with the BoPW regarding the new hire or continued tenure of the DPW Director before executing an employment contract with the DPW Director, said employment contract which will not exceed three (3) years in duration.

Consistent with the consultation requirement of the Special Act and Town Code, the BoPW in coordination with the DPW Director and TA will establish goals for the DPW. The BoPW will provide at least semi-annually to the TA and DPW Director an assessment of progress on those goals. The BoPW may also provide recommendations to the TA and/or Personnel Board regarding the form and content of any employment contract for a DPW Director.

As the appointing authority, the TA has managerial control over the DPW Director and performs an annual performance evaluation of the DPW Director within two (2) months following the anniversary date of hire. Members of the BoPW shall be invited to provide to the TA individual written comments on the DPW Director's performance in the month prior to the development of the performance evaluation, said written comments shall be included and factored into the performance evaluation prepared by the TA and discussed with the DPW Director.

## VI. AMENDMENTS TO AND/OR TERMINATION OF THIS AGREEMENT

This MOU shall be reviewed annually or at the request of any party to the agreement to ensure it best serves the citizens of Wayland, maximizes communication, collaboration and cooperation among the parties to this Agreement, and most effectively and efficiently provides for the delivery of public works services and discharge of the powers and authorities of the BoPW in accordance with the Special Act and Town Code. This MOU can be amended by written agreement of the parties and may be terminated by either the BoPW or BoS by thirty (30) days written notice to the other parties to this agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of \_\_\_th day of \_\_\_\_\_, 2012.

### WAYLAND BOARD OF PUBLIC WORKS

By: \_\_\_\_\_

Chair

### WAYLAND BOARD OF SELECTMEN

By: \_\_\_\_\_

Chair

### WAYLAND TOWN ADMINISTRATOR

By: \_\_\_\_\_

Town Administrator

### WAYLAND DEPARTMENT OF PUBLIC WORKS

By: \_\_\_\_\_

Director