



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
Attach extra pages if necessary

Article Title: Allow Certain Contracts up to 5 Years **Estimated Cost:**

Article Description (final language to be provided by Town Counsel based on description provided):

Allow the Town to enter into certain contracts up to 5 years.

Background Information (to be used by Finance Committee to draft its report. Please explain the intent of the article, why it should be supported now, as well as known reasons the article may be opposed):

The Town and all of its departments procure contracts in accordance with Massachusetts laws. Unless otherwise prohibited by law, the Town is authorized to solicit, award and enter into contracts for periods up to three years, including any renewal, extension or option provision, subject to annual appropriation. This Article would authorize the Town to solicit, award and enter into certain types of contracts for periods exceeding three years but not to exceed five years specified as follows, including any renewal, extension or option provisions: contracts for the lease of equipment, including computer hardware and software, contracts for software licenses, contracts for legal services, and contracts for on-call architectural and engineering services.

Proposer's Comments (if needed, 150-word limit per Town Code):

Contact Information for Publication in Warrant

Contact Person Name: Louise Miller

Contact Person Phone: 508.358.3620

Contact Person Town Email: lmiller@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen

Board Vote (Quantum) to Submit Article:

Date of Board Vote: Jan 13, 2020

Signature of Board Chairperson:

Date:



TOWN OF WAYLAND

SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING

Attach extra pages if necessary

Article Title: Capital Stabilization Fund **Estimated Cost:** _____

Article Description (final language to be provided by Town Counsel based on description provided):

Establish a Capital Budget Stabilization Fund

Background Information (to be used by Finance Committee to draft its report. Please explain the intent of the article, why it should be supported now, as well as known reasons the article may be opposed):

Creating a Capital Stabilization Fund is part of developing a Capital Improvement Plan that maintains town assets with minimal fluctuation in taxes. This article creates the stabilization fund but does not appropriate funds at this time. A stabilization fund is created with a 2/3 majority vote, appropriations into the fund are by a simple majority vote, and appropriations from the fund require a 2/3 majority vote.

State law allows the creation of one or more stabilization funds, which are special reserves into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry over from one fiscal year to another, and interest remains with that fund.

A Capital Stabilization Fund can be used to defray the cost of new equipment, building repairs/maintenance, and capital improvements to town land and buildings to the extent that these costs may be funded by the Fund's balance. Purchases exceeding the Fund's available balance may require other sources of funding.

A capital stabilization fund is a tool to level the tax impact of a fluctuating level of expenses to maintain the town's capital assets. The capital funding plan works to hold capital funding at a steady level (cash, cash capital and debt service). In years in which repairs are lighter, funds may be contributed to a stabilization fund. They will be held until voted to be used on a capital expenditure. In years in which the demand for capital is higher, residents can vote to use funds from the stabilization fund to offset the higher expense. Investment of these funds is in investment vehicles as prescribed by the state.

In December 2018, the Finance Committee requested that the Board of Selectmen and Town Administrator pursue a capital stabilization fund as a means of providing financial stability. Memo attached for background.

Proposer's Comments (if needed, 150-word limit per Town Code):

Contact Information for Publication in Warrant

Contact Person Name: Brian Keveny **Contact Person Phone:** 508.358.3611

Contact Person Town Email: bkeveny@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen

Board Vote (Quantum) to Submit _____ **Date of Board Vote:** Jan 13, 2020

Signature of Board Chairperson: _____ **Date:** _____



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
Attach extra pages if necessary

December 5, 2018

Board of Selectmen
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

Dear Board of Selectmen,

At its meeting on November 26th, the Finance Committee voted to recommend that at the next ATM, the Town establish a Capital Stabilization Fund (CSF) and that the Board of Selectmen immediately consider:

- What by-laws may need to be amended to set up a Capital Stabilization Fund
- What the appropriate/recommended funding strategy should be

The Finance Committee further recommends that the Board of Selectmen endorse level-funding the non-exempt debt at some constant percentage of the total budget with the excess of this level percentage over the actual amounts required to service the debt to be transferred to the General Stabilization Fund or the CAP-X fund once it is established.

Background

The Moody's credit opinion, issued on February 20, 2018, notes that over the last two years, the Town has worked to eliminate the use of reserves for operational expenses and has produced a structurally balanced budget. However, they also noted that the Town's reserves are currently below average for a Aaa rating category.

Moody's continually cites their concern over continued reduction in the fund balance. The Town's Financial Advisor, UniBank has observed that they explicitly drew the "line in the sand" with their requirement that General Fund balances not fall below 20 percent of operating revenues. Moody's also indicated that they were concerned about any material increases in the debt burden.

The Town needs to continue to be vigilant in its defense of the Aaa rating. In keeping with that defense, the Town needs to ascribe to a 3 to 5-year revenue and expense plan that shows the restoration of fund balance and that continues to support a structurally sound budget.

Unibank's recommendation, in support of that objective, was to level-fund debt service where excess of recommended appropriations over the amount required to actually service the debt be transferred to the General Stabilization Fund. Other advantages for level-funding the debt service are 1) it smooths out the tax rate and 2) it provides a convenient funding source for future capital projects.



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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More generally, in order to maintain a 20% fund balance any net increases in the Town's annual operating expenses should be accompanied by an adjustment that increases the fund balance by 20% of such a net increase. One of the techniques to accomplish this would be to appropriate \$20 for designation to a Capital Stabilization fund for each \$100 of new debt service incurred. Another technique used by some other Towns is to make explicit appropriations into a Cap-X funds by way of Articles that are considered under the expedited approval process.

The Committee is available to answer any questions regarding this matter. Thank you in advance for your consideration.

Very truly yours,

Wayland Finance Committee

CC: Louise Miller, Town Administrator

Brian Keveny, Finance Director

DRAFT

December 5, 2018

Board of Selectmen
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

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The Committee is available to answer any questions regarding this matter. Thank you in advance for your consideration.

Very truly yours,

Wayland Finance Committee

CC: Louise Miller, Town Administrator

Brian Keveny, Finance Director



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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**Article Title: Reallocate Previously Appropriated Funds for
 Community Center**

Estimated Cost: \$0

Article Description (final language to be provided by Town Counsel based on description provided):

Allow the \$545,583 already appropriated at the 2015 and 2018 Annual Town Meetings for feasibility, design, construction and bid documents for a Council on Aging/Community Center to be used for a facility located elsewhere in Wayland. Monies would still be expended under the direction of the Board of Selectmen for the purpose of preparing design, construction, and bid documents for a multi-use Community Center (Council on Aging/Community Center) to be built at an appropriate location within the Town.

Background Information (to be used by Finance Committee to draft its report. Please explain the intent of the article, why it should be supported now, as well as known reasons the article may be opposed):

Residents have twice appropriated funds for a Council on Aging/Community Center to be built at Town Center. Those proposals involved using the existing approximately 10,250 square foot building on the "Municipal Parcel." To date, the Town has not acquired control of the Municipal Parcel or adjacent parcels. The Council on Aging seeks to consider other locations within the Town to build a Community Center, as it remains unclear when the Town may acquire control of the four named parcels at Town Center.

This article would allow those previously appropriated funds to be used at another appropriate location selected pursuant to the December 2019 RFP.

- At 2015 Annual Town Meeting under Article 26, residents appropriated \$150,000 for conducting due diligence and feasibility design for a proposed Council on Aging/Community Center. \$75,583 remains from this appropriation.
- At 2018 Annual Town Meeting under Article 20, residents appropriated \$470,000 to be used for preparing design, construction and bid documents for a multi-use Community Center to be built at Town Center. All \$470,000 remains from this appropriation as any expenditure was tied to acquiring the Town Center parcel(s).

This article does not seek monies. Rather, it simply provides flexibility. Toward that end, in December 2019, the Board of Selectmen issued a Request for Proposals ("RFP") regarding the purchase of land, purchase of a building with appurtenant parking, or lease of a building with appurtenant parking, for a Council on Aging and Community Center. The RFP notes that the desired timeframe for purchasing property or a building, or leasing a building is during a Special Town Meeting in the fall of 2020 where the Town would consider an appropriation for the purchase or leased price.

The proposed Community Center will be designed as flexible space that will serve citizens of all ages by managing program schedules. The Recreation Department and Council on Aging staff will work together to coordinate the use of shared space and resources so that the facility is used to its full potential and services can be streamlined by the Recreation Department and Council on Aging staff through joint planning.



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
Attach extra pages if necessary

Additionally, the Community Center will serve unmet needs of the Council on Aging and the Recreation Department as well as other organized community groups that currently compete for meeting space. Both departments currently operate in below-standard facilities. Of the twelve peer towns recognized by the Finance Committee, all have separate Council on Aging facilities, and ten have community centers. One of the two that does not yet have a community center, Lincoln, is in the process of planning a combined Council on Aging/Community Center, similar to the project being pursued in Wayland. Wayland will be the only one of our twelve peer towns that does not have a facility of this type.

The Community Center would also dedicate space to assist Veterans and their families in obtaining benefits and services for which they are entitled. Currently, The Wayland Veterans agent meets weekly in a conference room, and Wayland has no other space dedicated for veteran services.

The Town also needs more space for organized group activities. Participation in organized activities continues to rise, especially among younger residents and children, and the Town has little space for these groups to meet. Wayland's youth often participate in multiple sports and clubs over a year – and even over a season – and the town needs space to meet the needs of these groups. Some examples are the Girl and Boy Scouts, Wayland Dads and Wayland Children and Parents Association (WCPA).

The 2018 appropriation of \$470,000 was estimated to be spent in the following manner:

Design Funding through the Bid Phase (80% of design fee)	\$311,500
Design Contingency	\$25,000
Printing cost	\$38,500
Kitchen Design	\$10,000
Owner's Project Manager (Design/Bid Stage)	\$45,000
ConCom Engineering	<u>\$40,000</u>
Total	\$470,000



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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Proposer's Comments (if needed, 150-word limit per Town Code):

Contact Information for Publication in Warrant

Contact Person Name: Louise Miller **Contact Person Phone:** _____

Contact Person Town Email: lmiller@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen

Board Vote (Quantum) to Submit _____ **Date of Board Vote:** _____

Signature of Board Chairperson: _____ **Date:** _____

DRAFT



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
Attach extra pages if necessary

Article Title: Surface Water Quality Commission **Estimated Cost:** \$51,000

Article Description (final language to be provided by Town Counsel based on description provided):

To appropriate funds for the expenses of the Surface Water Quality Commission to be spent under the direction of the Board of Selectmen.

Background Information (to be used by Finance Committee to draft its report. Please explain the intent of the article, why it should be supported now, as well as known reasons the article may be opposed):

The work of the Surface Water Quality Commission (SWQC) is cyclical with the seasons and the largest expenditures occur over the summer months. From a budget perspective, this timing and financial variability of expenditures does not fit well with the Town's fiscal year ending on June 30. For instance, some years SWQC needs to treat for milfoil which results in higher expenses and crosses the fiscal year end for the treatment timetable.

Appropriating funds through an article rather than the budget will allow funds to be carried over the June 30 year end and improve the budgeting and cash flow for SWQC work and expenses. There is no change to the budgeted amount. The FY20 budget in Miscellaneous Committees was \$51,000 and the same amount is being requested in this article.

Proposer's Comments (if needed, 150-word limit per Town Code):

Contact Information for Publication in Warrant

Contact Person Name: Louise Miller **Contact Person Phone:** 508.358.3620
Contact Person Town Email: lmiller@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen
Board Vote (Quantum) to Submit _____ **Date of Board Vote:** Jan 13, 2020

Signature of Board Chairperson: _____ **Date:** _____



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Proposer's Comments (if needed, 150-word limit per Town Code):

Contact Information for Publication in Warrant

Contact Person Name: Louise Miller

Contact Person Phone: 508-358-3620

Contact Person Town Email: lmiller@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen

Board Vote (Quantum) to Submit Article:

Date of Board Vote:

Signature of Board Chairperson:

Date:



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
Attach extra pages if necessary

Article Title: Select Board / Town Manager Special Act

Estimated Cost: \$0

Article Description (final language to be provided by Town Counsel based on description provided):

To see if the Town will authorize the Board of Selectmen to petition the General Court for an act of special legislation entitled "An Act to Create a Select Board/Town Manager Form of Government in the Town of Wayland," the full text of which is printed as Appendix XX to this warrant, or take any other action relative thereto.

Background Information (to be used by Finance Committee to draft its report. Please explain the intent of the article, why it should be supported now, as well as known reasons the article may be opposed):

The Board of Selectmen (BoS) is proposing that the Town adopt the Select Board/ Town Manager Special Act to professionalize the structure of Wayland's government; coordinate administrative, operational, and financial functions; provide a consistent approach for efficiency, effectiveness, and transparency across all departments and boards; use resources effectively; improve legal and regulatory compliance; and maintain volunteer opportunities.

This is the third effort over the past thirty years to strengthen the Town's executive and financial management structure. The Charter Commission (1989), the Maximus Group (2002), and the Collins Center for Public Management (2018) have all recommended strengthening the executive function so that all Town department heads (excluding Schools), report to a Town Manager. This article is proposing their recommendation regarding reporting structure, excepting Schools and Library. They also all recommended reducing the number of committees and boards. This article is proposing no changes to committees and boards.

The Charter was not approved at a town-wide election in 1990. Two recommendations from the Maximus report were approved by Town Meeting: the 2004 Town Administrator Special Act and the 2008 Act Authorizing the Town of Wayland to Establish a Department of Public Works. Even with these steps forward, Collins stated in the Executive Summary of Wayland's Financial Management Structure Report (2018),

At its core, the issue is that the financial management of the Town is severely fragmented in a way that reduces the Town's efficiency, effectiveness, and transparency.

This fragmented structure is causing deficiencies through increased risk of non-compliance with IRS regulations, Massachusetts Department of Revenue regulations, and procurement law.

Why change now? Wayland's organization was developed when times were simpler. Wayland was a small town with few professional staff and many volunteers who did much of the work. Wayland is now analogous to a \$90 million diversified company in a highly regulated and public service environment requiring a stronger centralized management structure.

Over the decades there have been changes in the complexity of municipal government with increased regulations, financial requirements, and public scrutiny. The level of volunteer work cannot and should not be sustained. Wayland has a reputation for being difficult to manage, which translates into difficulty in hiring



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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people into management positions. Previous Town Administrators have reported that their position has all the responsibility, but not the necessary accountability for many departments.

Feedback from some residents points to Wayland's strengths, including the Town's Aaa bond rating, as a measure of success.

Again from Collins:

The Town has managed to achieve these things through the efforts of dedicated current and prior elected officials, appointed volunteers, and professional staff.

These accomplishments have come in spite of, not because of, the structure of Town Government, which appears increasingly anachronistic among Wayland's peer communities and increasingly unable to handle the accelerating changes Massachusetts municipalities must manage.

It is not just the Town's finances that are fragmented. Currently the Town Administrator has 20 direct reports and 6 department heads appointed by boards and managed by both boards and the Town Administrator. More than 40 boards and committees source ideas and projects and set priorities for staff. There is little coordination of functions, efforts, or priorities among boards and committees. Town efforts are fragmented rather than organized to work towards a common goal.

Based on the Finance Committee's current and former peer community list, Collins looked at statutory management structures and found that Wayland had the weakest structure.

- Charter (Hopkinton, Lynnfield, Marshfield, Medfield, North Andover, North Reading, Scituate, Westford, Westwood)
- By-law (Carlisle, Hingham, Lincoln, Manchester-by-the-Sea)
- Town Manager Act with strong language (Cohasset, Concord, Sudbury, Weston)
- Town Administrator Act with weak language (Wayland)

The language of a charter, by-law, or special act is what determines the strength of the management structure, not simply the method by which the language was enacted. Also, the title (Town Manager or Town Administrator) does not inherently define the strength of the position.

The reporting structure (organization charts) of Wayland, Cohasset, Concord, Sudbury, and Weston are available in appendix X. Wayland's organization is flat, while other towns have a variety of department groupings such as Finance, Planning and Land Management, Public Works (as Wayland enacted in 2008), Human Services, Culture and Leisure, Public Safety, Facilities, etc. No two towns have exactly the same structure. This proposed article allows flexibility for the Town Manager to group departments, with oversight by the Select Board, but does not propose a specific organization, due to union considerations for many employees including some department heads.

What does the Act accomplish? The Act defines the Town Manager's authority and responsibility for administration, finances, personnel, and facilities/property.

The Act *maintains* administrative authority and responsibility for coordinating implementation of Town policy; ensuring compliance with policies, procedures, and law; coordinating setting priorities (policies, projects, staff); overseeing emergency situations; communicating activities and coordinating efforts; and responding to requests in a timely manner for public records, general information, Open Meeting Law and other complaints. The word



TOWN OF WAYLAND
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maintains indicates that this responsibility already exists in the Town Manager Special Act of 2004 under Chapter 60 of Town Code.

The Act *strengthens* financial authority and responsibility by establishing the Town Manager as the Chief Financial Officer; providing additional Town Manager oversight of Operating and Capital budget development; tasking the Town Manager with effective and compliant finances; affirming the role of Town Manager as Chief Procurement Officer ensuring compliance; and creating clear signing authority to execute and award grants and sign contracts. The word *strengthens* implies a change, but that change does not require any amendment to Chapter 19 defining the Finance Committee's role.

The Act *strengthens* personnel authority and responsibility by centralizing employee services; standardizing consistent and compliant hiring practices; assigning responsibility for performance review standards to the Town Manager; assigning leadership of negotiations to the Town Manager rather than the Personnel Board; and establishing compliance with bargaining unit contracts. Again the word *strengthens* indicates a change from the current practice. In this case, Town Code Chapter 43 will need to be amended to give responsibility for negotiating to the Town Administrator, not the Personnel Board.

The Act *maintains* facilities/property authority and responsibility of the Town Manager for construction, repair and maintenance of all Town buildings, real and personal property, and information technology and infrastructure. The Town Manager is still responsible for maintaining an inventory of all Town-owned real and personal property. The word *maintains* indicates that this responsibility already lies with the Town Administrator under current Town Code (Chapter 60).

What does the Act accomplish? The Act changes the name from Board of Selectmen to Select Board. It reaffirms the Select Board's role as an executive and policy-making body and restates current Chapter 58 (Board of Selectmen) roles.

The Act changes the name from Town Administrator to Town Manager with defined responsibilities only as stated in the special act. It incorporates all elements of current Chapter 60 (Town Administrator).

The Act changes the Town Clerk from an elected to an appointed position.

The Act does not change the following: departments continue to make operational decisions and conduct day-to-day operations; board/committees retain rights under state law and continue to set policies and maintain all permitting and regulatory responsibilities; volunteer spirit continues through over 40 elected and appointed boards/committees. All currently elected boards/committees remain elected. The number of appointed boards/committees remain the same.

Town Code is unchanged for Council on Aging, Chapter 12; Finances, Chapter 19; Planning Board, Chapter 47; Treasurer and Collector, Chapter 72; Board of Health, Division 2; and Director of Public Works, Chapter 151. The Library continues to operate under Massachusetts General Laws Chapter 78.

Town Code will be updated for Personnel, Chapter 43, section B (3) responsibility for negotiations; Board of Selectmen, Chapter 58 (being replaced); Town Administrator, Chapter 60 (being replaced).



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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Communication: Information Gathering The Collins Center conducted a Review of Financial Policies and Procedures in 2016, a Review of Financial Management Structure in 2018, and created a first draft of the Special Act.

The BoS received staff input at a public meeting in April 2018 and at a department head meeting organized by the former Town Administrator. Town Counsel updated the draft in 2019 to make the language more Wayland friendly and fit with existing Town Code. The Board of Selectmen conducted committee presentations (17) and community forums (7) in 2019. The Select Board/Town Manager Special Act was scheduled for discussion on 15 agendas in 2018 and 19 agendas in 2019.

Feedback and response: The BoS heard concerns about checks and balances, definitions, hiring and evaluations, and consistency with existing code. The BoS revised the text of the Act to continue the Select Board as Chief Executive Officer (CEO) with Town Manager as Chief Financial Officer (CFO) and Chief Operating Officer (COO); to consistently use the words *responsible* and *responsibility* to illustrate that the “buck stops” at the Town Manager’s desk, rather than the Town Manager doing the daily work; to include consultation with committees on hiring and evaluating department heads and allow department heads to hire other staff (within union contract specifications); and to recognize that preference is given to State law and existing Town Code.

The BoS also heard requests to propose a specific organization chart, but agrees that it is too early to determine the future structure. It is likely that the first structural change will be grouping of finance related positions, as that was the focus of the Collins study. The Act provides flexibility to work within Wayland’s needs.

There are no changes proposed to staff positions or union structure, but the Act allows for flexibility in organization. There are no changes proposed to the volunteer structure. There are no changes to Chapter 19 regarding the role and appointment of the Finance Committee. The Act clarifies practices regarding flexibility in the organization of financial services, as well as responsibility for budget preparation.

Questions about expense savings are difficult to answer. Time and effort efficiencies on future work are not easily quantified. It is expected that repetitive work will be reduced and that project outcomes will improve.

Questions about the process for conflict resolution between committees and departments were posed. The Act maintains the Select Board as an elected board with the Town Manager reporting to the Select Board/CEO. Procedural questions such as “who do I call to fix something?” or “what if I have an IT issue?” will not be answered in Town Code, but instead through policy.

Feedback suggesting discomfort with the Act includes the following: some committee members may feel that they are losing power or control over their departments or areas of interest; some citizens trust volunteers more than employees; some citizens are concerned that we don’t know for sure if the article will cost money; and some people may feel that one person cannot do all that is expected of a Town Manager.



TOWN OF WAYLAND
SPONSORING BOARD ARTICLE REQUEST FOR TOWN MEETING
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Summary: The challenges of 30 years ago remain today. The Wayland Charter Commission (1990) wrote:

Town government is growing increasingly complex and it is essential that we have a well qualified person to handle the day to day administration. Having specified powers and responsibilities...will enable the town administrator to be more effective; and we will attract and retain competent people.

The suggestions of 17 years ago are still pending today. The Maximus Report (2002) stated:

Move towards a Town Manager form of government. As an interim (or evolutionary) step, consider making the transition to a Town Administrator form. This will entail delegation of additional authority to the Town Administrator/Manager. This will also include moving staff from reporting to various boards and commissions to the Town Manager."

Other functions of the Town currently are responsible to a range of accountability points (i.e., boards, commissions, Executive Secretary) which leads to some confusion about responsibility and authority (as well as diluting accountability).

All staff in the Town should report to the Town Manager on matters of personnel finance, service levels, etc. Board and commissions should retain no direct supervisory authority.

Today's challenge is summarized by the Collins Center (2018):

Wayland appears increasingly anachronistic among Wayland's peer communities and increasingly unable to handle the accelerating changes Massachusetts municipalities must manage.

Much of what is included in the Special Act is either in the current Chapter 60 (Town Administrator) or follows current practice. This is an opportunity to think about what is best for the whole Town, not just about retaining the power of a committee, but also about how individual departments should fit within the Town structure to best position the Town for future functionality.

We have come full circle to 1990. The Charter Commission wrote:

The commission feels that the proposed charter provides a viable, progressive and flexible structure for Wayland government for many years to come.

Very few voters will favor every provision of this charter. We urge that you vote for adoption if you conclude that, on balance, the town will be better managed under the charter than without it.

Proposer's Comments (if needed, 150-word limit per Town Code):



TOWN OF WAYLAND
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Attach extra pages if necessary

Contact Information for Publication in Warrant

Contact Person Name: Lea Anderson **Contact Person Phone:** 5083582667

Contact Person Town Email: landerson@wayland.ma.us

Proposing Board Information

Board Name: Board of Selectmen

Board Vote (Quantum) to Submit Article: _____ **Date of Board Vote:** _____

Signature of Board Chairperson: _____ **Date:** _____

DRAFT

DRAFT 1/13/20
SELECT BOARD/TOWN MANAGER ACT

Special Act of Legislation Creating Select Board/Town Manager Form of Government in the Town of Wayland

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 5-3-2004 by Art.11. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 6.

Finances — See Ch. 19.

Personnel — See Ch. 43.

Board of Selectmen — See Ch. 58.

Town Administrator – See Ch. 60.

Treasurer and Collector — See Ch. 72.

Director of Public Works – See Ch. 151.

§ 1. The Select Board.

1.1 The Board of Selectmen in the Town of Wayland shall hereafter be known as the Select Board, who shall be vested with all of the powers and duties conferred upon a board of selectmen by any general or special law. All references to the Board of Selectmen contained in the Town Code shall be construed as referring to the Select Board, and all powers and duties conferred upon the Board of Selectmen by the Town Code shall be vested in the Select Board. *(new)*

1.2 The Select Board shall be the chief executive officers of the Town and shall serve as the chief policymaking body of the Town. *(new)*

1.3 The Select Board shall consist of five (5) residents of the Town, elected by ballot, to serve a term of three (3) years. The terms of the members of the Select Board shall be staggered such that one (1) or two (2) members shall be elected each year. Upon the effective date of this Act, the incumbent members of the Board of Selectmen shall continue in office for the duration of their elected terms but shall be referred to as members of the Select Board.*(new)*

1.4 The Select Board shall develop and promulgate policy directives and regulations that shall be followed by all agencies serving under it and, in conjunction with other elected Town officers and multiple-member bodies, shall develop and promulgate policies and regulations designed to bring the operation of all town agencies into harmony; provided, however, nothing in this section shall authorize any member of the Select Board or a majority of such members to become involved in the day-to-day administration of a town agency nor shall this provision be construed as conferring upon the Select Board any policy-making directives or regulations specifically reserved to other Town boards or commissions by statute or Town Code. *(new)*

1.5 The Select Board shall cause the Town Code, rules and regulations of the Town to be enforced. *(new)*

1.6 The Select Board shall appoint a Town Manager, Town Counsel, independent auditor and any other boards, committees, and commissions according to Town Code, statute or any special act. The Select Board shall also appoint any other multi-member boards for whom no other method of appointment is provided by Town Code, statute or special act. *(new)*

1.7 The Select Board shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town, unless otherwise especially ordered by vote of the Town. Said authority shall not extend to employing counsel to the School Committee. *(in current Code, Section 58-1)*

1.8 The Select Board shall cause an adequate supply of the full Town report to be available in the Town offices at Wayland Center and in the public library in Wayland Center from which to furnish a copy to any interested person, and it shall cause the warrant and Finance Committee's report with recommendations to be served as provided in Section 36-2 of the Town Code. *(in current Code, Section 58-2)*

1.9 The Select Board shall have the authority to declare a state of emergency in the Town of Wayland upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm, other natural calamity, act of terrorism, or cyber attack. Any state of emergency proclaimed by the Select Board shall, unless sooner terminated by proclamation of the Select Board, terminate five days from the day it takes effect. *(in current Code, Section 58-3)*

1.10 The Select Board shall have full authority to establish rules and regulations, binding upon all boards, commissions, committees, councils, authorities, officials and employees of the Town of Wayland, governing the use, marking, record-keeping, maintenance and reporting requirements pertaining to Town-owned vehicles and reimbursement for the use of privately owned vehicles by employees and officials while on Town business. *(modified from current Code, Section 58-4)*

§ 2. Appointment and qualifications of Town Manager.

2.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager for a term not to exceed three years, as the Select Board deems to be in the best interests of the Town. The Town Manager shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Select Board may determine. The Select Board may, but is not required to, establish a written employment contract with the Town Manager pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the salary, fringe benefits, and other conditions of employment. The Town Manager position shall be a non-union position. *(modified from current Code)*

2.2 The Town Manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree from an accredited four-year college or university. The Town Manager shall have considerable professional experience, consisting of compensated service in government administration or an equivalent combination of education and business management experience. *(modified from current Code)*

2.3 The Town Manager shall devote full-time to the responsibilities of the office. The Town Manager shall hold no elective Wayland Town office. The Town Manager may be appointed by the

Select Board to any other compatible Town office or position, but he/she shall engage in no other business or occupation without advance written authorization by the Select Board. *(in current Code)*

§ 3. Authority and responsibilities of Town Manager.

3.1 Administrative Authority and Responsibilities

- a. The Town Manager shall be the chief administrative and operating officer of the Town. *(new)*
- b. The Town Manager shall be responsible for managing, supervising and executing all of the activities noted in this Act, the Town Manager's job description, and any other duties assigned to the Town Manager by the Select Board or in compliance with federal and state law and the Town Code and Town policies. *(in current Code)*
- c. The Town Manager will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees. *(in current Code)*
- d. The Town Manager shall ensure that all Town employees, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, Town Code, federal and state law, and all regulations *(modified from current Code)*
- e. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments and all boards, commissions and committees but excluding the School Department, provided, however, that all boards, commissions and committees shall continue to exercise permitting and/or policy-making authority as provided in state law. *(modified from current Code)*
- f. The Town Manager shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities. *(in current Code)*
- g. The Town Manager shall understand and have a working knowledge of the statutory and regulatory authority and responsibility held by department heads and elected and appointed boards, commissions and committees so s/he can effectively support these officers in the execution of their duties. Unless expressly stated herein, nothing in this Act is intended to reassign policy-making or permit granting statutory authority of any department head or any elected or appointed board, commission or committee to the Town Manager. *(modified from current Code)*
- h. With respect to Town policies and programs that impact multiple areas of Town government, the Town Manager shall work with all elected and appointed boards,

commissions and committees and Town department heads, be responsible for ensuring there is appropriate administration and coordination both (i) in the implementation and on-going adherence to Town policies; and (ii) in the development and execution of such policies and programs. *(modified from current Code)*

- i. With respect to the development, implementation and execution of policies and programs affecting various Town departments, the Town Manager shall:
 - i) Coordinate the setting of priorities with the rest of the Town government;
 - ii) Communicate activities, including projects, plans and studies, so that necessary input is received from all areas of Town government that should be involved in those initiatives; and
 - iii) Coordinate efforts so that cross-functional services to residents and others are effectively and consistently delivered. *(in current Code)*
- j. With the exception of the School Department and Library, and except as otherwise provided in the Town Code or Chapter 347 of the Acts of 2008, to streamline services, the Town Manager may create a new department, may reorganize, eliminate or consolidate Town departments or functions, in whole or in part, and may assign functions of one department to another department, subject to the approval of the Select Board. *(new)*
- k. The Town Manager is designated as the Town's Records Access Officer under the Public Records statute. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, be responsible for the preparation, filing and maintenance of all records and reports on behalf of the Town. *(modified from current Code)*
- l. The Town Manager oversees crisis intervention in emergency situations, working with other key Town department heads, and addresses any systemic problems impacting multiple areas of the Town as they arise. The Town Manager shall ensure priority items are properly attended to and bring concerns about problem resolution to related boards, commissions and committees, and ultimately, to the Select Board for assistance in resolution, if necessary. *(in current Code)*

3.2 Financial Authority and Responsibilities

- a. The Town Manager shall be the chief financial officer of the Town. *(new)*
- b. The Town Manager shall initiate, draft and have general oversight of the process of preparing the Town's annual operating and capital budgets for submission to the Finance Committee. To assist the Town Manager in preparing the proposed annual operating and capital budgets, all department heads, boards, commissions and committees of the Town, including the School Department, shall furnish all relevant information and submit to the Town Manager, in writing and in such form as the Town Manager shall prescribe, a detailed estimate of the appropriations required and available funds. *(new)*

- c. The Town Manager shall draft and update a five-year capital improvement plan for all Town departments for submission to the Finance Committee. *(new)*
- d. The Town Manager shall work with the Finance Director and Finance Committee to:
 - i) Develop long-term financial strategies addressing operational and capital financial needs of the Town;
 - ii) Establish set budgetary guidelines to be used in the development of annual budgets;
 - iii) Review all operating and capital budgets of all Town departments and make recommendations to the affected boards, commissions and committees and to the Finance Committee about priorities important to budget development; and
 - iv) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards, commissions and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible. *(in current Code)*
- e. The Town Manager shall serve as the Town's chief procurement officer pursuant to state and federal law and shall ensure that all Town departments comply with applicable procurement laws. The Town Manager may, in his or her discretion, delegate any procurement responsibilities. *(modified from current Code)*
- f. Unless any statute or special act provides to the contrary, the Town Manager is authorized to execute all grant applications and shall award and execute all contracts binding the Town up to a set amount to be established by policy set by the Select Board. *(new)*

3.3 Personnel Authority and Responsibilities

- a. Department Heads: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective boards, commissions and committees that the Department Heads or similar positions support and in compliance with any applicable provision of a collective bargaining agreement, with the exception of the School Department and Library. *(modified from current Code)*
- b. Department Employees (subordinate to Department Head or similar position): The Town Manager shall ultimately be responsible for appointing subordinates to Department Heads or similar positions. Unless otherwise provided by the terms of an applicable collective bargaining agreement, the Department Head or similar position may, with the consent of the Town Manager or his or her designee, appoint on the basis of merit and fitness alone, all subordinate employees of each Town department, with the exception of the School Department. *(modified from current Code)*

- c. Unless otherwise provided under this Act, the Town Manager shall be responsible for appointing all other appointed employees for whom no other method of appointment is provided by the Town Code or other special act. *(new)*
- d. Discipline and Removal for Cause: The Town Manager may, for cause, discipline or remove any department head or similar position, with the exception of the School Department and Library Director, and shall, in consultation with the applicable Department Head or similar position, discipline or remove all subordinate employees of each Town department, with the exception of the School Department. *(new)*
- e. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a vote of at least three members of the Select Board, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board:
 - i) A Police Chief;
 - ii) A Fire Chief;
 - iii) A Finance Director; and *(modified from current Code)*
 - iv) A Town Clerk. *(new)*
- f. In the event of a vacancy, disability or absence anticipated to be greater than thirty (30) days of any department head or any position appointed by the Town Manager, the Town Manager may appoint someone to serve in an acting or interim capacity for the period of such vacancy, disability or absence. *(new)*
- g. Working with the Town's Human Resource Department, the Town Manager shall be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments. *(in current Code)*
- h. Evaluations: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. *(new)* The Town Manager shall be responsible for the annual evaluation of job performance of all Town department heads, including the Town Clerk and other positions appointed by the Town Manager but excluding the School Department and Library Director, and shall incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. Evaluation of the Library Director shall include input of the Town Manager. The Town Manager shall be responsible for ensuring the completion of annual evaluations of the job performance of all subordinate Town employees, excluding those of the School Department. *(modified from current Code)*
- i. The Town Manager shall serve as the agent of the Select Board and negotiate collective bargaining agreements on behalf of the Select Board in accordance with General Laws Chapter 150E, provided, however, that such agreements shall be subject to ratification by the Select Board and subject to funding by Town Meeting.

The Town Manager may designate appropriate employees to assist with collective bargaining. *(new)*

3.4 Facilities/Property Authority and Responsibilities

- a. Except as otherwise provided in Chapter 347 of the Acts of 2008, the Town Manager shall be responsible for the construction, reconstruction, restoration, rehabilitation, repair and maintenance of all Town buildings and all Town real and personal property, and information technology and infrastructure. Nothing in this provision shall be construed as conferring any authority upon the Town Manager to have access to information that is otherwise unauthorized under state law. *(new)*
- b. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, maintain an inventory of all Town-owned real and personal property. *(in current Code)*

3.5 Transitional Authority and Responsibilities *(all new)*

- a. With the enactment of this Act by the General Court, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed and of no effect.
- b. Following the enactment of this Act, the Select Board shall appoint a Town Manager, and if the Select Board so chooses, the incumbent Town Administrator may be appointed Town Manager.
- c. Following the enactment of this Act by the General Court, any reference to the Town Administrator existing in any provision of the Town Code or any other special act shall be construed as referring to the Town Manager. All powers and duties conferred upon the Town Administrator by the Town Code or other special act shall be vested in the Town Manager, unless otherwise provided in this Act.
- d. Following the enactment of this Act by the General Court, Sections 58 and 60 of the Town Code shall be repealed and of no effect.
- e. Following the adoption of this Act, all Town officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the adoption of this Act. Following the appointment of the first Town Manager, the powers and duties outlined herein shall be vested in the Town Manager and the provisions of this Act shall be in effect, to the extent practical.

§ 4. Removal of the Town Manager.

The Town Manager may be removed by an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager’s contract, if applicable. *(modified from current Code)*

§ 5. Acting Town Manager.

If the Town Manager shall be absent from his/her office for up to fourteen (14) days, the Town Manager may designate a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during this period of absence. In the event the Town Manager shall be absent for more than fourteen (14) days or the office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board may appoint a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during the period of any vacancy caused by the Town Manager’s absence, illness, suspensions, removal or resignation. The appointment by the Select Board shall be for a period not to exceed six months, but such appointment may be extended by majority vote of the Select Board. *(modified from current Code)*

§ 6. Town Clerk To Become Appointed Position. (new)

6.1 Upon the effective date of this Act, the position of Town Clerk shall cease to be elected and shall become a position appointed by the Town Manager pursuant to Sections 3.3.e and 6 of this Act.

6.2 The incumbent in the office of Town Clerk shall continue to serve until the expiration of the term for which elected as Town Clerk, and at the expiration of that term, a Town Clerk shall be appointed by the Town Manager as provided in Section 3 of this Act. If the incumbent in the office of Town Clerk vacates said office prior to the expiration of the term for which the Town Clerk was elected, the office of Town Clerk shall cease to be an elected position and shall be appointed by the Town Manager as provided in Section 3 of this Act.

§ 7. Conflict with Other Acts or Town Code.

In the event that there is a conflict between any provision of this Act and any provision of the Town Code or other special act pertaining to the Town of Wayland, this Act shall prevail.

§ 8. Time for Taking Effect. (new)

This Act shall take effect upon its passage by the General Court.