

PACKET

April 16

2019



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TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

REVISED
BOARD OF SELECTMEN
Tuesday, April 16, 2019
7:00 p.m.
Wayland Town Building
Council on Aging
41 Cochituate Road, Wayland, MA
Proposed Agenda

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate. The meeting likely will be broadcast and videotaped for later broadcast by WayCAM.

- 7:00 pm 1. Call to order by Chair
- Review of agenda for the public
- 7:05 pm 2. Announcements and public comment
- 7:10 pm 3. **Workshop on** Town Manager Special Act: Discuss revised Act and next steps
- 8:50 pm 4. Minutes: (none)
- 8:55 pm 5. Consent Calendar: Review and vote to approve (see separate sheet)
- ~~9:00 pm 6. **Correspondence Review**~~
- 9:00 pm 6. Selectmen's reports and concerns
- 9:05 pm 7. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:10 pm 8. Adjourn

3.) Workshop Material Overview

Town Manager Special Act (TMSA) Workshop – Materials for packet 4-16-2019

1. Workshop material

- I. TMSA Draft dated 4-11-19

2. Background materials

- I. Collins Draft TMSA dated 1-7-19 (includes BoS input of 1-7-19)
- II. Board and Committee written feedback on Collins Center Draft Special Act
 - a. Finance Committee Response dated 6-28-18
 - b. Board of Library Trustees
 - i. AGennis Memo re: Library concerns 2-1-19
 - ii. JDion Letter to BoS 2-1-19
 - iii. MBLC Trustee Handbook 2018 pages 39-40
 - iv. Bylaws of the Board of Library Trustees
 - v. Wayland Peer Towns 2-1-19
 - c. Personnel Board draft minutes 9-25-18
 - d. Board of Assessors meeting notes by C. Karlson 8-13-18
 - e. Board of Public Works
 - i. Memo re: Draft Financial Management Structure Review 5-22-18
 - ii. Email dated 6/12/18 re: BoPW memo of 5/22/18

**DRAFT 4/11/19
TOWN MANAGER ACT**

Special Act of Legislation Creating Town Manager

[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.

Treasurer and Collector — See Ch. 72.

§ 1. Appointment and qualifications.

1.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager as the Town's chief executive officer for a term of 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 existing Code)

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

1.3 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 existing Code)

§ 2. Authority and responsibilities of Town Manager.

2.1 Administrative Authority and Responsibilities

- a. The Town Manager shall be the chief administrative and executive 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 under the Town Code in compliance with federal and state laws and the Town's bylaws and Town policies. (in current Code)
- c. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments, including the Police and Fire 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 authority and technical decisions as provided in state law.(modified from current Code)
- d. 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)
- e. 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)
- f. The Town Manager shall understand and have a working knowledge of the statutory authority and responsibility held by certain department heads and elected and appointed boards, commissions and committees so he/she 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)
- g. 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 accountable 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 programs. (in current Code)
- h. The Town Manager shall ensure that all Town departments, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, bylaws, federal and state law. (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. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, provide for the preparation, filing and maintenance of all records and reports on behalf of the Town, but in no event shall the Town Manager be responsible for making policy decisions reserved to the Towns' boards, commissions and committees by state law or Town Bylaws. (modified from current Code)

- k. 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)

2.2 Financial Authority and Responsibilities

- a. The Town Manager shall be the chief financial officer of the Town.

- b. The Town Manager shall initiate, prepare and have general oversight of the process of preparing the Town's annual operating and capital budget. 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 work with the Finance Director and Finance Committee to:
 - i) Develop long-term financial strategies addressing operational and financial needs of the Town;
 - ii) Establish set budgetary guidelines to be used in the development of annual budgets;
 - iii) Review omnibus 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)

- d. The Town Manager shall serve as the Town's chief procurement officer pursuant to the General Laws and all other applicable statutes and bylaws and shall be responsible for purchasing for all Town departments and functions. The Town Manager may, in his or her discretion, delegate any procurement responsibilities to department heads. (modified from current Code)
- e. The Town Manager shall sign contracts.....

2.3 Personnel Authority and Responsibilities

- a. Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, evaluate and, for cause, may remove or discipline all department heads or similar positions and all subordinate employees of each Town department, with the exception of the School Department. The Town Manager shall also appoint all other appointed officers for whom no other method of appointment is provided by the Town's Bylaws or other special act. (new)
- b. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a majority vote of the full membership of the Select Board then serving, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board :
 - i) A Police Chief;
 - ii) A Fire Chief; and
 - iii) A Finance Director who shall have the authority and responsibilities of a Town accountant. (in current Code and special act)
 - iv) A Town Clerk
- c. In the event of a vacancy, disability or absence 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. (new)
- d. With the exception of the School Department, the Town Manager may create, abolish and consolidate Town departments or functions, or assign functions of one department to another department, subject to the approval of the Select Board. (new)
- e. The Town Manager shall, working with the Town's Human Resource Department, 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)

- f. The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new)
- g. The Town Manager shall be responsible for the annual evaluation of job performance of all Town department heads, including the Town Clerk but excluding the School Department, and may incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. The Town Manager may also annually evaluate the job performance of subordinate Town employees, excluding those of the School Department. (modified from current Code)
- h. The Town Manager will consult with relevant elected and appointed boards, commissions and committees prior to implementing personnel related actions. (modified from existing 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 appoint confidential staff to assist with collective bargaining. (new)

2.4 Facilities/Property Authority and Responsibilities

- a. 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, information technology and infrastructure, excluding school buildings. (new)
- b. The Town Manager shall maintain an inventory of all Town-owned real and personal property. (in current Code)

2.5 Transitional Authority and Responsibilities (all new)

- a. With the enactment of this Act by the General Act, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed.
- 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. Upon the effective date of this Act, all department heads, with the exception of the School Department, shall report to and come under the supervision of the Town Manager, regardless of whether such department heads were appointed by

an elected or appointed board, commission or committee prior to the enactment of this Act.

§ 3. Removal of the Town Manager.

The Town Manager may be an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager's contract. (modified from existing Code)

§ 4. 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 office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board 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 the period of any vacancy caused by the Town Manager's absence, illness, suspensions, removal or resignation. The appointment shall be for a period not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Select Board (in existing Code)

§5. Time for taking Effect. (new)

This Act shall take effect upon its passage.

NOTE: May need to add provisions allowing for continuation of existing laws not inconsistent with this Act and/or repeal any existing laws inconsistent with this Act.

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3.)

2. Background materials
I. Collins Draft

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DRAFT – AN ACT ESTABLISHING ~~THE POSITION OF A~~ TOWN MANAGER ~~FORM OF~~ GOVERNMENT IN THE TOWN OF WAYLAND – DRAFT

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ARTICLE: To see if the town will vote to petition the General Court to enact a special act for the town of Wayland as stated below, provided, however, that the General Court may make clerical or editorial changes of form only to said bill, unless the Board of Selectmen approves amendments thereto prior to enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or do or act anything thereon:

Be it enacted by the Senate and House of Representatives in the General Court assembled, and by the authority of the same, as follows:

AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF WAYLAND, as follows:

Comment [LA1]: Should this say "An Act Establishing the Position of Town Manager in the Town of Wayland" since that is what we have called it all along.

SECTION 1. DESIGNATION OF ELECTED OFFICIALS

(a) Upon the effective date of this act, the registered voters of the town of Wayland shall, in accordance with any applicable laws, bylaws, votes of the town or inter-local agreement continue to elect the following:

Comment [LA2]: Town Clerk was removed in last draft. Does the BoS agree?

- (i) members of the select board;
- (ii) town moderator;
- (iii) school committee members;
- (iv) assessors;
- (v) planning board members;
- (vi) board of health members;
- (vii) commissioners of trust funds;
- (viii) library trustees;
- (ix) members of the board of public works;
- (x) recreation commissioners; and
- (xi) housing authority members.

(b) The powers, duties and responsibilities of elected and appointed officials shall be as provided by applicable General Laws, special acts, bylaws, and votes of the town, except as otherwise expressly provided herein.

Comment [LA3]: Is this sufficient to insure statutory and regulatory responsibilities are protected?

SECTION 2. POWERS AND DUTIES OF THE SELECT BOARD

Comment [LA4]: Does 18 provide that relief unless specifically taken away?

(a) The executive powers of the town shall be vested in the select board, who shall have all the powers given to boards of selectmen in the General Laws.

(b) The select board shall consist of 5 persons elected by the voters of the town. The term of each member of the select board shall be 3 years. The select board shall annually elect a chairperson from among its members.

(c) The select board shall serve as the chief goal-setting and policy-making body of the town. The select

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board shall set guidelines and policy directives that are to be implemented by the town manager and by other officers and employees appointed by or under its authority. The select board shall have the power to enact rules and regulations to implement policies and to issue interpretations of the rules and regulations.

(d) The select board shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town. The select board shall not normally administer the day-to-day affairs of the town.

(e) The select board shall appoint:

- i. the town manager;
- ii. ~~town counsel;~~
- iii. ~~independent auditor;~~
- iv. ~~assistant or special counsels;~~
- v. ~~Conservation Commission;~~
- vi. ~~Finance Committee;~~
- vii. ~~Personnel Board;~~
- viii. ~~Municipal Affordable Housing Trust;~~
- ix. ~~Zoning Board of Appeals;~~
- x. ~~Historic District Commission;~~
- xi. ~~Historical Commission;~~
- xii. ~~Wastewater District Commission;~~ xiii. ~~Council on Aging~~
- xiv.

~~xv.~~ and all members of committees, boards, and commissions, except those positions that are elected by the voters, or as otherwise expressly provided herein.

(f) The select board may make appointments to all positions and committees the select board creates for special or general purposes and shall have general oversight of such boards, committees, positions, or commissions appointed by the select board. Nothing in this section shall prohibit the Town's various boards, committees and commissions from creating and overseeing their own subcommittees.

(g) The select board shall have the responsibility and authority for licenses and other non-personnel related functions as provided by the General Laws and the bylaws of the town.

(h) The select board shall be responsible for and shall approve the form and content of all town meeting warrants before such warrants are issued, as specified in town code Sec. 36.3.

(i) The select board shall be responsible for establishing and maintaining written procedures for the preparation of the budget. The select board shall annually issue 1 or more written budget messages, including fiscal guidelines and the timeline, at the beginning of each budget cycle or at a time established by the town bylaws.

(j) The select board shall review the annual proposed budget prepared by the town manager and make revisions the select board deems advisable. The town manager shall present the budget as approved by the select board to the finance committee. The finance committee shall consider the budget proposed, shall establish the amounts which should, in its opinion, be appropriated for the ensuing fiscal year, shall add thereto such explanations and suggestions as it deems expedient, and shall report to the town meeting, in print or otherwise, such recommendations as it deems best for the interests of the town.

(k) Through counsel, the select board shall prosecute, defend and compromise all litigation or claims to which the town is a party.

SECTION 3. APPOINTMENT OF THE TOWN MANAGER

(a) The select board shall appoint, by an affirmative vote of at least 4 members, a town manager who

Comment [LA5]: BoLT wants exception for Library so that it sets its own policies and goals implemented through its Director

Comment [CMM6]: LIST ALL

Comment [LA7]: Should the TM appoint some of these many committees? Still a question.

Comment [LA8]:
Does BoS appoint Auditor?

Comment [mjw9]: Decision point 4: Other than the town administrator, what other positions should the select board appoint?

3/7: Leave as is for now

Comment [LA10]: Should Fincom be appointed by sub-committee of Moderator, 2 members of Select Board and Fincom Chair?

Comment [mjw11]: Decision point 5: Which boards, committees, commissions, etc. should the board appoint? (And which should the town administrator or moderator appoint? Should the finance committee appointment be moved, as discussed the report?)

3/7: Leave as is for now

Comment [LA12]: What about appointments that are shared: Audit Committee, CPC, Board of Registrars.

Comment [LA13]: BoLT suggests language that identifies exclusions for schools and library. See additional input.

Comment [LA14]: Are references to budget consistent with code?

Comment [mjw15]: Decision point 6: This could be majority or super-majority.

3/7 Changed to 4, per discussion at meeting

Comment [LA16]: confirmed by BoS

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shall be the chief administrative officer of the town. The select board shall appoint the town manager solely on that person's executive and administrative qualifications. The town manager shall be a professionally qualified person of proven ability, especially fitted by education, training, and previous experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

(b) The town manager shall devote full time to the duties of the office and shall not engage in any other business or occupation during the term of employment by the town, unless such action is approved in advance, in writing, by the select board. The town manager shall hold no elective office in the town while serving as town manager, but the select board may appoint the town manager to any non-elective office or position consistent with the responsibilities of the town manager.

(c) The select board may enter into a formal contract with the town manager and may set contract terms that shall have precedence over any town personnel bylaws.

~~The select board shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.~~

(d) No member or former member of the select board shall be eligible to be appointed to the position of the town manager within 15 months of termination of such member's service.

~~(e) Before entering upon the duties of the office, the town manager shall be sworn, in the presence of a majority of the members of the select board, to the faithful and impartial performance thereof by the town clerk or a notary public.~~

~~(f) The town manager shall execute a bond in favor of the town for the faithful performance of the town manager's duties in such sums and with such sureties as may be fixed and approved by the select board, the cost for which will be borne by the town.~~

~~(g) The select board shall provide for an annual review of the job performance of the town manager.~~

SECTION 4. REMOVAL OF TOWN MANAGER

(a) The select board, by an affirmative vote of at least 4 members, may remove the town manager for just cause, and in accordance with the provisions of the town manager's contract. ~~The select board, by an affirmative vote of at least 4 members, may remove the town manager without cause, and in accordance with the provisions of the town manager's contract.~~ At least 30 days before such removal shall be effective, the select board shall file a preliminary written resolution with the town clerk setting forth reasons, if any, for the proposed removal, a copy of which shall be delivered to the town manager.

(b) The town manager may reply in writing to the resolution and may request, in writing, a hearing; provided, however, that the request for a hearing shall be received by the town clerk not later than 10 days after the town manager's receipt of the resolution. If the town manager so requests, the select board shall hold a hearing not earlier than 10 days nor later than 20 days after the filing of such request.

(c) Following the hearing or, if none, at the expiration of 30 days following the filing of the preliminary resolution, the select board may adopt a final resolution of removal.

(d) As part of the preliminary resolution, the select board may suspend the town manager from duty with or without pay.

(e) Nothing contained in this section shall be deemed as overriding the provisions of the Open Meeting Law (G.L. c. 30A, §§18-25) or the Public Records Law (G.L. c. 4, §7, cl. 26). The public record status of any resolutions issued under this Section and stated reasons, if any, shall conform to with the provisions of G.L. c. 4, §7, cl. 26.

SECTION 5. ABSENCE OR VACANCY OF TOWN MANAGER

Comment [LA17]: Should this be CEO or do we want Select Board to sign all documents requiring CEO signatures?

Comment [LA18]: C. Karlson asks why. Some of these items are covered in the TA contract. Do they need to be addressed here?

Comment [LA19]: Can this be deleted?

Comment [LA20]: C. Karlson asks how does this work?

Comment [CMM21]: Is this necessary?

Comment [LA22]: C. Karlson asks why?

Comment [LA23]: Should this section refer to the contract? Question whether we should include details here.
C. Karlson asks what is best practice.

Comment [LA24]: Confirmed by BoS

Comment [LA25]: Question for C. Murray. Is any of this necessary in the Special Act or can we just refer to the TM contract?

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(a) During a temporary absence, not to exceed 14 days, the town manager shall designate by a letter filed with the chair of the select board, a temporary town manager to perform the duties of the office. Such delegation shall be limited to those matters not allowing for delay during the town manager's absence.

(b) If, in the sole opinion of the select board, the town manager's designee is unable to effectively perform the duties of the office during the temporary absence of the town manager, the select board shall appoint a person to perform the duties of the office; provided, however, that those duties shall be limited to those matters not allowing for delay during the town manager's absence.

(c) During an absence of the town manager for more than 14 days, due to disability, illness, or other similar circumstance, the select board shall appoint an acting town manager for the duration of the extended absence, who shall be authorized to perform all of the duties of the office. Such designation will cease upon the return of the town manager.

(d) If the individual serving as acting town manager is a town officer or employee, the individual shall return to the position held prior to being appointed as the acting town manager.

(e) No member of the select board shall serve as acting town manager.

(f) If the select board determines, by majority vote of the full membership OR by an affirmative vote of at least 4 members, that the town manager will be unable to resume the duties of the job for any reasons, including, but not limited to, resignation, termination, or other lawful reason, the office of town manager shall be filled as soon as practical by the select board, provided that the select board may appoint an acting town manager to serve until a town manager is appointed. The duties of an acting town manager shall be limited to those matters not allowing for delay and shall include the authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations.

SECTION 6A. ADMINISTRATIVE RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall be the chief administrative officer of the town and shall be responsible to the select board for the effective management of all town affairs placed in the town manager's charge by this act, by the select board, by bylaws, or by vote of the town meeting, and for the implementation of town policies placed in the town manager's charge by the select board.

(b) The town manager, in conjunction with the Town's various department heads, shall supervise all town departments, with the exception of the school department, and shall direct day-to-day affairs of the town.

(c) The town manager shall be responsible for assuring that the budget is administered as adopted by town meeting and in accordance with the General Laws, this act, and the town bylaws.

(d) The town manager shall advise the select board of all matters requiring action by the select board or by the town.

(e)

(f) The town manager shall attend all meetings of the select board, except when excused, and shall have the right to speak but not vote. The town manager shall attend all annual and special town meetings and shall be permitted to speak when recognized by the moderator.

(g) The town manager shall administer, either directly or through a person appointed by the town manager in accordance with this act, the General Laws and special acts applicable to the town, all town bylaws, and all rules and regulations established by the select board.

(h) The town manager shall have access to all information necessary for the proper performance of the duties of town manager in accordance with the town bylaws, except for attorney-client privileged

Comment [CMM26]: Confirm that someone in an acting capacity for more than 2 weeks may perform the full duties of the job and not just matters that cannot be delayed.

Comment [LA27]: BoS recommends removing this.

Comment [CMM28]: Should the quantum of vote to remove the town manager for inability to perform his/her duties be the same as in Section 4?

Comment [CMM29]: Consider deleting "illness" and replacing with "or any other lawful reason" to avoid potential for discrimination or perceived disability claim. Need to comply with ADA.

Comment [LA30]: This does not make sense relative to c.

Comment [mjw31]: Decision point 8: Are there items on this list that do not sound like they are appropriate for Wayland?

3/7: Look into technology section, per meeting discussion; new section added on delegation

Comment [LA32]: Need to review how this act compares with 2004 TA Special Act. Does this lessen authority that already exists?

Comment [LA33]: Weakens?

Comment [LA34]: BoLT is asking that we add "and of the library" to this exclusion. C. Karlson says to see sec. 1(b)

Comment [CMM35]: Deleted as collective bargaining duties addressed in Section 6D.

Comment [LA36]: C. Karlson asks if we need to mention personnel responsibilities.

Comment [LA37]: C. Karlson asks -- all depts? Schools?

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information that is provided to or by the select board, unless the select board specifically authorizes such access.

(i) In the event of an emergency or other exigent circumstances, the town manager may, without notice, cause the affairs of any division or department, except the school department, or the conduct of any officer or employee thereof, to be examined. As soon as practical thereafter, the town manager shall notify the appropriate department head, board, committee or commission of such action.

(j) The town manager shall keep the select board fully informed regarding all departmental operations, fiscal affairs, town priorities and concerns, and administrative actions, and shall submit periodic reports summarizing such matters to the select board.

(k) The town manager shall coordinate the activities among boards, commissions, and committees concerned with long-range municipal planning, including physical or economic development and environmental or resource protection of the town.

(l) The town manager shall be responsible for the maintenance of all town buildings, real property, and facilities, except those under the jurisdiction of the school department, unless requested by the school committee. The town manager shall, in conjunction with the Town's various department heads, develop, keep, and annually update a full and complete inventory of all property of the town, both real and personal, in compliance with GASB 34. With respect to capital improvements or extraordinary repairs to buildings, real property, and facilities, the town manager shall coordinate with the department head, board, committee or commission having custody of said building.

(m) Under subsection (h) of section 2, the town manager shall be responsible for the preparation of all town meeting warrants in accordance with G.L. c. 39, §10 and the town bylaws and shall distribute, or cause to be distributed, copies of town meeting warrants to the residents (of all registered voters) of the town.

(n)

(o) The town manager shall keep full and complete records of town manager's office and annually submit to the select board a full written report of the operations of the office.

(p) The town manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which the town manager is authorized to perform; provided, however, that all acts which are performed under any such delegation shall be deemed to be acts of the town manager.

SECTION 68. FINANCIAL RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall be the chief financial officer of the town.

(b) The town manager may, at the town manager's discretion and with the approval of the select board, establish a consolidated department of finance responsible for the coordination and overall supervision of all fiscal and financial affairs of all agencies of town government and may appoint a director of finance; provided, however, that the terms of persons holding the position of accountant, treasurer/collector, and director of assessing on the effective date of this act shall not be reduced by reason of the consolidation.

(c) The town manager shall be authorized to execute, approve or reject all warrants, including payroll, for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws. In the event the town manager rejects any payment, the town manager shall immediately notify the appropriate department head, board, committee or commission. The town manager's approval of any warrant or item presented for payment shall not be unreasonably withheld.

(d) The town manager shall be responsible for the preparation of the proposed operating and capital

Comment [LA38]: Section should correspond to Sec. g in Sec. 60 of town code

Comment [LA39]: Doesn't Facilities Director already do this? BoS wants to remove this if it's not needed.

Comment [LA40]: Delete?

Comment [LA41]: C. Karlson - agree in concept. What if we move to digital or email? BoS suggested change to "residents" Should it be "all registered voters"?

Comment [LA42]: Should we add anything about a Long Term Financial Plan?

Comment [CMM43]: Consider whether there may be any conflicting terms of office among these officers. Should we include a provision that any reorganization or consolidation shall be implemented, notwithstanding the terms of office of any of the officers who may be affected thereby, and upon the expiration of such term of office, the remaining provisions of the reorganization or consolidation shall be implemented?

Comment [LA44]: C. Karlson agrees with this approach

Comment [LA45]: Question raised about private funds

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budget. The version of the operating and capital budgets recommended by the Finance Committee shall be included in the annual town meeting warrant. The proposed budget shall be prepared in accordance with the most current budget process by the date set pursuant to subsection (i) of section 2 as approved by the select board.

(e) The town manager shall submit to the select board, by the date established pursuant to subsection (i) of section 2, a written proposed budget for the ensuing fiscal year for both operating and capital expenditures.

(1) The proposed budget shall describe all actual or estimated revenue from all sources, and all actual or proposed expenditures, including debt service, for the previous, current, and ensuing fiscal years.

(2) The proposed budget shall detail all estimated expenditures for current operations during the ensuing fiscal year, detailed by agency, department, committee, purpose, and position.

(3) In addition, the town manager shall prepare a 5-year operating and capital forecast, and include both as part of the proposed annual budget.

(4) For the purpose of preparing the budget for the ensuing fiscal year, the town manager shall include an estimate of revenues to be collected and free cash available at the close of the current fiscal year, including estimated balances in special accounts.

(5) The town manager shall report on the estimated funds required to be levied and raised by taxation to defray all expenses and liabilities of the proposed budget together with an estimate of the tax rate necessary to raise such amount and include the information in the proposed budget.

(f) The town manager shall submit a preliminary budget to the select board and the finance committee pursuant to the budget process set forth in subsection (i) of section 2. The preliminary budget shall be submitted not later than December 15.

(g) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing, in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(h) The town manager shall keep the select board informed regarding the availability of federal and state funds and how such funds might relate to the town's current and long-range needs.

(i) The town manager, in conjunction with the applicable Town department head, board, committee or commission, shall be responsible for filing all grant applications in any amount in excess of \$100,000.00.

(j) After the close of each fiscal year and after the certification of free cash by the department of revenue, the town manager, as soon as practicable, shall cause to have prepared audited financial statements. Upon completion of the audit, the town manager shall promptly distribute the statements to the select board and the finance committee.

Comment [LA46]: C. Karlson mention finance director?

Comment [mjw47]: 3/7: Deleted references to capital that were unintentionally included, can be added back in at the Board's interest

Comment [CMM48]: This could conflict with Chapter 19 of the Code, which requires preliminary budget to Fin Comm by Dec. 15 and recommendations by Jan. 15

Comment [LA49]: C. Karlson BoS discuss budget date

Comment [LA50]: Needs to be revised? TA signs all grant applications.

SECTION 6C. APPOINTMENT RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall appoint, based upon merit and qualifications alone, evaluate, discipline or for cause, remove the following without ratification by the select board:

- i. An Information Technology Director;
- ii. A ~~Town Surveyor or~~ Town Engineer;
- iii. All other administrative and clerical employees in the Offices of the Select Board and the Town Manager;
- iv. A Human Resources Manager;
- v. A Building Commissioner;

Comment [LA51]: Do not list all

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- vi. A Director of the Council on Aging;
- vii. A Conservation Administrator; and
- viii. A Town Treasurer and Collector;
- ix. A Facilities Director
- x. A DPW Director in consultation with the Board of Public Works
- ~~xi.~~ ARE THERE ANY OTHERS?

(b) The town manager shall appoint, based upon merit and qualifications alone, evaluate, discipline or for cause, remove, all other department heads, officers, subordinates, and employees for whom no other method of selection is provided in this Act, except employees of the school department and employees identified in subsection (c) of this section. Department Heads, in consultation with the consent of the town manager, may appoint assistant department heads or those positions having a different title but performing assistant department head duties. Department heads shall appoint all other department subordinates.

(c) The town manager shall appoint based upon merit and qualifications alone, subject to ratification by the select board, and evaluate, discipline or for cause, remove the following:

- i. Town Clerk, subject to Section 10 of this Act;
- ii. A Police Chief;
- iii. A Fire Chief; and
- iv. A Finance Director, who shall have the authority and responsibilities of a Town Accountant.

LIST ALL POSITIONS

Appointments proposed by the town manager under this Section, shall become effective on the 15th day following the day on which notice of the proposed appointment is filed at a select board meeting, unless the select board shall, within such period and by a majority vote, vote to reject such proposed appointment, or has sooner voted to affirm it.

(d) The town manager shall appoint, based upon merit and qualifications:

- i. a director of assessing, with the consent of the board of assessors;
- ii. a town planner, with the consent of the planning board;
- iii. a director of public health, with the consent of the board of health;
- iv. a library director, with the consent of the board of library trustees, and
- v. a recreation director, with the consent of the recreation commission.

For the purposes of this section, consent shall mean that each multiple-member body cited herein shall interview job candidates and make appointment recommendations to the town manager. The town manager shall not make an appointment under this section without the consent of the multiple-member body cited herein. Appointment made by the town manager under this Section shall be effective immediately, unless some later date is established. In the case of employees appointed under this section, the town manager shall inform the chair of the appropriate multiple-member body prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to the chair to confidentially comment on the proposed action directly to the town manager.

Comment [CMM52]: Will TM appoint all subordinates within these departments? Will those appointments be made by the Department Head with the consent of the Town Manager or with the consent of the applicable board?

Comment [CMM53]: Town does not have a Charter but does have special acts and codes. Need to clarify. To avoid a conflict between this Act and any Code provision, this Act should prevail.

Comment [LA54]: C. Karlson – discussion/clarify

Comment [LA55]: Can this section be handled through policy?

Comment [CMM56]: Should this appointment still be subject to ratification by the BOS?

Comment [mjw57]: Decision point 10: Are there any exceptions to this? Should it apply to department heads only, or all staff?

3/7: No decision made on this

Comment [LA58]: C. Karlson asks why 15 day language?

Comment [CMM59]: There are also positions listed in Ch. 320 of the Acts of 2004 and Town Code Ch. 60. Should we list all titles or simply that TM appoints all department heads, officers and subordinates for who no other method of appointment is made by this Act?

Comment [mjw60]: Decision point 11: The hiring process could also be set up the other way around. Instead of the board bringing a candidate to the town administrator, the town administrator could bring a proposed candidate to the board for approval. Either way could work, as long as both have a role, and the town administrator is the actual appointing authority.

3/7: No decision made on this

Comment [LA61]: should this and others be "in consultation with"

Comment [LA62]: BoLT wants exception for library director

Comment [LA63]: C. Karlson see section 6A(i) Cross reference?

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SECTION 6D. COLLECTIVE BARGAINING RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall serve as the agent of the select board and negotiate collective bargaining contracts on behalf of the select board in accordance with G.L. c. 150E; provided, however, that such contracts shall be subject to approval, ratification, and execution by the select board.

(b) The select board may authorize use of additional counsel or persons to assist the town manager in the negotiations at its discretion.

(c) The town manager may appoint ~~confidential staff human resources manager~~ to assist with collective bargaining.

Comment [LA64]: Is this accurate?

Comment [LA65]: C. Karlson – how are school's handled?

SECTION 6E. PROCUREMENT RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

The town manager shall be the chief procurement officer, pursuant to the General Laws and all other applicable statutes, procedures, and bylaws, shall be responsible for purchasing for all town functions and departments, and shall award all contracts needed for the operation of all town functions and departments, ~~except for the school department~~, unless otherwise specifically requested by the school committee. The town manager may, in his or her discretion, delegate any procurement responsibilities to department heads.

Comment [LA66]: C. Karlson - true?

Comment [LA67]: P.D. has to be approved

SECTION 7. ORGANIZATION OF AGENCIES

The town manager may, subject only to express prohibitions in the General Laws, propose to reorganize, consolidate, establish, or abolish any department, position or function, which shall be subject to the approval of the select board ~~or any other board or committee with jurisdiction~~.

Comment [LA68]: Too much power here?

Comment [LA69]: More restrictive? Right now no approval for BoS. This goes through Personnel Board.

Comment [LA70]: Changed from "and"

SECTION 8. CONTINUATION OF EXISTING LAWS, CONTRACTS, AND EMPLOYMENT

(a) All laws, bylaws, votes, rules and regulations whether enacted by authority of the Town or any other authority, which are in force in the Town of Wayland on the effective date of this Act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, bylaws, votes, rules and regulations, respectively.

(b) No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

(c) Any person holding a town office or employment under the Town shall retain such office or employment and shall continue to perform the office or employment's duties until provisions shall have been made in accordance with this Act for the performance of said duties by another person or agency. ~~No person who continues in the permanent full-time service or employment of the Town shall forfeit pay grade or time in service.~~

(d) If any provision of this Act conflicts with any provisions of any special act, by-law, rule or regulation of the town, the provisions of this Act shall govern.

(e) All town departments, boards, committees and commissions shall continue to perform their duties as set forth under any general or special law or bylaw, unless specifically modified by this Act or unless and

Comment [CMM71]: I suggest deleting this sentence. Other than the TA, no other position is impacted by this Act. Any further reorganizations, consolidations, etc. would be subject to bargaining with applicable unions.

January 7, 2019

until their duties have been transferred to another town department, board, committee and commission pursuant to Section 7.

SECTION 9. DISPOSITION OF CERTAIN SPECIAL LAWS

- (a) Unless specifically addressed by this Act, any special laws, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions, or are otherwise hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws is hereby preserved: **[put list here]**
- (b) Upon the passage of this Act, the position of the Town Administrator shall be abolished; however, the incumbent Town Administrator shall continue to serve **through the term of the Town Administrator's contract until a town manager is appointed**. Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed, upon the effective date of this Act, and all right, duties and powers exercised by the Town Administrator pursuant to Chapter 320 of the Acts of 2004 shall transfer to the town manager, unless otherwise provided for under this Act.

Comment [CMM72]: You could also abolish the TA position on a date certain, such as 60 days following passage of the Act, which would allow the BOS time to appoint a TM. Another option is to include language such as:

The position of town administrator shall be abolished upon the assumption of office by the town manager. Should the position become vacant prior to the town manager assuming the duties of the office, the board of selectmen may appoint an acting town administrator to serve until the assumption of the duties of office by the town manager

Comment [LA73]: BOS discussion of approach. Need better wording on how TA may transition to TM?

SECTION 10. INCUMBENT TOWN CLERK

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 the town clerk shall be appointed as provided in Section 6C of this Act. If the incumbent in the office of town clerk vacates said office prior to the expiration of the term for which elected town clerk, the office of town clerk shall cease to be an elected position and shall be appointed as provided in Section 6C of this Act.

Comment [LA74]: Clerk has expressed concerns about changing to appointed. Pointed out other towns who have failed to pass change from elected to appointed.

SECTION 11. TIME OF TAKING EFFECT

This Act shall take effect upon its passage.

Comment [mjw75]: Note that further transition provisions may be necessary, but these should be filled in only after all other decisions are made.

Comment [LA76]: Should this come back to the town for a vote at the polls?

3.)

2. Background materials
II. Board and
Committee Feedback
a. Finance Committee
feedback

To: Select Board
From: Dave Watkins, Chairman of the Finance Committee
Date: June 28, 2018

Dear Select Board,

The Finance Committee met on June 6, 2018 and discussed the Special Town Administrator Act. Overall the Committee believes the act is a good change and direction for the Town in that it describes a budget process that proposes greater involvement of the Town Manager, Finance Director and the Select Board. The Act falls short of clearly defining the responsibility of the Finance Committee and its interaction with the Town and School to form the Candidate Budget that is submitted to the Finance Committee, which is responsible for submitting a final budget to Town Meeting. The Finance Committee wanted to reiterate several key points discussed at its meeting that the Select Board should consider including:

Finance Committee Duties

In consultation with the Select Board, School Committee, Town Manager, Finance Director and Superintendent of Schools, the Finance Committee is involved in all aspects of the Budget Process. Each year the Finance Committee will receive and review the proposed budget submitted by the Town Manager. The Finance Committee shall conduct one or more public hearings and thereafter shall file its recommended budget with the Select Board and the office of the Town Clerk for distribution to Town Meeting members and subsequent Town meeting action. The Finance Committee shall, in addition, prepare a written report, stating the committee's recommendations and its reasons therefore, pertaining to all warrant articles which involve the expenditure of town funds. It may also, at its discretion, report on any article in the warrant.

Copies of such committee reports shall be mailed or electronically distributed to the town moderator, to each Town Meeting member, to each member of the Select Board, to each member of the School Committee and to the heads of all town departments. Written authorization must be provided to the Town Clerk and the Select Board to receive electronic distribution of materials.

Appointment of Members

The members of the Finance Committee shall be appointed by the Select Board in consultation with Chairman of the Finance Committee.

Time for Appointments

Appointments to the finance committee shall be made within thirty days following the dissolution of the spring town meeting.

Issue Resolution Process

The Chairman of the Finance Committee, the Chairman of the Select Board, the Chairman of the School Committee and the Town Manager will coordinate and respond to issues raised.

Support

Dedicated Town Resources will be responsible for creating information to guide decision making. Additionally, these Resources will communicate with Town Departments, perform data gathering and assist with the development of the following deliverables:

- Report of the Finance Committee
- 5 Year Capital Plan (Including CIPs)
- Budget Hearing Presentations
- Budget Model Used for Finance Committee Decision Making
- Omnibus Budget
- Articles
- Meeting Information (Agendas, Handouts, Schedules etc.)
- Financial Strategies that Mitigate the Possibility of Future Overrides

For the following subject areas:

- Unclassified: OPEB, Health Insurance, Unemployment Insurance, Workers' Compensation, General Insurance, Pension Contributions, Debt and Interest, and Energy
- Revenue Projections
- Public Works
- Schools
- Public Safety
- Health, COA and Recreation
- General Government

Guidelines

The Finance Committee will review and approve any proposed guidelines. The Committee will adhere to a strategy that aims to avoid future overrides. It is important to note that persistent increases in the budget above the growth in the levy limit, of 2.5% plus new growth in the tax base, are unsustainable and will require an override to confirm such a budget.

Budget and Schedule

The budget and schedule should allow for more time at critical decision-making points. The Town Manager should provide a Final Budget to the Finance Committee, from all Municipal Departments, including the School Department, no later than December 15.

Thank you for considering the Finance Committee's input and we are at your service to provide clarification.

Sincerely,
Dave Watkins
Chairman, Wayland Finance Committee

3.)

2. Background materials
II. Board and
Committee Feedback
b. Board of Library
Trustees
i. AGennis Memo

To: Lea Anderson, Chair of the BoS
From: Aida Gennis, Chair and on behalf of the BoLT
Re: Library concerns operating under a centralized form of town government, such as a TM
Date: February 1, 2019

Public libraries and schools are the cornerstones of democracy. In any community, the library and schools must remain insulated from political pressure while fulfilling their mission to provide the resources for a well-informed citizenry.

Library trustees and directors throughout Massachusetts who have worked within a centralized form of government such as that which employs a town manager (TM) have cautioned us strongly to retain the Trustees' authority over the library—its collection and daily operations, its director and staff, its management of funds (publicly allocated and privately donated), and policy-making and implementation.

An overarching concern is to avoid vagueness about the library and the trustees' authority in a governing instrument. Where there is vagueness, a TM tends to take precedence. The library asks for specific exclusions or specific language in this Town Manager Special Act (TMSA) to avoid vagueness and to retain authority over the library

Here is a sample of issues faced by many libraries under a TM form of centralized government.

Daily Operations

Oversight of the library department and day-to-day operations is at the core of the Trustees' responsibility to ensure that the library meets its educational mission without political pressures. The Library is required to have a strategic plan, with annual reports on its progress.

- A TM's goals and agendas for the library may not be focused on the community's educational and informational needs. There may be no strategic plan to improve library services.
- Library services can be negatively affected by changes the Trustees would not approve, such as reduced hours, reduced services, and fewer innovative programs.
- If the TM receives complaints directly (e.g., patrons find the library too noisy, find materials distasteful and demand they be removed from the collection, abuse common courtesy in their use of seating, desks, or meeting rooms), the TM may compel the director to address them without understanding librarians' best practices for addressing such complaints. If the TM challenges the director to soothe the concerns of patrons (that is, voters) by removing materials or changing policies, library services and mission can be compromised.

Director

The Massachusetts Legislature requires the Trustees to hire a director (to run the library), and to establish a method of evaluation, consequences, and termination for the director.

- If a TM has the authority to hire, evaluate, discipline, and terminate the library director, they may do so for reasons unrelated to the goals and agendas set by the Trustees, perhaps to further a political agenda.
- If the director does not report to the Trustees, they cannot ensure that library services, policies, goals, and spending are in the best interests of the library, without political interference.
- If a TM insists on evaluating the library director without Trustee input, the TM loses valuable insight from those who know the library best.
- Standing up for the library's mission can itself become a cause of conflict between the library director and the TM.

Staff

Librarians are professionals, many with advanced degrees in library science. Library services are compromised if staff are not properly trained. Currently, the Trustees task the director with hiring and supervising library staff.

- If a TM has the authority to hire, evaluate, discipline, and terminate library staff, they may do so for reasons unrelated to the goals and agendas set by the Trustees.
- The library director has no authority over his or her own staff, and is therefore undercut within the department.
- Staff can be removed or moved to other departments, compromising patron services and needs.

Budget

To maintain state certification, the library operates under state guidelines for spending on acquisitions, annual budget increases, hours open to the public, and staffing. The library must submit annual financial reports to verify that it is meeting these guidelines. (Certification allows the library to participate in regional sharing of resources through the Minuteman Library System, and to qualify for MBLC grants.) Private funds are donated to the library for library use, not general municipal use.

- If a TM significantly reduces the library's budget, its certification can be threatened or lost.
- If a TM questions the need for materials requested by librarians, the quality of the collection can be compromised. The result is a chilling effect, first on librarians and then on patrons who cannot find what they need.
- If a TM attempts to access private funds donated to library, the donors' intent is violated.

Building

The Trustees manage the library's building, land, and funds as charged by the Legislature.

- A TM may want to change policies for use of the library building and interior spaces without fully understanding the impact.
- A TM may want to incorporate library meeting spaces into the town's inventory, resulting in compromised library programming and services.
- A TM may want to change the library's policy of not charging for library services or use of meeting spaces.
- If a TM reallocates staff needed for daily maintenance of the building, the cleanliness and safety of the building can be compromised, and librarians' time can be diverted to maintenance with a negative effect on library services.

3.) 2. Background Materials
II. Board and Committee
Feedback
b. Board of Library
Trustees
ii. JDion letter

Judy Dion, Trustee
Wayland Free Public Library
5 Concord Road
Wayland, MA 01778
February 1, 2019

Lea Anderson, Chair
Wayland Board of Selectmen
41 Cochituate Road, Wayland, MA 01778

Dear Ms. Anderson,

I am writing on behalf of the Library Board of Trustees to clarify our position on the Library's status as reflected in the Special Act Proposing a Town Manager Form of Government for Wayland (draft dated 1/7/2019). While we support in principle the general consolidation and streamlining of Town services, *we object to several passages in the Special Act that threaten the Library's freedom as an educational institution to exist independent of political pressures.* The Special Act eliminates nearly all responsibilities held by the Trustees, yet governance of the Library by an elected Board of Trustees is fundamental to fulfillment of the Library's educational mission.

The independent operation of libraries and schools is enshrined in State Law; to confirm the intent of the law, the Library should receive the same consideration as the Town's schools within the proposed Special Act. To protect the sanctity of the Library's educational mission, Trustees must retain supervision over the library and its day to day affairs; development and implementation of policy; hiring, supervision, evaluation, and dismissal of the Library Director and Staff; care, maintenance, and authority over the Library building and holdings; the administration of privately donated funds; and proper apportionment of the Library budget for retention of state certification. In a town that is known for supporting academic excellence for persons of all ages, we firmly believe that the Library's performance will suffer as a result of the Special Act, unless specific language not subject to later interpretation is added permitting the Trustees to retain control over the above responsibilities.

The Library Board of Trustees is composed of six Town citizens elected on a rotating basis, ensuring the sharing of accumulated knowledge and a system of checks and balances that cannot be achieved under the authority of a single, appointed Town Manager. All actions taken by the Trustees require deliberation during regular public meetings, followed by a majority vote. *No single Trustee can make a change that would undermine the Library's educational mission*, whether based on personal beliefs or under pressure from Town residents or officials.

Library Boards of Trustees have overseen the efficient operation of this library since the 1800's, always working collaboratively within the town structure, as have the schools. We understand that the smooth operation of any town department requires cooperation across departments, and under ideal conditions, no problems should arise under the direction of a Town Manager. However, in speaking to Trustees and Directors from other libraries that have undergone similar changes in local

governance, we have found that this has not always been the case. Tellingly, the people whom we consulted did not wish to have their names shared publicly, but attached to this letter are several examples of experiences that were shared with us.

The Massachusetts Board of Library Commissioners (MBLC) states that it is imperative for library boards to advocate for wording which exempts the library from being under the control of another municipal department or officer. In response to guidance sought by Trustees struggling to serve under reduced governance authority, the MBLC included a new section in the most recent version of the Trustee Handbook (released 2018; last official version released in 2000) that deals with town and city charters and related forms of government. Highlighting the essential elements that protect a library's function as an educational institution, they advise vigilance, to "make sure it is spelled out in the charter that the board of trustees governs the library and appoints the director"; to "make sure the library director has responsibility for the hiring, dismissal, and supervision of library personnel"; and to "make sure the board has control of the library's budget, personnel issues, and policy making authority." (Pp. 39-40, attached.) The MBLC is a state agency with the statutory authority and responsibility to certify public libraries and to organize, develop, coordinate, and improve library services; as a state agency, it is apolitical.

We hope this letter has explained why we object strongly to the ramifications of this Special Act for the Library. As Trustees, it is our responsibility to support and maintain the independence of Wayland's Library in its unique role as an educational resource for all. In an era in which the number of independent news outlets is shrinking, and the accuracy and credibility of facts reported are daily called into question by those in positions of authority, the protection of libraries as widely accessible sources of factual, unbiased information uninfluenced by political pressures is paramount. We believe the Special Act will cause changes that will threaten the quality of the library's services and operations for Wayland's residents. Alongside several supporting documents attached to this letter, please make note of the example of wording the Town of Westford's Special Act, which specifically preserves the library trustees' responsibilities. We urge you to implement similar changes to the Special Act, to ensure the Library's educational mission remains intact with continued independence from political influences. We look forward to hearing from you before the next version of the Special Act is completed and welcome continued discussion.

Sincerely,

Judy Dion

Aida Gennis, Chair
Sally Cartwright
Leah Hart
Mark Peter Hughes
Maureen White

3.) 2. Background materials
II. Board and Committee
Feedback
b. Board of Library
Trustees
iii. MBLC Trustee Handbook

SECTION 10 describes the *process by which trustees are selected*, when no overriding governance structure such as a town or city charter or other special legislation is in place, and also mandates that the board designate a chairperson and a secretary annually.

SECTION 11 states "The board shall have the custody and management of the library and reading room and of all property owned by the town relating thereto." This section is the only provision in the law which explicitly states the *trustees' powers and duties*.

SECTION 12 mandates that the library board make an *annual report* to the town.

SECTION 33 states that each library must have a *written policy for the selection of library materials and the use of materials* and facilities. (See chapter 4 of this *Handbook* for a discussion of policies.)

SECTION 34 addresses *employment contracts for library employees*.

A note about Corporation/Association Libraries: Sections 1 and 13 of Chapter 78 specifically address association and corporation libraries, giving them more autonomy and self-governance than town libraries. It is important for all library boards to know the history of their library, and how Chapter 78 and other state laws apply to the library based on its founding documents.

■ TOWN AND CITY CHARTERS and HOME RULE PETITIONS

Some Massachusetts municipalities are governed by special legislation or a charter, components of which may or may not relate directly to the library. It is critical for trustees to know if their municipality has such a charter or has plans to implement one, and if so, how its provisions affect their library. While trustees have traditionally looked to Massachusetts General Laws Chapter 78 to delineate the rights and responsibilities of trustees to exert "custody and management" over public libraries, a local charter will take precedence over Massachusetts General Laws.

If your community is planning a charter change or adoption, make sure that at least one trustee becomes familiar with the charter reform process, and is informed every step of the way about proposed changes. A proactive board is a well-informed board which serves as a partner in the change process. It is much easier to keep unfortunate changes out of the charter than to try to fix problems after the fact. The following are issues which may not constitute the main thrust of the changes to the charter, but may somehow “sneak” in if trustees don't pay careful attention:

- Who will the director report to? In some towns, the town administrator has the authority to appoint department heads. Make sure that the power of the library board is not eroded; in other words, make sure it is spelled out in the charter that the board of trustees governs the library and appoints the director.
- Will the library be grouped with other town departments for purposes of efficiency? The library could lose its status as a separate department, becoming combined with other departments which do not share common missions or organizational/operational methods.
- Will all human resource functions be centralized? Under whose control? Trustees should help develop a municipal plan for the transfer of employees between departments. Make sure the library director has responsibility for the hiring, dismissal, and supervision of library personnel.
- Any charter proposal should contain provisions specifying the duties and powers of the board of trustees. Make sure the board has control of the library's budget, personnel issues, and policy making authority.
- Another issue that might be introduced is the number and kind of trustees. Monitor for proposals that would change the way trustees are elected or appointed. Who has the authority to appoint trustees? Will there be ex-officio trustees (those appointed by virtue of their office, i.e. selectmen and clergy) who may change the constitution of the library board?

If your municipality is considering a charter or home rule change, it is imperative for your board to be involved and aware of the seriousness of the issues at stake. If charter reform, home rule petition or other effort is underway to revamp municipal power and decision-making, the library should get involved from the start to advocate for wording which exempts the library from being under the control of another municipal department or officer.

3.) 2. Background Materials

II. Board and Committee
Feedback

b. Board of Library
Trustees

iv. Bylaws of the
Board of Library
Trustees

BYLAWS OF THE BOARD OF LIBRARY TRUSTEES WAYLAND (MA) FREE PUBLIC LIBRARY

The Wayland Public Library is governed by a Board of Trustees, in accordance with Chapter 78, section 10 of the General Laws of Massachusetts, which states that a town which raises or appropriates money for the support of a free public library shall elect by ballot a Board of Trustees.

Article I Trustees

- 1) The Board consists of six (6) Trustees, two of whom are elected for three-year terms at each annual spring Town of Wayland Election. Candidates must be residents of the Town of Wayland. The term of office begins on the day following the Election.
- 2) A Trustee may resign from the Board by written notice to the Board's Chair and the Town Clerk.
- 3) Any Trustee who fails to attend four consecutive regular meeting of the Board shall receive a letter from the Chair noting that regular attendance is a responsibility of all Trustees and that those unable to attend regularly should consider resignation. Copies of such letters should be filed with the meeting minutes.
- 4) If a vacancy occurs in an unexpired term of office, the Board will recommend an acceptable replacement(s) to the Board of Selectmen. The vacancy will be filled from the proposed replacement(s) by a majority vote of the members of both the Board of Library Trustees and the Board of Selectmen to serve until the next town election. If less than six (6) months remain in the unexpired term, the position may continue vacant until the next town Election.
- 5) The officers of the Board (Chair, Vice-chair, Secretary) shall be elected by the Board at the first practicable meeting following the annual Election.

Article II Responsibilities of the Board

The Board shall have those responsibilities provided by Massachusetts General Laws (MGL), Chapter 78, Section 11 and the Bylaws of the Town of Wayland as regards the custody and management of the library and of all property owned by the Town pertaining to the library. Specific responsibilities are:

- 1) Set qualifications for and hire a well qualified Library Director and conduct an annual performance evaluation of the Director.
- 2) Adopt needed policies for use and management of the Library.
- 3) Adopt and present annual budget and other necessary measures for approval by Town Meeting. Set policies guiding allocation and use of appropriated funds and other funds available for meeting library goals and supporting library operations, including gifts and bequests.
- 4) Maintain and guide use of Library Endowment and other permanent funds.

- 5) Appoint standing and special committees needed to further the goals of the Library. Accept reports of committees and develop guidelines for implementing recommendations, if any.
- 6) Advise and support the Library Director in pursuing library programs and activities.
- 7) Provide an annual written report to the Town.
- 8) Assess the library's needs and its role in the Town as part of an ongoing planning process, and direct library development to meet these needs.
- 9) Authorize payment of Library expenses by signature of the Board chair or other designated Trustee.

Article III Board meetings

- 1) The Board shall hold regular monthly meetings, and special meetings of the Board as needed, to review progress toward meeting library goals, adopt needed policies, advise the Library Director, and provide opportunity for public input.
- 2) All meetings of the Board will be posted with the Town Clerk 48 hours in advance of the meeting. Conduct of the meetings will be consistent with the state's Open Meeting Law.
- 3) The quorum for holding a Board meeting and for taking official actions is four members of the Board. Decisions of the Board are by majority vote of those members present. No individual can make decisions or act for the Board unless specifically authorized by majority vote.
- 4) Executive sessions of the Board may be held, if needed, subject to the state's Open Meeting Law.
- 5) Minutes shall be recorded for all meetings of the Board and approved by the Board at subsequent meetings. The minutes shall indicate the results of all votes by the Board. The Secretary shall maintain the official record of Board meetings in the Library offices.
- 6) The current edition of *Robert's Rules of Order* shall govern Board meetings when procedural questions arise.

Article IV Amendments to Bylaws

These Bylaws may be amended at the discretion of the Board by majority vote at a duly scheduled and announced meeting of the Board.

Adopted March 21, 2007. These Bylaws replace the preceding Bylaws of May 30, 1979.

3.) 2. Background materials
 II. Board and Committee
 Feedback
 b. Board of Library
 Trustees
 v. Wayland Peer
 Towns

Wayland Peer Towns

SchoolCom. Peer towns	town pop.	# Trustees	Director hired by Trustees/Town Manger
Lynnfield	10-15K	5	Trustees
Medfield	10-15K	6	Trustees
Sharon	15-25K	6	Trustees
**N. Reading	15-25K	6	Trustees & Town Admin.
**Westwood	15-25K	6	Trustees & Town Admin. & HR
*Hopkinton	15-25K	5	Town manager

Regional school districts, peers in some analysis:

Acton/(Boxboro)	15-25K	9	hired director 10 yrs ago, before that 40 yrs ago
Boxboro	5-10K	7	Trustees
*Concord/(Carlisle)	15-25K	16	(Libr committee & Libr Corporation) Town manager
Carlisle	5-10K	3	Trustees
Lincoln/(Sudbury)	5-10K	6	Trustees
** Sudbury	15-25K	6	Trustees & Town manager

FinCom peer towns from 2015

Cohasset	5-10K	9	Trustees
Hingham	15-25K	19	Trustees
Lincoln	5-10K	6	Trustees
Medfield	10-15K	6	Trustees
N. Andover	25-50K	7	Trustees
Sharon	15-25K	6	Trustees
Westford	15-25K	6	Trustees
Scituate	15-25K	6	Town Admin.
**N. Reading	15-25K	6	Trustees & Town Admin.
**Westwood	15-25K	6	Trustees & Town Admin. & HR
**Sudbury	15-25K	6	Trustees & Town manager
*Hopkinton	15-25K	5	Town manager

Neighboring Towns:

Lincoln	5-10K	6	Trustees
Natick	25-50K	5	Trustees
Wellesley	25-50K	6	Trustees
Weston	10-15K	6	Trustees
**Sudbury	15-25K	6	Trustees & Town manager
**Framingham	50-100K	12	Trustees & Mayor

*Hired by Town Manager:

Hopkinton, Framingham,
 Concord (unique situation)

** Hired by Trustees with Town Manager/Mayor:

N. Reading, Sudbury, Westwood

3.) 2. Background materials
II. Board and Committee
Feedback
C Personnel Board.
Draft Minutes

Personnel Board Meeting
Wayland Town Building – Selectmen’s Office
Draft Minutes (Excerpt)
September 25, 2018 8:00 am

Town Manager Special Act

The Board discussed the extent to which the draft Town Manager Special Act is consistent with the Town Administrator’s contract. Section 8(b) of the Special Act suggests that the current contract preempts the Special Act. The Personnel Board suggested a section-by-section review of the Special Act compared to the current Town Administrator By-law, other by-laws, and the current Town Administrator contract.

Section 5 of the Special Act, which addresses temporary absence or vacancy, grants the Town Manager authority to designate a temporary replacement for absences of fewer than 30 days and limits the responsibilities of the temporary Town Manager. Members of the Personnel Board questioned the rationale for not letting the temporary Town Manager perform all – or almost all – of the Town Manager’s job functions.

During absences greater than 30 days, the Board of Selectmen appoints an acting Town Manager. The Personnel Board discussed whether it might be preferable to have the Board of Selectmen designate the temporary replacement in all instances and grant that individual authority similar to the regular Town Manager.

The Board discussed whether the Special Act should identify the Town Manager as the Chief Financial Officer.

The Board acknowledged that Section 6(d) grants the Town Administrator broad responsibilities to conduct collective bargaining independent of the Personnel Board. Members of the Board discussed whether they would have a role in grievances. Currently, the grievance process is written into individual collective bargaining agreements. If the Personnel Board no longer participates in the negotiation of collective bargaining agreements or hears grievances, then its only remaining role may be the wage and hour classification. The Personnel Board suggested that it might be worthwhile to conduct a section-by-section review of the Special Act compared to the current Personnel Board By-law.

3.) 2. Background materials
II. Board and Committee
Feedback
d. Board of Assessors
Meeting notes

Board of Assessors

Discussion of Special Act to Create Town Manager

I attended the BoA meeting on August 13 at 7:15pm. All Assessors were in attendance (chair Susan Rufo, Jayson Brodie, Zack Ventress, Steve Glovsky and John Todd) as well as Bruce Morgan, Director of Assessing.

The agenda item:

7:30 pm Proposed Town Manager Special Act: Discussion with and provide feedback to Selectman Cherry Karlson

The BoA received the following information to facilitate the discussion:

1. Presentation/discussion slides for the Town Manager Special Act
2. Draft Town Manager Special Act
3. Report from the Collins Center: Financial Management Structure Review (background for creating the Special Act – not the focus of the discussion but provided as background for those interested in the analysis)
4. The Buzz, June 13, 2018 “Restructuring Government”: discussion with Town Administrator Nan Balmer and Selectman Lea Anderson. <https://vimeo.com/275271539> Start at minute 16:18 for the interview.

Summary of discussion:

The BoA was disappointed and frustrated with the Collins Center process for both the November 2016 Review of Financial Policies and Procedures and the October 2017 Financial Management Structure Review. Neither the former Director of Assessing nor the chair of the Board of Assessors was contacted or interviewed as part of either project despite reaching out to Collins Center staff.

The BoA does not believe that its business is correctly considered in the final reports.

The BoA discussed the following concerns:

- Potential conflicts of interest, particularly if under Section 6B, the town manager establishes a consolidated finance department.
- Use of the word “shall” throughout the document. For example, in Section 1(c) “such officers shall be available at reasonable times to the Select Board....” and elsewhere.
- Changes in the ability to hire, terminate and review the Director of Assessing.

The BoA was supportive of professionalizing the management of the Town.

BoA member Steve Glovsky provided CCK with a hard copy of his personal comments on the Special Act.

Cherry Karlson, notes from August 13 meeting with BoA



WAYLAND BOARD OF PUBLIC WORKS
TOWN OF WAYLAND

41 COCHITUATE ROAD, Wayland, Massachusetts 01778-2697

3.) 2. Background Materials
II. Board and Committee
Feedback
e. Board of Public Works
i. Memo: Draft
Financial Management
Structure Review

To: Wayland Select Board

May 22, 2018

Subject: Draft Financial Management Structure Review – October 2017

#1 The Board of Public Works asks the Select Board to direct their consultants so that the final version of the Collins report on Wayland's financial management structure remove arguments for and suggestions to eliminate the Board of Public Works.

The comments in the draft seem out of place for a report focused on financial management. They seem to us to be both provocative and unnecessary. They cite no specific issues but opine that, "it [a BoPW] has the potential to cause problems."

No one from the Collins Center offered to speak with any member of the Board of Public Works, nor gain our insights on the functions the Board of Public Works performs.

Our volunteer board was created by 2008 Town Meeting and required a Special Act of the legislature. We are elected and have had multiple contenders for seats. The BoPW/DPW has simplified town government structure and the DPW director reports to the Town Administrator. BoPW and DPW have good working relationships with all other boards and departments.

#2 We ask that the proposed process for boards to review their department budgets first through the Town Administrator then again with FinCom be re-considered.

- It would substitute a two-phase review process for the current one-phase process, increasing time commitment required.
- Budget review by the Finance Committee with finance experience and a multi-year perspective, in coordination with the Town Administrator, is desirable.

We suggest that the new budget review procedure be a unified, single-step process to review a department's capital and operational budgets, involving the Finance Committee, the Town Administrator and Finance Director, and each department's staff and its elected or appointed board.

Thank you for your consideration.

Best regards,

BOARD OF PUBLIC WORKS

Michael Lowery, Chair
copies: Nan Balmer, Town Administrator

3.) 2. Background Materials
II. Board and Committee
Feedback
e. Board of Public
Works
ii. email
re: BoPW
memo

Re: Letter from Board of Public Works to Select Board regarding Collins Draft Financial Management Structure Review - October 2017

Tom Abdella <tjabdella@gmail.com>

Tue 6/12/2018 3:49 PM

To: Anderson, Lea <landerson@wayland.ma.us>;

Cc: Balmer, Nan <nbalmer@wayland.ma.us>; Porter, David <dporter@wayland.ma.us>; Holder, Thomas <tholder@wayland.ma.us>; Cabral, Dan <DCabral@wayland.ma.us>; Lowery, Mike <lowery.mike@gmail.com>; Wegerbauer, Mike <mwegerbauer@yahoo.com>; Jon Mishara <jmishara@comcast.net>; Lewis, Cliff <cliffordlewis66@gmail.com>;

Dear Ms. Anderson,

I am writing in regard to the correspondence dated May 22, 2018 transmitted to you and the Wayland Select Board from the Board of Public Works. For the record, the letter reflected the opinion of only four members of the Board of Public Works. I was not present for the May 22 meeting; had I been I would have voted against sending the correspondence as written.

The Board of Public Works, as well as other Boards, Committees, and Departments, should welcome outside dispassionate review and comment on their operations and effectiveness. Informed and educated debate should take place on how town government should best work. It is a disservice to the community at large to attempt to limit constructive observations and recommendations which have the potential to stimulate change, and possibly lead to increased departmental productivity and cost efficiencies.

Respectfully submitted,
Tom Abdella
Member, Board of Public Works (but writing as an individual)

On Wed, May 23, 2018 at 6:45 AM, Mike Lowery <lowery.mike@gmail.com> wrote:
[BoPW members - no email discussion please]

Lea,

Please find attached a letter from the Board of Public works with comments on the draft Collins report posted on the Select Boards web pages. This letter was authorized by a vote of the BoPW on 5/22/2018.

Mike Lowery, chair
Board of Public Works

120 Lakeshore Drive

Cochituate, MA 01778
508-397-8828

**BOARD OF SELECTMEN
Tuesday, April 16, 2019
7:00 p.m.
Wayland Town Building
Council on Aging
41 Cochituate Road
Wayland, MA**

CONSENT CALENDAR

1. Vote the question of approving and signing the weekly payroll and expense warrants