



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

JOHN BUGBEE
ACTING TOWN MANAGER
TEL. (508) 358-3620
www.wayland.ma.us

SELECT BOARD

THOMAS J. FAY
ADAM G. GUTBEZAHL
CHERRY C. KARLSON
CAROL B. MARTIN
DAVID V. WATKINS

REPORT OF THE FINANCE COMMITTEE APPOINTMENT STUDY GROUP SUB-COMMITTEE

To: Select Board
From: Finance Committee Appointment Study Group Sub-Committee
Date: January 9, 2023

Fellow Members of the Select Board:

Please accept this document as the report of the Finance Committee Appointment Study Group Sub-Committee (hereinafter, the “Sub-Committee”). This report provides relevant background information concerning the appointment of Wayland Finance Committee members and the formation of the Sub-Committee. This report also offers an overview of the various appointment mechanisms utilized in the Commonwealth of Massachusetts and more specific information the Sub-Committee obtained from the Town Moderators of Bedford, Brookline, Ipswich, Marblehead, and Wenham. The Sub-Committee welcomes your questions, comments, and suggestions regarding this report and the next steps concerning the Select Board’s report for the forthcoming 2023 Annual Town Meeting (“ATM”) Warrant.

I. BACKGROUND

A. The Current Wayland Finance Committee Appointment Process

The Wayland Finance Committee is presently a seven-person committee with members serving staggered three-year terms. The Select Board currently serves the appointing authority to appoint individuals to the Wayland Finance Committee, including reappointment of persons wishing to serve another term and the filling of any vacancy that may occur. Section 19-1 of the Town Code provides the basis for this appointment process:

There shall be a committee called the “Finance Committee” appointed by the Select Board as hereinafter provided. Such committee shall consist of seven registered voters who shall serve without pay and none of whom during this or her service on such Committee shall hold elective or appointive Town office having to do with the appropriation or expenditure of Town money. Members shall serve terms of three years, such that the terms of two or three members shall expire each year. Appointment to fill unexpired terms shall be made by the Select Board as vacancies occur.

The Sub-Committee could not discern the origin of this appointment process. According to Wayland Town Moderator Dennis Berry, the language contained in Section 19-1 was originally adopted in 1935. See E-mail from Dennis Berry to Thomas Fay, et al., Nov. 14, 2022, attached hereto as **Exhibit A**. According to resident George Harris, the words “Finance Committee” first appeared in the Wayland Official Reports in 1884, and appointment of members to the Finance Committee by the Select Board began in 1910. See E-mail from George Harris to Select Board Members, Jan. 9, 2023, attached hereto as **Exhibit B**.

The Select Board¹ previously retained the Edward J. Collins, Jr. Center for Public Management at the University of Massachusetts (hereinafter the “Collins Center”) to conduct a review of Wayland’s financial management structure and processes. In February 2018, the Collins Center published a report titled “Financial Management Structure Review: Town of Wayland, Massachusetts” (hereinafter the “Collins Center Report”).² The Collins Center noted that “Wayland is in a minority of towns where the Finance Committee is solely appointed by the Board of Selectmen,” and that this appointment structure results in “a bit of blurring in the branches of government in Wayland’s current budget process.” Collins Center Report, at 24. The Collins Center stated that a plurality of towns in Massachusetts “have the Finance Committee appointed by the Moderator,” and that a “small number” of towns “also have elected finance committees or hybrid committees with different members elected or appointed by different appointing authorities.” Id. The Collins Center stated further that “the Finance Committee is often viewed as being a legislative check on the executive branch.” Id. Within the “Findings and Recommendations” section of the Collins Center Report, the Collins Center recommended Wayland “[c]ontemplate whether the appointing authority of the Finance Committee should remain solely the Board of Selectmen, or whether it should be moved or made into a hybrid appointing authority.” Id. at 8.

B. Recent Proposals to Modify the Appointment Process

A petitioners’ article was included in the 2021 ATM Warrant proposing to modify the appointment process for the Wayland Finance Committee. Article 23, titled “Appointment of Finance Committee,”³ sought to amend Town Code § 19-1 to change the appointment authority from the Select Board to a new “Finance Committee Appointing Board” or “FCAB.” The FCAB would consist of two members: (1) the Town Moderator and the Chair of the Select Board. Article 23 ultimately failed to obtain the necessary majority vote after 229 Town Meeting members voted in its favor but 255 voted in opposition.⁴

¹ In 2018, the Select Board was referred to as the Board of Selectmen; however, this name formally changed upon enactment of Chapter 33 of the Acts of 2022, “An act creating Select Board-Town Manager form of government in the Town of Wayland” on or about March 16, 2022. For the sake of consistency, this report uses the term “Select Board,” which is the current name of the Board.

² This report may be accessed online via <https://www.mass.gov/doc/wayland-financial-management-structure/download>.

³ Article 23 of the 2021 ATM Warrant may be found on page 81 of the Warrant, which may be accessed online via https://www.wayland.ma.us/sites/g/files/vyhlf9231/f/pages/atm_warrant_2021_final_for_web.pdf.

⁴ Discussion of Article 23 at the 2021 ATM may be found on pages 20 through 22 of the Town of Wayland Minutes for 2021 ATM, which may be accessed online via <https://ecode360.com/WA1635/document/648328590.pdf>.

The following year, Town Moderator Dennis Berry proposed an article that was included in the 2022 ATM Warrant. Article 20, titled “Appointment of Finance Committee,”⁵ once again sought to amend Town Code § 19-1 to change the appointment authority from the Select Board to a newly formed FCAB; however, Article 20 contained two differences from Article 23 at the 2021 ATM. First, Article 20 stated the Chair of the Select Board would “serve in a personal capacity.” Second, Article 20 stated that the amendment to § 19-1 would not take effect until after “the next election of a Moderator.” During deliberation of Article 20, a motion was made, pursuant to Section IV(C)(7)(b) of the Moderator’s Rules and Regulations Governing Wayland’s Town Meetings, to refer the article to the Select Board for a further study by the Select Board with a written report to Town Meeting by ATM 2023. The motion passed with 144 Town Meeting members voting in favor and 100 members voting in opposition.⁶

C. Establishment & Work of the Sub-Committee

On August 8, 2022, the Select Board voted to establish the Sub-Committee and appoint Tom Fay and Adam Gutbezahl to serve on the Sub-Committee. The Select Board approved the following charge for the Sub-Committee:

The purpose of the Finance Committee Appointment Study Group Sub-Committee (the “Sub-Committee”) is to advise the Wayland Select Board with a recommendation for the process of appointing members of the Finance Committee.

Article 20 at the 2022 Annual Town Meeting, “Appointment of Finance Committee,” proposed a modification to the current process for appointing members to the Finance Committee. Pursuant to Section IV(C)(7)(b) of the Moderator’s Rules and Regulations Governing Wayland’s Town Meetings, Article 20 was referred to the Select Board for further study with a written report to Town Meeting by Annual Town Meeting 2023.

The Sub-Committee will report to the Select Board in order to inform the Select Board’s process of preparing and submitting a report for the 2023 Annual Town Meeting Warrant. The Sub-Committee’s report is due to the Select Board by January 31, 2023. The term end date for members of the Sub-Committee is March 1, 2023, unless extended by a Select Board.

The Sub-Committee held four meetings on September 6, September 28, October 26, and November 15, 2022. Over the course of three of these meetings, the Sub-Committee spoke with five former and current Town Moderators about their respective communities’ appointment processes and their opinions about alternative appointment methods. During the meeting held on October 26, 2022, the Sub-Committee also hosted a spirited discussion between two long-time Wayland residents – George Harris and Bill Steinberg – concerning past and future proposals to modify Wayland’s appointment mechanism.

⁵ Article 20 of the 2022 ATM Warrant may be found on page 75 of the Warrant, which may be accessed online via https://www.wayland.ma.us/sites/g/files/vyhlf9231/f/uploads/2022_annual_town_meeting_warrant_with_cover.pdf.

⁶ Discussion of Article 20 at the 2022 ATM may be found on pages 34 through 37 of the Town of Wayland Minutes for 2022 ATM, which may be accessed online via <https://ecode360.com/WA1635/document/696132035.pdf>.

This report serves as an overview of the work conducted by the Sub-Committee. In the opinion of the Sub-Committee, it was not appropriate for it to provide the Select Board with a recommendation as to whether the current appointment process should be modified and, if so, in what manner it should change. Rather, the Sub-Committee wishes to provide the Select Board with an objective analysis of the information it obtained in order to allow the Select Board (not the Sub-Committee) to make the ultimate decision as to whether it wishes to report any recommendation to the 2023 Annual Town Meeting to amend Section 19-1 of the Town Code. The Sub-Committee hopes the following information will assist the Select Board in that forthcoming discussion and decision.

II. FINANCE COMMITTEE APPOINTMENT MECHANISMS

A. Overview of Various Appointment Mechanisms

Wayland Town Moderator Dennis Berry provided the Sub-Committee with the results of a survey conducted by the Massachusetts Moderators Association concerning the structure and appointment mechanisms for Finance Committees throughout the Commonwealth. The relevant portion of these survey results are attached hereto as **Exhibit C**. The survey listed information for 307 (or 87.5%) of the 351 municipalities in Massachusetts. Of these 307 municipalities, the survey provided information for a total of 149 towns and cities (or 42.5% of all municipalities in Massachusetts).

The survey results demonstrated varying selection processes are used throughout the Commonwealth; however, the majority of municipalities (87 in total) appoint the Finance Committee members by and through their Town Moderator. Seventeen communities, including Wayland, appoint members to their Finance Committee through the Select Board. At least three communities have both the Town Moderator and Select Board appoint a set number of Finance Committee members.⁷ A number of communities use a separate board of committee to appoint Finance Committee members, and these boards/committees typically include the Town Moderator, a member of the Select Board, and a third individual (often from the municipalities' Finance Committee). A handful of communities both elect and appoint members to the Finance Committee.

Wayland Town Moderator Dennis Berry also provided the Sub-Committee with information concerning the appointment process used by the Town of Rutland – a municipality for whom information was not supplied in the survey. In Rutland, the Moderator appoints members to the Finance Committee; however, these appointments are subject to ratification by the Select Board. *See E-mail from Dennis Berry to Thomas Fay, et al., Nov. 20, 2022, attached hereto as **Exhibit D**.*

The Sub-Committee notes that, to its knowledge, no municipality in the Commonwealth of Massachusetts utilizes the appointment mechanism proposed at the 2021 and 2022 ATM (i.e., a two-member committee consisting of the Moderator and Chair of the Select Board). The following tables provide an overview of the various appointment structures identified in the survey results:

⁷ For example, in Lynnfield, the Moderator appoints six members and the Select Board appoints five members. As another example, in Manchester-by-the-Sea, the Moderator appoints three members and the Select Board appoints four members.

Open Town Meeting Selection Processes

Appointed or Elected	Appointing Authority	Total Municipalities
Appointed	Moderator	73
	Select Board	17
	Moderator, Select Board Chair, and Finance Committee Chair	9
	Set number by Moderator and set number by Select Board	3
	Set number each by Moderator, Select Board, and Finance Committee	2
	Moderator, Select Board Member, and Finance Committee Member	2
	Moderator, Select Board Chair, and Past Finance Committee Chair	1
	Moderator, Finance Committee Chair, and Finance Director	1
	Moderator, Select Board Chair, and Town Clerk	1
	Select Board, School Department, and Assessors	1
	Moderator, Select Board Chair, and Trust Fund Commission Chair	1
Appointed / Elected	One-third appointed by Moderator, one-third appointed by Select Board, and one-third elected	2
	Four members appointed by Moderator and three members elected	1
	Moderator appoints Nominating Committee and members then elected	1
Elected	N/A	17

Representative Town Meeting Selection Processes

Appointed or Elected	Appointing Authority	Total Municipalities
Appointed	Moderator	15
Appointed / Elected	Nine members appointed by Moderator and eight members elected	1
Elected	N/A	2

B. Town Moderators' Perspectives on Appointment Mechanisms

In order to obtain more specific information about these various appointment mechanisms, the Sub-Committee spoke with five current and former Moderators. Each Moderator with whom the Sub-Committee communicated came from municipalities using different appointment procedures. These different methods included: (1) appointment solely by the Moderator (i.e., Brookline); (2) appointment solely by the Select Board (i.e., Marblehead); (3) appointment by a

committee consisting of the Moderator, Select Board Chair, and Finance Committee Chair (i.e., Bedford and Wenham); and (4) trifurcated selection with appointment of some members by the Moderator and some members by the Select Board, as well as election of other members (i.e., Ipswich). The following provides an overview of the information obtained from the Sub-Committee through these discussions.

1. Bedford (i.e., Appointing Committee)

On November 15, 2022, the Sub-Committee met with Mark Siegenthaler, the Town Moderator for the Town of Bedford. Mr. Siegenthaler was elected as Interim Town Moderator in the Fall of 2021 and was elected as Moderator in March 2022. The Moderator in Bedford serves a three-year term. Prior to serving as Moderator, Mr. Siegenthaler served on the Planning Board for eight years and as a member of the Board of Selectmen for 21 years. Mr. Siegenthaler has lived in Bedford for 40 years and does not recall Bedford having a contested election for Moderator while living there. Mr. Siegenthaler stated Bedford has a population of about 14,000, has an Open Town Meeting form a government, and that its Finance Committee has nine members.

Bedford appoints members to its Finance Committee through the Finance Committee Appointing Authority (the “FCAA”). The Chair of the Board of Selectmen, the Chair of the Finance Committee, and the Moderator all serve on the FCAA.⁸ The FCAA requires a unanimous vote in order for a person to be appointed to the Finance Committee. Mr. Siegenthaler stated this was a “unique structure,” and stated further, “I’m not sure I would recommend it.” Mr. Siegenthaler told the Sub-Committee about the FCAA’s experience in the Summer of 2022 and the attempt to fill two vacancies on the Bedford Finance Committee. The FCAA interviewed six or seven applicants; however, the FCAA failed to successfully appoint anyone for a significant period of time because the FCAA could not unanimously agree on any of the applicants. Mr. Siegenthaler also noted that the Chair of the Finance Committee serves in that position until he or she is replaced. According to Mr. Siegenthaler, this poses a potential issue because the Chair of the Finance Committee, as a member of the FCAA, ultimately participates in the decision as to whether or not he or she should be replaced.

Mr. Siegenthaler told the Sub-Committee that Bedford, as a community, has not considered a change to the appointment procedure. According to Mr. Siegenthaler, residents in Bedford do not seem to be concerned with the present structure. He believed, however, that there would be pushback to the suggestion that the Moderator become the only person to appoint individuals to the Finance Committee. He thought that the only change the FCAA may consider would be changing the quantum of vote to a majority vote (instead of unanimous) to appoint a person to the Finance Committee.

Mr. Siegenthaler believed that having the Chair of the Finance Committee on the appointing authority “does allow someone to ask questions about a person’s experience and their interest in light of how the Finance Committee operates and what the current Chair things is a value additive.” The oddity with the FCAA, however, is that the Chair simultaneously serves on the FCAA and potentially requests that same board to reappoint him or her to another term. Mr. Siegenthaler suggested some mechanism be implemented to prevent this potential conflict. Mr. Siegenthaler also noted that an argument could be made that the School Committee should

⁸ According to Mr. Siegenthaler, Bedford’s Charter and Bylaws prohibit an Interim Moderator from participating in the FCAA appointment process.

participate in the appointment process in some way, and that perhaps this could be accomplished by having the Chair of the School Committee consult the Finance Committee as part of the appointment process.

2. Brookline (i.e., Appointed Solely by Moderator)

On September 28, 2022, the Sub-Committee met with Sandy Gadsby, the former Town Moderator for Brookline. Mr. Gadsby served as Brookline’s Moderator for 27 years until he decided not to run for reelection in 2021. Mr. Gadsby won the seat in a contested election when he initially ran for Moderator and then went unopposed for the remainder of his tenure. Mr. Gadsby also served as a member of Brookline’s Finance Committee for 12 years. The Brookline Finance Committee consists of a minimum of 20 and a maximum of 30 members. Brookline has a population of more than 50,000 and utilizes a Representative Town Meeting form of government.

The Moderator appoints members to the Brookline Finance Committee. Mr. Gadsby stated that the “tradition” in Brookline is to appoint new members to a one-year term and to reappoint members to either two- or three-year terms. The duration of the reappointment is done for the purpose of ensuring that one-third of committee members have their terms expire at the same time so that the composition of the committee serves staggered terms.

Since the appointment by just one person meant the selection process was not subject to the Open Meeting Law, the Sub-Committee asked Mr. Gadsby how Brookline handled concerns about transparency. Mr. Gadsby stated, “I thought it was my providence and if they didn’t like it they could change the appointment process.” Mr. Gadsby stated further that he came into increasing criticism to disclose his selection criteria and answer to Town Meeting members about the appointment process. In response, Mr. Gadsby created an advisory committee to assist in the process; however, this “sort of prompted my saying goodbye to” serving as Moderator. Mr. Gadsby told the Sub-Committee that there have been movements in Brookline to change the composition of the Finance Committee, but never the appointment method.

The Sub-Committee asked Mr. Gadsby for his opinion on a potential two-person appointing authority comprised of the Moderator and the Chair of the Select Board. Mr. Gadsby said he would oppose any involvement by the Select Board in the appointment process and could only endorse a process through which the Moderator has sole appointment authority. Mr. Gadsby stated that the Finance Committee’s principal role is to advise Town Meeting. In Mr. Gadsby’s opinion, Select Board participation in the appointment process was anathema and contrary to proper divisions of government. Mr. Gadsby said further that he thought it was “a terrible idea” to have Town Meeting elect members to the Finance Committee.

3. Ipswich (i.e., Appointed and Elected)

On September 28, 2022, the Sub-Committee met with Thomas Murphy, the Town Moderator for Ipswich. The Ipswich Finance Committee consists of nine members. Ipswich has approximately 15,000 residents and 11,000 registered voters. Ipswich utilizes an Open Town Meeting form of government.

Historically, the Moderator appointed members to the Ipswich Finance Committee; however, Ipswich revised its Charter in the 1960s to establish its current appointment procedure.

Presently, three members of the Finance Committee are appointed by the Moderator, three members are appointed by the Select Board, and three members are elected at ATM. The seats are staggered so that each appointing authority appoints or elects one person each year. Mr. Murphy stated that the first article of every ATM Warrant is to elect a person to the Finance Committee. Mr. Murphy said there was previously a Citizen's Petition to change this appointment process to having all nine members appointed by ATM. A motion ultimately was made to study the issue; however, the result was for Ipswich to take no action on the petition.

Mr. Murphy stated that he "always been troubled" by this appointment structure and that, in his opinion, the Finance Committee becomes a "self-appointing body" because the same people consistently end up being reappointed. Mr. Murphy opined that he believes the best appointment process is having the Moderator appoint all nine members. When asked to address the concerns raised about a lack of transparency with this method, Mr. Murphy stated, "I think that transparency these days is way overrated," and that if ATM does not like who he appoints to the Finance Committee, then ATM can elect another person as Moderator. Mr. Murphy analogized having the Select Board appointing individuals to the Finance Committee to "having the fox guard the chicken coop."

4. Marblehead (i.e., Appointed Solely by Select Board)

On October 26, 2022, the Sub-Committee met with Jack Attridge, the Town Moderator for the Town of Marblehead. Mr. Attridge was elected as Moderator in 2022 and was previously appointed to several municipal organizations. Mr. Attridge stated he has regularly attended Town Meeting in Marblehead for 40 years. Mr. Attridge stated that in his 40 years participating in municipal government, there were just two moderators serving Marblehead before he was elected, and he recalled two contested elections for the position during that time. The Marblehead Finance Committee has nine members, with members serving staggered three-year terms. Mr. Attridge stated that Marblehead has about 25,000 residents and 16,729 registered voters. Marblehead as an Open Town Meeting form of government.

The Marblehead Select Board appoints people to the Finance Committee on an annual basis as terms end. Mr. Attridge stated there have not been discussions in Marblehead about changing this process. He noted, however, that he was "very intrigued" with pursuing changes to the appointment methods. Mr. Attridge said he liked the idea of having the appointment authority being taken away from just one board in the executive branch (i.e., the Select Board). Mr. Attridge believed that a committee consisting of three members would be the best way to appoint individuals to the Finance Committee; however, he was not sure who those three individuals should be.

5. Wenham (i.e., Appointing Committee)

On October 26, 2022, the Sub-Committee met with Roger Smerage, the Town Moderator for the Town of Wenham. Mr. Smerage was elected as Moderator in 2021. Mr. Smerage also served on a committee studying the potential expansion of the Wenham Select Board from three to five members. Mr. Smerage stated he was aware of just one contested election for Moderator, which occurred to replace the outgoing Moderator who served for almost 40 years. The Wenham Finance Committee is a five-member committee. Members serve three-year terms, and a two-term limit is imposed for members. Mr. Smerage stated that Wenham has a population of a little over

5,000 with approximately 3,000 registered voters. Wenham has an Open Town Meeting form of government.

Wenham appoints members to its finance committee through the Finance Committee Appointing Committee (“the “FCAC”). The Chair of the Select Board, the Chair of the Finance Committee, and the Moderator all serve on the FCAC. A simple majority vote is needed for an individual to be appointed to the Finance Committee. Mr. Smerage stated the FCAC has engaged in robust discussion and debate about potential candidates. Mr. Smerage characterized the FCAC as “a very good process.” He described it as “deliberative” and “collegial,” and that this framework invites discussion and debate between the branches of government.

Mr. Smerage stated there have not been discussions in Wenham about changing the appointment method. Mr. Smerage noted that, historically, the Moderator possessed sole authority to appoint people to Finance Committees and acknowledged that the vast majority of communities in Massachusetts maintain that model. Mr. Smerage stated that he sees issues with having the Select Board solely responsible for appointment to the Finance Committee because the role of the Finance Committee is to advise the legislature (i.e., Town Meeting).

The Sub-Committee asked Mr. Smerage for his thoughts about a potential two-person appointing authority comprised of the Moderator and the Chair of the Select Board. Mr. Smerage opined that this proposal was “a recipe for disaster” and was “just inviting deadlock.” Mr. Smerage believed having a three-person appointing committee is appropriate, and that the Chair of the Finance Committee is the logical choice for the third seat.

III. CONCLUSION

The Sub-Committee recommends the Select Board consider submission of the report appended hereto as **Exhibit E** for the 2023 ATM Warrant. As part of finalizing the proposed report, the Sub-Committee further recommends the Select Board discuss the following topics:

- 1) Whether the Select Board should include in its report to Town Meeting a recommendation regarding the appointment process for Finance Committee members; and
- 2) If the Select Board’s report includes a recommendation, then whether the recommendation is to:
 - a) Maintain the current appointment process; or
 - b) Modify the current appointment process and, if so, in what manner.

The Sub-Committee wishes to thank Jack Attridge, Sandy Gadsby, Thomas Murphy, Mark Siegenthaler, and Roger Smerage for their willingness to meet with the Sub-Committee and their dedication to serving their respective communities. The Sub-Committee also thanks Town Moderator Dennis Berry for providing information to assist the Sub-Committee in completing its charge, as well as to Wayland residents George Harris and Bill Steinberg for their spirited discussions concerning the appointment process for the Wayland Finance Committee.