



TOWN OF WAYLAND

VOTE OF THE 2008 ANNUAL TOWN MEETING TO CREATE A DEPARTMENT OF PUBLIC WORKS

At the April 10, 2008 Annual Town Meeting of the Town of Wayland, it was voted to:

- 1.) authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts to enact a special act providing for the establishment of a Department of Public Works substantially the same as the special act set forth on pages 3-6;
- 2.) Amend the Code of the Town of Wayland effective July 1, 2009, by:
 - a.) adding thereto the following new Chapter:

“Chapter 151

Director of Public Works

§151-1. Appointment and Qualifications.

151.1.1 The Town Administrator, in consultation with the Board of Public Works, may appoint a Director of Public Works for a term of one to three years or the Director of Public Works may serve the Town at will and at the pleasure of the Town Administrator. The Director of Public Works shall receive such aggregate compensation and fringe benefits, not exceeding the amount appropriated, as the Town Administrator may determine in accordance with the Town’s Personnel By-Laws and Wage and Salary Classification Plan. The Town Administrator may, but is not required to, establish a written employment contract with the Director of Public Works to provide for the salary, fringe benefits, and other conditions of employment of the Director of Public Works in accordance with the Town’s Personnel By-Laws and Wage and Salary Classification Plan. The Director of Public Works position shall be a managerial and confidential employee as such is defined by Massachusetts General Laws Chapter 150E and relevant case law from the Massachusetts Labor Relations Commission.

151.1.2 The Director of Public Works shall hold no elective Town office, but may be appointed by the Town Administrator to any other compatible Town office or position. The Director of Public Works shall devote full-time to the responsibilities of the department, and shall engage in no other business or occupation without advance written authorization by the Town Administrator.

§151-2. Authority and Responsibilities.

151.2.1 The Director of Public Works shall be responsible for the day to day management and operations of the Department of Public Works and shall act by and for the Board of Public Works in carrying out its responsibilities and in the exercise of its authority and powers established by general and special law, by-law and vote of the Town. The Town Administrator will provide operational and administrative (including, but not limited to budget and financial management, procurement, employment relations, collective

bargaining, personnel administration, insurance and risk management matters) direction to the Director of Public Works.

151.2.2 Subject to ratification by the Town Administrator or his/her designee, the Director of Public Works shall have the power and authority to appoint, on the basis of merit and fitness alone, and, discipline, suspend, demote, transfer or terminate supervisory or managerial personnel in the Department of Public Works. The Director of Public Works shall also have the authority to hire, promote, discipline, suspend, demote, transfer or terminate all other personnel in the Department of Public Works. All personnel actions taken by the Director of Public Works shall be taken in accordance with all applicable laws, provisions of any collective bargaining agreements, personnel by-laws and personnel practices and policies.

151.2.3 The Director of Public Works shall:

- (a) manage and supervise all operations, affairs and personnel of the Department of Public Works;
- (b) implement the goals and objectives established by the Town Administrator which shall be consistent with the policies of the Board of Public Works;
- (c) act as the liaison with and represent the Department of Public Works before state, federal and regional authorities;
- (d) serve as the Department of Public Works' public information officer in responding to suggestions, complaints and criticisms;
- (e) annually prepare and submit to the Board of Public Works for its review, and to the Town Administrator for his/her subsequent recommendation to the Finance Committee, a departmental budget showing proposed expenditures and revenues for the ensuing fiscal year;
and
- (f) perform such other duties as may be required by the Town Administrator, by-law, state law or federal law, rules and regulations and the Director of Public Works' job description.

§151-3. Removal of the Director of Public Works.

Section 151.3.1 Termination of employment of any director of public works shall be effected by order of the Town Administrator.

§151-4. Acting Director of Public Works.

Section 151.4.1 The Town Administrator may designate a qualified person to serve as the Acting or Interim Director of Public Works and to perform the duties of the of the Director of Public Works during the period of any vacancy caused by the Director of Public Works' absence, illness, suspension, termination or resignation.”;

- b.) by replacing “Board of Health” wherever said words appear in Chapter 153 thereof with the words “Board of Public Works”;

-
- c.) by replacing “Superintendent of Streets” in §158-1 thereof with the words “Board of Public Works”;
 - d.) by replacing “Wayland Highway Department” in §158-6, §158-8 and §158-9 thereof with the words “Board of Public Works”;
 - e.) by replacing “Board of Road Commissioners” wherever said words appear in §158-13 thereof with the words “Board of Public Works”;
 - f.) by replacing “Water Commissioners” and “Board of Water Commissioners” wherever said words appear in Chapter 190 and Chapter 191 thereof with the words “Board of Public Works”; and
 - g.) by adding to Chapter 43 thereof, PERSONNEL and the Personnel Wage and Salary Classification Plan previously adopted by the Town (Appendix E), Non-Union Wage Scale, N Schedule, position titles and salary grades for the Director of Public Works; and
- 3.) amend and modify its vote under Article 10 of the Warrant for the 1996 Annual Town Meeting by transferring the care, custody, management and control of the parcel of land containing 5.9 acres, more or less, and comprising a portion of the so-called Old Landfill located on the southerly side of Boston Post Road and described in an order of taking dated March 30, 1970 and recorded with the Middlesex South Registry of Deeds in Book 11816, Page 625 and the parcels of land located off the northerly side of Boston Post Road, containing, in the aggregate, 37.54 acres, more or less, and comprising the so-called Sandhill Landfill and described in an order of taking dated June 5, 1967 and recorded with said Registry of Deeds in Book 11351, Page 146 and an order of taking dated March 8, 1971 and recorded with said Registry of Deeds in Book 11977, Page 704, and all landfill-related employees, equipment, vehicles, structures, material, supplies budgetary funds, other funds and accounts from the Board of Health to the Department of Public Works effective July 1, 2009;

Chapter 347 of the Acts of 2008

AN ACT AUTHORIZING THE TOWN OF WAYLAND TO ESTABLISH A DEPARTMENT OF PUBLIC WORKS.

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

SECTION 1. There is hereby established in the town of Wayland a Department of Public Works, in this act called the department, which shall be under the supervision, direction and control of the Town Administrator.

SECTION 2. (a) There shall be a Board of Public Works consisting of five members, in this act called the board. From the effective date of this act until not earlier than the conclusion of the 2010 annual town election, the members of the board shall be designated as follows: (i) one member who shall be appointed by the Board of Road Commissioners ; (ii) one member who shall be appointed by the Board of Water Commissioners ; (iii) one member who shall be appointed by the Park and Recreation

Commission; (iv) one member who shall be appointed by the Board of Health; and (v) one member who shall be appointed by the Board of Selectmen. In making their appointments to the board, the Board of Road Commissioners, the Board of Water Commissioners, the Park and Recreation Commission and the Board of Health shall consider their respective current and former members. When the board so appointed first enters upon the performance of its duties it shall file written notice thereof with the Town Clerk and the Board of Road Commissioners and the Board of Water Commissioners shall thereupon be abolished and the Park and Recreation Commission shall thereafter be known as the Recreation Commission. Vacancies occurring in the board after its initial appointment and before the conclusion of the 2010 annual town election shall be filled by roll call vote of the Board of Selectmen and the remaining members of the board acting jointly. Commencing with the 2010 annual town election, the manner of selection of the members of the board shall be by election at the annual town election. The initial members thereof shall be elected, one to serve for one year, two to serve for two years, and two to serve for three years, and thereafter when the term of any member expires, such member's successor shall be elected for a term of three years. In all cases, each member shall serve until his successor is appointed or elected, as the case may be, and qualified. Vacancies in the elected board shall be filled in accordance with Section 11 of Chapter 41 of the general laws. All members of the board shall be registered voters of the town.

(b) The board shall have the powers and duties of the following boards, commissions, committees and officers now or from time to time vested by general or special law or by town by-law in the following boards, commissions and officers, except as provided in this act:

- 1) road commissioners and Board of Road Commissioners;
- 2) surveyors of highways;
- 3) superintendent of streets;
- 4) water commissioners and Board of Water Commissioners;
- 5) park commissioners, except conducting recreation activities or programs;
- 6) cemetery commissioners;
- 7) tree warden; and
- 8) any other public works related powers and duties that may be from time to time vested in the board by general or special law, town by-law or town meeting vote.

(c) The town's sanitary landfill and any other solid waste disposal facilities or services that may be provided, made available or arranged by the town shall be under the supervision and control of the board.

(d) In addition, the board shall be responsible for the custody, care, management, control, operation, repair and maintenance of all town-owned land, equipment, facilities, vehicles and other personal property and accounts, budgetary funds, other funds and staff formerly under the jurisdiction of the Board of Road Commissioners, the Board of Water Commissioners, and the Park and Recreation Commission and used by said commissions for public works or park purposes. In consultation with the Recreation Commission, the board shall annually establish a plan for the periodic maintenance, repair

and improvement of all town-owned land on which programs, events and activities are conducted or coordinated by the Recreation Department. The board shall be responsible for carrying out the plan.

(e) The board shall have the authority to adopt and amend rules and regulations relative to all matters and affairs under its jurisdiction. Prior to adopting or amending such rules and regulations, the board shall hold a public hearing thereon, notice of which, giving the time, date and place, shall be placed in a newspaper of general circulation in the town, once in each of two successive weeks, with the first such publication being not less than fourteen (14) days before the hearing. Any such rules and regulations so adopted or amended shall be filed in the office of the town clerk whereupon they shall take effect. After any such rules and regulations are so filed, they may be published and included in the Code of the Town of Wayland or in separate pamphlets and shall be posted on the Town's official website or on the official website of the board and a copy shall be filed in the Town Library.

SECTION 3. The Town Administrator, in consultation with the board, shall appoint, fix the tenure, compensation and fringe benefits of, and may enter into an employment agreement with a Director of Public Works, subject to appropriation and the provisions of the town's by-laws and personnel by-laws and wage and salary classification plan. The director shall exercise and perform, under the operational and administrative direction of the Town Administrator and the policy direction of the board, the powers, rights and duties which have been transferred to the department hereunder and as set forth in the town's by-laws. The Director need not be a resident of the town during tenure of office. No member of the board shall be eligible for appointment as Director of Public Works. The director shall be a managerial and confidential employee as such is defined by Massachusetts General Laws Chapter 150E and relevant case law from the Massachusetts Labor Relations Commission.

SECTION 4. No existing contract, agreement or liability shall be affected by the abolition or modification of any board, commission or office effectuated by this act, but the board shall in all respects be the lawful successor of the boards, commissions and offices so abolished or modified.

SECTION 5. Each regular full time or part time employee of any board, commission or office abolished or modified by this act shall be transferred to and become an employee of the department. No such employee shall forfeit rate of compensation, grade, step, or time of service solely on account of the establishment of the department. All collective bargaining agreements or employment contracts in force on the effective date of this act shall not be affected by this act. Nothing in this section shall be construed as limiting the town's rights including but not limited to the right to determine the level of services, to reorganize, to create and abolish positions, to combine positions, reclassify positions, modify the organizational structure of the Department of Public Works, or to negotiate and agree to amendments, modifications or revisions to any collective bargaining agreement or employment contract or to or amend or modify any by-law of the town in accordance with law.

SECTION 6. Chapter 130 of the Acts of 1962 is hereby repealed.

SECTION 7. Chapter 254 of the Acts of 1966 is hereby repealed.

SECTION 8. Establishment of Recreation Commission; Recreation Director.

- (a) Upon the filing of written notice in accordance with Paragraph (a) of Section 2 of this act, the town's Park and Recreation Commission shall be thereafter known as the Recreation Commission. The Recreation Commission shall consist of five members elected for terms of three years. The terms of the members of the Recreation Commission shall be staggered as the

terms of the Park and Recreation Commission are so staggered. The members of the Park and Recreation Commission in office immediately prior to the effective date of this act shall continue in office as members of the Recreation Commission provided for in this section.

- (b) The Recreation Commission shall have the power and authority to conduct recreation programs and activities on land or in facilities or buildings owned, leased or held by the town for park, playground or recreation purposes, and, with the approval of the school committee, for school purposes.
- (c) In addition, the Recreation Commission shall be responsible for the custody, management, control and operation of all accounts, budgetary funds, other funds and staff formerly under the jurisdiction of the Park and Recreation Commission and held or employed for playground or recreation purposes.
- (d) The Town Administrator, in consultation with the Recreation Commission, shall also have the power and authority to appoint, fix the tenure, compensation and fringe benefits of, and may enter into an employment agreement with a Recreation Director, subject to appropriation and the provisions of the town's by-laws and personnel by-laws and wage and salary classification plan. The Recreation Director shall exercise and perform, under the supervision and direction of the board and the administrative direction of the Town Administrator, the powers, rights and duties of the commission set forth in this section and the town's by-laws. The Recreation Director need not be a resident of the town during tenure of office. No member of the board shall be eligible for appointment as the Recreation Director. The Recreation Director shall be a managerial and confidential employee as such is defined by Massachusetts General Laws Chapter 150E and relevant case law from the Massachusetts Labor Relations Commission.

SECTION 9. This act shall take effect on July 1, 2009.