



# Interim Report of the Wayland Town Meeting Procedures Committee To the Board of Selectmen

April 26, 2010

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This Interim Report of the Wayland Town Meeting Procedures Committee (the Committee) is presented to the Wayland Board of Selectmen (the Board) in accordance with the Board's charge to the Committee.<sup>1</sup> The Committee will likewise report to the Annual Town Meeting commencing on Thursday May 13, and thereafter will continue to meet, and will present a final report to the Board in June.

It is the intention of this Interim Report to provide the Board with a brief review of the initial establishment of the Committee, its activities to date in fulfillment of its Charge, and the recommendations of the Committee on three petitioners' Articles that have been placed in the Warrant.

## 1. Organization

The Committee was established by resolution of the Board on January 11, 2010, at the suggestion of and with the concurrence of the Moderator, to review and evaluate a number of suggestions for changes that would improve the efficiency and effectiveness of Town Meeting and to make it more user-friendly. The initial focus of the Committee has been to consider and provide recommendations to the Board on three petitioners' Articles, dealing with Town Meeting procedures that have been included in the Warrant as Articles 21, 22, and 23 for the Annual Town Meeting.

The Committee held its first meeting on Thursday, February 25 and has met weekly since then. Prior to the initial meeting, a large body of material from numerous sources was assembled and distributed to all members. This allowed the Committee to begin its consideration with a significant background of material not only dealing with the individual Articles, but with Town Meeting in general from the perspective of sources outside of Wayland that have looked at and discussed this unique New England tradition. Included in this material were Town Meeting reviews undertaken by several other communities, which have dealt with many of the same concerns.

## 2. Activities

Public hearings were held on March 11 & 25, and April 8, to consider and receive input on the proposed Articles. Each public hearing focused on a particular Article.

Regular meetings, held in open session every Thursday, have discussed the information gathered at the hearings as well as material received from other sources, including personal contacts of Committee members, review of town records of past Town Meeting votes, and information from other sources.

As a way to organize and direct its deliberations, the Committee developed criteria that could be used to weigh each of the proposed Articles. Among the criteria are whether the Article will: (i) preserve current Town Meeting; (ii) make the current format more efficient; or (iii) change the format of Town Meeting to allow greater voter participation.

Included within the initial materials provided to the Committee was the detailed "Town Meeting Study Committee Report and Recommendations" dated November 15, 2005, as well as the Moderator's response to that report. The

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<sup>1</sup> For the purpose of this Interim Report, the Committee will not repeat the original charge or attach the originating documents, it will be assumed that the Board is aware of and has this documentation.

current Committee recognizes and appreciates the excellent work done by that Committee. The report of that Committee and the Moderator's response have provided initial material for the Committee's review of overall Town Meeting practices. That overall discussion is just beginning and will be more fully reported in the Committee's final report. Nevertheless, as an immediate outgrowth of those discussions, the Chair of the Committee, acting as Moderator, has initiated a Town Meeting Auxiliary Committee that will be established to provide ongoing review and suggestions that will make Town Meeting more efficient and accommodating.

### 3. The Articles

The Committee's principal actions to date have focused on review of the three Articles, generally described as follows:<sup>2</sup>

- A) **Article #21- Change the Format of Town Meeting:** An Article to authorize the Selectmen to petition the General Court to enact a special act to allow change in the format of Town Meeting so as to separate the deliberations of Town Meeting from the voting on certain important Articles, with the voting to be held by secret ballot at the polls; a practice commonly called the Australian ballot.
- B) **Article #22 - Electronic Voting at Town Meeting:** An Article seeking appropriation of a sum of money not to exceed \$150,000 for procurement of an electronic system to enable electronic voting at future Town Meetings beginning in 2011.
- C) **Article #23 – Create Town Meeting Website:** An Article to determine if the Town will accept a gift of the software to establish a web site that would allow posting of pro and con information for each Warrant article through which each registered voter of Wayland could vote to designate the best pro or con position with the results thereof posted on that site.

### 4. Committee Recommendations:

- A) Change in Format of Town Meeting

The proposed change in format would introduce a practice known as the Australian Ballot. Under this method of voting, significant articles, predetermined by the Selectmen and/or by registered voters in a manner not specified, would be assigned to an "Official Ballot" to be debated and possibly amended, but not voted on, at the Town Meeting. Those articles would instead be voted in a referendum election to be held some time after the Meeting.

Two of the more technical points in the Article that are important and need to be remembered in its overall consideration are: first, the Article requests that the Selectmen be authorized to petition the General Court for a special act that would authorize this practice, as it is not currently authorized under Mass. law; second, the Article contains a provision that on the 5<sup>th</sup> anniversary of its implementation, there would be an Article at Town Meeting asking the Town whether it would affirm, modify, or rescind that special act.

This method of voting is currently in effect in some towns in Vermont and New Hampshire. The Committee reviewed articles dealing with the implementation of this voting practice in these states, a fact sheet published by the Vermont Secretary of State, and an excerpt from a book entitled, *Real Democracy, the New England Town Meeting and How it Works*, published 2004 by the Univ. of Chicago Press. In addition, the Committee received a comment from a former Wayland resident now living in Vermont and active in town affairs there.

The Committee also reviewed a position paper by the Mass. Moderators Association that considered numerous points involved in the Australian Ballot and Town Meeting, and recommended strongly against the practice. That paper was written in 1997 and dealt with the Australian Ballot procedure in its general format, not the present Article.

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<sup>2</sup> These descriptions are those of the Committee and are not necessarily those of the petitioners.

It is the Petitioner's premise that the method of voting established by this Article would directly address and enhance the level of participation by voters on Warrant articles.

Statistics compiled by the Moderator show that over the last 25 years (1985 – 2009) there was an average attendance of 342 voters at the 100 nights of Annual Town Meeting. Special Town Meetings were more highly attended with an average attendance of just below 700 voters for 18 nights. Research by Committee members on the attendance at Annual and Special Town Meetings from 2000 – 2009 showed that ATM attendance incurred a low of 2% and a high of 10%, with an average of less than 5% of registered voters.

Special Town Meeting, not held every year, was better attended, showing a comparable low of 3% but a significant high of 27 %, of registered voters. For the same period, town elections showed a low of 16% and a high of 63% with an average of just over 36% of registered voters casting ballots. Historically a vote at the polls commands a higher rate of participation.

A concern related to the number of voters attending Town Meeting is the capacity of the current facility to accommodate a large attendance. Wayland has approximately 9,000 registered voters, but the High School Field House capacity is limited to 1,850 persons. Therefore, absent using an additional venue, the Meeting can at most allow participation by only 20% of the registered voters. However, this may not be a real concern as in the last 10 years only the 2006 Special Town Meeting, with an attendance of 2,313 voters exceeded the 20% threshold. In that case a second site within the High School, with full communication, was established.

This Article is intended to address and relieve concerns regarding participation in Town matters. With voting at the polls regularly approaching and often exceeding 40% of registered voters, decisions would not be limited to those willing or able to attend Town Meeting sessions. The Article would also maintain the existing format of Town Meeting. Debate would take place as always, but without final vote on designated significant articles. Votes cast at the polls would be more accurately counted and it would provide secret voting on these major issues.

The lead petitioner has summarized the five major points in favor of this Article as: a) it enables increased voter participation; b) it preserves the legislative aspects of Town Meeting; c) it allows more time to propose, debate and amend Articles since voting on significant Articles would occur at a later date; d) it would assure accuracy of voting; and e) it would be done at a minimal incremental cost.

At the same time there are a number of concerns, which the committee has considered in its discussions and deliberations. In the interests of brevity they are listed here in summary fashion: (i) should the choice of significant articles for the Official Ballot be left to the Selectmen, or voters in an as yet unspecified procedure; (ii) there is no established criteria for the designation of significant articles to be placed on the Official Ballot; (iii) if a budget was not passed, could the town operate; (iv) the Vermont and New Hampshire experience has shown a marked decline in attendance at the Town Meeting after the Australian Ballot has been adopted; (v) a diminished attendance at Town Meeting could open the door to a small group attending the Meeting to include amendments to Articles that might thwart an Article's initial purpose; (vi) diminished attendance would change the essence of Town Meeting, reducing its credibility and quality of debate; (vii) the proposal does nothing to address the current concerns about the quality of the Town Meeting experience; (viii) would the special act take a long time to be approved by the state legislature; and (ix) does this system sacrifice a level of "quality" of votes, i.e. those cast after a matter has been fully debated, to simply obtain more votes, but votes cast without the benefit of experiencing the Town Meeting deliberation. Finally, has the case truly been made that Town Meeting is so broken that it should be re-worked in this fashion.

While the Committee is not of one mind on this issue, discussions recognize the value of voting in any democracy, and the enhanced participation in terms of votes cast that this practice would allow. However, Town Meeting is an interactive and collaborative legislative body. It is feared that much of that would be lost if this procedure were adopted.

A motion to support the Article was defeated by a vote of 2 in favor and 5 opposed. The committee feels that wider discussion and reflection by the voters is necessary before such a radical change in long standing procedure should be implemented.

B) Electronic Voting:

Using electronic voting, attendees at a Town Meeting would vote using a keypad that would be read electronically into a database, with a vote count visible. If employed for all votes, it would replace voice, “show of hands,” or standing counted votes.<sup>3</sup> The advantages of such a system would include quicker and more accurate voting, as well as privacy for each voter. By shortening the time taken for voting and eliminating the need for standing counted votes, more time could be spent on what should be the focus of the Meeting, that is debate on the articles. At the same time, such a system could shorten the number of nights necessary for Town Meeting or allow for shorter meetings. The principal proponent of this Article has done substantial work to develop the proposal to this point and has responded to numerous questions regarding ease of use, accuracy of the vote, check-in and check-out procedures and non-returned keypads. Out of concern for absolute privacy of vote, the Committee recommends that if electronic voting should be employed, only the vote total be kept; all record of individual voting should be eliminated once the total is recorded.

The Committee believes that electronic voting could be of benefit to the Town. It would squarely address concerns expressed regarding the time taken up by standing votes and assure accuracy in votes now taken by other methods. Furthermore, since Town Meeting is now allowed to vote by secret ballot, the Committee believes that this procedure would be allowed under state law. This method of voting could encourage larger attendance at Town Meeting.

The expense of purchase (or rental) of the equipment, and its implementation is the chief concern. The currently quoted price for purchasing the system, including approximately 2000 key pads, is \$145,000, plus an annual \$11,600 maintenance fee beginning in the third year. This results in a five year cost to the town of \$179,800. At the request of the Committee the proponent has obtained one-year rental quotation for that same number of keypads of approximately \$20,000 for one two-night Meeting.

The Committee is also concerned that there would be other costs. These include the time of the Town Clerk, or other official(s), in setting up, testing and taking down the system, as well as its storage, maintenance and security, duties which might also fall to the Clerk. Furthermore, in its actual use at Town Meeting, the initial coding and distribution of the keypads might require significant additional time by the Checkers, which could delay the start of each session of Town Meeting. Such costs were not quantified and perhaps cannot be accurately determined, nevertheless, they do cause a concern. A learning curve and potential check-out procedures could also be annoying to some attendees.

The key time saved by such a system would be in tabulating standing counted votes. Using that as a benchmark, the Committee reviewed past Town Meetings and found that while standing counted votes do take a significant amount of time, the frequency of such votes has been low. There have been only 23 standing counted votes with tellers in the 22 sessions of Town Meeting held over the last five years (2005 – 2009). Also, while this proposal would address some of the concerns expressed about current Town Meeting practice, it would not address the issue of larger voter participation, unless the revised voting practice led to enhanced attendance at the Meeting.

In its final discussion on this Article, the Committee expressed a great deal of support for the concept of electronic voting. However concern was expressed regarding the cost of the system, the spending priorities of the town and the fact that this had not been considered in the town’s capital planning. Because it had information regarding a rental option, which would give the town the opportunity to try the system, the Committee considered both purchase of the system as originally intended by the Article and a \$20,000 one-time experiment.

On motion to support the article, the Committee voted 0 in favor and 6 opposed with 1 abstention. On motion to support approval of \$20,000 for a one meeting trial, the Committee voted 2 in favor and 4 opposed with 1 abstention.

#### C) Town Meeting Debate Web Site

This Article is significantly different than the previous two in that it proposes no change in the current operation of Town Meeting. Instead it proposes that the Town accept as a gift and take over the operation of an existing web site

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<sup>3</sup> Although the Committee discussed whether if implemented electronic voting should prevail for all or just standing counted votes, no decision was made on that question.

that allows pro and con discussion of Town Meeting Warrant articles. This site goes beyond a simple bulletin board and allows debate on the articles. In addition, through a method of votes cast by registered voters using the site, the best articulated positions would appear at the top of their respective pro or con column. The purpose of the rating system is to allow the best stated positions on either side of a question to emerge. The purpose of this rating procedure as developed by the proponent is to address the issue that the random nature of Town Meeting, including time limits and vote closures, may prevent the best arguments on either side of any article from being heard at the floor of the Meeting.

The purpose of this web site, as envisioned by the proponent, would be to improve the quality of debate at Town Meeting by giving everyone the opportunity to observe virtual debate prior to the actual Meeting. For those without computers at home, computers at the library could be used. Thus not only would registered voters have the opportunity to know more about particular articles through this debate, but the debate would allow fact checking as well as Q & A interchange to clarify any article or particular pro or con positions. A more clarified virtual debate with time for fact checking and popular rating of salient arguments would lead to a better quality of debate on Town Meeting floor.

Another key feature in the eyes of the proponent is that this entire electronic interchange could be maintained for future reference in a searchable/linkable archive.

In discussing this Article, the Committee was very concerned with the potential for liability of the Town based on comments placed on the site. The site would have to be moderated in order to keep debate civil in nature and prevent the site from being overrun with inappropriate comment. It is suggested that the rules that the Moderator currently enforces at Town Meeting could be the standard by which such arguments could be judged. How this moderating would be carried out became the subject of some debate. The proponent originally suggested an elected group of moderators, but the Committee felt that would be impractical.

The Committee found much to like about this system and in its final deliberations on the question, several members noted that the site was currently in place and privately operated by the lead petitioner. Town ownership of the site, however, was the key concern. Town ownership brings with it several questions including the above referenced liability, as well as the fact that there would be some cost for maintenance and software up-date. Another concern, however, focused on the need for some individual or some group to moderate the site. If a group, they would be subject to the Open Meeting Law; even an individual would be subject to the Public Records Law. A further and more general concern was expressed regarding the general nature of the government becoming involved in the operation of a site of this nature. Is this an appropriate role for the Town?

On motion to support the Article, the Committee voted 1 in favor and 6 opposed.

The Committee would like to thank and commend all who provided support and input so far. In particular, the Committee notes the work of Mark Greenlaw, Alan Reiss and Ira Sager, the principal proponents of the three noted Articles. While the Committee did not support these Articles, nevertheless, the efforts of these interested and involved citizens to make the Wayland Town meeting more effective, to enhance the experience of Town Meeting for voters and to improve the overall quality of Wayland Town Government, should be noted and commended.

## **5. Interim Concluding Remarks**

Having presented our preliminary report concerning Articles 21, 22 and 23 of the Warrant for the 2010 Annual Town Meeting, the Committee will continue to consider proposals to make Town Meeting more efficient, effective and user-friendly. It hopes to submit its final report to the Selectmen by June 30, 2010.

Meanwhile, the Moderator has invited voters, who wish to serve on a new Town Meeting Auxiliary Committee he has created to make town meeting more comfortable, pleasant, efficient and user-friendly, to submit their applications to him on or before May 3 in the hope that the new Committee may begin its deliberations on or about June 1, 2010.

After three months of research, deliberations and public hearings, the Committee has identified the following proposals, among others, that they consider worthy of further investigation:

1. The scheduling of town meetings on Sunday afternoons.
2. The provision of child care services, food and entertainment.
3. Improvement in the lighting, sound and audio/visual information systems, including better graphics, in the Warrant and at Town Meeting.
4. Adoption of a system of electronic voting.
5. Limiting further the time available to speakers at town meeting
  - a. Time available for the proponents and opponents.
  - b. Time available for other speakers.
6. A By-Law that would permit the creation of a workable consent calendar.
7. Modifying the By-Law governing motions for reconsideration.
8. Limiting the use of motions to terminate debate.
9. The scheduling of articles.
10. Abuse of the procedural mike.
11. The selection of tellers.
12. Time period for factual questions.
13. Ideas to implement proposals that may have found support.

There may be other issues that the Committee will consider, including a discussion of issues having to do with conflict of interest.

The Committee has scheduled a public hearing on May 20, 2010 to invite further proposals and discussions concerning the aforesaid topics as well as other ideas that may be submitted by the Selectmen and others at the public hearing, by e-mail or otherwise. Upon the conclusion of its deliberations, the Committee hopes to publish its final report on or before June 30, 2010.

C. Peter R. Gossels, Chairman

David Bernstein

Dennis Berry

Steve Correia

Miranda Jones

William Steinberg

Richard Stack