

**TOWN OF WAREHAM 1739 – 2020  
CHARTER REVIEW COMMITTEE  
FINAL REPORT 2020**

**CHARTER ORIGINALLY ADOPTED 1977**

**With changes as of 9/16/2020**

## **SUMMARY OF ARTICLES**

### **ARTICLE 1          Incorporation: Division of Powers: Powers of The Town**

This Article assures that the Town of Wareham will be allowed to exercise every power it is possible for a town to have, without being required to go to the state legislature to seek special legislation.

### **ARTICLE 2          Legislative Branch**

This Article asserts the Open Town Meeting as the legislative arm of the Town government. It describes the mechanics of calling and running a Town Meeting, and circulation of Town Meeting Warrants.

It further describes those committees whose primary purpose is to perform a legislative function: Finance Committee, Planning Board, Capital Planning Committee and describes the selection process for members.

### **ARTICLE 3          Elected Officers**

This Article lists those offices to be filled by elected individuals, and defines the function of each Board.

### **ARTICLE 4          Town Administrator**

This Article describes the appointment, qualifications, term of office as well as the powers and duties of the Town Administrator. It also describes the function of an Acting Town Administrator. The Article further outlines the removal or suspension of a Town Administrator.

### **ARTICLE 5          Fiscal Procedures**

This Article describes the Town's fiscal year, the budget submissions of the School Committee and the Town. It further describes the submission of the proposed budget, including the capital improvement program, and how information is disseminated to the public before the Town Meeting.

**ARTICLE 6           Administrative Organization**

This Article describes the method by which the Town may, through the Town Meeting, vote to modify the administrative structure, in order to provide services and programs in a more efficient or effective manner.

**ARTICLE 7           General Provisions**

This Article contains a number of technical provisions, and it also defines removals and suspension of personnel, as well as the recall of any elected official.

**ARTICLE 8           Transitional Provisions**

This Article provides for the continuation of all existing general laws, special laws, by-laws, rules and regulations pertaining to the Town during any time of transition.

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**ARTICLE 1  
INCORPORATION AND  
POWERS OF THE TOWN**

**Section 1 -1            Incorporation**

The inhabitants of the Town of Wareham, within the territorial limits established by law, shall continue to be a corporate and politic body under the same name “Town of Wareham.”

**Section 1-2            Short Title**

This document shall be known and may be cited as the Wareham Home Rule Charter. For the purposes of this document, it is referred to as “the Charter.”

**Section 1-3            Division of Powers**

The administration of all the fiscal, prudential and municipal affairs of the Town shall be vested in an executive branch headed by a Select Board. The legislative powers of the Town shall be exercised by an open Town Meeting.

**Section 1-4            Powers of the Town: Intent of the Voters**

It is the intent and the purpose of the voters of the Town of Wareham, through the adoption of this Charter and its amendments, to secure for the Town all of the powers possible to secure under the constitution and statutes of the Commonwealth of Massachusetts, as fully and as completely as though each such power were specifically and individually enumerated herein.

**Section 1-5            Interpretation of Powers**

The powers of the Town under the Charter shall be construed and interpreted liberally in favor of the Town, and the specific mention of any particular power is not intended to limit in any way the general powers of the Town as stated in section 1-4.

**Section 1-6            Intergovernmental Relations**

The Town may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

**ARTICLE 2  
LEGISLATIVE BRANCH**

**Section 2-1           Town Meeting**

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all voters.

**Section 2-2           Presiding Officer**

A Town Moderator, chosen as provided in Section 3-4, shall preside at all Town meetings, regulate the proceedings, decide all questions of order and make public declaration of all votes. In the event of the absence or the disability of the Town Moderator, the duties shall fall to the Deputy Town Moderator, and if that individual is unable to serve, thereafter to the Town Clerk. This individual shall call the meeting to order and shall preside until a temporary Town Moderator is chosen, as prescribed in MGL Ch. 39, sect. 14.

**Section 2-3           Time of Meeting**

The Town Meeting shall meet at least twice in each calendar year. The first such meeting, which shall be construed to be the Annual Spring Town Meeting, shall be held during the month of April, at a time fixed by by-law, and shall primarily be concerned with the determination of all matters that have a fiscal effect on the Town, including, but not limited to, the adoption of an annual operating budget covering all Town agencies. The second such meeting, which shall be the Annual Fall Town Meeting, shall be on the fourth Monday of October.

The Select Board may call additional Town Meetings at other times to act on the legislative business of the Town in an orderly and expeditious manner by the issuance of warrants.

**Section 2-4           Town Meeting Warrants**

- (a)   **In General** – Every Town Meeting shall be called by a Warrant issued by the Select Board which shall state the time and place of the Meeting and, by separate Articles, the subjects which are to be acted upon.
- (b)   **Initiation of Warrant Articles** – Warrant Articles shall be initiated as provided for by state law, including but not limited to M.G.L. c. 39, s. 10.
- (c)   **Warrants** – After voting to open any Annual Spring Town Meeting or Annual Fall Town Meeting Warrant, the Select Board, within the ensuing 24 hours, shall post notice of such vote on the Town’s principle bulletin board and on the Town’s website.

The notice shall identify the opening and closing dates of the Warrant, and shall identify the place or places where citizen petitioned articles may be submitted.



No Annual Spring or Fall Town Meeting Warrant may close until such notice has been posted for at least 10 calendar days.

Subsequent to the posted Warrant opening and closing dates, the Select Board may vote to reopen and close the Warrant in order to receive additional Warrant Articles.

(d) **Circulation of Warrant** –

Annual and Special Town Meeting Warrants shall be posted

1. On the Town Clerk bulletin board,
2. On the Town website,
3. In local media.

No later than the second Monday in March for the Spring Annual Town Meeting and the final Monday in September for the Fall Annual Town Meeting, the Select Board shall deliver the Warrant to the Finance Committee and Moderator.

Copies of the Warrant for any Special Town Meeting shall be delivered to the Finance Committee and Moderator at least 21 calendar days before the commencement date of such Meeting.

## **Section 2-5 Committees**

### **Appointment to Committees**

Unless noted elsewhere in the Charter, members of any committee established with the primary purpose to perform a legislative function shall be appointed by the Town Moderator. The Town has the authority, by direct vote, to determine that certain members of particular committees shall serve by virtue of another office which they hold. This authority may not be used to defeat the clear intent of this provision.

The following Committees are permanent committees of the Town.

(a) **Finance Committee**

**Appointing Authority** – The Town Moderator who shall be Chair of the Appointing Authority, the Chair of the Select Board, and the Chair of the Finance Committee.

**Membership** – The number of members, the term of office and further conditions of appointment and service shall be provided by by-law.

**Duties –**

1. Review and study all Articles contained in the Warrant for an upcoming Town Meeting.
2. At a time fixed by by-law and prior to Town Meeting, report its recommendations on each Article in the Warrant in a manner determined by by-law.
3. For any Articles in the Warrant which would require raising of funds by borrowing (except in the case of tax anticipation notes as provided in the Massachusetts General Laws, Chapter 44, Section 4), a public hearing shall be held by the Finance Committee on each such Warrant Article. The Committee may choose to hold other public hearings for Town Meeting Warrant articles.

**(b) Planning Board**

**Appointing Authority** – The Town Moderator who shall be the Chair of the Appointing Authority, the Chair of the Select Board, and the Chair of the Planning Board. The Town may, by by-law, provide other conditions regarding such appointments.

**Membership** – The Board shall consist of five members, each of whom shall serve for a term of office of three years. The appointments shall be arranged, as possible, so that the term of a nearly equal number of members shall expire each year.

**Duties –**

1. Review and study all Articles in the Town Meeting Warrant which relate to land use, land regulation, land development, planning, zoning, subdivision control and similar and related matters.
2. At a time fixed by by-law and prior to Town Meeting, report its recommendations on each Article in the Warrant in a manner determined by by-law.
3. Other powers, duties and responsibilities as provided by general laws, by by-law or by other Town Meeting vote.

**(c) Capital Planning Committee**

**Appointments/Appointing Authority –**

1. The Finance Director and the Town Administrator shall serve by virtue of their offices;
2. One member shall be appointed by and from the Planning Board;
3. One member shall be appointed by and from the Finance Committee; and
4. The remaining three members shall be appointed by the Appointing Authority who shall be the Town Moderator, who shall be the Chair of the Appointing Authority, the Chair of the Select Board, and the Chair of the Finance Committee. The Town may, by by-law, provide for other conditions regarding these appointments.

**Membership** – The Committee shall consist of seven members and shall serve terms as follows:

1. Members from the Finance Committee and the Planning Board shall each serve for a minimum term of one year.
2. The remaining members shall serve for a term of office of three years. The appointments shall be arranged, as possible, so that the term of a nearly equal number of members shall expire each year.

**Duties –**

1. Review and study all Articles in the Town Meeting Warrant which relate to capital expenditures, as that term may be defined by by-law from time to time.
2. At a time fixed by by-law and prior to Town Meeting, report its recommendations on each Article in the Warrant in a manner as may be determined by by-law.
3. Be responsible for the development of a capital outlay program as provided in Section 5-7.

**Section 2-6                    Availability of Town Officials**

All department heads shall attend the sessions of each Town Meeting for the purpose of providing the Town Meeting with information pertinent to Warrant Articles. If any such person is deterred by illness or other reasonable cause, that person shall designate a deputy to attend in their place. If anybody required to attend the Town Meeting sessions under this section is not a resident of the Town they shall, notwithstanding, be entitled to speak in order to provide the Town Meeting with information on matters pertinent to their responsibilities. The Town Moderator shall call for a roll call at each Town Meeting session.

**Section 2-7                    Clerk of the Meeting**

The Town Clerk shall be the Clerk of the Town Meeting. The Clerk shall give notice of all adjourned sessions of any Town Meeting, in the manner determined by by-law, keep the record of its proceedings and perform such other duties as may be provided by general law, by Charter, by by-law or by other Town Meeting vote.

**Section 2-8                    Rules of Procedure**

The Town Meeting shall, by by-law, adopt and may from time to time, amend and revise rules to govern the conduct of Town Meeting sessions.

## **ARTICLE 3 OFFICERS**

### **Section 3-1           General Provisions**

- (a)    **Elective Offices** - The offices to be filled by voters shall be a Select Board, a School Committee, a Town Moderator, a Deputy Moderator, a Board of Assessors, a Board of Sewer Commissioners, a Housing Authority and such other members of regional authorities, or districts, as may be established by statute, intergovernmental agreement, or otherwise.
  
- (b)    **Eligibility** - Any voter shall be eligible to hold any elective Town office.
  
- (c)    **Town Election** - The annual election for Town officers and for determination of other questions by ballot, shall be held on such date as may be fixed by by-law.
  
- (d)    **Nomination Procedure** – The number of signatures of voters required to place the name of a candidate for any Town office on the official ballot for use at any Town election shall be not less than fifty.
  
- (e)    **Compensation** – Elected Town officers shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
  
- (f)    **Appointments to Certain Positions** – No elected official shall be eligible for appointment to any municipal position of employment while holding office. No former elected official shall be eligible for appointment to a municipal position of employment until thirty days from the termination of elected service. This section shall not apply if such appointment has first been approved by an Annual Meeting of the Town.

### **Section 3-2           Select Board**

- (a)    **Composition, Term of Office** - There shall be a Select Board consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The office of Select Board Member shall be construed to be part-time.
  
- (b)    **Powers and Duties** - The executive powers of the Town shall be vested in the Select Board. The Select Board shall have all of the executive powers given to Select Boards by general law, or otherwise. The Select Board shall serve as the chief policy making agency of the Town, responsible for the establishment of policy directives and guidelines to be followed by all Town agencies serving under it. No individual member of the Select Board, nor a majority of it, shall, at any time, attempt to issue orders, instructions, commands, or mandates to Town employees involved in the administration

of the affairs of the Town. The Select Board shall at all times act by majority through the Town Administrator or the established policy directives and guidelines.

(c) **Appointing Powers** - The Select Board shall appoint the Town Administrator, the Registrar of Voters (but not elected officers), the Board of Health, and the members of all other multiple-member bodies for whom no other method of selection is provided by the Charter.

(d) **Licensing Authority** - The Select Board shall be the license board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and impose restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

### **Section 3-3 School Committee**

(a) **Composition, Term of Office** - There shall be a School Committee consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

(b) **Power and Duties** - The School Committee shall have all of the powers and duties School Committees are given under general laws and such additional powers and duties as may be authorized by the Charter, by by-law or by other Town meeting vote. The powers of the School Committee shall include but need not be limited to the following:

1. The School Committee shall appoint a Superintendent of the schools and all other officers and employees as prescribed by law. The School Committee shall fix the compensation of School Department employees, define their duties and make rules concerning their employment status. The School Committee has the power to discharge the Superintendent.
2. The School Committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the Town.

### **Section 3-4 Town Moderator**

(a) **Term of Office** - There shall be a Town Moderator and a Deputy Town Moderator, each elected for a three year term.

(b) **Powers and Duties** - The Town Moderator, as provided in Section 2-2 shall preside and regulate the proceedings at all Town Meetings and shall have all of the powers and duties given to Town Moderators by general laws and such additional powers

and duties as may be provided by Charter, by by-law or by other Town Meeting vote. In the Town Moderator's absence, the Deputy Town Moderator shall have the powers to perform the duties of the Town Moderator.

### **Section 3-5 Board of Assessors**

(a) **Composition, Term of Office** – There shall be a Board of Assessors consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

(b) **Powers and Duties** –

1. The Board of Assessors shall annually implement the policies and guidelines as issued by the Massachusetts Department of Revenue. This includes the fair cash valuation of all of the estate, both real and personal, subject to taxation within the Town.
2. The Assessors, in concert with the Finance Director or person(s) designated by the Commonwealth of Massachusetts, shall determine the annual tax rate and submit required information to the Commonwealth of Massachusetts.
3. The Board of Assessors shall hear and decide all applications for the abatement of such taxes.
4. The Board of Assessors shall have all of the other powers and duties which are given to Boards of Assessors by general laws and such other powers, duties and responsibilities as may be provided by Charter, by by-law or by other Town Meeting vote.

(c) **Director of Assessment** –

1. The Town Administrator shall appoint a Director of Assessment. An appointment by the Town Administrator shall become effective on the fifteenth day on which notice of the appointment is filed with the Board of Assessors, unless the Board of Assessors shall, within said period, by a majority vote of the full Board, vote to reject any such appointment, or has sooner voted to affirm it.
2. The Director of Assessment shall be a person of proven professional ability, especially fitted by education, training, and previous experience in municipal assessment and taxation to perform the duties of the office.
3. The Director of Assessment shall be responsible to the Town Administrator for the day to day operations of the Assessing Department and shall be responsible for the efficient administration of all functions of that department.

4. The Director of Assessment shall perform and/or supervise the fair cash valuation of all real estate and personal property and shall perform such other duties as the Board of Assessors should require from time to time.
5. The Director of Assessment shall keep the Board of Assessors fully informed as to the condition of the Assessing Department and matters relating to assessment, valuation, taxation, and abatement. The Director of Assessment shall implement votes of the Board of Assessors which require action.

Notwithstanding any other provision of the Charter, the Town Administrator shall appoint all other employees of the Assessing Department.

**Section 3-6                      Town Clerk**

- (a) **Term of Office** - A Town clerk shall be appointed by the Town Administrator.
- (b) **Powers and Duties** - The Town Clerk
  1. The Clerk shall be the keeper of vital statistics for the Town.
  2. The Clerk shall be the custodian of the Town Seal and all records of the Town.
  3. The Clerk shall administer the oath of the office to all Town officers, elected or appointed.
  4. The Clerk shall issue such licenses and permits as are required by law to be issued by Town Clerks.
  5. The Clerk shall supervise and manage the conduct of all elections, and matters relating thereto.
  6. The Clerk shall be the Clerk of the Town meeting, keep its records and, in the absence of the Town Moderator or Deputy Town Moderator, serve as temporary presiding officer.

The Town Clerk shall have all of the other powers and duties which are given to Town Clerks by general laws and such other powers, duties and responsibilities as may be provided by Charter, by by-law or by other Town meeting vote.

**Section 3-7                      Board of Sewer Commissioners**

- (a) **Composition, Term of Office** - There shall be a Board of Sewer Commissioners consisting of five uncompensated members, with no group health or insurance benefits, who shall be elected to three-year terms, so arranged that the terms of as



nearly an equal number of members as possible shall expire each year. At least three Commissioners shall be sewer users and at least one Commissioner shall be a non-sewer user.

(b) **Powers and Duties** –

1. The Commissioners shall make careful studies of the resources, possibilities and needs of the town related to the availability of sanitary sewers and for the maintenance of a sanitary sewer system.
2. The Commissioners shall develop a comprehensive or master plan for a town-wide system of sanitary sewers which shall include, in graphic and textual form, policies to govern the future growth and development of the entire town.
3. The Commissioners shall, in conjunction with other land use bodies, assist in developing a long-range strategic plan for guiding town growth and development.
4. The Commissioners shall provide oversight of the Sewer Enterprise Fund.
5. The Commissioners shall set rates and charges for the use of the sanitary sewer system.
6. The Commissioners shall provide advice to the Select Board relating to the intergovernmental agreements concerning sanitary sewers.

(c) **Appointments** – Upon an opening on the Board for which there is no candidate, that position shall be filled by the Select Board and the existing members of the Board of Sewer Commissioners. The person appointed to the opening shall serve in that position until the next election.

(d) **Sewer Superintendent** – The appointment of a Sewer Superintendent shall be made by the Town Administrator and shall become effective 15 days after notice of the appointment has been filed with the Board of Sewer Commissioners, unless the Board of Sewer Commissioners shall, within that period and by a majority vote of all its members, reject the appointment or if the Board of Sewer Commissioners has earlier voted to affirm.

1. The Sewer Superintendent shall be responsible for the efficient technical administration of the sewer system and facilities, and for implementing votes of the Sewer Commissioners that are within that Commission's jurisdiction. Except as expressly provided in this Charter, the Board of Sewer Commissioners shall not have control over personnel matters.
2. The Town Administrator shall appoint and remove, subject to the civil service law, if applicable, all Sewer Department subordinates and employees.

- (e) The Board of Sewer Commissioners shall provide a detailed and balanced budget for the sewer system and the Sewer Enterprise Fund to the Town Administrator by January 5.
- (f) The removal of the Sewer Superintendent shall be governed by section 7-9.

**Section 3-8                      Wareham Housing Authority**

- (a)     **Composition, Term of Office** - There shall be a Housing Authority consisting of five members. Four of these members shall be chosen by ballot; the fifth member shall be a Town resident appointed in the manner provided by law. Housing Authority members shall serve for terms of five years, so arranged that one term of office shall expire each year.
- (b)     **Powers and Duties** - The Housing Authority shall have all of the powers and duties given to Housing Authorities by general laws and such additional powers and duties as may be authorized by Charter, by by-law or by other Town Meeting vote.

**ARTICLE 4  
TOWN ADMINISTRATOR**

**Section 4-1           Town Administrator**

- (a) **Appointment** - The Select Board, with the agreement of four of its members, shall appoint a Town Administrator (“Administrator”). The appointment shall be based solely on the applicant’s executive and administrative qualifications.
  
- (b) **Contract**
  - 1. The initial contract shall be for a term of up to three years.
  
  - 2. The contract shall be renegotiated six months prior to the expiration of the existing contract with the agreement of a majority of the Select Board.
  
- (c) **Qualifications** - The qualifications shall be a combination of education, training and previous proven professional experience in municipal administration.
  
- (d) **Other Offices and Positions**
  - 1. The Administrator shall not have served in any elective office in the Town for at least twelve months prior to appointment.
  
  - 2. The position of Administrator shall be full-time and the Administrator shall not engage in any other business, occupation or profession during the term of appointment, unless approved in advance and in writing by the Select Board.
  
  - 3. The Administrator shall not hold any other public office, elective or appointive, during said term.
  
  - 4. The Select Board may, from time to time, establish additional qualifications as seem necessary and appropriate.

**Section 4 - 2 Powers and Duties**

The Town Administrator (“Administrator”) shall be the chief administrative officer of the Town and shall be responsible to the Select Board for the proper discharge of all duties of the office and for the proper administration of all Town affairs placed under the Administrator’s charge or as identified under the Charter. The Administrator’s powers and duties shall include, but need not be limited to the following:

- (a) The Administrator shall supervise, direct and be responsible for the efficient administration of all functions under the position’s control, as may be authorized

by:

1. The Town Charter
2. Town By-laws
3. Other Town Meeting vote
4. By vote of the Select Board
5. By any other applicable Massachusetts General Law.

The Administrator shall appoint and remove, subject to the civil service law or collective bargaining agreement where applicable, all officers and employees for whom no other method of selection has been provided by said Charter.

- (b) For appointment of Department Heads, within fifteen days following the day on which notice of the appointment is filed with the Select Board, the Select Board shall have the opportunity, by a majority vote of the full Board, to affirm or reject any appointment of a Department Head. If they vote to affirm, the appointment becomes effective immediately. If the Select Board chooses neither to affirm or reject, on the fifteenth day the appointment made by the Town Administrator shall become effective.
- (c) The Administrator shall be entrusted with the administration of the Town Personnel system, including but not limited to personnel policy and practices, rules and regulations, and all collective bargaining agreements entered into on behalf of the town, and shall maintain an up-to-date employee handbook.
- (d) The Administrator shall fix the compensation of all town officers and employees appointed by the Town Administrator within the limits established by appropriation and the provisions of Town By-Laws.
- (e) The Administrator shall attend all regular and special meetings of the Select Board, unless excused by personal request, and shall have a voice, but no vote, in all of its discussions.
- (f) The Administrator shall attend all sessions of the Town Meeting and shall answer all questions concerning Warrant Articles which are directed to the Administrator and which relate to matters under the Administrator's general supervision.
- (g) The Administrator shall see that all provisions of general laws, the Charter, the by-laws and other votes of the Town Meeting and votes of the Select Board which require enforcement by the Administrator, or officers and employees subject to the Administrator's direction and supervision, are faithfully carried out and performed.

- (h) The Administrator shall prepare and submit, in the manner provided in Article 5, a proposed annual operating budget and a proposed capital outlay program.
- (i) The Administrator shall keep the Select Board fully informed as to the financial condition and needs of the Town, and shall make such recommendations to the Select Board for actions to be taken by it as the Administrator deems to be necessary, advisable or expedient.
- (j) The Administrator shall assure that full and complete records of the financial and administrative activities of the Town are kept and shall render full reports to the Select Board at the end of each fiscal year and at such other times as the Board may reasonably require.
- (k) The Administrator shall have full jurisdiction over the rental and use of all town facilities, except schools. The Administrator shall be responsible for the preparation of all plans for capital improvement work on any existing town facility, or new facility, except schools. The Administrator shall be responsible for the supervision of all capital improvement work on existing facilities, and new facilities, except school buildings or facilities.
- (l) The Administrator may at any time inquire into the conduct of office of any Town officer, employee, department or other agency under the Administrator's control.
- (m) The Administrator shall assure that a full and complete inventory of all property of the Town, both real and personal, is kept, including all property under the jurisdiction of the School Committee.
- (n) The Administrator shall be responsible for the negotiation of all contracts involving any subject within the Administrator's jurisdiction, including the negotiation with Town employees over wages, hours and other terms and conditions of employment. All labor contracts as may be proposed by the Administrator shall be subject to final approval and execution by the Select Board.
- (o) The Administrator shall be responsible for the purchase of all supplies, materials and equipment, and shall award all contracts for supplies, material and equipment for all departments and activities of the Town, except in case of emergency. The Administrator shall examine and inspect, or cause to be examined and inspected, the quantity and condition of all supplies, materials and equipment delivered to or received by any Town agency.
- (p) The Administrator shall perform any other duties required of the position by the Charter, by by-law, by other Town Meeting vote, or by vote of the Select Board.

**Section 4-3                      Acting Town Administrator**

- (a) **Temporary Absence** - By a letter filed with the Town Clerk and the Select

Board, the Town Administrator shall designate a qualified Town administrative officer or employee to exercise the powers and perform the duties of the office during this temporary absence. During the temporary absence of the Town Administrator, the Select Board may not revoke such designation until at least ten days have elapsed whereupon it may appoint another qualified Town Administrative officer or employee to serve as acting Town Administrator until the Town Administrator shall return.

- (b) **Vacancy** - When the office of the Town Administrator is vacant as a result of death, resignation or otherwise, or during the time a Town Administrator is under suspension, as provided in section 4-4, the Select Board shall appoint a qualified Town administrative officer or employee to serve as acting Town Administrator until the vacancy is filled or the suspension has been terminated.

#### **Section 4-4                    Removal and Suspension**

The Select Board may remove or suspend the Town Administrator from office after first applying the following procedures:

- (a)     **Notice** - The Select Board may, at a regularly scheduled meeting attended by the full Board, adopt, by the affirmative votes of four members, a preliminary resolution of removal or suspension setting forth in reasonable detail the reason or reasons for removal or suspension. The resolution may suspend the Town Administrator from duties for a period not to exceed forty-five days.

A copy of the preliminary resolution shall be delivered to the Town Administrator immediately following its adoption. Failure to adopt such a resolution shall prevent the suspension or removal of the Town Administrator.

- (b)     **Public Hearing** - Within five days following the adoption of a preliminary resolution of removal or suspension, the Town Administrator may request a public hearing on the reasons given for the removal or suspension, by filing a written request for such hearing with the Select Board.

The hearing shall be convened by the Select Board, not less than twenty nor more than thirty days after such request is filed. Not less than five days' written notice of the date on which the hearing will begin shall be given to the Town Administrator. These time limitations may be waived by the Town Administrator.

The Town Administrator shall be entitled to file a written statement with the Select Board responding to the reasons cited for the removal or suspension, provided this statement is received by the Select Board not less than forty-eight hours in advance of the time set for the public hearing to begin. The Town Administrator may be represented by counsel, shall be entitled to present evidence, call witnesses and, personally, or through counsel, question any witness

appearing at the hearing.

(c) **Removal –**

If the Administrator has requested a public hearing, five days following the date of the adjournment of the public hearing, the Select Board may, at a regularly scheduled meeting attended by the full Board, adopt, by the affirmative votes of four members, a final resolution of removal or suspension. Such resolution is to be effective upon adoption.

If the Town Administrator does not request a public hearing, then upon the expiration of ten days following the date of delivery to the Administrator of the preliminary resolution, the Select Board may, at a regularly scheduled meeting attended by the full Board, adopt, by the affirmative votes of four members, a final resolution of removal or suspension. Such resolution shall be effective upon adoption.

Failure to adopt a final resolution within the time limitations imposed by this Section shall nullify the preliminary resolution of removal or suspension. The action of the Board in removing or suspending the Town Administrator shall be final. The intention of this provision is to vest all authority and fix all responsibility for the suspension or removal of a Town Administrator in the Select Board. The Town Administrator shall continue to receive the Administrator's salary until at least one month, but not more than three months after the date of the final resolution of removal, as the Select Board shall deem proper.

**ARTICLE 5  
FISCAL PROCEDURES**

**Section 5-1            Fiscal Year**

The fiscal year of the Town shall begin on the first day of July and shall end on the thirtieth day of June, unless another provision is made by general law.

**Section 5 - 2            School Committee Budget**

- (a)    **Submission to the Town Administrator** - The budget adopted by the School Committee shall be submitted to the Town Administrator no later than 20 days before the required date of submission per Section 5-3 in order to prepare a total Town budget.
  
- (b)    **Public Hearing by School Committee** - At least fourteen days prior to the meeting at which the School Committee is to vote on its final budget request, the School Committee shall cause to be published a general summary of its proposed budget.

The summary shall be posted:

- 1. On the Town Clerk bulletin board,
- 2. On the Town website,
- 3. In local media.

The summary shall specifically indicate any major variations from the current budget and a notice stating:

- 1. The times and places where complete copies of the proposed budget shall be available for public examination, and
- 2. The School Committee shall conduct a public hearing at which the proposed budget shall be discussed.

Participants shall include the Superintendent of Schools and the School Department Business Manager, the Select Board, the Finance Committee, and the Town Administrator and the Finance Director.

- (c)    **Adoption** – The action of the School Committee in adopting the budget following the public hearing shall be summarized and the vote of each member on any amendments offered to the proposed budget shall be recorded.

**Section 5 - 3            Submission of Proposed Town Budget**



Within a time fixed by by-law before the date on which the Town Meeting is to be held in the Spring of each year, and no later than January 25th, the Town Administrator, under the direction of the Select Board, shall submit to the Finance Committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The Administrator shall simultaneously provide for the publication of a general summary of the proposed budget and of a notice stating the times and places where complete copies of the proposed budget are available for public examination.

The summary and notice shall be posted

1. On the Town Clerk bulletin board,
2. On the Town website,
3. In local media.

#### **Section 5 - 4            Budget Message**

The budget message submitted by the Town Administrator shall explain the proposed budget for all Town agencies, both in fiscal terms and in terms of work programs. It shall include features of the proposed budget; indicate any major variations from the current budget in financial policies, expenditures and revenues together with the reasons for such changes; summarize the Town's debt position; and include such other material as the Town Administrator deems desirable.

#### **Section 5 – 5            The Proposed Budget**

The proposed budget shall provide a complete financial plan of all Town funds and activities, including the budget as requested by the School Committee. Except as may otherwise be required by general law or by the Charter, it shall be in the form the Town Administrator deems desirable or the Select Board may require. In this presentation of the proposed budget the Town Administrator shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial control. The budget shall be arranged as to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years. The budget shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by Town agency, function and work programs and the proposed methods of financing such expenditures.
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by Town agency, and the proposed method of financing each such capital expenditure.
- (c) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific

purposes.

## **Section 5 – 6 Progression of the Proposed Budget**

- (a) **Public Hearing** - The Finance Committee shall, immediately upon receipt of the proposed budget, provide for posting of a notice stating the date, time and place, not less than seven nor more than fifteen days following such posting, when a public hearing shall be held by the Finance Committee on the proposed budget.

The notice shall be posted

1. On the Town website,
  2. On the Town Clerk bulletin board,
  3. In local media.
- (b) **Finance Committee Meetings** - The Finance Committee shall consider in public meetings the detailed expenditures for each Town agency as proposed by the Town Administrator, and may confer with representatives of any such agency in connection with its considerations. The Finance Committee may require the Town Administrator or any other Town agency to furnish to it such additional information as it deems to be necessary in furtherance of its responsibility.
- (c) **Presentation to Town Meeting** - The Finance Committee shall file a report containing its recommendations for action on the proposed budget which shall be available not less than seven days prior to the date on which the Town Meeting is to act on the proposed budget. When the proposed budget is before the Town Meeting for action, it shall first be subject to amendments, if any, as may be proposed to it by the Finance Committee.

## **Section 5 – 7 Capital Improvement Program**

The Town Administrator shall submit a capital improvement program to the Select Board and the Finance Committee at least thirty days before the date fixed for the submission of the Administrator's proposed budget. It shall be based on material prepared by the Capital Planning Committee as provided in Section 2-5 (d).

The capital improvement program shall include:

- (a) A clear, concise general summary of its contents;
- (b) A list of all capital expenditures to be made during the five fiscal years next ensuing, with supporting information as to the need for each such expenditure;

- (c) Cost estimates, methods of financing and recommended time scheduling; and
- (d) The estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised with regard to each item still pending or in the process of being acquired, improved or constructed.

#### **Section 5 - 8            Financial Public Records**

Statements summarizing the budget, the capital improvement program and related Warrant articles, as adopted by the Town Meeting, shall be made available in the office of the Town Administrator for public examination within twenty days following their adoption.

#### **Section 5 - 9    Approval of Financial Warrants**

A copy of each Warrant for the payment of Town funds prepared by the Town Accountant shall be submitted promptly to the Town Administrator who shall make recommendation to the Select Board with respect to the approval or disapproval by them of each such Warrant or any item or items in any such Warrants.

**ARTICLE 6**  
**ADMINISTRATIVE ORGANIZATION**

**Section 6-1                    Creation of Departments, Divisions, Agencies, Offices, etc.**

The organization of the Town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

**Section 6-2                    By-Laws**

Subject only to express prohibition in a general law, or this Charter, the Town Meeting may, by by-law, reorganize, consolidate, abolish, create, merge, divide, alter the term of office, the manner of selection, or, if a multiple member body, the number of members, of any Town agency, in whole or in part; establish such new Town agencies as it deems necessary or advisable, and may prescribe the functions, powers, duties and responsibilities of any such Town agency, but excluding from this section any Town agency described in Article 2 or 3 of the Charter.

**Section 6-3                    Administrative Code**

The Town Administrator, after consultation with the Select Board, may prepare and submit to the Town Meeting plans for organization or reorganization, which establish Town agencies for the orderly or convenient conduct of the business of the Town. Whenever the Town Administrator prepares such a plan the Administrator shall, in conjunction with the Select Board, hold one or more public hearings.

The notice of such hearing(s) shall be posted

1. On the Town Clerk bulletin board,
2. On the Town website,
3. In local media.

A reorganization proposal may be amended or altered prior to its submission, by the Select Board, to the next Town Meeting held following the public hearing. The Town Meeting at which the reorganization plan is submitted may vote only to approve or to disapprove of it, and shall not vote to amend or to alter it in any way. A reorganization plan shall become effective at the expiration of sixty days following the date of the Town Meeting at which it is submitted unless the Town Meeting has, within that period, voted to disapprove of it. Subject only to express prohibition in a general law, or this Charter, a reorganization proposal submitted under this provision may reorganize, consolidate, abolish, create, merge, divide, alter the term of office or the manner of selection of officers, and, if a multiple member body, the number of members thereof, of any Town agency, in whole or in part; establish new Town agencies and may

prescribe the functions, powers, duties and responsibilities of any Town agency, but excluding from this section any Town agency described in Article 2 or 3 of the Charter.

#### **Section 6 - 4 Personnel Organization Plan**

The Town Administrator or designee shall establish an organization chart for the Town and its Departments, and determine and maintain staffing requirements for said Departments, except those under the jurisdiction of the School Committee.

#### **Section 6 - 5 Merit Principle**

All appointments and promotions in the Town service shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability to perform the duties of the office or of the employment.

## **ARTICLE 7 GENERAL PROVISIONS**

### **Section 7-1 Charter Changes**

**In General** - This Charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX (eighty-nine) of the amendments to the State Constitution and any legislation enacted to implement said amendment.

**Periodic Review** - The Select Board will, in every year which ends in nine, appoint a Charter Review Committee. This Committee will submit a report to the first annual Town Meeting that ends in zero. The Select Board may also appoint a Charter Review Committee at any other time deemed necessary and will determine at the same time to which upcoming Town Meeting its report is to be submitted. The Charter Review Committee will make recommendations in its report concerning any proposed amendments or revisions to the Charter which it believes to be necessary or desirable.

### **Section 7-2 Severability**

The provisions of the Charter are severable. If any provision of the Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons and circumstances shall not be affected thereby.

### **Section 7-3 Specific Provisions to Prevail**

To the extent that any specific provision of the Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### **Section 7-4 Rules and Regulations**

A copy of all rules and regulations adopted by Town agencies shall be placed on file in the office of the Town Clerk and made available for review by any person who requests such information. No rule or regulation adopted by any Town agency shall be effective until ten days following the date it has been published, in full, in local media and on the town website, and placed on file in the office of the Town Clerk, or the later of the three.

### **Section 7-5 Uniform Procedures Governing Multiple Member Bodies**

- (a) **Meetings** - All multiple member bodies of the Town, whether elected, appointed, or otherwise constituted, shall meet regularly at such times and places within the Town as they may prescribe. Special meetings of any multiple member body shall be held on the call of the respective Chair or by one-third of the members thereof. Such call shall be by written notice delivered in hand or to the place of business or residence of each member at least forty-eight hours before the time set. Such call shall contain notice of the subjects which are to be acted upon, and no other business shall be in order.

A copy of the said notice shall be posted on the Town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and to the press.

- (b) **Rules and Recordkeeping** - Each multiple member body shall determine its own rules and order of business, unless otherwise provided by law or by the Charter, and shall provide for keeping a record of its proceedings. These rules and records shall be public, certified by the Town Clerk, and kept available in the office of the Town Clerk, and on the Town website.

## **Section 7-6 Definitions**

- (a) **Charter** - The word "Charter" shall mean this Charter and any amendments to it made through any of the methods provided under article LXXXIX (eighty-nine) of the amendments to the State Constitution.
- (b) **Days** - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays, when the time set is less than seven days. When the time set is seven days or more every day shall be counted.
- (c) **Department Head** – The head of a department or section, the supervisor.
- (d) **Emergency** - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.
- (e) **Facilities** – Any piece of Town property that has been improved with a fixture.
- (f) **Fixture** – An improvement that is attached to the ground.
- (g) **general laws** - The words "general laws" (all lower case letters) shall mean laws which apply alike to all cities and towns, to all towns, or to a class of municipalities of which Wareham is a member.
- (h) **General Laws** - The words "General Laws" (used with initial capital letters) shall refer to the General Laws of the Commonwealth of Massachusetts as they exist at the time this Charter is adopted and are intended to include all applicable amendments and revisions or to the corresponding chapters and sections of any recodification or rearrangement of statutes adopted subsequent to the adoption of this Charter.
- (i) **Majority vote** - The words "majority vote" shall mean a majority of those present and voting, providing a quorum of the body is present.

- (j) **Media** - A means of communicating information to as wide a variety of people as possible which may include newspapers, bulletin boards, radio and television, and the Internet.
- (k) **Multiple Member Body** - The words "multiple member body" shall mean any body consisting of two or more persons, whether elected, appointed or otherwise constituted.
- (l) **Town** - The word "town" shall mean the Town of Wareham.
- (m) **Policy** – The general principles by which a government is guided in its management of public affairs. This term, as applied to law, ordinance, by-law, Town Charter, or rule of law, denotes a general purpose or tendency considered as directed to the welfare or prosperity of the state or community.
- (n) **Qualify** - To take oath of office.
- (o) **Voters** - The word "voters" shall mean persons registered to vote in the Town of Wareham.

#### **Section 7-7 Number and Gender**

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular. All language in the Charter aspires to be gender neutral and will extend to and be applied to all people.

#### **Section 7-8 Notice of Vacancies**

##### **Posting**

Whenever a vacancy occurs, or is about to occur, in any Town office, including membership on any multiple member body, or Town employment, the Appointing Authority shall immediately post such vacancy, or impending vacancy, on the Town bulletin board and shall give such further public notice as deemed necessary by the Town Administrator. This does not apply to vacancies for positions covered under the state civil service law or otherwise provided for under a collective bargaining agreement.

##### **Application for Consideration**

Any person who desires to be considered for appointment to the said office or employment may, within ten days following the date notice was posted, file with the Appointing Authority, a statement setting forth in clear and specific terms each qualification for the office or the employment.

##### **Appointment to Vacancy**



All persons who have filed statements for consideration shall be considered. No permanent appointment to fill a vacancy in a Town office or in Town employment shall be effective until at least fourteen days have elapsed following a posting of such vacancy.

### **Section 7-9 Removals and Suspensions**

Any appointed full time, part-time, seasonal employee of the Town, not subject to the provisions of the civil service law or collective bargaining agreement, whether appointed for a fixed or for an indefinite term, may be removed or suspended from their duties by the Appointing Authority.

### **Section 7-10 Recall of Elected Officials**

Any person who holds an elected Town office, with more than six months remaining of the term of office, may be recalled from the office, by the voters, in the manner provided in this section.

- (a) **Recall Petitions** - Twenty-five or more voters may file with the Town Clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The Town Clerk shall deliver petition blanks to these voters demanding the recall, and the Town Clerk shall keep printed forms of the petition blanks available.

#### **Petition Blanks Requirements**

1. The blanks may be completed by writing or typewriting.
2. They shall be addressed to the Select Board
3. They shall contain the names of the persons who filed the affidavit and the grounds for recall as stated in the affidavit.
4. They shall demand the election of a successor to the office.
5. They shall be dated and signed by the Town Clerk.

A copy of the petition shall be kept on file in the office of the Town Clerk in a record book maintained for that purpose. Notwithstanding any general or special law or Charter provision or by-law of the Town of Wareham, recall petitions shall be returned and filed in the office of the Town Clerk within fourteen days following the date the petitions were issued. The recall petitions must be signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the Town Clerk as of the preceding Town election. The Town Clerk shall, within twenty-five hours following the filing, submit the petitions to the Registrar of Voters who shall immediately certify thereon the number of signatures which are names of voters.

- (b) **Recall Election** - If the petition shall be certified by the Registrar of Voters to be sufficient, the Town Clerk shall immediately submit the petition to the Select Board. Upon its receipt of the certified petition, the Select Board shall immediately give written notice of said petition and certificate to the person whose recall is sought.

If said officer does not resign within five days following delivery of the recall petition, the Select Board shall order an election to be held not less than thirty-five nor more than sixty days after the date of the Registrar's certificate of the sufficiency of the petition. If, however, another Town election is to occur within sixty days after the date of the said certificate, the Select Board shall hold the recall election on the date of said other Town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

- (c) **Nomination of Candidates** - An officer whose recall is sought may not be a candidate at the recall election. The nomination of candidates, the publication of the Warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of other laws relating to elections, unless otherwise provided in this section.

- (d) **Propositions on ballot** - Ballots used at a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer) / /

Against the recall of (name of officer) / /

Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the propositions shall appear the word "candidates" and the direction to "vote for one", and beneath this the names of the candidates listed alphabetically by surname. If a majority of the votes cast upon the question of a recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question are in the negative, the recall fails.

There shall be a separate proposition for each incumbent being recalled. Candidates must declare one, and only one, officer they choose to replace.

- (e) **Officeholder** - The incumbent shall continue to perform the duties of the office until the recall election. An incumbent not recalled in the election shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this section.

An officer recalled in the election shall be deemed removed upon the qualification of the successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

- (f) **Repeat of Recall Petition** - No recall petition shall be filed against an officer within three months after taking office. No recall petition shall be filed in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which the initial recall was submitted to the voters.

**ARTICLE 8  
TRANSITIONAL PROVISIONS**

**Section 8-1 Continuation of Existing Laws**

All general laws, special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended, repealed, or rescinded by due course of law or expire by their own limitation.

**Section 8-2 Continuation of Government**

All Town agencies shall continue to perform their duties until reappointed, or reelected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred and assumed by another Town agency.

**Section 8-3 Continuation of Personnel**

Any person holding a Town office or employment under the Town shall retain such office or employment and shall continue to perform the duties of the office or employment until provision shall have been made, in accordance with the Charter, for the performance of the said duties by another person or agency. No person in the permanent, full-time service of the Town shall, as a result of the adoption of the Charter, forfeit pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical to do.

**Section 8-4 Time of Taking Effect**

The provisions of this Charter shall become effective upon the approval of the voters of the Town voting hereon, except as is hereinafter provided:

- (a) All persons serving in an elected Town office which, under the provisions of the Charter is to become an appointive office, shall continue to serve and shall continue to perform the duties of the office until the expiration of the term for which they were elected. When such term has expired, the Appointing Authority shall appoint a suitable person to fill the vacancy, giving due consideration to the incumbent whose term has expired.
- (b) Not more than 45 days following the election at which the Charter is amended, the Select Board shall appoint a special committee of at least 3 members to review the existing by-laws of the town, in order to bring them into conformity with the provisions of this Charter. Said committee shall file a report, with recommendations, at the following Town Meeting.
- (c) Until such time as another provision is made, by by-law, in accordance with the requirement of section 2-3, the Fall session of the Town Meeting, known as the

Annual Fall Town Meeting, shall be held on the fourth Monday of October, annually.

## **APPENDICES**

**WAREHAM CHARTER COMMISSION**  
**Town Hall**  
**Wareham , Massachusetts, 02571**

January 25, 1977

Claire McWilliams, Chairman  
Wareham Board of Selectmen  
Town Hall  
Wareham MA 02571

Dear Mrs. McWilliams:

The Wareham Charter Commission is pleased to present its final report to the Wareham Board of Selectmen tonight, in accordance with General Laws, Chapter 43B, Section 9.

The preliminary draft of the Proposed Charter has been approved by Francis X. Bellotti, Attorney General of the Commonwealth, except for one paragraph that has not been included in the final report. A copy of this report has also been forwarded to Town Counsel, Joseph Grassia.

It has been ten months since we were elected to this office, and the Commission feels that the board of Selectmen, as the governing body of its Town, is entitled to know how we arrived at this final product.

The Commission is proud of its performance since its election last March. Meetings were held on the average of at least once a week and overall attendance was excellent. Hat is generally not known is that the Commission members spent countless hours of their own time, between meetings, speaking to various Town organizations and doing a vast amount of reading and "homework."

All points of view have been presented to the Commission. We have heard from elected Town meeting members, town administrative officials, part-time Selectmen, full-time Selectmen, educators, various elected officials, and ordinary citizens of the Town. Members of Wareham's Board of Selectmen have appeared before us on at least three separate occasions, during the Spring, Fall and Winter, and all members have expressed their opinions either personally or in writing at one time or another. We want to thank you for your cooperation and advice.

There were honest differences of opinion among members of the Commission. Each member had different ideas. It is also a fact that the Commission members changed their minds from time to time before adopting this final report.

Reasonable compromises are a part of good government, and although every Commission member had different ideas, they showed a remarkable spirit of cooperation and flexibility in arriving at the final report by a virtually unanimous vote. We are pleased that any preconceived ideas that any Commission member may have had in the beginning gave way to a final report that was the result of reasonable compromise.

Most of these changes were completed by the time of the hearing on our preliminary report in December. It was a source of great satisfaction to the Commission that there were no fundamental criticisms of our performance or our report at the hearing, although we did receive many constructive proposals and helpful advice which we acted upon in making the final revisions.

As I mentioned at the outset, Attorney General Bellotti approved our preliminary report, except for one paragraph that has been deleted. We feel this is a great tribute to our consultant,

Michael Curran, who has advised more Charter Commissions in the Commonwealth than any other single individual. His guidance was indispensable, and we appreciate the Board of Selectmen's support for the town meeting appropriation that made his services possible.

The appropriation for the Charter Commission also included a sum of money for publication, and the Commission is now in the process of obtaining cost estimates for publishing our report. The Commission will then proceed with the publication, which will include this attractive cover designed by Mary Jane Pillsbury, a Wareham artist who donated her services. The printed copies will be delivered to the Selectmen for distribution to every Wareham household. The unencumbered balance in our account, for publication and delivery, is now \$3,237.00.

The final report includes a minority report. Two alternative reports were presented to the Commission by the dissenting member, but the report of her choice was accepted by the Commission.

Every member of the Board of Selectmen and The Charter Commission, both in and out of this room, has worked toward the creation of a Charter to improve our Town government. Although there have been differences of opinion as to the precise contents of the proposed Charter, we have all agreed that the effort should be made and that the voters should have an opportunity either to accept or reject a Town Charter. They will soon have this opportunity, and we thank everyone that has had a role in making this opportunity possible for the Town of Wareham.

.Wareham Charter Commission

By:

George C. Decas, Chairman

Edward Tamagini, Vice-Chairman

Robert A. Collins

Charles S. Gleason, M.D.

Helen Palmer Lincoln

Phyliss A. McGraw

Waldo N. Roby

George F. Taber

Dissenting Member:

Elizabeth M. Carmichael



**THE FOLLOWING QUESTION WILL APPEAR  
ON THE BALLOT AT  
THE 1977 ANNUAL TOWN ELECTION IN WAREHAM  
(March 25, 1977)**

Shall this town approve the new charter recommended by the charter commission summarized below?

<b>Yes</b>	
<b>No</b>	

**SUMMARY:** The proposed charter retains the open town meeting, requires the school committee to hold a public hearing on its proposed budget before the school committee adopts it, allows ample time for the voters to study all proposed budgets before acting on them, has provisions for a qualified professional administrator with fixed duties and responsibilities, has a capital planning committee for long range financial planning, has an appointed board of health, commissioner of trust funds and planning board, merges the sewer commission with the municipal maintenance department and provides a method for recall elections. All other elected officials, including a five member board of selectmen, will continue to be elected by the voters, for the same terms as at present.

The above summary, which will appear on the ballot, is brief. The charter commission members urge you to read the more detailed summary which follows, and to read the full text of the proposed charter itself, which also follows.

The above summary, which will appear on the ballot, is brief. The charter commission members urge you to read the more detailed summary which follows, and to read the full text of the proposed charter itself, which also follows.

## INTRODUCTION

The final report of the Wareham Charter Commission represents many months of work by nine commission members elected by you on the Town ballot last year. We have met on the average of at least once a week, and have held a number of public hearings. We have heard from our town officials as well as those from other towns in the commonwealth. We have studied other town charters, and we have had the assistance of a professional consultant, Attorney Michael P. Curran, in drafting this report.

It is the Commission's hope that you will read its report from the beginning to end. At the very least, however, we certainly hope that you will read the summary of our report, which follows this introduction.

The question of whether to adopt or to reject the proposed charter will appear on the town ballot at this coming town election. The full text of the proposed charter **will not** appear on the ballot, nor will the summary included in this report. It is therefore important that you read the full text of the charter or the detailed summary of it which follows.

The commission members believe that changes in our town government are urgently needed in order to get our town government working more efficiently. We are no longer a town of a few thousand voters, and many of our citizens have been left out of our government. This charter is an attempt to modernize town government, give it professional guidance with a qualified town administrator, and bring the people back into our government process.

### **Statement of Major Differences**

The most significant difference between the charter which is proposed to you in this report and our "existing charter" is the structure of the document itself. Our present "existing charter" consists of a hodge-podge of laws enacted by the state government and which apply to Wareham because they are general laws, or because they are so-called acceptance statutes (which the Town has accepted) or because they are special laws which were enacted particularly for Wareham. The proposed charter, without changing the basic structure of the town, will provide a single, simple to read document.

The open town meeting as the legislative body of the town is retained. The board of selectmen, as the pivot around which general government administration revolves, is retained but in a more positive role. Most officers now chosen by election will continue to be elected, with a few exceptions which will be discussed below. A new and more comprehensive system for budget development and review is to be substituted for the present internal system which lacks cohesiveness and direction. A flexible system for administrative organization and re-organization is provided, to permit the administrative structure to respond to changing times and changing needs. The position of executive secretary has been modified in such a way as to make the new office of town administrator more valuable as a device to improve the level of services delivered to our citizens and to reduce the cost at which they are delivered. A more detailed summary of each article follows.

WAREHAM CHARTER COMMISSION

WAREHAM, MASSACHUSETTS

MINORITY REPORT

Submitted by: Elizabeth M. Carmichael

10 JANUARY 1977

I, Elizabeth M. Carmichael, am the minority member of the Wareham Charter Commission, and this is my minority report.

I was elected by you, the voters of Wareham, to serve as a member of your Charter Commission. I believe that those who voted for me, would have expected me to be myself at all times and not go along with or support change just because other members of the Charter Commission were doing so. I can not support what I do not believe to be in the best interest of the Town of Wareham.

My interest and my support of good, effective, efficient, and viable local government is of long standing. I did not come to serve as a member of this commission unacquainted with the structure of our Town=s government and the way in which it has functioned. I have served the Town of Wareham in a number of capacities as a member of various boards, commissions, and committees. I have been involved in discussion, debate, and determination of many issues affecting our Town over a long period of time. I have attended Cape Cod Community College towards my degree in local and state government. I believe my background, experience, and education have given me a frame of reference in which to judge, to evaluate, and to choose among several alternative courses of action which were available but not considered by the Charter Commission, for the future structure of Wareham's government.

In addition to attending virtually all of the Charter Commission meetings, I spent, on the average, fifteen hours each week in outside research and study.

I wish I could say all of this time and effort was well spent, and that I could recommend you, my fellow citizens, adopt the charter. Regretfully, I cannot. In my judgment adoption of this proposal would be a negative rather than a positive act for the good of the town. It would represent a step backward rather than forward.

I am pleased that I participated in the weekly deliberations of the Charter Commission, because many ideas I fought for are included in the Charter. I would specifically point to much of the material in article 5, regarding town budgets. I believe that giving the Finance Committee more time to consider warrant articles can only be a positive force. The publication of information to voters well in advance before they are to act on them can serve only as another step forward. These same provisions, however, can be gained by a vote at town meeting. We don not have to accept the charter to move forward in this area, to improve our town government.

I am also pleased that a provision to recall our elected officials who have lost the confidence of the voters has been included. But may I say here that this provision can be added without adoption of this charter, through placing a referendum question on the ballot.

My disagreement with the other members of the Charter Commission centers on article 4, the town administrator. In my judgment this article in the form in which it is written, will separate the citizens of Wareham from their government. No longer will the people have a direct say on who runs the town and how it is run. The powers the Charter would give to the administrator are tremendous - he would be a virtual dictator! The only power our elected selectmen would have over him, if they disagree or disapprove of the way he is performing his duties, would be to fire him. This could not only put the town in a state of constant turmoil, but could also be quite costly. If the selectmen saw fit to discharge him, this charter proposal could cost the taxpayers forty-five days pay after his dismissal, and could exceed up to three months. In the meantime, according to this charter proposal, the selectmen would have to either appoint a temporary administrator or hire another one, whichever comes first. This could cost the taxpayers double the amount.

I have spent a considerable amount of my own time examining and evaluating this most important aspect of our town government structure. I have interviewed our own Selectmen, I have looked closely at the governmental structure of our sister town of Bourne; I listened to many intelligent, knowledgeable guest speakers from many different facets of government, all of whom have been involved in one form or another for a great length of time. After both listening about and studying many different types of government, I feel strongly in favor of primarily a Mayor-Council form, while retaining town meeting. There is no place in the Statute, or the Home Rule Amendment, which states this form is not allowed to be adopted. My second choice would be full time selectmen. Both of these forms of government would be answerable only to the people who elected them.

Daniel Webster, the eminent United States Senator from Massachusetts, said, in 1830, "The people's government, made for the people, made by the people, and answerable to the people."

I ask you: If this proposed charter is adopted will it be the people's government? I say that it will not. It will be presided over by an outsider brought into Wareham, without any knowledge of our town, its traditions, or its people. This outsider will not be responsible to you, or to me. It will be the same as our Executive Secretary form has been, but with far greater powers. Remember, we tried not once but twice with form of government; both men who have held the position had great credentials, but neither have been able to carry out the duties of the office successfully, regardless of their individual skills.

I am gravely concerned with changes that could be made in our town's governmental structure by the procedures proposed in article 6. The extensive powers given to the administrator could become even more dictatorial and dangerous with the provisions of this article. An individual who is brought in from another town to serve as administrator could also wind up making appointments to various town boards and committees, as well as hiring and firing of the various town employees. This person, who would most likely not know where East Wareham ends and West Wareham begins, would be without personal knowledge of individual qualifications, or lack of same, of potential appointees. Therefore, I cannot for the life of me understand how members of the Charter Commission could possibly expect this administrator to now who the best people would be to serve on town boards; this could potentially cause serious detrimental appointments for the safety and well-being of all the townspeople.

I would like to say that if you adopt this charter, you cannot change your main structure of government for a least three years, and only through another charter process. This would mean another Charter Commission which would in turn mean you would live with this government for a least four years. That is a long time to live with a nightmare. I know, because the people of Wareham have had this nightmare for the past five years, and will be glad to see it end one day. Be very careful when you vote at the 1977 Annual

Town Elections and, for the good of the Town, vote NO on the question of adopting this charter being presented to you.

To all of you who voted for me last year, thank you for your trust. I have tried, in every way within my power and my capabilities, to represent, at all times, the whole town. At no time did I consciously act in the interest of less than what I perceived to be the interest of the majority.

This opportunity to serve my Town has been rewarding; I have learned a great deal. The lesson I learned best, however, is how lonely it can be to stand alone for principles in which you believe. In doing so, however, I can face anyone in Wareham with my

head held high, completely free of any guilt or misconduct. I look forward to serving my Town again in future capacities, because I love the Town of Wareham, and the people who live in it.

Respectfully submitted,

Elizabeth M. Carmichael

Wareham Charter Commission

(Minority Member)

## **APPENDIX OF NOTES PREVIOUSLY CONTAINED IN BODY OF CHARTER**

### **ARTICLE 2, LEGISLATIVE BRANCH**

**Section 2-2 Presiding Officer** was amended by town meeting vote at the annual town meeting held on April 23, 2001 under Article 41 authorizing the addition of a deputy town moderator. Approved by the Attorney General on June, 1, 2001.

**Section 2-3 Time of Meeting** was amended by Legislative approval on November 22, 2016, Chapter 319 of the Acts of 2016.

**Section 2-5 (e) Personnel Board** was deleted by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 42. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

**Section 2-6 Availability of Town Officials** was amended by town meeting vote at the Annual town meeting held on April 23, 2001 under Article 43, authorizing department heads attend town meeting. Approved by the Attorney General on June, 1, 2001.

### **ARTICLE 3 ELECTED OFFICIALS**

**This graph (Section 3-1 General Provisions)** in the original charter included town treasurer as an elected position. A vote of the town meeting of April 22, 1996 amended this and deleted the position of treasurer which was made appointed by the town administrator. The Legislature approved by Chapter 403 of the Acts of 1996, as approved on October 16, 1996.

**This graph (Section 3-1 General Provisions)** in the original charter included town collector as an elected position. A vote of the special town meeting of April 23, 2001, Article 5, amended this and making the position appointed by the town administrator. Approved at the April 2, 2002 annual election.

**Section 3-1 (f) General Provisions** was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 45. Approved by the Attorney General's Office on January 10, 2011. Approved at the April 5, 2011 annual election.

**Section 3-2 (b) Board of Selectmen** was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 46. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

**Section 3-2 (c) Board of Selectmen** was amended by town meeting vote at a special town meeting held on August 2, 1993 under Article 6 by authorizing the striking of the term town accountant from the list of positions appointed by the Board of Selectmen. The article did not specify anyone to whom this appointing authority fell. Act was to take effect immediately on passage. Sent to state on August 3, 1993; approved by the Legislature on November 1, 1993 as Chapter 211 of the Acts of 1993.

**Section 3-3 School Committee** was amended and approved by town meeting vote at the Annual Town meeting held on April 23, 2001 under Article 47. Approved by the Attorney General on June 1, 2001.

**Section 3-4 (a) Town Moderator** was amended and approved by town meeting vote at the Annual Town meeting held on April 23, 2001 under Article 41. Approved by the Attorney General on June 1, 2001.

**Section 3 - 5 Board of Assessors** was not part of the original charter. Assessors, under the original charter were elected. The change was approved at a Special Town Meeting on April 25, 1994, and subsequently approved by the Legislature on July 8, 1994 as Chapter 57 of the Acts of 1994. Technically, if the charter had a section headed "appointed officials", this section 3 - 5 should be included there.

**Section 3 – 7, Board of Sewer Commissioners** was not part of the original charter. The change was approved at a Town Meeting on October 28, 2013, and subsequently approved by the Legislature on May 22, 2014 as Chapter 114 of the Acts of 2014.

**Section 3 – 7, Board of Sewer Commissioners'** change was approved at a Town Meeting on October 27, 2014, and subsequently approved by the Legislature on May 1, 2015 as Chapter 17 of the Acts of 2015.

**Section 3-9 Board of Road Commissioners** was added and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 41. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

## **ARTICLE 4 TOWN ADMINISTRATOR**

The above **Section 4 - 1 Town Administrator Appointment, Qualifications, Term of Office** is, in part, new to the charter and replaced the original version approved in 1977. This new section was approved as part of the town meeting warrant of October 16, 1989. It was approved by the Massachusetts Legislature as Chapter 48 of the Acts of 1990.

**Section 4-1 Town Administrator Appointment, Qualifications, Term of Office** was amended by town meeting vote at the Fall Annual Town meeting held on October 15, 2001 under Article 20 authorizing the majority of the members of the board of selectmen to renegotiate six months prior to termination of town administrator's contract. Approved by the Attorney General on November 27, 2001. Voted and approved at the Annual Town Election on April 2, 2002.

**Section 4 - 2 (b) Powers and Duties** was approved by voters at town meeting of October 20, 1980 under Article 36 by striking out the first sentence and replacing it with the sentence above which starts "He shall appoint and remove... It was approved by the State Legislature on June 18, 1981 as Chapter 248 of the Acts of 1981.

**Section 4-2 (b)** Article 49 and **4-2 (c) Powers and Duties** Article 42 were amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011

**This graph (Town Administrator Town Treasurer/Collector** in the original charter included town Collector as an elected position A vote of the special town meeting of April 23, 2001, Article 5, amended this and deleted the position of collector which was made appointed by the town administrator. Approved at the April 2, 2002 annual election. Article 19 added and approved on April 29, 2003; Approved by the Attorney General on May 12, 2003. Approved at the April 6, 2004 annual election.

## **ARTICLE 5 FISCAL PROCEDURES**

**Sections 5-2 & 5-3 Fiscal Procedures, School Committee Budget, Submission of Proposed Town Budget** were amended and approved by town meeting vote at the Annual Spring town meeting held on April 28, 2014 under Article 18. Approved by the Attorney General on May 20, 2014. Approved at the Annual Town Election on April 7, 2015.



## **ARTICLE 6 ADMINISTRATIVE ORGANIZATION**

**Section 6-3 Administrative Code** was amended by town meeting vote at The Annual Fall town meeting held on October 25, 2010 under Article 57. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

## **ARTICLE 7 GENERAL PROVISIONS**

**Section 7-1 (b) General Provisions Charter Changes** was amended by town meeting vote at the April 26, 1999 Annual Town meeting. Approved by the Attorney General on June 15, 1999. Approved at the April 4, 2000 Annual Town Election.

**Section 7-5 (b) General Provisions Uniform Procedures** was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 59. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

**Section 7-6 (j) and (k) General Provisions Definitions** was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 61. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

**Section 7-8 General Provisions Notice of Vacancies** was amended and approved by town meeting vote at the Fall annual town meeting held on October 15, 2001 under Article 19. Approved by the Attorney General on November 27, 2001. Approved at the Annual Town Election on April 2, 2002.

The last sentence of the first paragraph in **7-10 (b) General Provisions Recall of Elected Officials** was changed to what appears above by a vote of the Fall town meeting of October 20, 1980 under Article 37. It was approved as Chapter 234 of the Acts of 1981 on June 4, 1981 by the State Legislature.

**Section 7-10 (e) General Provisions Recall of Elected Officials** was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 63. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

## **ARTICLE 8 TRANSITIONAL PROVISIONS**

**Section 8-4 (a) Transitional Provisions Time of Taking Effect** was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 65. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.