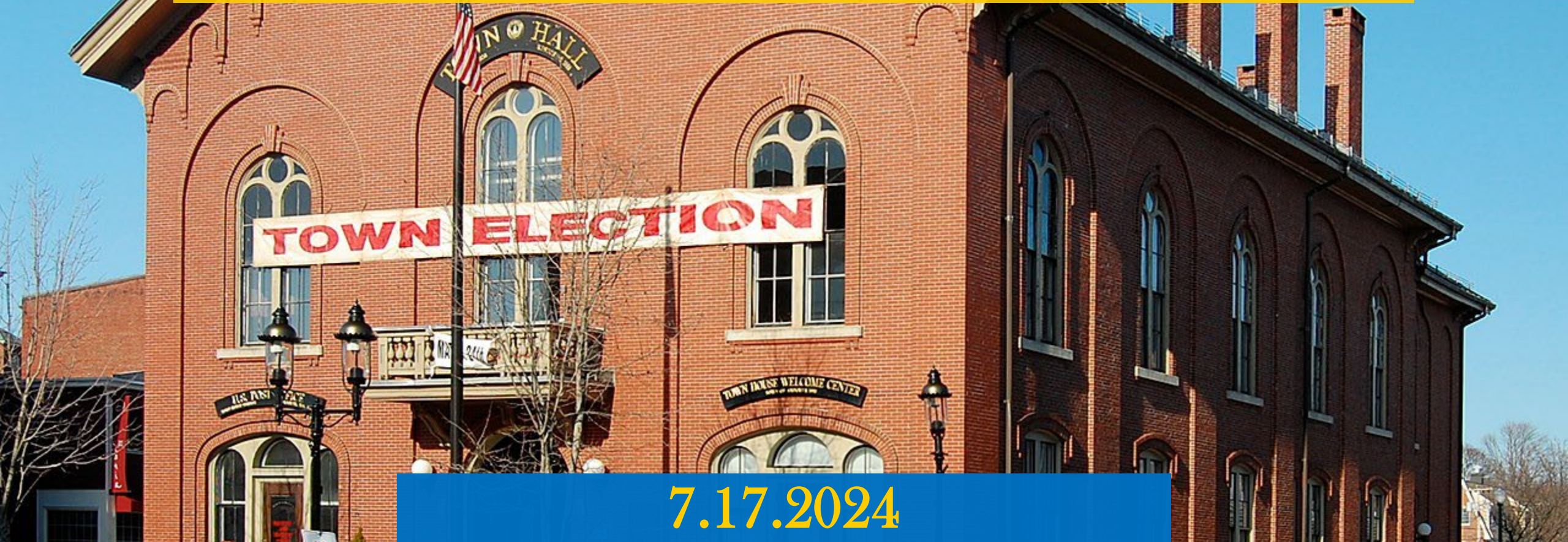


Andover Governing Structure: An Overview

Andover Legal Department



7.17.2024



The Municipal Corporation

- All 351 Towns & Cities of MA are subdivisions of the Commonwealth
 - 292 Towns
 - 59 Cities
- Town vs. City is a function of organization (and identity)
 - Largest Town = Brookline (pop. 63,000+)
 - Smallest Town = Gosnold (pop. 115)
 - Largest City = Boston (pop. 675,000+)
 - Smallest City = Palmer (pop. 12,488)

Sources of Authority to Organize

Prior to 1996 Home Rule Amendment

- Few options dictated by rigid State Law



After the Home Rule Amendment

- In 1966, Art. 89 of the Massachusetts Constitution provided:
 - ❖ An affirmation of the right of towns and cities to self-govern locally
 - ❖ A Charter process which was not contingent on subsequent state approval, later codified as the Home Rule Procedures Act. - Chapter 43B, and...
 - ❖ A significant list of limitations on self-governance, restraining municipalities from enacting laws which:
 - Preemption * * *
 - Regulate elections
 - Borrow money or pledge credit
 - Levy, assess and collect taxes
 - Dispose of park land
 - Private or civil laws governing civil relationships (with some exceptions)
 - Provide for felony offenses or imprisonment for violations of local laws

Municipal Corporation Features

➤ Town Governance Features

- Executive:
 - Elected Select Board
 - Elected School Committee
 - Appointed Town Manager/Administrator/Executive Secretary
 - Appointed Superintendent

- Legislature
 - Elected Moderator
 - Either Open or Elected Representative Town Meeting

➤ City Governance Features

- Executive:
 - Elected Mayor/ Appointed Manager
 - Elected/Appointed School Committee
 - Appointed Superintendent

- Legislature
 - City Council

**NB: A Select Board & City Council do not occupy the same role.*



Pros & Cons from Municipal Elected & Appointed Officials: Towns

Open Town Meeting / Selectmen Town Manager or Administrator

Features

All voters are eligible to debate and vote on budgets, bylaws and all matters brought before town meetings, and approve indebtedness (bonding). Town Meeting acts as the legislative body of the town. The executive branch of government consists of the selectmen and manager. An elected board of selectmen (usually 3 or 5) appoint a manager, sets policy, appoints boards and committees and may be authorized to approve or veto some of manager's appointments and approve union contracts. The manager is the chief administrative officer (CAO), appoints department heads and other employees, prepares budgets, awards contracts, negotiates with unions, and oversees administration. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. Fair number of boards and/or commissions may be elected.

Pros

- Direct and broad citizen participation in government
- Ability to establish qualification for appointed chief executive
- Appointed executive can be removed at any time by elected board

Cons

- Cumbersome decision making by legislative body
- Legislative body less likely to be knowledgeable on issues
- Shared executive authority between elected board and appointed manager can obscure responsibilities.

See Charters for:

Bedford: www.town.bedford.ma.us

Sturbridge: www.town.sturbridge.ma.us

Representative Town Meeting (RTM) Selectmen / Town Manager or Administrator

Features

A limited number of voters are elected, usually by district, to represent all voters in a representative town meeting (RTM). Size can vary widely (less than 100 to more than 300). RTM is the legislative body of town and it debates and approves budgets, bylaws, and all matters brought before town meeting. RTM also approves indebtedness (bonding). The executive branch of the government consists of the selectmen and the manager. An elected board of selectmen (usually 3 to 5) appoint a manager, set policy, appoint boards and committees and may be authorized to approve or veto some manager's appointments. The board also approves union contracts. The manager is the chief administrative officer (CAO), appoints department heads and employees, prepares budgets, awards contracts, negotiates with unions, and oversees administration. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. Smaller number of boards and/or commissions may be elected.

Pros

- Somewhat larger (than Council) representative legislative body participates directly in government
- Legislative body more likely to be informed on issues that open town meeting.
- Ability to establish qualifications for appointed chief executive
- Ability to remove appointed executive at any time by elected board.

Cons

- Difficulty in achieving broad community 'representation', achieving quorums, and keeping the 'status' of town meeting members up to date
- The size of the legislative body can present challenges in trying to educate and provide information to this group prior to the decision making process

See Charters for:

Danvers: www.danvers-ma.org/bylaw.htm

Shrewsbury: www.shrewsbury-ma.gov

Pros & Cons from Municipal Elected & Appointed Officials: Cities

Town Council / Town Manager

Features

Voters elect Council and the Council appoints a City or Town Manager. Manager is chief executive, appoints key officials, prepares budget, approves contracts, negotiates with unions and oversees administration. The elected Council is the legislative body and adopts budgets, adopts laws (ordinances, bylaws, zoning, etc.), approves indebtedness (bonding), and may be empowered to approve or veto some Manager appointments. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. A limited number of boards and/or commissions may be elected.

Pros

- Smaller legislative body
- Frequent meeting of legislative body
- Ability to establish experience and qualifications for chief executive
- Ability to remove appointed chief executive at any time by vote of elected council

Cons

- Smaller citizen participation in decision-making

See Charters for:

Franklin: www.franklin.ma.us/auto/town/charter/default.htm

Cambridge: www.cambridgema.gov/cmanager.cfm

Mayor / Council

Features

Voters directly elect a mayor and Council. The Council size varies from 7 to 15. The mayor is the chief executive who appoints key officials and all or some boards, and prepares budget, approves contracts, negotiates with unions and oversees administration. A mayor may be empowered to veto some Council actions. The elected Council is the legislative body, and adopts budgets, adopts laws (ordinances, zoning, etc.), approves indebtedness (bonding), and may be empowered to approve or veto some Mayor appointments. The council also may appoint some boards and committees. Mayor is also usually a voting member of school committee. A limited number of boards and/or commissions may be elected.

Pros

- Chief executive elected directly
- Small legislative body
- Frequent meeting of legislative body

Cons

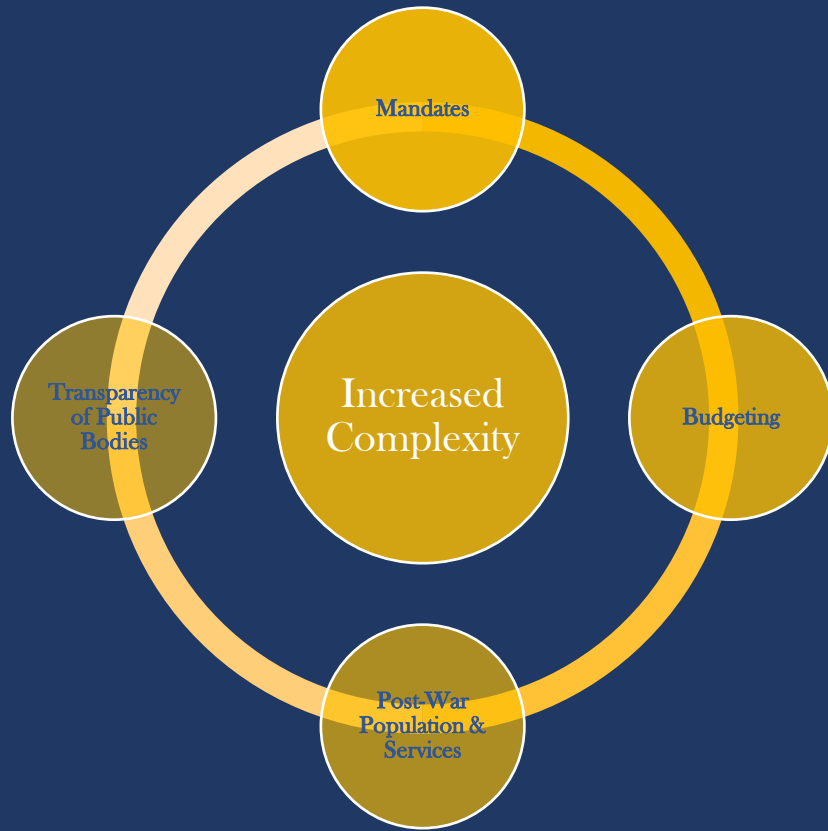
- Potential for political appointments to administrative positions
- Smaller citizen participation in decision-making
- Less potential for professional administration in technical areas

See Charters for:

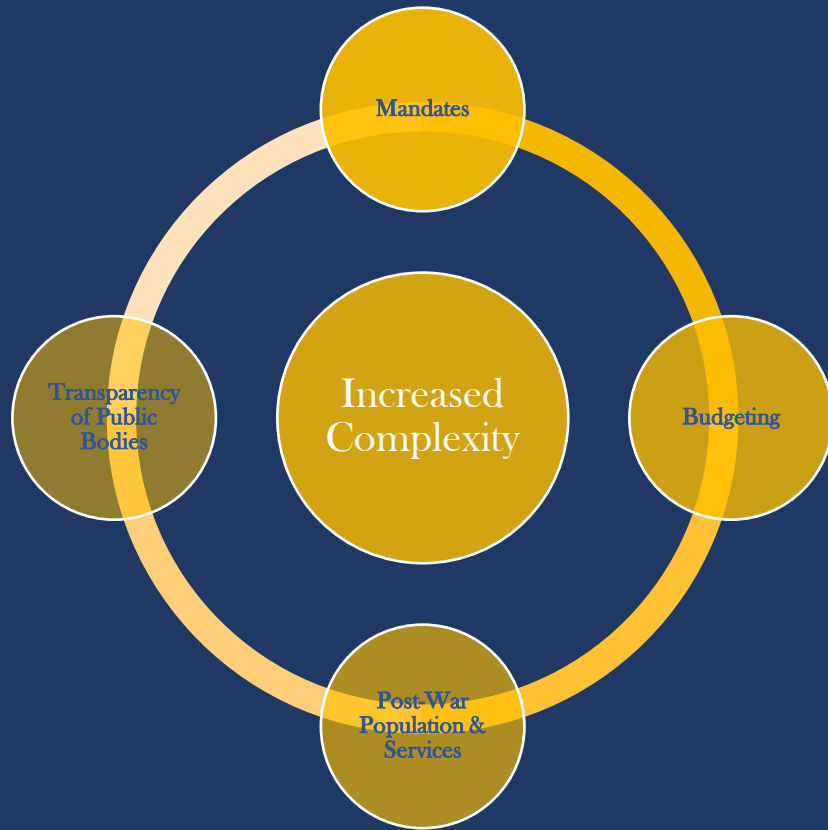
Fall River: fallriverma.org/ordinances_link.htm

Newton: www.ci.newton.ma.us/Legal/Ordinance/title.htm

Municipal Governance Trends & the Law



Municipal Governance Trends & the Law



Pathways for Towns & Cities

- Conversion to Plan “Cities”
- Delegation to Town Administrators & Executive Secretaries by c. 41 sec. 23A
- Special Act Charters and c. 43B Charters, including Town and City Professional Managers

Andover's Charter: 1955 Annual Report & The Select Board-Manager Plan

We find the following specific reasons why a Town Manager Plan is desirable in Andover:—

1. It places the administration of the Town's affairs in the hands of a full-time executive who is trained and experienced in the management of municipal business.
2. It makes possible operating economies through central purchasing of supplies and the pooling of personnel and equipment.

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3. It eliminates competition between boards for Town appropriation and bases requests for appropriations on the overall needs of the Town.
4. It makes possible better coordination of Town activities and an over-all program for future development.
5. It frees the selectmen from the details of administration and allows them to devote their time and efforts to policy decisions.
6. It provides the voters with more convenient access to the Town Government and assures them of more immediate action on their problems.

8. It speeds up the preparation of the Town Budget, simplifies its presentation, and makes possible more thorough study by the Selectmen and the Finance Committee before Town meeting.

9. It does away with costly delays which are unavoidable when day-to-day decisions are dependent on committee action.



Andover's Charter

- Special Act Charter: Chapter 571 of the Acts of 1956
- Revised 6 Times by Subsequent Special Acts
- Shared but Centralized Executive Authority:
 - Maintained the Open Town Meeting form of government, but with a “Strong Manager” Chief Officer
 - 4 Executive entities: Select Board, School Committee, Town Manager and Superintendent
- CEO/Board of Directors/Shareholder analogy
- Similar “Strong Manager” design to Lexington, Needham, Belmont, Danvers, Arlington, Winchester, North Andover (and still are).



Select Board's Role & Responsibilities

Dictated by the General Laws and the Town Charter

Prepare and issue the Town Meeting warrant and call Town Meetings

Appoint and evaluate, and negotiate the terms of the contract with the Town Manager

Appoint the Town Accountant, the Zoning Board of Appeals, the Registrars of Voters, and remove same for cause

Approve certain appointments by the Town Manager

Conduct hearings and grant licenses and permits

Review budget recommendations before they go before the Town Meeting

Place any Proposition 2½ question on the local ballot

Policymaking & Rate Setting:

- Goals and priorities
- Tax Rate
- Water Rate *
- Disposing of (most) Town real property (with Town Meeting)
- Parking & Traffic Rules
- Local regulations related to permits and hearings
- Good practice: refrain from engaging in "operations"

Town Manager Role & Responsibilities

Supervise and direct offices, agencies boards and committees appointed by Manager

Organize, establish and abolish departments, commissions, boards or offices under supervision,

Affix compensation of all town officers and employees appointed by Manager

Keep full and complete records and provide them to the Select Board as Requested

Apprise the Board of the needs of the Town and make recommendations for Board action within Board purview

Manage rental and use of all town property, except schools, including maintenance and repair

Administer provisions of general and special laws, town, bylaws and all regulations of the Select Board except where administration is delegated by law to another authority

With the approval of the Select Board, prosecute, defend or compromise all litigation to which the town is a party.

Other duties consistent with his office as may be required of him by the by-laws or vote of the town or by the vote of the select board

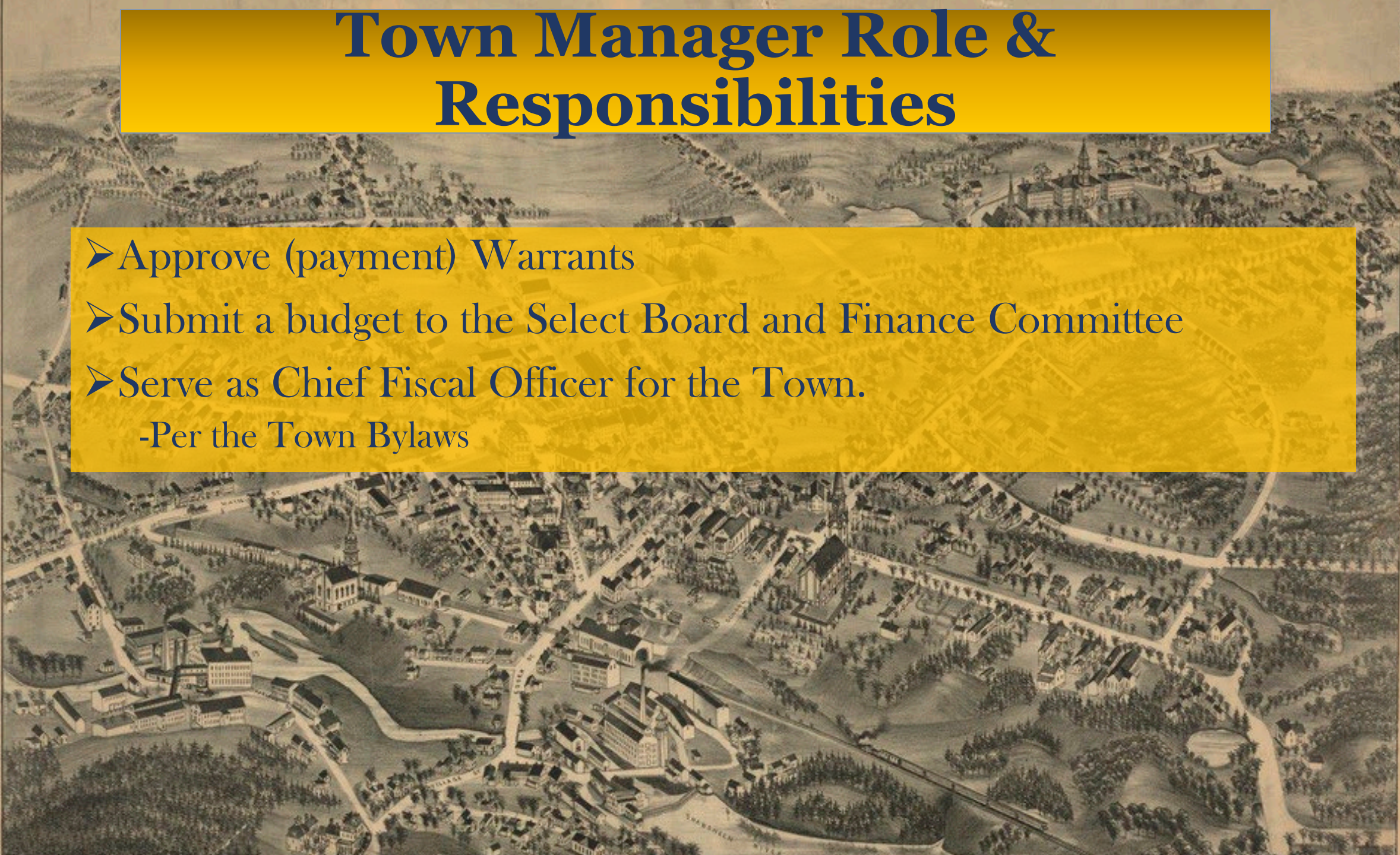
Authorized to investigate all departments and employees with full access to records

Purchase all supplies, materials and equipment except library and schools, and serve as contracting authority

Plus....

Town Manager Role & Responsibilities

- Approve (payment) Warrants
- Submit a budget to the Select Board and Finance Committee
- Serve as Chief Fiscal Officer for the Town.
 - Per the Town Bylaws



Town Meeting Responsibilities

- Serves as the Legislative Body
- Approve/Amend Zoning and Town Bylaws *
- Authorize Borrowing and Debt *
- Approves the Town & School Budget
- Adopts Local Options, Including L.O. Taxes
- Authorizes Certain Agreements/Amendments to Agreements
- Approves and Requests Special Legislation and Changes to the Andover Charter

Separation with Schools

Under Andover's Model (and *most* models)

- Administration of Schools is largely independent
- Similar relationship between School Committee & Superintendent
- Similar relationship to Town Meeting

Notes on Town Executive Authority

- ❑ Diffused into 4 Executives (2 Town and 2 School), *and*
- ❑ Shares Responsibility and Oversight with Other Town Entities - FinCom, Planning Board, etc.
- ❑ Balances Professionalization with Democratic Representation
- ❑ Group Decision-making and Consensus Building by Part-Time Elected Officials with the Efficiency of an empowered full-time professional Manager





Acknowledgements



- *Forms of Local Government Commonwealth of Massachusetts, Massachusetts Municipal Management Association, Form of Governance Committee*
- Marilyn Contreras, *Several Options Exist for Changing Local Government Structures*, Municipal Advocate Vol. 22, No. 2
- *Local Charter Procedures Election Resource Handbook 1995* (Massachusetts Secretary of State William Galvin)
- *1955 Report of the Town Governance Study Committee to the Annual Town Meeting.*
- David J. Barron, Gerald E. Frug & Rick Su, *Dispelling the Myth of Home Rule: Local Power in Greater Boston* (Rappaport Institute for Greater Boston 2004)
- *Local Government 101*
<https://www.mma.org/local-government-101/>

Questions & Discussion

