

Town Government Study Committee

3-to-5 Subcommittee

Final Report to the Select Board

For presentation on January 18, 2022

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Executive Summary

Over the last year, the Wenham Town Government Study Committee's 3-to-5 Subcommittee (the "Committee") has delved into the question that is our purpose: Will the Town of Wenham be better served by a three-person or five-person Select Board? We have reviewed materials prepared by other Massachusetts towns that have considered the question of expanding a three-person executive board, conducted our own investigations into the question, and deliberated over the perceived pros and cons of both three-person and five-person boards.

A four-member majority of the Committee now recommends to the Select Board that the Town increase the size of the Select Board from three members to five. Two members of the Committee recommend that the Town maintain a Select Board of three members. One member abstained from making a recommendation for reasons stated in the Summary of Committee Recommendations below.

In this report, we detail our research findings, questions raised during our work including around finances and elections, and recommendations by the Majority and Minority on the Committee. Each of these recommendations is discussed below, with supporting reasons.

We have also included Appendices with research findings, a report by a prior Government Study Committee, a sample Warrant item prepared by Town Counsel, and answers to procedural questions around making the change that may not be clear to the typical voter.

Introduction

Section 5-6 of the Town of Wenham By-Laws vests the Town's executive and policymaking powers in a three-member Select Board, the members of which are elected for staggered three-year rotating terms. At the Special Town Meeting held on October 17, 2020, Town Meeting voted in favor of a non-binding warrant article supporting the expansion of the Select Board from three members to five.¹

On January 19, 2021, the Select Board formed the Town Government Study Committee and appointed seven members to the 3-5 Subcommittee, along with two *ex officio* members, the Town Administrator and the former Town Counsel/Town Moderator. The Committee was charged with reporting back to the Select Board on the question of whether the Town of Wenham will be better served by a three-person or five-person Select Board. The full charge is included in Appendix A of this report.

The Committee convened on February 11, 2021. We began work by identifying other Massachusetts towns that recently considered moving from a three-member executive board to

¹ The article was non-binding as it took the form of a Citizens' Petition that Town Counsel concluded was not in proper form. Town Meeting was advised of Town Counsel's conclusion and the non-binding nature of the vote prior to the vote.

a five-member executive board and reviewing any reports that those towns produced. Then the Committee spent the better part of a year conducting research, interviews, data analysis, public forums, and cordial but spirited deliberations. The Committee wishes to express its gratitude to everyone who took the time to respond to interview questions, complete surveys, and attend the Committee's meetings and public forums. The Committee is now pleased to deliver the following Final Report to the Wenham Select Board.

Background and Methodology

The Committee divided its work into several phases. In February and March 2021, the Committee met weekly to discuss its charge and the question presented. Through these weekly meetings, the Committee undertook a review of other communities in Essex County and throughout the Commonwealth of Massachusetts that have considered expanding their executive board to five members. Among other factors that the Committee considered when identifying potential comparison communities were geographic proximity, population, school district format, and presence of institutions of higher education. Based on these discussions, the Committee developed a strategy for gathering information, to be followed by data analysis and deliberation.

From April through August 2021, the Committee conducted various forms of research and data collection. This included interviews with former members of the Wenham Select Board, former Wenham Town Administrators, and members of executive boards of other nearby towns that have recently expanded from three members to five.² The Committee also conducted two surveys. One survey sought the input of Town of Wenham employees, committee members, and board members. Another survey sought the input of Town of Wenham residents. During this phase, the Committee also conducted public outreach consisting of a short presentation at Annual Town Meeting 2021, a public information session on May 17, 2021, and a table at the Hamilton-Wenham Shop Local event on September 19, 2021. Through these various methods of data collection, the Committee received input from more than 100 sources.

In September 2021, the Committee transitioned to data evaluation and analysis.³ Although the response rate for telephonic/email interviews with past Select Board members, Town Administrators, and executive board members of other comparison communities was not as robust as the Committee hoped,⁴ the Committee noted that its survey of Wenham's employees and board/committee members garnered numerous responses. Many of these survey responses, which are discussed further below, included thoughtful comments both for and against expansion of the Select Board. Based on this research and the ability to draw upon the

² The Committee was also prepared to interview members of the executive boards of nearby towns that had considered and rejected efforts to expand from three members to five, but no other towns in Essex County fit this description.

³ All of the Committee's research and documentation can be reviewed through the Research Documents Folder link on the [TGSC webpage](#).

⁴ The Committee nevertheless wishes to express particular gratitude to the Town of Groveland Select Board, as four of its sitting members provided comprehensive responses to the Committee's interview questions.

analysis conducted by other towns that have recently studied this question, the Committee determined that it had sufficient information to move to deliberations in light of the Committee's goal of presenting its report to the Select Board in advance of Annual Town Meeting 2022. The Committee also held a public forum on October 21, 2021, during which the Committee presented a summary of the data collected and welcomed the public's comments regarding that data and the Committee's work overall.

Shortly after the public forum, the Committee concluded its data analysis phase and commenced deliberations. Over the course of several weeks of deliberations, a majority position developed favoring recommendation of a five-member Select Board, with a minority of Committee members favoring recommendation of remaining with a three-member Select Board. Each position then prepared drafts of their respective written recommendations. On January 12, 2022, the Committee conducted a final vote and adopted the recommendations included below.

Summary of Research

Research Methods & Results

The Committee deliberated on data collection methods and sources, ultimately agreeing on a combination of quantitative and qualitative methods. We consulted quantitative data from the Massachusetts Municipal Association and the Massachusetts Division of Local Services to understand the landscape of how executive boards are currently structured across the Commonwealth of Massachusetts. We conducted both key informant interviews and survey research to ascertain the views of relevant stakeholders on their experience and opinions on three-member vs. five-member executive boards and how such experience and opinions might apply to Wenham. A brief summary of the Committee's methods and key results are presented below.

Quantitative Data Summary

The Committee found it useful to examine the Massachusetts landscape in terms of size of executive boards. We looked across the state as a whole, and also geographically at Essex County. Data from the Massachusetts Municipal Association Directory (Figure 1) shows that in the 292 municipalities with a town form of government, Massachusetts towns are evenly split between three- and five-member boards, with one town (Wakefield) having seven members.



Figure 1

As population size of towns increase (Figure 2), so do the number of towns with five-member boards, with three-member boards more prevalent among smaller towns. In the middle band (5,000-7,500

Towns with Population of:	5 Member Select Boards	3 Member Select Boards
0 – 2,500	1	68
2,500 – 5,000	8	25
5,000 – 7,500*	16	19
7,500 – 10,000	18	14
10,000+	102	20
Total	145	146

Figure 2

population), where Wenham falls with a population of 5,274, towns are nearly evenly split between three-member (16) and five-member (19) boards.

In Massachusetts, Wenham would be the 12th smallest town to have five members. In Essex County, Wenham would be the smallest five-member town. Currently, Manchester-by-the-Sea is the smallest five-member town with a population of 5,429.

Looking geographically at municipalities with a town form of government in Essex County specifically (Figure 3), there is a predominance of five-member boards in neighboring towns, with only Essex, Lynnfield, Merrimac, Nahant, and West Newbury also having three members.

Essex County	5 Member Select Boards	3 Member Select Boards
# Towns	18	6
Towns	Andover, Boxford, Danvers, Hamilton, Ipswich, Georgetown, Groveland, Manchester BTS, Marblehead, Middleton, Newbury, North Andover, Rockport, Rowley, Salisbury, Saugus, Swampscott, Topsfield	Essex, Lynnfield, Merrimac, Nahant, Wenham, West Newbury

Figure 3

The Committee was not able to locate historical data to examine if all towns started with three members, or if and when there was a shift from three- to five-member boards, so we cannot draw conclusions about historical structure and rate of transition to larger boards. We were able to identify a number of neighboring towns that made the expansion from three to five in recent years, which will be discussed below.

Key Informant Interviews

The Committee constructed three categories of individuals with knowledge and experience from whom to request individual interviews, and a specific questionnaire was created for each of the three groups.

The first group identified was **former Wenham Select Board members**, and a total of seven interviews were conducted. In this group, four former members expressed a preference to remain with a three-member board and three expressed a preference for expanding to five members.

The second group identified was **current (at the time) and former Wenham Town Administrators (TAs)**, a group from which there were three interviews conducted. Two TAs recommended a five-member Select Board and one recommended staying at three.

The third group identified for key informant interviews was **comparator towns that had transitioned from three to five members relatively recently**, to understand whether they found the transition positive or negative and to discuss specific impacts of the transition. The Committee approached seven towns that transitioned from three to five members in recent years. Two towns (Hamilton and Groveland) agreed to the interview requests; five towns (Topsfield, Manchester-by-the-Sea, Newbury, Rowley, and Rockport) did not respond to the Committee's requests. Of the two responding towns, four members of the Groveland Select Board agreed to be interviewed, with two recommending a five-member board, one

recommending three members, and one not expressing a clear recommendation. From Hamilton, two Select Board members were interviewed. One current Select Board member recommended expanding to five, while one former Select Board member (who was not a Select Board member at the time of expansion) recommended staying with three members.

The Committee aggregated the responses of the former Wenham Select Board Members, former Town Administrators, and representatives from comparator towns, and identified the frequency of the pros and cons mentioned. The results are shown in Figure 4. The most frequently mentioned perceived pros of expanding the Select Board to five members included that **it could provide more dilution of power and ill effects of one member**, and that **it could be easier to have conversations among two members without violating the Open Meeting Law**.

**TOP PROS & CONS OF EXPANDING THE BOARD:
KEY INFORMANT INTERVIEW RESPONSES**

PROS (Total mentioned = 23)	# of Mentions	CONS (Total mentioned = 10)	# of Mentions
More dilution of power and ill effects of one member	6	Longer meetings	4
Easier to have conversation among 2 without violating Open Meeting Law	6	Harder decision making	4
Better quality of deliberation	4	Too few qualified candidates to fill seats	2
More input and ideas	4	Small town	2
More diversity in people's backgrounds & skill sets	4	Wasting Town Hall staff time	2
More groups of people / constituents represented	4	Collusion among 3 members	2

Figure 4

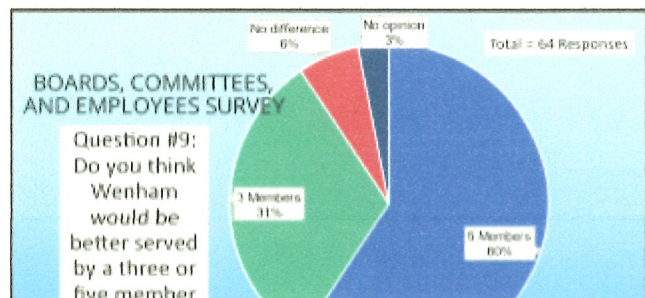
Other top responses included **better quality of deliberation, more input and ideas, more diversity in backgrounds and skill sets, and more constituent groups represented**. The most frequently mentioned perceived cons were that expansion could result in longer meetings and make decision making harder. Other top responses included that **there could be too few qualified candidates to fill seats**, that **Wenham is a small town**, that **five members could waste Town Hall staff time**, and that **there could be collusion among three members of a five-member Select Board**.

The complete list of respondents' perceived pros and cons of a five-member Select Board is included in Appendix B of this report.

Survey Data

The Committee agreed that an online survey would be the most efficient method to solicit viewpoints and opinions from two important and large Wenham stakeholder groups: **Town Board and Committee members** and **Town employees**. One survey was developed targeting this combined stakeholder group, which the Committee deployed in the summer of 2021. The survey was disseminated to 150 individual respondents, of whom 64 responded, representing a response rate of 43%.

In response to the survey question #9, "Do you think Wenham would be better served by a three or 5 member Select Board?" (Figure 5),



60% of these respondents indicated a preference for five members, while 31% indicated a preference for three.

The survey included a number of open-ended questions as well, including one asking for elaboration on respondents' preference for three or five members. The perceived pros and cons listed in these responses were tabulated (Figure 6). In this stakeholder group, the most frequently mentioned pro was the **preference for more diverse representation encompassing broader perspectives**, followed by the perception that **there would be more people to do the required work**, and the sense that **a five-member board would have mitigated the Town's recent problems with the Select Board**. The most frequently mentioned con among this group was the perception that **three members are enough for a small town**, and that **three members has been sufficient for the past 375 years**,⁵ and that **three members is working fine**.

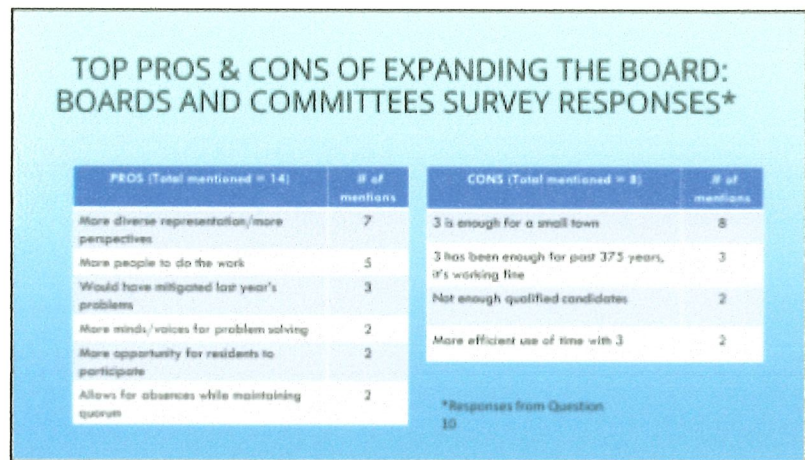


Figure 6

The Committee conducted a second survey in the fall of 2021. This public survey was made available to **all Town residents**. Although the Committee promoted the public survey at its regular meetings, on the Town web site and social media, by handing out cards at the Hamilton-Wenham Shop Local event, and in conjunction with the October 2021 public forum, responses to the public survey were minimal. Only 34 people submitted responses to the public survey. Of these, 23 respondents (67.65%) expressed that they believed that the Town would be better served by a five-member Select Board, while seven respondents (20.59%) believed that the Town would be better served by a three-member board. Four respondents (11.76%) responded that they did not think that three members versus five members would make a difference.

Summary of Committee Recommendation

After reviewing the data and conducting deliberations, the Committee has voted in favor of recommending that the Town of Wenham is better served by a five-person Select Board. The vote was four in favor of this recommendation (Kirsten Alexander, David Anderson, Deirdre Pierotti, Patrick Waddell), two opposed (Harriet Davis, Michael Lucy), with one abstention (Roger Smerage). What follows are opinions of the majority and minority in support of their respective recommendations. Please note that Committee Member and current Town Moderator Roger Smerage abstained from the vote because, should this question come before

⁵ The Committee was unable to verify if the Town of Wenham has had a three-member board for the entirety of its history.

Town Meeting, he would preside over the debate and vote on the question. Mr. Smerage thus expresses no recommendation on the question so as to maintain impartiality.

Majority Recommendation for a Five-Member Select Board

by Patrick Waddell, Deirdre Pierotti, David Anderson, and Kirsten Alexander

After careful study, discussion, and deliberation, four members of the Committee, representing a majority, are recommending to the Select Board and the residents of Wenham that we expand the Select Board from three to five members. What follows is a discussion of the reasons why we believe the expansion is in the best interest of the Town, and why we believe it will provide the best governance structure to support the future of Wenham. We have concluded that the reasons for expanding the Board to five are more compelling and future-oriented.

It is also clear from the research that we have done over the past year, that the evidence, opinions, and recommendations for expanding the Board generally outweigh the recommendations to stay at three. Following is a recap of the results:

- As we saw from the state data, the Commonwealth of Massachusetts is evenly split between boards of three and five, and at our population size, there are just three more towns at three (19) than at five (16). In Essex County, only six towns still have a Board of three, while 18 have five members.
- In our interviews of former Wenham Town Administrators, two out of the three interviewed recommended a Select Board of five members.
- In our interviews of former Wenham Select Board members, three out of seven recommended expanding the Board to five members.
- In our interviews of Select Board members from other towns who have made the transition to five, three out of five recommended expanding the Board, one recommended staying at three, and one had no opinion.
- In our survey of Wenham Board/Committee members and Town Employees, 60% of respondents recommended a Board of five. (The survey was distributed to 150 people, we received 64 responses, for a response rate of 43%.)
- In our survey open to the public, 68% of 34 respondents were in favor of a Select Board of five members.

The following discussion of our reasoning for recommending the expansion of the Board is organized into four over-arching themes: preparing for the future, representation and diversity, improved management, and risk mitigation. Later in this report, we provide our responses to our colleague's primary arguments in favor of maintaining a Board of three. Please note: the underlined sections below represent specific "pros" for expanding the Select Board to five members that were derived from the research results and can be found in the original data or in deliberations. Please see the "Complete list of perceived pros and cons" in Appendix B for the full list.

Preparing for the Future

A central reason for the expansion of the Board is positioning Wenham to solve the problems of the future. We believe more minds at the table will better serve the Town in meeting the challenges of the future. Wenham faces many entrenched issues, including an unsustainable residential tax burden, a structural deficit, aging school infrastructure, limited development options, etc. Like other communities, Wenham faces the increased complexity inherent in the challenges of the 21st century including climate change, pandemic illness, water shortages, and supply chain deficits to name a few. To rise to these challenges and cultivate local resilience, we need more minds and voices at the table focused on creative problem solving. As Wenham undertakes creating a Master Plan to chart the future course of the Town, we need a solidly structured Select Board to take us forward through implementation.

Representation and Diversity

One of the most cited reasons in favor of expanding the Select Board that emerged through our research and is present in other Town reports is the opportunity for more diverse representation and more perspectives. With five members, there is more ability to engage people with a broader skill set, with different training and career experience, bringing more diverse thinking to bear on the management of the Town. By extension, it is likely to result in better and more thorough discussion of issues, which means more well-reasoned, creative, and solid decision-making.

By creating more seats at the table, we encourage increased participation and bringing more people into Town government. In a representative democracy such as ours, more representation is a benefit to the Town, bringing in more constituencies and broader networks, ultimately engaging more people both directly and indirectly.

Improved Management

An expanded Select Board with five members represents improved management infrastructure for the Town. Expanding the number of seats to five brings more consistency with other Boards and Committees, most of which have five or more seats and function quite effectively and collaboratively. Five members will alleviate problems with scheduling, making it easier for members to be absent, if necessary, without needing to cancel meetings, risk not making quorum, or having important discussions held among only two members. Five members allows for sick time, vacation, travel, emergency absences without significant disruption. It builds in not only flexibility, but long-term stability. More people will be well versed in the issues of the Town and will be able to keep things running as needed, through turnover from election cycles, retirement from public life, and extended illness. The town's knowledge base would be deeper by building experience among more members, adding to the robust management of Town Government.

Five Select Board members would be better able to stay connected to constituents as well as other parts of Town government. Residents would have more opportunities to interact with and access Board members by virtue of more of them being available. It would enable the Select

Board to more easily have liaisons to other town Board and Committees, not for oversight, but for the purpose of establishing regular communication and information flow, which then facilitates the overall workings and management of the Town. The ideal management structure is one where consistent communication is the norm, creating synergies and facilitating informed planning by all Town entities for the betterment of the town and its residents. As problems increase in complexity and challenges become more persistent, we are likely to realize the greatest successes by working in concert rather than tackling issues in silos.

A problem that has challenged Wenham in the past has been filling seats on appointed Board and Committees. Five members would likely help to alleviate this problem, as more personal and professional networks could be tapped, but more importantly, by helping to dispel the perception that Town government is an impenetrable insider's game, unwelcoming and inhospitable. As more Select Board seats are opened up, transparency increases, and hopefully permeates throughout, creating a more open environment that lowers the perceived barriers to entry. Five members would likely result in a more transparent and public vetting of candidates for open seats, prioritizing skills, qualifications, and new ideas over repetitive appointments of known individuals, which reinforces the perception that only insiders are welcomed.

An expanded Select Board makes it easier to create subcommittees for two or three members to work on an issue together, and to bring reports or ideas back to the full committee. It is easier for two members to use each other as a sounding board in general without violating the Open Meeting Law, but we offer this idea with caution, as collaboration or serial conversations among members is not best practice and no form of deliberation outside of public meetings is acceptable under the Open Meeting Law. It does however, create more opportunity to assign various projects or issues to a particular member based on their knowledge or skill set. It also creates more space in assigning officer roles, so that not every member is constantly rotating between Chair, Vice-Chair, and Clerk, or serving in multiple offices simultaneously because of workload or availability issues.

Risk Mitigation

The fourth overarching area is that of risk mitigation. We believe that a five member Select Board establishes a sound framework for mitigating risk in a number of areas. Importantly, five member Boards are inherently more able to mitigate the risk of one member acquiring too much power and dominating the Board. A three-member Board can be prone to having a dominant or aggressive member influence one other member, leaving the third member with little room for dissent or the space to successfully present an opposing viewpoint. It also provides an environment where two members can more easily collude and control. Among five members, one dominant member is more easily kept in check with four other voices at the table, and it becomes much more difficult to push personal agendas. Three-member Boards can also become too insular, too ingrained in their process and thinking, creating more risk for things to go unattended to, or issues falling through the cracks. This has been evident in Wenham, for example, where the Employee Handbook (policy manual) had not been updated for 20 years, and where the Master Plan for the Town was last updated in 1962.

Five members mitigates the risk of more than one member having a conflict of interest in the proceedings of any particular meeting. With three members, one member having to step back from issue because of a conflict of interest leaves only two people making decisions, and two people with a conflict on the same issue leaves one member unable to act, or requiring the use of the “Rule of Necessity” where the Select Board members are allowed to vote an issue where they have a direct conflict of interest, for the purpose of maintaining quorum. Although legal, this is a practice that should be avoided wherever possible as it violates transparency and ethical boundaries.

A five-member Board helps to mitigate the risk of one member joining the Board for a particular issue, or one member lacking significant qualifications or experience. In these instances, there would be four other voices to dilute the effects of that member’s lack of knowledge or interest, and/or to help that member expand their knowledge base and learn the workings of the Town.

Similarly, five members mitigates the risk for any one individual member by spreading out the workload and the responsibility for decisions affecting the Town among more members. It may help to reduce the psychological barriers to joining the Select Board, knowing that there would be five of you to share the burden, the responsibilities, and the decision-making. It may reduce the focus on any one member’s votes, while also providing some opportunity for solidarity and support in shouldering the responsibilities of managing the Town. It would potentially encourage more people younger than retirement age to serve as well, enhancing the diversity of perspectives on the Board.

Conclusion of the Majority Recommendation

Our informed opinion, based on a year of exploration, research, and deliberation, is that a Select Board of five is a far more resilient Board, better able to withstand difficulties and pressures both external and internal. An expanded board is one that will ultimately benefit the residents of Wenham. It is important that Wenham acknowledge the problems of its past Select Boards and ensure that the structure and conditions that allowed those problems to arise are corrected.

Minority Recommendation to Remain a Three-Member Select Board

by Harriet Davis and Michael Lucy

Reason for the Question

The recent resignations of two of the three Select Board members created a short-term quorum problem and concern that recent decisions for appointments and issues/positions supported were too personal by the former three-person board.

History

For as long as most of us can remember and can find in history books, the small town of Wenham has been well served by a Select Board of three persons. Usually, they are experienced long-term residents who have served on other committees and boards. Very rarely are there incidences of conflicts of interest or personal prejudice clouding deliberations and decisions.

Population

The Majority puts Wenham in the 2,500-5,000 size group, to show that more towns have five-member Select Boards. But Wenham, especially omitting Gordon students, barely comes in over the 2,500 threshold. If we compare to towns below 2,500, the vast majority of towns still have three-member Select Boards. This is misleading use of statistics. The majority cites responses of former Wenham Select Board members and Town Administrators as showing preference for five, but in fact, if you lump together the Select Board and Town Administrator responses, it comes out to five vs. five. If you also count the verbal responses, more of this group say stay with three. This is really a 50/50 case for the voters.

Justification for Staying With a Select Board of Three

There is no guarantee that a five-person board will be more attentive and more efficient in solving the town's problems than a three-person board. In fact, several chairs of various boards locally have said they find that they end up doing most of the work not done by the Town Administrator anyway, regardless of the number of members. Most towns with five Select Board members also have a strong Town Administrator role, freeing the Select Board from day-to-day operational issues to focus on long term policy and planning. Wenham has a weak office of Town Administrator, in that the office has no *ex officio* operational authority.

Advice of Former Wenham Selectmen

Several previous Select Board members replied by phone instead of filling out written surveys. Previous Select Board members recommend staying with a three-person board as most appropriate for a small town like Wenham, to keep expenses down and provide a streamlined operation in place. Several former Town Administrators concur. They all prefer a small, well-knit group directing the Town Administrator to carry out the day-to-day operations of the Town without undue influence and intervention. A Select Board of five is too large for efficient

operational management when a town does not have a strong authorized Town Administrator role (as Wenham does not) to keep day to day operation running, and free up the Select Board for longer range planning issues. The experience reported from other towns confirm that this problem routinely arises if a Select Board grows to five but the Town Administrator remains unauthorized to make operational decisions.

Lack of Candidates for Town Service

Wenham has not been able to consistently field a robust field of candidates for selectmen for a board of three and has difficulty filling all the slots on boards and committees. Over the last 30 years there have been few contested elections, not only for Select Board, but for the Regional School District.

The current situation in Town government resolves not around the size of the Select Board but more on the position and authority of the Town Administrator. Wenham has had continuing difficulty in recent decades in attracting and retaining competent Town Administrators. Several issues are involved: a poorly defined role without explicit and adequate authority; a pay scale at the low end of Essex County; diminishing pool of qualified candidates as expressed by Municipal Resources Inc, (MRI) the recruiting firm Wenham has used for various town positions including Town Administrators.

And Finally, Public Interest has Moved On

This whole issue arose because of a perceived problem involving one, now retired, Select Board member. There was concern at the time the Committee was initiated, about this one person's domination of the Select Board. But that issue is resolved by the retirement, and seems unlikely a similar problem will arise, in that none of us can recall such concerns in the past. Today there are way more pressing issues facing the town, as the Majority points out, that will NOT have the same attention if the town spends the next two years managing all the implications of a change to a five-member Select Board. The Majority fails to outline the cost numbers re legal and operational changes that a vote to change to five would impose on our governance. Wenham is competently managed now by a three-person Board and a Town Administrator.

More Participation

Majority places high naive hope for drawing more of Wenham's highly qualified citizenry into town and Select Board service. This would be wonderful if it happens, but the experience of the last 10+ years is that it is unlikely that the successful, especially younger folks, can be coaxed to take time away from family and careers. Precisely because Wenham has been run quite well over the years, criticizing the Select Board is seldom a high priority of voters. That is why so few candidates generally step forward for even our 3 Select Board seats. Consensus government is in fact not a bad thing.

Minority Conclusion

Rather than changing its governing structure, Wenham has more pressing matters to be analyzed, voted, and implemented - from seeking ways to get control of an unsustainable tax rate, Regional School District's seemingly insatiable financial needs, capital requirements of various departments, not to mention an evolving Master Plan and the urgent need to redesign Main Street for improved safety and traffic flow.

Majority Responses to Minority Recommendation to Remain a Three-Member Select Board

by Patrick Waddell, Deirdre Pierotti, David Anderson, and Kirsten Alexander

1. **We respectfully disagree with the premise that Wenham has been “well-served” by a Board of three for 300+ years, and therefore does not need to change.** Firstly, we were unable to verify if Wenham has had a Board of three members for the entirety of its history, we are only aware of the last sixty years or so. Secondly, it is a matter of debate as to whether it has worked fine, and in our opinion, for many of the reasons already stated, it has not. We believe a five-member Board serves the public interest better in almost every way, and mitigates the problems Wenham has itself experienced with three members. We believe the time has come for change, and that change is necessary to propel us successfully to the future. Even if we accept that a Board of three was sufficient in decades past, remaining rooted in the past does not position us to cope with the complexity of the present and future. The role of government should be to work in the best interests of the constituents, and the status quo fails to rally our best strengths, and fails to represent best practice.
2. **We respectfully disagree with the premise that there are not enough qualified or interested candidates to fill five Select Board seats. One of the greatest strengths of the Town of Wenham is a highly skilled, highly educated, and highly knowledgeable constituency.** We believe there is extensive untapped talent that would benefit the Town if we are able to engage people in a more open and transparent Town government. We believe this to be perhaps our greatest asset in tackling the problems of the future, and that over time, more people will be encouraged to join Town government. The advent of Zoom meetings has enabled more people to engage and participate in Town government, and now is the time to capitalize on that interest by creating more seats at the table.
3. **The Minority Recommendation references additional research—phone interviews with key informants—that were not documented or shared with the rest of the Committee,** making it impossible to consider that data in its deliberations or share those findings with the public. The Majority recommendation is based on surveys and phone calls that were documented, shared with the entire Committee, and available in the Committee’s research folder on the Town of Wenham Web site.

Minority Responses to Majority Recommendation for a Five-Member Select Board

by Harriet Davis and Michael Lucy

1. **Preparing for the Future** - Respectfully, “more at the table” is not a solution. A focused Select Board, led by capable Chair, and supported by a more powerful Town Administrator, can better address Wenham’s current and future challenges.
 2. **Representation and Diversity** - Respectfully, we have plenty of diversity involved in the Town’s elected officials, appointments, staffing, and procedures as it is.
 3. **Improved Management** - Respectfully, there are many opportunities throughout Town Government – no basis for describing Town Government as an “impenetrable insider’s game”. Invocation of “better management by five” is pure and largely idle speculation. The quality of management is a perception that changes, and having more subcommittees, etc., does not result in better bottom line efficiency. Hamilton went to five (with a Strong Town Manager at same time) and local criticism of how well the town is managed remains as great as when it still had a three-member Select Board.
 4. **Risk Mitigation** - Respectfully, plenty of risk mitigation processes are in place already. It is pure speculation to surmise whether schedule problems, conflicts, etc. may be less with five than with three. Indeed until the pandemic era issues with Select Board members, there have been no such problems with the Select Board in the past.
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The Committee's Additional Observations

During the course of its work, The Committee identified three topics that we expect the Select Board will want to address if it decides to recommend changing to a five-member Select Board: Options for Elections for a Five-Member Select Board; Financial Implications of a Five-Member Select Board; and the Role of the Town Administrator, which was previously studied by a Government Study Committee appointed in October 2011.

The Committee consulted with Town Counsel, the Town Clerk, reviewed state law, and located a copy of a relevant report to inform the members of the Select Board on these topics. We lay out these issues briefly, along with some options, below.

Options for Election Formats with a Five-Member Select Board

The Committee observes that if the Town were to move to a five-member Select Board, there would be a number of variables and options when it comes to elections, both for filling the two additional seats and then for regular elections of the five members going forward. KP Law, our Town Counsel, has drafted a warrant that includes both of the options below. The draft warrant article is Appendix C.

With respect to an election to fill the two additional seats, the Committee assumes that the Town would opt to conduct such an election for both seats as early as possible. (As opposed to, for example, filling one seat one year and the second seat a year later, thus operating with four members for a year.) Staggering the two new seats to three- and two-year terms is necessary if the Town adopts the traditional 2-2-1 staggering for elections to a five-member board. We also present alternatives to the 2-2-1 staggering. Under such an approach, two options would be available:

1. Use a single ranked-result election. In this approach, all interested candidates would seek nomination for a single ballot item that would allow voters to select two candidates. The candidate with the most votes would get a three-year term and the runner-up would get a two-year term. A potential drawback to this approach is that a candidate will not know going in how long of a commitment they are making.
2. Use two separate elections on a single ballot. One election would be for the three-year seat and the other would be for the two-year seat. In this approach, candidates would seek nomination for one of these two ballot items, for which voters would each select one candidate.

With respect to regular elections moving forward with a five-member Select Board, there are also (at least) two options:

1. Use three-year terms staggered on a 2-2-1 basis. Thus, for two out of three election cycles, two seats would be on the ballot. During the third election cycle, only a single seat would be up for election.

2. An alternative is to conduct elections for the Select Board in “slate” fashion every year (or every two or three years, however the Town would choose to structure the elections). In this alternative, all five seats on the Select Board would be voted upon each election cycle.

Financial Implications of a Five-Member Select Board

Salaries/Stipends

The financial implications of expanding the Select Board to five members remain entirely up to Town Meeting. The amount that the Town appropriates to the Select Board for stipends is proposed by the Select Board each year as part of the budgeting process, but ultimately decided upon by the Town Meeting vote. Currently that line item is \$11,474 for three members (\$4,527 for the Chair and \$3,473 each for the other two members). In a move to a five-member Board, the Select Board could keep the total amount of compensation at the current level and divide it among five members. The Select Board could also increase, decrease, or eliminate their stipends, subject to Town Meeting approval. If the Select Board chooses to add two more stipends at the current level, the increased cost would be \$6,945.

We researched current salaries paid to Select Board members in Essex County. They range from a high of \$7,500 each, averaged across all members, in Newbury to \$1 or \$0 in eight of the 24 communities. The averaged compensation across the three members in Wenham is \$3,825, the fourth highest in Essex County. The full list of Select Board stipends in Essex County towns is detailed in Appendix D of this report.

Employee Benefits Package

The Committee discovered that state law requires that a town make its employee benefits package available to any elected official receiving monetary compensation of \$1 or more. The current elected positions in Wenham receiving a stipend of \$1 or more are: Select Board members, Moderator, Water Commissioners, and Assessor. We learned in our research that the Wenham Select Board adopted a policy in 2002 disallowing elected officials from opting into Town benefits, and assume this policy is still in place although we were unable to confirm this. No Wenham Select Board members or other part-time elected officials have opted to enroll in the town benefits package in recent history. However, nothing currently precludes the Select Board from reversing that policy and members then taking the benefits at the Town’s expense. The approximate cost for the town benefits package is around \$27,000 per subscriber as of 2021.

If the Town were inclined to ensure that Select Board members and other part-time elected officials were not able to make use of the town benefits package at the Town’s expense, it could do so in one of several ways:

First, the current Select Board could re-codify the 2002 policy, although such re-codification could still be reversed at any time in the future.

Second, Town Meeting could vote to zero out the Select Board stipend line item during the budget vote each year rendering the positions unpaid, thus ineligible for benefits.

Third, Town Meeting could vote to amend Town By-Laws to make Select Board members ineligible for the benefits package or to require any Select Board members enrolling in the benefits package to pay the premiums.

Town Executive Management, Prior Government Study Committee, and Role of the Select Board

Town Executive Management

As the management of towns gets more complex and formalized, many towns have moved to having a professional town executive on staff with defined official powers and day to day managerial responsibilities. Wenham's Town Administrator function has a relatively limited set of *ex officio* powers as set forth by the Town By-Laws and acts at the direction and will of the Select Board, which may choose or not choose to give additional powers to the Town Administrator at any time. Although reviewing the role of Wenham's Town Administrator was not part of the Committee's charge, the issue came up several times during the Committee's discussions and research in terms of how the change to a five-member board might relate differently to the Town Administrator

Some towns, such as Hamilton, which moved from three to five Select Board members in 2010, decided to codify more administrative day to day responsibility in their professional Town Administrator (now a Town Manager) at the same time as they expanded the size of the Select Board. Several other towns that have explored expansion of their executive board from three members to five have noted that the role and authorities of the town administrator or manager, and the relationship between that position and the executive board, may impact whether a three-member or five-member board is more appropriate for the town in question.

As such, the Committee observes that the Select Board (or the Town itself) may want to reexamine the Town Administrator's role and how that role is codified. The Committee notes that there has been significant turnover in the role of Town Administrator in recent years, and queries whether the lack of specified authorities contributes to that turnover.

Prior Government Study Committee (“GSC”)

Wenham has looked at the question of the Town Administrator before, and that work can inform decisions today. Ten years ago the then Wenham Board of Selectmen appointed a Government Study Committee to “study the current town governance structure with a specific focus on gaining efficiency in the governance and operation of town government.” This included “the need to clarify the authority and responsibility of the Town Administrator and determine the degree to which the Town Administrator should have direct or indirect responsibility for the Town service’s operations.”

The current Committee is grateful to Paul Weaver as an *ex officio* member, as he previously served the Town of Wenham as Town Moderator, Town Counsel, and was a member of the 2011-2013 Government Study Committee. The Committee appointed in 2011 produced an interim report in November 2012, which was presented to the Select Board and is included as Appendix F in this report.

The Government Study Committee did an extensive breakdown of issues specific to Wenham’s governance structure, and recommended in its interim report that a Town Executive (regardless of actual job title) be responsible for personnel administration, for implementing all policies established by the Board, and for the operation of Town Hall and the departments within. This person would be subject to oversight by the Board. The Selectmen at the time did not move forward with such changes.

Role of the Select Board

Regardless of the Select Board’s size, the Town may wish at some point to explore whether a change to the role of the Select Board is appropriate, particularly if the Town also explores changes to the role and authorities of the Town Administrator. Although this issue was also not within the scope of the Committee’s charge, the Committee observes that regardless of whether the Select Board contains three or five members, the Town may wish to explore making the Select Board a more policy-driven entity, much like the board of directors of a corporation that takes action through its officers, who carry out the policies and vision set by the board.

Closing Remarks

The Committee wishes to express its gratitude to all of the people, both in Wenham and elsewhere, who participated in the Committee’s study process or otherwise contributed to the Committee’s work. In particular, the Committee thanks the Wenham residents who attended the Committee’s meetings and public information sessions. We thank the Town Clerk Trudy Reid for her assistance in conducting research into our town records. We would also like to thank former Town Administrator, Ryan Ferrara, and Interim Town Administrator, Tom Younger, who both provided invaluable insight as *ex officio* members of the Committee during their tenures.

Finally, the Committee thanks the Select Board for charging the Committee to explore the question presented and working with the Committee through its study process.

Respectfully submitted,

Town of Wenham Town Government Study Committee, 3-5 Subcommittee

Appendix A: Charge to the Town Government Study Committee 2020 – 2021

Originally Adopted 12.08.20

Amended 01.19.21

Town Government Study Committee 2020 - 2021

Amended Committee Charge

Mission: To study possible reorganization of portions of the Town of Wenham government structure .

Objectives: The Committee will be divided into three teams, each to study the positive and negative impacts of three particular changes to current town government structure. The committee team addressing the first question will prepare a preliminary written report, to include majority and any minority views, for presentation at the Annual Town Meeting in May 2021. Each team, separately will provide a final report to the Board of Selectmen by 30 November 2021 . The three questions are:

Will the Town of Wenham be better served by a three-person or five-person Select Board?

Will the Town of Wenham be better served by a separate or combined Department of Public Works and Water Department?

Will the Town of Wenham be better served by the current five social services committees, which include Wenham Affordable Housing Trust, Wenham Issues of Social Services Help, Council on Aging, Wenham Connects, and Wenham Housing Authority, or by a consolidation of those committees?

The committee teams should interview available previous and current town officials and committee members, town administrators and department heads, and town employees for their expertise and experience on these questions. The committee teams should acquire information from State of Massachusetts resources and from comparable municipalities. The committee teams should consider previous Town of Wenham government studies and interview study group members.

Membership: The Committee will consist of three co-chairman each separately leading a team addressing one of the questions along with six members designated for that team, all of whom will serve from date of appointment until 31 December 2021. Additionally, Mr. Paul Weaver, former Wenham Town Moderator and Town Counsel, will serve *ex officio* on this committee, bringing his comprehensive knowledge of Wenham government history and organization as a highly valuable resource for the Committee. Mr. Tom Younger, Town Administrator, or his successor in that position, will serve *ex officio* on this committee, bringing extensive municipal government experience to the Committee.

Members will have a vote only on matters addressed by their team. Each committee team by majority vote will elect a Secretary at its first meeting, those terms running until 31 December 2021. The Secretary will be responsible for their team's meeting minutes. Each co-Chairman will be responsible for providing an update on their team's progress to the Board of Selectman by 31 March, 30 June, and 30 September.

Appendix B: Perceived Pros and Cons of a Five-Member Select Board

Perceived Pros and Cons of a Five-Member Select Board from Key Informant Interviews: Wenham Town Administrators, Wenham and surrounding town Select Board Members

Pros	Frequency	Cons	Frequency
More dilution of power and ill effects from one member	6	Longer meetings	4
Easier to have a conversation with another member without violating open meeting law	6	Harder decision making to get three of five to agree	4
Better deliberation	4	Collusion among three members	2
More input and ideas	4	Too few qualified candidates	2
More diversity in people's background and skill sets	4	Small town	2
More groups of people represented	4	Wasting Town Hall staff time	2
Harder for two people to collude and control	2	Smoother meetings with three	1
Improved communication with boards and committees	2	Not enough work for five	1
More elected people having a say	2	Appearance that it is OK for two of five to talk outside meetings, but not best practice	1
Easier to fill appointed seats on board and committees	2	Long drawn-out debates	1
Better transparency	1		
More competitive elections	1		
Can assign projects/tasks that better fit people's backgrounds	1		
Ability to create subcommittees	1		
More expression of minority views	1		
Increased public awareness and engagement	1		
More fairness in appointment process, less personal bias	1		
Easier scheduling	1		

Easier to make quorum	1		
Avoiding conflict of interest	1		
Less staff/Town Administrator time required	1		
Improved efficiency	1		
Improved communication	1		

Perceived Pros and Cons of a Five-Member Select Board from Boards, Committees, and Employees Survey (Question #10)

Pros	Frequency	Cons	Frequency
More diverse representation/perspectives	7	Three is enough for a small town	8
More people to do the work	5	Three has worked fine for 375+ years	3
Mitigates one member having too much power as happened last year	3	Not enough qualified candidates for five	2
More minds/voices applied to problem-solving	2	More efficient use of time	2
More opportunity for residents to participate	2	Less cost	1
Allows for absences while maintaining quorum	2	Easier interface with staff	1
Time for change	1	Harder decision making	1
Structure poised to manage future demands	1	Makes existing problems with Board worse to add members	1
Harder to push personal agenda	1		
Ensures majority vote	1		
Three members is too insular	1		
More opinions and discussion	1		
Ensures votes are fair	1		
Helps with continuity of government	1		

Appendix C: Draft Warrant Article, from Lauren F. Goldberg, Town Counsel, KP Law

To see if the Town of Wenham will vote to direct the Select Board to submit to the General Court a special act providing for an increase in number of members of the Select Board, from 3 to 5, all as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to such bill, unless the Select Board approves amendments to the bill prior to enactment by the General Court, and provided further that the Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or take any further action relative thereto.

An Act Regarding the Select Board of the Town of Wenham

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be in the town of Wenham a 5-member select board. The Select Board shall serve as the chief executive officer and policymaking entity of the Town and have and exercise all the powers and duties vested in boards of selectmen pursuant to applicable provisions of the general laws. Select board members shall serve for 3-year terms, with as nearly as possible 1/3 of the members' terms expiring each year.

SECTION 2. At the first annual town election following not less than 64 days after the effective date of this section, 1 additional select board member shall be elected for a 3-year term and 1 additional select board member shall be elected to a 2-year term. The terms of those members currently serving as members of the select board at the time of the acceptance of this act shall be unchanged by adoption of this act.

OPTION 1. Such additional offices shall appear on the ballot together, with such instructions as will aid the voter, and the candidate receiving the most votes will be elected for the 3-year term, and the candidate with the next highest number of votes will be elected for the 2-year term.

OPTION 2. Such additional offices shall appear on the ballot as follows: One for a 3-year term, and one for a 2-year term, each with such instructions as will aid the voter.

SECTION 3. This act shall be submitted to the voters of the town of Wenham at the next annual or special town election following not less than 35 days after the effective date of this act in the form of the following question:

"Shall an act passed by the General Court entitled 'An Act expanding the board of selectmen of the town of Wenham' be accepted?"

Below the question shall appear a summary of the act prepared by town counsel and approved by the select board. If a majority of the votes cast in answer to the question is in the affirmative, sections 1-3 of this shall take effect in the town of Wenham, but not otherwise.

If the ballot question authorized by this section shall appear on the same ballot as do candidates for the additional select board member positions to be filled under section 2, and a majority of the votes cast on the question of whether to accept the act are in the affirmative, then

OPTION 1. the person receiving the highest number of votes shall be declared to have been elected to a three-year term, and the person receiving the next highest number of votes shall be elected a two-year term.

OPTION 2. the persons with the highest number of votes for each office shall be declared to be elected,

If a majority of votes on the question is in the negative, the ballot for candidates shall not be counted.

SECTION 4. This act shall take effect upon its passage

Note from Lauren F. Goldberg: If there is no interest in placing the act before the voters for local acceptance, then Section 3 may be deleted.

Appendix D: Essex County Towns – Select Board Stipends

Town	SB members	Avg Stipend	Total
Newbury	5	7,500	37,500
North Andover	5	5,100	25,500
Salisbury	5	4,500	22,500
Wenham	3	3,825	11,474
Danvers	5	3,600	18,000
West Newbury	3	3,333	10,000
Rowley	5	3,000	15,000
Hamilton	5	2,927	14,633
Middleton	5	1,700	8,500
Andover	5	1,560	7,800
Groveland	5	1,500	7,500
Merrimac	3	1,167	3,500
Marblehead	5	1,100	5,500
Essex	3	1,050	3,150
Ipswich	5	800	4,000
Lynnfield	3	750	2,250
Topsfield	5	1	5
Nahant	3	1	3
Boxford	5	0	0
Georgetown	5	0	0
Manchester-by-the-Sea	5	0	0
Rockport	5	0	0
Saugus	5	0	0
Swampscott	5	0	0

Appendix E: Legal and Process Questions on Moving from a Three to a Five-Member Board

What is the process to change the size of a Select Board in Massachusetts?

The change can be brought about by either a Citizens' Petition driven warrant article or the existing Select Board can place an article on the warrant. If Town Meeting votes in favor of a change, it must then go to the Massachusetts Legislature for approval. The Legislature may request a ballot vote confirming the Town Meeting vote.

Why wasn't the change enacted after the Special Town Meeting vote in October 2020?

The question posed to Town Meeting was not properly worded to initiate a change in the size of the Select Board.

The vote taken at Special Town Meeting showed interest in studying the question of whether Wenham would be better served by a three- or five-member Select Board. As a result, the Town Government Study Committee was formed to provide a recommendation to the current Select Board and Wenham residents.

What is a quorum and what impact would increasing the number of Select Board members have?

The Massachusetts Open Meeting Law defines a quorum as 'a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.'

For a three-member board, two members must be present to hold a meeting—only one member may be absent.

For a five-member board, the quorum is three members—two members may be absent and the meeting could proceed.

Considerations:

A three-member board with one missing member increases the possibility of a tie vote, 1-1, resulting in no action being taken. The same is true of a five-member board with one missing member (2-2).

Vacations, medical issues, work travel can make it more difficult to schedule meetings with a smaller board/committee.

How Does Open Meeting Law work with a three- or five-member Select Board?

The intention of the Open Meeting Law (OML) is to ensure that deliberations of a public body occur in public where citizens can view the proceedings.

From the OML handbook: The Open Meeting Law applies only to the discussion of any “matter within the body’s jurisdiction.” The law does not specifically define “jurisdiction.” As a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body.

In practice, this means two members of a three-member body cannot legally get together and discuss any matter that MAY come before the Select Board. This includes in person meetings, phone calls, electronic communication, and communicating through a third party.

With a five-member Select Board, two members could discuss town matters. Deliberation is strongly discouraged by Town Counsel, however. Two-member subcommittees could be formed from a five-member Select Board to study specific issues, but any subcommittee would be subject to the Open Meeting Law.