MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

RECEIVED
TOWN OF BEDFORD
TOWN CLERK
14 DEC 22 AM 8:50

December 18, 2014

Bedford Board of Selectmen
10 Mudge Way
Bedford, MA 01730

Re: Bedford Special Town Meeting of November 6, 2014 - Case # 7452
Articles 6, 7, 8, and 9 (Charter Amendments)

Dear Members of the Board:

Articles 6, 7, 8, and 9 - Pursuant to the provisions of General Laws Chapter 43B, Section 10, we have reviewed the votes taken under Articles 6-9 at the November 6, 2014, Bedford Special Town Meeting. General Laws Chapter 43B, Section 10 (c), requires the Attorney General to furnish "a written opinion setting forth any conflict between the proposed amendment and the constitution and laws of the commonwealth." We do not find any conflict between the Charter amendments proposed under these Articles and the Constitution or laws of the Commonwealth. We remind the Town that our review is confined to the proposed Charter amendments submitted to us for review, and does not include a review of the existing text in the Town's Charter. Our comments on Article 6 are provided below.

Article 6 - Article 6 proposes to submit to the voters a number of miscellaneous charter amendments that amend various Articles in the Town's Charter. We find no conflict between these amendments and state law. However, G.L. c. 43B, § 11, requires the ballot questions presented to the voters to include a summary of each charter amendment. The summary is prepared by Town Counsel and must distinguish each amendment from any other amendments or revisions to be considered at the same election. Because the vote under Article 6 includes miscellaneous changes to many Articles in the Town's Charter, the Town must ensure that it complies with the requirements of G.L. c. 43B, § 11. We suggest that the Town discuss this issue with Town Counsel.

Finally, we recommend that the Town consult with Town Counsel to ensure compliance with the charter filing requirements of G.L. c. 43B, § 12, which states in relevant part:

Section 12. Certificates in quadruplicate shall be prepared setting forth any charter that has been adopted or revised and any charter amendments approved and shall be signed by the city or town clerk. One such certificate shall be deposited in the office of the state secretary and shall be kept under the custody of the archivist of the commonwealth, one shall be deposited in the office of the director of housing and community development, one shall be deposited in the office of the attorney general and the other shall be recorded in the records of the city or town and deposited in its archives.

Very truly yours,
MARTHA COAKLEY
ATTORNEY GENERAL
Kelli E. Gunagan
by: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: DHCD
Town Counsels Robert S. Mangiaratti and Lauren Galvin
Town Clerk Doreen Tremblay

TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730

www.bedfordma.gov

Doreen Tremblay, Town Clerk

Town Hall
10 Mudge Way
Bedford, Mass. 01730
781-275-0083

Dtremblay@bedfordma.gov

CLERK'S CERTIFICATE

SPECIAL TOWN MEETING

NOVEMBER 6, 2014

Article 6 - Miscellaneous Charter Amendments

Voted, that the Town approve the amendments to the Town of Bedford Charter:

a) ***Article 2 - The Town Meeting, Section 2-6 Clerk of the Town Meeting***

Current text:
The Town Clerk shall record all votes and preserve as public records all proceedings of the Town Meeting sessions. If at a Town Meeting the office of Town Clerk is vacant, or if the Town Clerk is absent, the meeting shall elect a temporary Clerk.

Proposed Text:
The Town Clerk shall record all votes and preserve as public records all proceedings of the Town Meeting. ~~sessions.~~ If at a **session of** Town Meeting the office of Town Clerk is vacant, or if the Town Clerk is absent, the ~~m~~**M**eeting shall elect a temporary Clerk.

b) ***Article 2 -The Town Meeting, Section 2-8 Petitioners'*** **Advisory Committee (Second Sentence)**

Current Text:
Appointees shall serve for a term of one year and shall be attorneys or persons otherwise qualified by virtue of their experience in town government.

Proposed Text:
Appointees shall serve for a term of one year and shall be attorneys or persons otherwise qualified by ~~virtue of~~ their experience in town government.

c) ***Article 2 - The Town Meeting, Section 2-9 Town Meeting Vote by Consent***

Current Text:
In preparing the warrant for Town Meeting the Selectmen may, at their discretion, place two or more items subject to a vote at Town Meeting into a consent article. A vote on a consent article shall be a vote on all items it contains; however, each item shall be printed in the article in a separate paragraph so that it is identifiable and distinct from all others. The Town Meeting may vote to amend a consent article by removing from it any item making that item subject to a separate vote. In that event a consent article shall be voted, as amended.

Proposed Text:
In preparing the warrant for Town Meeting the Selectmen may~~, at their discretion,~~ place two or more items subject to a vote ~~at Town Meeting~~ into a consent article. A vote on a consent article shall be a

vote on all items it contains; however, each item shall be printed in the article in a separate paragraph so that it is identifiable and distinct. ~~from all others.~~ The Town Meeting may vote to amend a consent article by removing from it any item, making that item subject to a separate vote. In that event a consent article shall be voted, as amended.

d) ***Article 2 - The Town Meeting, Section 2-11 Submission of Budgets by Elected Boards and Elected Committees to the Finance Committee***

Current Text:
All elected boards and elected committees shall submit their budget to the Finance Committee no later than the second Monday in January. The Selectmen's budget shall be in the form specified in Article 5, Section 2 of this Charter.

Proposed Text:
All elected boards and elected committees shall submit their budget to the Finance Committee no later than the second Monday in January. The Selectmen's budget shall be in the form specified in Article 5, Section 2 of this Charter. **Exceptions to this date will be subject to the decision of the Finance Committee.**

e) ***Article 3 - The Selectmen, Section 3-3 Appointments***

Current Text:
In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:

Office	No. of	Length of Term Years
Fence Viewers	5	1
Measurers of Wood, Bark and Manure	5	1
Town Manager	1	Pleasure of Selectmen

Proposed Text:
In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:

Office	No. of	Length of Term Years
~~Fence Viewers~~	~~5~~	~~1~~
~~Measurers of Wood, Bark and Manure~~	~~5~~	~~1~~
~~Town Manager~~	~~1~~	~~Pleasure of Selectmen~~

f) ***Article 5 - Town Manager, Section 5-1 Conditions of Office, Duties***

Current Text:
The Selectmen shall appoint a Town Manager who shall be qualified by education, training, or previous experience in public administration to perform the duties of the office. He or she shall be the chief administrative officer of the Town. The individual shall not have served in an elective office in the Town during the twelve months prior to the appointment. He or she shall devote full-time to the business of the Town. The Town Manager's compensation shall be set by the Selectmen within the amount appropriated by the Town Meeting. The Town Manager shall serve at the pleasure of the Selectmen; however, at least four Selectmen must vote for dismissal if the individual is to be removed from office. The Town Manager shall be responsible for the conduct of affairs placed in his or her charge by this Charter or by other legal source or delegation of authority. Among the powers and duties of the Town Manager are the following:

a. Recommend to the Selectmen for their consideration and approval policies and long-range goals to guide the plans and programs of the several offices and departments.
c. Prepare the Salary Administration Plan Bylaw amendment for approval of Town Meeting. In this regard he or she shall administer the Bylaw and perform all administrative and policy functions in said Bylaw.
e. Provide staff support to the Capital Expenditure Committee to assist it in the execution of its duties.
f. Keep Selectmen informed as to the financial condition and needs of the Town and make such recommendations to them as deemed necessary or expedient.

Proposed Text:
The Selectmen shall appoint a Town Manager who shall be qualified by education~~, training, or previous~~ **and** experience in public administration to perform the duties of the office. He or she shall be the chief administrative officer of the Town. The individual shall not have served in an elective office in the Town during the twelve months prior to the appointment. He or she shall devote full-time to the business of the Town. The Town Manager's compensation shall be set by the Selectmen within the amount appropriated by the Town Meeting. The Town Manager shall serve at the pleasure of the Selectmen; however, at least four Selectmen must vote for dismissal **from the position.** ~~if the individual is to be removed from office.~~ The Town Manager shall be responsible for the conduct of affairs placed in his or her charge by this Charter or by other legal source or delegation of authority. Among the powers and duties of the Town Manager are the following:

- **a.** Recommend ~~to the Selectmen for their consideration and approval~~ policies and long-range goals **to the Selectmen** to guide ~~the~~ plans and programs of ~~the several~~ offices and departments.
- **c.** Prepare the Salary Administration Plan Bylaw amendment for approval of Town Meeting. ~~In this regard~~ ~~h~~**H**~~e or~~ /she shall administer the Bylaw and perform all administrative and policy functions in said Bylaw.
- **e.** Provide staff support to the Capital Expenditure Committee. ~~to assist it in the execution of its duties.~~
- **f.** Keep Selectmen informed as to the financial condition and needs of the Town and make such recommendations to them as ~~deemed~~ necessary. ~~or expedient.~~

g) Article 5 - Town Manager, Section 5-2 Responsibility for Budget Preparation (Third Sentence)

Current Text:
It shall address the financial policies and the assumptions that affect the department budgets and enumerate and explain the differences between the current and forthcoming budgets.

Proposed Text:
It shall address the financial policies and the assumptions that affect the department budgets and enumerate and explain the differences between the current and ~~forthcoming~~ **proposed** budgets.

h) Article 5 - Town Manager, Section 5-3 The Warrant Report

Current Text:
The Town Manager shall prepare a warrant report and place it in distribution to all the Town's registered voters a minimum of seven days before each Annual Town Meeting and a minimum of fourteen days before a Special Town Meeting. The warrant report shall be constructed as follows:

For each article in the warrant, a copy of the article or a summary that conveys its full contents; a statement by the submittor of the article of the reason or reasons why the provision set forth in the article should be adopted by Town Meeting, a comment by the Selectmen, and a comment by the Finance Committee.

The Selectmen may also invite the Town officers, boards, commissions and committees affected by an article to submit a comment for the report. The warrant report for a Special Town Meeting need not be prepared if the Selectmen and the Finance committee agree that the time required for its preparation would delay the holding of such a meeting sufficiently to do harm to the town.

Proposed Text:
The Town Manager shall prepare a warrant report and ~~place it in distribution~~ **arrange for its distribution** to all the Town's registered voters a minimum of seven days before each Annual Town Meeting and a minimum of fourteen days before a Special Town Meeting. The warrant report shall be constructed as follows:

For each article in the warrant, a copy of the article or a summary that conveys its full contents; a statement by the submittor of the article of the reason or reasons why the provision set forth in the article should be adopted by Town Meeting, ~~a comment~~ **recommendations** by the Selectmen~~,~~ and ~~a comment by the~~ Finance Committee.

The Selectmen may also invite the Town officers, boards, commissions and committees affected by an article to submit ~~a comment~~ **recommendations** for the report. The warrant report for a Special Town Meeting need not be prepared if the Selectmen and the Finance committee agree that the time required for its preparation would delay the holding of such a meeting sufficiently to do harm to the town.

i) Article 8 - Recall of Elected Officials, Section 8-1 Holders of an Elective Office May Be Recalled

Current Text:
Holders of an Elective Office May Be Recalled
Any holder of an elective office may be recalled and removed by the qualified voters of the Town as provided in this Charter. Recall is intended to be utilized when, in the opinion of the number of voters specified below, an elected official, acting as such, has caused a loss of confidence in his or her judgment or ability to perform reasonably the duties and responsibilities of the office.

Proposed Text:
Holders of an ~~Elective~~ Elected Office May Be Recalled
Any holder of an ~~elective~~ **elected** office may be recalled and removed by the ~~qualified~~ **registered** voters of the Town as ~~provided~~ **detailed** in this ~~Charter~~ **article**. Recall is intended to be utilized when, in the opinion of the number of voters specified below, an elected official, acting as such, has caused a loss of confidence in his ~~or~~ /her judgment**,** or **the** ability to ~~perform~~ reasonably **perform** the duties and responsibilities of the office.

j) Article 8 - Recall of Elected Officials, Section 8-2 Affidavit, Petition, Preparation and Filing

Current Text:
Any ten qualified voters of the Town may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. The Town Clerk shall promptly transmit a copy of such affidavit to the officer sought to be recalled and to the Selectmen. Within five days from the date of the filing of the affidavit, the Town Clerk shall deliver to the ten voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued, consecutively numbered, by the Town Clerk with the signature and official seal of the Town Clerk attached thereto; they shall be dated and addressed to the Selectmen, shall contain the name of the person sought to be recalled, the grounds of recall as stated in said affidavit, and the names of the persons to whom issued, and they shall demand the election of the successor to such office. The recall petition shall be returned and filed with the Town Clerk at or before 5:00 p.m. of the thirtieth day after issuance of the petition. Said petition before being returned and filed shall be signed by at least ten percent of registered voters and to every signature shall be added the place of residence of the signer, giving the street and number. The Town Clerk shall deliver the petition to the Registrars of Voters, and the Registrars shall, within five days, certify the number of signatures which are names of voters of the Town.

Proposed Text:
Any ten ~~qualified~~ **registered** voters ~~of the Town~~ **seeking to recall an elected officer of the Town** may file ~~with the Town Clerk~~ an affidavit **with the Town Clerk** containing the name of ~~the~~ **said** officer ~~sought to be recalled~~ and a statement of the grounds ~~of~~ **for** recall. The ~~Town~~ Clerk shall promptly transmit a copy of ~~such~~ **the** affidavit to the officer sought ~~to be~~ **for** recall~~ed~~ and to the Selectmen. Within five days from the ~~date of the filing of the~~ affidavit **filing date**, the Town Clerk

shall deliver ~~to the ten voters making such affidavit~~ a sufficient number of ~~copies of~~ **recall** petition blanks ~~demanding such recall~~ **to the ten filing voters.**

The blanks shall

1. be ~~issued,~~ consecutively numbered~~, by the Town Clerk~~ with the signature and official seal of the Town Clerk attached ~~thereto;~~
2. ~~they shall~~ be dated and addressed to the Selectmen~~,~~
3. ~~shall~~ contain the name of the person sought to be recalled~~,~~
4. **contain** the grounds ~~of~~ **for** recall as stated in ~~said~~ **the** affidavit~~,~~
5. ~~and~~ **contain** the names of the persons ~~to whom issued,~~ **who filed the recall affidavit**
6. **demand a recall election be held**
7. ~~and they shall~~ demand the election of the successor to ~~such~~ **the** office~~.~~**, as detailed in Section 8-6.**

The **completed** recall petition shall be returned and filed with the Town Clerk at or before 5:00 p.m. of the thirtieth **(30th)** day after issuance of the petition **to the filers.** ~~Said~~ **The** petition ~~before being returned and filed~~ shall be signed by at least ten percent of registered voters and ~~to~~ every signature shall ~~be added the~~ **also include the** place of residence ~~of the signer~~, ~~giving the~~ **with** street and number**, of the signer**. The Town Clerk shall **promptly** deliver the petition to the Registrars of Voters, and the Registrars shall~~, within five days,~~ certify the number of **Town voter** signatures ~~which are names of voters of the Town~~ **within five days.**

k) Article 9 - General Provisions, Section 9-3 Date of Appointments

Current Text:
Date of Appointments
Terms of appointment shall end on June 30, or until another is duly appointed and qualified.

Proposed Text:
~~Date~~ **Term of Appointments**
Terms of appointment shall end on June 30, or until another **person** is duly appointed and qualified.

l) Article 9 - General Provisions, Section 9-4 Qualification of Elected and Appointed Officials

Current Text:
Qualification of Elected and Appointed Officials
Except for regular Town employees, all elected and appointed officials shall be qualified by the Town Clerk within thirty days of their election or appointment.

Proposed Text:
Qualification of Elected and Appointed ~~Officials~~ **Town Officers**
To be qualified, a person must be duly elected or appointed, and have taken the oath of office. ~~Except for regular Town employees,~~ ~~a~~ All elected and appointed ~~officials~~ **Town officers** shall be qualified by the Town Clerk within thirty days of their election or appointment~~.~~**, and may not begin their official duties until they are qualified.**

m) Article 9 - General Provisions, Section 9-5 Voting of Boards, Commissions, Committees

Current Text:
A majority vote of the total membership of any elective or appointive board, commission or committee shall be required to pass a motion.

Proposed Text:

Except as otherwise provided by Massachusetts General Law, ~~A~~ **a** majority vote of the total membership of any elective or appointive board, commission or committee shall be required to pass a motion.

n) Article 9 - General Provisions, Section 9-14 Charter Revision

Current Text:
The Selectmen shall five years from the effective date of this Charter and every five years thereafter, appoint a committee to study the working of Town government and recommend revisions and amendments considered advisable.
Proposed Text:
The Selectmen shall five years from the effective date of this Charter and every five years thereafter, appoint a committee to ~~study~~ **review** the working of Town government and recommend revisions and amendments considered advisable.

o) Article 9 - General Provisions, Section 9-16 Publication of Charter and Bylaws (Second Sentence)

Current Text:
Copies of the said Bylaws and copies of this Charter shall be made available in suitable form in the office of the Town Clerk.

Proposed Text:
Copies of the said Bylaws and copies of this Charter shall be made available ~~in suitable form~~ in the office of the Town Clerk.

Recommendations:

Selectmen:	Recommended approval
Finance Committee:	Recommended approval
Charter Review Comm.:	Recommended approval

Moderator declared motion adopted unanimously.

A true record, attest:

Doreen Tremblay
Town Clerk

Date: December 22, 2014

TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730

www.bedfordma.gov

CLERK'S CERTIFICATE

Doreen Tremblay, Town Clerk

Town Hall
10 Mudge Way
Bedford, Mass. 01730
781-275-0083

Dtremblay@bedfordma.gov

SPECIAL TOWN MEETING

NOVEMBER 6, 2014

Article 7 - Charter Amendment - The Moderator, Election, Deputy Moderator

Voted, that the Town approve an amendment to the Town of Bedford Charter Article 2, Section 2-5 "The Moderator, Election, Temporary Moderator" as follows:

Article 2 - The Town Meeting, Section 2-5 The Moderator, Election, Temporary Moderator

Current Text:
The Moderator, Election, Temporary Moderator
A Moderator shall be elected for a three-year term to preside over sessions of the Town Meetings. In the absence of the Moderator, the Town Meeting shall elect a temporary Moderator.

Proposed Text:
The Moderator, Election, ~~Temporary~~ Deputy Moderator
A Moderator shall be elected for a three-year term to preside over sessions of the Town Meetings. **At the first session of the Annual Town Meeting, the Moderator shall appoint a Deputy Moderator to serve until the next Annual Town Meeting in the event of the Moderator's absence or disability, provided that the Town Meeting shall ratify such appointment.**

The Deputy Moderator shall have all of the powers of the Moderator when presiding at Town Meeting sessions, but shall have no other powers or duties of the Moderator. In the absence of the Moderator **and the Deputy Moderator**, the Town Meeting shall elect a temporary Moderator.

Recommendations:

Selectmen:	Recommended approval
Finance Committee:	Recommended approval
Charter Review Comm.:	Recommended approval

Moderator declared motion adopted unanimously.

A true record, attest:

Doreen Tremblay
Town Clerk

Date: December 22, 2014

TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730

www.bedfordma.gov

CLERK'S CERTIFICATE

Doreen Tremblay, Town Clerk

Town Hall
10 Mudge Way
Bedford, Mass. 01730
781-275-0083

Dtremblay@bedfordma.gov

SPECIAL TOWN MEETING

NOVEMBER 6, 2014

Article 8 - Charter Amendment - Volunteer Coordinating Committee Membership

Voted, that the Town approve an amendment to the Town of Bedford Charter Article 3, Section 3-3 "Appointments" by increasing the number of Volunteer Coordinating Committee members from three (3) to a total of five (5) as follows:

Article 3 - The Selectmen, Section 3-3 Appointments

Current Text: In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:			*Proposed Text:* In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:		
		Length of Term			Length of Term
Office	No. of	Years	Office	No. of	Years
Volunteer Coordinating Committee	3	3	Volunteer Coordinating Committee	5	3

Recommendations:

Selectmen: Recommended approval
Finance Committee: Recommended approval
Charter Review Comm.: Recommended approval

Moderator declared motion adopted by two-thirds vote.

A true record, attest:

Doreen Tremblay
Town Clerk

Date: December 22, 2014

TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730

www.bedfordma.gov

Doreen Tremblay, Town Clerk

Town Hall
10 Mudge Way
Bedford, Mass. 01730
781-275-0083

Dtremblay@bedfordma.gov

CLERK'S CERTIFICATE

SPECIAL TOWN MEETING

NOVEMBER 6, 2014

Article 9 - Charter Amendment - Duties of the Volunteer Coordinating Committee

Voted, that the Town approve amendments to the Town of Bedford Charter Article 3, Section 3-5 "Duties of the Volunteer Coordinating Committee" as follows:

Article 3 - The Selectmen, Section 3-5 Duties of the Volunteer Coordinating Committee

Current Text:
The Volunteer Coordinating Committee shall identify qualified candidates for all appointive offices in the Town, except for appointees who work full or part time for remuneration, and except for appointments to the Volunteer Coordinating Committee. For each appointment made by each appointing authority, except for the just specified exceptions, it shall present the appointing authority with a list of names from which to choose, including the incumbent's name if he or she wishes to be reappointed. No appointing authority may choose an appointee whose name does not appear on such list. However, the Volunteer Coordinating Committee shall provide additional names if the appointing authority requests them or if any candidate on a list refuses appointment. The appointing authority may make an appointment without following the procedure set forth in this paragraph if the Volunteer Coordinating Committee fails to supply a list of candidates within thirty days of the date of a request.

Proposed Text:
The Volunteer Coordinating Committee shall identify qualified candidates for ~~all~~ appointive offices in the Town, except for **the following:**

- appointees who work full or part time for remuneration, ~~and except for appointments to~~
- the Volunteer Coordinating Committee~~.~~ ,
- **incumbents under consideration for reappointment,**
- **appointees of elected and appointed boards and committees other than those of the Selectmen.**

For each appointment made by each appointing authority, except for the ~~just specified~~ exceptions **specified above, ~~it~~ the Committee** shall present the appointing authority with a list of **the name or** names from which to choose~~,~~ . ~~including the incumbent's name if he or she wishes to be reappointed.~~ ~~No~~ **The** appointing authority may **not** choose an appointee whose name does not appear on such list. However, the Volunteer Coordinating Committee shall provide **an** additional **name or** names if the appointing authority requests them or if any candidate on a list refuses appointment. The appointing authority may make an appointment without following the procedure set forth in this paragraph if the Volunteer Coordinating Committee fails to supply a list of candidates within ~~thirty~~ **sixty** days of the date of a request.

Recommendations:

Selectmen:	Recommended approval
Finance Committee:	Recommended approval
Charter Review Comm.:	Recommended approval

Moderator declared motion adopted unanimously.

A true record, attest:

Doreen Tremblay
Town Clerk

Date: December 22, 2014