

MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246
www.mitchellmunicipalgroup.com

WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
NAOMI N. BUTTERFIELD
JOSEPH H. DRISCOLL, IV

TELEPHONE (603) 524-3885

July 25, 2022

Barrington Select Board
333 Calef Highway
Barrington, NH 03825

Re: Special Town Meeting

Dear Chairman Mannschreck and Select Board Members:

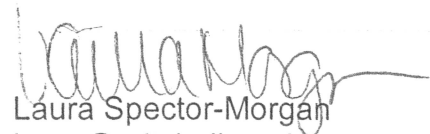
You have asked us to opine on the special town meeting warrant article that has been submitted to the town. That article seeks to compel this Board to remove Mr. MacIver from his position as Town Administrator, and Mr. Royce from his position as Town Treasurer, and to ban both of them from ever working for the Town of Barrington again. As a legal matter, this article is advisory only.

RSA 41:8 vests the Select Board with the duty to manage the prudential affairs of the town. This includes the authority to hire and fire employees. See, e.g., Loughlin, Peter J., 13 New Hampshire Practice Series: Local Government Law, §383 at page 14-6 (2011). Moreover, town meeting has vested the selectmen with the authority to appoint the treasurer. RSA 41:26-e. The voters cannot usurp this authority. See, e.g., Moulton v. Beals, 98 N.H. 461, 465 (1954). Therefore, should the special town meeting approve this warrant article, it will not bind the selectmen, but will be merely advisory.

Despite the fact that the warrant article is not binding, we have recommended that the town hold the requested special town meeting, because RSA 39:3 requires selectmen to warn a special town meeting when presented with a petitioner warrant article not less than 60 days before the next annual meeting. RSA 39:9 further allows the superior court to order such a meeting if the selectmen refuse to call one. There is little doubt that the petitioners of the special town meeting would have asked the court to order the meeting if the selectmen had refused to call one, and therefore, in order to save the town and its taxpayers the time and expense of defending such a lawsuit, the recommendation was made to simply hold the special town meeting.

Please let me know if we can be of additional assistance. Thank you.

Sincerely,



Laura Spector-Morgan
laura@mitchellmunigroup.com