

ARTICLE 47. Investigation and Amendment to the Town Counsel Bylaw

To determine whether the Town will vote to urge the Select Board to appoint a committee whose purpose will be to investigate the reasons for numerous recent violations of the Town Counsel Bylaw, and then recommend amendments to the bylaw which will allow the Town to return to compliance with it.

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Current Town Counsel Bylaw:

- Enacted by 1992 Annual Town Meeting, Article 45
- Replaced the “Town Counsel Residency Bylaw”
- Bylaw was recommended by the Legal Services Review Committee
- Removed the Town Counsel residency requirement
- Was a solution to the limited number of Concord residents both qualified and willing to be Town Counsel

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The Main Points of the Town Counsel Bylaw, Section 1:

- The Town Manager will appoint “*some competent lawyer*”
- The appointment will be annual, in May
- The term will begin “*on the first day of June*”

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The Main Points of the Town Counsel Bylaw, Section 2:

- Will act as *“...legal advisor to the Town and to all Town officers, boards and committees in connection with the performance of their public duties”*

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Appointments are made by the Town Manager
with the Approval of the Select Board

From the May 22, 2017 Select Board Agenda:

19.	Town Manager Administrative Appointments with the Approval of the Board: Kerry Lafleur Town Treasurer/Town Collector; Patricia A. Robertson, Deputy Treasurer/ Collector; Kari Tari, Town Clerk; and Anderson & Krieger, Town Counsel, all terms to expire May 31, 2018. Mary Barrett Town Accountant for a term to expire May 31, 2020
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Why “Investigation?”

- Substantial bylaw compliance for at least a decade prior to 2016
- Substantial disregard of the bylaw from 2016-2019

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How has the Town Counsel Bylaw Been Disregarded?

- The person introduced as “Town Counsel” for the last 6 consecutive town meetings was **not** the appointed Town Counsel
- In 2017 the appointed Town Counsel was a law firm, not “*some competent lawyer*”
- The author of the 2018 Annual Town Report “Town Counsel” page was **not** the appointed Town Counsel

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How has the Town Counsel Bylaw Been Disregarded?

- Various committee minutes name a “Town Counsel” who is *not* the appointed Town Counsel
- The 2018 Town Counsel appointment letter refers to the “re-appointment” of a person who was not previously appointed Town Counsel
- The Town does not have a signed oath-of-office document on file for 2016, 2017, or 2018

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Town Counsel Oath-of-Office Document

2016, 2017, 2018



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What is There to be Concerned About?

- Legal Services spending more than doubled from 2016 to 2019
- Town Counsel Bylaw accountability all but vanished from 2016 to 2019
- Are these changes related?

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What to do?

- Form a committee to determine the causes of the disregard of the Town Counsel Bylaw
- Recommend amendments to the Town Counsel Bylaw which may be required to return to compliance with the bylaw

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