

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 25, 2019

Thomas Tillotson
1 Wilderness Road
Dixville, NH 03576

Re: Annual Meeting for the Election of Officers in Dixville

Dear Mr. Tillotson:

Please accept this as a follow-up to our telephone conversation on January 16, 2019. Our records in ElectionNet indicate that your term as moderator is set to expire on March 15, 2019.

Dixville, as an unincorporated place, is afforded two options in determining how to conduct elections for federal and state offices. First, Dixville may select its own polling place for such elections, provided that it first organizes and elects its town officers at its annual meeting as provided in RSA 668:1 and RSA 53:1. Such meetings for the election of officers must occur "annually on the second Tuesday of March." RSA 39:1.

Alternatively, if Dixville fails to organize under RSA 53:1, then "the secretary of state shall designate a town in the same representative district where all persons domiciled in the unincorporated place may register, vote, file for office and exercise all other procedures to which they are entitled under the election laws." RSA 668:2. In other words, if Dixville fails to hold its annual town meeting to elect its officers, then the Secretary of State will designate another town in which Dixville's inhabitants may register and vote in under RSA 668:2.

As stated above, if Dixville chooses to organize its own polling location, pursuant to RSA 53:1, the following officers must be elected at an annual town meeting:

- Moderator,
- Town clerk,
- At least two (2) selectmen,
- At least two (2) supervisors of the checklist.

See RSA 53:1. In addition to the above elected offices, Dixville will also need to appoint a ballot clerk on Election Day (also known as an "inspector of elections").

Mr. Tillotson
Page 2 of 2

Moderators hold office for a maximum term of two (2) years, but may be elected at more frequent intervals. RSA 40:1. Town Clerks serve a term of one (1) year, unless the governing body adopts a three (3) year term under RSA 41:16-B. Selectmen each hold office for a three (3) year term and one selectman should be up for election each year. RSA 41:8. Supervisors of the checklist each serve terms of six (6) years. RSA 41:46-a.

You should be aware that certain offices may not be held by the same individual. Under New Hampshire law, selectmen are barred from simultaneously holding the office of moderator. RSA 669:7. Also, the moderator, selectmen, town clerk, and ballot clerk cannot also simultaneously serve as a supervisor of the checklist. *Id.*

On our phone call last week you explained that Dixville currently has five (5) registered voters on the checklist. You indicated that you currently serve as the moderator and your wife, Deborah Tillotson, is the Town Clerk. You further stated that Dixville currently has only one supervisor of the checklist and two selectmen. I note that the information you provided does not appear to be consistent with the records maintained in statewide election database, ElectionNet. Our records indicate that Clayton Smith and Tanner Tillotson are listed as supervisors of the checklist. Joseph Casey and Tanner are listed as selectmen. As noted above, Tanner may not hold both of these positions since selectmen cannot simultaneously serve as supervisors of the checklist.

If Dixville intends to organize for the federal and state elections, it will be required to adhere to all of the State's election laws and procedures, including avoiding conflicts in holding simultaneous offices, using State registration forms, and establishing a proper polling place which follows the Elections Procedure Manual in the use of guardrails and spaces in which the public may not enter, and adhering to the town meeting notice requirements set forth in RSA 669:2, *et seq.* and RSA 39, *et seq.* See RSA 53:1 & RSA 668:1. In preparation for the March election, please note that RSA 669:7 does not prohibit a selectmen or moderator from simultaneously serving as town clerk nor does it bar a moderator from simultaneously serving as a ballot clerk.

I trust that this information will be helpful to you as you prepare to organize Dixville's election in March. Both our office and the Secretary of State's office stand by ready to assist you in any way possible. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

CC: William M. Gardner, Secretary of State