

Town of New Scotland  
Special Board Meeting  
03/18/2020

The following Town Officials were in attendance:

Supervisor:	Douglas LaGrange
Councilperson:	Adam Greenberg
	Bridgit Burke
	Daniel Leinung
	William Hennessy
Highway Superintendent:	Kenneth Guyer
Town Clerk:	Diane Deschenes
Town Attorney:	Michael Naughton

**1. Call to Order**

Supervisor LaGrange called the meeting to order at 1:05 PM. The purpose of the meeting is to discuss the proposed resolution concerning staffing during COVID-19.

Supervisor LaGrange said that under the first “Be it Resolved” it says on recommendation of the Highway Superintendent Ken Guyer the Highway Department will implement a schedule with +/-50% staying on and +/-50% working. We should strike the plus or minus and may add a comment at the end that it may be suspended due to emergencies at the discretion of the Highway Superintendent and the Town Supervisor. Councilperson Leinung thought that would work. Councilperson Hennessy suggested including the essential versus non-essential part of that whole directive also because we don’t really know who is essential and who is non-essential. If we at least have that in there we may have 10 non-essential employees and four essential. Does that mean 50% is half of 10 employees? Is that how that works? Highway Superintendent Guyer said that in his mind everyone on the crew is considered essential and they would also be considered non-essential depending on what’s going on in Town. He would consider right now the work that we’re doing, busy work, as non-essential. If need be, we have a snow storm, a water main break, a wind storm with trees down, he would then assume that his crew is essential. By splitting the 50-50 that should give him enough coverage to deal with any of that. Councilperson Leinung thought that that made sense adding that we can incorporate something saying that Highway Superintendent Guyer can designate employees as essential in the case of an emergency. He thinks we all understand what we are trying to do here. He’s on board with that. Supervisor LaGrange said that we can add a lot of little things here but we know the general intent. It would say, “Be it resolved that on recommendations of the Highway Superintendent Kenneth Guyer the Highway Department will implement a schedule with 50% staying home and 50% working at one-week intervals except in the cases of emergency.” What could we add to that to tie in what Councilperson Leinung and Councilperson Hennessy said? Councilperson Greenberg asked if Attorney Naughton had looked it over. Attorney Naughton said that he looked it over and he thinks that in general it’s just to authorize Highway Superintendent Guyer to direct his men to stay home and receive compensation and to have 50% of them on a rotating basis. It’s all fine with him. Councilperson Greenberg said that he was trying to get Attorney Naughton to chime in on the wording. He thinks it needs to be clear that it’s not a vacation. If they leave town, they take vacation time; otherwise they need to be on call in case there is some kind of emergency. He’s not sure he wants to leave it open ended. He’d like to have an end date and revisit it in a couple of weeks. Things are changing so quickly and we don’t know where we are going to be tomorrow much less in two weeks. He has points he would like to make in an Executive Session when we’re done with this. It doesn’t have to do with the resolution we are talking about. He doesn’t for a moment think that he’s an expert on this or that he has all the answers. He’s just trying to look ahead to the degree that he can. Councilperson Burke questioned if leaving people on call is consistent with what the Governor is suggesting. If you leave people on call, we are reducing the number of people who are in contact with each other. Councilperson Greenberg said that they are on call in case there is an emergency. The point he was trying to make is that if they use this as a week off and they leave town and we have a snow storm, that’s a problem. Councilperson Burke asked if the Governor is asking us to reduce by 50% or 50% unless there is an emergency? Councilperson Leinung said that he’s saying reduce by 50% on a day-to-day basis in the workplace. Councilperson Greenberg added that he also said “essential” in that directive so let’s not lose sight of that. As Highway Superintendent Guyer said a minute ago, any of these people could be essential depending on what happens in town. We can’t have half of the workforce treat it as a vacation and leave town. Supervisor LaGrange said that the whole point of this is to basically be self-quarantined. If they were to leave town, it would be defeating the purpose of the whole arrangement. He thinks it’s good that Highway Superintendent Guyer makes everyone aware that they could be called in at

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any time. This is the intent of this, and if you abuse it this is going to change. We could do spot checks. He doesn't know what is right, wrong, or indifferent. Mrs. Kavanaugh is working from home today. He's gotten several emails from her and we've been going back and forth with different things she's attending to. If an employee is home, granted highway guys can't work from home, the point is they are not supposed to be out traveling either. This isn't a time for vacation. He thinks there is some way we are going to need to police that. That's an abuse we can't stand for with the intent of this. Councilperson Greenberg added that he doesn't know about policing it but he thinks we should have a clause in here. He knows that Bethlehem and Guilderland are doing this because he's reached out to them. Councilperson Leinung agreed. He thinks we could have something very easily say "at home, on call." He thinks that makes sense. Supervisor LaGrange added that we could say that the 50% staying home "on call" right after it. Supervisor LaGrange said he would add that.

Councilperson Greenberg asked how people feel about the end date suggestion. Councilperson Burke thought that that made sense. It's an opportunity to look at what the state of affairs is. Councilperson Leinung said that on the State level they are basically evaluating everything in two-week intervals. That might be a good way of doing this. Have this go until the 31<sup>st</sup> and then reevaluate. He has a feeling that this is going to go much further than the 31<sup>st</sup>. Highway Superintendent Guyer said that if the Board passes this he would think it would start immediately following today's workday. Starting tomorrow we would do it on five consecutive workdays. I would say two weeks with a split crew makes it clean, and then the Board would have to do this again, reevaluate and extend as necessary or like was said by the State the county and the federal government may say something different two or three days from now that may change this whole thing. He thinks two weeks would be the way to go to start. Supervisor LaGrange said that that would commence today and end April 1<sup>st</sup> at the end of that business day. Does that sound good to everyone? If we start tomorrow that would be two five-day work weeks. Councilperson Burke, Councilperson Greenberg, and Councilperson Leinung agreed. Supervisor LaGrange said that he would also propose that we set up another meeting like this maybe on the 31<sup>st</sup> to evaluate where we are and give us a two-day action window. Everyone agreed.

Supervisor LaGrange asked if we wanted to add anything. He said that we would implement a schedule with 50% staying home, available and on call, and 50% working at one-week intervals except in that case of an emergency. Does that satisfy everyone? Councilperson Hennessy replied that it did but we've only talked about the highway half of Town. Is this only directed at highway? Do we have to have a separate one for other people because highway has a separate responsibility? The Board is not overtly responsible for all of highway. Supervisor LaGrange said that that is further in the resolution. He was just tidying up that one part. Supervisor LaGrange asked if he had the resolution in front of him. Councilperson Hennessy said that he did. Attorney Naughton said the answer to the question from his point of view is that this resolution only impacts highway. If you want to talk about other town personnel we should do that separately. He agrees that they are two separate things.

Highway Superintendent Guyer said that under his supervision is the parks department. He would like to split them, as well. He should have mentioned them separately. Councilperson Hennessy asked if he would still have the 50% staying home and 50% there since there are two guys. Councilperson Greenberg added that we would have to add in the word "parks." Councilperson Burke thought that just adding it was the easiest way to deal with that. Councilperson Leinung agreed adding that we could leave it up to Highway Superintendent Guyer's discretion if there is an emergency and they both need to come in. Supervisor LaGrange said that he will add it to say "Highway Department and Parks Department."

Supervisor LaGrange said that Councilperson Hennessy asked in an email if we could do it all in one? The next resolution is that the Town of New Scotland employees is a general thing including all highway and everyone else. They will be compensated for a normal day's pay without charging for accruals if required to stay home due to mandated scheduling for self- and mandated quarantine, and said employees will work from home to the extent possible. That was the next resolution to bring everyone into this situation. He doesn't see why that necessarily has to be separate. Attorney Naughton said that he agreed with Supervisor LaGrange there but it's a separate resolution. For discussion purposes, are we all set on highway and parks? Highway Superintendent Guyer had one last question. If someone is positive and they are ordered to quarantine, does it need to be in the resolution that there must be a doctor's order or some sort of proof from the doctor? Councilperson Burke didn't think that it had to be in the resolution. Supervisor LaGrange added that that's the definition of mandated. Highway Superintendent Guyer said that that's fine. Councilperson Hennessy said that in the resolution clarify that it's the other town employees, not the

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highway. Highway guys are Town of New Scotland employees. Maybe we should say “be it resolved that the remaining Town of New Scotland employees...” Supervisor LaGrange said that he didn’t think it was a separate issue. He thinks it’s an all-over issue. If a highway employee is quarantined, it’s a different level here with what we’re trying to do with the scheduling. Councilperson Hennessy said that we’re saying that we’re not going to have a separate resolution. The other town employees are not going to have their own separate paragraph. Attorney Naughton said that at the moment he doesn’t see any reason to have anything. When you say “Be It Resolved,” it’s a separate resolution but it’s applying to everyone in town as an employee. Supervisor LaGrange agreed adding that we’re not talking about necessarily a schedule for the others. That will come as we move forward. We are taking care of the highway scheduling specifically. Talking about everybody else, if they are mandated to stay home for any reason we are still going to pay them but we’re also expecting everyone to work from home to the extent practical. Obviously, that’s not practical for highway employees but the rest it is to different levels. It’s still addressing it both ways but is site specific for the highway in the first resolution because of the schedule itself. Councilperson Hennessy said that he’d like to consider another resolution paragraph authorizing the Supervisor to prepare a draft plan addressing all of this being more detailed such as the previous comment about mandated quarantine or people having to stay out that are coming out. We need a plan of attack here that is more specific than the resolution. Supervisor LaGrange said that we can certainly do that. He doesn’t think we need to “resolve” it. We can get together with suggestions and he can develop something that he can send out to the Board and ask for input. He doesn’t need to have a resolution telling him to. We will just do that. Councilperson Hennessy said that for the record it’s probably better to have something written down. He thinks every other town has one. He’d like to have something in writing saying that we’re doing that. Councilperson Hennessy asked if Attorney Naughton thought it mattered. Attorney Naughton said that it’s a good idea period. We did this draft resolution all on Friday. It’s good to outline the parameters. We also said it’s going to be fluid because there is an executive order every day. It’s good just to put people’s minds to rest and to have what the plan is and to have everyone on the same page. Councilperson Burke added that there is no harm in putting in the resolution that a plan will be developed. Councilperson Burke agreed with Councilperson Hennessy. Attorney Naughton added that if we need to do another call to discuss it we can set up another call for tomorrow or the next day. Councilperson Hennessy said discuss what the plan is and we can talk about it. He just thinks it’s good form to say, “Be it further resolved that the Supervisor will prepare a plan addressing town workforce schedules and strategies. Supervisor LaGrange added. “Be it further resolved that an overall plan will be developed through the Supervisor’s office to outline practical applications of this resolution.” Attorney Naughton agreed.

Councilperson Leinung left at 1:25PM

Councilperson Leinung thought that it was a good idea to have a policy for later on and something for all employees to have. Councilperson Hennessy said that maybe we should say plan/policy. Supervisor LaGrange said, “Be it further resolved that an overall plan will be developed through the Supervisor’s office to outline practical implementation of this resolution with a plan/policy.” Councilperson Burke said that that sounds good. Supervisor LaGrange added what Attorney Naughton mentioned: “Be it further resolved that charges to any employee’s accrued sick time and related benefits arising from implementation plans in furtherance of complying with New York State executive orders and laws shall be determined in accordance with State and Federal Laws and directives as amended from time to time with the goal of assuring Town employees continue to receive wages and salaries during the COVID-19 emergency.” Attorney Naughton said that that sounded fantastic. Councilperson Greenberg asked where you put the end date in? Supervisor LaGrange said that he hadn’t read the whole thing. Supervisor LaGrange asked if it should say, “Further resolved that it takes effect immediately and ends April 1<sup>st</sup>.” Attorney Naughton agreed and said to put it at the end.

**Resolution 2020-110**

Supervisor LaGrange offered the following and moved its adoption:

Whereas the Town of New Scotland understands that COVID-19 is a historic epidemic which requires decisive action for the safety of both our employees and the public; and

Whereas the State of New York has asked municipal leaders to reduce their non-essential workforce by at least 50% until March 31<sup>st</sup>; and

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Whereas the State of New York will compensate State non-essential employees without their accruals being charged but will be required to work from home to the extent practical; and

Whereas the Town of New Scotland wishes to do all in its power to curb the rate of infection;

Be It Resolved that, on recommendation of the Highway Superintendent, Ken Guyer, the Highway and Parks departments will implement a schedule with 50% staying home, available and on call, and 50% working at one-week intervals except in cases of emergency; and

Be It Further Resolved that the Town of New Scotland employees will be compensated for a “normal day’s” pay without charging accruals if required to stay home due to mandated scheduling or self- and mandated quarantines, and said employees will work from home to the extent practical; and

Be It Further Resolved that each employee will file a “leave slip” with assigned code for possible reimbursement to the Town from the State or Federal Government; and

Be It Further Resolved that charges to an employee’s accrued sick time and related benefits arising from implementing plans in furtherance of complying with federal and New York State Executive Orders and laws shall be determined in accordance with State and Federal laws and directives, as amended from time to time, with the goal of ensuring that Town employees continue to receive wages and salaries during COVID 19 emergency; and

Be It Further Resolved that an overall plan will be developed through the Supervisor’s office to outline practical implementation of this resolution with a plan/policy.

Be It Further Resolved that this takes effect immediately and ends on April 1<sup>st</sup> unless extended by the Town Board of the Town of New Scotland.

Councilperson Greenberg asked if we have to do anything with DPW or are both of those people essential and need to be in every day? Supervisor LaGrange said that they would be deemed essential. His only worry at the moment is that Mr. Hensel is coming back from a vacation. He thinks he’s traveling. He has a little trouble inviting him right back in. That’s a whole other situation that we have to figure out. He’s glad that that was brought up. He could certainly work separately which they usually do anyway. Councilperson Greenberg added that maybe he shouldn’t come into the office. Supervisor LaGrange said that that’s what he meant. He thinks there would be a limited time or some period of time away from others in the workforce. Councilperson Burke said that she thinks that can be a part of the plan rather than part of the resolution. Supervisor LaGrange agreed. He can put that in as part of the plan. We can have an on-the-job self-quarantine for someone returning from vacation. Councilperson Greenberg asked if we are going to have our DPW employees complain that they were not part of this and they should also get their week on and off? Councilperson Hennessy added that Supervisor LaGrange just said that they are essential. He thinks that the plan/policy will address each job description, essential versus non-essential. It will have to be addressed that way. You have to do something along those lines to define that. Councilperson Greenberg said that that was fine with him. He’s just bringing the question up because we included parks and two park employees can work separately. Councilperson Burke asked if we should have a general resolution for all employees designated as essential and non-essential employees in the particular plan detail for each individual case? Supervisor LaGrange said that you could argue that parks isn’t essential right now. DPW could argue that one is essential to be here to do rounds and testing the water supply. If there is a break then they are both essential. Then that gets back to the highway crew. Right now is a bit of a downturn and we’re trying to do odds and ends, but if there is a storm then they are all essential. It’s kind of tough to quantify at times. Councilperson Burke said that that’s why she thinks we should have a resolution that uses generic terms and then in the plan you try to detail it more. She thinks that that makes sense rather than department by department. Supervisor LaGrange asked if Councilperson Greenberg had additional input. Councilperson Greenberg said that he’s just asking if we need to include it. He’s not advocating that we do. That’s why we also should keep the +/- 50% and not just say 50% because who knows what’s going to happen on a day-to-day basis? Supervisor LaGrange said that he would put that back in

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as a friendly amendment. Councilperson Greenberg said that as far as DPW he's fine not including it. He just doesn't know if we're going to have DPW employees come in and ask how come the highway gets this and we don't. He sees them as essential. He sees a lot of contradictions here in directions we're getting from the State. For instance, we are supposed to keep all the parks open so people can go to the parks but we're going to lay our parks people off. Supervisor LaGrange said, getting back to the first question, he thinks the whole premise of this week off is to separate a greater than 10-member group of employees that work together on the highway crew. With the two-member crews, he thinks they can distance themselves enough just like we do here at Town Hall. He doesn't think that that's a good argument for them. Councilperson Greenberg said that he agreed with that. He thinks we could probably separate the highway department if we worked at it but that doesn't seem to be what we're doing. Do we handle parks or DPW any differently? He can see arguments for both. He is just bringing it up as a discussion point. Highway Superintendent Guyer said that he believes the Governor is looking for us to limit our municipal crew by 50% or less whether we feel we can separate them or not; it's not what the Governor is asking us to do. Councilperson Greenberg agreed. Highway Superintendent Guyer added that he's not involved with DPW, but if he was asked about them being essential he would say that on a day-to-day basis for now they could get away with one. They could be included in what he has proposed. There are rounds that have to be done for Albany County Department of Health. There are some day-to-day things that have to be done. Unless there is a water break, he thinks they could get away with two. If Mr. Hensel and Mr. Green were to be split like what he's put together as his A and B crew, and if Mr. Green worked the first week that would possibly take care of Mr. Hensel being reintroduced back into the workforce. Councilperson Burke said that she doesn't think we need to decide that. She thinks the more important issue is the reduction by 50% overall than deciding which is which. Councilperson Hennessy said that the 50% overall is 50% non-essential, not 50% overall. He agrees that we don't have to decide it now. We can do it in this plan policy. Initially, Attorney Naughton thought this was only a DPW resolution but we're including Town Hall. He doesn't think we say 50% essential or non-essential in the all-employee paragraph. Do we need to include that in the all-employee paragraph? Attorney Naughton said that he doesn't think we are ready for all town employees yet. He thinks Supervisor LaGrange should try to figure out a policy and circulate it.

Supervisor LaGrange said that he's made the little changes. He's re-added the +/- 50%. He has it ending April 1<sup>st</sup> unless extended by the Town Board of the Town of New Scotland. If the Board is set, we have that motion. Again, we're going to re-evaluate this again in two weeks. He doesn't think we're going to run into too many issues. Things we do run into we might address in two weeks if we're going to have to extend this. Councilperson Burke said that we might need to meet daily like the Governor. Attorney Naughton said that going out too far in the future now is a waste of time and energy. He just thinks you try to do the best you can, be smart about it, and communicate it. He thinks we should just put a cover letter on this and say that the Supervisor expects to be able to call on you and get you out to work on very short notice. This may change very quickly so don't go anywhere and we'll figure this out. He thinks we should be very specific with the employees.

Councilperson Leinung came back into the meeting at 1:38 PM.

Attorney Naughton advised Councilperson Leinung that we haven't voted yet. We've been discussing amendments and the general overall view. Supervisor LaGrange said that since we left we added the +/-50% back in. It ends April 1<sup>st</sup>. He thinks we're coming to a point where we are considering all the things that could happen. He thinks we have a fairly substantial piece here that can get us moving forward. As things arise we can always address them. After we pass this, we can set up a meeting for March 31. Who knows what might happen tomorrow?

Councilperson Burke seconded the motion.

Supervisor LaGrange thought that we were in pretty solid shape. All present and voting the motion carried (5 Ayes).

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Supervisor LaGrange suggested 1 PM on March 31, 2020, for a follow-up conference call. Town Clerk Deschenes asked about advertising that meeting. Attorney Naughton said that he would let her know. We're going to try to move to a platform with more video conversation.

**Resolution 2020-111**

Supervisor LaGrange offered the following and moved its adoption:

Resolved that the Town Board of the Town of New Scotland does hereby set a special meeting for March 31<sup>st</sup> at 1PM with the method to be determined.

Councilperson Greenberg seconded the motion. All present and voting, the motion carried (5 Ayes)

Executive Session

Supervisor LaGrange asked about Executive Session. Councilperson Burke said that she can't participate.

**Resolution 2020-112**

Supervisor LaGrange offered the following and moved its adoption:

Resolved that the Town Board of the Town of New Scotland does hereby suspend the regular meeting in order to discuss some personnel issues.

Councilperson Greenberg seconded the motion. All present and voting, the motion carried (5 Ayes)

Councilperson Burke left the meeting at 1:45PM

Highway Superintendent Guyer thanked the Board for discussing this and taking it into consideration for our workforce.

Executive Session began at 1:45 PM.

Supervisor LaGrange made a motion to adjourn Executive Session, seconded by Councilperson Greenberg.

Executive Session adjourned at 2:10 PM

No action was taken during the Executive Session.

**2. Adjourn**

Supervisor LaGrange made a motion to adjourn, seconded by Councilperson Greenberg. The meeting adjourned at 2:11 PM.

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Diane R. Deschenes, Town Clerk