



April 29, 2020

The Office of Governor Christopher Sununu
Via electronic delivery only

Dear Governor Sununu:

The New Hampshire Municipal Association Executive Committee met yesterday and discussed current issues affecting municipalities. As a result of this meeting, we are requesting additional action be taken to support the continued operation of local government during the State of Emergency and the COVID-19 pandemic.

Continuation of Emergency Order #12 allowing virtual meetings

Emergency Order #12 waives certain requirements of RSA Chapter 91-A for public meetings, ultimately allowing all public bodies to meet virtually in order to comply with prohibitions on public gatherings and with health guidelines from both the CDC and DHHS. We understand that you will need to make decisions soon about extending the Stay at Home Order and the process for reopening the state and its economy. In doing so, NHMA urges you to leave in place Emergency Order #12 so that public bodies can continue to meet virtually. Returning to the requirement of physical meeting spaces would put government officials and citizens at unnecessary risk. Virtual meetings have proven a successful tool for continuing the operations of government with transparency and accountability, while still protecting public health and welfare.

Request for additional Emergency Order: Town Meetings and Budget Issues

Approximately 20 towns have been unable to hold their town meetings; this includes those with March, April, and May meetings. As a result, these towns face numerous challenges, particularly because they are forced to operate without budgets, which create challenges both for local government officials and for residents. Therefore, NHMA proposes establishing the following local options via emergency order:

- Spending Authority for Fiscal Year Towns. Extend the provisions of RSA 32:13, II to apply to towns with a June 30 fiscal year, to allow them to make expenditures between the beginning of the fiscal year and the time of the annual meeting that are reasonable in light of prior years' appropriations and expenditures. (Currently the statute applies only towns with a March town meeting and a December 31 fiscal year.)
- Optional Town Meeting Procedures. Authorize an alternative optional town meeting procedure for towns that have been unable to hold their March and April town meetings, and those that will be unable to hold their May town meetings. There is precedent for this: The Bow School District was the first to "pilot" an alternative process for holding an annual meeting without violating the

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prohibition on gatherings of more than 10 people. Several communities would like to be able to consider doing the same; however, it is crucial that an alternative process be authorized via emergency order to prevent the possibility of a legal challenge. Therefore, we propose that, at the option of the governing body, town meeting may be convened and proceed to approve the posted 2020 warrant in the following fashion:

1. The governing body will host a live virtual meeting and information session during which the proposed optional town meeting procedures will be outlined and the warrant articles will be discussed. At least seven (7) days before the informational session, notice shall be mailed to all registered voters describing the optional town meeting procedures. After this live virtual meeting is adjourned, questions and comments from the public will be solicited and received via email, voice mail, text messaging or by other electronic means.
 2. Within seven (7) days of the information session the governing body will hold another live virtual meeting to consider and address the comments received from the public. The governing body will then discuss, debate and be permitted to amend the posted warrant. The final warrant, as amended, will then be made available electronically for printing by voters to be brought to the voting session to be scheduled for a date and time to be determined by the governing body.
 3. Voting on final warrant articles will be by secret ballot cast by voters through drive-up procedures to ensure appropriate social distancing. The first article on the warrant will ask whether voters approve these optional town meeting procedures. If the optional procedures are not approved by a simple majority, all other warrant articles will be deemed disapproved. If the optional voting procedures are approved, then all other votes on warrant articles will be deemed the final action of the meeting. However, if the operating budget warrant article is not approved, the governing body may vote to:
 - a. Convene a meeting before September 1, 2020 to adopt an operating budget, or
 - b. Elect to have it be deemed that the meeting has adopted the 2019 operating budget article, not including separate warrant articles.
- Municipal Default Budget. As an alternative to holding a town meeting, at the option of the governing body, a “default” budget may be adopted in order to continue local government operations and meet debt obligations. This option must be exercised if a town meeting cannot be held prior to September 1, 2020. Under this option, the following shall be deemed the budget for the current year:
 - The budget approved for the prior year, excluding any appropriations funded by bonds or notes approved last year, but including this year’s debt service associated with those bonds or notes.
 - This includes appropriations funded in last year’s operating budget article, and all special or separate articles approved by the legislative body other than bond articles.
 - The governing body may exercise existing transfer authority provided by RSA 32:10 to adjust last year’s line items to meet current budgetary needs.
 - The governing body shall certify the budget to the Department of Revenue Administration for the purpose of setting the 2020 property tax rate pursuant to RSA 21-J:35.

- A special town meeting may be called, without attendance by at least half of the registered voters or superior court approval as required by RSA 31:5, for the sole purpose of voting on an appropriation to be funded by a bond or note if the appropriation was included on the warrant for the current year's annual meeting.

Municipal Representation on Re-opening Task Force

We thank you for approving an additional municipal representative on the Stakeholder Advisory Board. The Executive Committee has nominated Lisa Drabik, Assistant Town Manager in Londonderry, to serve on the Board. Additionally, the Executive Committee urges you to add a municipal representative on the Re-opening Task Force. Municipalities play an integral role in the health, safety, and welfare of the public; therefore, advice and input from municipal government are critical in determining the safest route for re-opening the state.

Thank you for your consideration of these issues.

Sincerely,

A handwritten signature in black ink that reads "Margaret M.L. Byrnes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Margaret M.L. Byrnes, Esq.
Executive Director

cc: John Formella, Esq.
Nicholas Chong Yen, Esq.
Chris Ellms