

**Town of Mount Desert  
Board of Selectmen Meeting Minutes  
Meeting Room, Town Hall  
6:30 PM, July 16, 2018**

Present were Selectman Matt Hart, Rick Mooers, Wendy Littlefield, Martha Dudman, and Chairman John Macauley.

Also in attendance were Public Works Director Tony Smith, Town Clerk Claire Woolfolk, Town Manager Durlin Lunt, Treasurer Kathy Mahar, and Police Chief Jim Willis.

Members of the public were also present.

**I. Call to order at 6:00 p.m.**

Chairman Macauley called the meeting to order at 5:56 pm.

**II. Executive Session**

**A. Pursuant to Title 1 M.R.S. § 405(6)(E) – Consultation between the Board and its Attorney concerning the legal rights and duties of the Mount Desert Board of Selectmen**

MOTION: Selectman Mooers moved, with Selectman Dudman seconding, to enter into Executive Session. Motion approved 5-0.

The Board entered Executive Session at 5:56 PM.

**B. Post Executive Session – Further consider the citizen petition submitted to the Town on June 28, 2018 containing signatures that have been validated and certified by the Town Clerk's office**

MOTION: Selectman Hart moved, with Selectman Littlefield seconding, to leave Executive Session. Motion approved 5-0. The Board left Executive Session at 7:03PM.

Chairman Macauley stated that the Petitioners have given the Board the opportunity to reconsider the implementation of the Main Street project approved at the May 8, 2018 Town Meeting. There was no request to reconsider Article 25 at the May 8, 2018 Town Meeting, after the affirmative vote on Article 25. Section 1.1.1 of the Town Charter directs the Board to evaluate the petition, taking no more than 45 days, to consider the merits of the Petition, and decide either to advance the Petition to an Article on a Town Meeting, or to reject the Petition based on a finding that it seeks an action that is illegal, or moot, or impossible. The Town Attorney has advised the Board that the Board does not have the authority to reconsider the approval voted in at Town Meeting of the project or its financing.

In light of this, the Board is taking more time to further review the petition, by investigating each and all of the requests presented within the petition within the 45 days allowed for such purpose. The Board will report their determination on the petition in the form of a resolution on or before August 12, 2018.

1 The Board takes both the project and the petitioners requests seriously. The Board will be  
2 requesting assistance by Town staff in their endeavor to fully consider the petition.

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4 Selectman Littlefield requested of Public Works Director Tony Smith a report for the August  
5 6<sup>th</sup> Board of Selectmen's meeting regarding routing and approach to replacement of utilities  
6 in implementing the Main St. Project.

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8 Selectman Dudman requested of Public Works Director Smith a report for the August 6<sup>th</sup>  
9 Board Meeting regarding construction scheduling of the job.

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11 Selectman Hart requested of Director Smith a report for the August 6<sup>th</sup> Board Meeting on  
12 the appropriate order of work on an infrastructure project of this type with an eye to  
13 limiting property damage and limiting damage to already constructed portions of the  
14 project.

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16 Chairman Macauley requested of Town Manager Lunt to address the components of the  
17 petition looking at economic development support and systems for the August 6<sup>th</sup> Board  
18 Meeting.

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20 Selectman Mooers requested of Director Smith a written report for the August 6<sup>th</sup> Board  
21 Meeting listing any alternative plans for the placement of utilities.

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23 The Board invited comments from the public.

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25 Resident Kelly Brown asked for confirmation that the Board is endeavoring to receive  
26 information, process it, and make the decision regarding whether the petition can go to  
27 Town Meeting. Chairman Macauley confirmed this was the action the Board was taking.  
28 Ms. Brown felt there had been previous discussion regarding holding public meetings on the  
29 subject. Chairman Macauley stated there would be an informational meeting prior to any  
30 special Town Meeting held. Ms. Brown asked if this informational meeting would be the  
31 time when the Board's findings would be presented.

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33 Andrew Hamilton, Attorney for the Town, noted that the Board would use much of the 45  
34 days allowed to gather and review information. Per the Charter, the Board could determine  
35 that the petition seeks an action that is illegal, or that the petition seeks an action that is  
36 impossible. Attorney Hamilton noted that if, for example, the Town has signed a contract  
37 with the contractor for the work, it would be impossible to reconsider a binding and valid  
38 contract. The petition can also be determined to be moot.

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40 Attorney Hamilton further noted that parts of the petition could be considered illegal,  
41 impossible, or moot, while other parts could proceed forward to a Town Meeting. And  
42 finally, the Board could send the entire petition to Town Meeting, despite the legal opinions  
43 they receive. Furthermore, an entirely new issue or question could be raised for discussion.

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45 Attorney Hamilton noted the petition essentially asks the Town to re-design the project as  
46 planned, either by adding to it or changing it. Additionally, there are a number of good  
47 implementation questions being asked. Unfortunately, no one made a motion for  
48 reconsideration at the May Town Meeting, which would have been the correct process.

Ms. Brown thought that the Selectmen accepted the petition at the last meeting, and the public would be brought together to discuss the issue.

Attorney Hamilton read from the Charter, Section 1.1.1:

*1.1.1 PETITIONS FOR TOWN MEETINGS. When presented with a petition signed by registered voters numbering at least ten per cent of the votes cast at the last gubernatorial election, the Board of Selectmen, hereinafter referred to as the Board, shall, within forty-five days of receipt of the petition, either (1) include it in the warrant for the next town meeting or call a special meeting to be held within sixty days for its consideration; or (2) only if it finds the petition moot, illegal, or impossible, publish in writing its reasons for refusing to present the petitioned article to the voters.*

Attorney Hamilton added that the Warrant Committee must receive the warrant 21 days prior to a Special Town Meeting.

Selectman Littlefield stated the Board wants to collaborate and discuss the issue with the public. There's a large amount of information to review as well. She felt that it was critical to have all the interested parties at the meetings, otherwise the communication fails.

Selectman Hart added that the Warrant Committee has public meetings as well. If they meet, it is another opportunity to discuss the issue.

Ms. Brown asked if interested residents would receive information on how other meetings, with contractors or Emera for example, are proceeding. Selectman Littlefield felt that the reports the Public Works Director brings to the next Board of Selectmen meeting will reflect that information.

### **III. Minutes**

#### *A. Approval of minutes from July 2, 2018 meeting*

MOTION: Selectman Hart moved, with Selectman Dudman seconding, approval of the July 2, 2018 Minutes as presented. Motion approved 5-0.

### **IV. Appointments/Recognitions/Resignations**

#### *A. Appointment of Stephanie Kelley-Reece to the Warrant Committee*

MOTION: Selectman Dudman moved, with Selectman Littlefield seconding, approval of the appointment of Stephanie Kelley-Reece to the Warrant Committee, as presented. Motion approved 5-0.

### **V. Consent Agenda** *(These items are considered routine, and therefore, may be passed by the Selectmen in one blanket motion. Board members may remove any item for discussion by requesting such action prior to consideration of that portion of the agenda.)*

#### *A. Department Reports: Public Works*

#### *B. Payments In Lieu of Taxes for Federal Lands notice*

MOTION: Selectman Mooers moved, with Selectman Dudman seconding, approval of the Consent Agenda as presented. Motion approved 5-0.

**VI. Selectmen's Reports**

There were no Selectman's Reports Presented.

**VII. Unfinished Business**

A. *Motion to transfer \$500.00 from BOS Contingency Account 1220001-59350 with a balance of \$10,000.00 to Social and Public Service Agencies Account 1885154-59133 to pay the Eastern Area on Aging which was inadvertently omitted from the budget approved at the Annual Town meeting on May 8, 2018*

Resident Katrina Carter did not feel the organization made a request of the Town. Town Manager Lunt reported the organization did make a request; it did not get published in the Town Report. Chairman Macauley recalled the group being at the meeting to request funds.

MOTION: Selectman Littlefield moved, with Selectman Hart seconding, approval of the transfer of \$500.00 from BOS Contingency Account 1220001-59350 with a balance of \$10,000.00 to Social and Public Service Agencies Account 1885154-59133 to pay the Eastern Area on Aging which was inadvertently omitted from the budget approved at the Annual Town Meeting on May 8, 2018, as presented. Motion approved 5-0.

B. *Request to issue a Quit-Claim Deed to Trasi and Robert Colson relinquishing the Town's interest acquired by the 2004 tax lien recorded in the Hancock County Registry of Deeds; Book 4239, Page 327*

MOTION: Selectman Hart moved, with Selectman Dudman seconding, approval of the request to issue a Quit-Claim Deed to Trasi and Robert Colson relinquishing the Town's interest acquired by the 2004 tax lien recorded in the Hancock County Registry of Deeds; Book 4239, Page 327, as presented. Motion approved 5-0.

**VIII. New Business**

A. *Public Space Special Event Application – Caitlin Dufraigne Wedding; September 29, 2018, Suminsby Park*

MOTION: Selectman Dudman moved, with Selectman Mooers seconding, approval of the Public Space Special Event Application for Caitlin Dufraigne Wedding; September 29, 2018, in Suminsby Park, as presented. Motion approved 5-0.

B. *Liquor License Renewal - MOFO LLC /DBA Tan Turtle Tavern; 10 Huntington Rd, Northeast Harbor*

MOTION: Selectman Dudman moved, with Selectman Hart seconding, approval of the Liquor License Renewal for MOFO LLC/DBA Tan Turtle Tavern; 10 Huntington Rd., Northeast Harbor, as presented. Motion approved 5-0.

C. *Consider and Approve Mutual Aid Agreement for Policing Services between the Communities of Bar Harbor, Mount Desert, and Southwest Harbor*

MOTION: Selectman Mooers moved, with Selectman Dudman seconding, approval of the Mutual Aid Agreement for Policing Services between the Communities of Bar Harbor, Mount Desert, and Southwest Harbor, as presented. Motion approved 5-0.

*D. Request approval and authorization to execute the General Agreement with Acadia National Park for the procedures and standards for National Park Ranger assistance with Law Enforcement Officers outside of the Park*

MOTION: Selectman Hart moved, with Selectman Mooers seconding, approval and authorization to execute the General Agreement with Acadia National Park for the procedures and standards for National Park Ranger assistance with Law Enforcement Officers outside of the Park, as presented. Motion approved 5-0.

*E. Resolution of Support for the National Park System*

MOTION: Selectman Dudman moved, with Selectman Mooers seconding, approving the support for the National Park System, as presented. Motion approved 5-0.

*F. Consider Requested Contribution to Raise the Floor Coalition*

Town Manager Lunt stated he had no recommendation for this Agenda Item.

It was pointed out that this was more a request from a political action committee, and no request was made from the school in support of the issue.

MOTION: Selectman Mooers moved, with Selectman Hart seconding, to approve the requested contribution to the Raise the Floor Coalition, as presented. Motion failed 0-5.

**IX. Other Business**

*A. Such other business as may be legally conducted*

There was no other business

**X. Treasurer's Warrants**

*A. Approve & Sign Treasurer's Warrant AP1903 in the amount of \$1,571,682.64*

MOTION: Selectman Dudman moved, with Selectman Hart seconding, approval and signature of Treasurer's Warrant AP1903 in the amount of \$1,571,682.64, as presented. Motion approved 5-0.

*B. Approve Signed Treasurer's Payroll, State Fees, & PR Benefit Warrants AP1880, AP1901, AP1902, and PR1901 in the amounts of \$-, \$18,772.63, \$ 4,668.50, and \$140,901.24, respectively*

MOTION: Selectman Hart moved, with Selectman Mooers seconding, approval of Treasurer's Payroll, State Fees, and PR Benefit Warrants AP1880, AP1901, AP1902, and PR1901, in the amounts of \$0, \$18,772.63, \$4,668.50, and \$140,901.24, respectively, as presented. Motion approved 4-0-1 (Littlefield in Abstention).

*C. Acknowledge Treasurer's School Board AP/Payroll Warrants 1 and 1 in the amounts of \$139,179.31 and \$48,220.58, respectively*

MOTION: Selectman Dudman moved, with Selectman Littlefield seconding, acknowledgement of Treasurer's School Board AP/Payroll Warrant 1 in the amount of \$139,179.31, as presented. Motion approved 5-0.

MOTION: Selectman Littlefield moved, with Selectman Hart seconding, acknowledgement of Treasurer's School Board AP/Payroll Warrant 1 in the amount of \$48,220.58, as presented. Motion approved 5-0.

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**XI. Adjournment**

MOTION: Selectman Dudman moved, with Selectman Mooers seconding, to adjourn the meeting.  
Motion approved 5-0.

The meeting adjourned at 7:30PM.

Respectfully Submitted,

Wendy Littlefield