

1 **Town of Mount Desert**
2 **SelectBoard Meeting Minutes**
3 **Monday, December 21, 2020**
4 **Location: Zoom Meeting**

5
6 This Meeting was held via remote access.

7
8 SelectBoard Members Present:

9 Chair John Macauley, Matt Hart, Wendy Littlefield, Martha Dudman, Geoff Wood

10
11 Public Officials Present:

12 Town Manager Durlin Lunt, Assessor Kyle Avila, Public Works Director Tony Smith,
13 Town Clerk Claire Woolfolk, Treasurer Kathy Mahar, Harbormaster John Lemoine

14
15 Members of the public were also in attendance.

16
17 **I. Call to order at 6:00 p.m. – Due to II. Executive Session**

18 Chair John Macauley called the meeting to order.

19
20 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, to enter into Executive
21 Session. Motion approved 4-0. The SelectBoard entered into Executive Session at
22 6:01PM.

23
24 **II. Executive Session**

25 *A. Pursuant to 1 M.R.S. § 405(6)(C) for acquisition of real property or economic*
26 *development and matters where premature general public knowledge would clearly*
27 *place the Town at a substantial disadvantage*

28
29 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, to exit out of Executive
30 Session. Motion approved 4-0. The SelectBoard exited Executive Session at 6:16 PM.

31
32 **III. Minutes**

33 *A. Approval of minutes from December 7, 2020 meeting*

34 MOTION: Ms. Littlefield moved, with Ms. Dudman seconding, approval of the
35 December 7, 2020 Minutes as presented.

36
37 Motion approved 4-0.

38
39 Chair Macauley requested the Board address Item VIII. A. out of order.

40
41 **IV. Appointments/Recognitions/Resignations**

42 *A. Consider appointment of Megan Rae Bailey to the Economic Development Committee*
43 *from December 22, 2020 through June 30, 2021*

44 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, appointment of Megan Rae
45 Bailey to the Economic Development Committee from December 22, 2020 through June
46 30, 2021, as presented.

1 Motion approved 5-0.

2
3 *B. Accept the resignation of Ellen Brawley from the Warrant Committee (note four (4)*
4 *vacancies on the Warrant Committee for 2021)*

5 MOTION: Ms. Dudman moved, with Mr. Hart seconding, acceptance of the resignation
6 of Ellen Brawley from the Warrant Committee as presented, and with thanks for her
7 service.

8
9 Chair Macauley lauded Ms. Brawley's service to the Town. Ms. Brawley has been an
10 active volunteer to the Town on a variety of Boards and Committees for years and she
11 will be missed.

12
13 Motion approved 5-0.

14
15 **V. Consent Agenda** *(These items are considered routine, and therefore, may be passed by*
16 *the Selectmen in one blanket motion. Board members may remove any item for*
17 *discussion by requesting such action prior to consideration of that portion of the*
18 *agenda.)*

19 *A. Department Reports: Highway*

20 *B. Thank you letter from Families First Community Center*

21 *C. Legal opinion on using public funds to do work on private roads e.g. culvert*
22 *replacement on Northern Neck Road.*

23 *D. Hancock County Commissioners Meeting Minutes of December 1, 2020*

24 MOTION: Mr. Hart moved, with Ms. Dudman seconding, acceptance of the Consent
25 Agenda as presented.

26 Motion approved 5-0.

27
28 **VI. Selectmen's Reports**

29 There were no Reports presented.

30
31 **VII. Unfinished Business**

32 *A. Consideration of placing the final report for the "Route 3 Safety Improvements*
33 *Study", consisting of 38 pages of text, maps and photographs and 23 pages of plan*
34 *sheets on the town web site to better serve the Board of Selectmen and public and,*
35 *placing a hard copy of the complete report at the town office for use by the public*
36 *once we get the all-clear signal for doing such things related to the COVID-19 virus.*

37 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, placing the final report for
38 the "Route 3 Safety Improvements Study", consisting of 38 pages of text, maps and
39 photographs and 23 pages of plan sheets on the Town web site to better serve the
40 SelectBoard and public, and placing a hard copy of the complete report at the Town
41 Office for use by the public once the Town receives the all-clear signal for doing such
42 things related to the COVID-19 virus, as presented.

43 Motion approved 5-0.

44
45 *B. Proposed warrant article regarding the resolution endorsing declaration of a Climate*
46 *Emergency for the 2021 Annual Town Meeting Warrant*

1 Chair Macauley noted this was the Climate Emergency Declaration carried over from last
2 year put forward by a group from the MDI High School. It states the Town is committed
3 to reducing Town emissions to zero by the year 2030.

4
5 Mr. Wood noted this was the same Declaration passed by the Town of Bar Harbor and is
6 on the Agenda for another Town as well.

7
8 MOTION: Mr. Wood moved, with Ms. Littlefield seconding, approval of the proposed
9 Warrant Article regarding the resolution endorsing declaration of a Climate Emergency
10 for the 2021 Annual Town Meeting Warrant, as presented.

11
12 Mr. Hart agreed in theory with such a Warrant Article proposal. However, every
13 decision made by the Board comes with consequences, both good and bad. His fear is
14 that a blanket statement such as what is presented, rather than a list of specific items to
15 address, might result in decisions being made that may not be best for the Town. The
16 proposal wording is tasking the Board with devising a plan for reducing emissions to
17 present at the Town Meeting. It charges the town to reduce emissions as much as
18 possible but offers no information regarding where emissions currently stand, or how
19 much is considered “as much as possible”. The proposal notes creating a fair and
20 reasonable transition for all residents, which might prove difficult given the wide variety
21 of residents living in Mount Desert.

22
23 The Town is making a push for year-round housing and such a proposal might affect
24 these efforts and the cost involved for working families moving into Town.

25
26 Mr. Hart hoped the consequences, both positive and negative, will be considered while
27 putting forth such a resolution.

28
29 Public Works Director Smith worried about how invasive such a proposal would become.
30 Would individual homeowners be required to make changes to their homes?

31
32 Mr. Wood felt the proposal meant that the Town was committing to reviewing changes
33 made to policy with a lens of ensuring such changes were environmentally responsible
34 and to lead by example to do what is clearly the right thing to do. It does not commit the
35 Town to anything. For example, requirements for new construction might change
36 necessitating greener alternatives, such as in the workforce housing on Farnham’s Way.

37
38 Director Smith disagreed. The Town has struggled with the issue of affordable housing.
39 Adding new construction requirements will make the development of affordable housing
40 more difficult to accomplish.

41
42 Chair Macauley thought the proposal directed the Town to make a best effort in the long
43 run to improve the Town’s energy use. The resolution is loose regarding how that will
44 happen. Some improvements cannot happen without a uniform Maine building code.

45
46 Mr. Wood believed energy conservation was coming. The Town should lead the way.

1
2 Director Smith opined that changes should only occur at the Municipal level. Residents
3 should be left out of the issue. Chair Macauley did not believe the resolution was aimed
4 at residents.
5

6 Ms. Dudman agreed that Mr. Hart had some good points. Putting this issue on the
7 Warrant puts the issue in the hands of the voters, which is appropriate. She hoped the
8 issue resulted in healthy discussion on the Town Floor.
9

10 Ms. Dudman inquired about the second to last section of the resolution which discusses
11 committing to engaging residents and local stakeholders in educational activities and
12 public discussions ensuring local voices are heard in all initiatives. She was unsure what
13 that meant, and what the Town was being asked to commit to. Chair Macauley believed
14 it meant providing informational opportunities to the residents, so they can be educated to
15 the issues and able to make informed decisions.
16

17 Sustainability Committee member Phil Lichtenstein stated that the resolution is intended
18 to provide the Town with goals regarding the climate issue. The group hopes to ensure
19 the Town's buildings are efficient, the water is clean, and the Town is not wasteful as a
20 community. Initial groundwork will be required such as energy audits on the buildings
21 and vehicles. These are examples from a long list of measures that can be taken. This
22 Resolution is asking for a commitment from the Town to recognize that climate change is
23 an emergency. It is not directing or requiring the Town to change the world. It
24 encourages the Town to move forward in a positive way.
25

26 Ms. Littlefield worried that 2030 was not far away. It would take time and money to
27 move forward on issues. It's a good start, but she worried it locked the Town into a
28 deadline. If the Resolution is only committing the Town to do the best it can, then she
29 felt it was a clear choice to approve it. Ms. Dudman believed this was exactly what the
30 Resolution was asking for. She'd like to see it on the Warrant because she'd like to see
31 where the Town stands on the issue. Ms. Littlefield agreed getting it on the Warrant was
32 the first step. Mr. Hart agreed he could recommend putting it on the Warrant. He felt
33 that it was written so generally that it can be interpreted in a variety of ways which
34 concerned him. Because of this he was not sure he was able to recommend passage of it
35 as written.
36

37 Mr. Lichtenstein reminded the Board that the language can be changed up to the point it
38 is voted on. He challenged Mr. Hart to suggest some improvements to the Resolution.
39 Many of the items included in the Resolution are already being worked on. The Town
40 has supported a variety of changes already. The Resolution is a motivator.
41

42 MOTION restated: Ms. Dudman moved, with Mr. Hart seconding, approval of the
43 proposed warrant article regarding the resolution endorsing declaration of a Climate
44 Emergency for the 2021 Annual Town Meeting Warrant, as presented.
45 Motion approved 5-0.
46

1 The Board thanked Mr. Lichtenstein for his work. Mr. Lichtenstein praised the efforts of
2 the students behind the Resolution, and the steadfast work they've done despite the
3 pandemic. Additionally, he noted that Sustainability Committee Member Gordon Beck
4 was a huge help in the process and Mount Desert Islander Reporter Dick Broom aided in
5 writing.

6
7 Selectman Wood joined the meeting at 6:27pm.

8
9 **VIII. New Business**

10 *A. Personnel Policy Amendments to address the Employee Paid Leave law effective*
11 *January 1, 2021 (Public Law 2019 Ch. 156, "An Act Authorizing Earned Employee*
12 *Leave"), Eaton Peabody Attorney to respond to questions*

13 Town Manager Lunt explained that the Employee Paid Leave Act approved by the
14 Legislature goes into effect on January 1, 2021. The Paid Leave Act provides all
15 employees eligible for unemployment insurance up to 40 hours paid leave time. The
16 amount of paid leave time earned is dependent on how many hours are worked. The
17 Town has been working with Eaton Peabody on the item. Attorney Rebecca LaPierre
18 was in attendance to provide an overview and answer questions.

19
20 Attorney LaPierre stated the new law affects all employees, even those that already have
21 paid leave available to them. It will require the Town to change the way in which they
22 allow paid leave to be taken. Attorney LaPierre worked with the department heads to
23 devise the most fair and equitable way to make it happen, the goals being that no
24 employee loses anything, and the Town is protected from paying out extra money for
25 extra time off that isn't required under the law. To accomplish this the vacation policy
26 has been amended for regular full-time employees. These employees will continue to
27 receive the same amount of vacation time they were already receiving. Vacation time
28 will accrue faster, in compliance with the new law. Accrual will occur on an hourly
29 basis, as opposed to a monthly basis. Part-time and per diem employees not covered by
30 vacation time will now receive a new type of leave called the Earned-Pay Leave
31 providing the minimum leave required under the law and accrued at an hourly rate.

32
33 Attorney LaPierre summarized the new policy presented to the Board. Full-time regular
34 employees will be accruing vacation time at a rate of 2 hours of vacation time for every
35 40 hours worked. Salaried employees are presumed to work 40 hours a week and will
36 accrue at a rate of 2 hours of vacation time per week.

37
38 All employees will be capped at 80 hours vacation time for their first year of employment
39 with the Town. The cap and accrual rate will increase the longer they remain employed.
40 This equals the same amount of vacation time employees are currently accruing, just at a
41 different accrual rate, allowing employees to use it more quickly.

42
43 Public Works Director Smith pointed out that in earlier years, an entire year's vacation
44 time was accrued on the first of the year.

1 Attorney LaPierre continued, noting that new employees will begin accruing time
2 immediately upon beginning their employment, however they will be required to wait
3 120 calendar days before using the time accrued. The policy presented to the Board has
4 been updated, removing old language no longer applicable to the policy. Accrual rates
5 will be allowed to roll over at the same cap currently allowed.

6
7 A provision has been added that states the first 40 vacation hours accrued each year may
8 be used for any reason. This renders the policy in compliance with the law. An
9 employee must provide up to four weeks' notice to use that time for any reason, but an
10 emergency, sudden necessity or illness clause allows the time to be used, if available,
11 regardless of notice given. Other vacation time accrued will continue to be used as it has
12 been.

13
14 Full-time personnel will be required to take five consecutive days after their first 40 hours
15 of leave was exhausted, on request of one of the Department Heads. This is because the
16 Town is not allowed to require them to use the 40 hours of earned paid leave in any
17 specific way. This may prove to be problematic if someone has not taken their first 40
18 hours of leave, but Attorney LaPierre felt it could be figured out.

19
20 A provision has been added that clarifies that employees in certain departments may be
21 restricted from requesting foreseeable leave during certain days or periods of time the
22 department is busy, as allowed under the new law.

23
24 Director Smith added that the new policy will not affect employees' time currently on the
25 books and the plans in motion allowing employees to use it up.

26
27 There were no questions from the Board.

28
29 Attorney LaPierre continued. Leave will now be offered to part-time and per diem
30 employees, who are required to be provided leave under the new law. There are limited
31 exceptions to this provision, however, there appear to be no employees the Town would
32 deem exempt.

33
34 Part-time and per diem employees who are not eligible for vacation time will be allowed
35 to accrue earned-paid leave and be paid up to 40 hours of leave within a year. These
36 employees will accrue their time at one hour of paid leave for every 40 hours worked. If
37 an employee is working less than 40 hours a pay period, they will be prorated for the
38 hours they work. Salaried employees that fall under this category will accrue at one hour
39 per every week they work. If a salaried employee that falls under this category is
40 tracking their time, the Town may accrue their time based on the time tracked.

41
42 Earned-paid leave will begin to accrue on January 1, 2021, or at the start of employment.

43
44 An employee receiving earned-paid leave already employed with the Town for over 120
45 days can begin to use their time immediately. A new employee receiving earned-paid
46 leave will be able to use their time after being employed 120 workdays.

1
2 This earned-paid leave can be used for any reason. The Town may require up to four
3 weeks' notice prior to use. Advance notice cannot be required for an unforeseen
4 emergency.

5
6 Using earned-paid leave, an employee must notify the Town in writing of the use as soon
7 as is practicable. A doctor's note cannot be required by the Town unless an employee
8 has been out of the office for at least three consecutive days.

9
10 At the end of the calendar year all unused earned-paid leave will roll over from one year
11 to the next. Part-time and per diem employees are only able to accrue up to 40 hours of
12 earned-paid leave, including any rolled over hours.

13
14 Employees may be disciplined for using earned-paid leave in excess of what they've
15 accrued, or if they abuse or misuse the leave.

16
17 The law specifically includes an exception for current collective bargaining agreements.
18 Any current collective bargaining agreements will not be changed to reflect the new law
19 until renegotiation comes up. Union members will not be affected by the policy until
20 their contract is renegotiated. At that point the collective bargaining agreement will be
21 required to comply with the new law.

22
23 Ms. Littlefield inquired how the new policy would affect Police personnel employed
24 across the Towns of Mount Desert and Bar Harbor. Manager Lunt noted Bar Harbor is
25 also required to abide by the policy. Their policy wording may be slightly different.
26 Attorney LaPierre noted that two towns employing the same individual will both have to
27 abide by the rules for that employee.

28
29 The Board had no further questions.

30
31 Manager Lunt noted the Board must now vote to implement the policy, effective January
32 1, 2021.

33
34 MOTION: Ms. Dudman moved, with Mr. Hart seconding, implementation of the
35 Personnel Policy Amendments to address the Employee Paid Leave law effective January
36 1, 2021 (Public Law 2019 Ch. 156, "An Act Authorizing Earned Employee Leave"), as
37 presented.

38 Motion approved 5-0.

39
40 *B. Public Space Special Event Application – The Seal Harbor Library Association for*
41 *Annual Book and Craft Fair; July 31, 2021, Seal Harbor Village Green*

42 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, approval of the Public Space
43 Special Event Application – The Seal Harbor Library Association for Annual Book and
44 Craft Fair; July 31, 2021, Seal Harbor Village Green, as presented.

45

1 Ms. Dudman suggested approving it in accordance with any State mandates in place at
2 that time due to the Covid pandemic. Mr. Wood agreed it would be wise to add such a
3 condition. This would protect the Town from any potential liability.

4
5 Manager Lunt felt people know all events must be conducted within State mandated
6 guidelines. Mr. Hart noted that State mandate supersedes anything the Town does as a
7 Municipality.

8
9 Town Clerk Woolfolk noted that such a condition will be added to the Application upon
10 approval.

11
12 Motion approved 5-0.

13
14 *C. Review of FY 2022 Budgets: Administration and Marina*

15 A review of the Administration budget ensued.

16
17 Mr. Hart noted a negative at the end of his budget review under the change. He asked if
18 this were correct.

19
20 Manager Lunt confirmed it was.

21
22 Manager Lunt reported he's reviewed all the budgets in the Town. Putting them all
23 together, the total increase for the Town's portion of the budget was .08%. There was an
24 increase in Public Safety due to some commitments made. Public Works budget has
25 remained flat.

26
27 Ms. Dudman inquired about the health insurance. Manager Lunt noted the number was
28 received from the State and is accurate.

29
30 Mr. Wood inquired about a "Dues and Memberships" item. It appeared the Selectboard
31 has an amount of \$11,500.00. The other departments were only a few hundred. Manager
32 Lunt noted the amount was actually under the Municipal Management section. It
33 includes Manager Lunt's membership to ICMA, The Assessor's and the CEO's
34 membership to their professional organizations and a variety of others. There are several
35 professional associations each Department Head belongs to. Mr. Wood pointed out there
36 were other dues also listed in specific other department budgets. Manager Lunt noted
37 those smaller figures covered costs for conferences and trainings specific to each
38 department. Treasurer Mahar thought the Municipal Management amount was for a
39 global membership of the Town to MMA.

40
41 Mr. Hart inquired about page 26. It appeared there was a line item for sewer fees in the
42 administration budget. Manager Lunt noted that was part of the general obligation debt.

43
44 Mr. Wood inquired about the Planning Board, and the high amount of their legal fees
45 budget. Manager Lunt noted there has been a contentious issue regarding the question of

1 a quarry in Hall Quarry. It has incurred significant legal costs. Mr. Lunt hoped that once
2 the issue has been resolved, the fees would go down.

3
4 There were no further questions regarding the Municipal Budget.

5
6 A review of the Marina Budget ensued.

7
8 Chair Macauley noted the largest item increase was the addition of a full-time office
9 manager. Otherwise, the budget would be relatively unchanged. It was noted this was
10 the reason for the change made to the part-time employee line item.

11
12 Mr. Wood asked about page 3, and the line item of credit card fees of \$14,000.
13 Harbormaster Lemoine noted that all fees for the credit cards received at the marina are
14 covered by the Town. This covers fees incurred by marina customers using their credit
15 cards.

16
17 Mr. Wood asked about the \$57,000 line item for electricity, in comparison to \$18,000
18 electricity in actual charges for the 20/21 year. Harbormaster Lemoine noted \$18,000 is
19 all that has been paid for so far in the fiscal year, which ends July 2021. The Harbor
20 charges for electricity for the boats in the marina. This means a lot of that amount comes
21 back to the Town. The rest covers for the lights in the buildings and parking lots.

22
23 Mr. Wood inquired about the mooring system. Harbormaster Lemoine noted that people
24 allow the Town to broker their moorings to people wishing to rent them. At the end of
25 the season, the fees are calculated, and a check is sent to those mooring owners for their
26 portion of the revenue made. The Town keeps a portion as a brokerage fee.

27
28 There were no further questions.

29
30 Manager Lunt suggested the Board members keep the budget books. The Town can send
31 the updates. Public Safety will be addressed at the next meeting.

32
33 **IX. Other Business**

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

35 Chair Macauley suggested populating the webpage set aside for the SelectBoard with
36 information from the Sustainability Committee and the inserts received and visioning. He
37 hoped the Sustainability Committee would be allowed to have some input in designing it.
38 Mr. Lichtenstein agreed. There was an artist on the Committee who might be of
39 assistance.

40
41 Town Clerk Woolfolk requested that Deputy Town Clerk Jennifer McWain be consulted.
42 She maintains the website and there are restrictions about the way things appear on the
43 website. Mr. Lichtenstein felt additions from the Sustainability Committee would consist
44 of little more than Meeting Minutes and some announcements. Clerk Woolfolk thought
45 such additions would be acceptable. She suggested links could be posted to the page on
46 the Town's Facebook page as well.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

X. Treasurer's Warrants

A. Approve & Sign Treasurer's Warrant AP2134 in the amount of \$353,605.11

MOTION: Ms. Dudman moved, with Mr. Wood seconding, approval and signature of Signed Treasurer's Warrant AP2134 in the amount of \$353,605.11, as presented.

VOTE:

Martha Dudman: Aye

Geoff Wood: Aye

Wendy Littlefield: Aye

Matt Hart: Aye

Chair John Macauley: Aye

Motion approved 5-0

B. Approve Signed Treasurer's Payroll, State Fees, & PR Benefit Warrants AP2132, AP2133, PR2113, PR2115, and PR2115 in the amounts of \$29,330.90, \$3,833.00, \$138,205.35, (1,749.00), and \$1,443.80, respectively

MOTION: Ms. Dudman moved, with Mr. Wood seconding, approval of signed Treasurer's Payroll, State Fees, & PR Benefit Warrants AP2132, AP2133, PR2113, PR2115, and PR2115 in the amounts of \$29,330.90, \$3,833.00, \$138,205.35, (1,749.00), and \$1,443.80, respectively, as presented.

Chair Macauley asked about the credit under PR2115. Treasurer Mahar explained a payroll check was overpaid. It was voided and reissued. Treasurer Mahar noted that the second PR2115 should be corrected to read PR2116.

VOTE:

Martha Dudman: Aye

Geoff Wood: Aye

Matt Hart: Aye

Wendy Littlefield: Abstains

Chair John Macauley: Aye

Motion approved 4-0-1 (Littlefield in Abstention)

C. Acknowledge Treasurer's School Board Payroll Warrant #13 in the amount of \$171,950.97

MOTION: Mr. Wood moved, with Ms. Dudman seconding, acknowledgement of Treasurer's School Board Payroll Warrant #13 in the amount of \$171,950.97, as presented.

VOTE:

Geoff Wood: Aye

Martha Dudman: Aye

Matt Hart: Aye

Wendy Littlefield: Aye

Chair John Macauley: Aye

Motion approved 5-0.

XI. Adjournment

11

1
2
3
4
5
6
7
8
9
10
11

MOTION: Ms. Littlefield moved, with Ms. Dudman seconding, adjournment.
Motion approved 5-0.

The Meeting adjourned at 7:10PM

Respectfully Submitted,

A handwritten signature in cursive script that reads "Wendy A Littlefield". The signature is written in black ink and is positioned to the right of the typed name.

Wendy Littlefield