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**Town of Mount Desert
SelectBoard Meeting Minutes
Monday, February 1, 2021
Location: Zoom Meeting**

This Meeting was held via remote access.

SelectBoard Members Present:

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

Town Officials Present:

Assessor Kyle Avila, Public Works Director Tony Smith, Town Manager Durlin Lunt, Fire Chief Mike Bender, Ambulance Service Director Basil Mahaney, Town Clerk Claire Woolfolk

Members of the public were also in attendance.

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

Chair John Macauley called the meeting to order at 6:00PM.

II. Executive Session

A. Pursuant to 1 M.R.S. § 405(6)(E) for consultations between the Board and its attorney concerning the legal rights and duties of the Board and matters where premature general public knowledge would clearly place the Town at a substantial disadvantage

B. Pursuant to 1 M.R.S. § 405(6)(E) for consultations between the Board and its attorney concerning the legal rights and duties of the Board and matters where premature general public knowledge would clearly place the Town at a substantial disadvantage

MOTION: Mr. Hart moved, with Ms. Littlefield seconding, to enter into Executive Session. Motion approved 4-0.

It was noted that Board Member Geoff Wood was arriving late and not available for the vote.

The Board entered into Executive Session at 6:01PM.

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

III. Post Executive Session

A. Action if needed

Chair Macauley reported that the Town received a petition regarding the causeway on Northern Neck. Chair Macauley requested comment on the issue from Town Attorney Andy Hamilton.

1 Attorney Hamilton stated that the petition set forth four arguments supporting why the
2 Town should accept the causeway as a public way. Such an acceptance causes
3 foundational challenges to the Town. Attorney Hamilton explained that the causeway is
4 constructed in the lake. That lake is more than ten acres in size and therefore a Great
5 Pond under State law. Great Ponds are considered to have submerged lands. A
6 submerged land lease was issued at one point in order for the Town to assist in
7 facilitating what appears to be a private project. The road, built from the base of the
8 causeway at the bottom of the lake up, is defined as being built on submerged lands.
9 Submerged lands are deemed State lands. Only State legislature has the authority to give
10 up State land. The Selectboard has the power and the obligation to reasonably refuse the
11 petitioners' request to place the question of accepting the causeway as a Town way
12 before the voters. Accepting this land is not within the Town's authority.

13
14 Attorney Hamilton addressed each argument presented in the petition.

15
16 The petitioners state they are not a road association and therefore have no power to
17 compel other lot owners to contribute to road maintenance costs. Attorney Hamilton
18 explained that Maine law provides a procedure for people who share the use of a private
19 road; that of choosing a board or commissioner to oversee the road's maintenance and to
20 compel all owners on the road to contribute their fair share and to place liens on the lots
21 of any owners who refuse to pay. The procedure requires little more than calling a
22 meeting and giving notice to all lot owners sharing the use of the road.

23
24 The petitioners state that the causeway, because it is not owned by anyone else, must be
25 owned by the Town. Attorney Hamilton explained that in accordance with the Great
26 Ponds Act and the layout of roads on causeways, of which there are many in the State,
27 there is no legal principle denoting that if an owner of a property such as this cannot be
28 found then it must be a Town property. More importantly, the owner of the causeway is
29 the State of Maine. The State of Maine is the party that must convey their interest.

30
31 The petitioners suggest that because the Town was involved in an earlier project
32 involving the submerged land lease, the Town has become responsible for the road.
33 Attorney Hamilton explained that there were numerous instances where municipalities
34 facilitate getting rights from the State as aid to private owners who cannot. Towns may
35 on occasion help facilitate a private project, securing rights from the Maine DOT or other
36 state agencies. The fact that the Town may have helped to facilitate this private project
37 does not suggest it became a Town way. There are very specific procedures that must be
38 followed when a Town acquires a private road as a Town way. The records have been
39 carefully researched for the Town of Mount Desert, and no record has been found that the
40 Town followed any of the procedures required to acquire this road as a Town road.

41
42 Attorney Hamilton reiterated that it is beyond the Town's authority to place on the Town
43 Warrant the request to accept this road as a Town road. It is beyond the Town's ability
44 and authority to take this road from the State. Attorney Hamilton opined that not only
45 does the Selectboard have the privilege to refuse such a petition being put on the Town
46 Meeting warrant, the Selectboard is obligated to do so.

1
2 Bill Waters, a Northern Neck resident and one of the people who prepared the petition
3 requested to be allowed to make a presentation.

4
5 Mr. Waters stated that the residents' initial goal was to meet with Town officials and
6 discuss how to deal with the hazardous situation. The Covid-19 pandemic made this
7 impossible. The answer may not be to put the issue before the Town Meeting, but Mr.
8 Waters deems the situation severe. He hoped the Town would have some ideas on how
9 to solve it.

10
11 The culverts on the causeway were installed in the early 1980s. Over that time, they have
12 deteriorated completely. Sharp edges of the culvert are now visible. Mr. Waters' wife
13 was injured last summer because she believed she was standing on a sound culvert.
14 There are however holes in the culvert hidden by water. Mr. Waters' wife's leg slipped
15 into one of those holes, cutting her leg open to the bone from ankle to knee. More than
16 just the residents of Northern Neck are affected. Kayakers cross that causeway every day
17 in the summer, and people fish there. An answer needs to be found to alleviate the
18 situation, and residents are looking for assistance from the Town to find a solution. Mr.
19 Waters understands the legal situation explained by Attorney Hamilton. However, there
20 must be some help the Town can give.

21
22 Ms. Dudman sympathized with Mr. Water's wife's injury. As she understands it, the
23 work required for the causeway is not the Town's responsibility. She felt the best option
24 would be for the residents on the road to form a road association or similar organization
25 and replace the culvert.

26
27 Mr. Waters noted that residents are reluctant to be responsible for a road association due
28 to the potential liability of the culvert's poor condition. The problem is a severe one. If
29 someone gets injured and sues, suing the Town may well be seen as a viable alternative
30 to suing the State.

31
32 Public Works Director Tony Smith suggested that the residents finance the replacement
33 of the culverts, then create a road association, the dues of which would pay for the
34 replacement culverts over time. It was unclear whether a road association must be
35 formed first to come to an agreement on how to finance reconstruction.

36
37 Attorney Hamilton noted that what the Public Works Director suggested is similar to
38 what Mr. Hamilton has done as a member of a road association with a causeway. He
39 believed what Director Smith has suggested is possible. If the Town approves expending
40 Town legal resource funds, Attorney Hamilton would be willing to discuss the issue with
41 DEP representative John Cunningham. There should be a way to procure a loan for
42 culvert replacement. The culverts are clearly unsafe.

43
44 Attorney Hamilton recommended that members of a potential road association talk to
45 experts on culverts to get an understanding of what the project will entail. The work
46 should not require too detailed a design. Director Smith works with several engineering

1 firms, any of which can likely create a prompt preliminary design. It must be effective at
2 passing water and preventing the road from washing out.

3
4 Director Smith noted that a complete culvert replacement might prove costly. A potential
5 fix might be to straddle the culverts with sheets of steel. An interim measure might be to
6 slide a pipe through the existing pipe, then remove the exposed rusted pieces of culvert.
7 This perhaps could be done with the understanding that the culverts would be replaced
8 once financing is raised. Director Smith suggested taking a look at the situation with a
9 DEP representative.

10
11 Lincoln Millstein noted that he rented in the Northern Neck area several years ago. The
12 culverts were solid at that time. Driving the area recently he was shocked at the
13 condition there. Mr. Millstein noted there are numerous kayakers and canoers portaging
14 over the causeway. Rusted sections are hidden under water, making the situation
15 dangerous. Mr. Millstein felt the issue is not about cost or responsibility. It's a public
16 safety concern. The nearby canoe rental business should be part of the discussion, and
17 signs should be placed warning people. People using the area must be given warning.

18
19 Director Smith reiterated that the culverts could be sliplined with plastic pipe and
20 exposed, rusted metal could be removed, leaving the new culvert lining showing. Such a
21 solution must be approved by the State.

22
23 Mr. Waters noted that per a letter from the DEP there is an option for Towns to provide
24 labor and equipment, but not material cost. Director Smith reported that the Town does
25 not have the appropriate equipment for the work required.

26
27 Chair Macauley suggested Northern Neck residents install signs warning of the danger as
28 one short term measure. Mr. Waters reported that printed signs went up but have now
29 faded. He added that he's seen families fishing in the area in the past summer and
30 warned them of the danger, to no avail.

31
32 Northern Neck resident Bob Foster felt there was more to the story. The culverts are part
33 of water quality efforts and constructed at the same time the dam was taken over by the
34 Town. The system is in place to maintain water levels for the Southwest Harbor Water
35 District. Culverts were placed to maintain the water quality on both sides of the lake.
36 Mr. Foster asserted that this made the issue a public concern and not just for the benefit
37 of private road owners. The culverts were installed by the State and the Town in the
38 1980s. Private owners should not have to replace or repair such an installation; it was
39 constructed for public benefit. Additionally, a Town in Northern Maine has created
40 precedent by taking over the responsibility of a causeway on a private road. Mr. Foster
41 felt the Town should help address the issue or finance the repairs.

42
43 Director Smith reiterated his offer to facilitate a meeting between the property owners
44 and the State of Maine officials, if the residents were open to such a meeting and if the
45 Board approved. Director Smith was not in favor of financing the replacement of the
46 culverts. Based on his research the Town did not install them. The causeway was built

1 to facilitate a developer's efforts to sell lots in the area. Director Smith was surprised to
2 find there was no road association. He recalled the issue was raised several years ago and
3 a road association was discussed then. Had a road association been created at that time,
4 funding for just such an issue could have been collected.

5
6 Ms. Littlefield appreciated Mr. Waters' presentation and found it helpful. She noted that
7 Attorney Hamilton has stated that what the residents are requesting is beyond the Town's
8 ability to do. Because of this, someone injured at the culvert site cannot hold the Town
9 responsible. The Town does not own or have jurisdiction over the causeway.

10
11 Attorney Hamilton concurred. The Town has no authority over the State's submerged
12 lands to convert this causeway from private way to a public way. A road association can
13 be created, and funds can be collected. The need to do so is clear. A Town may not
14 expend funds on a private way; doing so is unconstitutional and illegal. There may have
15 been other places in the State where public dollars were spent on private roads, however
16 it is not constitutionally permissible. Attorney Hamilton felt hopeful that some good
17 problem solving has resulted from the discussion.

18
19 Attorney Hamilton brought up the subject of permitting. To do any work on the culvert,
20 the DEP must be involved and approve of the work. Director Smith has offered to
21 facilitate a meeting between residents and the DEP. A design must be created for the
22 work and new culverts must be installed. The Town can help facilitate the expenditure of
23 private dollars on a private project, as well as lend support and help brainstorm ideas.

24
25 Attorney Hamilton noted that the question of spending public dollars on private funds has
26 been asked repeatedly. While Attorney Hamilton understood the resident's hopes, he
27 encouraged them to do some practical problem solving around the concept of a private
28 road association.

29
30 Resident Rob Shay noted that Director Smith stated a developer installed the causeway to
31 sell lots on Northern Neck. Mr. Shay opined that the causeway and the road over the
32 causeway are separate from the culverts themselves. Mr. Shay contended that the Town
33 involved themselves in the causeway by installing the culvert. Mr. Shay conducted
34 extensive research, including a review of Planning Board Minutes, Annual Reports and
35 Warrant Committee Minutes at the Town Office in search of guidance on why the
36 culverts were installed. He found no information on why the culverts were installed. Mr.
37 Shay stated that the causeway and the road going over it and state ownership of
38 submerged land is a separate issue from the water and the culverts installed by the Town.
39 The culvert issue was one of water quality. The Town has gone to great lengths to
40 facilitate the health and welfare of Long Pond. In the early 1980s the Town took over
41 ownership from the State the land at Pond's End. This area is now used as a park for
42 public use. The Town has a history of involvement with the water in Long Pond. Mr.
43 Shay stated that the Town paid for the labor and materials for the dam installed in 1935.
44 The water flowing through the culverts cannot be deemed private. The lake is public.
45 Countless people use the water. It is important to maintain the water quality. Mr. Shay
46 disagreed with the argument that the culvert is entirely the responsibility of the residents

6

1 of Northern Neck. Public water goes through the culverts, and there's no record of why
2 the culverts were installed. Mr. Shay presumed that the reason for the culverts was to
3 keep the water healthy. Mr. Shay recalled seeing Town personnel on site when the
4 culvert was first installed participating in the work. Far more people than just those on
5 Northern Neck benefit from the water quality there. He did not feel the responsibility for
6 water quality for public use should fall to the Northern Neck residents.

7
8 Mr. Shay challenged those in attendance to tell him why the culverts were placed there in
9 the first place. Chris Moore stated that culverts of this type are placed to prevent the road
10 from being washed out.

11
12 Director Smith reiterated his advice that the residents in Northern Neck need to start a
13 road association. Director Smith was willing to show them interim culvert work done at
14 Beech Hill Crossroads. Sliplining a culvert is no longer allowed, other than as a
15 temporary measure. Such a temporary fix may be deemed acceptable by the DEP. The
16 Town should not spend public money on this private road; as Attorney Hamilton stated,
17 doing so is unconstitutional and illegal.

18
19 Ms. Dudman believed the subject had been thoroughly discussed. She suggested that
20 further questions from the petitioners be referred to the Public Works Director, who has
21 generously offered to assist them in connecting with State officials. Chair Macauley
22 agreed.

23
24 Chair Macauley noted that a Motion to accept or reject the petition should be made and
25 voted on.

26
27 Mr. Foster argued that this was not just a private issue. The culverts were installed for
28 the water quality of the pond. He stated the issue was a public issue that must be
29 resolved. Chair Macauley agreed that the issue needs to be resolved.

30
31 Attorney Hamilton assisted with formatting a Motion.

32
33 MOTION: Ms. Littlefield moved, with Ms. Dudman seconding, that subject to the
34 Director of Public Works offer to provide his volunteer assistance to the Northern Neck
35 property owners that the SelectBoard declines and rejects the petition in favor of a private
36 road association being formed to address the cost of the culvert.

37
38 Motion approved 5-0.

39
40 **IV. Minutes**

41 *A. Approval of minutes from January 19, 2021 meeting*

42 MOTION: Ms. Littlefield moved, with Mr. Hart seconding, approval of the January 19,
43 2021 Minutes as presented.

44 Motion approved 5-0.

45
46 **V. Appointments/Recognitions/Resignations**

1 *A. Appointment of Donna Reis to the Harbor Committee effective February 2, 2021*
2 MOTION: Ms. Dudman moved, with Ms. Littlefield seconding, appointment of Donna
3 Reis to the Harbor Committee effective February 2, 2021, as presented and with thanks.
4 Motion approved 5-0.

5
6 *B. Appointment of Robert Bickmore to the Broadband Committee as IT Consultant/Ex*
7 *Officio for the Bar Harbor fiber optics project*

8 MOTION: Ms. Littlefield moved, with Mr. Wood seconding, appointment of Robert
9 Bickmore to the Broadband Committee as IT Consultant/Ex Officio for the Bar Harbor
10 fiber optics project, as presented, and with thanks.
11 Motion approved 5-0.

12
13 **VI. Consent Agenda**

14 *A. Department Reports: Wastewater*

15 *B. Thank you note from Allison Bourke*

16 *C. Warrant Committee Minutes from January 12, 2021*

17 *D. League of Towns Meeting Minutes from January 26, 2021*

18 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, approval of the Consent
19 Agenda as presented.

20 Motion approved 5-0.

21
22 **VII. Selectmen's Reports**

23 No reports were presented.

24
25 **VIII. Unfinished Business**

26 *A. Presentation and discussion, including costs, floorplans and an elevation view*
27 *presented as Concept 8, of information associated with development of a new public*
28 *safety building for the Fire Department and EMS taking into consideration various*
29 *discussions and instructions to and with staff by members of the Selectboard and*
30 *members of the public held over the last year, with, for reasons of practicality and*
31 *costs, said building to be an addition to the southerly end of the existing Fire/EMS*
32 *station including similar square footage and floor plans of a prior building layout*
33 *proposed for the bottom of Sea Street.*

34
35 Director Smith reported that, as requested by the Board at the last meeting, work was
36 done to try to bring the estimated building cost down to between 5 and 6 million dollars.
37 The range presented is \$5.1 million to 6 million for the proposed space. The range
38 represents the high and low ends of the estimate. Director Smith cautioned the Board that
39 these are merely estimates based on a concept design. A number of factors will have
40 bearing on the actual cost. Representatives from the design team were in attendance.
41 Ambulance Director Mahaney has offered to leave the rooms designated for the
42 Ambulance Service empty, and he will furnish them out of Ambulance resources.
43 Additionally, the Board is in receipt of the floor plans, site plans, and parking impacts.

44
45 Ms. Dudman thanked everyone for the work put into the planning. She asked how this
46 plan might impinge on parking. Director Smith noted that parking spots will be taken up

1 by the building, however those parking spaces can be relocated to other areas on that
2 same parking elevation without a reduction of their number.

3
4 Mr. Hart thanked everyone for their efforts. He knows extensive effort went into the
5 numerous options reviewed, however it will show that extensive consideration went into
6 the planning. He was glad to see the price coming down. Mr. Hart felt that there would
7 be spirited debate on the Town Meeting floor over that fact, despite the efforts put into
8 cost savings. He reported a resident reaching out to him recently over cost concerns. Mr.
9 Hart felt there was still a lot of uncertainty regarding what direction island-wide fire
10 department consolidation might go in. One concern he's heard is that if consolidation
11 should occur, will the building as planned be more than is necessary. He felt the
12 consensus of the Board was that it was necessary to go to a full-time professional fire
13 department. However, it cannot be assumed that residents are aware of that. What if the
14 building is built with the intention of the fire department becoming full time, and the
15 Town rejects creating a full-time fire department? Mr. Hart wondered if there were
16 cheaper options focusing only on living quarters to house 24/7 coverage, foregoing extra
17 garage bays. Mr. Hart added that it's been said that in order to attract good firefighters,
18 good space must be provided. Another way to attract firefighters is by increasing their
19 pay.
20

21 Director Smith noted that Fire Chief Bender has previously reported that Northeast
22 Harbor receives the most calls. Chief Bender is mindful of keeping any new fire station
23 central to a potential island-wide consolidation of fire departments. A full-time fire
24 department seems to be the path the Town is on. Director Smith did not believe the Town
25 could attract professional firefighters who can afford to live in Town. Firefighters will
26 need space in which they can live and operate together closer to the station. The next step
27 is to proceed with bidding on the concept design. If that bid comes in too high and the
28 Town rejects it, it provides the path for the immediate future. Volunteer numbers are
29 diminishing. The need is real. The Board explored options at the Somesville fire station,
30 and they were found to be cost prohibitive. Seal Harbor options were explored and found
31 to be untenable. Chief Bender's plans have been made to ensure the fire station will play
32 a key component in any island-wide consolidation. Director Smith reminded the Board
33 the building was also for the Ambulance Service's use as well.
34

35 Mr. Moore thanked those involved in the work. Along with some of Mr. Hart's
36 comments, Mr. Moore opined that firefighter pay is becoming inadequate. The current
37 rate of pay will dip below minimum wage as projected by such trends. Mr. Moore was
38 told the cost to raise pay to the compensation authorized during the pandemic would be
39 approximately \$10,000.00 a year. Mr. Moore believed that every 24-hour shift during
40 that time was manned by personnel from the Mount Desert Fire Department. He worried
41 that construction of the building will dictate the need to man it 24/7. Mr. Moore noted he
42 is no longer able to respond to calls as much as he was 10 years ago. He hoped the
43 building wouldn't slow the needs of the department.
44

45 Ms. Dudman asked for clarification. Mr. Moore clarified that the payrate could be
46 bumped up to the \$26.00 per hour rate used during the first months of the pandemic for

1 roughly an additional \$10,000.00 per year. His concern with the building is that the fire
2 department is currently waiting for the new building in order to staff 24/7. He hopes
3 there's a contingency plan should the need to go 24/7 occurs prior to the building's
4 construction without rushing a construction plan.

5
6 Ambulance Director Basil Mahaney voiced appreciation that the Ambulance Service has
7 been included in the plans. Ambulance has progressed to staffing 24/7. The space to do
8 so is limited. As a nonprofit entity with the Town the Ambulance Service will support
9 whatever the Town deems best. Hopefully, the project isn't delayed too long. While he
10 understood there were many things at play in the decision, he stressed that the need for the
11 Ambulance Service is now. Ambulance has raised wages to attract personnel.

12
13 Mr. Hart wanted to be clear that he was relaying concerns a resident brought to him.
14 Taxpayer concerns must be taken into consideration. These were concerns that will likely
15 continue to be voiced throughout the process. Mr. Hart was in favor of putting the item
16 on the Town Warrant. This is a conversation the Town should have.

17
18 EMT Gibson McCullough thanked the Board for the opportunity to discuss the project.
19 He agreed that the community may need some education on the subject. As a member of
20 the Ambulance service, one of the pitfalls he's seen is that the community does not know
21 about the service until they're in need. The community has the expectation that there is
22 available service. The hope was that the departments are not put into the situation where
23 tragedy dictates outcome. Discussions regarding sufficient space and staff are held with
24 the goal that every attempt is made to ensure that the community is best served.

25
26 Mr. Wood noted the discussion has been held from many different angles. At the last
27 meeting the Board requested that Chief Bender and Director Smith try to bring to the
28 Board a product that was in a price range given to them by the Board. The public
29 questioning and comment process, and even possible resistance, is not over.
30 Nevertheless, the Board has received what it asked for. Mr. Wood felt it was a good
31 product. He felt the project should move forward, to be more openly discussed.

32
33 Ms. Littlefield reported she'd also had some conversations with residents on the issue.
34 She agreed that the community may not have a lot of knowledge of the subject. Her
35 opinion was that good pay and benefits attract good people. A good building might make
36 some difference. She also believes a good firefighter wants to be in a community in
37 which they can use their skills. The Town is fortunate not to have a lot of opportunity for
38 a firefighter to use their skills. 24/7 coverage might be necessary, but \$5million or more
39 for a building, when the Town does not know what the future is going to be, is difficult.

40
41 Director Smith responded to Ms. Littlefield's comment negatively. Ms. Littlefield stated
42 such a reaction was unacceptable to the discussion. Ms. Littlefield removed herself from
43 active participation in the meeting for a short while.

44
45 Chief Bender noted that if the Board approves this item and places it on the Town
46 Warrant, it will be a referendum. Townspeople will then vote on whether or not to

1 continue the process and move to 24/7 coverage for both fire and EMS. The goal with the
2 building is to provide quarters for both groups in order to facilitate transition to 24/7
3 coverage. Discussions regarding 24/7 coverage have been ongoing for several years now.
4

5 In response to Mr. Hart's question of whether the project can be done for less money,
6 Chief Bender reminded the Board that Option One was trying to create living quarters
7 above the existing truck bays in the Municipal Building. The plans could not be made to
8 provide adequate space. He hoped the issue would be allowed to move forward to Town
9 Meeting. Town Meeting was the best place to explain the goals and answer questions.
10 Chair Macauley agreed. Something must be tried. Otherwise, the Town will continue to
11 revisit the issue. If a building can be built, and truck bays can be added, and equipment
12 can be consolidated, and some of the operational issues can be addressed, it will be a good
13 start. He hoped the issue could be brought to the public for debate.
14

15 Firefighter Chapin McFarland stated that he was one of the full-time firefighters for the
16 Town. He reported several calls not covered by full staff. Firefighter McFarland reported
17 that despite multiple calls to firefighters, he has arrived at the station to find himself the
18 only one who answered the call. This means the Town is relying on Firefighter
19 McFarland alone, after a 15-minute drive from his home in Southwest Harbor. This
20 should be worrisome to residents. One engine and one firefighter are rolling out in
21 answer to a fire alarm.
22

23 Ms. Dudman asked Chief Bender how many full-time firefighters the proposed building
24 would accommodate. Chief Bender noted the building would accommodate 2 full time
25 firefighters per 24/7 shift. Ambulance Service Director Mahaney noted that currently
26 there is a staff of two EMTs available 24/7. The future is uncertain for the organization.
27 Director Mahaney would not feel comfortable trying to predict staffing needs in the
28 coming years.
29

30 Ms. Dudman noted that discussion tonight has covered the possibility of increasing
31 firefighter pay. She felt it sounded like a priority. Chief Bender noted that the full-time
32 firefighters are paid well in comparison to other nearby towns. Volunteers are paid per
33 shift, at the same rate of pay a starting full-time firefighter receives. Where pay is lacking
34 is in response to alarms and training. That current rate is \$14.80/hour. Chief Bender
35 noted this was comparable to what other volunteer firefighters in nearby towns are
36 making. He noted that if firefighters want a pay increase, he can add it to the budget for
37 review and approval at Town Meeting. Chief Bender noted that these are the details most
38 people in the Town are unaware of. Chief Bender stressed that trends show the situation
39 was not going to improve without change.
40

41 Firefighter McFarland added that with regard to pay, that was not what attracted him to
42 the job. He was attracted to the job in order to protect the residents of Mount Desert.
43 He's been in attendance to all the meetings at which the fire department project has been
44 discussed. He felt the Board was focused on the consolidation of the island Fire
45 Departments. Firefighter McFarland pointed out the question of consolidation of the
46 island police departments was just rejected by the Town of Southwest Harbor. Such a

1 thing could easily happen for the fire departments. The Town shouldn't rely on
2 consolidation as the future of the fire department. Other towns on the island are not
3 struggling to find volunteers. Chair Macauley agreed it was a good point, and probably
4 cause for many future conversations.

5
6 Chair Macauley asked for further comments. There were none.

7
8 *B. Consideration by the Selectboard of authorizing Public Works Director Tony Smith to*
9 *ask the public safety building design team of Hedefine Engineering to provide the Town a*
10 *cost for their services for design thru bidding related to development of Concept 8*
11 *described above in "A" above, in time to include the cost in the Selectboard packet*
12 *for staff review with them at their February 16, 2021 meeting such that,*

13
14 *C. At the February 16, 2021 Selectboard meeting, the Selectboard would consider*
15 *including said concept plan and associated cost as a warrant article to be acted on by*
16 *the voters at the 2021 town meeting, be it held in May or a later date as we did this*
17 *year*

18
19 MOTION: Ms. Dudman moved, with Mr. Hart seconding, authorizing Public Works
20 Director Tony Smith to ask the public safety building design team of Hedefine
21 Engineering to provide the Town a cost for their services for design thru bidding related
22 to development of Concept 8 described in Item VIII.A, above, in time to include the cost
23 in the Selectboard packet for staff review with them at their February 16, 2021 meeting
24 such that, at the February 16, 2021 Selectboard meeting, the Selectboard would consider
25 including said concept plan and associated cost as a warrant article to be acted on by the
26 voters at the 2021 town meeting, be it held in May or a later date as the Town did in 2020,
27 as presented.

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

29
30 **IX. New Business**

31 *A. College of the Atlantic Main Street project parking issue*

32 COA Representative Millard Dority thanked the Board for the opportunity to speak. He
33 represents the College of the Atlantic regarding the proposed College of the Atlantic
34 Mount Desert Center planned for 141 Main Street in Northeast Harbor. The building will
35 hold three student apartments, one faculty/staff apartment, and retail space facing Main
36 Street.

37
38 Planning for the building is progressing, and COA is working with the Planning Board
39 and the CEO. The biggest issue the project faces is that of parking. Mr. Dority has been
40 exploring a number of options to facilitate adequate parking space for the building,
41 including three on-site parking spaces, the dedication of a small van for residents' use,
42 and the implementation of a shuttle running to and from the school to the building. The
43 Town's Land Use Ordinance ambiguously requires "adequate" parking. Mr. Dority feels
44 relatively confident that the Planning Board will not approve the use with just three on-
45 site parking spaces. Toward that end, COA has been looking at a number of options. Mr.
46 Dority is exploring all possibilities, including the use or lease of private spaces.

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3 like they do for the Cranberry Isles residents' parking. He wasn't sure what the process
4 was for exploring and evaluating the option and was looking for guidance.

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9 insight or suggestions or recommendations for finding more dedicated parking in
10 Northeast Harbor. Mr. Dority added that the proposed building was not planned as a
11 college dorm. The students living there would be handpicked based on their roles
12 working in the Mount Desert community.

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14 Chair Macauley deferred to the Public Works Director or the Police Chief for their
15 thoughts.

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17 Director Smith noted that the past couple summers, members of the Economic
18 Development Committee conducted an informal vacant parking spot count during the
19 summer months in the Gray Cow parking lot. There were 15 to 20 available spots each
20 time the count occurred. Mr. Hart noted that the informal count indicated a high
21 percentage of available parking spots at various times during the day, even at times when
22 it could be logically assumed that there were many visitors in Town. Mr. Hart noted that
23 the Main Street project had another future phase in which the Gray Cow parking lot
24 would be connected to the improvements already made on Main Street. Regarding the
25 concept of leasing or renting parking spaces, Mr. Hart worried about the precedent such a
26 thing would set. He would be reluctant to consider such a solution.

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28 Mr. Wood asked about the arrangement the with the Town of Cranberry Isles. The
29 parking spaces must be in place before the project can be approved. The parking spaces
30 may or may not be used by the residents of the building. Perhaps discussing the spaces
31 with the Town of Cranberry Isle might provide a solution.

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33 Mr. Dority could not confirm that dedicated parking might never be used. What COA
34 hoped to do was use the parking already available at the Bar Harbor campus, and limit
35 parking in Northeast Harbor by some means. If ten dedicated spaces could be found in
36 Northeast Harbor, then COA would not have to limit parking in Northeast Harbor so
37 stringently. Students do bring cars. It may be required that they park on campus and use
38 the van provided for them. He hoped another option could be found. The LUZO term
39 "Adequate parking" is not easily decipherable.

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41 Town Manager Lunt wondered whether parking within a five-minute walk of the building
42 would be deemed acceptable. Mr. Dority affirmed that COA would find it acceptable.
43 He did not know what the Planning Board's thoughts would be. Manager Lunt noted
44 there may be some parking to be looked at within five minutes' walk of the building.
45 Town parking such as what is leased to the Town of Cranberry Isles required that the
46 lease be approved at Town Meeting.

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2 MD365 Director Kathy Miller asked who determines rules regarding overnight parking at
3 the Gray Cow parking lot, and the parking lot by the marina. Manager Lunt felt it was the
4 SelectBoard in concert with the Traffic Committee and the Police Department who make
5 these determinations. Mr. Hart noted that the Town removes snow from other areas and
6 stockpiles it in places like the Gray Cow parking lot. Director Smith noted that snow can
7 be removed to wherever the Town wants, as long as it does not impact the ocean or other
8 water bodies.

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10 The parking agreement with Cranberry Isles is a multi-year agreement. Mr. Hart
11 wondered if COA could approach the Town regarding subletting some of those spaces.
12 This might provide an option during the school year. In the summer those spaces are
13 often full. Ms. Dudman suggesting calling the Town of Cranberry Isles.

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15 Ms. Littlefield noted that she'd sent an email with some parking ideas. Mr. Dority
16 promised to look and respond.

17
18 *B. Review and consideration of information provided to the Town by residents of the*
19 *Northern Neck Road related to culvert replacement on Northern Neck Road. and legal*
20 *reply to same*

21 This item was addressed under III.A of the Agenda.

22
23 *C. Request authorization for the Fire Chief to sign and execute a contract with Maine*
24 *Maritime Academy to provide the fire department's breathing air cascade/compressor*
25 *vehicle along with an operator in support of their student fire training program at the*
26 *Ellsworth Fire Training Center*

27 MOTION: Mr. Hart moved, with Ms. Dudman seconding, authorization of the Fire Chief
28 to sign and execute a contract with Maine Maritime Academy to provide the fire
29 department's breathing air cascade/compressor vehicle along with an operator in support
30 of their student fire training program at the Ellsworth Fire Training Center, as presented.
31 Motion approved 5-0.

32
33 *C. Rural Wastewater Rebate Program and 140 Northern Neck Road*

34 CEO Keene referred to her memo sent to the Board. This is a request for reimbursement
35 for a septic tank pumping. Northern Neck resident Ray Bianchi was sent an email she
36 believed the Board was now in receipt of. The email states the time limitation required to
37 qualify for the Rural Wastewater Rebate Program. Pumping must occur between May
38 and November to qualify for reimbursement. Mr. Bianchi deemed the time limitation not
39 acceptable because he rents the property during those months. Mr. Bianchi stated his case
40 in the email. He arranged to have his tank pumped outside of those months, disregarding
41 the Town's requirements. He now wants to be reimbursed. CEO Keene believed these
42 issues are reviewed by the Board on a case-by-case basis. Mr. Bianchi emailed the CEO
43 in November stating he would have his tank pumped. CEO Keene explained that the
44 Rural Wastewater Rebate Program expires on November 15. Other residents requesting a
45 reimbursement for pumping after the deadline accepted that the program expired, and
46 made plans to have their tanks pumped in 2021. Mr. Bianchi insists on the

1 reimbursement, noting his renters created a hardship for him to have it done earlier. CEO
2 Keene did an inspection of the tank at Manager Lunt's request.

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4 Ms. Dudman wondered if this would open the floodgates for others wanting
5 reimbursement for inspections done outside the required time. CEO Keene noted
6 additionally that she cautioned Mr. Bianchi against having the tank pumped so late in the
7 year due to the risk of the tank cracking. Mr. Bianchi preferred to take the issue to the
8 Selectboard. CEO Keene did not know if approving the request would open floodgates,
9 but it will set precedent. She reiterated that two others accepted the fact that the
10 program's deadline had expired and made other arrangements.

11
12 Mr. Wood felt it was clear the person made the choice to get the work done outside the
13 required time. This choice was not because he'd forgotten or had an emergency; the
14 choice was made based on the financial gain of having renters in. Mr. Wood felt the
15 request should be denied. Mr. Hart agreed. It appeared this resident was aware of the
16 rules set and chose to ignore them and the advice he was given.

17
18 MOTION: Mr. Wood moved, with Mr. Hart seconding, to reject the request for
19 reimbursement via the Rural Wastewater Rebate Program for the residence located at 140
20 Northern Neck Road, as presented.
21 Motion approved 5-0.

22
23 *D. Revenue Budget Review*

24 Manager Lunt referred to the spreadsheets given to Board Members. He reported that the
25 Covid-19 pandemic did not have an adverse impact on revenues. Revenues were strong,
26 and Manager Lunt anticipates they'll remain strong. Manager Lunt felt the figures
27 presented were a reasonable estimate of what can be used to help reduce the property tax.
28 Manager Lunt strives to be conservative in his estimates.

29
30 There were no questions from the Board.

31
32 *E. DRAFT Warrant*

33 Manager Lunt reminded the Board that Monday, February 8, 2021, 4:00PM was a
34 meeting with the Elementary School, and a review of amendments proposed for the
35 LUZO.

36
37 Manager Lunt noted there was nothing on the Draft Warrant that required a vote. He
38 reminded the Board that Warrant Articles printed in red are not ready for approval.
39 Warrant Articles printed in green are theoretically ready for approval.

40
41 Chair Macauley was unable to locate a meeting schedule in his materials. Manager Lunt
42 promised to send the schedule to Board Members.

43
44 Some of the Warrant Articles are based on the Board's initial reviews of Department
45 Budgets. Some may change slightly, but for the most part they should remain unchanged.

1 **X. Other Business**

2 Director Smith apologized to Ms. Littlefield, the SelectBoard, and all others participating
3 in the meeting for comments he made earlier in the meeting. He stated that a difficult
4 family issue and the resulting stress prompted the untoward remark.

5
6 There was no further business.

7
8 **XI. Treasurer's Warrants**

9 *A. Approve & Sign Treasurer Warrant AP2143 in the amount of \$5 77,303.11.*

10 MOTION: Ms. Dudman moved, with Mr. Hart seconding, approval and signature of
11 Treasurer Warrant AP2143 in the amount of \$5 77,303.11, as presented.

12 VOTE:

13 Martha Dudman: Aye

14 Matt Hart: Aye

15 Wendy Littlefield: Aye

16 Geoff Wood: Aye

17 Chair John Macauley: Aye

18 Motion approved 5-0.

19
20 *B. Approve Signed Treasurer's Payroll, State Fees, & PR Benefit Warrant AP2141,*
21 *AP2142, and PR2118 in the amounts of \$6,491.92, \$101,607.56, and \$101,893.71,*
22 *respectively*

23 MOTION: Mr. Wood moved, with Mr. Hart seconding, approval of signed Treasurer's
24 Payroll, State Fees, & PR Benefit Warrant AP2141, AP2142, and PR2118 in the amounts
25 of \$6,491.92, \$101,607.56, and \$101,893.71 respectively, as presented.

26 VOTE:

27 Geoff Wood: Aye

28 Matt Hart: Aye

29 Wendy Littlefield: Abstains

30 Martha Dudman: Aye

31 Chair John Macauley: Aye

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

33
34 *C. Acknowledge Treasurer's School Board AP/Payroll Warrants 16 in the amount of*
35 *\$198,112.86*

36 MOTION: Mr. Hart moved, with Ms. Dudman seconding, acknowledgement of
37 Treasurer's School Board AP/Payroll Warrants 16 in the amount of \$198,112.86, as
38 presented.

39 VOTE:

40 Matt Hart: Aye

41 Martha Dudman: Aye

42 Wendy Littlefield: Aye

43 Geoff Wood: Aye

44 Chair John Macauley: Aye

45 Motion approved 5-0.

1 **XII. Adjournment**

2 MOTION: Ms. Dudman moved, with Mr. Wood seconding, adjournment.
3 Motion approved 5-0.

4
5 The meeting was adjourned at 8:04PM.

6
7 Respectfully Submitted,

8
9 

10 Wendy Littlefield
11

XII. Adjournment

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

The meeting was adjourned at 8:04PM.

Respectfully Submitted,

Wendy Littlefield

X. Other Business

Director Smith apologized to Ms. Littlefield, the Select Board, and all others participating in the meeting for comments he made earlier in the meeting. He stated that a difficult family issue and the resulting stress prompted the untoward remark.

There was no further business.

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VOTE:

Martha Dudman: Aye

Matt Hart: Aye

Wendy Littlefield: Aye

Geoff Wood: Aye

Chair John Macauley: Aye

Motion approved 5-0.

B. Approve Signed Treasurer's Payroll, State Fees, & PR Benefit Warrant AP2141, AP2142, and PR2118 in the amounts of \$6,491.92, \$101,607.56, and \$101,893.71, respectively

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VOTE:

Geoff Wood: Aye

Matt Hart: Aye

Wendy Littlefield: Abstains

Martha Dudman: Aye

Chair John Macauley: Aye

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

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Matt Hart: Aye

Martha Dudman: Aye

Wendy Littlefield: Aye

Geoff Wood: Aye

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Motion approved 5-0.

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43 He did not know what the Planning Board's thoughts would be. Manager Lunt noted
44 there may be some parking to be looked at within five minutes' walk of the building.
45 Town parking such as what is leased to the Town of Cranberry Isles required that the
46 lease be approved at Town Meeting.

1 thing could easily happen for the fire departments. The Town shouldn't rely on
2 consolidation as the future of the fire department. Other towns on the island are not
3 struggling to find volunteers. Chair Macauley agreed it was a good point, and probably
4 cause for many future conversations.
5

6 Chair Macauley asked for further comments. There were none.
7

8 *B. Consideration by the Selectboard of authorizing Public Works Director Tony Smith to*
9 *ask the public safety building design team of Hedefine Engineering to provide the Town a*
10 *cost for their services for design thru bidding related to development of Concept 8*
11 *described above in "A" above, in time to include the cost in the Selectboard packet*
12 *for staff review with them at their February 16, 2021 meeting such that,*
13

14 *C. At the February 16, 2021 Selectboard meeting, the Selectboard would consider*
15 *including said concept plan and associated cost as a warrant article to be acted on by*
16 *the voters at the 2021 town meeting, be it held in May or a later date as we did this*
17 *year*
18

19 MOTION: Ms. Dudman moved, with Mr. Hart seconding, authorizing Public Works
20 Director Tony Smith to ask the public safety building design team of Hedefine
21 Engineering to provide the Town a cost for their services for design thru bidding related
22 to development of Concept 8 described in Item VIII.A, above, in time to include the cost
23 in the Selectboard packet for staff review with them at their February 16, 2021 meeting
24 such that, at the February 16, 2021 Selectboard meeting, the Selectboard would consider
25 including said concept plan and associated cost as a warrant article to be acted on by the
26 voters at the 2021 town meeting, be it held in May or a later date as the Town did in 2020,
27 as presented.

28 Motion approved 4-0-1 (Littlefield in Abstention).
29

30 IX. New Business

31 A. College of the Atlantic Main Street project parking issue

32 COA Representative Millard Dority thanked the Board for the opportunity to speak. He
33 represents the College of the Atlantic regarding the proposed College of the Atlantic
34 Mount Desert Center planned for 141 Main Street in Northeast Harbor. The building will
35 hold three student apartments, one faculty/staff apartment, and retail space facing Main
36 Street.
37

38 Planning for the building is progressing, and COA is working with the Planning Board
39 and the CEO. The biggest issue the project faces is that of parking. Mr. Dority has been
40 exploring a number of options to facilitate adequate parking space for the building,
41 including three on-site parking spaces, the dedication of a small van for residents' use,
42 and the implementation of a shuttle running to and from the school to the building, The
43 Town's Land Use Ordinance ambiguously requires "adequate" parking. Mr. Dority feels
44 relatively confident that the Planning Board will not approve the use with just three on-
45 site parking spaces. Toward that end, COA has been looking at a number of options. Mr.
46 Dority is exploring all possibilities, including the use or lease of private spaces.

1 continue the process and move to 24/7 coverage for both fire and EMS. The goal with the
2 building is to provide quarters for both groups in order to facilitate transition to 24/7
3 coverage. Discussions regarding 24/7 coverage have been ongoing for several years now.
4

5 In response to Mr. Hart's question of whether the project can be done for less money,
6 Chief Bender reminded the Board that Option One was trying to create living quarters
7 above the existing truck bays in the Municipal Building. The plans could not be made to
8 provide adequate space. He hoped the issue would be allowed to move forward to Town
9 Meeting. Town Meeting was the best place to explain the goals and answer questions.
10 Chair Macauley agreed. Something must be tried. Otherwise, the Town will continue to
11 revisit the issue. If a building can be built, and truck bays can be added, and equipment
12 can be consolidated, and some of the operational issues can be addressed, it will be a good
13 start. He hoped the issue could be brought to the public for debate.
14

15 Firefighter Chapin McFarland stated that he was one of the full-time firefighters for the
16 Town. He reported several calls not covered by full staff. Firefighter McFarland reported
17 that despite multiple calls to firefighters, he has arrived at the station to find himself the
18 only one who answered the call. This means the Town is relying on Firefighter
19 McFarland alone, after a 15-minute drive from his home in Southwest Harbor. This
20 should be worrisome to residents. One engine and one firefighter are rolling out in
21 answer to a fire alarm.
22

23 Ms. Dudman asked Chief Bender how many full-time firefighters the proposed building
24 would accommodate. Chief Bender noted the building would accommodate 2 full time
25 firefighters per 24/7 shift. Ambulance Service Director Mahaney noted that currently
26 there is a staff of two EMTs available 24/7. The future is uncertain for the organization.
27 Director Mahaney would not feel comfortable trying to predict staffing needs in the
28 coming years.
29

30 Ms. Dudman noted that discussion tonight has covered the possibility of increasing
31 firefighter pay. She felt it sounded like a priority. Chief Bender noted that the full-time
32 firefighters are paid well in comparison to other nearby towns. Volunteers are paid per
33 shift, at the same rate of pay a starting full-time firefighter receives. Where pay is lacking
34 is in response to alarms and training. That current rate is \$14.80/hour. Chief Bender
35 noted this was comparable to what other volunteer firefighters in nearby towns are
36 making. He noted that if firefighters want a pay increase, he can add it to the budget for
37 review and approval at Town Meeting. Chief Bender noted that these are the details most
38 people in the Town are unaware of. Chief Bender stressed that trends show the situation
39 was not going to improve without change.
40

41 Firefighter McFarland added that with regard to pay, that was not what attracted him to
42 the job. He was attracted to the job in order to protect the residents of Mount Desert.
43 He's been in attendance to all the meetings at which the fire department project has been
44 discussed. He felt the Board was focused on the consolidation of the island Fire
45 Departments. Firefighter McFarland pointed out the question of consolidation of the
46 island police departments was just rejected by the Town of Southwest Harbor. Such a

1 roughly an additional \$10,000.00 per year. His concern with the building is that the fire
2 department is currently waiting for the new building in order to staff 24/7. He hopes
3 there's a contingency plan should the need to go 24/7 occurs prior to the building's
4 construction without rushing a construction plan.
5

6 Ambulance Director Basil Mahaney voiced appreciation that the Ambulance Service has
7 been included in the plans. Ambulance has progressed to staffing 24/7. The space to do
8 so is limited. As a nonprofit entity with the Town the Ambulance Service will support
9 whatever the Town deems best. Hopefully, the project isn't delayed too long. While he
10 understood there were many things at play in the decision, he stressed that the need for the
11 Ambulance Service is now. Ambulance has raised wages to attract personnel.
12

13 Mr. Hart wanted to be clear that he was relaying concerns a resident brought to him.
14 Taxpayer concerns must be taken into consideration. These were concerns that will likely
15 continue to be voiced throughout the process. Mr. Hart was in favor of putting the item
16 on the Town Warrant. This is a conversation the Town should have.
17

18 EMT Gibson McCullough thanked the Board for the opportunity to discuss the project.
19 He agreed that the community may need some education on the subject. As a member of
20 the Ambulance service, one of the pitfalls he's seen is that the community does not know
21 about the service until they're in need. The community has the expectation that there is
22 available service. The hope was that the departments are not put into the situation where
23 tragedy dictates outcome. Discussions regarding sufficient space and staff are held with
24 the goal that every attempt is made to ensure that the community is best served.
25

26 Mr. Wood noted the discussion has been held from many different angles. At the last
27 meeting the Board requested that Chief Bender and Director Smith try to bring to the
28 Board a product that was in a price range given to them by the Board. The public
29 questioning and comment process, and even possible resistance, is not over.
30 Nevertheless, the Board has received what it asked for. Mr. Wood felt it was a good
31 product. He felt the project should move forward, to be more openly discussed.
32

33 Ms. Littlefield reported she'd also had some conversations with residents on the issue.
34 She agreed that the community may not have a lot of knowledge of the subject. Her
35 opinion was that good pay and benefits attract good people. A good building might make
36 some difference. She also believes a good firefighter wants to be in a community in
37 which they can use their skills. The Town is fortunate not to have a lot of opportunity for
38 a firefighter to use their skills. 24/7 coverage might be necessary, but \$5million or more
39 for a building, when the Town does not know what the future is going to be, is difficult.
40

41 Director Smith responded to Ms. Littlefield's comment negatively. Ms. Littlefield stated
42 such a reaction was unacceptable to the discussion. Ms. Littlefield removed herself from
43 active participation in the meeting for a short while.
44

45 Chief Bender noted that if the Board approves this item and places it on the Town
46 Warrant, it will be a referendum. Townspeople will then vote on whether or not to

1 by the building, however those parking spaces can be relocated to other areas on that
2 same parking elevation without a reduction of their number.
3

4 Mr. Hart thanked everyone for their efforts. He knows extensive effort went into the
5 numerous options reviewed, however it will show that extensive consideration went into
6 the planning. He was glad to see the price coming down. Mr. Hart felt that there would
7 be spirited debate on the Town Meeting floor over that fact, despite the efforts put into
8 cost savings. He reported a resident reaching out to him recently over cost concerns. Mr.
9 Hart felt there was still a lot of uncertainty regarding what direction island-wide fire
10 department consolidation might go in. One concern he's heard is that if consolidation
11 should occur, will the building as planned be more than is necessary. He felt the
12 consensus of the Board was that it was necessary to go to a full-time professional fire
13 department. However, it cannot be assumed that residents are aware of that. What if the
14 building is built with the intention of the fire department becoming full time, and the
15 Town rejects creating a full-time fire department? Mr. Hart wondered if there were
16 cheaper options focusing only on living quarters to house 24/7 coverage, foregoing extra
17 garage bays. Mr. Hart added that it's been said that in order to attract good firefighters,
18 good space must be provided. Another way to attract firefighters is by increasing their
19 pay.
20

21 Director Smith noted that Fire Chief Bender has previously reported that Northeast
22 Harbor receives the most calls. Chief Bender is mindful of keeping any new fire station
23 central to a potential island-wide consolidation of fire departments. A full-time fire
24 department seems to be the path the Town is on. Director Smith did not believe the Town
25 could attract professional firefighters who can afford to live in Town. Firefighters will
26 need space in which they can live and operate together closer to the station. The next step
27 is to proceed with bidding on the concept design. If that bid comes in too high and the
28 Town rejects it, it provides the path for the immediate future. Volunteer numbers are
29 diminishing. The need is real. The Board explored options at the Somesville fire station,
30 and they were found to be cost prohibitive. Seal Harbor options were explored and found
31 to be untenable. Chief Bender's plans have been made to ensure the fire station will play
32 a key component in any island-wide consolidation. Director Smith reminded the Board
33 the building was also for the Ambulance Service's use as well.
34

35 Mr. Moore thanked those involved in the work. Along with some of Mr. Hart's
36 comments, Mr. Moore opined that firefighter pay is becoming inadequate. The current
37 rate of pay will dip below minimum wage as projected by such trends. Mr. Moore was
38 told the cost to raise pay to the compensation authorized during the pandemic would be
39 approximately \$10,000.00 a year. Mr. Moore believed that every 24-hour shift during
40 that time was manned by personnel from the Mount Desert Fire Department. He worried
41 that construction of the building will dictate the need to man it 24/7. Mr. Moore noted he
42 is no longer able to respond to calls as much as he was 10 years ago. He hoped the
43 building wouldn't slow the needs of the department.
44

45 Ms. Dudman asked for clarification. Mr. Moore clarified that the payrate could be
46 bumped up to the \$26.00 per hour rate used during the first months of the pandemic for

1 *A. Appointment of Donna Reis to the Harbor Committee effective February 2, 2021*

2 MOTION: Ms. Dudman moved, with Ms. Littlefield seconding, appointment of Donna
3 Reis to the Harbor Committee effective February 2, 2021, as presented and with thanks.
4 Motion approved 5-0.

5
6 *B. Appointment of Robert Bickmore to the Broadband Committee as IT Consultant/Ex
7 Officio for the Bar Harbor fiber optics project*

8 MOTION: Ms. Littlefield moved, with Mr. Wood seconding, appointment of Robert
9 Bickmore to the Broadband Committee as IT Consultant/Ex Officio for the Bar Harbor
10 fiber optics project, as presented, and with thanks.
11 Motion approved 5-0.

12
13 **VI. Consent Agenda**

14 *A. Department Reports: Wastewater*

15 *B. Thank you note from Allison Bourke*

16 *C. Warrant Committee Minutes from January 12, 2021*

17 *D. League of Towns Meeting Minutes from January 26, 2021*

18 MOTION: Mr. Hart moved, with Ms. Littlefield seconding, approval of the Consent
19 Agenda as presented.
20 Motion approved 5-0.

21
22 **VII. Selectmen's Reports**

23 No reports were presented.

24
25 **VIII. Unfinished Business**

26 *A. Presentation and discussion, including costs, floorplans and an elevation view
27 presented as Concept 8, of information associated with development of a new public
28 safety building for the Fire Department and EMS taking into consideration various
29 discussions and instructions to and with staff by members of the Selectboard and
30 members of the public held over the last year, with, for reasons of practicality and
31 costs, said building to be an addition to the southerly end of the existing Fire/EMS
32 station including similar square footage and floor plans of a prior building layout
33 proposed for the bottom of Sea Street.*

34
35 Director Smith reported that, as requested by the Board at the last meeting, work was
36 done to try to bring the estimated building cost down to between 5 and 6 million dollars.
37 The range presented is \$5.1 million to 6 million for the proposed space. The range
38 represents the high and low ends of the estimate. Director Smith cautioned the Board that
39 these are merely estimates based on a concept design. A number of factors will have
40 bearing on the actual cost. Representatives from the design team were in attendance.
41 Ambulance Director Mahaney has offered to leave the rooms designated for the
42 Ambulance Service empty, and he will furnish them out of Ambulance resources.
43 Additionally, the Board is in receipt of the floor plans, site plans, and parking impacts.

44
45 Ms. Dudman thanked everyone for the work put into the planning. She asked how this
46 plan might impinge on parking. Director Smith noted that parking spots will be taken up

1 of Northern Neck. Public water goes through the culverts, and there's no record of why
2 the culverts were installed. Mr. Shay presumed that the reason for the culverts was to
3 keep the water healthy. Mr. Shay recalled seeing Town personnel on site when the
4 culvert was first installed participating in the work. Far more people than just those on
5 Northern Neck benefit from the water quality there. He did not feel the responsibility for
6 water quality for public use should fall to the Northern Neck residents.
7

8 Mr. Shay challenged those in attendance to tell him why the culverts were placed there in
9 the first place. Chris Moore stated that culverts of this type are placed to prevent the road
10 from being washed out.
11

12 Director Smith reiterated his advice that the residents in Northern Neck need to start a
13 road association. Director Smith was willing to show them interim culvert work done at
14 Beech Hill Crossroads. Sliplining a culvert is no longer allowed, other than as a
15 temporary measure. Such a temporary fix may be deemed acceptable by the DEP. The
16 Town should not spend public money on this private road; as Attorney Hamilton stated,
17 doing so is unconstitutional and illegal.
18

19 Ms. Dudman believed the subject had been thoroughly discussed. She suggested that
20 further questions from the petitioners be referred to the Public Works Director, who has
21 generously offered to assist them in connecting with State officials. Chair Macauley
22 agreed.
23

24 Chair Macauley noted that a Motion to accept or reject the petition should be made and
25 voted on.
26

27 Mr. Foster argued that this was not just a private issue. The culverts were installed for
28 the water quality of the pond. He stated the issue was a public issue that must be
29 resolved. Chair Macauley agreed that the issue needs to be resolved.
30

31 Attorney Hamilton assisted with formatting a Motion.
32

33 MOTION: Ms. Littlefield moved, with Ms. Dudman seconding, that subject to the
34 Director of Public Works offer to provide his volunteer assistance to the Northern Neck
35 property owners that the SelectBoard declines and rejects the petition in favor of a private
36 road association being formed to address the cost of the culvert.
37

38 Motion approved 5-0.
39

40 **IV. Minutes**

41 *A. Approval of minutes from January 19, 2021 meeting*

42 MOTION: Ms. Littlefield moved, with Mr. Hart seconding, approval of the January 19,
43 2021 Minutes as presented.

44 Motion approved 5-0.
45

46 **V. Appointments/Recognitions/Resignations**

1 to facilitate a developer's efforts to sell lots in the area. Director Smith was surprised to
2 find there was no road association. He recalled the issue was raised several years ago and
3 a road association was discussed then. Had a road association been created at that time,
4 funding for just such an issue could have been collected.

5
6 Ms. Littlefield appreciated Mr. Waters' presentation and found it helpful. She noted that
7 Attorney Hamilton has stated that what the residents are requesting is beyond the Town's
8 ability to do. Because of this, someone injured at the culvert site cannot hold the Town
9 responsible. The Town does not own or have jurisdiction over the causeway.

10
11 Attorney Hamilton concurred. The Town has no authority over the State's submerged
12 lands to convert this causeway from private way to a public way. A road association can
13 be created, and funds can be collected. The need to do so is clear. A Town may not
14 expend funds on a private way; doing so is unconstitutional and illegal. There may have
15 been other places in the State where public dollars were spent on private roads, however
16 it is not constitutionally permissible. Attorney Hamilton felt hopeful that some good
17 problem solving has resulted from the discussion.

18
19 Attorney Hamilton brought up the subject of permitting. To do any work on the culvert,
20 the DEP must be involved and approve of the work. Director Smith has offered to
21 facilitate a meeting between residents and the DEP. A design must be created for the
22 work and new culverts must be installed. The Town can help facilitate the expenditure of
23 private dollars on a private project, as well as lend support and help brainstorm ideas.

24
25 Attorney Hamilton noted that the question of spending public dollars on private funds has
26 been asked repeatedly. While Attorney Hamilton understood the resident's hopes, he
27 encouraged them to do some practical problem solving around the concept of a private
28 road association.

29
30 Resident Rob Shay noted that Director Smith stated a developer installed the causeway to
31 sell lots on Northern Neck. Mr. Shay opined that the causeway and the road over the
32 causeway are separate from the culverts themselves. Mr. Shay contended that the Town
33 involved themselves in the causeway by installing the culvert. Mr. Shay conducted
34 extensive research, including a review of Planning Board Minutes, Annual Reports and
35 Warrant Committee Minutes at the Town Office in search of guidance on why the
36 culverts were installed. He found no information on why the culverts were installed. Mr.
37 Shay stated that the causeway and the road going over it and state ownership of
38 submerged land is a separate issue from the water and the culverts installed by the Town.
39 The culvert issue was one of water quality. The Town has gone to great lengths to
40 facilitate the health and welfare of Long Pond. In the early 1980s the Town took over
41 ownership from the State the land at Pond's End. This area is now used as a park for
42 public use. The Town has a history of involvement with the water in Long Pond. Mr.
43 Shay stated that the Town paid for the labor and materials for the dam installed in 1935.
44 The water flowing through the culverts cannot be deemed private. The lake is public.
45 Countless people use the water. It is important to maintain the water quality. Mr. Shay
46 disagreed with the argument that the culvert is entirely the responsibility of the residents

1 firms, any of which can likely create a prompt preliminary design. It must be effective at
2 passing water and preventing the road from washing out.
3

4 Director Smith noted that a complete culvert replacement might prove costly. A potential
5 fix might be to straddle the culverts with sheets of steel. An interim measure might be to
6 slide a pipe through the existing pipe, then remove the exposed rusted pieces of culvert.
7 This perhaps could be done with the understanding that the culverts would be replaced
8 once financing is raised. Director Smith suggested taking a look at the situation with a
9 DEP representative.
10

11 Lincoln Millstein noted that he rented in the Northern Neck area several years ago. The
12 culverts were solid at that time. Driving the area recently he was shocked at the
13 condition there. Mr. Millstein noted there are numerous kayakers and canoers portaging
14 over the causeway. Rusted sections are hidden under water, making the situation
15 dangerous. Mr. Millstein felt the issue is not about cost or responsibility. It's a public
16 safety concern. The nearby canoe rental business should be part of the discussion, and
17 signs should be placed warning people. People using the area must be given warning.
18

19 Director Smith reiterated that the culverts could be sliplined with plastic pipe and
20 exposed, rusted metal could be removed, leaving the new culvert lining showing. Such a
21 solution must be approved by the State.
22

23 Mr. Waters noted that per a letter from the DEP there is an option for Towns to provide
24 labor and equipment, but not material cost. Director Smith reported that the Town does
25 not have the appropriate equipment for the work required.
26

27 Chair Macauley suggested Northern Neck residents install signs warning of the danger as
28 one short term measure. Mr. Waters reported that printed signs went up but have now
29 faded. He added that he's seen families fishing in the area in the past summer and
30 warned them of the danger, to no avail.
31

32 Northern Neck resident Bob Foster felt there was more to the story. The culverts are part
33 of water quality efforts and constructed at the same time the dam was taken over by the
34 Town. The system is in place to maintain water levels for the Southwest Harbor Water
35 District. Culverts were placed to maintain the water quality on both sides of the lake.
36 Mr. Foster asserted that this made the issue a public concern and not just for the benefit
37 of private road owners. The culverts were installed by the State and the Town in the
38 1980s. Private owners should not have to replace or repair such an installation; it was
39 constructed for public benefit. Additionally, a Town in Northern Maine has created
40 precedent by taking over the responsibility of a causeway on a private road. Mr. Foster
41 felt the Town should help address the issue or finance the repairs.
42

43 Director Smith reiterated his offer to facilitate a meeting between the property owners
44 and the State of Maine officials, if the residents were open to such a meeting and if the
45 Board approved. Director Smith was not in favor of financing the replacement of the
46 culverts. Based on his research the Town did not install them. The causeway was built

1
2 Bill Waters, a Northern Neck resident and one of the people who prepared the petition
3 requested to be allowed to make a presentation.
4

5 Mr. Waters stated that the residents' initial goal was to meet with Town officials and
6 discuss how to deal with the hazardous situation. The Covid-19 pandemic made this
7 impossible. The answer may not be to put the issue before the Town Meeting, but Mr.
8 Waters deems the situation severe. He hoped the Town would have some ideas on how
9 to solve it.
10

11 The culverts on the causeway were installed in the early 1980s. Over that time, they have
12 deteriorated completely. Sharp edges of the culvert are now visible. Mr. Waters' wife
13 was injured last summer because she believed she was standing on a sound culvert.
14 There are however holes in the culvert hidden by water. Mr. Waters' wife's leg slipped
15 into one of those holes, cutting her leg open to the bone from ankle to knee. More than
16 just the residents of Northern Neck are affected. Kayakers cross that causeway every day
17 in the summer, and people fish there. An answer needs to be found to alleviate the
18 situation, and residents are looking for assistance from the Town to find a solution. Mr.
19 Waters understands the legal situation explained by Attorney Hamilton. However, there
20 must be some help the Town can give.
21

22 Ms. Dudman sympathized with Mr. Water's wife's injury. As she understands it, the
23 work required for the causeway is not the Town's responsibility. She felt the best option
24 would be for the residents on the road to form a road association or similar organization
25 and replace the culvert.
26

27 Mr. Waters noted that residents are reluctant to be responsible for a road association due
28 to the potential liability of the culvert's poor condition. The problem is a severe one. If
29 someone gets injured and sues, suing the Town may well be seen as a viable alternative
30 to suing the State.
31

32 Public Works Director Tony Smith suggested that the residents finance the replacement
33 of the culverts, then create a road association, the dues of which would pay for the
34 replacement culverts over time. It was unclear whether a road association must be
35 formed first to come to an agreement on how to finance reconstruction.
36

37 Attorney Hamilton noted that what the Public Works Director suggested is similar to
38 what Mr. Hamilton has done as a member of a road association with a causeway. He
39 believed what Director Smith has suggested is possible. If the Town approves expending
40 Town legal resource funds, Attorney Hamilton would be willing to discuss the issue with
41 DEP representative John Cunningham. There should be a way to procure a loan for
42 culvert replacement. The culverts are clearly unsafe.
43

44 Attorney Hamilton recommended that members of a potential road association talk to
45 experts on culverts to get an understanding of what the project will entail. The work
46 should not require too detailed a design. Director Smith works with several engineering

1 Attorney Hamilton stated that the petition set forth four arguments supporting why the
2 Town should accept the causeway as a public way. Such an acceptance causes
3 foundational challenges to the Town. Attorney Hamilton explained that the causeway is
4 constructed in the lake. That lake is more than ten acres in size and therefore a Great
5 Pond under State law. Great Ponds are considered to have submerged lands. A
6 submerged land lease was issued at one point in order for the Town to assist in
7 facilitating what appears to be a private project. The road, built from the base of the
8 causeway at the bottom of the lake up, is defined as being built on submerged lands.
9 Submerged lands are deemed State lands. Only State legislature has the authority to give
10 up State land. The Selectboard has the power and the obligation to reasonably refuse the
11 petitioners' request to place the question of accepting the causeway as a Town way
12 before the voters. Accepting this land is not within the Town's authority.
13

14 Attorney Hamilton addressed each argument presented in the petition.
15

16 The petitioners state they are not a road association and therefore have no power to
17 compel other lot owners to contribute to road maintenance costs. Attorney Hamilton
18 explained that Maine law provides a procedure for people who share the use of a private
19 road; that of choosing a board or commissioner to oversee the road's maintenance and to
20 compel all owners on the road to contribute their fair share and to place liens on the lots
21 of any owners who refuse to pay. The procedure requires little more than calling a
22 meeting and giving notice to all lot owners sharing the use of the road.
23

24 The petitioners state that the causeway, because it is not owned by anyone else, must be
25 owned by the Town. Attorney Hamilton explained that in accordance with the Great
26 Ponds Act and the layout of roads on causeways, of which there are many in the State,
27 there is no legal principle denoting that if an owner of a property such as this cannot be
28 found then it must be a Town property. More importantly, the owner of the causeway is
29 the State of Maine. The State of Maine is the party that must convey their interest.
30

31 The petitioners suggest that because the Town was involved in an earlier project
32 involving the submerged land lease, the Town has become responsible for the road.
33 Attorney Hamilton explained that there were numerous instances where municipalities
34 facilitate getting rights from the State as aid to private owners who cannot. Towns may
35 on occasion help facilitate a private project, securing rights from the Maine DOT or other
36 state agencies. The fact that the Town may have helped to facilitate this private project
37 does not suggest it became a Town way. There are very specific procedures that must be
38 followed when a Town acquires a private road as a Town way. The records have been
39 carefully researched for the Town of Mount Desert, and no record has been found that the
40 Town followed any of the procedures required to acquire this road as a Town road.
41

42 Attorney Hamilton reiterated that it is beyond the Town's authority to place on the Town
43 Warrant the request to accept this road as a Town road. It is beyond the Town's ability
44 and authority to take this road from the State. Attorney Hamilton opined that not only
45 does the Selectboard have the privilege to refuse such a petition being put on the Town
46 Meeting warrant, the Selectboard is obligated to do so.

**Town of Mount Desert
SelectBoard Meeting Minutes
Monday, February 1, 2021
Location: Zoom Meeting**

This Meeting was held via remote access.

SelectBoard Members Present:

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

Town Officials Present:

Assessor Kyle Avila, Public Works Director Tony Smith, Town Manager Durlin Lunt, Fire Chief Mike Bender, Ambulance Service Director Basil Mahaney, Town Clerk Claire Woolfolk

Members of the public were also in attendance.

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

Chair John Macauley called the meeting to order at 6:00PM.

II. Executive Session

A. *Pursuant to 1 M.R.S. § 405(6)(E) for consultations between the Board and its attorney concerning the legal rights and duties of the Board and matters where premature general public knowledge would clearly place the Town at a substantial disadvantage*

B. *Pursuant to 1 M.R.S. § 405(6)(E) for consultations between the Board and its attorney concerning the legal rights and duties of the Board and matters where premature general public knowledge would clearly place the Town at a substantial disadvantage*

MOTION: Mr. Hart moved, with Ms. Littlefield seconding, to enter into Executive Session. Motion approved 4-0.

It was noted that Board Member Geoff Wood was arriving late and not available for the vote.

The Board entered into Executive Session at 6:01PM.

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

III. Post Executive Session

A. *Action if needed*

Chair Macauley reported that the Town received a petition regarding the causeway on Northern Neck. Chair Macauley requested comment on the issue from Town Attorney Andy Hamilton.