

TOWN OF MOUNT DESERT  
SPECIAL OPEN FLOOR TOWN MEETING MINUTES

Hancock County §

State of Maine

To: Dave Kerns, a Constable in the Town of Mount Desert

**Kelley Auditorium, Mount Desert Elementary School  
8 Joy Road, Northeast Harbor, Maine**

Town Clerk Claire Woolfolk called the meeting to order at two minutes after six o'clock the evening of Tuesday, March 8, 2022. Printed copies of the Warrant were made available.

It was noted that the meeting was being streamed through YouTube for those who wished to view the meeting; noted that comments would not be taken from the ZOOM connection, nor would residents be allowed to vote via ZOOM.

**Article 1.** To elect a Moderator, by written ballot, to preside at the meeting.

Deputy Town Clerk Claire Woolfolk called for nominations of Moderator. By motion and second William Ferm was nominated to serve as Moderator. A written vote was conducted, four votes were cast for Mr. Ferm, and he was duly declared Moderator. Town Clerk Claire Woolfolk swore in Mr. Ferm as Moderator.

**Article 2.** To see if non-voters shall be allowed, when recognized, to speak during the March 8, 2022, Special Town Meeting.

The Warrant Committee moved and seconded to pass Article 2.  
A voice vote was called and Article 2 passed by the 2/3 Maine Moderators Manual required.

At this time, Moderator Ferm recognized the threat to democracy in the Ukraine. He asked for a moment of silence to reflect on the lives lost, injuries sustained, and the families uprooted in the conflict. He then said it is also important not to remain silent and asked in a show of appreciation of the courage and bravery demonstrated by the Ukrainian people as they attempt to retain their democracy. The room broke out in applause as a show of support.

**Ordinances**

**For Articles 3 through 5, an underline indicates an addition, and a ~~strikethrough~~ indicates a deletion.**

**Article 3.** Shall an ordinance dated March 8, 2022, entitled "Amendments to the Land Use Zoning Ordinance to remove footnote 4 from some permitted uses in the Stream Protection (SP) District to be in conformance with Shoreland Zoning Standards" be enacted as set forth below? **See Appendix A for tables of uses. (pgs. 6-8)**

***Explanation: This Article removes footnote 4 from the following permitted uses: Clearing or Removal of Vegetation for activities other than timber harvesting; Excavation or Filling < 50 cubic yards; Excavation or Filling of >50 to 150 cubic yards; Excavation or Filling of > 150 cubic yards, and Road & driveway construction. This change will be in conformance to the State's shoreland zoning requirements.***

### **SECTION 3 LAND USE DISTRICTS**

.

.

.

#### **3.4 Permitted, Conditional, and Excluded Uses by District:**

All land use activities, as indicated in the following table, shall conform with all of the applicable land use standards in Sections 6.A., 6.B., and 6.C. The district designation for a particular site shall be determined from the Official Land Use Zoning map.

- |            |  |
|------------|--|
| <b>P</b>   | <b>Use allowed without a permit</b> (but the use must comply with all applicable land use standards)   |
| <b>C</b>   | <b>Use allowed with conditional use approval from the Planning Board</b><br><b>Use allowed with conditional use approval from the Planning Board, except where the code enforcement officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit</b> |
| <b>X</b>   | <b>Use is prohibited</b>   |
| <b>CEO</b> | <b>Use allowed with a permit from the code enforcement officer</b>   |

- |     |                           |
|-----|---------------------------|
| VR1 | VILLAGE RESIDENTIAL ONE   |
| VR2 | VILLAGE RESIDENTIAL TWO   |
| VR3 | VILLAGE RESIDENTIAL THREE |
| R1  | RESIDENTIAL ONE           |
| R2  | RESIDENTIAL TWO           |
| SR1 | SHORELAND RESIDENTIAL ONE |
| SR2 | SHORELAND RESIDENTIAL TWO |

SR3 SHORELAND RESIDENTIAL THREE  
 SR5 SHORELAND RESIDENTIAL FIVE  
 RW2 RURAL OR WOODLAND TWO  
 RW3 RURAL OR WOODLAND THREE  
 VC VILLAGE COMMERCIAL  
 SC SHORELAND COMMERCIAL  
 RP RESOURCE PROTECTION  
 C CONSERVATION  
 SP STREAM PROTECTION

***See table of uses on Appendix A (pgs. 6-8)***

The Warrant Committee moved and seconded to pass Article 3.  
 Questions and comments were answered and heard.  
 A voice vote was called and Article 3 passed as written.

**Article 4.** Shall an ordinance dated March 8, 2022, entitled “Amendments to Section 6B.11 Lots regarding lot access” be enacted as set forth below?

***Explanation: This Article amends the lot access standards in the LUZO.***

.  
 .  
 .

## **6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES**

.  
 .  
 .

### **6B.11 Lots**

**1. Minimum lot size.** See section 3.5.

**2. ~~Access.~~** ~~No lot may be built upon or otherwise developed unless it has a private road or driveway for access to a public way by a valid right of way benefiting the lot (or a combination of driveway and/or one of more private roads) or by ownership of land abutting the public way. If more than 2 lots are accessed by the same private road, then it must meet the Street Design and Construction Standards of Section 5.14 of the Subdivision Ordinance. If no more than 2 lots are accessed by the same private road or driveway, then it must meet either the said Street Design and Construction Standards or the Driveway Construction standards of Section 6B.6 of this Ordinance. A pre-existing primary access drive that serves up to 2 existing lots need not meet~~

~~the requirements of Section 6B.6. All lots must maintain safe access for fire, police, and emergency vehicles, as determined by the Fire Chief.~~

## **2. Access.**

**1. Lots created on or after June 6, 2015.** No lot created on or after June 6, 2015, shall be built upon or otherwise developed unless it has a private road or driveway for access to a public way by a valid right of way benefiting the lot (or a combination of driveway and/or one or more private roads) or by ownership of land abutting the public way. If more than 2 lots are accessed by the same private road, then it must meet the Street Design and Construction Standards of Section 5.14 of the Subdivision Ordinance. If no more than 2 lots are accessed by the same private road or driveway, then it must meet either the said Street Design and Construction Standards or the Driveway Construction standards of Section 6B.6 of this Ordinance. A pre-existing primary access drive that serves up to 2 existing lots need not meet the requirements of Section 6B.6. All such lots must maintain safe access for fire, police, and emergency vehicles, as determined by the Code Enforcement Officer. In determining whether lots maintain safe access, the Code Enforcement Office may seek guidance from the Fire Chief.

**2. Lots created before June 6, 2015.** Any lot created before June 6, 2015, shall not be further built upon or otherwise further developed unless it has a private road or driveway for access to a public way by a valid right of way benefiting the lot (or a combination of driveway and/or one or more private roads) or by ownership of land abutting the public way, but the said private road or driveway need not meet the requirements of Section 6B.6 of this Ordinance. All such lots must maintain safe access for fire, police, and emergency vehicles, as determined by the Code Enforcement Officer. In determining whether lots maintain safe access, the Code Enforcement Office may seek guidance from the Fire Chief.

The Warrant Committee moved and seconded to pass Article 4.  
Questions and comments were answered and heard.  
A voice vote was called and Article 4 passed as written.

**Article 5.** Shall an ordinance dated March 8, 2022, entitled "Town of Mount Desert Fire Prevention and Protection Emergency Medical Services Ordinance" be adopted?  
***See Appendix B (pgs. 9-11) for ordinance.***

***Explanation: The purpose of the ordinance is to govern the municipal fire department and provide fire protection and emergency medical services for the Town of Mount Desert in accordance with Title 30-A M.R.S.A. Section 3152(1)(A).***

The Warrant Committee moved and seconded to pass Article 5.  
Questions and comments were answered and heard.  
A voice vote was called and Article 5 passed as moved.

### **Agreements**

**Article 6.** Shall the voters of the Town of Mount Desert authorize the Board of Selectmen of the Town or its designee to negotiate and enter into an agreement providing for the acquisition of the assets, liabilities and operations of the Northeast Harbor Ambulance Service into the Town's Fire Department, and further to authorize the Board of Selectmen or its designees to execute any and all contracts, agreements, certificates and other instruments as they deem necessary or convenient to accomplish the purposes of this Article?

The Warrant Committee moved and seconded to pass Article 6.  
Questions and comments were answered and heard.  
A voice vote was called and Article 6 passed as written.

### **Fiscal Policy**

**Article 7.** Shall the voters of the Town of Mount Desert authorize the acceptance of a grant in the maximum amount of \$135,000 from the Northeast Harbor Ambulance Service (NEHAS), the acceptance of which is conditioned upon the Town's agreement with NEHAS to use the funds to support wages, benefits rollup and other associated personnel costs (including training) for new Firefighters/Emergency Medical Technicians to be hired by the Town prior to the end of the Town's fiscal year, with any remaining balance dedicated to future Fire/EMS personnel costs?

The Warrant Committee moved and seconded to pass Article 7.  
Questions and comments were answered and heard.  
A voice vote was called and Article 7 passed as written.

**Article 8.** Shall the voters of the Town of Mount Desert vote to create a new FIRE/EMS Department operating reserve account to house and track monetary donations from the Northeast Harbor Ambulance Service and other benefactors of the Town's Fire/EMS services? The new reserve account will be entitled Fire/EMS

Donation Reserve Account #4040300-24475. Proportional allocations of interest and dividends will not be applied to this sinking fund account and acceptable expenditures under the relevant conditional grant agreement(s) between the Town and NEHAS or other donors, as the case may be, will be applied against this reserve account prior to recognizing any such expenditures in the General Fund. This is a non-lapsing dedicated reserve account.

The Warrant Committee moved and seconded to pass Article 8.  
 Questions and comments were answered and heard.  
 A voice vote was called and Article 8 passed as written.

**Article 9.** Shall the Town of Mount Desert be authorized to issue general obligation bonds or notes of the Town in a principal amount not to exceed \$1,000,000 to finance professional and technical services (including project management services) and construction costs associated with improvements to the Somesville Fire Station located at 1157 Main Street in the Town of Mount Desert (the "Project"), with said improvements being made to accommodate anticipated staffing, storage and equipment needs of the Town's fire department, and with said improvements to include but not be limited to incorporating new staff sleeping quarters, a day room, a new shower and bathrooms and public lobby and other fire, ambulance, furnishings, appliances and personnel needs identified during the design process, all as generally described and illustrated in the concept sketches, and further to authorize the Board of Selectmen to execute all things necessary or convenient to issue the bonds or notes of the Town, which may be callable, and to accomplish the Project?

**See Appendix C (pg.12) for concept sketches.**

## FINANCIAL STATEMENT - TOWN OF MOUNT DESERT

### 1. Total Town Indebtedness

A. Bonds outstanding and unpaid as of 3/8/22, unaudited:	\$13,542,512.00
B. Bonds authorized and unissued:	\$0.00
C. Bonds to be issued under this Town Meeting Article (estimate)	
<u>\$1,000,000.00</u>	
TOTAL	\$14,542,512.00

### 2. Costs

At an estimated interest rate of 3.5% for an estimated term of 20 years, the estimated costs of this bond issue will be:

Principal	\$1,000,000.00
Interest	<u>\$367,500.00</u>
Total Debt Service	\$1,367,500.00

### 3. **Validity**

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

  
\_\_\_\_\_  
Treasurer, Town of Mount Desert, Maine

The Warrant Committee moved and seconded to pass Article 9.  
Questions and comments were answered and heard.

Motion to take a written vote was called and seconded.  
A voice vote was called and the motion to take a written vote was not definitive;  
Moderator Fern then called for a hand-count vote on the written vote motion.  
A hand-count vote was taken and the motion for a written vote failed with 23 Ayes  
and 80 Nays.

A voice vote was called and Article 9 passed as moved.

At 7:22 p.m. it was moved and seconded to adjourn the meeting. A vote by standing  
was called and the motion passed unanimously.

Duly recorded,

  
\_\_\_\_\_  
Claire Woolfolk, Town Clerk

Attest: A true copy

\_\_\_\_\_  
Town Clerk  
Town of Mount Desert

## Appendices

An underline indicates an addition, and a ~~striketrough~~ indicates a deletion.

### Appendix A (Article 3; pg. 1)

#### Section 3.4 Permitted, Conditional, and Excluded Uses by District

<b>DISTRICTS:</b>										
<b>LAND USE:</b>	<b>VR 1 VR 2</b>	<b>R 1 R 2</b>	<b>SR 1 SR 2 SR 3 SR 5</b>	<b>RW 2 RW 3</b>	<b>VC</b>	<b>SC</b>	<b>C</b>	<b>RP</b>	<b>SP</b>	<b>VR3</b>
<b>MISCELLANEOUS</b>										
Clearing or Removal of Vegetation for activities other than timber harvesting	P	P	CEO	P	P	CEO	P	C <sup>8</sup>	<u>CEO</u> C <sup>4</sup>	CEO
<b>ESSENTIAL SERVICES</b>										
A. Roadside distribution lines (34.5kv and lower)	P	P	CEO <sup>9</sup>	P	P	CEO <sup>9</sup>	CEO	C <sup>6</sup>	C	CEO
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	P	P	CEO	P	P	CEO	CEO	C <sup>6</sup>	C <sup>6</sup>	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	P	P	C	P	P	C	C	C <sup>6</sup>	C <sup>6</sup>	C
D. Other essential services	P	P	C	P	P	C	C	C <sup>6</sup>	C <sup>6</sup>	CEO



DISTRICTS:										
LAND USE:	VR 1 VR 2	R 1 R 2	SR 1 SR 2 SR 3 SR 5	RW 2 RW 3	VC	SC	C	RP	SP	VR3
Excavation or Filling < 50 cubic yards	P	P	CEO	P	P	CEO	CEO	C <sup>8</sup>	<u>CC</u> <sup>4</sup>	C
Excavation or Filling of >50 to 150 cubic yards	CEO	CEO	CEO	CEO	CEO	CEO	CEO	C <sup>8</sup>	<u>CC</u> <sup>4</sup>	CEO
Excavation or Filling of > 150 cubic yards	C	C	C	C	C	C	C	C <sup>8</sup>	<u>CC</u> <sup>4</sup>	C
Fire Prevention Activities	P	P	P	P	P	P	P	X	P	P
Parking lot	C	C	X	C	C	C	C	X	X	C
Piers, Docks, Wharves, Bridges and other Structures and Uses Extending over or below the Normal High-Water line or within a wetland (refer to Section 6C.7)	X	C	C	C	X	C	C	X	X	C <sup>12</sup>
Road & driveway construction	CEO	CEO	CEO	CEO	CEO	CEO	CEO	C <sup>7,8</sup>	<u>CC</u> <sup>7,4</sup>	CEO
Service drops, as defined, to allowed uses	P	P	P	P	P	P	P	P	P	P

Note: Some footnotes have been deleted. – namely 1,2,3 & 5.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals;  
otherwise the setback is 75 feet. Any Excavation or Filling must be limited to that necessary  
for the construction of approved structures.

<sup>6</sup> See further restrictions in Section 6C.5.2

<sup>7</sup> Only as provided in Section 6C.9.3

<sup>8</sup> Single family residential structures may be allowed by special exception only according to the provisions of Section 7.5.3, Special Exceptions. Two-family residential structures are prohibited.

<sup>9</sup> Permit not required but must file a written "notice of intent to construct" with CEO.

<sup>10</sup> Timber Harvesting is regulated by the Bureau of Forestry in the Department of Agriculture, Conservation and Forestry.

<sup>11</sup> Mobile Food Vendors are allowed to operate without a permit or license for limited time events (up to three consecutive days and maximum of two events per year on the same property).

However, written property owner authorization is required to be posted for any Mobile Food

Vendor activity on private property, regardless of whether or not a permit is required.

<sup>12</sup> Uses only allowed if associated with hotel/motel use

## **Appendix B (Article 5; pg. 4)**

### **Town of Mount Desert Fire Prevention and Emergency Medical Services Ordinance**

#### **FIRE PROTECTION AND EMS**

##### **SECTION I: FIRE DEPARTMENT**

###### **1.1 Short Title**

This Ordinance shall be known as the “Fire Prevention and Emergency Medical Services Ordinance” and will be referred to herein as “this Ordinance.”

###### **1.2 Purpose**

The purpose of this Ordinance is to provide administrative authority and structure for fire protection, including emergency medical services (EMS) functions, for the Town of Mount Desert.

###### **1.3 Authority**

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001, and pursuant to Title 30-A M.R.S. Sections 3151 to 3155 (applicable to fire departments), as well as the laws relating to “emergency medical persons” and “emergency medical treatment” functions referenced in this Ordinance consistent with the licensing provisions at 32 MRS Sections 83 to 87.

###### **1.4 Organization**

1. The Fire Department shall consist of the Fire Chief and a sufficient number of municipal firefighters (volunteers, part-time, or full-time) to maintain and operate the department. The Fire Department will provide emergency medical services through a combination department consisting of both full-time and paid on-call personnel. The Fire Chief shall be appointed annually, and the Fire Chief shall appoint the Deputy and/or Assistant chiefs and other officers.

A. A municipal fire fighter shall be a Town employee who is an active full time, part-time, or on-call member of the Fire Department who aids in the extinguishment of fires, fire prevention, technical rescue, and other related emergency medical services (EMS).

- B. The Fire Chief, in consultation with the assistant chief and other officers of the Fire Department, shall appoint all municipal EMS persons/fire firefighters for the Fire Department.
2. The Fire Chief may, from time to time adopt and amend, offer guidelines and policies for the Fire Department, subject to the approval of the Town Manager.
3. Monthly drills shall be held by the Fire Department.

## **SECTION 2: POWERS AND DUTIES OF THE FIRE CHIEF**

2.1 The Fire Chief shall have the powers and duties of the municipal fire chief as provided in the Town Charter and in 30-A M.R.S.A. § 3153. Specifically, the Fire Chief hereby is authorized to:

1. Direct and control all municipal firefighter, EMS, and rescue personnel in the performance of Fire Department and EMS operations within the Town of Mount Desert.
2. Provide a training program for the municipal firefighters, EMS and rescue personnel of the Town of Mount Desert in cooperation with appropriate governmental agencies. Training shall be identified in standard operating guidelines adopted by the Fire Chief with the approval of the Town Manager.
3. Provide for personnel oversight and training for emergency medical persons associated with basic and any advance emergency medical treatment and rescue services and support compliance with the licensing requirements in 32 MRS Sections 84-A to 87 and other laws related to emergency medical services.
4. Provide for the maintenance of all Town owned fire/EMS/rescue equipment and facilities used by the Fire Department and develop specifications for the purchase of new or replacement fire apparatus.
5. Inspect or cause to be inspected all fire trucks, EMS ambulances/vehicles, and other equipment to ensure it is in proper condition. Report regularly to the Town Manager concerning the condition of all equipment.
6. The Fire Chief or his designated agent shall have authority to enter any and all public buildings at a reasonable time for the purposes of fire inspection and to ensure compliance with National Fire Protection Association 101 Life Safety Code.
7. Investigate the cause of fires and keep records of his findings as to origin, location, owner, extent of damage or injuries and amount of insurance carried.

8. Obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury. Pull down and demolish structures and appurtenances if he/she judges it necessary to prevent the spread of fire.
9. Suppress disorder and tumult at the scene of a fire or medical event and, generally to direct all operations to support timely fire protection and EMS functions.
10. Prepare and submit annually to the Town Manager a budget relating to fire protection and EMS activities.
11. Appoint a Deputy Fire Chief with such duties as the Fire Chief may designate.
12. Employ all municipal firefighters and emergency medical persons and remove any municipal firefighter or emergency medical person as an employee or officer of the Fire Department, for cause after notice and hearing.

#### **Article 10. SECTION 3: ADMINISTRATIVE REGULATIONS**

3.1 With the approval of the Board of Selectman, the Fire Chief may adopt administrative regulations relating to municipal fire protection, consistent with Title 30-A M.R.S.A., Section 3153 (3)(B) and consistent with this ordinance.

#### **Article 11. SECTION 4: MUTUAL AID**

4.1 The Selectmen may authorize from time to time agreements which will authorize the Fire Department to aid in extinguishing fires, providing EMS, search and rescue services, and related fire safety services, and provide other emergency related services, in other municipalities. All such agreements are hereby approved and ratified.

Effective this \_\_\_ day of \_\_\_, 2022

Enacted Special Town Meeting March 2022.

Appendix C (Article 9; pg. 5) Concept Sketches

