

## **TOWN OF CUSHING BOARD OF SELECTMEN**

### **Minutes of Meeting**

May 8, 2017  
Cushing Community Center

**Selectmen Present:** Chair Alton Grover, Martha Marchut, Laurie Haynes, Heidi Alley, and Dan Staples

**Selectmen Absent:** none

**Staff Present:** Lisa Young, Cushing Municipal Clerk, Treasurer, and Special Assistant to the Selectmen

**Public Present:** Randy Martin, Brooke Harrington, Geoff Lewis, Will Payson, Rob Patterson, t.r. Jackson, Leslie Cole, and Patricia Aboud, all Cushing residents and/or Cushing taxpayers; Dan Remian\*, Chair, and Bob Ellis, Bill Aboud\*, and Frank Muddle, members, of the Cushing Planning Board; Julie Keizer, Waldoboro Town Manager; Bob Butler, Waldoboro Board of Selectmen and Chair of the Waldoboro Transfer Station Committee; and John Daigle, Public Works Director in Waldoboro.

**1. Call to Order:** Chair Alton Grover called the meeting to order at 6:00 P.M.

**2. Pledge of Allegiance** was recited.

**3. Approve and Sign the Warrant:**

**ACTION:** Selectman Dan Staples made a motion, seconded by Selectman Laurie Haynes, to approve Warrants 20 and 21.

**Motion Carried 5-0-0**

**4. Approve Minutes of 04/24/17:**

**ACTION:** Selectman Martha Marchut made a motion, seconded by Selectman Heidi Alley, to approve the minutes of the 04/24/17 meeting.

**Motion Carried 5-0-0**

**5. Additions or Changes to the Agenda:**

**5a. Motion to Adjust Procedures for Submission to Board of Selectmen**

**ACTION:** Selectman Dan Staples made a motion that any ordinance or revisions to ordinances had to be presented to the Board of Selectmen at least two weeks prior to the meeting at which any decision was to be taken. Selectman Laurie Haynes seconded.

**Discussion:** Selectman Laurie Haynes suggested broadening the wording to include business other than ordinances. Selectman Heidi Alley suggested it be "all business," but the selectmen wanted to exclude routine decision-making (such as salt and sand bids). Selectman Dan Staples clarified the intent of his motion, which was to give Board members time to process material before being asked to make a decision on it. He amended the wording, with input from some of those present.

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\* Remian and Aboud are also on the Cushing Board of Assessors.

**ACTION:** Selectmen Dan Staples reworded his motion as follows: "Any requests for action to be taken at a meeting of the Board of Selectmen should be submitted at least two weeks in advance of that meeting."  
Selectman Laurie Haynes seconded.

**Motion Carried 5-0-0.**

**5b. Request by Planning Board to Address the Board of Selectmen Before They Come To a Decision Regarding the Consent Agreement Discussed at the April 24, 2017 Meeting**

**ACTION:** Tabled to discussion of **6c**, out of sequence, below. Select Board Chair Alton Grover re-ordered agenda items to place discussion of the Consent Agreement (**6b**) at the end of the meeting.

**Discussion:** Planning Board Chair Dan Remian made this request.

**5c. Request to List Audience Members by Name in Minutes**

**ACTION:** Selectman Martha Marchut made a motion that the names of the people present in the audience be listed in the minutes. Dan Staples seconded.

**Discussion:** Marchut explained that this practice, common in other towns, would cut down on confusion about who was in attendance, especially when audience members make significant contributions to discussions.

**Motion Carried 5-0-0.** *[Note: Audience members are listed in minutes, beginning with this meeting.]*

**6. Unfinished Business:**

**6a. Waldoboro Transfer Station, Going Forward**

**Presentation:** Selectman Martha Marchut introduced Bob Butler of the Waldoboro Board of Selectmen / Chair of the Waldoboro Transfer Station Committee; John Daigle of the Waldoboro Transfer Station; and Waldoboro Town Manager Julie Keizer. They had come to discuss a new municipal agreement among Cushing, Friendship, and Waldoboro for use of the Waldoboro Transfer Station going forward. (The former agreement is due to expire in 2018.) There are changes that she felt needed to be discussed. Marchut turned the floor over to Bob Butler, who mentioned the agreement with Fiberight [voted in by the Waldoboro Selectmen in March, 2016—KH] and said that Cushing and Friendship must come up with a mutually agreeable plan Municipal Services Agreement to work with Waldoboro when the Fiberight agreement goes into effect in 2018. He acknowledged that, during the past 4-5 years under the existing Municipal Services Agreement (MSA), Friendship and Cushing had been "rightfully" unhappy with their lack of voice. [Friendship and Cushing had no vote.—KH]

**Outline of Proposal:** Butler said Waldoboro representatives were trying to find a way to remedy this discontent, and he had come to discuss forming a "joint advisory committee" which would be composed of four members: the Chairman of the Select Board of Cushing, Chairman of the Select Board of Friendship, Chairman of the Select Board of Waldoboro, and the Waldoboro Town Manager. The JAC would do business on the basis of a simple majority vote. He said this was a work in progress and pointed out that, this way, Waldoboro could not move forward without agreement from at least one of the two towns, Cushing or Friendship. He asked John Daigle to talk about the handling of payments [by Waldoboro to the other two municipalities], going forward—under PERC (the current arrangement), or Fiberight (2018 and on).

John Daigle spoke. He said he had never understood why revenues and credits were split among the three towns. He said these should instead be going to the Transfer Station, "period." "That's what we do" [i.e., what Waldoboro does]. He said he was putting together a budget yearly—meaning to convey that Waldoboro and the Transfer Station had to be transparent about their budget—[whereas] "you guys get revenue then, that's not getting put into the Transfer Station." He said that, though the public had voted for the credit/revenue arrangement, "there's no documentation of where the [revenue/credit] money is going," [in Friendship and Cushing]. He said he was surprised that no auditor had picked that up.

Cushing Treasurer Lisa Young responded by telling the group where Cushing's Transfer Station revenue goes: "Thanks to Mr. Payson [Former Cushing Selectman Will Payson, who was in the audience], when we get it, it goes into a savings account, the 'Transfer Station Fund,' and our auditor does see it."

Cushing Selectman Dan Staples said he understood that the money in this fund was being saved against the day that Cushing, along with Friendship, would have to pay to shut the current transfer station down. He also had two questions: First, he thought a Board with an even number of members was a weak Board. How could it move forward? If Cushing and Friendship always voted together, and Waldoboro was always against them, nothing would get accomplished. He thought even a 5 member Board of which 3 were from Waldoboro would be preferable. Second, he addressed the monies.

John Daigle said his budget was sent to Cushing and Friendship every year, but he had never seen a copy of Cushing's. Treasurer Young offered to give him copies of Cushing's.

Dan Staples returned to the even-numbered-Board question, said such a Board might get nowhere. Daigle and Staples felt they were each trying to do the best for the communities involved. Randy Martin of Cushing commented that, even with a four-member Board, at least Cushing would have a vote, which was more than it had had before. Town Manager of Waldoboro said that she had recently relocated from New Jersey, where a tie vote was considered a "yes" vote—while what Waldoboro was proposing was that a tie vote be a "no" vote. Staples was concerned that the committee might experience a lot of "no"s, not moving forward on anything.

There was discussion of the Joint Advisory Committee being able to bypass the Waldoboro Board of Selectmen, something the Waldoboro Transfer Center Committee currently cannot do. Selectman Heidi Alley wondered how this circumventing of Waldoboro's Board could be possible, how it could be legal. Chairman of Cushing Board of Selectmen Alton Grover asked what the Waldoboro Selectmen thought of it. Butler and Daigle commented that the proposal had not been presented to the Waldoboro Board of Selectmen yet, but would be, after the presenters talked to Friendship's Board of Selectmen.

Daigle reiterated that it was a work in progress. Marchut thanked the men for coming and said Cushing appreciated the possibility of having a say. She asked if anyone had anything else to say about Waldoboro holding funds, as opposed to Cushing and Friendship holding some, as is currently the case.

Brooke Harrington said he agreed with Danny [Staples] and Lisa [Cushing Treasurer]. He said that, as a member of Cushing's Budget Committee, it was good to know what was going in and what was going out. "There's a record, in Cushing, of what's happening, rather than it all going to just one account that Cushing doesn't have access to. The way you want it, this would not be the case." Daigle said revenues from the Transfer Station are not split up; they just go to the Transfer Station. He puts together a budget, then, as it stands now, has to send money to Cushing and Friendship. "Why do we have to budget and then send you this money? We don't split up the revenues. Any revenue we get goes into the Transfer Station account."

Laurie: "The money that we are getting back in a credit, why are we getting it?"

Daigle: "It's a trust issue."

Cushing Treasurer: "Tipping fees."

Daigle: "—And tipping fees<sup>†</sup>. Right from the start, I think there was a trust issue, and the town wanted their own credit. We're getting revenue. Last year...40K that we agreed to pay back for borrowing money for the scales [for the purchase of a scale]...I'm going to take 30K from the money that's coming back. This year, I only asked you for 10,000. That's one of the bigger reasons."

Laurie: "The reason that we are keeping money we get from the Transfer Station in a separate account is that at some point we are expecting a bill for the costs of closing the current transfer station. We don't want to have to ask taxpayers for it."

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<sup>†</sup> Definition: "A *gate fee* (or *tipping fee*) is the charge levied upon a given quantity of waste received at a waste processing facility. In the case of a landfill it is generally levied to offset the cost of opening, maintaining and eventually closing the site. It may also include any landfill tax which is applicable in the region."—from Wikipedia. KH

Daigle: "I'm sorry you guys were led down the wrong track a long time ago. We borrowed the money for all the work from our landfill closure account. We borrowed the money from ourselves. The Town [of Waldoboro] and you people have been paying so much money each year toward the closure. Said that Cushing had been misinformed.

Laurie and Danny said they had thought that was what the money was being saved for. Alton concurred.

Heidi Alley said, "So there's a line item in the [Waldoboro Transfer Station] budget that is for closure down the road? The answer was yes, that this should be clear. Daigle said that the bill he sends to the towns makes clear where the money goes—to one of three places: capital, closure fund, or operating expenses. "We send you that." Dan Staples said he had not seen it broken down. Cushing Treasurer: "It's on a one-page budget." \$800K or some large amount, eventually? Dan Staples talked about how Cushing budgets, puts money away, for things it needs. General agreement that the \$800K number could not be verified.

Daigle: "Right now, talking with DEP, if I end up closing w/in 4 more years, DEP will pick up ¾ of closing costs." This, Cushing had not known. Comment was made that a Joint Advisory Committee would ensure that information like this got shared.

Dan Staples asked about the scale that the Transfer Station had had put in, how much it cost. Daigle loosely estimated \$197K. Are we close to paying for it? Discussion of how, once the scale was in place, volume dropped significantly, due to people using the Station illegally in the past, coming from other towns, not being residents. The scales cut down on cheating, but also reduced volume. From 3500 tons to 2550 tons, just in trash. Recycling is up, slightly. Wood, down from 700 ton per year, now down to 400 Tons. A problem was mentioned about Nobleboro charging a lot more than Waldoboro does. Daigle said that he's not there to make money, [but that costs would have to go up, once his costs do]. "Once the landfill is closed, we will have to charge for material." Daigle said he would forward details on the landfill. They have enough money for closure of Phase Two. Closure should have closed 6y ago but with management it's still open 13y later. Daigle was surprised that Cushing did not know what was going on. He explained Waldoboro borrowing from itself, how all this went on at WSB with Cushing and Friendship in attendance. Town Mgr. said she would recirculate the document to Cushing.

Bob Butler spoke in defense of a four-member panel, and against the current setup: (1) [The JAC] is the way it used to be, before the current set-up (which is where Waldoboro Transfer Station reports to Waldoboro Selectmen), and it used to work well. The current set-up bogged down in politics. An inter-community Board could work well again, because it would behave professionally. It's not about "votes," it's about building consensus—because you have to build consensus, since you don't have the votes. These four representatives will work well together. "This sidesteps the personalities," he said. Town Mgr. said she was more a carrot person than a stick person. Daigle reiterated, going back to the old way was preferable. Town Mgr. said that in her 6 days as Town Mgr. Daigle struck her as being a good, fair public servant.

Selectmen said they'd revisit the issue with the Waldoboro contingent down the road.

#### **6b. Review Consent Agreement for Heinz Windzio, Map 028, Lot 018-1. [Note: Discussed at end.]**

#### **6c. Planning Board Protocol and Procedures.**

**Presentation:** Planning Board Chair Dan Remian and Planning Board member Bill Aboud each read a separate letter aloud to the Board of Selectmen. A concern was that no Selectmen had attended a particular Planning Board/Board of Selectmen joint workshop held on April 20. Dan and Bill each requested during the meeting that his letter, in its entirety, be made part of the minutes. These are **Attachment I** (Remian's) and **Attachment II** (Aboud's). Both men objected to what they saw as inconsistent application of local ordinances by the Board of Selectmen in a recent decision. Remian cited "appearance of impropriety" and "possible conflict of interest" by the Selectmen; Aboud objected to the procedure the Board of Selectmen had used "to evaluate and decide about the Windzio Consent Agreement," in particular.

**Discussion:** Centered around Selectmen's no-show at the April 20 workshop, as well as their exclusion of the Planning Board from an Executive Session during the April 24 meeting of the Select Board.

Heinz Windzio—whose proposal for his property [Map 028, Lot 018-1] was the subject of both letters—requested a copy of Remian's letter. Remian agreed to give him one.

Alton Grover said that the Selectmen had not attended the April 20<sup>th</sup> Planning Board workshop, on the last-minute advice of Town Attorney Kristen Collins. Remian said that the attorney told him that the Selectmen could attend, but could not vote. Grover added that Kristen Collins had further advised the Selectmen, at their April 24<sup>th</sup> meeting, that they not invite the Planning Board to be part of a lengthy Executive Session at that meeting. Bill Aboud disagreed, and Dan Remian concurred: "She [Collins] was the one who told us we were invited [to the Executive Session]. We came prepared." Chair Grover said he knew what he had been told. Discussion of different messages from Collins.

Remian said that he had not been aware that Dan Staples had made a motion to have the Planning Board, the Select Board, and CEO Scott Bickford meet together regarding the Windzio issue [motion made March 13, 2017—KH], until Staples reworded his motion at a subsequent meeting whose minutes Remian happened to see. The PB workshop set for April 20 could have been an opportunity for all to meet, as Staples motioned; however, Remian said, CEO Bickford declared the workshop an illegal meeting and as a result the attorney advised the Selectmen not to attend. Remian said that, when the Town's attorney called him to tell him this, he described the workshop and the manner in which it had been posted, and Attorney Collins agreed it was not an illegal meeting, after all. Remian also mentioned a requirement to invite the property owner and his lawyer to this meeting. He said he had not known this was a requirement and that, in any case, Windzio and his attorney had attended the workshop.

Selectmen Laurie Haynes and Selectmen Heidi Alley discussed what was considered "properly posted."

Heinz Windzio interjected that he and his attorney had attended the workshop in question, and felt that it had been productive and that progress had been made. He said that he and his attorney had not known that there would be a meeting of the Planning Board after they left. At that meeting, he implied, the PB reversed elements of their decision, and he and his attorney would have wanted to be there.

Dan Staples said there was plenty of blame to go around. He cited his original motion for a meeting between the Selectmen, the Planning Board, and the CEO. The Planning Board didn't want CEO there, Staples reported, and Danny felt that this was their mistake. Danny talked at some length about everyone getting mixed messages from the Town attorney. He felt that the Select Board should have insisted the Planning Board be in attendance at the Executive Session on April 24<sup>th</sup>. He ended by stating the importance of the Boards having enough time to review material they were supposed to act on. He stressed the importance of working together, said that every one of the relevant parties should have input.

Chair Grover asked CEO Scott Bickford if he had a comment, and Bickford said no.

Brooke Harrington, Cushing resident, suggested that, given the level of frustration surrounding the issues under discussion, any decision [by the Planning Board and/or the Board of Selectmen, regarding Windzio's Map 028, Lot 018-1] be rescinded until a proper procedure is followed, "because it appears that there is a conflict of whatever information was given: who was supposed to be there; who was not supposed to be there; inadequate time was allowed for the decision; the right people weren't there—"

Chair Grover pointed out that the Boards had already gone over what Harrington was bringing up. Harrington asked if Grover meant that the [PB and BOS] decisions [regarding the issue] had been rescinded. Chair Grover gave the floor to Heinz Windzio, who sketched for the audience his experience since November 2016 of buying the contentious parcel: the negative effects on his family; the fact that he bought the property, understanding that there were "some conditions that needed to be met that [CEO] Scott [Bickford] had shown to me with the property" [digression into how much he wanted to own something in Maine]. "Dan, with all due respect, I know that the Planning Board has spent ten, twenty, maybe thirty hours on this. I've spent months. Scott can attest to that; I've been on the phone with him countless hours, trying to weed through this to do the right thing. And I think we can all agree that I've been—my intent has been—to be/do the right thing by the Town and by the ordinance. I haven't skirted any laws. I haven't tried to do anything that, that's—I know this wasn't your intent, but I want to make it clear: I don't know anybody on the Board of Selectmen. There's no favoritism to me, in

what we're doing, here. I was told by the Town attorney and Scott, after looking into this, that the best course of action—I basically had two options. I could walk away, and then there's this big gray area on what I can use the studio for. And, you know, who knows what my neighbors would have said; it would have been a [unintelligible] for the Town." Said his attorney was costly. "My intentions have been above board and it seems there has been a lack of process, here."

Windzio thought they were very close to a decision and that starting from scratch would not work. He hoped that the Consent Agreement could be voted on at this meeting. Chair Alton Grover reminded him that this would be discussed under a subsequent agenda item [=6b, taken out of order].

[Back to Protocol and Procedures:] Remian addressed the Board, asking that, "when a motion is made involving the Planning Board or the Board of Assessors, we would like to request some written information on what to do with that. Regarding the notion that Windzio and his attorney should have been invited to the joint workshop the Planning Board set up with the Board of Selectmen—Remian said he had not been aware that this was a requirement, and had not seen it in any motion. Heidi Alley asked if the PB Joint Workshop minutes had been provided. [There was some confusion about this, due to the timeframe and to parties rushing the Consent Agreement through, but the workshop did produce a document that was circulated to the BOS at the April 24 meeting.—KH] Remian concluded by saying that, in the end, the Planning Board felt that they could not go against the Cushing ordinance.

Windzio interjected that, he and his attorney left that workshop feeling that they were very close to an agreement. "I'll go on record as saying that, you didn't have an issue with the Consent Agreement, other than the deck—you wanted the deck taken down."

Staples asked audience members to address the Board of Selectmen, not each other.

Heidi Alley apologized for process issues, said that there's a time at each meeting for citizens to address the Board.

Remian: "That was our intent at the last meeting. We came with a proposal, and then the attorney motioned us out of the room."

Heidi Alley: "But then you came back in [after Executive Session had concluded]—"

Bill Aboud: "But by then it was done. [Windzio was told, by Town Attorney Kristin Collins] 'You pay three thousand dollars, and we're going to make you happy with the rest of it' [i.e., the Selectmen's response to the Consent Agreement]. It was done."

Selectman Marchut said that there had been no opportunity to go line by line through what the Planning Board had recommended, in the way that was done with the Windzio proposal, and that to have the proposal relegated to a "comments from citizens" part of the meeting "in my mind—diminishes it, anyway. It's not 'comments from the citizens'; it's a proposal from a Board."

Remian objected to the attorney's attitude, coming out of Executive Session, that the deal was done, that they were finished discussing. "We didn't know what had gone on in Executive Session. We didn't know whether our proposal had been discussed or not." Dan Staples stressed that there was nothing final about what went on in the Session. Aboud and Remian recalled that Attorney Collins had said they had come up with an agreement and that she was going to write it up.

## **7. New Business:**

### **7a. Assessor Member**

**ACTION:** Selectman Laurie Haynes agreed to bring a certificate to honor Evelyn Kalloch, the absent member of the Board of Assessors.

**Discussion:** Chair of the Board of Assessors said that this Board had become, in effect, a two-member Board. There are three members, but Evelyn Kalloch is no longer able to attend meetings, has had health challenges, and is living out of town—though she is still legally a Town resident. Chair Remian said that a two-member

Board is dysfunctional, especially considering contentious issues that the Board will soon be facing. He stated that he had gone through the procedures manual for municipal officers and found that you could not remove an elected official without cause. There was no cause, in this case, and yet regular participation was critical for the functioning of this Board. Selectman Dan Staples asked whether lack of attendance could be cause for dismissal. Remian said there was no attendance requirement for the Board of Assessors, unlike on other Boards. A question was raised about residency. It was determined that residency is something you claim and cannot be forced to give up just because you are in long-term care somewhere else. For example, Evelyn could still vote in Cushing.

## **7b. Single Property, Multiple Deed Tax Billing**

**ACTION:** Dan Staples made a motion, seconded by Martha Marchut, that Cushing Assessor's Agent Garnett Robinson work out the details of multiple tax billing [of single parcels with multiple owners] with Randy Martin's attorney and bring a decision to the Board of Selectmen.

**Motion Carried 5-0-0.**

**Discussion:** Chair of the Board of Assessors Dan Remian reported to the Board of Selectmen that several parcels of land in Cushing are owned by more than one person. In each of these cases, the tax collector has been sending a bill to one designated person, and it is assumed that this person issues bills to each of the people. Cushing resident Randy Martin had come before the Assessors to complain about a parcel of land with a working wharf on it that several (determined in discussion to be about seven) fishermen share. Martin objected to being responsible for a share of the taxes while not receiving his own bill. Chair Alton Grover explained that the wharf and surrounding land was one parcel, so only one tax bill would be generated. If one fisherman failed to pay, and the property went to lien, what would the Town take? A seventh? No: The Town would take all of it. Martin said that, in previous years, each of the men had received a bill. There was discussion of possibly printing off the [single, total] tax bill seven times and mailing one to each fisherman—but the tax collector would have to leave it up to the men in the agreement to decide how much each owed. There was much speculative discussion about creative ways to lien, including the Town's ability to auction off a share, just the way they auction off an entire parcel; placing a lien on a subpart; and so on. Randy Martin directed several unprintable insults at Assessor's Agent Garnett Robinson.

## **6b. Review Consent Agreement for Heinz Windzio, Map 028, Lot 018-1.**

**ACTION:** none taken

**Discussion:** Heinz Windzio spoke. Respectfully asked that they not have a public forum on the topic of the Consent Agreement again, for the reason that, two weeks ago, they had a discussion, it was given to the BOS—Windzio felt that there had already been plenty of discussion about this. He doesn't think he is legally required to move the studio. He wanted the Selectmen to vote on it at the current meeting. Dan Staples objected to being rushed, said he would not make up his mind until he was ready. Frank Muddle accused the BOS of trying to become a Planning Board, said there was no chance for the Board to talk with the Selectmen, no dialogue. Dan told Frank not to lecture him, not to tell him how to do his job. Bill Aboud was concerned that, by going through the Consent Agreement, instead of material prepared by the Planning Board, the BOS was being asked to "nit-pick" about what the owner wanted to do, and that the focus was all on Windzio's proposal itself, rather than issues the Planning Board had. Instead, Aboud suggested that the BOS go line by line through the Planning Board's recommendation. "The consent agreement is all his [Windzio's] stuff." Chair Grover asked: "Where is your stuff?" Bill: "Right here. We gave it to you last week." Grover: "What do we do with the one the lawyer did? Throw it out?" Frank Muddle: "You guys need to sit down with the Planning Board."

As the BOS prepared to go into Executive Session, Brooke Harrington, Cushing Resident, suggested that they include at least the Chairman of the Planning Board and the CEO in that session, "so that you have the two lead people that decide regulations within that session."

Grover asked CEO Scott Bickford if he had any comments. Bickford said that he'd heard a lot of mis-statements at the current meeting. He advised that the best thing to do was for everybody to move ahead. He

agreed with Dan Staples that the ultimate decision lay with the Board of Selectmen. Grover suggested going through the Consent Agreement and addressing it line by line. Martha Marchut spoke. She said that, since the phrase "conflict of interest" had been raised in deliberations on this issue, she could think of a few but would identify the one that pertains to her: Marchut reminded everyone that she is married to the Chairman of the Planning Board, Dan Remian. "So it's a little hard for me to sit up here and say that I think the Board isn't getting a fair shot, but it feels to me like we are bypassing our greatest asset, and, for the life of me I can't understand the reason. I suspect there is a reason, but it's beyond me. And to sit here, now, and go through this, without even including them in the process, is hard for me to understand, and makes no sense."

Dan Staples suggested going into Executive Session with the Planning Board, the CEO, and Heinz [Windzio].

Bob Ellis commented that the final word is not the Board of Selectmen's; it's the DEP's. "Bear that in mind."

**---Executive Session---**

The Select Board entered into Executive Session, pursuant to 1 M.S.R.A. §405(6)(E), consultation with legal counsel, at 7:45. A motion was made by Select Board Chair Alton Grover and seconded by Dan Staples, to go into Executive Session.

Dan Staples motioned, and Laurie Haynes seconded, to enter back into the regularly-scheduled meeting at 7:50 p.m.

**---The Selectmen rejoined the main meeting at 7:50 p.m.---**

**8. Comments from Citizens:** no additional

**9. Adjournment:**

**ACTION:** Selectman Dan Staples made a motion, seconded by Selectman Laurie Haynes, to adjourn at 8:45 P.M.

**Carried 5-0-0**

Respectfully submitted,

Katherine Hoyt,  
Deputy Municipal Clerk



# ATTACHMENT #1 :

Select Board meeting May 8, 2017

After several proposals from the new owner of property on M28, L18, the owner submitted another proposal at your March 13<sup>th</sup> meeting. A motion carried 5-0-0 to table discussion on this proposal. The minutes show that the results of part of the discussion were not clear and decisive. This part of the minutes is stated as follows; "The issues were briefly reviewed—having to do with plumbing the shorefront studio under consideration—and then the issue was tabled until (a) the Planning Board has a chance to discuss it (April 5, 6pm.), and the Select Board goes over it again (April 10)."

In the meantime, two additional new proposals were submitted on April 5. The Planning Board received the two proposals from our Town attorney on April 6<sup>th</sup>. The owner wished for a completed review for the April 10<sup>th</sup> Select Board meeting, however, this would not have allowed enough time for proper notice of a Planning Board meeting.

The chairs of the Select Board and the Planning Board agreed that a workshop of both boards would be most expeditious and informative in the review process. The chairs agreed on an April 20<sup>th</sup> workshop with the Planning Board meeting after the workshop to formulate their recommendation. On the morning of April 20, the Planning Board chair received a call from our Town attorney saying that she received an email from our CEO stating that the Planning Board had an illegal posting for the meeting. After review, she found nothing improper or illegal but stated that the Select Board had previously agreed to notice the owner's attorney for a workshop. The Planning Board was not notified of this Select Board decision and therefore was not able to notify him. As it happens, the owner's attorney did attend the workshop with the owner. Our attorney did state that no vote of the Select Board should be allowed at the workshop and none was ever intended.

Not a single member of the Select Board was in attendance for the agreed and posted meeting, nor was the Planning Board given the courtesy of being informed that the Select Board would not be attending.

The Planning Board devoted many hours over several days attempting to draft a recommendation that would not violate our ordinances. It was disrespectful of the Select Board to not notify the Planning Board that they would not attend the workshop and an insult to not allow sufficient review of the Planning Board recommendations.

In addition, the Planning Board feels that there is an "appearance of impropriety", bias and "possible conflict of interest" with a couple of members of the Select Board with regard to the issues and actions on this property. There should be disclosure and/or abstention before any action on this property is taken.

Planning Board Chair  
Dante Remian

# ATTACHMENT #2:

May 8, 2017

## COMMENTS TO THE SELECT BOARD

I request the following comments be made part of the minutes of today's proceedings.

I am new to public office. I have two posts, one elected and one appointed, but already I see a matter of significant and disturbing import; so I would like to address it.

I would like to go on record as objecting to the procedure the Select Board used to evaluate and decide about the Windzio Consent Agreement. The purpose of this objection is to request that the Select Board not undermine and make useless the work of the Planning Board now and in the future.

Specifically, I'd like to bring to the attention of the Select Board what happened. I understood the purpose of the gathering of the Planning Board and the Select Board at the last Select Board meeting was to hear the Planning Board's analysis of the Windzio Consent Agreements and the Planning Board's recommendation about what to do regarding them. Windzio was just to be present to hear what we were to say. The Planning Board hardly got started on our recommendation when the Select Board allowed Windzio, through his lawyer, to propose yet another version of his Consent Agreement and the Select Board no longer listened to the Planning Board. In my mind, the Select Board should have called Windzio out of order and sent him back to the Planning Board to review the latest proposal and hear our recommendation about that, since that was the Select Board's latest way of dealing with the subject. And in that regard, I'll respectfully remind the Select Board of the duties of the Planning Board according the Maine Revised Statutes:

*The Planning Board is an administrative board, which has the responsibility of reviewing all site plan and subdivision applications for conformance to all local land use regulations, as well as for conformance to State and Federal rules that may apply.*

*Through its review, the Board implements and ensures consistency and predictability. Compliance with all regulations and ordinances is important for the protection of the public.*

Secondly. The reason for an Executive Session is to be able to discuss privately and openly our opinions and deliberations. Excluding the Planning Board from the Select Board's executive session prevented us from rendering you the advice and counsel of your appointed and most knowledgeable advisors on the last proposal by the applicant.

Thirdly, virtually everything Windzio proposed in this latest version is what we objected to in the previous consent proposals. His lawyer's presentation made it sound like this last proposal was different, but in essence it was not.

It was good the Town's lawyer was in the executive session, but her role is to help you minimize the probability of the town getting embroiled in a lawsuit and minimize the town's legal fees in dealing with this situation. Her role is not to figure out what is best for the town culture, morés, nor the nature of our community; and she has only rudimentary and surface knowledge of the history of our Planning Board decisions. Keeping us out of your consideration limited your knowledge and background information when you made your deliberations and decisions.

What you finally did was expose the town to charges of favoritism and inconsistent enforcement of our town's ordinances. And in this case favoritism of someone who isn't even a resident of our town. Members of the Planning Board individually and together spent tens of hours reviewing this case and you made up your minds in 45 minutes with incomplete details and almost no taking of account of our work. Why have a Planning Board if you ignore it.

It's difficult to get community members to join various town boards, e.g., Planning Board, Assessor Board, Budget Committee, etc. One reason may well be that too often their well-researched, well thought out, and sound decisions and recommendations are ignored because they are inconvenient or deemed inconsequential or worse yet, that the members are made to feel unimportant.

And finally, when Town Boards, any of them, make decisions that knowingly allow individuals to continue to violate town ordinances when it is blatantly obvious that the situation should be corrected, the optics are very bad even though there may be a reason for the allowance. The questions become, "Why? What was in it for them to decide that way?" This puts all of us who make decisions affecting the townspeople under a cloud of doubt and suspicion. And in a way, also contributes to people not wanting to serve and become part of "small town politics".

The job of the Select Board is to function as the executive branch of town government; the townspeople are the legislative body and they voted on and passed the Shoreline Zoning Ordinance. The Select Board should be enforcing it for all the townspeople, not just some of them.

I stand optimistic that the Select Board will take to heart the comments made here and act accordingly.

Respectfully,

[Planning Board Member]

Bill Aboud