

TOWN OF CUSHING  
BOARD OF  
SELECTMEN

Minutes of Meeting

November 13, 2017  
Cushing Community Center

**Selectmen Present:** Chair Alton Grover, Martha Marchut, Danny Staples, Laurie Haynes

**Selectmen Absent:** Heidi Alley

**Staff Present:** Kate Hoyt, Deputy Clerk

**Public Present:** Cushing taxpayers t.r.jackson, Carole Leporati, Frank Muddle, Kristi Niedermann, Robert Stackpole (arrived at 6:20), Monika Magee, Alan Magee, and David Farmer

**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 Danny Staples made a motion, seconded by Selectman Martha Marchut, to approve Warrants 46 and 47.

**Motion Carried 4-0-0**

**4. Approve Minutes of the 10/10/17 Meeting:**

**ACTION:** Danny Staples made a motion, seconded by Selectman Martha Marchut, to approve the Minutes of the 10/23/17 meeting.

**Discussion:** Martha Marchut asked Recording Secretary Kate Hoyt to substitute the word-for-word transcript of section 7b. of the 10/23 meeting for the summary of that section that she had also provided. Selectmen agreed. Danny Staples, addressing the content of the transcript, said he did not want to come off as a one-man Board, saying that the issues discussed in 7b. (on 10/23) had come from the Board, and that he had been asked to act on the Board's behalf. Martha said she was not assessing Danny's actions, just that the issue was a complicated one and had been discussed at some length in the meeting, and that the transcript was a more complete—and more accurate—reflection of what had happened at that meeting. Martha commented to the Selectmen that they were being recorded in two places—once by Cushing resident Monika Magee, and as well by Recording Secretary Kate Hoyt as part of the duties of the Recording Secretary.

**Motion Carried 3-0-1** [Laurie Haynes abstained, not having been present at the 10/23 meeting.]

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

**5a. Composting Toilet for Good Neighbors Park** This item was de facto added to the agenda—raised by Selectman Danny Staples and discussed with Kristi Niedermann of the Good Neighbor Park Committee. [The conversation took place immediately before discussion of 7b, below.]

**ACTION:** none taken

**Discussion:** Danny Staples asked what the benefit was of having a composting toilet as opposed to renting a conventional port-o-potty during the summer months. Good Neighbor Park Committee Chair Kristi Niedermann, in the audience, answered that a composting toilet doesn't cost anything, except for someone to empty it once a year. She added that the Selectmen would want to have the toilet operating year-round. Cross-country skiers' needs were mentioned. Monika Magee and Carole Leporati, of the Cushing Recycling Committee, commented that, when you use a composting toilet, there's a tray under it. Alton Grover asked what makes the excrement burn. Kristi commented that it just dries. There followed a brief discussion of treatment of excrement—fecal matter versus urine. Martha Marchut suggested that the Good Neighbor Park Committee bring the Selectmen a proposal that they were considering, that they put a proposal together and present it to the Board.

## 6. Unfinished Business:

### 6a. Sand Shed, Report from Structural Engineer.

**ACTION:** none taken

**Discussion:** Board Chair Alton Grover read from a letter he had been given by an engineer. MMA (insurance company) had requested a copy of this letter, and to know that several things pertaining to the shed had been fixed. Some rust had been noted that did not affect the integrity of the building. The suggestion was to clean and coat rusted metal with rust inhibitor. The main area of concern is front wall each side of the overhead door, where the siding is completely separated from where siding separated from the foundation. A recommendation was given. Alton Grover reported that Corey Jones had agreed to fix the necessary problems by the following Friday.

## 7. New Business:

### 7a. Appointment to the Cushing Ordinance Committee

**ACTION:** The Selectmen signed around an agreement to appoint Cushing resident Bruce Prior to the Cushing Ordinance Committee.

**Discussion:** Laurie Haynes asked when the Ordinance Committee members would be sworn in. Bruce Prior would be sworn in; Laurie Haynes commented that John Offen had not been contacted about being sworn in. She agreed to tell him to stop by the office and see Town Clerk Lisa Young.

### 7b. Cushing Recycling Committee Funds

**ACTION, Part I:** [informal] Select Board Chair Alton Grover agreed to consider alternatives for investing a portion of the Recycling Committee funds that had come back under the Town's tax ID number.

**Discussion, Part I: How to Handle Recycling Funds, Now Back Under Town's Tax ID:** Funds that had come back under the Town's tax I.D. number were discussed briefly. The Selectmen talked about putting the money in a CD, and Board Chair Alton Grover said he had looked into some rates. Danny Staples said they could put \$20,000 of the money in a CD and make one withdrawal within six months without penalty. The balance could be left in the Town's Recycling Committee checking account, to be used for other expenses. Alton Grover said that a 3-month CD at Rockland Savings Bank would earn .15%, and that a 6-month CD at RSB would earn .20%. Danny Staples commented that a small return was better than nothing. Cushing resident T. R. Jackson commented from the audience that the Selectmen might consider investing the \$20,000 at NorthEast Bank, headquartered in Lewiston with offices in Brunswick; the money could be put in an interest-bearing checking account. There would be no time limit nor any restriction on the number of times money were withdrawn from the account. Kristi Niedermann of Good Neighbor Park commented that a 1.1% return is ten times better than what Rockland Savings Bank was offering, and that NorthEast's terms were less restrictive. Board Chair Alton Grover agreed to look into the matter.

**ACTION, Part II:** [informal] Selectmen agreed to give a representative of the Recycling Committee input on the wording of a warrant item they had asked the Selectmen to put before the Town. Selectmen agreed to consult MMA (Maine Municipal Association) during the process, as needed. Recycling Committee Chair Monika Magee agreed to order recycling bins and give the invoice to Cushing Treasurer Lisa Young.

**Discussion, Part II: Select Board and Recycling Committee:** This portion of the meeting lasted approximately 44 minutes [20:45–1:03:50]

Recycling Committee Chair Monika Magee began by requesting that the Board put the Committee's request to transfer funds from the Recycling Committee to the Good Neighbor Park on the warrant for Town Meeting in 2018. The Selectmen agreed to do this, though Danny Staples pointed out that the Recycling Committee is not Good Neighbor Park, that the funds in question were originally raised to benefit recycling-related issues. Former Selectman Bob Stackpole, in the audience, commented that "you can't just take money out of the Town of Cushing—" and was interrupted by a ringing cellphone. There followed a discussion of the procedure for putting an item on the warrant and the difference in protocol between a secret ballot and a show of hands at the meeting itself. Bob Stackpole reminded the audience that, if the item was voted on at Town Meeting, the Town Meeting itself constituted public notice but that, as the Selectmen seemed to be considering, if the item were put to a secret ballot on which townspeople could vote the day before, there would have to be a public meeting before that vote was taken. Board Chair Alton Grover said this was correct. The following audience members contributed to this part of the discussion: Frank Muddle; Recycling Committee Treasurer Carole Loporati; Good Neighbor Park Committee Chair Kristi Niedermann; Bob Stackpole; and Alan Magee, a founding member of the Recycling Committee. Martha Marchut reminded the Selectmen that, if they had any questions, they could contact MMA (Maine Municipal Association). Monika Magee asked why the Selectmen would not be clear. Martha replied that she was just reminding the Board that they could use MMA as a resource if they needed to.

Monika asked again if the Board were going to put a warrant question asking if the Town would agree to transfer "X" dollars to the Good Neighbor Park. The Selectmen said yes. There was some discussion of whether or not this should already have been clear. Monika then asked when the Selectmen would establish the wording of the warrant. Select Board Chair Alton Grover said "We'll use yours." Laurie Haynes pointed out that the Selectmen may have to fine-tune the wording. There was discussion of what that meant, followed by Carole Loporati requesting that, if the Selectmen were to change the wording of the warrant item, they allow a representative of the Recycling Committee to go over it with them. Select Board Chair Alton Grover agreed.

Monika then asked what about ordering the recycling bins? Danny said there were three amounts on the letter the Recycling Committee had given the Selectmen: \$1,500.00 for future needs; \$3,200.00 for bins; and \$20,000.00 as a donation to the Park. He clarified that only the last amount would go into a CD; the smaller amounts would remain in a checking account to be used for the purposes the Committee had suggested. He asked if the bins had been ordered, and Monika said she couldn't order anything unless she got the word that the Selectmen thought it was acceptable. The Selectmen said the bins could be ordered. [32:07]

Recycling Committee Treasurer Carole Loporati spoke next, and explained that the money had been taken from the Recycling Committee's Wells Fargo [investment] account so there would be money to pay for the bins. Although the Committee also had a small checking account, there wasn't money in it to cover the purchase. She reminded the Selectmen that the Committee had been over these particulars with them, already. [32:16]

Monika agreed to order the bins and give the invoice to Cushing Treasurer Lisa Young.

Laurie Haynes asked a clarification question, saying that she had not been at the 10/23 meeting: How much of the Recycling Committee's investment account had been inappropriately taken? Alton replied "All of it." Good Neighbor Park Committee Chair Kristi Niedermann, in the audience, added [33:40]: "They closed the account." Then she said, to Carole and Monika, "Didn't you?"

Monika then passed out recycling statistics for October 2017. She asked the Board to notice that Cushing has a much higher recycling rate than either Friendship or Waldoboro. She asked the Board to acknowledge that this was due to the efforts of the Recycling Committee. She said that the handling of the process had offended her and called her reputation into question. [35:20]

There followed heated discussion about waiting to be called on. Laurie apologized to Monika on behalf of the Selectmen and explained that the Select Board was responsible for the funds of the Town. Monika said "You're absolutely right." Select Board Chair Alton Grover said "I hope you understand that we had the feeling that it wasn't visible to the townspeople. And that monies, anything we deal with, is supposed to be visible to all the townspeople. Any taxpayer. And it wasn't. So that's why we tried to straighten it out." [36:45]

Alan Magee, founding member of the Recycling Committee, addressed the Board, saying that he would never argue with the letter of the law and stating that the Recycling Committee understood that it was the Town's money. Then he spoke at length about the history of the Recycling Committee. He described exceptional fundraising efforts—in large part Monika's, he added—that went on over a period of years and brought in world-class historians and filmmakers from Hollywood. Recycling Committee events allowed the public to hear these lecturers for a very small fee, Alan said, and the idea was everybody could take part and feel a part of the Town. He said that, with the help of a small grant, the Committee gradually raised enough to buy bins. "The rest was invested," he said. "Nobody had even the idea that we owned this money, but since it was put together with such enormous hard work, which really none of you know about—the enormous, good, community will—our wishes that this be given to another, community-building event, having nothing to do with taxes, was a legitimate request on our part." He reminded the Board that the Committee had never asked for money, just gave the community something back through their own efforts. [37:04–39:50]

Martha Marchut asked, "Is it more clear now why it can't simply be switched over from one place to another?" [39:51]

Alan said yes. He said that the Committee was glad the Board was willing to put the item on the warrant and that the Committee had not been sure the Board would do that. Alton said "I heard that somebody said it was going to go back into the General Fund. That's not true." [40:33]

Monika asked why the Selectmen had not come to the Recycling Committee as a committee. She said the manner in which the Committee had been informed of its error was inappropriate, that the Committee had had only good intentions and had not meant to break the law; and that it was the Board's responsibility to make things clear. She said she was glad the Board had agreed to put the item on the warrant and would continue as the Recycling Committee's Chair. [40:37–41:43]

Carole Leporati spoke at length [41:49–46:48] on several topics. She began and ended by recalling that Danny had said earlier in the current meeting [see Item #4, above] that he had not been acting alone, and that he did not like feeling singled out. Carole said she too had felt singled out when the certified letter requesting return of funds had come to her alone. She elaborated on the sequence of events, saying that the Recycling Committee had invited Danny to come to their meeting once they learned there was a problem, but Danny was not able to and no other Selectman attended in his place. She spoke at length about the history of the Wells Fargo investment account and the Committee's decision to have her, as their treasurer, close it. (Their Wells Fargo advisor had tried to get them to move it to his new place of employment, and they had decided not to.) Carole added that she and Monika had asked the advisor if anyone else needed to sign off on it, and they were told no. She said they'd not known that the Town had been getting statements as well for this account. Carole said she was operating at the wishes of the Recycling Committee, but the Selectmen presented their request as though she or Monika had done something illegal, and that the wording from the Town's attorney was inappropriate. [45:55]

Alton said there'd been no mention of the grant money, that grant money came with rules, and that the grant was issued in the Town's name. [46:00] Carole said that was true, but was not the point. The point was, as a Board, when you're dealing with a committee, you have to deal with the committee; don't single out one person. [46:48]

Danny explained at length that he had gone to Augusta and MMA told him that municipal committees could not handle money, that the sum had to go back under the Town's ID number. "Martha and I went to the Good Neighbors Park meeting, because Martha is the representative on the Recycling Committee, and we couldn't have three people, because that would be considered a meeting [of the Selectmen]. And we explained to you what the lawyer said. At that time, Carole says 'We'll have the money back in, Wednesday.'" Carole interjected that she had agreed to have the money back 'if the Committee agreed.' Danny responded that the Committee didn't have to agree; they were breaking the law. "They had to return the money. It's—the law. It's not Danny Staples' request, or anybody on this Board; that money had to go back to the Town. It's just plain and simple as that." He said the Board had had no malicious intent. He reminded the group that what happened was that the certified letter and the check for the return of the money had crossed in the mail. He said the cert. letter had gone to Carole as treasurer. [51:39]

Martha said "I believe the letter didn't go out until Friday, so at that point, it was two days past when we were expecting the money to come in. There was no call, no explanation for why it hadn't come in, so we were put in—I believe there was no explanation for why it didn't come in. Yes?" [51:55] Carole said that what Martha had said was not true because the Recycling Committee had spoken with [Attorney] Paul Gibbons on Monday, and Gibbons was in contact with the Selectmen's attorney, Kristin Collins. "If she did not contact you, or the Town, we can't answer for that." [53:03] Danny said Kristin Collins had contacted the Town office, but after the office was closed. Carole continued, "Why did you bring email from Kristin Collins to the public meeting that was the Park Committee meeting, and not to the Recycling Committee?" Carole said she had been at the GNP meeting, but as a member of the public, that her attendance had been coincidental. [54:28] She stated that, had she not been present at the Good Neighbor Park meeting, she would not have known about the Selectmen's concerns. Martha said that all committee and board meetings are public meetings; that the Selectmen would have come to a Recycling Committee meeting, had there been one—there had not—; and that, had Carole not been in the audience at the Good Neighbor Park meeting, the Board would have found another way to inform her of their concerns. Martha added that she had never been to a Recycling Committee meeting, despite being the Selectmen's representative to that committee and despite having told Monika that she would be happy to come. Martha stated that the situation might not have escalated to the current point, had she been attending on at least an occasional basis, and she stated that she would like to start attending Recycling Committee meetings. Martha took responsibility for lack of attendance in the past. [55:53]

Monika [beginning 55:55] asked to return to something Danny had said, previously. She assured Danny that she did not say 'You're not going to get that money unless I get a statement from your lawyer', but, rather that she had just said they needed to know what the lawyer actually said, rather than having Danny report it to them. She added that this was a fair request.

Carole said the Select Board was unprofessional and so was their attorney, for not supplying a formal letter to the Recycling Committee identifying Collins as the attorney for the Town. She told the Board that, though they supplied an excerpt from meeting minutes at which [Former Selectman] Bob Worthing had said "something," there was no indication that anybody had voted on it. [58:48] Danny said, "Didn't have to. There didn't have to be any vote on it. He was just speaking on what the state statute said." Carole said a lot of history had gotten lost. [59:50] Alan said the Selectmen's asking for the money back immediately had thrown them for a loop, that it read like a gesture of mistrust, no matter what had been intended. Danny said the mistrust had been felt on both sides. Monika echoed [1:02:30] something Carole had said, that one of their aims in the present discussion had been that the protocol, procedures, and restrictions on any committees be made clear to their members. She said that she did not mistrust anyone on the Board, but told the Board to remember that in the future they have to follow protocol in working with

committees and also give ad hoc committees a document that says how they should function. "Turns out your auditor gave you bad advice, because nobody from Town other than the Select Board and the Treasurer has the right to handle Town money." Monika thanked the Selectmen and said she was glad they were going to put the item on the warrant.

## 8. Comments from Citizens

### 8a. Bob Stackpole's Suggested Modifications to the Site Plan Review Ordinance

**ACTION:** [informal] Selectmen agreed to put the suggested item on the Town warrant as a secret ballot before the 2018 Town meeting.

**Discussion:** Bob Stackpole addressed the Board. He reminded the Selectmen that he had spoken with them the previous year about putting an item on the ballot in November, 2017, about amending the Cushing Site Plan Review Ordinance, and they had agreed to do it. He pointed out that the November election had come and gone without his item appearing on the ballot. Danny Staples told him that the Selectmen had dropped the ball, and that his item could—since the oversight had been the Selectmen's fault—be a secret ballot item that Cushing citizens would vote on the day before the Town Meeting in 2018. Bob said he had previously been told that his suggested item could not be discussed at Town Meeting, that it had to be a special town meeting. Danny answered that the Town's attorney had advised the Selectmen that, because the oversight had been the Selectmen's, a special town meeting would not be necessary. The item will be a secret ballot vote the day before Town Meeting, 2018. Bob said this had been what he'd asked for anyway.

### 8b. Martha Marchut Honor Evelyn

**ACTION:** [informal] The Selectmen agreed to contact the moderator of the Cushing email list to ask that something be circulated honoring Evelyn Kalloch for her many years of service to the Town.

**Discussion:** Martha wanted it to go on record to thank Danny and Alton and Bill Aboud for travelling to Scarborough to present Evelyn with a plaque honoring her for her many years of service to the town.

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

*The Select Board entered into Executive Session, pursuant to 1 M.R.S.A. §405(6)(A), a personnel matter, at approximately 7:15 p.m. A motion was made by Selectman Alton Grover and seconded by Martha Marchut, to enter into Executive Session.*

*Alton Grover motioned, and Martha Marchut seconded, to enter back into the main meeting at 7:24 p.m.*

#### **---The Selectmen rejoined the main meeting at 7:24 p.m.---**

**ACTION:** Danny Staples made a motion, and Martha Marchut seconded, to give Corey Jones \$200.00 on-call pay and a \$1.00 per hour increase to his hourly pay.

**Motion Carried 4-0-0**

## 9. Adjournment:

**ACTION:** Danny Staples made a motion, seconded by Martha Marchut, to adjourn at 7:26 p.m.

**Motion Carried 4-0-0**

Respectfully submitted,

Katherine Hoyt,  
Deputy Town Clerk