

**TOWN OF CUSHING
SELECT BOARD
Minutes of Meeting
Monday, February 14, 2022
Cushing Community Center**

Select Board Present: Chairperson Alton Grover; Selectpeople Martha Marchut, Craig Currie, Tracey Bally, and Daniel Staples

Select Board Absent: none

Staff Present: Town Clerk Lisa Young

Public Present: Cheryl Stackpole, Corey Jones, Charlene Benner, Bob Ellis, Bill Aboud, Jesse Martin, Jaime Martin, Robbie Maloney, and Patrick Walsh

1. Call to Order: Chair Alton Grover called the meeting to order at 6:00 P.M. and a quorum was determined.

2. Pledge of Allegiance was recited.

3. Approve and sign the Warrant:

ACTION: Selectperson Dan Staples made a motion, seconded by Tracey Bally, to 2022 Warrants 7 and 8

Discussion: none

Motion Carried 5-0-0

4. Review and approve the minutes of the February 14, 2022 meeting

ACTION: Selectperson Martha Marchut made a motion, seconded Dan Staples, to approve the minutes of the February 14, 2022 meeting as amended

Discussion: Dan noted three or four minor changes; 2nd page under 6b, it should say he is just reporting and change roods to roof. On page 3 under 6e the word with should be added to the gearbox and dead should be replaced with bad. Martha noted on page 4 under 6g, add "he" charges \$2500 and on same page under 7a, anyone should be anyway.

Motion Carried 5-0-0

5. Additions and Changes to the Agenda:

5a. Health Officer

ACTION: none taken

Discussion: Craig wanted the Board to look over the local Health Officer job description and felt it should be posted on Cushing Post, Craigslist, and in the office. He said Mariann was resigning in March, and that's tomorrow. He said in accordance with Maine statute you have thirty days to get a new one and

it can be temporary, but we do need to find someone. He said the person does not need to be a local resident and it is just part time. He said once the Board looks over the ad and make any changes if needed, he will get it posted.

5b. Meeting Owl

ACTION: Selectperson Craig Currie made a motion, seconded by Martha Marchut, to go ahead and purchase a laptop and large screen television to allow remote access to town meetings

Discussion: Craig said he had brought the meeting owl back after experimenting with it and he said you'll definitely need a big screen tv and a laptop to make it work. He said the owl is just the part that has the microphone and the 360-degree camera in it that shows the whole meeting room so everyone can feel like they're in the room. He said you need the big screen tv so the people who are remote can interact and you need the laptop to make the whole thing work together. He said he was at Wal Mart and laptops can be purchased for less than \$400. Craig said he hasn't priced out big screen TVs in years, so he wasn't sure what the cost of those were. Dan said you can get them pretty reasonable at Wal Mart, too. Craig said the question is, in this [select board] room he assumed you'd want the owl in the middle, the laptop can go anywhere, but wondered where you would want to place the tv. Craig thought somewhere on a wall or on a stand somewhere, then it can be advertised on the Cushing website to offer participation. Dan said the other reason to go with the laptop is so that private ones don't need to be used anymore, the Town will own one. Craig said you also want to keep it all together, then every Board can use the same set up. Craig said if it wasn't something we wanted to go ahead with the owl can be returned to Amazon. Dan felt the whole set up would probably run between \$1600-\$1700 total and would come out of the ARPA funds at no expense to the town. Bill Aboud said you can get a 50" tv for around \$300. Craig said the owl itself was the biggest expense at \$1000, then you just need to add the laptop and tv. Alton asked how much was in the account. Tracey answered in the ARPA funds, \$75,000. Craig added the other half of that is due to come in April, totaling almost \$160,000. Dan said his only question is will Craig go purchase the other equipment needed. Craig said yes, he can. Lisa told him she has the card he can take to use and added it could also be done online if preferred, but there will be no sales tax.

Motion Carried 5-0-0

5c. Audit

ACTION: none taken

Discussion: Martha said she was looking over the audit and there was one thing mentioned, and she doesn't think we have one, is the credit card policy. Lisa said she mentioned that to the auditor, and she hasn't had a chance to gather the policies from other towns. She said she has a copy of one, but it's from a bigger town. Lisa said they had discussed this last year too.

6. Unfinished Business:

6a. MRC

ACTION: none taken

Discussion: Martha Marchut said there was a last-minute virtual meeting on February 25, but she ended up having to hear it after the fact. She said the bottom line, there was a long executive session and what came out of it was a motion. Martha said she feels it's fairly significant and read the following motion,

Please note: This is not an official transcription of the minutes. It is based on listening to a recording of the meeting and may not be completely accurate

“Each of the president and vice president acting singly is authorized to conduct a sale process leading to the sale of the Hampden facility through receivership subject to the following terms. The sale process that will result in the sale of the Hampden facility as a going concern for the use of an MSW conversion and processing facility as set forth in the site lease permits a final sale process that will conclude on or before June 30, 2022, a final sale process that includes MRC submitting a stalking horse bid or such other bids in terms to be approved by the signing officer in order to insure that the sale occurs in the terms and conditions in the best interest of MRC and its members and consistent with this motion. MRC is authorized to enter into any agreement or take any actions necessary and appropriate to accomplish a final sale process of the Hampden facility consistent with the foregoing and further that each of the president and vice president acting singly is authorized to take such other necessary and appropriate actions to implement this motion including without limitation all such actions as are consistent with MRC bylaws and contractual duties and obligations.”

Martha summarized what they’re saying is that they’re prepared to buy the facility and it is a fundamental matters situation so they will need to give all the towns a chance to respond to that. She said it is fairly significant if it actually goes that way. She said she thinks they are hoping they’ll have other bids to buy the place, but if they don’t MRC is prepared to buy it. Alton said it doesn’t appear is a lot of interest. Martha agreed and added not a lot of interest in coming up with the money. Dan said our three towns have one representative, is that just one vote. Martha said yes, each town that has a contract has a vote. Martha said according to what else was said there should be another couple meetings coming up in March to discuss it.

7. New Business:

7a. Planning Board to address the Board regarding the Planning Boards Administrative procedures

ACTION: none taken

Discussion: Bill Aboud said Bob Ellis would be taking the lead on this but made sure everyone had a copy of the proposal he had sent to Lisa. Bob said what brought this on first was the very famous consent agreement from a few years ago that lasted forever. He said the outcome was a big compromise from enforcement. He said also throughout the years he has been on the board (20 years) off and on they are asked to come to meetings and answer questions about things that pertain to Planning Board business. He said this year they were asked by the CEO to hold a public meeting about somebody’s violation, and they felt that was inappropriate or at least didn’t look good, at least some people felt that way. He said at one of the Select Board meetings after that that he and Bill came to, there was a discussion about that violation, and it came up that we need advice from the Planning Board on things like that. He said he couldn’t remember the exact issue being discussed was but was in relation to a current violation. He said they are trying to come up with a way to make it about the whole board being consulted rather than cherry picking one or two members. He also felt holding public meetings about someone’s violation doesn’t look good either, although they did agree to it at the time with many reservations. He said those are the ideas behind the whole proposal. He said if you want to absorb it and get together again later about how we can make it better, he thinks the Planning Board agrees unanimously that there needs to be some work done on the violations being dealt with consistently. He said he is talking about sticking to it if the CEO finds a violation, have the Select Board stand behind him and not negotiate in ways that encourage people to go ahead and violate and roll the dice and see if they can compromise and negotiate a lesser settlement. He said they would be willing to come back at a later meeting and talk more about it if they want to take some time to digest it. Dan asked if Bob is saying the CEO should be coming to the Select Board every time there is a violation; he said let me explain, on

some of those he has done that and Dan told him this is your job, go ahead and do it, the Select Board doesn't need to be involved, just do it. Bob agreed adding he (the CEO) had come to the Planning Board and asked their opinion on a current violation; Bob said that's his job, he just needs to do it. Bob said he ended up finding nine violations there. He said the CEO has been doing this for twenty years in three different towns, he's sure he could find violations too without it being dragged out, which he doesn't feel is appropriate. Bob said he isn't talking about LPI things, he's referring to land use violations. Bill said they're talking the violations where people get a lawyer and then it escalates up. He said they would like to be consulted other than excluded in those deliberations. He said the Select Board isn't supposed to know the ins and outs of that stuff like the Planning Board is, so they would like to be included in the input. Dan said the Planning Board would want to come in and be an advisory but ultimately the CEO is the enforcer and it's up to him to do his job. Dan said the CEO shouldn't be coming to the Select Board and asking what issues he should be following up on, he said they're not experts on that, that's the Planning Board. Dan said he has said that right from the get-go. Bob said good, maybe a stern reminder could be in order. Patrick Walsh said the concern that brought all of that together for the Board was the request that they look into a situation that has ongoing violations by the CEO. He said they did, and they had a couple of hearings and did extensive work on it that came back with a number of violations, then nothing happened. He said it was referred to the CEO and the attorney who are "working with" the others involved in the violations of the permit. He said their concern was they were asked to look into it and made an official statement on it, and then months later nothing has been enforced. He said he feels people are beginning to feel the sanctions aren't being enforced equally and some people are spending the money to do things right, and others are getting away without it. He said any violations that are found are enforced and enforced uniformly despite who is on the receiving end. Dan said he understands and has been through it with his wharf, and not making excuses but he thinks some of it has to do with the court situation and things being shut down due to covid. Bob wanted to add one of the other things that led to the meeting was that several neighbors had called the CEO repeatedly and when that didn't work, they began calling Planning Board members and they directed them to pressure him to do something. Bob said months went by and they were still getting calls, where he directed them to then contact the Select Board to light a fire under the CEO. He said the same things were going on with the Fire Marshall, and violations he was supposed to enforce down there, and they couldn't get results from him, either. He said this proposal is to address a better way to do things like that so they can make themselves look a little better. Dan said they really need to go over it a little bit. Corey Jones asked how it didn't come about before the house was sold. He said everything going on down there was going on before they sold the house, with well-known people in town and was never an issue then but know someone buys the house and they're beating a dead horse because other than the building being there, the other stuff isn't even an issue anymore. Alton said it had kind of got put on the back burner because one of the first complainers thought that once the house sold the whole thing would go away, which was what he wanted to get rid of the commercial traffic and all of that on the road. Alton said eventually it did go away, but probably not as soon as it should have. Dan said to answer Corey's question he thinks the CEO didn't do his job and he thinks he should have been down there and inspected and did the job, but he didn't, and it blew up into a debacle which it shouldn't have. Corey said there is a lot of that stuff in town, he is a part time code officer and not here all the time, he could probably go around and find some all day. Alton agreed, adding even houses and buildings not being taxed, you could ride around and find them all if that's all there was to do.

7b. Flail Mower

ACTION: Selectperson Dan Staples made a motion, seconded by Craig Currie, to rent the flail mower

Discussion: Alton said there was a call a couple weeks ago to see if they wanted to do it again this year. He said the weekly rate has gone up to \$4400, over a thousand more than the past year. Dan said it did go up, but it still saves the town thousands to use it.

Motion Carried 5-0-0

7c. Spirit of America Award

ACTION: none taken

Discussion: Dan read a write up to Charlene Benner, who was presented the 2022 Cushing, ME Spirit of America Award. It noted that she was a lifelong Cushing resident and had been on the Rescue Squad since around 1977. Dan said when the EMS was redesignating its system it was required all members become EMT's, Charlene did this while bringing up her family and watching over neighborhood kids at the same time. He said in the early days Charlene would bring her kids in the front seat of the ambulance to respond to a call. Dan said Charlene has been on the squad longer than any other member and has put in a lot of valuable time including continuing education and being a director at times. He said Charlene is passionate about what she does and loves helping her community. Charlene is the epitome of what this award is about, and the Cushing Select Board is pleased to present the award to her for over 45 years of commendable community service.

8. Comments from Citizens: Alton said there must be something, there are some citizens here. Corey said he had something that had been on his mind, back when he had asked about the conflict of interest between Scott (CEO) and the town attorney. He said when he asks the Board a question like that, he expects the Board to get an answer as a Board, not write MMA and say a citizen wants to know, when you know MMA doesn't answer citizen questions. He said then he gets the response from Kristen, the town attorney in question, who says her and Scott have a good working relationship, which they don't because they go against each other in three other towns which to him is an obvious conflict of interest. He said he feels the town should find a different attorney to represent Scott, asking how they can get along when they're against each other in Rockport and Owls Head, but with him here. Dan said it's three different entities, three different problems and scenarios. Corey said no matter how you spin it, it's a conflict of interest. Dan said he did not see it that way. Corey said the way they asked MMA was totally wrong and they didn't even answer the question, the answer came from Kristen. Alton asked Patrick Walsh and asked if he saw it as a conflict of interest. Patrick said from what he knows about what he's hearing does not sound like a conflict. He said it's an attorney and a CEO who deal with different situations in each town dealing with similar issues of law or not depending on the problem. He said one decision in one town wouldn't cause another town to be conversely affected. Bob said it doesn't fit the definition of conflict in specific to conditions required for a conflict but added it certainly is a poor working relationship for sure. Bill said he's right, but that's different than a conflict. Bob said he will give Scott credit for the last sizable violation when the town's lawyer took it upon herself to write the notice of violation. He said Scott caught it before she sent it, and he believes in both Statute and Ordinance it states it's his job he is tasked to do, and he feels that could have led to problems for the town if she would have gone ahead and sent it without Scott. He said Scott also did send all violations and did not pick and choose so he commends the town that sticks to prosecuting the violations even if it does get expensive as that's the precedent we have in town. He said that's what they hope to prevent is the slippery slope of negotiating all the time.

---Executive Session---

The Select Board entered into Executive Session, pursuant to 1 M.R.S.A. §405(6)(F) for consultation with legal at 6:43 p.m. A motion was made by Chairperson Alton Grover and seconded by Dan Staples, to go into Executive Session.

Motion Carried 5-0-0

Selectperson Dan Staples motioned, seconded by Alton Grover, to enter back into the main meeting at 7:17 p.m.

Motion Carried 5-0-0

ACTION: Selectperson Craig Currie made a motion, seconded by Tracey Bally, to proceed with the attorney's recommendation for proceeding with the violation

Motion Carried 5-0-0

9. Adjourn

ACTION: Selectperson Craig Currie made a motion, seconded by Tracey Bally, to adjourn at 7:25 p.m.

Motion Carried 5-0-0

Respectfully submitted,

Samantha Jones
Recording Secretary