

# MINUTES

**SELECT BOARD/ASSESSORS' MEETING  
TUESDAY, APRIL 4, 2023  
WILLIAM L. PULLEN MUNICIPAL BUILDING MEETING ROOM  
ONLINE NON-INTERACTIVE ON TOWN HALL STREAMS  
6:30 p.m.**

**Select Board present:** Jim Justice, Adam Fuller, Martha Johnston-Nash, Wayne Kirkpatrick, and Bill Packard

**Others present:** Jay Feyler (Town Manager), John Gibbons, John Mountainland, Linda Mountainland, Jerry Brooks, Abraham Knight, Chris Fierro, Steve Migliorini, Lori Bailey, and others

- 1. Call Select Board Meeting to Order:** at 6:30 p.m. by Adam Fuller
- 2. Pledge of Allegiance**
- 3. Approve Minutes of Tuesday, March 21, 2023:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Wayne Kirkpatrick  
5-0

- 4. Approve Treasurer's Warrants dated Tuesday, April 4, 2023:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Martha Johnston-Nash  
5-0

- 5. Approve the sale of Map 15 Lot 13-8 back to the original owner, as per foreclosure policy:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Wayne Kirkpatrick  
5-0

In answer to Martha, Jay said our policy deadline is 30 days after the property owner has been notified that they can buy it back. The other property has until April 20 or 21, 30 days from foreclosure. They pay back all three years' taxes plus a \$200 redemption fee, which covers the legal cost of processing, for Roger to issue deeds, release the liens, etc.

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### 6. Approve Moratorium wording and set special Town Meeting for April 19

Motion to accept the moratorium as written by: Wayne Kirkpatrick

2<sup>nd</sup> by: Jim Justice

Adam asked for questions and comments from the board, then public.

In answer to Bill, Jay said the April 19 date was to meet all the deadlines, get things in the newspaper, etc. It may literally be a 15-minute meeting and cost around \$400 or \$500. If we do a referendum vote, it's a lot more money, a lot more staff time, etc.

Martha reminded the date will need to be a separate motion.

Amended motion to accept the moratorium ordinance as read and accept the 19<sup>th</sup> of April as the special town meeting date by: Wayne Kirkpatrick

2<sup>nd</sup> by: Jim Justice

Adam read aloud the wording (re: mining). He recapped the CARMA lawyer presentation. They had made a proposal at the time for a change to our general land use ordinance. We do have an existing 100+ page metallic mining ordinance, roughly 30 years old. Discussion last time focused on two things: 1) board members all felt it was a good time at this point to take a look at that ordinance and make sure we're up to date and covered; and 2) the process included issues with CARMA's timeline and circumvention of the planning board. The moratorium will give time for that process to play out. Without it a mining company could see the writing on the wall and try to move faster and get in front of us. The moratorium shelters us.

In answer to an attendee question, Jay and Adam said we can't regulate the air. Adam added that is not something they (mining company) need to come to us for. They sent an email last week with some videos on mining.

Bill said his understanding was before any exploration there would have to be a permit application. Jay said there are two different explorations. The ground would be a permit, but all they have to do is notify the planning board to do flyovers. Adam said anything they have to get a state permit for, this moratorium would put a hold on, as well as us Bill added. Jay said people fly over all the time; the government with almost the same equipment and has for years. Adam said USGS flies over with ground-penetrating radar for GIS fairly frequently, and Jay mentioned google maps. Adam thinks they (mining company) won't get into an expensive investment until they know how this is going to play out.

Martha asked if the people (mining company) could still make deals with homeowners during this moratorium. Jay said of course they can. They can make all the deals they want, even if you change the ordinance. It is a private business.

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Adam summarized the conflict: on the one hand, you want to do what you want with your property; on the other, there's a clear movement and a clear attitude toward this (mining) in town, and we need to try and move as quickly as we can to respect that.

Bill said if there is an appearance that we are a unified group – both government and citizens – it sends a stronger message than “well, they seem to be fighting amongst themselves.” Land use ordinances are probably the most important in any community. If we have a land use ordinance, and a metallic mining subsection or however it ends up being, that makes us the most unattractive place to mine in the State of Maine, that is probably as good as it's going to get. The goal will be to make sure whatever we have is bulletproof and is going to stand up in court. It's very important as a board as we move forward that taxpayers are going to have to fund the legal challenges. If we have left out something, moved too quickly, etc. we are still going to fund it. If the proposal, which basically bans everything – if that's challenged, and we lose, we don't have anything. He knows Jay and the planning board will work diligently for something bulletproof and what we all want.

Adam said last meeting CARMA basically had two proposals for ordinance changes, not to the mining ordinance which they probably should be. (Planning Board Chair) Jerry brought up a great example of how that process should work: if any group requests an ordinance change the planning board first looks at the change and sees if it's necessary. In CARMA's case, even if the changes were to the mining ordinance, the proposed timeframe wouldn't have done that; we would have just stuck them in there. While CARMA is a citizen's group with lawyers, that could be any outside group. If the mining company hired a lawyer to write two ordinance changes and said, “we vetted it, put it in there,” he wouldn't put it in either. There is a reason that process plays out. There is a reason that it's public. The planning board has to have public hearings. The proposed changes if made would set a dangerous precedent re: potentially bad actors putting items on the warrant. He noted overall consensus with the town and CARMA; the debate has been the best process to get us to the strongest outcome. The planning board process can take time and resources, bring in experts, etc. The moratorium gives us that time. It starts with 180 days. The (select) board can give them more time. He has complete faith in the planning board and Jerry. They care what happens to the town because they live here.

Martha thought we were limited on how much moratorium extension. Bill and Jay said they can do 360 total, with Jay mentioning rare exceptions. Jay suggested the chair move this question so we could talk about the petition, which was certified today.

Chris Fierro said he appreciates what the board has done and thinks the moratorium is the way to go. He's been out collecting signatures and spreading the word. He asked how the board will feel if they get enough signatures on the petition to put it on the vote. Jay said the board doesn't have a choice, if it's legal added Adam. Chris again commended the moratorium and said the voice of the people has to be heard.

Vote on above motion, which was:

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Amended motion to accept the moratorium ordinance as read and accept the 19<sup>th</sup> of April as the special town meeting date by: Wayne Kirkpatrick

2<sup>nd</sup> by: Jim Justice

5-0

### 7. Approve TMA use of outdoor space at the TCC:

Adam said this is for an art festival like they did last year and introduced TMA Chair Steve Migliorini to present.

Steve said they would like to plan a fundraising art show for Saturday, June 3. He was asked to come tonight to request the use of the grass lawn space in front of the former Union school, which is where they held the event last year. He's met with Jay who informed him of the things needed in place to meet the necessary liability requirements, and they have done so.

They would additionally like to request, as last year, in the same area as the art show a band and a food truck which he said enhances the event and brings people to the area. They need the use of some electricity from the town for those two things, having run extension cords from the building last year. It was noted there is a double outside outlet. The backup plan is a generator which is noisy.

In answer to Wayne, Steve said they will have a portapotty. In answer to Jim, Steve said the art show is 9:00 a.m. to 2:00 p.m., with vendors setting up at 7:30 a.m. and roughly 3:30 p.m. cleanup. He noted the synchronicity of this and the Vose Library's plant sale. In answer to Wayne, Abraham Knight confirmed he would be on hand re: the building.

Motion to allow TMA to use the lawn and some electricity for their event on June 3 by: Bill Packard

2<sup>nd</sup> by: Wayne Kirkpatrick

4-0-1 abstention (Johnston-Nash)

### 8. Town Manager's Report:

Jay said some of our posted roads are being pulled. We use the DOT website to show how much frost is left in the ground. A couple sensitive paved roads and dirt roads are still posted, with another three plus weeks before they'll be able to be driven on with any heavy equipment.

Saturday at 9:00 a.m. sharp is our Easter Egg Scramble. He thanked Scott at the Union school for giving us a weather backup.

He handed out the Spirit of America nominee paperwork, which the board has to vote on.

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Motion to approve the Spirit of America name as presented by: Martha Johnston-Nash  
2<sup>nd</sup> by: Wayne Kirkpatrick  
5-0

Jay said the board has until Friday to give him names for the town report dedication.

In answer to Adam, Jay confirmed there is some ditching going on. A lot of dirt roads have windrows on them. In answer to Bill, Jay confirmed Jersey barricades; they will be working on engineering this summer and hopefully writing grants to fund that project, Barrett Hill work, which will be expensive with regular funding.

### 9. Other Business:

Jay said the (CARMA) petition was received last Thursday afternoon. Having met in the morning with one of the gentlemen from CARMA, he asked them to hold that off, which didn't happen. The petition has just been certified. Some questions brought up at the last meeting are shared by our town attorney.

In answer to Adam, Jay said the Shoreland Zoning did say at the very end that you can do that. We are having our attorneys look at the discrepancies between our three ordinances: Land Use, Mining, and Comprehensive Plan. We emphasized we would like to have something bulletproof like Adam mentioned earlier; let's get an ordinance that you can't challenge because it conflicts with something else.

But then you get the petition, so you're mandated at some point to put that to the voters. On Monday both attorneys will have the information to him. After that the board can make the decision to put this on the warrant, expected June 13, then we'll have a remedy for the discrepancy after that. The petitioners can get what they want, and we can protect the town afterwards. It is unfortunate that they didn't come to the town first instead of spending \$12,000 on lawyers when they could have had it done for almost nothing: the moratorium, working with the planning board, almost this exact same thing for nothing. Adam added he told CARMA, "...I work for you for free."

Jay said it's just the way it is, it's done, we have to move on, deal with it. He awaits exact wording from the attorneys just because this is so contentious. We have both Roger and Amanda working on it. He added if he could take the gentleman David's word, they were not going to contest the fact if we did something like he had suggested: so, the ordinance would be in place, deal with it with another article, give the planning board time perhaps with back-to-back moratoriums, bring the people in and get it done. He reiterated we both get what we want and protect the town from a lawsuit. Personally, he thinks these companies can make just as much money by suing a town as they can doing mining. We need to have it bulletproof and not have these inconsistencies with these ordinances.

Adam paraphrased what Jay said. We have the special meeting for the moratorium to prevent any mining or exploration. We take the requested changes from the petition and

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put that on the June town warrant; however, we also start the long drawn-out process through the planning board so that we do this the correct way. CARMA's proposed changes won't hold up, not trying to pick on CARMA – look at state ordinances that get overturned in court. First of all it's a mining ordinance not in the metallic mining ordinance.

Martha asked if the June vote would change the moratorium. Jay said it would. He explained: saying you have your moratorium now. You go to June 13 (question for attorney) and assume that moratorium expires June 13 when the petition warrant is voted on. Then we would have another moratorium on the June 13 warrant which would continue the same moratorium but for different reasons. Right now it's the danger of mining. After June 13 it's the danger of being sued/challenged in court. He thinks there is more danger of a mining company having the ability to file when we have all these conflicts, so we take that away. When the planning board is all done, we will have probably almost exactly the same ordinances, but a cleaned up comprehensive plan and mining ordinance, so they're all in sync.

Chris Fierro said the CARMA lawyers are proven and have done this work before as Exiro has done. Adam noted they represent a private group, not the town. Chris felt adding a moratorium to the June ballot confuses and convolutes the question. Jay explained the petitioners are getting what they want; the town is getting what it needs to prevent mining from coming in here. He added we have one of the strongest mining ordinances in the state and it will only be stronger after this. Adam said if we just put through the two changes on the petition, they are mining changes not in the mining ordinance; they also did not go through the standard public vetting process; they were also presented in wording by an outside special interest group: three threads that could be pulled in court. Chris reiterated it's the will of the people. Adam urged reality.

More discussion followed. Lori Bailey and Linda Mountainland spoke. Jerry Brooks (planning board chair) said the petition as ascertained last meeting was poorly crafted and written. It will leave the metallic mining ordinance in place for an acre or less and introduce industrial metallic mining which previously never existed in our ordinance. The metallic mining ordinance is on the town website (under Government, under Ordinances).

Abraham Knight confirmed April 19 is an open town meeting.

Bill asked about a motion to accept the petition. Jay said you've got to put it on at some point, June 13 is logical, since you all have to be here Monday, Tuesday, Wednesday it's a quick decision to add to the agenda one of those nights, just waiting for the attorneys – per Martha on both petition and moratorium.

Adam hoped some of the motivation continues through the planning board process, which is where the long-term protection is, not to take away from the petition. In essence: don't walk away.

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Chris disputed the \$12,000 CARMA spent number which Jay said is what's on the report. Adam added it is on tax filings. Chris asked if the board would recommend against their amendment. The upshot was no, that is not the board's role. Adam said there is some discretion on timeline, but the board cannot deny a legal petition.

Jay again on triangle signs: the minute the board votes to put this on the warrant, the status of the signs changes. It falls under the referendum laws. Signs have to have a name on them and date they were put out. He is warning now if they don't, public works will take them all down and you will be able to pick them up at the public works garage. If on private property, if in public ROW, the signs have to be picked up as it's a referendum election and you have to meet that criteria. All acknowledged this has been a hot topic.

Community engagement was discussed. Martha encouraged CARMA gaining publicity. Adam said stay with it, be part of the planning board process. Wayne said make sure this doesn't come back in another 20 years. Adam said it's the public process that protects us. Bill said one of the most difficult parts is not knowing how constituents feel.

Chris said a danger is people forgetting. In answer to his question, the board concurred that on the June ballot somebody could vote for both the moratorium and the ordinance change. Adam clarified there will be many separate items.

### 10. Committee Reports:

#### a. Broadband

John Gibbons said we expect to hear on the current grant application no later than April 15. We are hopeful but not betting the farm and already working on the next round. Details, questions, let him know.

#### b. Green Space – None.

#### c. Sestercentennial

Martha said there were not enough people to meet the other night. Next meeting is April 13.

#### d. Ambulance Advisory

Jay has to confirm with Jesse and Kevin McGinnis – they had originally set this up for the school but may want to meet here May 31 at 6:30 p.m., so the three towns can do an abbreviated version of what they did for the boards for the three towns for all citizens – easier to stream it from here.

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They are putting out some information to the local media, etc. They want at least one board member in the front rows, as this is a three-town event. The board appointed these people. All three boards have approved their proposal.

Jay added it's probably the first time in years he's seen a committee work like this, especially in three towns yet unanimous support in all three towns. It will be live streamed.

### 11. Select Board Reports:

Adam addressed concerns about the TCC tenant. We had skin in the game. By closing the building, we interrupted his workflow so he could have to have come after us for any damages. He has been slowly moving out. In answer to Bill, Adam said we did the same with everybody, he just had more stuff to move out. Adam added the other day he had all his stuff out and was going back to sweep.

In answer to Martha, Jay said we don't need a public hearing date on the moratorium April 19 because it's an open town meeting.

Adam said the Easter Egg hunt is top notch.

Jim updated the sign pitch that Bill wrote up – getting the fundraiser going.

### 12. Public Comment: None.

### 13. Adjourn:

Motion by: Wayne Kirkpatrick

2<sup>nd</sup> by: Jim Justice

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Meeting adjourned at 8:03 p.m.

Respectfully submitted,

Sherry Abaldo  
Secretary