

# MINUTES

**SELECT BOARD/ASSESSORS' MEETING  
TUESDAY, MARCH 21, 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, and Bill Packard

**Others present:** Jay Feyler (Town Manager), John Gibbons, Erik Amundsen, Patrick Mellor, Greg Grotton, Jerry Brooks, and others

- 1. Call Select Board Meeting to Order:** at 6:38 p.m. by Adam Fuller
- 2. Pledge of Allegiance**
- 3. Public Comment:**

Adam noted this is not a public forum, but public comment is at the discretion of the Chair, and he tends to listen. He urged holding comments until the specific agenda item.

- 4. Approve Minutes of Tuesday, February 15, 2023:**

Motion by: Jim Justice  
2<sup>nd</sup> by: Bill Packard  
3-0

**Approve Minutes of March 7, 2023:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Jim Justice  
3-0

- 5. Approve Treasurer's Warrants dated Tuesday, March 21, 2023:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Jim Justice  
3-0

- 6. Presentation by CARMA attorney Patrick Mellor:**

Patrick explained CARMA is Citizens Against Residential Mining Activity, formed in response to a Canadian mining company who call themselves an exploration company but it's obviously the first step into metallic mining.

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Patrick said CARMA was a response to their investment in our community. They have already leased rights. They are involved in trying to purchase land in and around Crawford Lake and the St. George River watershed. The potential ramifications on the environment in our community, the water quality in our community, are massive. The upswell of support in the community is also massive, he added.

He said they came up with a modification to the current Land Use Ordinance and will have enough signatures to get it on the June ballot.

He noted he's lived in Union for 20 years and knows of no issue that has galvanized the community like this one. He said we all know they are exploring for metal and to be able to sell those rights – they'll buy and lease land then sell those rights to mining companies who are not here. The more land Exiro invests in, the more they get a foothold here, the more likely they will fight tooth and nail to protect their interests and make millions.

He noted June to November is five months when they can get a foothold in our community, buy more land, get more leasing rights. He was open to questions. He said they are looking for collaboration and cooperation, neither of which precludes a moratorium. On a parallel track would be the citizen-based initiative that would be on the June ballot; they hope to have the town's and board's support.

Adam said Patrick and he had spoken several times this week about the proposed changes, noting he had no issue with the changes and thought they made a lot of sense. They've gone back and forth about the process. Adam said typically if you want to change an ordinance, you come to a planning board meeting and make your proposal. They then meet on it, and if contentious will have a hearing or two or more about it; then they make a recommendation to the select board. If it's something like an ordinance change that needs a townwide vote, the select board would put it on the next available town vote, which is June or November, or the select board can call a special election for certain things that has a cost of \$5,000.

Adam said the timeline presented is very thorough but very compressed. It could be on the November vote. The select board could motion a temporary moratorium on the June vote so the planning board has adequate time to fit that. He said personally he has two concerns: 1) deviation from the standard process, or not doing due process, is a threat that could be pulled in court, and 2) the precedent it sets.

Adam said he can get on board with CARMA but is concerned about circumventing the planning board process. He added the latter is a drawn-out process for a reason: it is all of our protection against bad actors. He cautioned against future situations where an item could be put on a warrant and turned into a public campaign with money dumped into it, public speakers, etc. rather than citizens asking questions and holding their elected officials accountable. Though he understands some of the drive to push through quickly is to tamp down some of the rhetoric and concerns and keep up the momentum, he said he would prefer the standardized process where everyone plays by the same rules.

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Patrick said due process is reflected by the procedural requirements in place that they are complying with. He noted the need for alacrity with issues like drinking water at stake, adding they will have public hearings as part of the standard operating procedure and will embrace them. He encouraged emails and offered to email the proposed changes: [mellor@stroutpayson.com](mailto:mellor@stroutpayson.com). He said the proposed changes are two pages, and people will be pleasantly surprised at how simple they are.

He said as soon as word got out about mining, our communities galvanized. We don't want to see deep pockets invest more as time goes on, and find sellers promised royalties. Then they will have more to fight for because they've got more invested.

Jay interjected that a moratorium and a petition won't work together, because they are both voted on at the same time. Patrick said if the citizens' initiative is voted down, Jay said the moratorium could be voted in. Jay noted Planning Board Chair Jerry Brooks was in attendance and added that, from his (Jay's) own limited knowledge of planning, it would be enough to question shoreland zoning which has to go through DEP (affirmed by Jerry) so there would be no way to meet a timeline. Jay explained the planning board needs a 14-day notice for a meeting, will have to vote on it, then send it to DEP who will take God knows how long to approve the shoreland zoning. He added if they bring a petition, our attorney will tell us it's an illegal petition so we're not going to put it on the warrant anyway. He said he thinks everybody wants the same end game which has a better chance of success if you go through the process.

Patrick said point well taken; he was not agreeing or disagreeing whether it's an illegal petition but initially disagreed with that.

Bill said obviously this, is as it should be, a very emotional issue. Here it becomes a legal issue, and there should be as much discussion as possible. He said this is a land use issue, and if the board makes a decision tonight the planning board is left out of the whole process. So, if these proposed changes are challenged, it will be the taxpayers of Union funding the court defense for wording that was put in by somebody else. He'd rather go through the process, the planning board, etc. noting obviously nobody wants to drag their feet on this. What the select board votes on should be as close to bulletproof as it can be. He said he expects no matter what, we will be paying our attorney. He has no problem with a special town meeting and will support whatever the planning board says.

Patrick asked if there could be a vote to say "we approve of these changes subject to the planning board's review" that could happen in an expedited fashion.

Bill said it could be; again they can call extra meetings, etc. but if they take action tonight, the planning board has no input. He added public sentiment is clear, and the select board can accelerate whatever's reasonable at the direction of the planning board.

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Adam opened it up for questions which concerned schedule and timeframe. Jay said we go to print April 14.

Patrick said re: the DEP issue, after the fact the town would need to get a sign off from DEP for the shoreland zoning amendment. The standard is whether the amendment is at least as restrictive as the DEP model, and it clearly is.

Adam said the compressed timeframe, skipping the process, the precedent it sets, and how it could be used in the future by bad actors are his concerns. Generally speaking, the board is very supportive of the changes they put forward. The board could look into putting a moratorium on the June ballot, then work this process out, and have a special town meeting on those changes. That would be his personal preferred way to go.

Bill said 1) we will do this as soon as we possibly can (planning board, hearings, legal advice, proposed changes brought to select board let's just say July 1); and 2) the spirit of this timeline was done sort of to show you could do it, but it's really not appropriate for a citizen or citizens group to say "here's what you're gonna do, guys" and follow a schedule proposed by someone else. The planning board should give the dates, then we operate within that.

More discussion followed on dates by which things need to be done, schedule, public sentiment, a possible moratorium, and a possible special town meeting.

Adam said mining has been a hot topic for the last few weeks, and he hasn't met or talked to anyone who thought it was a good idea. He did speak with a person who gave an example of people who sold their mining rights. He added we're a town of 2,000 voters with good community support to block any future mining, a message coming through loud and clear. He reiterated he's heard nothing from the board against this kind of direction: the issue is just the process and how we go about it. He noted CARMA brought their A game.

Patrick said the changes are available and not complicated, which is important for everyone to understand. This is a simple modification to our land use ordinance. He said he appreciated the board's time and general support.

Planning Board Chair Jerry Brooks was curious as to why the metallic mining ordinance itself wasn't amended as opposed to the land use ordinance. Patrick said he'd have to defer to his colleague Aga Dixon who drafted this. Discussion followed.

Jerry said speaking as a citizen not as a planning board member, and in no way speaking on the planning board's behalf, this seems a dangerous precedent: in the future any well-organized and/or well-funded group could go ahead and institute or implement a ban on any application.

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Patrick thought Jerry was underestimating the intelligence of our community, as he didn't know anything other than coal mining or nuclear waste storage with as significant an impact on drinking water. Jerry said this is not just jumping the gun, it's short circuiting the democratic process.

Acquiring technical knowledge and/or updated expertise was discussed, with Jerry saying the planning board process is about, and this process as well: to acquire that knowledge. He added the metallic mining ordinance is stringent; however, it's 30 years old. There may be some technological advances as far as modern mining. That's what we need, to know what we are really up against. To even suggest a ban at this point is a poor choice.

More discussion ensued on ordinances and wording. Jerry pointed out flaws in the two-page ordinance amendment, including leaving in place the metallic mining ordinance for one acre or less. Adam quoted someone at the masonic lodge (CARMA meeting) who had not read the metallic mining ordinance.

Re: a moratorium, Jerry said there are two requisites in Maine statute: 1) shortage or overburden of public services in that 180-day period; 2) by the municipality using the current comprehensive plan or land use ordinance or any regulations or applicable laws unable to prevent any serious public harm in a certain geographical region.

More back and forth followed, mostly between Jerry and Patrick, on the proposed changes to the land use ordinance. Adam brought up amending the metallic mining ordinance, perhaps as an easier route. Jerry stated his opinion: institute a moratorium and amend the correct metallic mining ordinance.

Adam opened the room up to questions. He said the vibe he was getting is CARMA wanted to avoid touching the metallic mining ordinance.

Jerry said whenever the planning board looks at the applicant, they always go and review page 169 of the Comprehensive Plan, where it lists for future land uses "mining" under the rural area. He finds this the gist of the problem: to go ahead and actually amend the land use ordinance would be in direct violation of the Comprehensive Plan.

Patrick countered page 169 talks about future mining, not industrial metallic mining. Jerry said it just says "mining"; "industrial mining" is a new term in the town of Union, an invented term. Patrick disagreed. They debated mining definitions including "commercial mineral extraction" which Jerry said still applied but for some reason didn't get added into this.

Adam summarized the board needed to figure out how they'd like to take CARMA's proposal. Patrick proposed essentially put the (land use) ordinance changes on the warrant as written. Adam had no desire to put them on the warrant and skip the process. He favored tasking Jay working with Jerry to look at the moratorium options. More discussion followed.

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Jay said the elephant in the room was if they're still going to present the petition. Then you have to decide whether that's a legal petition, and you're going to put a competing ordinance against it, and all that is probably far more expensive than just a moratorium.

Adam said he hoped CARMA could understand the value in letting the process play out and would hold off on the petition. It doesn't hurt for them to be out there spreading their message, because if that process does go through the planning board and we do look at putting changes in, it will still require a townwide vote.

Jay brought up the triangular signs and asked that people take them off the telephone poles. He said he goes around, as emergency management director in storms, and has in the past gone around with CMP or contract workers who don't have bucket trucks, who have not gone up on a pole because somebody's put a big sign on it. The signs are a danger to the climbers. He said they authorized us to take them down and urged people to move the signs, put them on stakes, within the ROW or someone's lawn but do not stick them on telephone poles. Patrick said they agreed and will continue to spread the word.

Adam asked Patrick to pass on that the CARMA group does not seem to be misaligned from the board. Patrick said he didn't think they viewed the board as adversarial at all. Adam reiterated the board is here to protect the process.

Motion to enact a moratorium on metallic mining, pending legal and planning board review of existing Land Use and Mining Ordinances, and proposed amendments to those ordinances by: Bill Packard  
2<sup>nd</sup> by: Jim Justice

A request was made to add to the motion. Brief discussion followed. Jay clarified we have no jurisdiction over flyovers.

Amended motion to enact a moratorium on metallic mining, exploration, and operation, pending legal and planning board review of existing Land Use and Mining Ordinances, and proposed amendments to those ordinances by: Bill Packard  
2<sup>nd</sup> by: Jim Justice  
3-0

Adam thanked all for the very civil conversation, especially Patrick and Mary.

### **7. Approval of new Cyber Acceptable Use Agreement:**

Jay said this comes from Maine Municipal, just to update our cyber so we can stay on the top tier of insurance reductions. In answer to Adam, Jay clarified there had been no incident but noted thousands of cyber attempts are made daily to get into government, even local government.

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Motion to accept the above agreement as presented by: Bill Packard  
2<sup>nd</sup> by: Jim Justice  
3-0

### 8. Town Manager's Report:

Jay said he has LPC on Thursday until approximately 1:00 p.m. if any bills are of interest (followed by an executive board meeting in Bangor. There are quite a few bills including quite a few on the senior tax break, which they're now trying to combine, and LD 2003 re: cluster housing which Jay characterized as probably more of a threat for the whole state than mining. Discussion ensued re: the senior tax break, how and who may have to pay for it in coming years, and loopholes. Jay noted it requires a homestead exemption. Adam noted there's no income requirement to get that tax break. Jay pointed out the partisan nature of state politics, saying they make very few decisions based on what's right for the citizens of Maine.

### 9. Other Business:

Bill asked if there was interest re: request for qualifications. Jay said he hasn't gotten any official packets, but there is back and forth with three or four different companies.

Greg Grotton said he thinks Abe Knight has partial as-builts.

### 10. Committee Reports:

#### a. Broadband

John Gibbons said there were further delays on the grant awards inside MCA, which look like workload inside the organization. He confirmed this is the third delay. The latest date is April 21 with unofficial release of awards April 10.

He reminded they have \$60 million in grant requests and \$20 million allocated to the program, with many constraints as this is federal money. He still has modestly high hopes.

#### b. Green Space

Jay said they'll be looking at November. They have two different proposals (re: Coggins Hill property) – the land trust, or it stays in the town's hands and we put restrictions on it. Adam would like them to bring both options and let the board pick one. Bill would like them to focus on how people are going to use the property. Jay noted the major portion of the blueberry field is posted. Bill added his point was they need to get access to the property across the land that we own.

#### c. Sestercentennial - None.

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### d. Ambulance Advisory

Jay said they will meet around the end of May. They will do a public hearing at the Union school. Appleton and Washington residents can come, too. Board members will be urged to attend.

Bill thought the dollar amount should be broken down into salary and benefits, so people understand we are not paying one person that big amount. He also suggested looking at the possibility for overtime, so we don't end up with a huge dollar amount there.

Adam said we could ask Jesse to put that together and maybe have it for our meeting with our budget committee (April 10, 11, and 12 if needed).

John Gibbons clarified the budget committee's process – making independent recommendations on what the select board is recommending to the town. There was discussion on joint budget and select board meetings, with Bill preferring joint meetings. John said they meet April 11 at 6:15 to make the final call.

Greg Grotton confirmed citizens could attend the working sessions and request a draft of the working budget.

### **11. Select Board Reports:**

Adam said he was happy with how the potentially contentious mining conversation went.

### **12. Future Agenda Requests:** None.

### **13. Adjourn:**

Motion by: Bill Packard  
2<sup>nd</sup> by: Jim Justice  
3-0

Meeting adjourned at 8:34 p.m.

Respectfully submitted,

Sherry Abaldo  
Secretary