

**MINUTES OF THE  
CURRENT USE BOARD  
PUBLIC FORUM MEETING**

**Approved as Amended**

**DATE:** November 10, 2016      **TIME:** 10:00 a.m.      **PLACE:** NH Dept of Revenue, 109 Pleasant Street, Concord, NH

**BOARD MEMBERS:**

Senator Regina Birdsell ~ *Absent*  
Stephan Hamilton, NHDRA, Chairman  
David McMullen, City Official  
Norm Bernaiche, Towns <5,000  
Barbara Richter, NHACC  
Lindsay Webb, NH Fish & Game  
Susan Bryant-Kimball, Public Member, Forest Land

Representative James Belanger ~ *Absent*  
Lorraine Merrill, Dept. of Agriculture  
Andrea Lewy, Towns >5,000  
Jon Wraith, UNH Life Science & Agriculture ~*Absent*  
Susan Francher, NH Forests and Lands  
Chuck Souther, Farm Land  
Thomas Thomson, Public Member

**MEMBERS OF THE PUBLIC:**

Erick Sawtelle  
Robert Johnson II, NH Farm Bureau  
David Bishop, Farm Credit East

Jonathan Horton, NH DRED  
Linda Kennedy, NH DRA  
John Hodsdon, Meredith

**Introductions**

**Presentation**

Chairman Stephan Hamilton did a presentation on Current Use including conservation, maintaining resources, open space, the current drought, value ranges, parcel vs. tract, markings on the ground, etc.

**Public Input**

Mr. Erick Sawtelle had a question on towns and their different definitions in their zoning ordinances. He also had questions on what constitutes RSA 76:16 Abatement – good cause, definition of livestock, the definition of agriculture and the two different terms “crops” vs “crops produced”, and pasturage. He included a handout for the members to follow along with. He also asked about 304:01 acreage requirement before 1993 and voiced his concerns about small livestock owners almost being discriminated against. Chairman Hamilton replied that the current use law RSA 79-A does grant rulemaking authority but it is limited to the Current Use program. He also commented on good cause for abatement and there is no statutory definition of what is “good cause shown” and explained. Mr. Sawtelle commented on agroforestry, which range to use, topography and use of that acreage. Commissioner Lorraine Merrill commented on topography. Mr. John Hodsdon talked of his farm, out of “use”, and felt that there should be some wording to allow certain structures for agricultural use i.e. barns, sheds etc. Mr. David Bishop asked about any initial feedback on potential changes regarding the definition of agriculture etc. Chairman Hamilton replied that this is the early stages of the analysis process; it is too early to comment on the impact. Mr. Chuck Souther also replied that the Board would not be diving into big barns, retail establishments etc. He also commented on agriculture and agritourism. Commission Merrill added her

comments on agritourism and questioned how much of a difference it made. The discussion then turned to irrigation systems, portable shelters, above ground structures, underground irrigation lines etc. Chairman Hamilton spoke on disqualifying events, and a discussion followed. Mr. Sawtelle commented on Cub 304.01 and his thought of some ambiguity relative to livestock and processing livestock for value added, portable buildings, building vs equipment etc. Mr. Norm Bernaiche discussed culverts, the support of timber/agriculture use, less productivity if there is no drainage etc. Mr. Rob Johnson spoke on the definition of structure, equipment and its use, movable or not, tile drainage, land under 10 acres, the intent of agritourism was “no impact”, (he doesn’t see the issue), identifiable boundaries etc. Mr. Tom Thomson commented on Mr. Johnson’s input and agreed with some of it. Mr. Thomson talked of (gravity fed) permanent wells, “where will it stop once the issue is opened”, and asked the Board to use caution. He also commented on “grown in the ground” and clarification of this going forward. Chairman Hamilton asked Ms. Linda Kennedy about the 1993 provision. Ms. Kennedy explained that they were “cleaning up everything” (at that time) and advised it was all condensed down to unproductive, plants grown in the ground – that it was “really about something that you grew on that land”, it was about the value of the product that came from the ground etc. Commissioner Merrill and Mr. David Bishop commented on farm businesses, and that on small acreage there is a much higher value production than in the past and that many producers have to look for ways to further enhance the value etc. The discussion then turned to declaration of public interest, landowners being encouraged to request SPI, how that (SPI) is approached in a particular community, cooperative extensions and the attempts to educate landowners on SPI in the past. Mr. Thomson quoted a rough figure for farmland = 204,000 and forestland = 2.6 million (acres). Ms. Andrea Lewy asked if there is a disadvantage to having an SPI done. A discussion followed. Mr. Sawtelle commented that how much acreage is involved makes a difference too.

## ***The Public Forum was concluded***

### **Approval of Minutes**

#### **10/17/16 Minutes**

Chairman Hamilton asked for a motion on the 10/17/2016 minutes. **Mr. Norm Bernaiche moved to adopt and Ms. Lindsay Webb seconded.** Mr. Bernaiche asked that the following be inserted into the 10/17/2016 minutes under “Other Business”: “It was Mr. Bernaiche’s understanding that the change in the definition of agritourism was intended to reflect the planning and zoning impact and not the current use program which was confirmed by Senator Birdsell.” Mr. Tom Thomson quoted from the bill. Also, fix the wording that Mr. Ted Howard was present in Mr. Jon Wraith’s absence. **The minutes were approved as amended.**

#### **11/7/16 Minutes**

Chairman Hamilton asked for a motion to move the minutes of 11/7/16 and Ms. Bryant-Kimball seconded. Commissioner Merrill advised that Ms. Kathleen Dole was also present at the public forum (although she had not signed in) and asked that she be added to the minutes under “Members of the Public”. The clerk also was not in attendance at this meeting. **All were in favor of approving the minutes as amended.**

#### **11/3/16 Minutes**

There were no minutes as no one from the public attended.

### **Review of Public Forum Information**

Chairman Hamilton talked of input regarding boundaries on the ground with Ms. Bryant-Kimball clarifying she believed it was exterior boundaries (tract boundaries) and the confusion on which lines were required on the ground within the rules. Chairman Hamilton discussed one member of the public’s concern of removing a provision that her town uses. He was unsure that this provision of the application process really applies to properties that are already enrolled or even how useful having those boundaries marked on the ground is for new

properties coming into current use. Mr. Dave McMullen and Mr. Norm Bernaiche do not feel the markings in the ground are important, and cited the use of aerial photography, referring to the applications etc. Ms. Susan Francher commented on Mr. Sumner Dole making changes in his current use, and his town told him he would need to reapply. She asked how they are telling the towns to accommodate those changes if they don't require updated mapping. A discussion followed. Chairman Hamilton advised there is a part in the statute where a landowner can request redetermination of the category and explained. He asked the present assessors if this is a common occurrence. Mr. McMullen advised they only had a few and asked for a new map etc. Mr. Bernaiche advised they had a lot over the period of assessment review the last couple of cycles when it became part of the process. He explained. Chairman Hamilton asked if a form would have been helpful. Mr. Bernaiche answered that they just had new current use applications filled out and kept it on file – they didn't make them re-record it and have another expense. Ms. Andrea Lewy agreed with Mr. Bernaiche. Ms. Bryant-Kimball advised that she had a call from a forester who asked that it not be required to have boundary markers on the ground for the “not in current use area” as that “is the part that changes” etc. A discussion followed. Mr. Thomson voiced his concern that he feels this may be used to imply a survey is needed.

Chairman Hamilton advised that the Rules Subcommittee is going to recommend that Cub 302.03 (Identifiable Boundaries) be eliminated. Mr. Chuck Souther agreed. A discussion followed on what's grown in the ground, how it's used, treatment for smaller lots, LUCT, value added uses (with clear intent), agritourism, gross income, a possible modification of current process etc. Chairman Hamilton then talked of the last subject brought up in the 11/7/2016 public forum regarding making money off of your land – charging people to use your land and whether that would disqualify a property from current use. A discussion followed including recreational discount etc. Mr. Souther asked to discuss “structures” a bit more, and a discussion followed regarding what is and what isn't a structure, “use” as the determining factor, personal property- processing equipment (not taxable), real estate (is taxable), and land under a structure – what structure can be on current use land.

### **Report From the Rulemaking Subcommittee**

Chairman Hamilton gave an update on the rulemaking subcommittee including handouts. He explained about the set of rules that had expired but have been re-adopted in the interim by JLCAR. He talked about the Cub 200 rules, Cub 300 rules and recommended they move forward to rulemaking by filing an initial rulemaking request with JLCAR and explained. He advised the (interim) emergency rules will expire in February of 2017 and they need to be timely in their request to adopt new rules. He explained the changes to the rules by the subcommittee in the handout. He recommended re-scheduling another meeting in December of 2016 to give all members a chance to go through the suggested changes to the rules. A tentative meeting was scheduled for December 13, 2016 at 1:30 p.m. at the NH Department of Revenue.

**Ms. Susan Francher moved to adjourn and Mr. Tom Thomson seconded.**

Respectfully Submitted, Elizabeth McGill  
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Current Use Board may be submitted, requested or reviewed by:

Telephone: (603) 230-5967  
Facsimile: (603) 230-5943  
Web: <http://www.revenue.nh.gov>

In person at 109 Pleasant Street, Concord  
In writing to: NH Dept of Revenue Admin.  
Current Use Board  
PO Box 487  
Concord, NH 03302-0487