

**MINUTES OF THE
CURRENT USE BOARD
REGULAR BOARD MEETING**

Approved as Written

DATE: September 8, 2017 **TIME:** 9:30 a.m.

LOCATION: Department of Revenue – Training Room, 109 Pleasant Street, Concord NH

BOARD MEMBERS:

(E) *Excused Absence*

Senator Ruth Ward
Stephan Hamilton, NHDRA, Chairman
David McMullen, City Assessing Official
Norm Bernaiche, Assessing Official, Towns <5,000
Barbara Richter, NHACC
Lindsay Webb, NH Fish & Game ~ *Absent (E)*
Thomas Thomson, Public Member

Representative James Belanger ~ *Absent (E)*
Lorraine Merrill, Dept. Agriculture, Markets & Food
Andrea Lewy, Assessing Official, Towns >5,000
Jon Wraith, UNH Life Science & Agriculture
Susan Francher, NH Forests and Lands
Chuck Souther, Public Member, Farm Land ~ *Absent (E)*
Susan Bryant-Kimball, Public Member, Forest Land

MEMBERS OF THE PUBLIC:

No members of the public in attendance.

Chairman Hamilton opened the meeting at 9:30 a.m.

Introductions of the board members followed.

Minutes

Mr. Bernaiche *motioned to accept the minutes of the April 10, 2017, meeting*; Senator Ward *seconded the motion*. No discussion. Chairman Hamilton called the motion to accept the minutes of the April 10, 2017, meeting as written. *All Approved.*

Mr. Wraith *motioned to accept the minutes of the June 22, 2017, meeting*; Ms. Richter *seconded the motion*. No discussion. Chairman Hamilton called the motion to accept the minutes of the June 22, 2017, meeting as written. *All Approved.*

Rulemaking

Chairman Hamilton briefly summarized the delay in the rulemaking process earlier this year and the result of the rulemaking effort for the 2017 assessment ranges. He reported that JLCAR would conditionally approve the proposed assessment ranges however they would not become effective until April 1, 2018. As these are the 2017 values, this approval may result in some conflict. Chairman Hamilton offered the following options:

- The effective date could be challenged;
- Agree with the conditional approval of an April 1, 2018, effective date; or
- Withdraw the proposal.

Chairman Hamilton stated he explored with the Office of Legislative Services and JLCAR staff the possibility of withdrawing this proposal in order to alleviate the inconsistency this change would cause to the process of developing and proposing the assessment ranges. In his opinion, the most practical action would be to withdraw this rulemaking request, leave in place the values adopted last fall and move forward with the annual process beginning in October to discuss the subcommittee's recommendations, hold the (3) public forums and begin the rulemaking process in December.

Mr. Bernaiche asked if the proposed rates for 2018 would be recalculated using the 5-year rolling average then brought to the public forums for input. Chairman Hamilton stated they would. He added that a suggestion was made by JLCAR staff to modify the current proposal with the 2018 ranges. However, after further discussion with their attorneys and the understanding that those values reflected the 2017 ranges determined after going through the public forum process, that may not be the best way and that a new process would be the most practical solution.

Ms. Bryant-Kimball agreed with beginning the process in October because from the consumer point of view, that it is the process which allows for public input and will reflect the values beginning next year. Mr. Wraith added the delay put the board a year out of sync in terms of the data considered in the calculation and recommendation of values.

Mr. Thomson asked if there was a downside to withdrawing the proposal from JLCAR. Chairman Hamilton stated he asked the same question and because the numbers are tied to a year, updated data and public hearings, the attorneys felt the best use of their time and the board's would be to withdraw the proposal.

A brief discussion followed including how the board should proceed should this situation happen again, what impact this situation may or may not have on a community and how to prevent it from happening again. There have been times the process has not been completed and ranges not updated and it was suggested that making sure meetings and public forums are scheduled and held in the fall in order to allow time for the rulemaking process to occur is important. If this particular situation were to happen again, it was suggested the board be allowed to continue with the process as far as possible so that when the opportunity becomes available, the rulemaking can be completed.

Mr. Bernaiche *motioned to withdraw the rulemaking proposal filed for Cub 304.07, Cub 304.08, Cub 304.13 and Cub 304.14, subject to developing a meeting schedule to assure the timely adoption of the rates*; Ms. Lewy *seconded the motion*. Mr. Thomson asked if towns would be notified of this decision to withdraw the proposal. Chairman Hamilton stated a communication would be sent to the municipalities and assessors about the withdrawal of the proposal and the information to use the ranges adopted by JLCAR last fall. Senator Ward clarified that if asked, it should be stated the old assessment ranges should be used until after the public hearings are held and a new proposal is recommended and adopted. Mr. Hamilton replied yes, that was consistent with the advice the department gave after receiving notification from JLCAR of the conditional approval. Chairman Hamilton called the motion to withdraw the rulemaking proposal. ***All approved.***

Ms. Bryant-Kimball asked about the status of the other proposed rules. Chairman Hamilton stated the department is preparing to submit a third iteration of the Fiscal Impact Statement (FIS) which he believes covers the information requested. He will notify the board once the FIS has been approved so the process can proceed. It was also suggested this would be a good topic to present and receive input at the public forums.

Chairman Hamilton recognized the upcoming retirement of Commissioner Merrill and thanked her for her many years of state service. The board offered their congratulations and wished her luck. Commissioner Merrill described this board as a great group of people to work with bringing folks together with different perspectives and representing various stakeholders all for the same mission and it has been a great opportunity to get to know folks. She added she will be around and will continue farming in NH.

Meeting / Public Forum Schedule

Tuesday, October 24, 2017 at 9:30 a.m. at DRA – Regular Board Meeting

The board will meet to hear recommendations from Forestry Subcommittee as well as the Department of Agriculture to set the proposed assessment ranges to bring to the public forums. Ms. Francher stated she would send out notice of the subcommittee meeting when the model information has been prepared.

Public Forum and Meeting Schedule

- Lancaster – Wednesday, November 8 at 6:00 p.m. – North Country Resource Center
- Claremont – Monday, November 13 at 6:00 p.m. – Location to be determined
- Concord – Friday, November 17 at 9:30 a.m. – DRA
 - Followed by a Regular Board Meeting

Rulemaking Hearing – Tentative Date

Friday, December 15 at 9:30 - DRA

Other Business

A discussion took place about how a property owner or agent should inform a municipality of a potential change in use on current use property. The RSA states “in writing” however there is no definition or clarification as to what is acceptable or a form available. A form has not been created as property cannot voluntarily be removed from current use. A community may be notified of a change by the filing of a building, driveway or septic system permit or a landowner may present the town with a survey of the property and plan of the project. It is, however, the physical change to a property that disqualifies a property from current use and not the intent of a change. A suggestion was made to add information to the Current Use Handbook to assist a property who may be planning a project that may disqualify property from current use.

Mr. Bernaiche stated he and Barbara Reid, former Chair of the Current Use Board and currently with the NH Municipal Association, will be presenting a webinar for the Municipal Association on current use in October. As this information was last presented in 2005, he will add current information to the presentation.

Mr. Bernaiche mentioned he had received complaints from assessors that towns were not notified about the delay in the rulemaking process pertaining to the assessment ranges which caused a lot of confusion within towns as to what assessment ranges to use. A request had been made in the April meeting minutes to notify the towns of the status of rules however he believed only the assessors were notified. If asked, Mr. Bernaiche stated he was telling towns to use the new rates for the second bill based on the conversation back in April.

Chairman Hamilton responded that suggestion was based on the best information available at that time. The difference in the ranges each year is marginal. The determination of value for a property in current use reflects adjustments including the equalization ratio of a community and the consideration of individual characteristics of a piece property in order to determine where within the range of value the property falls. We can however be more proactive in looking for ways to best communicate changes which could include a process to request notification of current use information.

Ms. Lewy asked for clarification as to whether or not a penalty was being considered for property owners who did not comply or respond to requests for updating or providing current use property information. Chairman Hamilton replied there is no statutory process to impose a penalty on a property owner who has already put their land into current use. The board has had that conversation in the past and did not feel that a penalty was practical. Relative to the assessment review process, the Assessing Standards Board (ASB) did create and revise

the standard for the maintenance of current use records by allowing the communities to develop substitute information for each parcel which would meet the standard set by the ASB. A brief discussion to place to explain the 5-year assessment review process that takes place in each community including the maintenance of municipal records including current use. The intent of the DRA review is to see where a community can most efficiently spend their resources to improve records and assessing. There is no penalty for not meeting a standard however frustration has been expressed by towns and assessors at the lack of response and willingness of property owners to provide information about their properties.

Mr. Bernaiche *motioned to adjourn*; Ms. Francher *seconded*. *All approved*

Chairman Hamilton adjourned the meeting at 10:45 a.m.

Respectfully Submitted, Stephanie Derosier
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
E-mail: cub@dra.nh.gov
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