

MINUTES OF THE  
CURRENT USE BOARD  
Regular Board Meeting

**Approved as written**

**DATE:** May 4, 2018

**TIME:** 1:00 P.M.

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

**BOARD MEMBERS:**

Senator Ruth Ward

Representative Jim Belanger ~ Excused

Stephan Hamilton, Chairman, *Commissioner Designee, NHDRA*

Ted Howard for Jon Wraith, *Dean, College of Life Sciences and Agriculture*

Shawn Jasper, *Commissioner, NH Department of Agriculture, Markets and Food*

Susan Francher, *Commissioner Designee, NH Department of Natural and Cultural Resources, Division of Forests and Lands* ~ Excused

Barbara Richter, *NH Conservation Commission* ~ Excused

Lindsay Webb, *Commissioner Designee, NH Fish & Game* ~ Excused

Jonathan Rice, *Assessing Official, City* ~ Excused

Andrea Lewy, *Assessing Official, Population >5,000*

Norm Bernaiche, *Assessing Official, Population <5,000*

Susan Bryant-Kimball, *Forest Landowner*

Tom Thomson, *Public Member*

Chuck Souther, *Public Member, Agriculture*

**MEMBERS of the PUBLIC:**

Mary Pinkham-Langer, DRA, Jasen Stock, NHTOA, Robert Johnson, NH Farm Bureau, Linda Kennedy, DRA

Mr. Hamilton convened the regular meeting of the Current Use Board at 1:00 p.m.

**Minutes**

Mr. Bernaiche ***motioned to accept the minutes of October 24, 2017 regular board meeting***; Senator Ward ***seconded the motion***. No discussion. Mr. Hamilton called the motion to approve the minutes of October 24, 2017, as written. Mr. Souther abstained. All others approved. ***Motion passed.***

Mr. Bernaiche ***motioned to accept the minutes of November 17, 2017 regular board meeting***; Senator Ward ***seconded the motion***. No discussion. Mr. Hamilton called the motion to approve the minutes of November 17, 2017, as written. Mr. Souther abstained. All others approved. ***Motion passed.***

Ms. Bryant-Kimball ***motioned to accept the minutes of January 11, 2018 rulemaking hearing***; Senator Ward ***seconded the motion***. No discussion. Mr. Hamilton called the motion to approve the minutes of January 11, 2018, as written. Mr. Souther and Mr. Bernaiche abstained. All others approved. ***Motion passed.***

## **Nomination for Chairman**

A request was made for nominations for Chairman. Mr. Thomson ***nominated Mr. Hamilton***; the motion was ***seconded***. No other nominations were offered. Mr. Hamilton called the motion. ***Motion passed unanimously***.

Mr. Hamilton opened the floor for nominations for vice-chair. He stated while this position is not in statute, he would appreciate the help. Ms. Lewy ***nominated Susan Bryant-Kimball as vice-chair***; Mr. Bernaiche ***seconded the motion***. No other nominations were offered. Mr. Hamilton called the motion. ***Motion passed unanimously***.

## **Agricultural Structures and Disqualifying Events**

An educational presentation was given by former Commissioner Merrill, Mr. Bernaiche and Mr. Souther to the NH Assessors Association that was well received however there continues to be confusion about the application of the land use change tax (LUCT) for incidental uses of agricultural land as it relates to disqualifying events. A subcommittee had been formed to discuss and define agriculture structures and what might constitute a disqualifying event however they did not have an opportunity to meet. Discussion continued including what the focus of the current use program is and how to get back to that; how much time and money goes into removing a structure such as a sap tank and is it worth the LUCT generated; whether or not to consider a statutory change to better define what a disqualifying event is or if that might be something that could be accomplished within the administrative rules; and the possibility of incorporating RSA 79-F relating to farm structures into current use.

The question as to what qualifies as a disqualifying event has been around for a long time; in particular those items that are moveable by their nature continue to be difficult for towns to administer the LUCT. Suggestions were made to add a definition of "structure" and "equipment" into the rules definitions rather than changing the law; add a definition for "agricultural betterment" similar to the existing "betterment" definition that could include waterlines, irrigation canals, water troughs, etc. used exclusively for agricultural purposes; or alternatively define what a betterment is not.

Mr. Bernaiche recommended reforming the subcommittee to continue to discuss this issue including the use and permanency of structures and bring back recommendation(s) to the full Board. The following people volunteered to be on the subcommittee: Commissioner Jasper, Chair, Mr. Bernaiche, Mr. Souther, Ms. Lewy, Mr. Thomson, Mr. Johnson and Ms. Pinkham-Langer. The question was raised whether or not to impose a deadline. After a brief discussion, it was agreed to have the recommendations ready to present at the fall public forums.

## **Rules Update**

Chairman Hamilton reported the current use assessment ranges have been adopted and published effective April 1, 2018. Ms. Pinkham-Langer is undertaking a review of the rules as a number of them have expired and need to be readopted; two rules relating to condominium developments need to be corrected to conform to statute; and others that do not match current form requirements which require the information on the forms be described in rules. There is additional work that has to be completed before the rulemaking process can begin and Chair Hamilton, Ms. Bryant-Kimball and Ms. Lewy volunteered to be on the subcommittee. It was anticipated the work of both the rules subcommittee and the subcommittee on agricultural structures be completed at the same time.

## **Manual Update**

A brief updated was given on the manual process. A draft is prepared awaiting the adoption of the proposed rules to incorporate and the inclusion of additional examples of maps to replace the one currently in the booklet to more clearly explain the information that is needed on the maps. Discussion followed pertaining to the best format, which

is the most used, and the easiest way to update it. It was suggested two versions be made available; one with an appendix that links to the material in the manual based on the paper version and another on-line version that is more active and dynamic.

## **New Business**

There has been a lot of concern expressed about the current use program and complaints received that there is not sufficient information available to municipal officials and the public about the benefits of the program, especially as it relates to the overall tax burden within a community. This year there were legislative efforts to create a study and report on the current use program which did not pass. Chairman Hamilton suggested the Current Use Board is the best resource to examine and report on the benefits and impact of current use assessment within all communities and suggested a report be created to provide to the leaders of the House and Senate as well as the Governor before the end of the year. The knowledge and experience of the members of the board, he feels, will provide the best ability to report the benefits and potential challenges of this system.

A concern was expressed about the availability of resources to complete the task. A suggestion was made to inquire with UNH to see what resources they might have available to contribute to the project. Mr. Howard offered to inquire with Dean Wraith. Discussion followed relating to a report created by SPACE and the possibility of building on that information. Mr. Stock added the reports are available. Mr. Thomson requested both the Farm Bureau and NHTOA be included as resources as they play an important role in the program.

A brief discussion followed about the importance of understanding the different dynamics that exist among communities. Some have higher property values and open space land that may generate significant LUCT; others have more commercial/industrial property and less land available to be enrolled into or removed from current use and therefore do not generate LUCT.

Concern was expressed about the legislation that was created this year and the possibility of more to come and the importance of acknowledging the different concerns and providing information. Mr. Howard stated he would report back to the Board as soon as he has an answer. The Board agreed it was important to have some information ready to be presented at the public forums. Chairman Hamilton suggested being able to provide an interim report by the end of the year will show good faith and direction by this Board to the Legislature, the municipalities and the public.

A discussion followed about the previous studies done by SPACE and the type of information that was included. The project started around 2000 and the intent was to complete 1-2 studies a year representing at least one town in each county. Back then, the most difficult part was the time it took to break out the costs in the community. Most of that data and more is readily available today with easier access. It was suggested that actual examples of land in current use later removed and developed be used in the study to best reflect related costs such as road maintenance costs, additional costs to a police department, the number of kids and relating costs.

Mr. Johnson added all the costs of community services studies that he is aware of are based on criteria developed by the American Farm Land Trust. During research for recent legislation he found a more recent study completed by the town of Windham around 2014 and a follow up in 2016.

Mr. Thomson agreed the information previously discussed is an important part of the project however the other significant piece is the dollars the flow into the state because of the activities that take place on land enrolled in current use such as hunting, fishing, recreation and tourism. Chairman Hamilton agreed and added the program has helped maintain the character of this state in a way that everyone benefits from whether or not land is enrolled in current use but that will be difficult to quantify.

Mr. Hamilton adjourned the meeting at 2:26 p.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:

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In person at 109 Pleasant Street, Concord

In writing to:

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Current Use Board

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