

MINUTES OF THE
CURRENT USE BOARD
Regular Board Meeting

Approved as amended

DATE: February 4, 2019

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

BOARD MEMBERS:

Senator Ruth Ward

Representative Jim Belanger ~ *Excused*

Mary Pinkham-Langer, 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 ~ *Excused*

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

Barbara Richter, NH Conservation Commission

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

Jonathan Rice, Assessing Official, City

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:

Rob Johnson, NH Farm Bureau

Jasen Stock, NH Timber Owners Association

Chair Pinkham-Langer convened the regular meeting of the Current Use Board at 1:30 p.m. Introductions of the Board and public members followed.

Minutes

Senator Ward ***motioned to accept the minutes of the November 30, 2018, regular board meeting***; Mr. Souther ***seconded the motion***. A minor correction was made. Chair Pinkham-Langer called the motion to accept the minutes of November 30, 2018, as amended. ***Motion passed unanimously.***

Ms. Bryant-Kimball ***motioned to accept the minutes of the December 14, 2018, regular board meeting***; Mr. Bernaiche ***seconded the motion***. No Discussion. Chair Pinkham-Langer called the motion to accept the minutes of December 14, 2018, as written. ***Motion passed unanimously.***

Rulemaking Hearing - Public Comment

A discussion followed about comments made at the public hearing pertaining market value and the discount received by current use landowners. The current use program is not based on market value rather the income-producing capability of the land and it is therefore not believed to be an equal comparison. The income a property can derive may affect its value; another example is rental properties. With regards to current use land, the Current Use Board is following the requirements in statute and in rules to determine the value of land within the current use program.

Another discussion took place pertaining to the comment received about the lack of notice for meetings and unavailability of meeting minutes. Chair Pinkham-Langer stated the department will look into the current procedures for both and see where improvements can be made. It was suggested a response be sent to Mr. Keith to provide him the ways in which taxpayers may be notified of current use information. Discussion continued about ways to distribute the information about board meetings and public forums and how to contact the Board.

Proposed Rules Changes

Chair Pinkham-Langer explained Cub 100 and Cub 200 are procedural rules, many of which have expired and need to be updated. She compared the Cub rules with the procedural Asb rules which had recently been readopted to provide consistency. She noted there were a few errors in the drafted document that left the reference to Asb rather than Cub.

Please note: The proposed draft Cub 100, Cub 200 and Cub 300 rules with amendments approved at this meeting will be attached as an addendum to these minutes.

PART Cub 102 PUBLIC INFORMATION

Cub 102.01 How to Contact the Board

There was discussion whether to notify the three departments currently listed, the (a) DRA, (b) Department of Natural and Cultural Resources, and (c) Department of Agriculture or to have all inquiries go to one central location at the DRA. It was felt having all inquiries go to one place will alleviate potential confusion or missed communication.

Ms. Lewy ***motioned to delete (b) and (c) under Cub 102.01 and update the address to send all inquiries to the Current Use Board Clerk, c/o NH Department of Revenue Administration, PO Box 457, Concord NH 03302-0457***; Ms. Richter ***seconded the motion***. No further discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously***.

Chair Pinkham-Langer stated one of the big proposed changes was to adopt a new PART Cub 103 BOARD MEETINGS. The current organizational rules do not address board meetings separately; they are included under the existing Cub 207.03 Conduct of a Forum. There was also nothing in the existing rules to address subcommittee meetings which she suggest be added to Conduct of a Forum; while they are similar, there are a few subtle differences.

A brief discussion followed whether it should be added that a quorum is not required at the public forums. Chair Pinkham-Langer indicated she would bring the question to the department's legal counsel to confirm before making any change in the rules.

PART Cub 204 EXPLANATION OF ADOPTION OF RULE

Chair Pinkham-Langer explained there were grammatical and other minor changes only made to this section.

PART Cub 207 PUBLIC FORUMS **AND SUBCOMMITTEE MEETINGS**

A brief discussion continued about the changes made to this section. The changes effectively mirror the Asb 100 and Asb 200 rules to create consistency.

Ms. Bryant-Kimball ***motioned to adopt the Cub 100 proposed rules, as presented and amended, forward into rulemaking***; Mr. Bernaiche ***seconded the motion***. No discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Mr. Souther ***motioned to adopt the Cub 200 proposed rules, as presented and amended, forward into rulemaking***; Ms. Richter ***seconded the motion***. No discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Proposed Cub 300 Rules

Chair Pinkham-Langer described minor changes and corrections that were made to the proposed Cub 300 rules. After a brief discussion and it was agreed to remove the reference to 'farm ponds' in Cub 303.09 Irrigation.

Mr. Souther ***motioned to amend Cub 303.09 Irrigation to the following language***: "Land supporting irrigated farm land that is exclusively for sustaining livestock or for in ground crops shall be eligible for current use assessment under the category in which the land would normally qualify." Mr. Thomson ***seconded the motion***. No further discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Chair Pinkham-Langer stated Cub 310.01 was amended to include the reference to RSA 79:A-11. The rule was amended as follows:

*Cub 310.01 Appeal of Current Use Application. If the municipal assessing officials deny in whole or in part any application for current use assessment, the applicant may appeal pursuant to RSA 79-A:9, **RSA 79:A-11** and Cub 302.05.*

Mr. Stock questioned the intent of Cub 304.05 (e)(1). He discussed this with a forester and the question came up whether it was required to classify stands of more than 10 acres or less than 10 acres.

(e) Forest land ***stand types, pursuant to Cub 304.06 (a)***, shall: be classified to a minimum of 10 acres pursuant to the majority of the type of trees growing on the land.

(1) For stands sufficiently uniform in species composition, be classified at a minimum of 10 acre forest types and, the forest types of less than 10 acres be classified with the majority forest type; or

(2) Be classified by the number of acres according to forest type.

The following language was added in the proposed draft rules "[...] ***and, the forest types of less than 10 acres be classified with the majority forest type [...]***;" After more discussion, Mr. Stock recommended staying

with the current language as it is an industry standard and removes any confusion and does not deny a landowner who does want to get into that detail. He suggested the following change:

- (1) *For stands sufficiently uniform in species composition, be classified at a minimum of 10 acre forest types [~~and, the forest types of less than 10 acres be classified with the majority forest type~~]; or*
- (2) *Be classified by the number of acres according to forest type.*

Mr. Bernaiche ***motioned to amend Cub 304.05 (e)(1) to remove the following language: “and, the forest types of less than 10 acres be classified with the majority forest type”***; Ms. Richter ***seconded the motion***. No further discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Mr. Bernaiche ***motioned to move the proposed Cub 300 rules, as amended, forward into rulemaking***; Senator Ward ***seconded the motion***. No further discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Other Business

Chair Pinkham-Langer stated the Board needs to approve the proposed forms. She noted these forms will be created in a fillable format by the department. She briefly described the revisions made to the A-5, A5W, A-10, CU-12 and the CU-18.

A-5 MUNICIPALITY LAND USE CHANGE TAX BILL

Due to the registry margin requirements of 3-inches at the top of each page and 1-inch on the other borders, this form as increased from four pages to five which will increase the cost for a landowner to file. The registry also confirmed signatures may be in dark blue or black. The previous form did not make a distinction between a property owner and a right-of-way property owner this form does because the right-of-way land owner is assessed a land use change tax but the form is not recorded; the land use change tax for a landowner is recorded. Additional space was provided for names and the instructions were revised to provide more detail. The instructions have also been added to the Cub 300 rules.

A-5W WARRANT FOR LAND USE CHANGE TAX

The major change in Step 2(g) was to ***add***: LANDOWNER ***OR RIGHT-OF-WAY RESPONSIBLE PARTY***. This form does not get recorded and more detail was added to the instructions.

A-10 APPLICATION FOR CURRENT USE ASSESSMENT

This form is recorded; the margins were changed to the registry requirements; a space for ***TAX YEAR APPLIED FOR: April 1, _____*** was added; additional space was added for multiple book and page numbers and to allow up to four map and lots and the number of acres in and out of current use for each to provide more detail.

CU-12 SUMMARY OF FOREST STEWARDSHIP PLAN

The grey shading was removed, ***TAX YEAR APPLIED FOR: April 1, _____*** was added; an area to indicate whether it is a new application or update of an existing application; as well as additional space for map and lots.

CU-18 NOTICE OF CHANGE IN CURRENT USE ASSESSMENT

This is a new form for use by towns and property owners to notify either the town or property owner of a change. This use of this form is not required; it is recommended.

A brief discussion followed pertaining to the lack of statutory requirement for a property owner to notify the town of a change in use.

Ms. Lewy ***motioned to accept the changes on the A-5, A-5W, A-10, CU-12 and CU-18, as presented***; Ms. Bryant-Kimball ***seconded the motion***. No further discussion. Chair Pinkham-Langer called the motion. ***Motion passed unanimously.***

Task List

1. Lake Issue
 - a. Define contiguous lots
2. Rights-of-way / Conservation Easements (RSA 79-B) versus Current Use
 - a. When land use change tax applies
 - b. Existing (Grandfathered) rights-of-way

Senator Ward ***motioned to adjourn***; Mr. Thomson ***seconded the motion***. ***Motion passed unanimously.***

Chair Pinkham-Langer adjourned the meeting at 3:26 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:

Telephone: (603) 230-5096
Facsimile: (603) 230-5947
E-mail: cub@dra.nh.gov
Web: <http://revenue.nh.gov/current-use>

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