

MINUTES OF THE
CURRENT USE BOARD
Regular Board Meeting

Approved as Amended

DATE: July 30, 2019

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

BOARD MEMBERS:

Senator Ruth Ward ~ *Excused*

Representative Tim Josephson ~ *Excused*

Rick Evans, 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

Lindsay Webb, Commissioner Designee, NH Fish & Game

Jonathan Rice, Assessing Official, City ~ *Excused*

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

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:

James Gerry, DRA

Bradford Keith

Jasen Stock, NH Timber Owners Association

Adam Denoncour, DRA

Rob Johnson, NH Farm Bureau

Sam Greene, DRA

Chair Souther convened the meeting of the Current Use Board at 9:30 a.m. Introductions of the Board followed.

Minutes

Mr. Thomson ***motioned to accept the minutes of the February 4, 2019, regular board meeting***; Mr. Evans ***seconded the motion***. A discussion held at the previous meeting was continued to clarify a comment made during the February 4, 2019, public hearing. After a brief discussion relating to the actual statements, the following lines were deleted from page 2, paragraph 1, lines 4, 5 and 6: *“When considering the market value of land; when land is sold, the value is in the development rights and if the development value were to be subtracted, the assessed value would be \$0. By using the current use assessment ranges and model, the towns are actually gaining value on land enrolled in current use.”* Another minor clarifying change was made to the following sentence. Chair Souther called the motion to accept the minutes of February 4, 2019, as amended. ***Motion passed unanimously.***

Commissioner Jasper ***motioned to accept the minutes of the June 13, 2019, regular board meeting***; Mr. Bernaiche ***seconded the motion***. No Discussion. Chair Souther called the motion to accept the minutes of June 13, 2019, as written. ***Motion passed unanimously.***

Proposed Rules – Objection Response

Chair Souther, Mr. Evans and Ms. Derosier met to review the comments from JLCAR and suggested changes. The majority of comments pertained to grammar and punctuation and all were corrected as requested; the other changes were discussed and corrective language was drafted for the Board's review.

Commissioner Jasper ***motioned to accept the proposed changes to the objection response dated 7/30/2019***; Ms. Bryant-Kimball ***seconded the motion***. Discussion followed. Chair Souther explained a lot of the comments pertained to the forms; JLCAR reviewed the existing forms versus the drafted updated forms. Once the draft forms were provided, most of those comments were resolved. Ms. Derosier stated one of the issues most commented on pertained to the conjunctions of "and" and "or" between numerous requirements. The following statements were revised to clarify this issue throughout the document:

- (a) "Notify the municipal assessing officials in writing; **or**
- (b) Complete and file Form CU-18 "Notice of Change in Current Use Assessment" with the municipal assessing officials at the time the change in category is made; **and**
- (c) Provide an updated map with the corresponding change.

The revision combined (a) and (b) and renumbered forward accordingly:

- (a) "Notify the municipal assessing officials in writing, or complete and file Form CU-18 "Notice of Change in Current Use Assessment" with the municipal assessing officials at the time the change in category is made; and
- (~~b~~) Provide an updated map with the corresponding change.

The following were other substantial comments and proposed changes:

- Cub 307.02 Condominium Developments. JLCAR felt the current language was unclear as worded and a proposed change was drafted and accepted by Mr. Morrell.
- Cub 309.03 Application for Current Use Assessment.
 - 309.03(b)(7) STEP 3 (c) of Form A-10
 - The order of a. and b. were reversed
 - Cub 309.03(b)(10) STEP 5 of Form A-10
 - The comment from JLCAR was that this language did not coincide with the form. Ms. Derosier stated rather than changing the rule, proposed changes to the form were submitted to the Department to clarify and match the rule and she does not anticipate any issue.
- Cub 309.04 Form A-5 Municipality Land Use Change Tax Bill.
 - Cub 309.04(c)(8) This statement did not follow the introductory language in (c) and a change was made to correct that.

- Cub 309.06 Form CU-12 Summary of Forest Stewardship Plan for Current Use Assessment
 - Cub 309.06(b)(8)(d) A proposed change was made however after a brief discussion, the Board agreed the change was not necessary and the original language was appropriate.

Ms. Derosier added the other consistent issue was the phrase “recommended to.” Mr. Morrell explained that rules cannot recommend actions and so the phrase “recommended to” was replaced by “may” throughout the proposed rules.

Chair Souther called the motion to accept the objection response as amended. ***Motion passed unanimously.***

Commissioner Jasper ***motioned to forward the objection response to JLCAR and to authorize the Chairman to represent the Board throughout the remaining process; Mr. Thomson seconded the motion.*** Chair Souther called the motion. ***Motion passed unanimously.***

Forestry Subcommittee Update

Ms. Francher was unable to attend the meeting and a meeting date for the subcommittee has not been scheduled. A request was made that notification of the meeting date, when scheduled, be forwarded to the Board. Ms. Derosier stated once the meeting is scheduled, the same notification will be sent as other meetings.

Public Forum Dates and Locations

The towns of New London and Sandwich were suggested as well as a town in the North Country for the 2019 public forums. Mr. Thomson requested a better effort be made to notify the towns of the public forums and the importance of them. Ms. Derosier stated the NH Town Clerk Association has agreed to send the information out to their distribution list which will cover the towns being notified, the information will also be posted on the House and Senate calendars and the DRA website, and there is also an option for individuals to request notification of Current Use Board meetings from the Department through e-mail. Mr. Bernaiche added the information also goes out to the assessors in the state through the NHAAO list serve.

Chair Souther reported that UNH has hired an economist who is starting in the beginning of August and he has requested a meeting with her to discuss the Extension’s role in setting the farm land rates.

Task List

Chair Souther briefly described the tasks including defining contiguous lots when separated by water bodies; rights-of-ways under current use assessment versus conservation easement, when the land use change tax applies and clearly defining existing (grandfathered) rights-of-ways relating to the change in the law. A subcommittee was suggested and volunteers requested. Mr. Thomson, Mr. Bernaiche and Ms. Webb volunteered.

Other Business

A brief discussion followed about the assessment ranges and whether or not they are required to go through the rulemaking process. Mr. Evans explained the question of whether or not this Board could adopt the assessment ranges without going through the rulemaking process was posed to DRA legal counsel. It

was made clear that the DRA legal counsel did not represent the Board but that an attorney at the Attorney General's Office would be assigned. However, DRA legal counsel did look into the question and in their opinion based on RSA 79-A:4, IV the Board could adopt the assessment ranges without going through the rulemaking process. This would require a new rule to be drafted to indicate that. The remainder of the process would remain including the three public forums and Board meeting to adopt them. If the Board chooses to go that route, the DRA legal counsel would assist in drafting language for a rule. Ms. Derosier stated, Mr. Morrell, the attorney for JLCAR, stated in his non-binding opinion that the rulemaking process was necessary and a statutory change would be required and an exception to RSA 541-A could be considered.

After a brief discussion, it was determined than an inquiry will be made to the Attorney General's Office to find out who the attorney assigned to the Board is and request a meeting with a few Board members to discuss interpretation and potential options.

A suggestion was offered to consider holding a public forum at the NH Municipal Association's (NHMA) conference in November; the 2019 dates are the 13th and 14th. It was stated the Assessing Standards Board holds their public forum there annually and it is a good way to reach selectmen and other town officials from throughout the state. Mr. Bernaiche offered to reach out to the NHMA to see if there is space.

Mr. Keith asked when the public would be invited to learn more about the assessment model used to determine the rates and whether there was information or presentations available for public viewing. A discussion followed. The model (formula) is property of the Department of Revenue Administration (DRA) and has been deemed proprietary information by the DRA legal staff and therefore is not available to the public. There have been presentations about the inputs and factors included in the model however it was suggested the general concepts behind the economic model should also be explained to provide transparency. The public and board members were encouraged to attend the forestry subcommittee to gain a better understanding of the process and inputs used in determining the rates.

Commissioner Jasper ***motioned to adjourn***; Mr. Bernaiche ***seconded the motion***. Chair Souther called the motion. ***Motion passed unanimously.***

Chair Souther adjourned the meeting at 10:30 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) 230-5096

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