

MINUTES OF THE CURRENT USE BOARD

Approved as Written

DATE: September 26, 2016

TIME: 10:00 a.m.

PLACE: NHDRA, 109 Pleasant Street, Concord

BOARD MEMBERS:

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

Representative James Belanger
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 ~ *Absent*
Thomas Thomson, Public Member

MEMBERS OF THE PUBLIC:

Jasen Stock, NHTOA
Rob Johnson, NHFBF

Barbara Reid, NHMA

Introductions

2016 Assessment Range Public Hearing

Chairman Stephan Hamilton explained why this was on the agenda and explained that because of process and procedure problems and filing of notices, OLS and the request for a fiscal impact statement came out of sequence for the rulemaking process, they could not proceed through.

Chairman Hamilton proceeded to open the hearing pursuant to RSA 541-A:11. He advised how to contact him with any comments for the hearing and that the deadline for submission would be October 3, 2016. Mr. Tom Thomson asked for clarification that this was what they approved previously - that everything is the same otherwise. Chairman Hamilton replied in the affirmative. Ms. Barbara Reid asked, just for clarification, about the effective date of April 1st in relation to the rules. She asked that in terms of these changes, assuming that they go to JLCAR and are adopted (in October/November), they are advising their municipal members that these would then, from a practical standpoint, be effective 4/1/2017, not 4/1/2016. Chairman Hamilton advised that it is not the Board's duty to tell the communities what they should be doing. He explained this is a two-step process: (1) they determine the ranges of assessment and the law is clear on that – the range of assessment is for the following year, (2) transition of duty that those ranges which are adopted by the Board - and those ranges were adopted following the required public forums held last year. He further advised that moves into rulemaking which typically has occurred before April 1st. He advised that whether or not the Board moves to adopt revised rates before April 1st of next year, he thinks this will be answered by the process coming up. Ms. Susan Bryant-Kimball asked for clarification and Chairman Hamilton explained. Representative James Belanger then asked if the Board voted to adopt the assessed value as of April 1, 2016, and that didn't really become the official rule until after April 1, 2016, wouldn't that then be considered retrospectively which is illegal. Chairman Hamilton stated the Board voted on the ranges for the following year as the law prescribed; rulemaking is a separate provision in the law and referred to RSA 79-A:4 III and IV etc. Mr. McMullen replied

that the ranges, even though the Board voted on them, have to go through the rulemaking process otherwise they're not legal. If they're not legal on April 1st and the Board is having a meeting now, he wondered if it's moot as they cannot retroactively apply a value that hasn't been adopted legally by the Legislature. Chairman Hamilton talked of following through etc. Representative Belanger suggested the Board should add "the following year" to the RSA. Ms. Andrea Lewy voiced her concern about abatements. Chairman Hamilton replied it is not the Board's position to make that decision and talked of individual property factors, equalization ratios, adjusted to local level of assessment etc. Ms. Susan Bryant-Kimball asked when the equalization ratios are normally published. Chairman Hamilton replied. Ms. Barbara Reid voiced her concern on consistency and date range. Mr. McMullen asked if there was any harm in leaving for a year. Representative Belanger and Chairman Hamilton replied about following through, closing out the process etc. Mr. Thomson replied about already having the public meetings, should continue forward, clean it up etc. He also asked about "following" being left out of the rule or the statute, and Chairman Hamilton replied in the statute. Ms. Bryant-Kimball voiced her concern on what to use for rates. Chairman Hamilton talked of having public forums as early as possible, missteps in process, sufficient buffer time etc. Mr. Robert Johnson asked about process from this point on and the commentary being open until 10/3. Chairman Hamilton replied will be moving to JLCAR for consideration. He then advised if no other comments, he would be closing the public hearing on rulemaking for the assessment ranges for 304.07, 304.08, 304.13 and 304.14.

Minutes of 4/1/2016

Chairman Hamilton asked for a motion to approve. Mr. Norm Bernaiche so moved and Ms. Lorraine Merrill seconded. Ms. Merrill pointed out under "Introductions" that Mr. Dave Souther should be in fact Mr. "*Chuck*" Souther. **All were in favor of approving the minutes as amended, Representative Belanger abstained.**

General Rulemaking Issues

Chairman Hamilton spoke of additional rulemaking issues that he is in the process of attending to that he wanted the Board to be aware of. He spoke of rulemaking being a bit different from statute for the most part – rules expire. He also spoke of organization rules (do not expire), paying closer to attention to rules, schedules, managing them, process of interim adoption rules (6 months), Cub 204, Cub 207, Cub 301 (handouts). He advised that those would expire on August 23, 2016 but have been adopted as interim rules and will expire on February 20, 2017. There is a need to move these through a regulatable making process in order to get them back up to where they should be. He suggested it would be a good idea to organize a rules subcommittee, and he asked the Board what they thought of that idea. **Ms. Bryant-Kimball** volunteered and advised that definitions could use some clarity and maybe this would be a good opportunity. **Ms. Andrea Lewy** also volunteered and stated that consistency is important. Chairman Hamilton advised he would be willing to volunteer or volunteer one of his staff also. **Mr. Thomson** had questions on the role of the subcommittee and then also volunteered. **Chairman Hamilton** will chair the subcommittee. Mr. McMullen asked a procedural question regarding public hearings, expiration of interim rules, and how often the subcommittee would meet. Chairman Hamilton advised once or twice a month (they would meet). He suggested 10:00 a.m. on October 13th at the NH DRA to meet for the subcommittee.

Forestland Assessment Range Subcommittee

Chairman Hamilton and Ms. Susan Francher discussed the Forestland Assessment Range Subcommittee and they decided to meet on October 5, 2016 1:00 p.m. at DRED.

Farmland Assessment Range

Chairman Hamilton advised that Commissioner Merrill had provided him with the analysis. Commissioner Merrill talked of the drought, prices, crops, silage crops, formula, actual yields, extenuating circumstances (i.e.

the current drought) and that on *paper* the numbers are a bit more profitable than they've seen in some time. However, in reality they have a bona fide crop disaster on their hands, so she recommended it would not be appropriate to raise the rates at this point. Chairman Hamilton asked if it would be appropriate, at this time, to start thinking about productive capability. Commissioner Merrill replied that is such a difficult question because this is a really unusual year, they normally don't see such a wide spread and deep drought – all 10 counties have been made eligible for drought disaster programs etc. She felt it would be quite a task to incorporate weather conditions, one county treated differently than another etc. Chairman Hamilton asked if there is anything they can do to help farmland? Mr. Norm Bernaiche asked would it be appropriate to consider a 5 year rolling average. Chairman Hamilton talked of the difference between farmland and forestland and productive capability etc. Commissioner Merrill explained about productive capability coming under SPI, range of 25 – 425 (and why such a range) etc. Mr. Robert Johnson suggested sending a letter to the municipalities of where in range it falls etc. Chairman Hamilton did not believe there was a guide to follow but would not say it was inappropriate. Ms. Lewy commented on SPI, ratio, three factors and how would you use a range on an SPI. Commissioner Merrill advised the law states if the owner provides the SPI - must use it. Ms. Bryant-Kimball commented about uniform rules across the state, same would apply for forestry, do they need a mechanism etc. Ms. Susan Francher advised she would be concerned about the complexity of doing that. She is unsure how the Board can institutionalize that. A discussion followed regarding SPI, reduction, bringing up the abatement process in the public forums etc. Chairman Hamilton asked Ms. Reid if NHMA had put out any advice on how to proceed with the valuation of agricultural property etc. Ms. Reid commented there had been some discussion about drought control etc. Mr. Bernaiche asked about the Farm Bureau. Mr. Johnson replied not yet, but would check into. Mr. Thomson commented on an individual going to town assessor and select board. Representative Belanger asked where surplus come from, and Chairman Hamilton commented on reallocation. Ms. Lewy asked what do you abate...local level may not be answer.

Next CUB Meeting

Next CUB meeting is set for 10/17/2016, although location will be decided on later. Representative Belanger offered to check into getting reserved parking at the LOB parking garage if needed.

Public Forum Dates and Locations

The following dates and towns were decided upon for the public forums:

- Thursday, **November 3, 2016** Lancaster at **6:00 p.m.**
- Monday, **November 7, 2016** Wakefield at **6:00 p.m.**
- Thursday, **November 10, 2016** at the NHDRA, 109 Pleasant Street, Concord, NH at **10:00 a.m.** (w/board meeting following)

CUB Handbook Subcommittee

Ms. Lindsay Webb advised on the status of the Current Use Booklet and they are at the point where others need to look at it for input etc. She spoke of some changes such as a more helpful index, a supplemental statute section, call out boxes, and that the bulk of the changes were in the handbook section (FAQ's, maps etc) SPI, forms, contact info. She also spoke about identification of identifiable boundaries on the ground as a topic that kept coming up and wanted to address that in the handbook. A discussion followed on identifiable boundaries, identifiable corners, marking boundaries, redrafting 302.03, mapping and calculating, navigable without a survey, accuracy concerns, 309.01, clarifying some of the language (for rules committee) etc.

Agricultural Uses and Structures
and LUCT

A brief discussion on what is agricultural, a “wide variety of interpretation”, moving of a temporary agricultural structure, seminars/classes should have examples on agricultural structures etc. Chairman Hamilton advised that they need to remember that when land is put into current use, it is perpetual dedication to current use; they don’t want some slight, temporary use which will disqualify it. Chairman Hamilton spoke on Land Use Change Tax and time to start a conversation on this for clarification: what is a structure, what is temporary etc. Chairman Hamilton then touched briefly on what is acceptable use for less than 10 acres, and his concern that the definitions that are involved are in keeping with a fair application etc. Representative Belanger commented on HB 1660 - imminent domain taking (did not pass) should be included in the (above mentioned) conversation. Ms. Lewy questioned farmland and under 10 acres, rates and \$2500. Commissioner Merrill explained for livestock and feeding etc.

Chairman Hamilton asked for motion to adjourn; Representative Belanger so moved and Ms. Francher 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