MINUTES OF THE
ASSESSING STANDARDS BOARD

Approved as Amended

DATE: February 10, 2017   TIME: 9:30 a.m.

LOCATION: Legislative Office Building, 33 North State Street, Concord, NH 03301

BOARD MEMBERS:

Senator James Gray        Eric Stohl, Municipal Official, < 3,000 ~ Absent
Senator Scott McGilvray ~ Absent
Representative Peter Schmidt ~ Absent
Representative Mark Proulx ~ Absent
Stephan Hamilton, NHDRA    Rick Vincent, NHAAO, City Official ~ Absent
Len Gerzon, Public Member
Jim Wheeler, Municipal Official, City
Paul Brown, Municipal Official, Towns >3,000

Robert Gagne, NHAAO ~ Absent
Marti Noel, Assessing Official, > 3,000
Betsey Patten, Chairman
Thomas Thomson, Public Member

MEMBERS of the PUBLIC:

Mary Pinkham-Langer, NHDRA
Scott Dickman, NHDRA
Teresa Rosenberger, Devine Millimet
Simon Thomson, Sheehan Phinney
Susan Golden, Concord

Timothy Fortier, NHMA
James Michaud, Hudson
Tom Hughes, BTLA
Cindy Brown

Introductions

Chairman Betsey Patten opened the meeting with introductions.

Minutes

Chairman Betsey Patten asked for a motion to approve the minutes from January 27, 2017. **Ms. Loren Martin made the motion and Mr. Steve Hamilton seconded.** Chairman Patten asked that a sentence be added to page 2 at the end of the 3rd paragraph to read “The NH DRA will generate a technical information release (TIR) regarding the property record card”. She also asked that under “Legislative Update”, in the first sentence that “HB254” be added instead of “this”. She then asked that on page 3 at the top with the sentence starting “Senator James Gray…” that “powers and duties of the assessing standards board” be added instead of “charter”. She also advised that the following sentence which starts “he advised each is a private…” should instead read “he advised each member is a private…” She next referred to page 3, the last paragraph before the bolded sentence and asked that the sentence read “If that loses, they won’t do anything, but they will ask that HB324 come to the assessing standards board”. Ms. Martin asked that on page 2, under the first paragraph last sentence that the word “to” be taken out after “the official title of the document.”. She then referred to “Legislative Update” the 4th sentence in the 1st paragraph, and asked that the wording be changed. It was decided that the sentence would read “Ms. Loren Martin voiced her concerns on defining who would be the public member” and removing the words “possibility of lowering members”. Ms. Martin then suggested on page 3, near the end of the 1st paragraph the sentence that reads “Mr. Gerzon advised that his vote would be to be…” - remove the second “be”. All approved the minutes as amended with Mr. Paul Brown and Ms. Marti Noel abstaining.
Chairman Patten advised that HB324 had been retained and asked if the board was agreeable to discussing Income and Expense White Paper first as it had been on the agenda for some time. The board agreed.

Income and Expense White Paper Discussion and Acceptance

Chairman Patten asked Ms. Marti Noel to proceed with the update and discussion on I & E. Ms. Noel advised the paper is informatory; and while it is not really meant to take a position it does give some recommendations at the end. She commented that the paper attempts to clarify what the assessors are looking for. It was presented to the committee about a year ago and some committee members felt that there were some changes that they wanted to recommend including the disclaimer and having the information published on the website of the ASB.

Chairman Patten mentioned that there was a statement in the paper that stated that the subcommittee and the assessing standards board feel it's very important to have the I & E information. She would like "assessing standards board" (page 10, last paragraph) removed from that statement and just keep it as the subcommittee along with the disclaimer so that it is a subcommittee report being accepted. Senator James Gray spoke of his concern regarding page 2 (a) iv. A discussion followed with Mr. Steve Hamilton explaining and advising that (a) iv. is a quote from USPAP. Ms. Martin referred to page 3 and 4 and talked of the confusion on business income and property rental income.

Mr. Tom Thomson agreed with Senator Gray and explained his concerns and asked Mr. Hamilton if there had been a court ruling. Mr. Hamilton advised that the courts have consistently ruled that for the value of real estate there were three methods to value: cost approach, sales comparison approach and the income approach to value of the property and explained. Ms. Noel also replied that when there were stricter rules, they were better able to gather information. They are finding that now they are valuing all commercial property based on sometimes less than 10% of the information; and since they do not have enough information, they end up in court more often.

A discussion followed that even though the ASB did not wish to recommend legislation; they felt it was appropriate to examine the issue and create this kind of whitepaper instead. Mr. Thomson stated that he would like to see court rulings before wording is removed (such as from page 10 last paragraph). A discussion followed on factors, whether income is a good substitute, market rent, the amount of income that property can produce etc.

Mr. Len Gerzon advised that he had wanted the I & E paperwork adopted as it honors the work of the committee and subcommittee, it's informational and the public has a right to know what the members have been working on. He gave his thoughts and also stated that he is in favor of adopting the paper, but let Legislature make limitations – not the board. Mr. Paul Brown made a motion that they accept the report of the committee with the modification of striking the phrase starting with “along with the NH regulating authorities (The Assessing Standards Board and the Department of Revenue)”. Ms. Martin seconded. Chairman Patten also brought up the discussion on a previous vote regarding the footnote under Standard 6 on page 2.

Mr. Thomson asked to hear from Mr. Scott Dickman. Mr. Dickman spoke on why the case law supports the fee simple value/market value, individual investors, establishing equity, absence of any language in an audit process, statutory obligation, access to the information, and data coming in requiring substantial audit/review.

A conversation followed on wording of #3 under “Recommendations of the Committee” (page 15) specifically “Encourage” replaced with “Consider”. Chairman Patten asked if the board was agreeable to tabling the I & E discussion to make changes etc. Mr. Brown was agreeable but he advised he would like to hear the subcommittee talk amongst themselves regarding the change to #3 as he felt that is a substantial word change. Chairman Patten asked for a motion to table. Mr. Brown made the motion to table, and Mr. Hamilton seconded. All approved.
Utility Assessments (HB324)

Chairman Patten advised that HB324 had been retained. She stated there was no public input at the work session, there was an amendment that was put forth by one of the members (she did not read it), and the motion came out that they would retain it. The chairman had advised Chairman Patten that if they retained HB324, that would give the board more time. She also advised that HB254 had been put on hold until they figured out HB324. Now the only bill waiting to be heard is HB323 which would change the board’s powers and duties, and Representatives Schmidt and Proulx were to be obtaining an amendment for that.

Chairman Patten spoke of the meeting she had with Mr. Gagne and Mr. Hamilton to get some background on Utility to better understand it. She stated that there are three divisions of utilities: (1) distribution which is fully regulated and is multi-jurisdictional and this appears to be where the most complaints are coming from (and lawsuits/appeals). (2) Transmission for lines and pipelines which is also multi-jurisdictional and mostly regulated by PUC and FERC. (3) Generation facilities which are de-regulated and are not regulated by the PUC, they stand alone. She then commented on right of way assessed values and the (at least) four components to the issue. Mr. Hamilton spoke on how in the past they had been well (and fairly) criticized for not being timely in responding to the telecommunication problem. He also spoke on merchant facilities, regulated utility, transmission properties, the PUC, FERC etc.

Chairman Patten commented that she would think there would be assessors that would have a different viewpoint. She wants to be sure that they have all of the input that they need so they can look at how to create the standards so everyone is fairly assessed. The thought is that the NH DRA’s values are always lowest and that’s why a lot of municipalities are going to a third party and their assessed values are going up. She would like to get a sampling of the appeals so that they would at least know what the parameter of the issue is. She was unsure how they should pick the towns – whether they should pick by assessed value, the population etc.

Ms. Martin asked for clarification. Chairman Patten advised she would like to look at the process/the assessing practices that the towns are using, what NH DRA is doing as well as third party practices. Mr. Hamilton advised they can provide detailed information but cautioned they should have a set upon course, i.e. (1) establish if there is a problem and then (2) be able to provide some input as to how to best resolve that problem if one exists. Mr. Paul Brown asked Mr. Hamilton if it would be possible to obtain a printout that would show every town in the state with the local value for utilities and the utility value you choose for equalization. Mr. Hamilton replied they could and asked how many years was he looking at. Mr. Brown replied a couple years just to see if there were trends. A discussion followed. Mr. Brown then asked if it would be possible to break that down by the transmission, distribution and generation facilities. Mr. Hamilton replied that would not be as easy but was not impossible. A discussion followed on Newport and the concern with litigation etc.

The conversation turned to allocation, assessing practices, range of depreciation, cost approach to value, replacement cost. Mr. Hamilton spoke on the two types of outcomes they’ve seen in the courts lately. Mr. Jim Wheeler agreed with Chairman Patten that they need to hear and learn about how the values were arrived at. Mr. Thomson advised that when they do the sampling, it should be consistent across the state. Chairman Patten did have a list from BTLA for appeals from towns. Ms. Martin advised that she could submit a list of their communities that would include assessed values broken down by each specific utility, what their (Avitar) value is and the NH DRA’s value is. She also stated she could go through and highlight their appeals. Mr. Scott Dickman gave his thoughts/concerns including keeping it as “equivalent as possible” and cost basis for substations etc.

Chairman Patten asked the members if they wanted to do this as a committee as a whole or as a subcommittee. Ms. Martin preferred as a whole as it would be less burdensome. The members agreed as a whole.

Chairman Patten then spoke of the bill that is looking to have a business and utility entity at the table. She felt it would be advantageous to have a business person and a utility person to sit at the table. Mr. Brown asked if they had the unilateral right to add voters. Chairman Patten replied that as a chairman she may be able to ask them to do that. Senator Gray replied that yes, Chairman Patten (with the consent of the rest of the committee) can ask for input from anyone she would like, but they cannot let them vote on things that would be part of the
rules – not on rulemaking authority. Mr. Thomson had no problem with inviting them, just not to vote. He also commented on exercising caution on court cases in discussions, minutes etc. Mr. Hamilton stated it would be directed more toward evidence provided - not the actual court cases.

Other Business

Mr. Hamilton advised that the PA-71 – Charge of Misconduct Against DRA-Certified Assessing Personnel form is now available.

Mr. Hamilton then spoke on the procedural rules in the Asb 200 series that just need to be readopted and passed out copies. He asked Chairman Patten for a motion to file Asb 205 and 206 with JLCAR. Mr. Gerzon made the motion and Mr. Brown seconded. All approved. Motion passed.

Chairman Patten adjourned the meeting. The motion was seconded by acclamation.

Respectfully submitted,

Elizabeth McGill

Municipal and Property Division
NH Department of Revenue Administration

All meetings are recorded and are available upon request.

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by:

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