MINUTES OF THE
ASSESSING STANDARDS BOARD

Approved as Amended

DATE: March 24, 2017
TIME: 9:30 a.m.

LOCATION: Legislative Office Building – Room 303, 33 North State Street, Concord, NH

BOARD MEMBERS:

Senator James Gray
Representative Peter Schmidt
Representative Mark Proulx ~ Absent
Betsey Patten, Public Member, Chair
Stephan Hamilton, NHDRA
Jim Wheeler, Municipal Official, City
Paul Brown, Municipal Official, Towns >3,000

Eric Stohl, Municipal Official, < 3,000 ~ Absent
Rick Vincent, NHAAO, At-Large Member
Loren Martin, Assessing Official, < 3,000
Marti Noel, NHAAO, Towns > 3,000
Len Gerzon, Public Member ~ Absent
Thomas Thomson, Public Member ~ Absent

MEMBERS of the PUBLIC:

Mary Pinkham-Langer, NHDRA
Joe Devarenne, Concord
Tressa Northrop, Unitil
Jae Whitelaw, Mitchell Municipal Group
Tom Hughes, BTLA
Timothy Fortier, NHMA
Scott Bartlett, Goffstown

Scott Dickman, NHDRA
Jim Michaud, Hudson
Jonathan Giegerich, Unitil
Mark Lambert, Unitil
Joseph Haas, Vocals Inc.
Charelle Lucas, George Sansoucy
Teresa Rosenberger, Devine Millimet

Introductions

Chair Patten opened the meeting. Introductions followed.

A moment of silence was held in honor of Senator Scott McGilvray.

Ms. Jae Whitelaw of the Mitchell Municipal Group in Laconia was introduced. She stated the Group represents 50-60 cities and towns in New Hampshire including 10 NH Electric Cooperative (NHEC) towns in BTLA cases and 11 Public Service of NH (PSNH) cases and added that there are on-going appeals in the NHEC and PSNH cases through 2015. She distributed the BTLA’s PSNH decision in an effort to provide information to consider throughout the process of understanding utility valuation.

Chair Patten summarized the process the board will be going through to review the process, assumptions, and calculations used by various appraisers in the development of utility valuations in order to report back to the House Science and Technology Committee. This process will not include litigation of any matter which has been heard or decided through the Board of Tax and Land Appeals or Superior Court.
Other Business

Chair Patten acknowledged receipt of an e-mail from Mr. Haas which the board has not had the opportunity to review. She asked that Mr. Haas provide a summary of the e-mail. Mr. Haas asked that the list of board members be updated on the website with the current membership.

With regards to the ASB’s Reference Manual for Selectmen, Assessors and Taxpayers, he stated in many cases, this manual is behind the counter and not readily available for taxpayers to review. He also requested the manual be updated to replace the Sirrell case with the Londonderry case. Mr. Hamilton had responded to Mr. Haas stating the Sirrell case is still relevant. Chair Patten stated she will begin a list of updates to be made to the manual and the board will review the e-mail, however the priority of the board, at this time, is to focus on the utility valuation issue.

Minutes

Chair Patten requested a motion to accept the minutes of the March 10, 2017, meeting. Mr. Brown motioned to accept the minutes. Representative Schmidt seconded the motion.

Concern was expressed that the minutes did not reflect who was speaking during the utility presentation and a request was made to include references to help better understand the context of the information. There was a question asked by Mr. Michaud that was not included in the minutes and was requested to be included. “Does Unitil have a tax attorney firm?” The answer was “Yes, Pierce Atwood.” The relevance of this question is that Len Gerzon, public member of the ASB, is a consultant to Pierce Atwood on public utility valuation. This question will be added to the March 10, 2017, minutes.

A brief discussion about what is and is not included in the minutes took place. The purpose of the minutes is to capture the subject of the meeting, document motions and the results of motions; anything beyond that is permissible but is not required. A request can be made to the clerk to make sure a point is captured that may not otherwise be considered. The recorded file of the meeting is available upon request.

Mr. Brown requested the addition of his abstention on the vote of the March 10, 2017, minutes.

Chair Patten called the question. All those in favor of approving the minutes of the March 10, 2017, meeting as amended. Ms. Martin and Representative Schmidt abstained. All others approved.

DRA Utility Valuation Method

Chair Patten clarified the Bath and Brentwood appeal documents distributed for discussion came from the BTLA and therefore the confidentiality issue the DRA is bound by is not applicable.

Mr. Dickman, DRA Utility Appraiser, began his presentation by referencing the Appraisal of Real Estate Appraisal Institute (14th Edition 2013), the Property Assessment Valuation (3rd Edition 2010), International Association of Assessing Officers and the Appraisal of Real Estate Appraisal Institute to address the following criteria:

- Highest and Best Use
  - Legal Permissibility
    - Zoning, Local, State and Federal Laws affecting use
    - Private Restrictions: Deed, Leases, Zoning Ordinances
  - Physical Possibility
• Financial Feasibility
  o Maximum Productivity
  o Consistent Use (Definition found in the Property Assessment Valuation 3rd Edition (2010) International Association of Assessing Officers and the Appraisal of Real Estate Appraisal Institute)
    o Value for a single use for entire property
      ▪ Land cannot be based on one highest and best use and the improvements on another
• Regulation and Highest and Best Use
  o Regulatory constraints are imposed on utilities when government exercises its rights to protect the general welfare and safety of the public for what is known as police power
    ▪ In NH we have the NH Public Utilities Commission (PUC)
      • Establish limits on rates charged by the utility
      • Establish limitations on the rate of return that the utility is allowed to achieve on its investments
      • Establishes limitations on the type of assets and investments the utility is allowed to earn a return on
      • Mandate sufficient maintenance and capital expenditures in order to assure reliability and viability to the utility property
      • Require approval by the regulating agency for the sale of the property
      • In order to assure reliability and viability of the whole unit, the severability of the local segment of the network with independent buyer is unlikely or at minimum subject to rigorous scrutiny and administrative delays
    ▪ At the Federal level is Federal Energy Regulatory Commission (FERC) that monitors and oversees the regulation of these assets
      ▪ FERC legal elements of consideration are virtually identical
• (4) Marketability
  o Market analysis also provides a basis for determining the highest and best use of a property; in short the market determines the use and the use affects the value
• (5) Matching Rates and Cash Flows
  o Cash Flow must match the Rate and vice versa
  o Income divided by Value = Rate
    ▪ Numerator (Income) and Denominator (Value) must be predicated on the same principles
    ▪ Example: Property Income must match Capitalization Rate (IRV)
• (6) Debt and Equity Relationships
  o Capital Markets that govern property valuation
  o Resources
    ▪ Value Line – Public Compilation of Equities
      • Stocks
    ▪ Moody’s
      • Daily Bond Yields
    ▪ To keep up with investment vehicles are performing
      • Basis for build-up of rate for the use of the income approach
• (7) Introduction of Elements of One Valuation Approach in Use for Another
  o Elements or Concepts of one valuation technique may be intertwined with another
    ▪ Example: When applying the Sales Comparison Approach, appraisers often analyze conclusions derived in the other approaches to determine the adjustments to be made to the sale prices of comparable properties
    ▪ Market analysis yields information needed for each of the 3 traditional approaches to value
      • Cost Approach – market analysis provides the basis for adjusting the cost of the subject property for depreciation, physical deterioration, functional and economic obsolescence
      • Income Capitalization Approach – all of the necessary income expenses and rate data is evaluated in light of the market forces of supply and demand
      • Sales Comparison Approach – conclusions of market analysis are used to delineate the market and therefore identify comparable properties
      • The analysis of cost and sales data is often an integral part of the income capitalization approach
      • Capitalization techniques are frequently employed in a cost and sales comparison as well

Mr. Dickman added the Public Utilities Commission (PUC) charter, through numerous meetings and discussions with their counsel, other lawyers and regulators, documents these same criteria.

A discussion ensued pertaining to theory of highest and best use, which is applied to the appraisal of all property, including utilities, and how the market determines the use of the property which in turn determines the value of the property and what part regulation plays. An example of a small subdivision was used to discuss who installs the poles necessary, what the associated costs are and whether or not a rate of return can be earned on that property. Also discussed was the lack of marketability for the severability of a utility property. During the valuation of the entire property, there is no adjustment for a lack of marketability because there is no market demand for pieces of a utility property. Mr. Dickman added that he values the entirety of a regulated, integrated system which does not require having to visit every individual parcel to determine the highest and best use as it has already been determined.

The question as to how the department values property within each community was asked. Mr. Hamilton responded that the department appraises the entire property and further into the appraisal process, a determination is made as to what value is allocated to each community. However, at this time, Mr. Dickman is explaining how the entire property is valued and the impact regulation has. Valuing parts of the whole is a different process which may incorporate adjustments such as limited marketability.

Pertaining to the subdivision discussion, if a developer installs the necessary poles and gives them to the utility, they cannot earn a return on that property. It is considered a contribution in aid of construction (CIAC) which is a consideration that regulation restricts a company from earning a return on but they do have to pay taxes on it, therefore it is added back into the value. A Supreme Court decision (Hudson Area Water Works v. Town of Hudson) determined that in some cases, many or most of the assets a company may be in possession of have been built by other people, such as developers.

Mr. Dickman continued, in appraising regulated utility assets, he stated the revenue stream is controlled by the regulating authority and therefore, that is the market. Using an Income Approach, the calculation is Revenue - Expenses = Net Operating Income (NOI) and that is capitalized for the rate. The rate is also extracted from the
market using sources such as Moody’s Corporate and Moody’s Utility, which are bond rating agencies. Another resource used is Value Line which is an investment research site.

An explanation of the debt rate and equity rate was given and how the capitalization rate is used in the calculation. Two sources referenced by Mr. Dickman were Moody’s Corporate, Moody’s Utility used to extract the debt rate and Value Line, for investment research and survey of market participants, used to assist in the determination of an expected rate of return.

Mr. Dickman reiterated the importance of consistent use and highest and best use as foundational concepts. The question was asked if the unit method was not used, would the same assumptions and process be the same as an appraisal using this method or would different assumptions be used. Mr. Dickman responded that the same assumptions may be used to a degree such as property rights or zoning. The assumptions used must track with the market and highest and best use of the subject property, however there may be differences in the selection of the rate.

Ms. Noel asked what the miscellaneous figure accounted for. Mr. Dickman could not say with certainty without having the information in front of him however this format of reporting was formulated for FERC (Federal) properties for other expenses. He stated the items included in the miscellaneous figure were taxable expenses.

A brief explanation of the graphs provided in the NHEC appraisal report was given. Mr. Brown asked Mr. Dickman if he went back and compared his projections with actuals; he did for every year, every appraisal, and every approach.

A brief discussion pertaining to a reference to ISO New England took place. ISO New England is a pool of power suppliers; it is not a company valued by the department. The department values the utility companies that operate in New Hampshire. The relationship to ISO NE is that some of the companies, such as NHEC, have to buy their electricity from the ISO NE pool.

Meeting Schedule

Friday, April 14, 2017, at 9:30 a.m. at the Legislative Office Building (LOB) - Room 303
  - Bob Estes (History of Unit Method);
  - Unitil Responses
  - Avitar Presentation

Friday, April 28, 2017, at 9:30 a.m. at the DRA
  - Scott Bartlett

Friday, May 12, 2017, at 9:30 a.m. at the DRA

Friday, May 26, 2017, at 9:30 a.m. at the LOB - Room 303

Friday, June 9, 2017, at 9:30 a.m. at the DRA

Friday, June 23, 2017, at 9:30 a.m. at the LOB – Room 303

Other Business

Chair Patten briefly explained the new format of the ASB website and addition of the white paper document and relating court cases. Mr. Hamilton explained the disclaimer for the white paper will be the first page of the document.

Mr. Gagne motioned to adjourn. Mr. Vincent seconded.
Chair Patten adjourned the meeting.

Respectfully submitted,
Stephanie Derosier

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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Facsimile: (603) 230-5947
Web: www.revenue.nh.gov
E-mail: asb@dra.nh.gov

In person at:
109 Pleasant Street, Concord

In writing to:
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