Ms. Patten began by summarizing the Science, Technology and Energy Committee hearing. Mr. Sansoucy presented as well as Mr. Lambert from Unitil. Mr. Lambert offered an amendment to create a study commission and a discussion followed to consider how long it would take to get the commission up and running, how it would work and what the make up the membership would look like. The suggestions for representation included the municipals, assessors and utility companies as well as the ASB, PUC and BTLA. Mr. Lambert also suggested an amendment that would include a floor for depreciation on net book value and a transition period of a 3-year phase in for the municipalities. Mr. Sansoucy spoke against net book value as he did not agree it was an appropriate value to use as a starting point. Ms. Patten, after listening to the testimony and discussion, felt the assessing end of the issue was not understood by the committee.

Mr. Gagne questioned the idea that the ASB was too biased to weigh in and if that was the case, Mr. Lambert would be as well. He asked if that was voted on. Ms. Patten said it was not, however, Mr. Lambert appeared to have credibility with the subcommittee.

Ms. Patten reiterated that the subcommittee is not versed in assessing and does not know what the ASB does however the board does have the support of the Senate. She suggested the board continue with the task of looking at the numbers and calculations and develop a reasonable standard for assessing utilities and the reasons why. She asked the subcommittee members for their thoughts about dissolving the subcommittee and allowing the Science, Technology and Energy committee come up with something or to continue with the board’s legislative charge and come up with a standard.

Mr. Edwards questioned if the board completes this exercise will their voice be heard? Ms. Patten felt if a commission was established that there was a good possibility it would include representatives from the ASB and the utilities are going to reach out to Cordell Johnston in order to get municipal input on the amendment. She added the legislature gave the board its charge and felt they would listen. Whether or not they accept our advice is not guaranteed.

Mr. Hamilton felt the subcommittee should continue with this process as it is the statutory duty of the ASB to recommend appropriate legislation for property tax assessment administration. He felt it would make the most sense to continue to try and understand the differences, find where those differences can be bridged and explain both. This would help inform the Science, Technology and Energy Committee as well as a study commission of the process. After a brief discussion, the subcommittee members agreed to continue with the task.
Mr. Bartlett expressed frustration about this becoming a political mess and asked if it sounded like a study commission would be created. Ms. Patten stated it could be a study commission or the amendment submitted by Mr. Lambert would go through to the full committee as ought to pass as amended and they would bring it to the House.

Mr. Gagne stated the solution has to be simple and broad. He would like to see a comparison of the values already seen to book value to use as a benchmark. He reiterated HB 324 proposes the adoption of a particular way of valuing or using source of values that appears to be for the most part, the lowest values out there. He believes the true value is somewhere between the lowest and highest values.

Mr. Bartlett stated this board was established to create standards about the process of valuation using USPAP Standard 6 which has since been changed to the entirety of USPAP. This process has not been in place long enough to see how it will work. Creating general guidelines to include what to look at could be a good path to go forward with but he cautioned against creating a direction of “how to use” particular information due to the complexity of it. The focus should be on the process of establishing standards.

Mr. Hamilton offered if this board wants a hope of influencing the outcome it has to make its voice heard even if the legislature chooses not to go in the direction suggested. He added that it is not only reports and the structure of valuation models that are looked at; the results of values can be and are examined and analyzed against the market; there is no way to compare utility values against the market and no way to measure or determine whether utility values are right or wrong. Mr. Bartlett added there are a lot of properties such as big industrial or commercial properties with the same argument however there may be some parameters or indicators of value that can be considered in order for a taxpayer to understand what was done and why and further, to be able to defend or argue against.

Mr. Edwards asked if it would be possible determine a true market value that incorporates the existing standards and approaches to value using and understanding key components such as depreciation and regulatory effects on value for this particular industry. Mr. Bartlett responded that is kind of the direction he is heading. Accountants see things in black and white; appraisers see grey or a range of value which requires judgements based on valuation indicators.

Mr. Hamilton stated that is where his biggest concern is; the distribution of value for multi-jurisdictional properties and the inability for a taxpayer to prove the value of a portion of a property within a particular community due to the lack of comparable market sales for parts of a whole property. His suggestion is to value the whole property and allocate to the individual communities. He added he is not opposed to other valuation ideas however he feels this is the major issue and cause of concern.

A discussion ensued about property currently being valued within each individual community which are difficult to appeal and the concept that the value of the entire unit could be challenged and appealed because sales of entire units do occur in the market but that is not what is being valued within communities. Concern was expressed this could be unconstitutional and change the basis of assessing for the entire State. A discussion followed about the different interpretations of highest and best use and the conflict it creates. From the appraisal side it is the whole unit that should be valued and statute states the appraisal of the property within the borders of a community should be valued. Additionally, determining highest and best use of something that is legally permissible and physically possible is difficult when valuing individual portions of a whole property. The method of allocation is another significant conflict between utilities, assessors and DRA. The hope is that this process will identify the differences between the methods and then be able to bridge those differences with reasonable accommodations leading toward a solution.
Mr. Bartlett briefly explained some of the aspects he feels are limitations in the unit method including if one allocation is wrong they are all wrong; the inclusion of depreciation when determining the net operating income; and the use of net book value. He explained another approach, debt and equity, which considers the stock market, common stock and long-term liabilities when determining the overall market value of a property. The DRA does not typically use this approach however he feels it gives a better understanding of what is happening in the market and helps defend the idea that net book value is not the way to go. He suggested the message to the legislature should include the consideration of a contributory value of the segment to the whole, net book value, original cost, replacement cost or reproduction cost so the main focus are the assets located in one town.

Mr. Gerzon emphasized the importance of the statutory change from USPAP Standard 6 to the entirety USPAP which provides the ability to create standards for the review of appraisals for all properties. He summarized the PSNH and NH Electric Co-op decisions that were decided in favor of the cities and towns because the parties “did not meet their burden of proof” which reflects the concern Mr. Hamilton has expressed. He suggested more emphasis should be taken from the PSNH/Eversource v. Town of Bow decision in which the Supreme Court indicated “they never said it wasn’t net book value.” In this case Mr. Sansoucy’s presentation was given zero weight across the board. Within the next 2-3 months, the Supreme Court will render a decision affirming or not a net book basis not a net book adjustment up or down; net book as a credible trier of fact and not stopping at meeting the burden of proof. That decision may or may not frame this problem differently from our standpoint as well as that of the assessors and selectmen because it would be saying the system is working fine for the appraisal of at least distribution utilities and maybe transmission utilities as well.

After a brief discussion, it was decided that the next meeting schedule for October 26, 2017, will be rescheduled to November 2, 2017 at 1:00 p.m. at DRA.

Ms. Patten stated this committee will have to figure out how to set a standard or parameter, how to measure it and the reasons why. Mr. Gerzon added if an allocation recommendation is made that the same change be considered for the equalization process to avoid a disparate set of applications.

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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