Ms. Patten opened the meeting at 1:08 p.m.

Legislative Update

Ms. Patten reported that she, Unitil and Mr. Sansoucy, attended the hearing on Wednesday (April 4, 2018), on HB 324 which passed the House. There was some discussion on the moratorium but no clear indication on how the Senate may move forward with it. There was not much opposition to the bill and because the bill was with the Senate, the subcommittee should begin to think about there being a commission on this issue.

The House Ways and Means Committee amended HB 1381 to a percentage of 50/50 and added land and land values to it. The bill was tabled on the House side which means it will probably not be acted upon this year. They felt there were enough issues that it would be better to move forward with HB 324. Despite the movement on HB 324, Ms. Patten feels the subcommittee should continue to discuss some of the issues that were put to the side to focus on the distinct utility property valuation formula such as land and land values and provide a recommendation to the commission.

A discussion followed about the moratorium and reasons why it may have been put in by the Science, Technology and Energy Committee and some of the potential issues or limitations that may be created by it; and the removal of the language by the House Ways and Means Committee and how the subcommittee wanted to move forward. The Science, Technology and Energy Committee examined the issue and expressed belief there is a significant problem they did not want to see it get worse before a cure could be introduced. Some of the issues brought forth were that it was too broad and undefined and would be confusing and impractical for municipalities to implement. Town meetings have been held and budgets set, towns will not be changing methodologies for April 1, 2018, and constructing the type of protection intended by the moratorium would be more confusing than trying to find a solution to the problem. It would also delay the process of coming up with a solution if implemented rather than going with the commission in HB 324. Representative Schmidt offered to discuss these concerns to the Speaker and other legislative members indicating this information has been discussed by the subcommittee only and will be discussed further with the full Assessing Standards Board (ASB).
The recommendation of the valuation formula was provided to the legislature with supporting information from the subcommittee. The other two issues that were put aside were land and land values and FERC Transmission. Land values were not included in the ASB recommendation however it was put in by the House Ways and Means Committee as proposed by the utility companies. Ms. Patten reiterated she wants to be able to provide as much information as possible backed up with principles and the expertise of the Board.

Mr. Bartlett briefly explained why he opposed HB 1381 and what he felt were major issues, including the value of land with other property. There is an underlying belief that like property should be assessed in a similar manner however there are three distinct types of utility property within a valuation. There is the distinct utility property that can only be used by a utility such as poles, wires and transformers. There is land owned in fee, easements and rights-of-way which, for utilities, have no value because they were obtained through negotiation and land that may be used for any other purpose other than a utility and should be assessed like other similar land.

Discussion about potential ways to value land ensued.

- Value property in the same way all property in the community is valued; take and apply values per acre or land that is under rights-of-way; figure out how much land there is and apply that average value per acre and adjust by some factor based on whether it is land owned in fee, land subject to right-of-way or land that is in occupancy of a public right-of-way. That kind of formula should be relatively easy to construct and apply at the municipal level. It was agreed that makes sense for rights-of-way and easements.

- The above process would not work for valuing land in fee because it is dependent on location. Rather than a formula, guidance was recommended to assess land as if vacant and undeveloped, the same as you would neighboring or abutting lots. Mr. Bartlett added that this discussion is based on a very small percentage of utility property.

Another distinction is this property is regulated utility property and should be a different value. The objective is to limit disputes and applying a simple formula could accomplish this without surrendering local valuation impact. Rent-controlled apartments were given as a comparison to regulated utility property to illustrate how the amount of income that could be generated by owning and using this type of property is limited by the law or by an order of the PUC and therefore land by its nature is different.

- A reasonable and calculable process that could be used by the municipalities could be to begin with the 75/25 formula, deduct the land values and apply the weighting; then add a formula driven value for land, land owned in fee and land owned as rights-of-way or public rights-of-way, which would limit potential disputes.

Mr. Gagne expressed concern about valuing and taxing land at its book value. The value of a vacant parcel of land can either be at its highest and best use or its current use. For a utility, that is the current use. He felt the solution ought to be a separate formula to avoid potential disputes.

Mr. Sancoucy was opposed to regulating how land is valued. He provided some information about easements including having a lack of limitations or restrictions on how much they cost or are valued; they can be sold and purchased; they can earn more money than what they were purchased for and they can be rented. He does not believe this is a system that is broken and stated he is not aware of any utility raising the issue of land values and the BTLA has never had to rule on them. It is not an issue that needs solving because it is unique on a state-wide basis.
Mr. Hamilton presented the subcommittee with a copy of a Summary of Inventory Valuation (MS-1), a report that is filed every year by every municipality. He discussed the information on page 2, in particular the section of land valuation which reports the number of acres in the community and a valuation broken down between the categories of residential, commercial and industrial land. He explained this information could form the basis of being able to calculate an average value in each community; information that would be fair to analyze. It would recognize the important differences in value between places and would reflect local land value issues. He suggested using this as the starting point for the kind of calculations the subcommittee might want to recommend.

Pertaining to easements, he agreed they are different; they are not the ownership of all of the rights of the land; they are the ownership of some of the rights of the land. If a way could be found to calculate an average value for all of the land; and then apply different factors to recognize the limited rights that apply and local conditions, there would be no area for dispute. The objective is to find a way to provide a consistent, reasonable, fair and predictable method for the taxation of the utilities to benefit the rate payers and taxpayers.

Zoning regulations was mentioned as another factor to consider. The difference between municipal and utility zoning is that municipal zoning is imposed on all property owners within a certain class or location causing them to be treated the same. However, the difference from a valuation standpoint is, utility regulation is imposed against a specific property regardless of the location and that regulation does not apply equally against all other utility property. and therein is the difference from a valuation standpoint.

Mr. Hamilton added the importance of allowing some local land value impact to (1) recognize a greater value to places that have more easements and land impacted to it which will increase the value and (2) diminish the impact of assemblage by excluding the impact of necessity that should not be considered in the value.

More discussion followed about fee ownership. Mr. Bartlett expressed concern about Mr. Hamilton’s explanation and solution because it defeats the purpose of highest and best use and the purpose of the contributory value to the whole. He added he does not this is a problem that needs this much debate because there is not enough and in fee to have a significant impact. Mr. Dean, representing NH Electric Co-op, agrees with Mr. Bartlett that fee property is not the problem. However, from the taxpayer’s perspective, this is a new paradigm and discussion about how to get it done and we are interested in the result. It is an issue that has to get resolved or incorporated. The reason it becomes an issue is with an unknown portion we don’t know how much of the tax bill is derived from land value or easement value and how much comes from something else. Within the spreadsheets that were produced of the municipal tax bill, we can understand all the values but the land; we can understand under this scenario we break even; under this scenario we pay more; and under this scenario we pay less but land value is a black hole. There hasn’t been litigation about land because there have been other things to litigate about. Our concern is if we don’t have information to help understand the value of easements and rights-of-way, we cannot understand what we are going to get taxed on or what our bills are going to be.

Ms. Patten reiterated the importance of this subcommittee and the full ASB to understand how the value of land is derived. Once the commission is in place, she would like to be able to bring an ASB recommendation of we feel would be fair, reasonable, and calculable for the valuation of land.

Mr. Bartlett suggested the subcommittee review HB 1381 as introduced and as amended to look for areas of agreement and disagreement. This will allow the committee to start to focus on working towards finding middle ground and coming up with some options for the commission to bridge the gaps.

A discussion followed about the expectations of the two members of the ASB that will serve on the HB 324 commission. Ms. Patten stated she feels the members should be able to provide some assessing expertise and provide some general explanations however there should be no opinions offered without having the backing of the full ASB. It is anticipated the two members will keep the board up-to-date. More discussion about the commission
and expectation of the members will take place at the next full Board meeting. Topics for the next ASB meeting included HB 324, land and land values, commission members, HB 1381, the current use article.

Meetings

ASB – Friday, April 13, 2018, at 9:30 a.m. at the LOB – Room 303

Utility Valuation Subcommittee - Friday, April 13, 2018, at 11:30 a.m. at the LOB – Room 303

Minutes

Mr. Edwards motioned to accept the minutes of February 9, 2018. Mr. Lessard seconded the motion. No discussion. Ms. Patten called the motion to accept the minutes of February 9, 2018 as written. All Approved.

Ms. Patten adjourned the meeting at 3:25 p.m.

Respectfully submitted,
Stephanie Derosier
Municipal and Property Division
NH Department of Revenue Administration

All meetings are recorded and available upon request.

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

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