

*Assessing Standards Board
Regular Board Meeting*

Approved as amended

DATE: April 13, 2018

TIME: 9:30 a.m.

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

BOARD MEMBERS

Senator James Gray

Senator Bob Guida ~ Excused

Representative Peter Schmidt

Representative Mark Proulx

Betsy Patten, Public Member, Chair

Robert Gagne, NHA AO, City Official

Stephan Hamilton, NHDRA

Jim Wheeler, Municipal Official, City ~ Excused

Paul Brown, Municipal Official, Towns >3,000

Vacant, Municipal Official, <3,000

David Marazoff, NHA AO, At-Large Member

Loren Martin, NHA AO, Towns, <3,000 ~ Excused

Joe Lessard, NHA AO, Towns >3,000

Len Gerzon, Public Member

Thomas Thomson, Public Member

MEMBERS of the PUBLIC

Mary Pinkham-Langer, NHDRA

Austin Sansoucy, GES

Emalie Colborn, GES

Tom Hughes, BTLA

Ms. Patten convened the meeting at 9:35 a.m. and welcomed those in attendance. Introductions followed.

Minutes

March 9, 2018 - Regular Board Meeting

*Mr. Gagne **motioned to approve the minutes of the March 9, 2018, regular board meeting**; Representative Proulx **seconded the motion**. Chair Patten called the motion to approve the minutes of March 9, 2018, regular board meeting as written. Representative Schmidt abstained. All others approved. **The motion passed by majority vote.***

Utility Valuation Subcommittee

Chair Patten gave a brief overview of the activities of House Bill 324 including an amendment by the House to add a moratorium and an amendment by the Senate to remove it and the bill is currently pending in the Senate. Another amendment was made to the composition of the study commission which added a second member of the Assessing Standards Board (ASB) to be appointed by the Board, in addition to the Chair or his/her designee. She indicated Mr. Wheeler and Mr. Gerzon have expressed interest. She added when Senate has made a decision on the bill, the Board can address it then. A suggestion was made that if the bill is passed as written, that an open-nomination process take place at the following meeting to think about who might be willing to stand up on our behalf and represent the ASB. It was clarified that an assessor will also be appointed by the NHA AO to serve on the study commission.

Chair Patten then explained she called a meeting of the utility valuation subcommittee on April 6, to discuss issues that have not been addressed or brought to the full Board for consideration or suggestion. The subcommittee agreed there was still work to do including how to assess land and land values, the legislative change in percentage from the Board's suggestion of 75% original cost and 25% net book value to 50/50, both of which were amendments in House Bill 1381, which was tabled, and how to deal with new construction if a phase-in period is passed so that it is not excluded. She stated there may be a need to request additional information from the utilities to review.

A brief discussion followed about the utilities that were sent a request for information. Mr. Hamilton reported that only a few regulated utilities were included in the request for information as a way to demonstrate a formula to be determined and to analyze the potential impact on individual communities and the overall State. Unitil, NH Electric Co-op (NHEC) and Eversource were sent a request for an inventory of property and Unitil and NHEC responded quickly with information however Eversource has stated they are not comfortable releasing the data. He suggested the Board make another request from the Chair to reiterate the usefulness of the information to the process with a full explanation as to how this will help us try to resolve this valuation issue, in particular for regulated, utility property. Mr. Gagne asked if a letter was received by the Board from Eversource to look into the issue and if so, that may be something to consider when making the request. In addition, Mr. Hamilton indicated there has been some communication from Pennichuck Water that they are willing to provide information however a direct request from the Board has not yet been made to them. He suggested that a letter go out to them as well.

Mr. Hamilton, on the issue of the moratorium, explained it was against changing the method of valuation. The subcommittee discussed and agreed the language does not appear entirely workable from a technical standpoint as it would be difficult to constrain municipalities from changing in one way or another. They also felt it would be difficult to provide much guidance to the Senate should they decide to amend it.

Ms. Colburn, representing George Sansoucy's office, submitted a letter from George Sansoucy to Chair Patten with regards to previous minutes. Chair Patten read the letter dated April 13, 2018, into the record:

"Re: DRA Commissioner's Letter in the ASB Meeting Minutes.

Dear Ms. Patten,

Please be advised that at the January 12, 2018, ASB regular board meeting, Representative Abrami's correspondence regarding an ethics complaint on George Sansoucy was read for the record and was copied verbatim in the meeting minutes.

On February 16, 2018, Chair Patten reported a response was received from the DRA Commissioner regarding the complaint from Representative Abrami. Chair Patten read the letter out loud for the record. In the minutes for February 16th meeting, instead of writing the letter verbatim, as was done for Mr. Abrami's complaint, it was only stated that the letter was read into the record.

We respectfully request that you include the contents of the letter verbatim in the minutes for the record.

Very truly yours,

George E. Sansoucy, P.E., LLC."

A brief discussion followed. Representative Proulx motioned to include the full letter from the Commissioner into the minutes of April 13, 2018, regular board meeting with reference to the February 16, 2018, regular board meeting. Mr. Lessard seconded the motion. Chair Patten called the motion. All approved. The motion passed unanimously.

The following letter dated January 30, 2018, was received by the Board at the February 16, 2018, regular board meeting from the Commissioner of the NH Department of Revenue Administration:

“Re: Request for Commissioner Review and Determination, date January 16, 2018

Dear Chairman Patten:

I write in response to the Assessing Standards Board (“ASB”) Request for Commissioner Review and Determination, dated January 16, 2018, pursuant to Asb 307.01 and regarding George E. Sansoucy (the “Request”). Thank you for bringing this important matter to my attention. For the reasons explained below, however, I cannot make a determination as requested.

Assessing Standards Board Rule (“Asb”) 307.01 provides that a charge of misconduct may be made to me concerning a DRA-certified person using the department’s form or with a letter including the information required in ASB 307.01(b). Your January 16, 2018 Request does not, however, include all of the required information. In particular, ASB 307.01(b)(6) and (7) require that such a request identify the “specific adopted standard violated” and to bear a “signature under the penalty of unsworn falsification pursuant to RSA 641:3.” The ASB’s Request does not meet either of these requirements.

Nevertheless, I have also reviewed the substance of the Request and even if its form were proper, I would still be unable to provide a determination. I do not see the allegations unambiguously fitting into any of the types of misconduct set forth in Asb 307.02, including statute or rule violations. It does not appear that Mr. Sansoucy himself violated any statute; rather, it seems that he simply pointed out to clients a basis for interpreting the statute leading to different economic outcomes. While his interpretation may not be correct or prudent (a point which I do not offer an opinion about at this time), giving such advice does not appear to violate any law. Asb 307.02 (d).

Accompanying your Request was an email from Representative Patrick Abrami, dated December 21, 2017, suggesting that Mr. Sansoucy’s conduct may have constituted a “major ethics violation.” However, even assuming that to be the case, ethics violations are not covered by the ASB’s existing rules. See Asb 308.03. Consequently, I cannot make a determination about such as requested.

Obviously, Consolidated Communications (f/k/a FairPoint Communications) has remedies, including the pursuit of abatements, if it believes the wrong assessing method was chosen by the selectboards. See, e.g., RSA 76:16.

Please let me know if there is anything else I might do for you or if you have any questions about this letter. Again, thank you for bringing this to my attention. I look forward to assisting you again in the future.

Sincerely yours,

Lindsey M. Stepp
Commissioner”

Manual Subcommittee Update

Mr. Gerzon reported the subcommittee met for the first time this morning. The subcommittee members are Mr. Lessard, Mr. Hamilton or his designee, himself, appraiser Laura Davies from the NHDOT and Cindy Brown formally of the BTLA. The task of the subcommittee was reviewed and the focus will be to review legislative changes and any impact or relevance they may have on the manual since the last iteration published in 2014. Other topics discussed included a public inquiry received by Mr. Haas pertaining to the state education tax, the meeting schedule and anticipated completion by August. The subcommittee members were asked to review the existing document to see if there were any elements or small changes that might be incorporated. The next meeting is scheduled for May 8, 2018, at 2:00 p.m. at the DRA. Mr. Hamilton invited ideas from the Board and the public members as well as their participation at the meetings to observe the process of editing the document.

A discussion ensued pertaining to RSA 76:21 Prorated Assessments for Damaged Buildings. Mr. Thomson expressed concern that the information pertaining to this relief for property owners is not known by towns or property owners. He requested information pertaining to the law, the Supreme Court case, and the application is included in the Assessing Reference Manual. To that request, Mr. Gerzon stated this statute was discussed at the meeting and will be included in the update.

Mr. Gagne suggested an amendment to RSA 76:21 to reflect March 1 following the tax or 60 days from the fire because the law, as written, allows for a period of time when an owner loses their appeal right and ties his hands. Mr. Hamilton added this was not meant to be a substitute for the abatement process rather an expedited resolution to a process that requires an owner to wait for a final notice of tax before having the ability to file.

Mr. Thomson described some of his efforts to get the information out including talking to towns and putting an article in newspapers, and one newspaper that refused to print it. Discussion followed about ways to get the information out including a technical release from DRA, providing information to fire departments, taxpayer associations and to the Fire Chiefs and Fire Marshalls. Mr. Hamilton offered to work with Representative Proulx to make sure the information is distributed to the appropriate individuals. He offered to provide Department resources to create posters and distribute information.

After brief discussion about a statutory amendment Mr. Hamilton **motioned to recommend future legislation to amend RSA 76:21, III., to extend the filing period, with the following language “[...] within 60 days or by the following March 1, whichever is later.”** Mr. Lessard **seconded the motion.** Chair Patten called the motion to amend RSA 76:21, III. All approved. **The motion passed unanimously.**

Rules Subcommittee

Mr. Hamilton reported the Department is in the process of reviewing the recommended changes; making sure they are in the correct format to be submitted as an initial proposal to JLCAR. A meeting of the subcommittee has not been held since February. Speaking on behalf of the committee Chair Ms. Martin, Mr. Hamilton suggested a meeting be scheduled after the rulemaking hearing has occurred to address any changes brought forward to be able to make a recommendation to the Board based on input received.

Task Items

The Board reviewed the items on the task list last updated in 2015. After review and discussion, the task list was updated to include the following:

1. RSA 76:21 Amendment and addition to Assessing Reference Manual
2. Create a form to explain information on the property record cards
 - a. It was suggested this task could be wrapped into the manual subcommittee’s update
 - b. Include hyperlinks in the manual to relevant information
3. Review of Certification Levels

Mr. Hamilton stated the subcommittee extensively examined the levels, requirements, educational requirements and experience required for the different levels of certification however that full discussion has not occurred with the full Board. He believes it would be a helpful discussion to have to provide a more extensive report on that issue to the Board from the subcommittee.

4. Market data, rental and expense, confidentiality, and Real Data information
 - a. Needs attempted legislation

b. *Alternative methods for market data*

With regards to task 4, above, Mr. Hamilton felt the Board should examine in more detail the idea for creating a pool of market information for use by assessors in making their valuations using income and expense information for investor-owned properties to help alleviate the confidentiality burden that exists.

Non-Public Session

*Mr. Hamilton moved for the Board to enter into a non-public session under RSA 91-A:3, II., (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.” He added the Board will be discussing an issue that may include individuals who are not members of this body. Mr. Gerzon **seconded the motion**. It was confirmed the individuals involved were notified this issue was going to be discussed at this meeting and they did not appear. **A roll call was taken.** Mr. Gerzon, yes; Mr. Thomson, yes; Mr. Lessard, yes; Representative Schmidt, yes; Representative Proulx, yes; Mr. Hamilton, yes; Ms. Patten, yes; Senator Gray, yes; Mr. Brown, yes; Mr. Gagne, yes. Mr. Marazoff was not in the room when the question was called.*

Chair Patten stated the Board voted unanimously to come out of the non-public session and the minutes were not sealed. The topic of the discussion was an article entitled, “Current use study efforts fizzle in NH Legislature” by Michael Kitch.

Chair Patten explained the amendment to House Bill 1210 which asked that the Assessing Standards Board study the following issues (1) Whether the property under conservation restrictions is constitutionally eligible for current use assessment; (2) Existing valuation and assessment methods for properties under current use and properties under conservation restrictions; (3) The financial impact of current use and conservation restriction assessments and tax rates on the overall property tax rates in small and rural communities. The results were to be reported on or before November 1. Although House Bill 1210 was tabled, she asked if anyone had any insights or thoughts.

Mr. Brown stated he benefits from current use and he believes that the issue belongs with the commission proposed by Senator Guida. He does not see this Board talking about tax policy; its focus is assessing policy.

Senator Gray stated he would like to see the Board discuss their opinions since the article reports that the Board has already formed one and to the best of his knowledge it has not and he would like it stated what the Board’s policy is.

Chair Patten offered the last time this Board had interaction with the Current Use Board; it was about the assessment practices which the DRA determines whether or not the ASB standards are being met by the municipalities, in particular the documentation of maps. The concern was that when the program began maps were not required; then a change was made to require a drawing of a map to identify land in current use. As technology has changed there was concern that there should be surveyed plans of current use land. This subject was briefly discussed and it was determined that the issue would be more appropriate for the Current Use Board. Any issue of current use that comes before this Board, based on what we have done in the past, is referred to the Current Use Board.

Mr. Gagne referenced the minutes of March 9, 2018, specifically under other business and legislative update. It was mentioned that HB 1210 had proposed to have the ASB study issues around current use and that this body took no action. The Board discussed it and did not vote to inform lawmakers in any way.

Mr. Hamilton **offered a motion** that this board has examined an article written by Michael Kitch which reported an action of the Assessing Standards Board that this Board does not believe ever occurred and that the reference to the Assessing Standards Board determination is inaccurate to the best of our knowledge. Mr. Gagne **seconded the motion**. Mr. Lessard stated the wording was that we “believe”, he thinks it was affirmed that this Board did not take action. Mr. Hamilton accepted the amendment. Chair Patten called the motion to approve the following statement as amended, **“This board has examined an article written by Michael Kitch which reported an action of the Assessing Standards Board that this Board has affirmed did not occur and that the reference to the Assessing Standards Board determination is inaccurate to the best of our knowledge.”** All approved. **The motion passed unanimously.**

Other Business

Representative Schmidt requested the members of the public introduce themselves. Mary Pinkham-Langer from the DRA, Tom Hughes from the BTLA, Emalie Colburn from George Sansoucy’s office, and Austin Sansoucy from George Sansoucy’s office.

Next Meeting

Friday, May 11, 2018, at 9:30 a.m. at the Department of Revenue Administration

Mr. Brown **motioned to adjourn**; Senator Gray **seconded the motion**.

Chair Patten adjourned the meeting at 11:55 a.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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Web: www.revenue.nh.gov
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In person at:
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