

**TOWN OF WHITINGHAM
BOARD OF CIVIL AUTHORITY
JACKSONVILLE, VERMONT 05342**

MINUTES OF PROCEEDINGS – July 23, 2019

The meeting was called to order at 6:30 p.m. on July 23, 2019 by Almira Aekus agreeable to the warning. The following members were present: Elizabeth McKinley, Terry Morse, Tyson Dix, Susan Johnson, Wayne Corse, and Clerk Almira Aekus. A motion was made by Almira Aekus, seconded by Susan Johnson to elect Tyson Dix as chair of the Board of Civil Authority for the grievance process; all in favor. A motion was made by Terry Morse and seconded by Elizabeth McKinley to elect Susan Johnson as vice chair; all in favor.

The board reviewed the rules of procedures. A motion was made by Wayne Corse, seconded by Tyson Dix to change “Lister” to assessors/lister’s clerk throughout the policy, all were in favor. At 7:30 p.m. the chair recessed the meeting until July 29, 2019 at 5:15 p.m.

The Board of Civil Authority reconvened on July 29, 2019 at 5:15 p.m. with the following members present: Chair Tyson Dix, Vice Chair Susan Johnson, Elizabeth McKinley, Terry Morse, Wayne Corse, Scott Reed, and Almira Aekus.

DATE: July 29, 2019
TIME: 5:15 P.M.
APPELLANT: Great River Hydro, LLC
PARCEL NO.: 01-0001-02
SPAN NO: 753-239-11256

Attendance: Assessor, Nate Stoddard from NEMRC – New England Municipal Resource Center, Howard Dix, Lister Clerk, and appellant representative Mark Cleverdon, Property Tax Manager, Great River Hydro, LLC.

The chair called the meeting to order at 5:15 p.m. and had the BCA members, assessor, lister clerk, and appellant introduce themselves.

Pursuant to 12 V.S.A Section 5810, the oath was given to Nate Stoddard, Howard Dix and Mark Cleverdon.

The chair asked the appellant representative if he had received a copy of the rules of procedure. Mr. Cleverdon acknowledged that he had received them and was all set with them.

The chair asked BCA members to disclose any conflict of interest and or ex parte communication. There were none.

Assessors/Listers: Howard Dix introduced parcel number 01-0001-02, owner Great River Hydro LLC, consisting of a generation and flowed land. Their office was sent an assessed

value for the property with a value of \$58,064,460 from the State of Vermont. The valuation is based on the state recommendation for assessment. He provided the BCA members and appellant (Exhibit A) consisting the first page of the property record card, a copy of "Vermont tax inventory to be filed with the listers or assessors on or before April 20, 2019 and a listing of "Hydro facility appraisal values – TransCanada based on 2010 Sansoucy appraisals listing the now Great River Hydro LLC's property located in Whitingham with a value of \$58,107,900.00.

Appellant: Mr. Mark Cleverdon, Property Tax Manager for Great River Hydro LLC gave a background of what has happened. They had met with selectboard a couple of months earlier and were trying to work with the selectboard to make another settlement agreement as the settlement agreement between the town and Great River ended in 2018. The value under the settlement for the years 2013 to 2018 was basically \$58,100,000. The aggrieved 2019 value is \$43,000 less. The valuation of the property consisting of the dam, station and land can be done by three different methods for appraising and they are market, cost and income. He stated the income approach is the most used for the property and was used in the past. The reason they do not use the cost approach is because the plant was built in 1925 and a lot of the assets are old. The values could be bumped up but would not be as accurate as the income approach as it is based on the earning potential. With income approach the value is contingent upon the market and economy and the operating performance of the assets being valued. He gave a comparison and asset value in general is reflective of the energy prices and the operating expense of the plant remains constant. The operating expenses year after year do not change much but value is really correlated with the market wholesale energy prices. When wholesale energy prices go up, the value goes up and if it goes down the value goes down. When they use values for their facilities they forecast them every 3 to 5 years. In 2013 when the settlement happened, the value settled on was \$58.1 million and at that time the average wholesale energy price was \$56 per megawatt hour. In 2014 the prices went from \$56 to \$63 making the trend look like the value of energy was going up and they locked in the rate at that time. Since then energy price for megawatt hour ISO New England forecast (Exhibit B) 2013 and 2014 were at the height but what happened between the years 2013 to 2018 the prices dropped and they continued to drop and are now at \$43.54 per megawatt hour. During that period the prices dropped and that means the value of the plant dropped because the earning capacity dropped. ISO New England has a forecast that is saying the prices are not going to change very much in the coming years and are going to stay low because there are now a lot of energy efficiency standards that save such as low natural gas, wind turbines, and solar which has added to the supply. Going forward ISO New England says there is a larger supply of electricity than there is demand and the prices will go down. The projection going forward is that the prices will remain in the \$40 per megawatt hour range and because of that the fixed settlement of \$58.1 million determined in 2013 when prices were high have dropped and they anticipate them staying where they are. For that reason they are appealing. He has done some internal analysis and the value he is coming up with is about \$30 million instead of the \$58.1 million. He said the value is subject to change as there will have to be an independent view of the value.

Assessor/Lister Clerk Response: Mr. Stoddard stated that in the evidence packet is the

Vermont 2019 inventory with the value of \$58.1, a copy of the 2010 Sansoucy appraisal, and on the back page of the state papers has Whitingham's value from the state (Exhibit A).

BCA Questions: Wayne Corse questioned when the system changed hands. Mr. Cleverdon believed April 2017. Mr. Corse asked what the purchase price of the whole system was. Mr. Cleverdon did not have the answer but agreed to email the information to the clerk (Exhibit C) Mr. Corse questioned if Harriman Station was considered a peak power facility. Mr. Cleverdon was unsure. Mr. Corse questioned if a facility with a peaker had a high value for energy. Mr. Cleverdon stated he was not operations and could not answer that question but would email information as to where to look information up (Exhibit C) Mr. Corse stated the other power sources that were mentioned such as solar and other types are not controllable and the power generation at Harriman is controllable.

Assessors/Lister Clerk: Supporting evidence (see exhibit A) No response.

Appellant: Mr. Cleverdon stated the town value was based on 2010 and 2012 values as can be seen on the graph he presented, the values are lower (Exhibit B) Settlement was done in 2013 when values were higher and now they are lower.

Inspection Committee: An inspection committee was established with the following members: Wayne Corse, Scott Reed, Tyson Dix, and Terry Morse. A site visit was set for either Wednesday, August 7th or Thursday, August 8th at 5:00 p.m. Mr. Cleverdon was asked if there would be any objection to Lister Clerk Howard Dix and Justice of the Peace Dana Homer joining them on the site visit. There was no objection. The actual site visit took place on Thursday, August 8, 2019 at 5:00 p.m.

There being no further questions or comments the chair recessed the hearing until Monday, August 26 at 5:15 p.m. The hearing recessed at 5:44 p.m.

DATE: July 29, 2019
TIME: 5:45 P.M.
APPELLANT: Philip M. Schwab
PARCEL NO.: 08-0807
SPAN NO: 753-239-10841

Attendance: Assessor, Nate Stoddard from NEMRC – New England Municipal Resource Center, Howard Dix Lister Clerk, and appellant representative Rich Lagerstedt of Northfield Real Estate & Appraisal LLC.

The chair had BCA members and appellant introduce each other.

Pursuant to 12 V.S.A Section 5810, the oath was given to Nate Stoddard, Howard Dix and Rich Lagerstedt.

Chair asked the appellant representative if he had received a copy of the rules of procedure.

Mr. Lagerstedt acknowledged that he had received them.

Chair asked BCA members to disclose any conflict of interest and/or ex parte communication. Mr. Reed stated he had spoken to the appellant about some work he wanted done on the house. Mr. Reed recused himself from the hearing.

Assessors/Listers: Mr. Stoddard introduced 856 Streeter Hill Road; parcel number 08-0807 consisting of a single family residence and 12.88 acres +/- . The property is developed with a 2 story contemporary built in 1975, with 5 bedrooms, 4 baths, a +/- 576 square foot attached 2 car garage, a +/- 1344 square foot 2 car detached garage, a +/- 320 square foot storage shed, and an in ground swimming pool. Current value is \$336,500. Mr. Stoddard presented to the Board of Civil Authority and appellant (Exhibit A) Included in Exhibit A were property comparables, aerial photo of parcel, listing of subject parcel, comparison of cost spreadsheet, and listing cards for the three comparable properties used. After all adjustments were made all of the comparables fell in line with the subject parcel in regards to the values.

Appellant: Mr. Lagerstedt, representative for Philip Schwab who owns 856 Streeter Hill in Whitingham presented the Board of Civil Authority as well as Mr. Stoddard and Mr. Dix a packet (Exhibit B) that included a letter to the Whitingham Board of Civil Authority outlining the reason for the appeal, a letter from Patrice Schneider of Four Season Sotheby's International Realty regarding the sale of the property, a MLS listing sheet for the subject property, 6 listing sheets for comparables, 5 pages of statutes with highlights, and 2 pages of property listings. Mr. Lagerstedt stated the property had been on the market for 215 days plus another 183 days prior to that for a total of 398 days. He said the property had adequate exposure to the market. Mr. Schwab purchased the property for \$251,300 which they considered to be the fair market value and closed on February 19, 2019. Lines 4, 5, & 6 outlines fair market value. He quoted Vermont Statutes Annotated Title 32, Chapter 121, Section 3481 which defines fair market value as "The estimated fair market value of a property is the price which the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies and all other elements such as age and condition which combine to give property a market value."

Summarization of the basis for an assessment appeal is based on the following:

1. The property was listed and entered into the NEREN Multiple Listing Service for other agents in the region to actively show to prospective purchasers and encourage potential purchase offers. It was on the market for a total of 398 days.
2. The subject transferred at a arms' length and is a fair market value sale
3. Fair Market Value is the standard set by VT State Law for assessment purposes
4. Equalization of value is applied after FMV has been determined.
5. The property Grand List category is "Residential 2" The State of Vermont PVR has determined that the sale to assessment ratio for properties in Whitingham under this category is 103.51%. Under VSA Title 32 this cannot exceed 100%.

He pointed out the bold and underlined information on his letter to the Board of Civil

Authority and asked the board to take the information in to account regarding the value. Assessments are derived from sales and that is what NEMRC uses to develop a model and analyzes all the pieces of a sale to develop a model. Sometimes the model misses things as it is computer generated and it does not pick up things that may have nuances about. The program is mathematical in nature. He reviewed the house being on the real estate market, Broker felt the sale was an arm length transaction and the printout from MLS – shows the marketing days and listing price. Reviewed the comparables he had included in Exhibit B. The appellant requested the value be amended to \$251,300 and equalized at 100% for a final assessed value of \$251,300. The purchase price represented a \$113,700 reduction from the original list price.

Assessor/Lister Clerk: Mr. Stoddard agreed with 32 VSA section 3481 with its definitions and statutes but in that same title subsection under definition of appraised value “In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative and agreed that market value and is market and cost driven or market and sales driven. He pointed out that one of appellant’s comparables was the same one the listers office ran and there were adjustments made to the value because there are different 51 Stimpson Hill Road adjustments that would need to be made if you were to compare apples to apples and the adjusted value would be \$338,040. Howard Dix asked if there had been any renovations done since the sale of the property. Mr. Lagerstedt was unsure of the answer. Mr. Dix stated he believed that work had been done and that any work that has been done to the property since the sale would need to be considered when the inspection is done. Mr. Corse asked for clarification from Mr. Dix that any work done up until April 1, 2019 would need to be considered. Mr. Dix confirmed that was the date.

Board of Civil Authority Questions: Almira Aekus asked if there had been renovations if anyone had presented any information. Mr. Stoddard stated the Listers/Assessor do not have any information as they could not get in the house to do an inspection. Mr. Lagerstedt stated there was information on MLS from when the house was on the market and that there were a ton of photos. Ms. Aekus asked if the information could be emailed to the board so that the information could be taken in to consideration. Mr. Lagerstedt said he would email the information (information received Exhibit C). Tyson Dix asked Mr. Lagerstedt if he had inspected the property himself and Mr. Lagerstedt stated he had not. Mr. Dix questioned how an appraisal could be done without visiting the property. Howard Dix stated they did go in to the driveway to see the property and that there was construction going on. They did not go inside the house.

Appellant: Mr. Lagerstedt – addressed the line sale price is not the sole determinate to a point. It is true if a property is in foreclosure, as there was a point in time where buyers would buy property at foreclosure and then go to the town and say the property was only worth what they paid for it and based on state law at the time the town would have to reassess the property to the sale price and statute changed to address issues like that. He does not feel this sale falls under that category as the property was on the market for over a year. It was exposed and no offers were made. That in itself is a test of market value.

Howard Dix stated the sale was a cash deal and would be considered invalid as the classification is how valuation is put in as far as valid versus not valid and a cash sale is not considered valid in the sales study. The sale would be pulled out of the sales study. Mr. Stoddard stated that sometimes cash is looked at in old adage as “cash is king” as it had been listed for a long time and someone put it under contract with another 17% reduction in price because they may have divided up some cash and had a quick sale. The seller was out from under the property in less than a month as he didn’t have to wait for a home inspection, mortgage approval so “cash is king” is the theory behind cash because it is a quick sale.

Appellant: Mr. Lagerstedt stated he disagreed with the statement. He sees all the time where properties are listed for a price and sold for a substantially different price. One comp was listed for \$299,000 and sold for \$240,000 and it wasn’t a cash sale. Another was listed for \$359,000 and sold for \$293,000 and was not a cash sale. The point is where a seller has a price where they will not go below and that price is a fair market sale whether the sale is cash or not. He disagrees with the statement that cash invalidates a sale.

Questions: Terry Morse questioned the adjusted price for the Stimpson Hill property. Mr. Stoddard stated it sold \$272,500 and they had to make adjustments for the differences. Property under appeal has 12.8 acres compared to the comp that has 9.9 acres and that holds true with different things on the property that have different values and the net adjustment for the differences bring it close to the value of the property under appeal. All of the comparables are in Whitingham and one of the comparables used by the appellant is in Dorset and in his opinion he does not feel Dorset is a comparable town to Whitingham.

Mr. Stoddard questioned if the assessors/lister clerk can go on the site visit and if so he would prefer the week of the 12th later in the day. Inspection Committee: Susan Johnson, Elizabeth McKinley and Wayne Corse on August 12th or August 13th at 5:00 p.m. Mr. Lagerstedt will check with the appellant for a date an assessor and lister clerk can accompany the inspection committee.

The chair recessed to August 26, 2019 at 5:00 p.m. to accept the inspection committees report.

Mr. Lagerstedt emailed the clerk the MLS listing photos (Exhibit C), confirmed the date of August 12th at 5:00 p.m. and reported that the appellant did not want the assessor and lister clerk to accompany the inspection committee.

The Board of Civil Authority reconvened the hearing on Monday, August 26th at 5:00 p.m. with the following board members present: Tyson Dix, Susan Johnson, Elizabeth McKinley, Terry Morse, Wayne Corse, Scott Reed, and clerk Almira Aekus. Also present were assessor Nathaniel Stoddard and lister clerk Howard Dix.

Great River Hydro, LLC

Tyson Dix read the inspection committee's report for Great River Hydro, LLC (Exhibit D).

Questions from the BCA: None

Questions from appellant: Appellant not present

Final Comment from the assessor and/or lister clerk: None

Mr. Dix closed the hearing for Great River Hydro, LLC at 5:20 p.m.

Philip M. Schwab

Tyson Dix read the inspection committee's report for Phillip M. Schwab (Exhibit D).

Questions from the BCA: BCA members asked for and received the additional page of the property record card (Exhibit E) as they wanted to see if there was additional information on the other pages that would match what was found during the site visit committee's inspection. After hearing the inspection committee report there were several questions from the BCA such as the fact that the pool house has two finished changing rooms and a bathroom. It was noted that the property has central air conditioning, 3 fireplaces instead of the 2 on the property record card, the plumbing fixtures found in the house were at least 20 versus 14 on the property record card. The report noted the lower square footage of the comparables presented by the appellant and the fact that the comparables were substantially smaller. The board asked Mr. Stoddard what the value of an additional fireplace, 6 additional fixtures and air conditioning would be. Mr. Stoddard stated the fireplace would be \$4,538.00, additional fixtures \$8,414.00 and \$8,000 for the central air conditioning. Mr. Corse asked what the sale price was when the previous owner purchased the property. A copy of the property transfer (Exhibit F) which showed a sale price of \$285,000 with \$5,000 being for personal property.

Questions from appellant: Appellant not present

Final Comment from the assessor and/or lister clerk: Mr. Stoddard spoke to the variations between the property record card and the site visit committee's report with the culperite being the fact that they were not able to get in to the house for an inspection.

Mr. Dix closed the hearing for Philip M. Schwab at 5:48 p.m.

Deliberative session from 5:48 p.m. to 6:20 p.m.

DECISIONS:

Great River Hydro, LLC

At 6:21p.m. A motion was made by Wayne Corse seconded by Elizabeth McKinley in regards

to the appeal of Great River Hydro LLC the board voted leave the value at \$58,064,500.00. All were in favor.

At 6:24 p.m. a motion was made by Wayne Corse, seconded by Susan Johnson in regards to the appeal of Philip M. Schwab, the board voted to increase the value by \$23,500 bringing the new value to \$360,000.

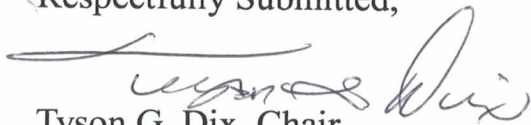
Discussion: Mr. Corse stated the increase in value was for the additional fireplace, 6 additional fixtures, central air conditioning, as well as the board's consensus that the land grade should be higher than .8 for the additional land. The value takes into account the 33% physical depreciation of the fireplace, fixtures, and air conditioning. There was an of \$3,800 for raising the land grade. The board felt that a sale of a high valued larger home would normally take longer to sell as the pool of potential buyers would be smaller. With the exception of Scott Reed who recused himself from the hearing, all BCA members voted in favor of the motion.

At 6:36 p.m. a motion was made by Susan Johnson, seconded by Almira Aekus to adjourn.

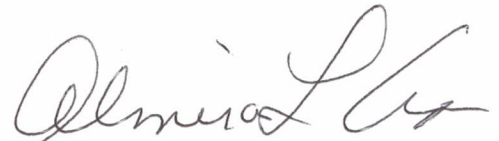
All were in favor.

Meeting Adjourned.

Respectfully Submitted,



Tyson G. Dix, Chair
Board of Civil Authority



Almira L. Aekus, Clerk
Board of Civil Authority