

DRAFT
Minutes of the Board of Civil Authority
August 20, 2018

The meeting was called to order at 7:05 PM.

Members Present: JP's: Carroll, Ciccotelli, Dean, DeGasta, Gray, Leiter, Rotman and Teller-Elsberg.
Selectboard Present: Brochu and Cook. Town Clerk: Munday

The meeting was to hear the appeal of Great River Hydro, LLC of the assessment placed on Flowage Easements along the Connecticut River based on a decision on a grievance from the Norwich Listers.

Dean swore in Mark Cleverdon representative for Great River Hydro, LLC and Cheryl Lindberg, Norwich Lister, Spencer Potter, Assessor.

Lindberg introduced the property parcel as #70-006.000 consisting of a flowage easement on many acres along the Connecticut River with a value of \$996,400.

Cleverdon began by stating the Great River Hydro, LLC (GRH from this point on) operates under a FERC License (Federal Energy Regulatory Commission) for flowage along the Connecticut River when the dam was built.

They understand that the value that Norwich has placed on the flowage rights have not changed since 2004. However, in other towns the assessments have continued to rise. GRH recently purchased from Trans Canada. After the purchase GRH began to look into the assessments of flowage easements all along the Connecticut River more closely.

Through the FERC license the flowage easement allows GRH to flood the river banks of parcels as part of regular operations at the Wilder Dam. During the course of daily operations there are about 206 acres of land that are affected by this. Cleverdon testified that the river bank is steep, that the easement covers more of a vertical than horizontal area.

The easement is on a small fraction of the land of the parcels involved: 206 acres of 1179 total acres. The acreage is determined by using a GPS generated map which they overlay with FEMA maps which are overlaid again using the Town of Norwich FERC license flowage license.

Cleverdon testified that the easement does not place any encumbrances, restrictions or burdens on the properties along the river. Also, the easement assessments do not rise and fall with the value of the current market value.

The \$836/acre comes from the 2017 court case, TransCanada Hydro Northeast, Inc., v. Town of Newbury, State of Vermont.

In closing, Cleverdon stated that the highest and best use for the parcels with these easements have not changed in value, the acres along the river has not changed, therefore the assessment of the 206 acres should be valued from \$0 to \$172,000.

Lister Cheryl Lindberg submitted a memo written by Lister Dennis Kaufman, which noted that

- the original written notes on the assessment can't be located

- the assessment has been set at \$996,400 since 2002
- the Listers multiplied the easement acres by \$4500, the value of excess land (ie; non-house site acres)

Assessor Spencer Potter cited several items from the Newbury decision; there is the burden of trespass and that the taxpayer would be responsible for the loss of land value plus the loss of the use of the land, Potter also noted that the Listers are not required to have a rationale, and that the value of the easements is in the avoidance of liability for the operators of the dam. Also, Norwich should not be compared to other Towns as our land value is higher.

The hearing adjourned at 9:10 PM.

The Board went into deliberative session to act on the Munafo /Walsh appeal. The board enter open session at 9:20.

At this point, Cook, Rotman and Brochu left the meeting.

A motion made by Gray, seconded by Leiter to accept the inspection Committee Report of the property. Motion passed unanimously.

A motion made by Gray, seconded by Ciccotelli to place the value on the Munafo/Walsh property at \$901,935. Motion passed unanimously.

Meeting adjourned at 9:35 PM.

Respectfully Submitted,

Bonnie Munday, Town Clerk
Linda Gray, Vice-Chair of the BCA