

**TOWN OF WILMINGTON  
BOARD OF CIVIL AUTHORITY  
WEDNESDAY, AUGUST 8, 2018 at 5:30pm  
MINUTES**

The meeting of the Board of Civil Authority was convened by the Town Clerk at 5:30pm.

IN ATTENDANCE: A quorum was achieved with 8 members present. Justices of the Peace – Elizabeth McEwen & Fred Houston; Selectboard – Tom Fitzgerald (also as JOP), John Gannon, Vince Rice, Sarah Fisher & Ann Manwaring; Town Clerk Susie Haughwout.

Absent: Marcia Dorey, Peter Barton, Scott Moore, Tom Consolino

Also Present: Listers Len Chapman, Diane Schipke, Kay Martin Schwader, Lynne Matthews & Jerry Osler; Lister Administrator – Deb Kingsley; Appellant – Laurie Newton for Mount Snow; Appellant Expert Witness – Laurence A. Hirsh CRE, MAI of Ski Property Analysts

**1. CHANGES TO AGENDA** – delete Item 2; **PUBLIC INPUT** - none

**2. MOTION TO APPROVE MINUTES OF JULY 9, 2018** as amended made by Tom Fitzgerald, seconded by Vince Rice. Voice Vote - All in favor – So Voted

**3. INTRODUCE BCA:** BCA members introduced themselves

**4. BRIEF EXPLANATION OF QUASI-JUDICIAL HEARING:**

Chair gave brief explanation on composition of the BCA and its duties during tax assessment appeal hearings. Instructed that all testimony be given to the BCA, questions of any party should be directed to the Chair, and no cross-talk is allowed among parties.

**5. CONFLICT OF INTEREST DECLARED:** none

**6. ADMINISTER OATHS TO BCA, LISTERS, LISTER ADMINISTRATOR, APPELLANT/AGENT:**

Chair swore in the BCA. Chair swore in the Listers, Administrator, Appellant and Appellant's Witness for the hearing.

**7. HEARING OF TAX ASSESSMENT APPEAL:**

Property Owner	Street Address	TaxID#	Span#	Value	Hearing Time
MOUNT SNOW LTD	259 COLDBROOK RD	002-02-068.200	762-242-12604	\$13,500,000	5:30pm

**APPELLANT TESTIMONY:** Mr. Hirsh introduced himself as the President of a real estate appraisal company based in Philadelphia called Ski Property Analysts. He clarified that he is not an agent of, or representing Mount Snow, rather he appeared as an independent expert witness. Laurie Newton of Mount Snow was also present. They presented the Ski Property Analysts appraisal to the Board.

Retained by Mount Snow to appraise the West Lake reservoir property in connection with their tax appeal of the real estate tax assessment.

Establish premises on which he valued the property:

(1) Estimating and developing an opinion of market value. Inherent within market value is the presumption of a sale – a willing buyer and willing seller. What is the economic value of this property.

Asset value, based on cost or depreciation, is not really relevant when talking about market value as it should be assessed.

(2) In connection with that presumption of a sale, and the fact that the reservoir in a way, acts like a business, we made the extraordinary assumption that non-potable water can be sold. In Vermont, this is considered water of the state, which cannot necessarily be sold. Even if it could be sold, there is not much of a market in Vermont. It's important to develop the assumption that this water can be sold, or we don't have any economic value.

(3) Property consists of 281.72 acres. As a "Going Concern" – to store and sell water, we estimate value of \$5,160,000. For Real Estate only – we found no value.

Obstacles to Value: (1) Regulated under Act 250 (2) Conservation Easement (3) Protected River Corridor. Developing the property would be very difficult.

Page 29 – Identified rates for potable water in order to develop economics for this property. Adjusted downward from potable water to non-potable water. Called some communities to find water rates, estimated from that what we could sell water for. Used that rate for revenue estimate on page 76. 300,000,000 gallons available, at \$4,000 per million gallons = revenue of \$1,200,000. Then deducted expenses to come up with operating income of \$658,700. No comparable sales for a reservoir or the business of running a reservoir.

Page 32, 33 - 281.72 acres on two parcels, now improved with a 14.3 acres reservoir which can store 120 million gallons of water, pump house building, a little over 5 miles (28,000 linear feet) of associated pipelines to move water from the site to Mount Snow.

Page 36 – List of restriction: Riparian Wetlands along Cold Brook and 50-foot buffer regulated by Vermont Wetlands rules; Restoration plan to refill the East Pond; 80 acre Conservation Easement between Mount Snow and Vermont Land Trust; Flood Prone Area; subject to variety of jurisdictions, ANR, Act 250, DEC, US Army Corps of Engineers. Wilmington Zoning is Residential with Conditional Use Permit.

Purchased in 2013 for \$500,000, currently assessed at \$13,500,000.

Page 65 – Highest and best use: Because of all the restrictions and physical obstacles, we conclude that highest and best use is to be used as a reservoir, and to provide water for snowmaking to Mount Snow. That presumes that water could be sold for snowmaking purposes.

Page 68 – Valuation Process: Income, sales comparison and cost approach. We eliminated the Cost Approach as it is not representative of what buyers and sellers do in the marketplace. Market value presumes a sale of the property. Estimating depreciation would be very speculative. Important to understand that markets don't necessarily work based on what something costs to build or develop.

Page 72 – Income approach is what we used: Estimated how much revenue could be generated from sale of water. We utilized historical expenses, reconstructed the expenses a little, and estimated the revenue produced if water could be sold.

Page 75 – Shows reconstructed expenses and developed net operating income of \$658,700.

Page 78, 79 - Net operating income was capitalized at 11%. Because this was prepared for a tax appeal, property taxes were not included in the expenses. We then loaded the capitalization rate which is typical for tax assessment cases, with the product of the assessment to value ratio and the millage rate. Resulting in an overall capitalization rate of 13.25% and a value of \$5,000,000 – that's the value of the going concern.

We then went to the Sales Comparison Approach: After deducting the 14.3 acres the reservoir uses, the 80 acre conservation easement, and 75 acres of river corridor, there is basically 112.42 acres left.

Pages 85, 86 - We identified 13 land sales that we used as comparables, analyzed and adjusted them to conclude a value of the land at \$1,400 per acres. Added to the \$5,000,000 and came to a total of \$5,165,000 for the properties' going concern.

Page 96-98 – Allocation of Value by method known as TEEM (taught by Appraisal Institute for allocating real and personal property value). Because of the excessive cost of the improvements, especially the piping and what would not necessarily be considered real property, we came up with what amounts to negative resulting value, and the real property value would be very limited or zero.

Page 38 – List of comparable assessments of other snowmaking reservoirs. We developed an opinion market value for something for which there is an extremely limited market. There are no comparable sales.

Mount Snow previously had a contract with Haystack/Hermitage Club to share water in Mirror Lake until West Lake became operational. Mount Snow no longer has access to Mirror Lake water.

Requesting a total value of \$5,160,000: Breakdown - land value \$395,000/improvements \$4,765,000

Acknowledge that Listers' presentation and comment that valuing this property is a challenge. Very clear from statements and questions that Listers relied on cost approach, not even the cost approach but the cost of the project and the improvements. Cost does not equal value. Specialty properties such as this one almost always cost more to build than what they are worth. Specialty properties might provide ancillary value to something else, which is the case here. This reservoir helps Mount Snow, but that doesn't mean that it has a market value, what a willing buyer would pay a willing seller neither being unduly motivated. That's important here. That's why we developed an economic value that someone may say "This is what I can afford to invest in this property" A lot of the elements of this that provide the value, such as computer system, are not real property. That's why simply saying "What's the cost?" doesn't answer the question as it relates to the assessed value, which is related to the market value. Market value presumes a sale, and cost doesn't equal that.

**APPELLANT EXHIBITS:** Ski Property Analysts Appraisal booklet; Ms. Newton showed the Board a tax parcel map from her tablet; letter of authorization from Mount Snow for Mr. Hirsh and Ms. Newton

**LISTER TESTIMONY:** The Listers presented a 1-page document explaining valuation, along with 12 photos. They noted a typographical error citing the after grievance value to be 13,500,00 which is missing a 0. The correct current value is \$13,500,000.

Our credentials are limited in this kind of a project. We took the sales of the two parcels of land which totaled \$946,910. We kept the assessed value of the land at \$555,000 and throughout the process have not changed the value of the land whatsoever. When we see a parcel, we don't break it up and say this is conservation, so that's \$2 per acre, or \$3 per acre, or \$1,500 per acre. To us it's one parcel – does it have a use – of course it does. We faced with same situation with the income approach. We have no way of handling the income approach, so we couldn't use the income approach. We called a couple of ski areas to find out if there is any specific value they put on water. For example at Haystack, we do not value Mirror Lake separate from the entire ski area. Asked a friend on Long Island who is a retired civil engineer to give us a idea of the value we should be talking about here. He prepared a casual report, not having seen the reservoir or the pump station. He took material, equipment, labor, general conditions, clearing, grubbing, stream crossings, silt fencing, survey, testing, seeding/planting, asphalt, 25" water line, offsets, maintenance/traffic, select fill, pump station, dam area, 48" pipe, 24" pipe and came up with \$11,135,902, which does not include the reservoir or pump station interior. Our final value was \$16,500,000.

One of the things that influenced us, was at our inspection, a Mount Snow employee accompanied us. We asked what the project cost, and he said \$22,000,000.

We had questions about the \$22,000,000 figure. Does that include the Carinthia portion? We have 1.8 acres of piping in Wilmington. We all went up and took a look at the reservoir, beautiful, 9<sup>th</sup> wonder of the world. There is something happening with this piece of property and now Mount Snow has the ability to provide their own water. Their advertisements say 100% coverage. We asked at grievance what they thought the value was for the property, they answered \$1,000,000. We don't agree that it's worth \$1,000,000. The property provides a function for somebody, provides a long term situation. They tried other ways to get water previously.

We reduced the value at grievance from \$16,500,000 to \$13,500,000.

We used the cost approach for the improvements to ascertain this value. Total value is \$13,500,000; Breakdown is Land \$555,000/Improvements \$12,945,000.

The Listers did not have an answer when asked on what specific basis they reduced the value at grievance by \$3,000,000. The Chair stated that some members thought the value should be higher, some thought lower, and you'd have to ask each board member why they voted to reduce the value. It's hard for our Board to come up with a value for this property.

**LISTER EXHIBITS:** Listers handout; photos; page presented to Listers by Mount Snow at grievance; 11 page "casual report" from retired civil engineer (not VT licensed)

**8. CLOSE HEARING** chair closed hearing at 7:20pm.

## **9. ASSIGN INSPECTION TEAMS, DISCUSS DATES & TIME OF INSPECTIONS**

John Gannon, Fred Houston, Elizabeth McEwen, Tom Fitzgerald, Sarah Fisher, Vince Rice & Ann Manwaring will visit the property on Thursday, August 16, 2018 at 1:00pm.

## **10. HEAR INSPECTION COMMITTEE REPORT:**

Elizabeth McEwen presented the report for 121 Fannie Hill Road.

MOTION TO ENTER DELIBERATION made by Elizabeth McEwen, seconded by Tom Fitzgerald.  
Voice Vote – All in Favor – So Voted.

**11. DELIBERATION – ENTER CLOSED SESSION 7:27pm**

**12. DECISION – RETURN TO OPEN SESSION 7:35pm**

MOTION to DENY the appeal made by Fred Houston, seconded by Sarah Fisher, and to set the total value of the property owned by LANE, JOSH – 121 Fannie Hill Road – TaxID#00201040.000 at **\$800,000**. Voice Vote – All in Favor – So Voted.

Breakdown as follows: **House \$350,000/Site \$50,000/Land \$400,000**

Property Owner	Street Address	TaxID#	Span#	Value	BCA Decision
LANE, JOSH	121 FANNIE HILL RD	002-01-040.000	762-242-10281	\$800,000	DENIED

**13. OTHER BUSINESS** reminder Justice of the Peace petitions due by 5pm, Friday, August 17.

**14. MOTION TO RECESS** meeting until August 22, 2018 made by Susie Haughwout, seconded by Ann Manwaring. Voice Vote - All in favor – So Voted

**RECESSED at 8:05pm**

TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THESE MINUTES ARE A TRUE AND OFFICIAL RECORD OF ALL ACTION TAKEN AT THE BOARD OF CIVIL AUTHORITY MEETING HELD, AUGUST 8, 2018.

MINUTES PREPARED ON FRIDAY, AUGUST 17, 2018 & SUBMITTED TO WEBMASTER ON TUESDAY, AUGUST 21, 2018 AT 6:10PM.



ATTEST: \_\_\_\_\_  
Susan Joy Haughwout

DATE: August 17, 2018

TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THESE MINUTES ARE A TRUE INDICATION OF THE BUSINESS OF THE BOARD OF CIVIL AUTHORITY MEETING HELD, AUGUST 8, 2018.

ATTEST: \_\_\_\_\_

DATE: \_\_\_\_\_

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