



STATEWIDE PROGRAM OF ACTION TO CONSERVE OUR ENVIRONMENT

SPACE NEWSLETTER

SPRING, 2007

## Keep Your Eye on the Ball

*A Letter from the SPACE Board Chair*

**K**ee your eye on the ball ... not bad advice in all sorts of situations. SPACE has done just that for over 30 years, keeping New Hampshire's Current Use law in sight and on track. As part of the process to protect Current Use, SPACE has conducted many studies of similar laws in other states. In all cases our Current Use law stands above the rest in two very important ways.

It is as effective today as when it was enacted 34 years ago. It meets the goals of the original drafters of the law, in that it helps keep the specter of high taxes from forcing landowners to sell their land.

It works this well because SPACE and others have worked hard to keep our Current Use law *simple and concise*. SPACE has steadfastly resisted attempts to amend the law into something it was not designed to do.

This effort came into play during this year's legislative session. Every year SPACE monitors all legislation that would even remotely affect Current Use. We have a legislative committee that makes recommendations on legislation to the full board, which then takes a position to support or oppose a particular bill. (See Legislative Report on page 4 to see what bills we were following this year.) The SPACE Board of Directors is a diverse coalition, and these discussions are always interesting, as this diversity leads to some differing opinions, but we are always guided by our philosophy to maintain a narrow focus on the basic Current Use program. In the end we formulate positions that will keep Current Use *simple, concise, and effective*. This often means that the board will choose to oppose a bill if it would open the law to unwarranted scrutiny, or make Current Use into something that it was never intended to be. This year there were several attempts in the legislature to address the issue of high assessments on non-Current Use lands

that happen to have a view. One such bill is HB 294. This bill sought to amend the Current Use law to include in the definition of open space land under farm buildings as defined in RSA 21:43-a. With all due respect to the sponsors and supporters of HB 294, the SPACE Board felt strongly that achieving this laudable goal by amending the Current Use law was not in the best interest of protecting Current Use from undue legislative scrutiny, or met the original intent of the Current Use law.

It was with SPACE's involvement that HB 294 has been retained and will be studied this summer by the legislature. It is not lost at all on the Board that while Current Use works unfailingly in keeping taxes on open space land commensurate with that land's ability to produce income, what good is it if the landowner cannot afford to keep the buildings necessary to maintain that working farm or forest? To that end SPACE will be involved with the N.H. Farm Bureau, N.H. Timberland Owners Association and other interested parties to study this issue and hopefully come up with the best possible solution in time for next year's legislative session.

As always, feel free to contact me with your thoughts.

Chuck Souther, Chair



*Current Use protects a working open space landscape.*

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## Meet SPACE Board Members



*Dave Babson, SPACE Board Member, driving the team*

### *What was your initial reason for becoming involved with SPACE?*

I originally became involved with SPACE because the then Chairman of the Environment and Agriculture Committee, George Musler, was looking for a member of the committee to be the appointed legislative member. Since I believed in the program and had land in current use, I thought it would be an opportunity for me to contribute.

### *What do you feel is the greatest benefit of Current Use?*

I believe the greatest benefit to having property in current use is being able to hold the land as open space and not be taxed into a sales situation. In my case, my land would long been sold if it were not for current use. The sad part is that smaller land owners don't realize that by having a current use program their taxes are held down, also.

### *What do you feel is one of the top concerns today of Current Use landowners?*

My greatest concern today is that as pressure grows to raise more local tax dollars, the pressure to alter or do away with the current use program will increase.

### *What do you think the biggest challenge Current Use will face in the next five years?*

The pressure to change or eliminate current use will continue to grow as urban sprawl moves north. I believe SPACE should be more pro-active and start now to face the inevitable changes which are certain to be proposed by those that don't understand the value of current use to all citizens of a community.

**SPACE's Mission Statement:** *SPACE is the guardian of the Current Use law, which promotes the conservation of open space in New Hampshire.*

**SPACE'S Goal:** *To maintain an effective Current Use assessment program.*

## Welcome Donna!

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SPACE chair Chuck Souther is pleased to announce that Donna M. Robie has been appointed the new SPACE Executive Director. Donna comes to SPACE with over twenty years of experience in the legal field working for a local law firm and an International insurance company. Prior to that, she worked with the New Hampshire Facilitator Center as the Project Coordinator for Project Adolescence and Project Adapts.

Donna has been involved with many charitable organizations over the years. She has twenty-six years of volunteering with the Swift Water Girl Scout Council, serving as a leader in

the towns of Hooksett, Hillsborough and Concord from 1972–1998. Two of her local girl scout troops #224 and 2131 were one of the first to enlist in the City of Concord's Adopt-a-Spot program in 1993, most noteworthy, their renovations at McKee Square.

In 1995, Donna was nominated for the J.C. Golden Rule award and recognized by then, Mayor William



Veroneau for her volunteerism. Donna served as a Board Member/Treasurer for The David Ryan Memorial Fund and their annual children's fairs, as well as Past-President and Treasurer of the Bishop Brady Alumni Association. Donna has actively been involved with the Merrimack County Nursing Home regarding charitable donations and has received two citations from the U.S. Government for her collection and support efforts for Operation Noble Eagle.

Donna is also a published author, having published three books in as many years. She recently appeared on CC-TV's *Book Swap Café*, during the month of February. In her spare time Donna caters, writes, illustrates, and is co-owner of [www.signsof-hope.com](http://www.signsof-hope.com). Donna currently resides in Concord, New Hampshire along with her son and daughter.

## GOT LAND?

I would like to introduce myself to New Hampshire's current landowners. Having recently been chosen the new Executive Director of SPACE — New Hampshire's Current Use Coalition. I have a lot to learn so I can better answer your questions and concerns regarding current use. I realize the importance and value of keeping open space and I hope to serve you all diligently once I get up to speed.

I was born in New Hampshire and have lived here all my life. My ancestors first came to the Portsmouth area in the mid-1600's, and were given substantial land deeded in the towns of Chichester and Pembroke, New Hampshire. One of my grandmother's prized possessions was her copy of her King James deed to her family property in Chichester. My ancestors on my maternal side were of the Swain and Hook families. As I studied the listing of current landowners to prepare for several of our annual fundraisers, I came across many of my relatives and friends that still have the good fortune of owning open space. In a world that is constantly developing all around us, the open space you possess is all that much more a commodity these days and needs to be protected.

I can vividly remember spending hours traipsing through my grandmother's farmlands and woods along the Route 4 corridor. I probably never would have witnessed a black racer molting its skin, had the opportunity to sit upon the lone large boulder in her field in the summer and then sledding down its hilly terrain in foot-deep snow in December or discovering the private

ponds on the back lots had it not been for her ability to hold on to her land. It was her dying wish that she never be far from her homestead. Today, she rests peacefully in the Hook cemetery, just a hop and skip from the fields she used to play in.

Ten acres or more seems a lot to some of us city dwellers, but to be able to walk in the woods on a crisp autumn day as leaves crunch beneath your feet is such a great feeling and one I miss. Having moved back to Concord a few years ago and now living in a congested part of the city (yes, I can see what my neighbors are eating for dinner), I still try to wedge in a bird sanctuary and several wild flower gardens amongst the concrete. At times I really miss the quiet time I spent while residing in the towns of Wilton, Hillsborough, Henniker, Antrim, East Washington, and Washington. I also notice every day the open space that is fading into one development after another. My childhood neighborhood in Concord, known as the Heights is just a passing memory.

I can remember being able to easily walk or bicycle across Loudon Road without the fear of preoccupied shoppers and fast food hunger pains running you down and safely heading over to East Concord, gliding down Portsmouth Street, the very street I now call my office. Basically, I too, will always be a country gal at heart no matter where I make my home. So, treasure your open space and know that it will be my honor to try to help you keep your open space from changing as drastically as mine has.

Donna M. Robie, *Executive Director*

# LEGISLATIVE UPDATE:

## *Current Use Bills in the NH General Court — Democrats Take Control*



By CHARLES LEVESQUE

With the first Democratic controlled Governor's office, House and Senate in over 100 years in New Hampshire, the tenor of many discussions in the NH General Court has been

a bit more open, but the threats to current use assessment have continued. SPACE has been there at every step, defending the most effective current use program in the nation.

This year, nearly 1,300 bills were filed in the House and Senate. Originally, five of these bills addressed current use directly. Two of these bills were dropped by the time the General Court convened in January. All of the bills introduced were House bills (i.e. bills that started their legislative journey in the House).

One disturbing phenomenon in the House this year is that the Speaker's office assigned all three current use bills to the Municipal and County Government Committee, something that was unprecedented. Historically, most of the current use bills making their way through the House go through the Environment and Agriculture Committee, a committee that traditionally has had much more knowledge of the current use law than any other committee. While a few representatives had some knowledge of current use and its importance to open space conservation in New Hampshire, a large number on the Municipal and County Government Committee were not so knowledgeable.

This issue may have future ramifications on current use as the two committees in the House come at the current use issue from two different perspectives. The Environment and Agriculture Committee has generally viewed current use as a law critical to open space, forestry and agriculture. The Municipal and County Government Committee tends to look at current use legislation from a town or city administrative perspective rather than how important it is for open space conservation and the practice of forestry or agriculture. This is an important difference and something SPACE will be carefully watching.

The bills on current use introduced this session were:

***HB (House Bill) 445*** — This bill proposed to remove the requirement for towns and cities to apply the equalization ratio to current use assessments each year. This provision

has been in the law since inception. Currently, each year, the Department of Revenue Administration determines the average market value of (non-current use) real estate in each town and city in New Hampshire and compares that to the assessed value for real estate currently on the books. By comparing these two values, a ratio is developed — the equalization ratio. If the average real estate value is higher than the assessed value, then the equalization ratio is less than 100%. If the assessed value is higher than the market value, then the ratio is over 100%. In real estate markets where real estate values have been appreciating—as they have in New Hampshire for some time—then the ratios are less than 100%.

The connection to current use assessment is this — current use values are reviewed each year by the Current Use Board and adjusted when they are no longer at 100% of current use values (based primarily on the value of open space lands for growing agricultural or forest crops). Consequently, current use lands are always at 100% of current use value. As a result, the current use law has always required towns and cities to apply the most recent equalization ratio to the current use land in town in order to treat current use land and non-current use real estate equally.

***SPACE position on HB 445*** — oppose.

*Status of the bill* — The House Municipal and County Government Committee voted to retain the bill (meaning they will keep it in committee and work on it this year but it won't be voted on until January of 2008). It is not clear why this was done. The same bill passed the House last year and was killed in the Senate. SPACE will be watching the work on this bill this year.

***HB 645*** — This bill would have required a notice to the public of a change in land use subject to the assessment of the land use change tax. Today, when a land use change tax is levied, a tax bill (10% of market value) is simply sent out to the landowner who has changed the use of current use land to a non-qualifying use. HB 645 would have required a public notice of the change in use and procedures for appealing this change in use and land use change tax. A party other than the current use landowner could then learn of the situation and appeal the land use change tax application.

***SPACE position*** — monitor.

*Status of the bill* — killed by the full House.

There were three direct bills introduced to address the view assessment issue and several others about assessing and assessors. One of these, HB 294, proposed addressing the view issue through current use.

*continued on page 7*

# Special Thanks To Space Donors!

The SPACE Board of Directors extends its appreciation to ALL contributors, whose support funds SPACE's annual program of current use advocacy, research and outreach. SPACE relies exclusively on the contributions of current use landowners for its financial support. Printed below are "100 Club" contributors, who donated \$100 or more to our 2007 annual appeal. (Limited page space in this newsletter does not permit us to print the names of all contributors.) *Your generosity makes our work possible!*

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## — RECENT CURRENT USE LANDOWNER TELEPHONE INQUIRIES —

Does the entire road right-of-way have to be excluded from the total acreage enrolled in current use or is it just the roadbed itself?

One of SPACE's Board members, Dave Babson Jr. drafted the law so that just the actual driveway roadbed must come out. If your right-of-way were 150' wide, you would only be required to remove what the town codes mandate for the driveway width. — *Dave Babson, Jr.*

I just received a notification that I need a SPI report on my land. What is this, why is it needed and where would I obtain this report?

An SPI (Soil Potential Index), means a number which indicates the production capability of farm land as determined by the United States Natural Resource Conservation Service

and obtainable for a fee set by the county conservation district offices. (*Cub 301.07*)

The use of a SPI: A landowner may require the local assessing officials to use the most recent SPI in determining the assessed value of a tract of land by providing:

a) a single SPI for the entire tract of contiguous (meaning: more

than one parcel of land which is connected, disregarding whether it is divided by a highway, railbed, river or water body or the boundary of a political subdivision) parcels of farm land; or

b.) A separate SPI for each separate parcel of farm land.

When a landowner provides the SPI, the local assessing officials shall then use the SPI to determine the assessed value. (*Cub 304.04*) (State of New Hampshire Current Use Criteria Booklet (4/1/2006-3/31/2007))

For more information re: SPI contact: Your NRCS/Conservation District Office, Federal Bldg, 2 Madbury Rd, Durham, NH 03824-2043 (603)868-7581; or [www.nh.nrcs.usda.gov](http://www.nh.nrcs.usda.gov).

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## LEGISLATIVE UPDATE continued from page 4

**HB 294** — A view assessment bill that proposed to amend the current use statute to address the issue by allowing land under agricultural and forestry buildings to be assessed at current use levels. The view assessment issue (or view tax as it has become commonly known in the media) has arisen because of a law that was passed several years ago to improve property tax assessing. Particularly, the law required assessors to be more transparent in the way assessments are determined.

As a result, tax cards (every lot in every town has some sort of tax record where the assessment is detailed — whereas these records were on small cards when kept by hand, the computer records are still commonly called tax cards) now should contain more detail as to how a full-value or “ad-valorem” assessment is determined. If the property has access to public waters such as a river or lake, the additional assessment based on that attribute has to be listed. The same goes for properties that have views. With this increased transparency, some landowners noticed what seemed to be excessive assessment adjustments for views and water access.

The resulting public concern has been well covered by the media. Of particular concern is the view assessment being placed on agricultural or forestry buildings that are within current use lands. Such buildings and the immediate non-current use land around the building (so-called “curtilage”), are being assessed with views and water access adjustments. To some, these assessments are so high that it might force landowners to sell or demolish the buildings — something seen as a threat to agriculture and forestry. The various view assessment bills filed try to address this situation and mitigate these high assessments.

SPACE recognizes the importance of the view issue on agriculture and forestry but strongly opposes making statutory changes in the current use law to do this. Of particular concern is that such a change would result in current use assessment affecting buildings as well as open space land — a huge policy shift that could result in municipal opposition to the law as a whole. SPACE,

*We encourage your telephone calls and letters and hope that the questions we have answered have been helpful to you. If you would like to share local news regarding current use in your community with us to be included in a future edition of the newsletter, please contact me at SPACE (603-224-3306) or [donna@nhspace.org](mailto:donna@nhspace.org)*

along with NHTOA, Farm Bureau, the Forest Society and the Municipal Association, has offered an alternative to addressing this under an area of state law separate from current use.

**SPACE position** — oppose. *Status of the bill* — HB 294 is being retained in committee for additional work until fall. It must be voted on by the committee by November and voted on by the full House next January.

Other non-current use view assessment bills included:

**HB 691**, excluding the value of a view from property tax assessments on working farms. *Status*—killed by the House.

**HB 804**, excluding the value of a view from property tax assessments. *Status*—killed by the House.

As always, if you have any questions about legislation affecting current use, please call the SPACE office.

# — RECENT CURRENT USE LANDOWNER TELEPHONE INQUIRIES —

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I recently purchased 16 acres of land and plan to build a house, but the town has indicated that I must allow 2 acres of the parcel for my house lot. However, I am currently planning only to use 1.5 acres for my house and driveway. Is the extra .50 acre considered curtilage and how much land should really remain in current use?



In order to qualify for current use, the acreage must be at least ten acres of contiguous tract. Your 1.5 acreage for house lot and any surrounding curtilage percentage—which means, the land upon which a structure stands and the land immediately surrounding the structure, including the following:

- a) A yard contiguous to the structure;
- b) Land groomed and maintained around the structure; and
- c) Land necessary to the support and service of the structure. (*Cub 301.04*) Therefore, if the house lot and curtilage is only 1.5 acres in

total, then you could place 14.50 acres in current use. However if when you purchased the 16.0 acres and it was already held in current use, then once you build your house, you will be assessed the LUCT 10% tax on the acreage that has been actually removed, which in your case would be 1.50 acres assessed at the “full and true value” set by local town assessing officials. (*State of New Hampshire Current Use Criteria Booklet (4/1/2006-3/31/2007)*)

For more information, contact your local town assessing officials or the Department of Revenue Administration, 57 Regional

Drive, Concord, NH 03301 at 271-2186.

## Could you advise me if I am setting myself up for a legal or financial problem regarding current use?

Lately, there have been many inquiries that border on the side of giving legal advice. It is SPACE’s position that although we are here to answer the current use landowner’s concerns and take notes on how your concerns affect current use, we cannot extend legal advice. Our position would be, if confronted by a legal issue — when in doubt, please consult your attorney.

— *Chuck Souther, Chair*

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