

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

TUESDAY

9:00 A.M

DECEMBER 2, 2008

PRESENT:

James Covert, Chairman
James Brown, Member
Benjamin Green, Member
John Krolick, Member*
Linda Woodland, Member
Philip Horan, Alternate Member

Nancy Parent, Chief Deputy County Clerk
Joshua Wilson, Assessor
Herbert Kaplan, Deputy District Attorney

The Board met in the Mills B. Lane Justice Center, third floor classroom, One South Sierra Street, Reno, Nevada. Chairperson Covert called the meeting to order at 9:15 a.m., the Clerk called the roll and the Board conducted the following business:

08-1520E AGENDA ITEM 2

Agenda Subject: “Clerk to administer oath of office to new Board members.”

Nancy Parent, Chief Deputy County Clerk, administered the Oath of Office to Member James Brown and Alternate Member Philip Horan.

08-1521E AGENDA ITEM 3

Agenda Subject: “Approval of the Agenda for the Board of Equalization Meeting of December 2, 2008.”

On motion by Member Woodland, seconded by Member Green, which motion duly carried with Member Krolick absent, Chairman Covert ordered that Agenda Item 3 be approved.

08-1522E AGENDA ITEM 4

Agenda Subject: “Selection of Vice Chairman.”

Member Green nominated Member Krolick for Vice Chairman. Member Woodland seconded the nomination. On a 4-1 vote with Member Krolick absent, Member Krolick was elected as Vice Chairman of the County Board of Equalization.

ORIENTATION AND TRAINING

08-1523E AGENDA ITEM 5A - STATE DEPARTMENT OF TAXATION

Agenda Subject: “State Department of Taxation (or State Board of Equalization) presentation, explanation and discussion of State Guidelines and Procedures for County Boards.”

Terry Rubald, Division of Assessment Standards Chief, introduced Donna Proper, Coordinator for the State Board of Equalization (SBOE).

Ms. Rubald placed a copy of the *Nevada Property Tax: Elements and Application* document on file with the Clerk. She said page 69 of the *Elements and Application* document contained a list of publications the Division of Assessment Standards used. She noted Chapter 6, Equalization by the Tax Commission, and Chapter 7, The Appeal Process, pertained more to the County Board of Equalization (CBOE) than other sections.

9:22 a.m. Member Krolick arrived at the meeting.

Ms. Rubald placed a copy of the *County Board of Equalization Hearing Guidelines 2009* document on file with the Clerk. She noted the timeline on page 2 and the “Open Meeting Law Compliance Checklist” produced by the Attorney General’s Office on page 7.

Chairman Covert asked if there would ever be any circumstances under which the CBOE would hold a closed session. Ms. Rubald replied there was not because closed sessions usually dealt with personnel issues.

Ms. Rubald said there were new SBOE forms that used checkmarks indicating the reasons for the appeal rather than asking for a written reason and they also included an area to provide the agent authorization. She noted the new forms were created because the SBOE had problems deciphering what was being appealed, but they should not be distributed to taxpayers yet as they had not been approved by the SBOE. She discussed the reasons for the “Taxpayer Petition for Direct Appeal” on page 32 and the new “Assessor or Department Petition for Appeal” on page 34.

Ms. Rubald advised the SBOE was taking a hard look at whether it should hear appeals that were filed after March 10th or appeals where the taxpayer failed to come before the CBOE first. She noted it would have to involve extenuating circumstances for the SBOE to hear the appeal or for them to remand it to the CBOE.

Ms. Rubald conducted a PowerPoint presentation discussing the hearing guidelines for the County Board of Equalization (CBOE). A copy of the presentation was placed on file with the Clerk. Her presentation also included the duties of the CBOE, what information determined value, how obsolescence was established, NAC 361.6405,

exceptions to NRS 361.227, what exempted property, processes, notices, agendas, notice of actions, establishing the record, and admitting and managing exhibits.

Ms. Rubald advised the CBOE could not reduce the rate of taxation because the Legislature did not delegate the authority to the CBOE to levy taxes or revise the levy made by another body. She stated the authority to equalize was delegated to the CBOE and to the SBOE. She noted the main duties of the CBOE were to determine property values, correct the values where necessary, and to equalize values where a taxpayer's property was treated differently than similarly situated properties. She said the CBOE could not reduce an assessment unless the value established by the Assessor exceeded the full cash value of the property or it was inequitable.

Ms. Rubald discussed the authorities under which the CBOE could hear an appeal. Member Horan asked if Ms. Rubald was suggesting that authority should be established at the beginning of each hearing. Ms. Rubald said a determination would be made by the SBOE regarding which statute the appeal fell under based on what the taxpayer put on the SBOE appeal form. She explained it was not required of the CBOE, but it would be helpful for the SBOE to have that information as part of the record so it could understand what the appeal to the SBOE was about.

Member Horan said a standard motion was used in the past to agree or disagree with the appeal, and he asked if the motion should be more specific about why the CBOE agreed or disagreed. Ms. Rubald suggested the CBOE could state when the hearing was introduced what the authority was, not under the motion. She suggested asking questions if it was difficult to discern why the taxpayer was appealing.

Ms. Rubald advised what should and should not be considered in making a decision. She reiterated the Supreme Court stated in the Bakst case that the burden of proof was on the taxpayer to show the value established was unjust. She said the Supreme Court was looking at the evidence as being clear and satisfactory and she asked if the District Attorney interpreted that as substantial evidence. Herb Kaplan, Deputy District Attorney, said none of the terms had a concrete definition, but it would be basically a preponderance of evidence.

08-1524E AGENDA ITEM 5B - ASSESSOR'S OFFICE

Agenda Subject: "Washoe County Assessor's Office presentation and overview of assessment process, determination of taxable values, re-appraisal areas, factoring of properties, timeframes, forms and administrative processes, demonstration of state paperless procedures."

Josh Wilson, Assessor, introduced his senior staff. He advised every parcel in the County was reappraised this year and no areas were factored. He said the ability to reappraise the whole county was achieved by using a neighborhood delineation process.

Mr. Wilson explained land was valued at full cash value and improvements were valued using the *Marshall and Swift Cost Manual*. He discussed the challenge with the current market corrections.

Chairman Covert asked if the depreciated value could exceed full cash value in a time of rapidly declining values. Mr. Wilson replied the potential was clearly there for that to happen especially on newer properties that were not receiving the benefit of depreciation.

Member Green asked if there were many remands from the State. Herb Kaplan, Deputy District Attorney, advised there were no individual cases from last year remanded to the CBOE. Mr. Wilson explained that, due to lack of a quorum, the Incline Village/Crystal Bay appeals had not been heard yet by the SBOE for last year.

Member Horan asked if the tax cap was still an issue. Mr. Wilson replied he believed it would be based on a very brief analysis that was done. He said it looked like approximately 40 percent of the property in the County would be rebased this year.

Mr. Wilson explained to close the secured roll each property owner had to be noticed of their assessment by December 18th and a list of the property assessments had to be published in the local newspaper. He said the roll had to be transmitted to the newspaper by next Monday or Tuesday for it to be published to meet the statutory requirements.

Mr. Wilson said even with the quality control done by his office, some issues would arise with some of those issues being found through the value notice mailed to the property owners. He advised the final batch of notices would be going to the printer by the end of the week. He explained once the roll was published he could not reopen it for market conditions, even if the taxpayer convinced him there was an issue. He noted those appeals would come to the CBOE as recommendations like they did last year. He commended his staff for reappraising 100 percent more property even though there were 15 percent less staff, and he felt they had done a good job considering current market trends.

Theresa Wilkins, Chief Deputy Assessor, explained how a hearing was processed prior to coming before the CBOE. She noted the Assessor's Office was collaborating with the Clerk's Office to get the hearings scheduled and noticed. She advised both offices were looking for direction if the CBOE wanted to change anything.

Ms. Wilkins said the Assessor's Office changed the roll based on the written notice of the hearing's decision. She explained noting the year and the specific reason for changing the value was helpful to the Assessor's Office to get the correct amount on the tax roll.

08-1525E AGENDA ITEM 5C - COUNTY CLERK'S OFFICE

Agenda Subject: “Washoe County Clerk's Office presentation and overview by Washoe County Clerk's Office of statutory responsibilities as Clerk of the Board and past administrative and clerical practices.”

Nancy Parent, Chief Deputy County Clerk, introduced the Clerk's staff and noted this year's hearings would be held in the County Commission Chambers or the Heath Board Meeting Room. Chairman Covert asked if the hearings would be televised. Ms. Parent replied if the County Board of Equalization (CBOE) was interested in having the hearings televised, she would check into it. Member Horan indicated he would support televising the hearings in the interest of transparency. Chairman Covert agreed.

Ms. Parent stated the Clerk's Office was working closely with the Assessor's Office regarding the process because the last few years had been tough due to the number of appeals. She noted the Clerk's Office was developing a computer program that would take the Assessor's data and convert it into a format the clerks could use to streamline generating the decision letters, labels, and minutes.

Ms. Parent discussed the Tasks Performed by Clerk/Assessor 2009 chart. She said the CBOE members would be supplied with laptops so the information for each day's hearings could be supplied on a DVD. She noted there would be a website with the answers to frequently asked questions and asked the CBOE members to look at what was done last year at <http://www.washoecounty.us/mgrsoff/boe> to see if anything else should be added.

After discussion regarding individual member's availability, Chairman Covert asked each member to fill out the calendar regarding their availability and to return it to Ms. Parent so she could inform Member Horan when he would be needed to fill in.

Member Green asked when the hearings would start. Mr. Wilson said the CBOE could start meeting anytime after the January 15th filing deadline. He said scheduling could start by doing first in first out, but that would not be the most efficient way to schedule because similar properties could be heard on different days. Chairman Covert suggested targeting the start of the hearings for January 26, 2009 if necessary. Member Green felt starting the last week of January might eliminate the need for 12-hour sessions. Mr. Wilson suggested scheduling all of the appeals as soon as they were all received and noticing everyone at the same time.

08-1526E AGENDA ITEM 5D(i) - DISTRICT ATTORNEY'S OFFICE

Agenda Subject: “Discussion of Nevada Open Meeting Law, attorney General's Nevada Property Tax Manual and Ethics in Government Law.”

Herb Kaplan, Deputy District Attorney, stated Mary Kandaras, Deputy District Attorney, would be his backup during this year's County Board of Equalization (CBOE) hearings.

Mr. Kaplan clarified the State Board of Equalization (SBOE) was subject to Nevada Revised Statutes (NRS) Chapter 233B, the Nevada Administrative Procedures Act, which only covered SBOE actions. He advised the CBOE was not subject to those requirements, but the guidance provided in Chapter 233B would be helpful for appeals going to the State.

Mr. Kaplan discussed the reasons a petitioner could appeal under Nevada statutes. He advised statutes required three votes in favor of any action taken by the CBOE for that action to pass regardless of the number of members sitting on the CBOE at that time

Mr. Kaplan stated as a quasi-judicial board, there should not be any communication with the other parties outside of the hearing and that the Open Meeting Law applied to the CBOE. He discussed how the Open Meeting Law applied to social situations.

Mr. Kaplan explained the deadline for filing an appeal was January 15th, but anything postmarked by January 15th was accepted. He noted the CBOE had no jurisdiction over any petition postmarked, hand delivered, or faxed after January 15th. He said Statutes provided no leeway for hearing a late filing regardless of the reason. He advised the petitioners could appeal to the SBOE, which had the authority to allow the appeal based on good cause. He suggested placing the late appeals on the consent agenda, and he noted that the notice issues from last year for late appeals had been resolved.

Mr. Kaplan stated per the Code of Ethics for Government Officials, it would clearly be a conflict if a property owned by any CBOE member would be directly affected by a decision made for a class of properties; and they would have to recuse themselves from the hearing or they could opt out of that class. Member Woodland said she was President of a charitable organization and asked if she should recuse herself if the organization filed for an exemption. Mr. Kaplan advised she should.

Member Green asked if Mr. Kaplan would supply the CBOE with the text to use for motions. Mr. Kaplan said he would. He said he was aware the SBOE would like the CBOE to determine what statute the petitioners were petitioning under, but he felt it was the petitioner's burden to explain to the CBOE what the basis for their petition was and to provide substantial evidence to support that basis. Chairman Covert felt he was not qualified to determine the statute. Mr. Kaplan advised the standard motion would cover the basis for the reduction.

08-1527E AGENDA ITEM 6

Agenda Subject: "Discussion and possible adoption of rules and procedures to be used by the Board for hearings during the 2009 Board of Equalization meetings."

Member Green suggested changing the notice period from 10 days to 7 calendar days because it would help with the scheduling of the hearings.

Member Horan asked how the petitioners were notified of how many days notice they would be given. Herb Kaplan, Deputy District Attorney, said the 10-day notice was used in the past and the County Board of Equalization (CBOE) decided not to change it last year at the organizational meeting because the hearings were quickly coming up and could have potentially deprived the petitioners of what they were expecting. He felt that issue was alleviated because it was discussed last year and there was no noticing requirement beyond that of the Open Meeting Law.

Theresa Wilkins, Chief Deputy Assessor, explained once a petition was received a copy was sent to the taxpayer as a notice that the appeal was received. She said noticing information could be sent with that copy to the taxpayer. Mr. Kaplan felt that once the hearings for the month were set, sending out all of the notices at one time would eliminate the notice issues except for the first few days of hearings. Mr. Kaplan suggested using the first few days to schedule the exemption hearings.

Mr. Kaplan explained that the SBOE had a different process than that of the CBOE, and the SBOE would only look at the record provided by the CBOE to determine whether the CBOE acted appropriately. He noted a petitioner could only provide additional evidence in their SBOE hearing with the authorization of the SBOE and there were timelines for that to happen. He said the CBOE could adopt similar timelines to deal with letters received at the last minute, but those timelines would need the approval of the SBOE; and, he was not sure that could happen this year.

Ms. Parent suggested having a fact sheet, in addition to putting the information on the web site, regarding the hearing timeframe and what the petitioners needed to do to get their information to the CBOE. Chairman Covert said he felt the information that the burden of proof was on the taxpayer should be included. Member Green suggested the sheet contain the rules under which the CBOE had to go by because there were times the taxpayer felt the CBOE could do anything.

Josh Wilson, Assessor, asked if it would be possible for that notice to be sent on CBOE letterhead, so it did not look like it was coming from his office or from the Clerk's Office. Chairman Covert felt that was a good idea because it would project a greater appearance of independence by the CBOE.

Member Horan asked about the impact of the 7-day notice on continued hearings. Mr. Kaplan said the petitioner needed to be given ample notice to prepare their case. He stated if the petitioner showed up for the hearing or asked for a continuance by telephone, notice would be waived by the petitioner's acceptance of the new date. He advised a continuance would not be possible under the Open Meeting Law if it was requested by letter for a hearing on February 25th. Member Horan suggested the CBOE have the discretion to lower the notice period to the minimum required by the Open Meeting Law when necessary.

On motion by Member Green, seconded by Member Woodland, which motion duly carried, Chairman Covert ordered the hearing notice timeframe be changed from 10 days to 7-calender days prior to the hearing except when 7-days notice would not be possible at the end of February.

Member Green noted last year there were a large number of filings by the Village League to Save Incline Assets requesting a hearing where the petitioner did not show up, and he asked if there was any way that could be addressed. Mr. Kaplan replied that by law the CBOE was required to hear the petition and to consider any evidence even if the petitioner did not show up for the hearing. He stated he was not aware of the Village League's plan this year, and he discussed what the Village League had done in the past. He advised if there were cases based on similar factual or legal issues they could be consolidated.

11:23 a.m. Member Horan left the meeting.

Member Green asked about setting a time limit for hearings. He explained on occasion there were presentations that exceeded a reasonable time. He felt the CBOE should not adopt an ironclad rule, but could there be some point where the Chairman could cut the presentation off. Chairman Covert asked if it could be suggested the petitioners plan for five minutes to present their cases in the fact sheet that went out to them. Mr. Kaplan agreed that the CBOE would not want to adopt a set-in-stone rule because the petitioners had to be provided with sufficient time to present their case. Chairman Covert felt the suggestion of five minutes in the letter sent out would force the petitioner to focus. Member Krolick suggested the notice indicate the petitioners should conduct their presentation in a timely manner rather than putting setting a time. Chairman Covert agreed that was a good idea because it would make them aware the CBOE was looking at the time they were using to present. He said the petitioners would have more credibility with him if they presented facts.

After discussion, Chairman Covert advised the start time of the hearings would remain at 9:00 a.m.

08-1528E AGENDA ITEM 7 - PUBLIC COMMENT

Agenda Subject: “Public Comments. Comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the Board agenda. Comments are to be made to the Board as a whole.”

There was no response to the call for public comment.

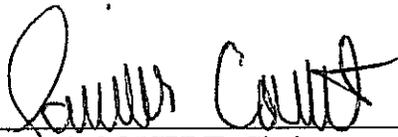
08-1529E AGENDA ITEM 8 - BOARD MEMBER COMMENTS

Agenda Subject: “Board Member Comments: This item is limited to announcements or topics/issues proposed for future agendas. “

There were no Board member comments.

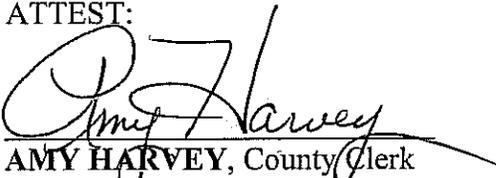
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11:35 a.m. There being no further business to come before the Board, on motion by Member Woodland, seconded by Member Green, which motion duly carried, Chairman Covert ordered that the meeting be adjourned.



JAMES COVERT, Chairman
Washoe County Board of Equalization

ATTEST:


AMY HARVEY, County Clerk
and Clerk of the Washoe County
Board of Equalization

*Minutes prepared by
Jan Frazzetta, Deputy County Clerk*