

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

THURSDAY

9:00 A.M.

JULY 8, 2004

PRESENT:

Steven Sparks, Chairman

Ina Haupt, Member

Thomas Koziol, Member

Gary Schmidt, Member

Amy Harvey, County Clerk

Nancy Parent, Chief Deputy Clerk

Leslie Admirand, Deputy District Attorney

Theresa Wilkins, Senior Appraiser

ABSENT:

Richard Grauvogel, Member

The Board convened in the San Rafael Room, Rancho San Rafael Ranch House, 1502 Washington Street, Reno, Nevada. Chairman Sparks called the meeting to order, the Clerk called the roll, and also in attendance were alternate members Marcia McCormick and Lawrence (Ron) Nicholson. The Board conducted the following business:

Chairman Sparks explained that Member Grauvogel informed him that he would be out of town January through March of 2005. Chairman Sparks said he advised Member Grauvogel, since he had not been sworn in, to write a letter to County Commissioner Jim Shaw and notify the Commissioner that he would be unable to serve on the Board of Equalization (BOE). Chairman Sparks said the Commission would appoint one permanent Board member from the alternates.

Chairman Sparks stated this was the second workshop, outside of the hearing process. He conveyed that everyone in attendance would have floor privileges, they would come through the Chairman for recognition, and the business of the Board would be limited to the Board.

On motion by Member Kozoil, seconded by Member Haupt, which motion duly carried, it was ordered that the procedure for the meeting that was outlined by Chairman Sparks be accepted.

PUBLIC COMMENTS

Gary Schmidt, speaking as a BOE member and as an individual, described his background in real estate and his personal history with the BOE at the County and State levels. He stated his priorities, as a BOE member, would be to address the noticing concerns and access to public records.

DISCUSSION AND POSSIBLE DIRECTION REGARDING PRE-HEARING PROCEDURES

Chairman Sparks directed that each item under this topic be discussed individually.

Scheduling of hearings:

Chairman Sparks commented that the regulations detail that the BOE must hold their hearings from January 15 to the end of February. He asked if any Board member would have a problem with making themselves available. He described the time frame for the meetings in the past, noting that in 2004 there were hearings in the evenings and on weekends. He said the hearings would be held Monday through Saturday, with one, two or three sessions; and they would be scheduled between January 15 and the end of February.

Member Schmidt suggested all hearings should be scheduled in the mornings on Mondays, Tuesdays, Thursdays, and Fridays, reserving the mornings on Wednesdays and Saturdays for continued hearings.

The location(s) of the hearings:

Chairman Sparks remarked that there was a search occurring to locate a less intimidating room for the hearings that would also meet the Clerk's responsibility for preparing adequate minutes. He noted the size of the room would be considered also. He said the only space at this point that the Clerk and the Chairman have been able to find was the County Board of Health room at the County Complex. This room has the individual microphones that are necessary for the Clerk's duties. He commented that at the next workshop a decision would have to be made to enable the schedule to be set for the 2005 hearings.

Leslie Admirand, Legal Counsel, brought up the concern about televising the meetings, as the County Board of Health room does not have that capability. Chairman Sparks pointed out that State law does not require the hearings to be televised. Ms. Admirand confirmed that to be true, but said it was something to consider.

Member Schmidt stated that televising is an important and valuable tool in the process. He said there should be a more appropriate utilization of the technical capacities for displays during the process of the hearings. He gave suggestions for ways to break down the intimidation factor for the public.

Ted Harris, Washoe County resident, agreed that the Commission meeting room is threatening; yet the room is best for size and microphones. He added it would lessen the intimidation factor if the petitioners could sit at an equal level with the Board.

Chairman Sparks quoted Nevada Revised Statute (NRS) to explain the role of the Assessor, and he noted that they must have a space to keep a log of all the changes that occur at the hearings. He confirmed that there would not be room for the petitioners to sit level with the Board because there must be room for the Clerk, the Board, and the Assessor's staff.

Les Barta, Incline Village resident, stated that the Board of Health room would work, as long as the Assessor's Office is separated from the Board. He added it would be a good idea to have a table instead of a podium.

Ernie Trujillo, area resident, commented on the televising of the meetings and scheduling conflicts with other County departments that interfere with viewing BOE hearings.

Nancy Parent, Chief Deputy Clerk, suggested a set up similar to a court room, where there would be a table for the petitioner and a table for the Assessor in front and facing the Board in the Commission Chambers.

Discussion ensued about the location of the hearings and the possible options for setting up the Commission Chambers for hearings.

On motion by Member Kozoil, seconded by Member Haupt, which motion duly carried, it was ordered that the Clerk be directed to explore the availability and the blocking of the County Commission Chambers for the BOE hearings. It was further ordered that the accessibility of two tables and two microphones be investigated that would be used at the hearings for the parties involved.

Providing notice of the hearings:

Chairman Sparks commented that this has been an issue in the past in terms of who provides the notice and when it is provided. He explained he did not want the timing of the notice of the hearings to be discussed by the Board at this meeting because that is the subject of a pending lawsuit.

Leslie Admirand, Legal Counsel, confirmed that what is legally sufficient in regard to the timing of the notice for the hearings should not be discussed.

Chairman Sparks stated that the Assessor's Office receives the appeal forms by law. He said, because the Board's primary function is equalization, he would desire that each of the geographical neighborhoods or types of properties be assembled together. He acknowledged that the Assessor's Office would be the best qualified to make these determinations. Chairman Sparks recommended that the Assessor's Office continue to receive the petitions, they would group them geographically or by property type, and those groupings would be sent to the Clerk's Office. He noted the Clerk's Office would be responsible to set the agenda and schedule the hearing dates.

Mr. Barta disagreed with the Chairman's recommendations. He stated that even the appearance that the Assessor is an authoritative party in the entire proceeding is inappropriate. He remarked that the Assessor has to be completely separate and an independent, adverse party in the hearing format. He said, in previous discussions, the Clerk's Office agreed that it would be capable of handling the correspondence and the sending of notices.

Chairman Sparks commented that the Assessor's Office would have the mapping ability to group the petitions.

Todd Lowe, area citizen, stated that the Assessor's database could be used to sort by neighborhood and assist in the groupings. Amy Harvey, County Clerk, stated if it was that simple, the Clerk's Office could do that, but she questioned the ease to gain this information.

Theresa Wilkins, Senior Appraiser, explained that Incline Village has neighborhood codes in the Assessor's system currently, but the codes are not available for the rest of the County at this time.

Member Haupt inquired of Mr. Barta as to his objection to the Assessor's Office grouping the petitions. Mr. Barta responded that it was a due process issue and there needs to be an atmosphere of objectivity and fairness.

Member Schmidt stated he was opposed to the Assessor's Office being involved with the grouping of the petitions because of the appearance of impropriety and the potential for the Assessor's Office to group petitions for their convenience. He said noticing is the Clerk's responsibility, but not scheduling. He suggested a sub-committee of two BOE members complete the groupings in conjunction with the Clerk's Office. He added an additional benefit would be that it would save the County money, as BOE members are paid less than County staff.

Member Haupt remarked that there are two separate issues at hand, and she did not see any issue with the Assessor's Office grouping the parcel numbers or neighborhoods.

Blaine Cartilidge, Deputy District Attorney representing the Assessor's Office, explained that this is an inside the government, administrative appeals process. He further explained that the Legislature has deemed it appropriate and necessary that the State BOE has staff to assist the Board, and the County BOE needs its staff and assistance also. By statute the Nevada Legislature has dictated that the County Assessor appear at every County BOE hearing and by historical practice and necessity the Assessor must be there. Mr. Cartilidge said if the BOE wanted to separate the noticing and scheduling there is no appointed regulation or statute that would direct one way or the other. He advised the County BOE to use the Assessor's experience and expertise in grouping the neighborhoods, particularly because the software and database is not fully developed to appoint code numbers to make it simply a processing of numbers. He

stressed there was not a due process issue involved, and there is no potential conflict in using the Assessor in its limited role.

Maryanne Ingemanson, area citizen, disagreed with Mr. Cartlidge, stating the Department of Ethics directed that the Assessor should have no contact with the BOE and they specifically used the word quasi-judicial. She mentioned the adversarial position of the Assessor to the petitioners and stated it would be affectively an ex parte communication if, in fact, the BOE spoke with the Assessor.

Chairman Sparks clarified that the BOE does not speak to the Assessor. He said his suggestion is that the Assessor's Office would group the petitions according to neighborhood or property type because the Clerk's Office may or may not have the knowledge to do that. Once the petitions are grouped they would be sent to the Clerk, the Clerk would set the hearings, and complete the noticing of the hearings. Ms. Ingemanson was in support of this.

Member Schmidt recommended that the hearings be set at an open, public meeting. He stated comments could be received from the public and the Assessor's Office, and the Board would make the final decisions. Member Haupt remarked that she viewed this in regard to efficiency only, and the BOE would need much assistance to be able to group and schedule hearings, which would not be efficient.

On motion by Member Haupt, seconded by Member Schmidt, which motion duly carried with Member Schmidt voting "no, " it was ordered that the Assessor's Office be directed to group the petitions by region, neighborhood, type of property, and parcel numbers and the Clerk's Office be directed to complete the scheduling of the hearings.

Member Schmidt requested that the length of notice be discussed, and Chairman Sparks declared that topic was not open for dialogue as long as there was a lawsuit pending. Member Schmidt clarified he would not talk about items that are under litigation, but he would desire to express his feelings on the type of notice that should be provided for petitioners.

Ms. Admirand said she was anticipating a decision from the Court soon and possibly this could be an item for a future workshop. Discussion followed with BOE members and citizens commenting on their opinions about reasonable noticing requirements and what would be appropriate for the petitioners. Member Schmidt reviewed an agenda memorandum dated February 9, 1996 that defined the notice requirements for hearings before the BOE, which was placed on file with the Clerk.

10:10 a.m. The Board recessed.

10:20 a.m. The Board reconvened with all members present.

Instructions to petitioners to be sent with the hearing notice including information to be provided by the petitioner:

Sharon Gotchy, Deputy Clerk, stated that the instructions from the State are sent to the petitioners with their petition forms when they first begin their appeal process, and these instructions include ample information. Chairman Sparks remarked that the form from the State needs to be added to the Assessor's website for petitioners.

In response to Chairman Sparks, Ms. Wilkins confirmed that the Assessor's Office does send out a copy of the instruction form with the receipt of the petition.

Mr. Barta requested that an item be placed on a future agenda to discuss the filing of the petitions. He would like to see the Clerk's Office receive the petitions.

Mr. Harris inquired if the instructions gave the petitioner an idea of the amount of time that was allowed to present their case. Chairman Sparks replied that sufficient time is allowed, but that is not specified in the instructions.

Information and documentation to be provided to the Board by the petitioner and Assessor's Office prior to the hearing:

Mr. Barta stated that a taxpayer could not appeal his property tax valuation if he does not know how the Assessor has valued the property. He said he believes the BOE has the authority to formulate a regulation that would require the Assessor to provide information to the taxpayer so all hearings would be fair. There is no way a taxpayer would be able to challenge the comparables and the specific appraisal if he receives the information on the day of the hearing.

Mr. Harris noted that much confusion came about when petitioners received a 53-page booklet from the Assessor that applied to the entire area, and not to the specific property of the petitioner, which is the evidence the Assessor used.

Member Schmidt clarified that the comparable properties presented at the hearings are not how the properties were evaluated. The mass appraisal is used to assess or appraise properties. He added that the individual comparables offered at hearings are the information or evidence that the Assessor's Office presents to support the evaluation made by the original computer packet. He noted that how the property was assessed was outlined in the 53-page booklet that was mailed out and received by many petitioners.

In response to Mr. Harris and Chairman Sparks, Ms. Wilkins explained that the letters sent out with notices in the past were for areas that received a land factor, and comparable land sales were included.

Mr. Barta pointed out that the important item is that taxpayers do not know and are not provided the information on how their property is valued. In a fair and

proper hearing there has to be a body of information to support valuation, whether it is mass appraisal or comparable sales.

Mr. Harris acknowledged that the Taxpayers Bill of Rights specifically states that the Assessor shall conduct public hearings and meetings to inform and educate property owners. Chairman Sparks suggested Mr. Harris speak to the Assessor about that item.

Member Schmidt asked that tags or labels be placed on the mass appraisal file and other items used in the process of determining valuation. He would like these items named, so petitioners could request and receive what they need to assist them in their case. He said he was in favor of requiring that the evidence packet be available for petitioners and the BOE at a minimum of three days before a hearing, and the petitioner must submit their evidence one day in advance of their hearing.

Ms. Parent noted that three days could be difficult depending on where the documentation needs to go. She suggested that petitioners be given a deadline and be informed to bring enough copies for all parties involved.

Chairman Sparks clarified that the Assessor's Office does not have the evidence packet at the time of the mass appraisal, and the mass appraisal sets the taxable value. He said there should be some burden of proof upon the petitioner that there is a reason why there should be a scheduled hearing.

Grace Trujillo, Washoe County resident, said that any time someone is filing an appeal they would need time to prepare their case. She argued that it would be difficult for petitioners to deliver the information early.

Mr. Harris stated the issue is that people do not understand the difference between the mass appraisal and the evidence packet containing the comparables. He said it is the obligation of the Assessor's Office to provide a type of analysis of what the mass appraisal entails. Chairman Sparks suggested he bring these issues before the Assessor.

In response to Member Kozoil, Ms. Wilkins confirmed that, if a person comes into the office, the files are available for them to examine.

On motion by Chairman Sparks, seconded by Member Kozoil, which motion duly carried, it was ordered that the following terminology be used: when discussing taxable value that has been set by the Assessor's Office, the Assessor is using a mass appraisal methodology, and the information package presented by the Assessor in their direct testimony to the BOE be entitled the Hearing Evidence Packet (HEP).

Marcia McCormick, alternate member of the BOE, voiced that taxpayers are basing too much emphasis on the HEP. She said she has been influenced to make adjustments for petitioners when they bring forward something that is specific to the property that the appraiser may not know about.

Setting time limits for hearings:

Chairman Sparks said sufficient time is what the law directs. Member Haupt noted time limits should be set, so that a taxpayer could prepare their presentation efficiently for the BOE.

Mr. Barta stated sufficient time cannot be denied. Chairman Sparks clarified that there would be no specific time limits. Member Schmidt discussed continuances for hearings and the time restraints involved for the BOE.

Setting minimum requirements of information to be provided by petitioner on appeal form and discussion and possible action on consequences to petitioner for not providing the minimum required information:

Ron Fox, former BOE Chairman, commented that the entire appeals process has been one of evolution. There have been many changes throughout the years, and, at one point in time if the petitions were not filled out completely, they were denied. He stated there should be a middle point established in terms of the information required on the petition.

Chairman Sparks stated the initial filing of the appeal has to be the minimum to get it on the record. He believes some type of an intent to make an actual presentation or ask for a remedy needs to be identified on the part of the petitioner, either written or verbally, some period of time before the actual hearing date. He said there would be no point in going further with a petition if there is no additional information provided.

Member Haupt inquired if it would be possible, when the petition is sent out, to state the timeframe, list the information required, and give notice that if the information is not provided, the petition would be considered withdrawn. Chairman Sparks acknowledged that would be the idea, but there would be no decision made on this matter at this meeting.

Member Schmidt pointed out that the petition is a State form, and any changes would have to go through the State. He commented on the petition and the required information. He said there should be a supplemental form given when someone files a petition, and he listed the questions that could be on the form.

Education of property owners on the jurisdiction and procedures of the County Board of Equalization:

Chairman Sparks explained that it has been proposed to hold two mock hearings that could be used to educate the public on the process, and he offered his ideas for the hearings. He noted these would possibly be held as workshops in December.

Member Haupt said there should be an education session presented by the Assessor's Office, specifically on the valuation process. She would like the Assessor involved to explain these matters to the public. She added it could be a separate workshop.

Member Schmidt acknowledged the Assessor has expressed his willingness to educate the public. He suggested those in attendance speak to the Assessor to gain this education. Mr. Harris confirmed that he would go to the Assessor and ask for a workshop.

Member Schmidt requested a future agenda item to consider a request to the State BOE and the State Department of Taxation for a modification of the petition form, and he detailed potential alterations.

04-728E NEW REGULATIONS AND PROCEDURES ESTABLISHED BY THE STATE BOARD OR STATE TAX COMMISSION

Leslie Admirand, Legal Counsel, presented the Revised Revised Proposed Regulation of the Nevada Tax Commission dated June 14, 2004, which was placed on file with the Clerk. She additionally gave the Proposed Permanent Regulation of the Nevada State Board of Equalization dated February 26, 2004, which was placed on file with the Clerk.

Discussion followed concerning the regulations with Board Members and the public commenting on changes and items they would like to see addressed.

04-729E DISCUSSION AND ACTION CONCERNING APPOINTMENT OF ALTERNATE MEMBERS AND SEATING OF A SECOND BOARD

Chairman Sparks described his conversation with the County Commissioners on this subject, and he reported that Commissioner Shaw said it was always the intent to empanel a second board for the BOE. Chairman Sparks said the Board of County Commissioners is trying to increase the list of alternates to at least five people to bring about the option of a second board.

On motion by Member Schmidt, seconded by Member Haupt, which motion duly carried with Chairman Sparks voting "no," it was ordered that the County BOE recommend to the State BOE and the State Department of Taxation that March 10 be substituted for January 25 under NAC 361.623, which specifies when the County Clerk would provide names to the Secretary of State to empanel a second BOE. It was further ordered that the BOE recommend to the Board of County Commissioners that they make the same recommendation to the State BOE and the State Department of Taxation.

Chairman Sparks said, if there were five people, they could serve as a second board and alternates to the primary Board. He questioned why recommendations

should be made to move beyond January 25 if the Commissioners are able to find five members who would serve on the BOE.

Marcia McCormick, alternate member of the BOE, stated if people come forward after the hearings begin, they might not be the best people to serve.

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Chairman Sparks clarified that the items for discussion on the next agenda would be appeal forms, required information from petitioners, and the notice of hearings.

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12:00 p.m. There being no further business to come before the Board, the meeting adjourned.

STEVEN SPARKS, Chairman
Washoe County Board of Equalization

ATTEST:

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

*Minutes prepared by
Lori Rowe, Deputy Clerk*