

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

WEDNESDAY

9:00 A.M

MARCH 8, 2006

PRESENT:

PANEL A

Steven Sparks, Chairman

Pat McAlinden, Vice Chairman

Thomas Koziol, Member

John Krolick, Member*

Gary Schmidt, Member

PANEL B

Steve Snyder, Chairman

Charles Woodland, Vice Chairman

Benjamin Green, Member

Diana Pichotta, Member

ABSENT:

Philip Horan, Member

Amy Harvey, County Clerk
Nancy Parent, Chief Deputy Clerk
Peter Simeoni, Deputy District Attorney

The Washoe County Boards of Equalization met on March 8, 2006, in the Western Heritage Interpretive Center at the Bartley Ranch Regional Park, 6000 Bartley Ranch Road, Reno, Nevada. The meeting was called to order by Chairman Sparks, the Clerk called the roll, and the Board conducted the following business:

06-100E DISCUSSION OF PROCEDURES – EQUALIZATION OF INCLINE VILLAGE/CRYSTAL BAY/ENTIRE WASHOE COUNTY

Chairman Sparks said the Board had received a letter from Attorney Suellen Fulstone and asked if there was anyone present who could answer questions about the letter.

Member Schmidt placed his objection to proceeding with combined Panels A and B and asked who ordered both panels to sit together on this or any item and by what authorization. He said he would proceed, but under objection.

***9:10 a.m.** Member Krolick arrived.

Chairman Sparks read Ms. Fulstone's letter. He asked Attorney Tom Hall if they were arguing that the agenda did not meet the Open Meeting Law requirements or that item three did not meet those requirements. Mr. Hall stated the notice was marginal and asked for full opportunity to discuss items three and four.

Chairman Sparks asked if they were protesting the entire agenda or specific items. Mr. Hall said they did not want to be limited to three minutes for public comment on the items and did not object to the agenda. Chairman Sparks said it seemed

they were opposed to items three and four being heard on the same day. Mr. Hall stated the letter the Chair referenced was written on March 3, 2006; and since that time, he had received a letter from Attorney Norm Azevedo who clarified some of the matters. He said they would like to allow item three to go forward and reiterated his opposition to the three-minute time limit.

Deputy District Attorney Peter Simeoni said there were several issues raised by item three. He said the item was not sufficient for compliance with the Open Meeting Law for clear and complete information and advised the Board not to take any action on that item. He said he had previously opined to Panel A that per NAC 361.622, the State Board reviews and approves procedures that the County Board desires to adopt and implement. He said this Board should not take any action on procedures that have not been approved by the State Board of Equalization. He noted they could suspend the time limit for testimony and recommended they solicit as much information and testimony as possible to make a fully informed decision.

Member Schmidt asked if counsel would opine that for this Board to adopt Robert's Rules, State approval would be required. Mr. Simeoni said Member Schmidt was talking about internal administrative rules; and the Board was talking about equalization procedures that not only affect the County Board, but could potentially affect the State Board. He said the State Board of Equalization was the chief appellate supervisory board in the State for locally assessed properties and the body that would hear all of the cases that would converge at that level. He stated this was why they could not have different rules regarding evidence and procedures in 17 different counties without the State Board having some control and oversight.

Member Schmidt said there was a provision in statute that said the majority of the County Board determines all business. He asked if Mr. Simeoni could point to a provision that combined the two panels, that stated the Chairman was the only one who could call a meeting, that the Chairman was the only one who could agendaize items, and that the Chairman determined the length of time for public comment. He placed a request of four agenda items on record with the Clerk and discussed how an agenda was done. He said Panel A decided to have a meeting on February 24, 2006 and item three on today's agenda was discussed, but not item four.

Chairman Sparks said, on February 24th, the combined Boards decided to discuss procedures and to have a discussion of the equalization issue that resulted from the Board actions during the hearing process this year. He said the State Board required that any equalization or any notice to any taxpayer be provided to the State no later than March 10, 2006. Due to meeting requirements, noticing, and obtaining a meeting place, he put both items on the agenda. He said, if they adopted procedures on an equalization discussion, they should go to the State Board because there were no procedures in the Statutes or regulations. He advised that he called the Nevada Tax Commission (NTC) and learned this had never taken place in any County in the State of Nevada, and there were no procedures or guidelines to be followed. He said, because of the March 10 drop-dead date, he felt the Board should have the option of establishing and discussing

procedures for an equalization discussion or forego the procedures discussion and have an equalization discussion.

Member Schmidt read NRS 361.335 into the record and asked what gave the authorization to change, add to or delete from an agenda.

Chairman Sparks asked how the Board wanted to proceed. Mr. Simeoni said item three was in violation of the Open Meeting Law. Chairman Sparks asked if they should withdraw item three or pass over it and proceed to item four. Mr. Simeoni said they should move to item four but did not need to withdraw item three.

Chairman Sparks reiterated the reason he placed both items on the agenda. He said Mr. Simeoni did recommend against it, but he felt the Board should have the option of doing one or the other. He said it was very clear they could not do both at this point.

Panel B Chairman Snyder asked if the Board could develop and discuss recommended procedures and present them to the State Board the way this item was agendized. Mr. Simeoni advised the Board against that.

Member Schmidt said he disagreed with parts of what he was hearing. He said, if they were to develop recommended procedures to submit to the State Board for their approval, it must be done in a public process and that meant there needed to be a general item to allow discussion.

Chairman Sparks agreed with Member Schmidt; however, under the style of the agenda, it could not be done today. He stated that Ms. Fulstone's letter clearly indicated they could not discuss and adopt procedures then implement them in the very next item.

Member Schmidt asked what type of wording would have been acceptable. Chairman Sparks said, if they wanted to discuss the procedures and send them off to the State that would be fine; but they could not be implemented today. He said, by not looking at item three, the Board could move forward and discuss item four.

Member Schmidt did not agree they could not discuss procedures at a base level and was trying to discover what wording would be allowed to initiate discussion.

Attorney Tom Hall said his understanding of today's agenda was the possible equalization of Incline Village and Crystal Bay. He said he did not see a need for procedures if the County Board was inclined to equalize taxable values within the geographic vicinity of the subject properties.

There was no response to Chairman Sparks call for public comment and closed discussions.

**DISCUSSION – EQUALIZATION OF INCLINE VILLAGE/
CRYSTAL BAY/ENTIRE WASHOE COUNTY**

Chairman Sparks asked if the Clerk had received any petitions for equalization for today. There were none. He asked if anyone in the audience had received a notice of hearing for their specific property. There were none.

Chairman Sparks said since February, the Washoe County Boards of Equalization have held hearings on petitions that alleged non-equalization. He said both panels heard the appeals and decisions were made. He said the result was to roll back the values of approximately 300 taxpayers to 2002/03 taxable values. He said in the process of those hearings, both the Deputy District Attorney for the Assessor's Office and representatives for the taxpayers said, if the ruling of Judge Maddox went forward, it would cause an equalization problem within Incline Village, Crystal Bay, and conceivably the entire county.

Chairman Sparks said today was a business decision of the Board to the extent that this Board's actions, in reducing approximately 300 property owners, could impact the rest of Incline Village and Crystal Bay. He said it was a Board action that created this equalization problem. He said this was not a hearing; there were no petitions; and the only procedures he knew of were for hearings. He said they were not set up to take testimony or evidence today. He stated no one wanted to put a taxpayer at a disadvantage. He said the Nevada Tax Commission (NTC) along with Counsel has advised him that March 10, 2006 is the drop-dead date for State appeals. He said they were not here to rehear cases already heard and decided.

Member Koziol asked for clarification on whether they were in violation of the Open Meeting Law under item four. Deputy District Attorney Peter Simeoni said there was no problem with discussing item four. Attorney Tom Hall said he had no objections to proceeding under this item.

Member Green said it was important to move ahead with item four, stating the Board was charged with equalizing the properties that came before them. He said Panel B rolled back approximately 300 properties to the 2002/03 taxable values, and that created an imbalance in the equalization since other properties were valued much higher. He felt the Board had no choice but to equalize taxes in Incline Village and Crystal Bay. He said it was imperative the Board also look at equalizing the rest of Washoe County.

Member Schmidt said both Panels participated in the reductions and disagreed there was a problem created by the Board. He disagreed with the drop-dead date, stating they could go beyond the drop-dead date as long as the Board was diligently pursuing the goals of equalization.

Chairman Sparks stated the Board would take public comment after a general discussion. He said approximately 300 properties were provisionally rolled back due to the Maddox decision and a partial Stay by the Nevada Supreme Court. He said,

with that in effect, they had approximately 300 properties that were not assessed at the same level as the balance of Incline Village and Crystal Bay. He said the Board could raise those 300 properties back up to the balance of the approximately 9,000 properties in that geographic location. He said if that were the case, it would require a notice and there was not sufficient time to have a hearing. He said the Board could take the position that the 300 properties represent a level and roll back the balance of the 9,000 properties to the 2002/03 taxable values. He said, if they rolled back all of Incline Village and Crystal Bay, those properties would be out of balance with the rest of Washoe County. Chairman Sparks read NAC 361.751 and said they could request an advisory opinion from the Nevada Tax Commission.

Panel B Chairman Snyder said if the whole of the County were rolled back, Washoe County would be out of equalization with the other 16 counties in the State. He said the Board should request an advisory opinion from the NTC because anything they did had repercussions beyond Incline Village and Crystal Bay.

Member McAlinden said in looking at Judge Maddox' decision, there were four methods that he took into consideration when making his decision. She asked if that limited his Order only to those properties where those four elements were used. Chairman Sparks sat through all of the hearings acting as an Administrative Chair; and, as part of the hearing process, it was presented to Panel B that all properties in Washoe County probably were affected because of time adjustment. He noted the Board was not trying to apply the Maddox decision to Washoe County.

Member Schmidt said even if the 300 properties were raised back up, they still had the issue of the original 17 properties that could not be raised; and regardless of what was done today, he felt things would be stayed. He read NRS 361.345 into the record and said, if this Board determined that additional properties were to be lowered because of an equalization disparity, it would probably be stayed. He noted the Assessor could raise everybody back up next year. He said he had problems based upon the existing court order with rolling everyone in the County back to 2002/03.

Chairman Sparks said NAC 361.749 was an advisory opinion that Member Schmidt said applied only to the State Board. He read NAC 361.749(1), stating it was not confined to the State Board; anyone could request an advisory opinion.

Member Pichotta said if there were problems in Incline Village and Crystal Bay, those problems would probably exist throughout the County. She said an advisory opinion would be a good idea.

Member Green said it was mentioned that if the Board rolled the entire County back, they would be out of equalization with the other counties in the State. He said they received some appraisals for Las Vegas from the Assessor's Office and noted Clark County appraises every year. He said most of those appraisals were in the 90 percent of value bracket; and, by itself, it would put either Clark County or Washoe County out of equalization making it a mute question at this point. He said from what he

saw, they were out of equalization with Clark County since most of Washoe County was in the 50 to 60 percent of value bracket. He thought an advisory opinion was a good idea, but said the Board was sidestepping an issue that was a tough decision. He commented that refunds were not the Board's concern; they were tasked with the equalization of Washoe County. He stated they should roll the rest of the County back subject to the Supreme Court decision.

Member Woodland said he did what he thought was right at the time. He said whatever was decided today would affect the entire County, and noted they were out of equalization with other counties already. He stated this issue would be placed into the State's hands no matter what was decided today.

Panel B Chairman Snyder said he was leaning towards asking for an advisory opinion. He said he did not want to go through the process today and then have the State tell this Board to go back and review it.

Member Koziol was for equalizing the entire County and supported seeking an advisory opinion. He read from the Supreme Court Stay and emphasized the phrase "any additional petitions". He said his interpretation of the Stay was that rolling anyone else back would require a petition.

Member Schmidt said the Order was subject to interpretation. He was in favor of proceeding, noting the equalization of the State fell to the State Board and was not a concern for this Board. He made a disclaimer that he owned property in Washoe County, has not paid his property taxes in twelve years, and appealed his taxes 26 times. He said the Board should roll back to 2002/03 or to current taxable values whichever was lower.

Member Krolick thought the issues were unique to the Lake and did not see similar issues in the rest of the County. He supported requesting an advisory opinion.

Member McAlinden wanted to hear comments from the public and agreed the issue was more specific to Incline Village and Crystal Bay. She supported receiving an advisory opinion.

Chairman Sparks said, by his interpretation of the court ruling, only those petitioners who sought relief were enumerated by the State Supreme Court. He said methodology being applied or not was irrelevant.

10:25 a.m. The Board briefly recessed.

10:40 a.m. The Board reconvened.

Juanita Cox, local resident, said it was the Board's duty to equalize the entire County. She said, if the Assessor's Office erred in Incline Village and Crystal Bay,

they could have erred throughout Washoe County. She placed a tea bag into evidence with the Clerk.

Terry Shea, Deputy District Attorney, asked, when considering this item, what would the discussion be if it were not for Judge Maddox' order. He said none of the parcels came before them on the idea that the value of the property was out of equalization and there was no evidence of an equalization problem based on value alone.

Les Barta, local resident, said it was true the Supreme Court language did use the term "petitioners", but there were other requirements including one that specifically authorized the Board to consider equalizing the people who had not filed a petition. He discussed the authority of the Board, and said, NAC 361.624 created an obligation to equalize within the geographic vicinity, meaning Incline Village and Crystal Bay.

Tom Hall, Attorney, read a 1955 Attorney General opinion and discussed the Supreme Court Stay. He said the Board was now acting outside of any petitions. He said the Taxpayer's Bill of Rights favored the taxpayer if there was indecision or ambiguity. He noted the reasoning of Judge Maddox was limited to Incline Village.

Josh Wilson, Appraiser, read the definition of equalization from the IAAO textbook and contended values were currently equalized, noting the ratio study agreed with that. He had concerns that the Board would reduce values for petitioners represented by Attorneys, but not for individuals. He said, if they reduced Incline Village, he could not see how Washoe County would not be affected as a whole. He said there were 287 properties reduced by this Board based on the Maddox decision, and these were the only properties out of equalization.

Wendy Ullmann, local resident, said people were equal and laws needed to be applied equally. She said the Board was trying to deal with an inappropriate methodology used unequally. She said Judge Maddox has thrown down the gauntlet, and the Board was now tasked with how to make the community equal.

Norm Azevedo, Attorney, supported seeking an advisory opinion. He said the District Attorney suggested the Board was here because of District and Supreme Court Orders. He said the Board had a duty to equalize, and they were faced with a situation that has never occurred before. He said the Board needed to act in a manner consistent with statute and regulation. He said the Nevada Tax Commission was also addressing the issues facing this body, and it might assist the Board with its work once they weighed in. He said the Supreme Court Order was specific, and the Board acted consistent with it. He noted the Maddox decision, stating he was the attorney that brought that case forward, and said the Board had acted consistently on behalf of his parcels. He wondered what other parcels were subjected to the methodologies in question.

Ernie McNeil, local resident, said the issue of the four methodologies was an issue throughout the County. He said the Board could remove the reduction given or apply it to all of Washoe County.

Maryanne Ingemanson, local resident, discussed Ms. Fulstone's letter. She said the Court ruled the methodologies in question were not correct. She commented that the Order of the Supreme Court was silent as to the issue of equalization; however, NAC was clear on equalization. She said the rest of the Lake must be equalized and rolled back, stating this would conform to Judge Maddox' decision. She said he was silent on the equalization of the entire County.

H.G. Fisher, local resident, said he saw the Board as a victim due to the questionable methodologies. He said if something were not done, the Board would be at this every year.

With no one else wishing to speak, Chairman Sparks closed public comment.

Member Green said Mr. Hall indicated he did not know whether the 200± properties he represented were assessed using the questionable methodologies. He said since the Board did roll those properties back, he did not see that they had any choice but to roll the rest of Washoe County back.

Member Schmidt said he did not think the Maddox decision was relevant today, stating the issue was one of equalization and asked Mr. Azevedo for an opinion on this. Chairman Sparks counseled Member Schmidt in his use of Mr. Azevedo as an expert, stating it was going beyond public comment.

Member Schmidt said the Maddox decision limited options. He stated the Assessor's Office consisted of professional people with experience and had done a reasonable job to provide taxable values. He said that would be a base assumption to support lowering all values in Washoe County.

Member Green said the Assessor indicated that if the Board rolled Incline Village and Crystal Bay properties back, they would be at approximately 38 percent of value and the rest of the County would be in the low 50 percent range. He said if they were to roll just Incline Village and Crystal Bay back, the County would be out of equalization due to the approximately 13 percent spread. He said if they were of a mind to do a roll back, they needed to include the whole County. He asked Mr. Simeoni if, as a person who owned property in Washoe County and not a petitioner, would he have to recuse himself in voting for a rollback. Mr. Simeoni said he would not since he would not stand to gain any more than anyone else.

Chairman Sparks said during the hearing process, 287 parcels were rolled back under the Judge Maddox decision. He said, when decisions were made, each Panel used the Judge Maddox decision as part of their reasoning process as ordered by the State

Supreme Court. His personal opinion was that sometime in the future the State Supreme Court would hear the entire matter. He said this Board was charged with correcting geographical imbalances for equalization. He moved to provisionally reduce the residential parcels in Incline Village/Crystal Bay to the 2002/03 levels for equalization purposes. He noted the State Supreme decision could affect this motion. Member McAlinden seconded the motion.

Member Schmidt asked for clarification of the rules of order if a motion passed, and if the Chair would allow an additional motion that was a bit more encompassing. Chairman Sparks said Member Schmidt knew that the Board had not adopted any rules of order; however, they did try to be civil and respectful to each other and follow some decorum.

Member Schmidt asked to amend the current motion to include any parcel within that motion whose property was reduced subsequent to 2002/03 be reduced to the lower of the two amounts and parcels reduced back to 2002/03 that subsequently had improvements be adjusted accordingly. Chairman Sparks agreed to amend his motion. Member McAlinden accepted the amendment.

In response to Member Snyder, Chairman Sparks assumed the Supreme Court would address the motion at hand. Mr. Simeoni clarified that “provisional” was a reference to the Supreme Court Stay that enjoined the Board from implementing any rollbacks.

In response to Member Woodland, Chairman Sparks said the motion only affected Incline Village and Crystal Bay.

On motion by Chairman Sparks, seconded by Member McAlinden, which motion duly carried, it was ordered that residential parcels in Incline Village and Crystal Bay be reduced to the 2002/03 taxable values for equalization purposes, that any parcel reduced subsequent to 2002 that was a lower amount be rolled back to the lower of the two values, and that any improvements subsequent to 2002/03 be adjusted accordingly. It was noted this action was contingent on the ruling pending from the Supreme Court.

Member Green moved that, if the Supreme Court upheld the Maddox decision, all of Washoe County be rolled back to 2002/03. Member Pichotta seconded the motion.

Member Green discussed the percentages of value, stating with the rollback just voted on, the balance of Washoe County would be at least 13 percent higher than Incline Village and Crystal Bay. He noted this motion would only happen if the Supreme Court upheld the Maddox’ decision.

Member Schmidt wanted to amend the motion to remove the provisional action of the Supreme Court, stating he did not think it would be appropriate to anticipate that action. He moved that the Board find the balance of Washoe County parcels out of

equalization because of the reduction of approximately 9,000 properties in Incline Village and Crystal Bay by the County Board and the District Court; therefore, all parcels in Washoe County be reduced to their 2002/03 taxable values, or any parcel reduced subsequent to 2002 be rolled back to the lower of the two values, and any improvements subsequent to 2002/03 be adjusted accordingly. Members Green and Pichotta accepted the amendment.

Chairman Sparks noted this motion would not affect the first motion in any way. He was against the current motion, stating the District Court Order was geographically based; and this motion extended beyond that area. He said the first motion covered the equalization problem, and it was his opinion that they were exceeding the Board's authority.

Member Krolick would not support the motion, stating the issues brought forward by Incline Village were not expressed elsewhere in the County.

Member McAlinden would not support the motion, stating it was premature to guess what the Supreme Court might rule. She said they should take small steps and make sure they were heading in the right direction.

Member Woodland said he would not support the motion.

Member Green said, if the court upheld the Maddox decision, a huge imbalance with the rest of the County would be created. He commented the Assessor's Office did a remarkable job in a difficult geographic area; however, if the Board rolled back Incline Village and Crystal Bay, they had an obligation to equalize the entire County.

Panel B Chairman Snyder was not willing to extend the roll back to the balance of the County.

Member Koziol said he did not support the motion.

Member Schmidt said the Board was charged with a duty to equalize. He said they lowered 9,000 properties, which put the rest of the County out of equalization. He stated that, while waiting for the Supreme Court decision, those properties would be out of balance. Chairman Sparks said Member Schmidt was wrong to the extent that the motion was provisional. He said the State Supreme Court said they could not implement their decisions; so until that Court ruled, the County was not out of equalization.

Member Schmidt said, if the Supreme Court acts, the rest of the County loses out if no action was taken today.

A call for the question was made. The motion failed 3 to 6 with Chairman Sparks, Members Koziol, Krolick, and McAlinden, Panel B Chairman Snyder and Member Woodland voting "no".

06-102E PUBLIC COMMENT

Juanita Cox, local resident, said the Board's counsel seemed biased and counter opinionated from protecting the Board's interest. She said she has never seen counsel act as inappropriately as in the past several Board of Equalization meetings. She said counsel should be replaced with someone who had the interest of the Board.

Les Barta, local resident, said he objected to the presentation of factual evidence by Appraiser Josh Wilson regarding percentages, stating it influenced members of the Board and should not have been presented. He commended the Board for their intelligent and insightful commentary and service.

Ted Harris, local resident, said he purchased a database from the Assessor's Office and said the Board needed to look at the numbers for sales for the three previous fiscal years as well as taxable values. He believed the Assessor's percentages were wrong.

Robert Cameron, local resident, said he lived in the government homes tract; and his area was required to construct and maintain roads, water systems, and sewer systems. He said these roads provided access to a State, not County, highway. He noted taxes on the vacant lot in 2000 were \$621. When his house was completed, taxes were \$1,600; and the 2004/05 the taxes were \$2,600. He thought this was ridiculous when the area residents did all the work.

Josh Wilson, Appraiser, stood by the sales provided to the Board and thanked them for their service.

Chris Mumm, local resident, thanked the Board for their service.

BOARD MEMBER COMMENTS

Member Green said he appreciated the other members, the courtesy of the presenters and Chairman Sparks.

Member Schmidt read his request for agenda items into the record.

Chairman Sparks stated this was his last meeting. He thanked everyone he worked with as Chair over the last two years. He said the Assessor's Office was very professional and did a remarkable job. He noted everyone on the petitioners' side, whether represented by counsel or not, exhibited professionalism. He stated the Clerk's staff was magnificent and appreciated all they did. He noted that he had differences with Mr. Simeoni, but he was very good counsel to this Board and appreciated his input.

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12:00 p.m. There being no further hearings or business to come before the Board, the Board 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
Jill Shelton, Deputy Clerk*