

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

FRIDAY

9:00A.M.

DECEMBER 3, 2004

WORKSHOP

PRESENT:

Steven Sparks, Chairman

William Brush, Member

Thomas Koziol, Member

John Krolick, Member

Gary Schmidt, Member

Nancy Parent, Chief Deputy Clerk
Peter Simeoni, Deputy District Attorney

The Board convened in the Caucus Room of the Washoe County Administrative Complex, 1001 East Ninth Street, Reno, Nevada. Nancy Parent, Chief Deputy Clerk, administered the Oath of Office to new Board member John Krolick and alternate member Marcia McCormick. Chairman Sparks called the meeting to order and the Board conducted the following business:

Nancy Parent, Chief Deputy Clerk, called the roll and it was noted that all Board members were present. Chairman Sparks stated the three alternate members were invited to attend the meeting and participate in discussions as non-voting members, but only alternate member Marcia McCormick was able attend.

04-738E AGENDA

In accordance with the Open Meeting Law, on motion by Member Koziol, seconded by Member Brush, which motion duly carried, Chairman Sparks ordered that the agenda for December 3, 2004 workshop be approved.

04-739E SELECTION OF VICE CHAIRMAN

Chairman Sparks stated at the last meeting Ina Haupt was selected as Vice Chairman, but she has since resigned. He then called for volunteers, and there were none. Chairman Sparks called for nominations with Krolick, Brush, and Koziol declining their nominations.

On motion by Member Koziol, seconded by Member Brush, which motion duly carried with Member Schmidt voting "no," Chairman Sparks ordered that Member Schmidt be appointed as Vice Chairman.

**DISCUSSION – NEVADA REVISED STATUTES CHAPTER 361,
NEVADA ADMINISTRATIVE CODE CHAPTER 361 – DISTRICT
ATTORNEY**

Peter Simeoni, Deputy District Attorney, conducted a PowerPoint presentation on the role and responsibilities of the County Board of Equalization (CBOE) that addressed the Administrative Process, Hearings Schedule and Form, Scope of Authority, Relevant Evidence, Assessor's Presentation, 2005 Hearings, and Taxable Value. A copy of the presentation was placed on file with the Clerk.

Mr. Simeoni said the purpose of the CBOE was to make sure taxpayers pay their fair share per the State Constitutional mandate requiring a uniform and equal rate of assessment and taxation across the State. He said Nevada Revised Statutes, Chapter 361, and Nevada Administrative Code, Chapter 361, service this mandate.

In response to Mr. Simeoni, Ernie McNeill, Senior Appraiser, said the bulk of the petitions would be received in the week prior to the January 15th deadline. He spoke about the appraisal record that contains data about a property, the valuation process, and what the Assessor's Office provides to the Board for the hearings.

Mr. Simeoni cautioned the Board that every effort should be made to conclude the hearings by February 28th to make sure petitioners have time to file with the State BOE by March 10. Mr. Simeoni said the record created by the CBOE was critical in determining how the State BOE and how the Court responds to an appeal of a CBOE decision. He said the Board must use relevant evidence to generate specific findings to support the Assessor's determination or to reduce it and discussed what was considered relevant evidence and the form of the hearing.

In response to Ted Harris, Incline Village resident, Chairman Sparks replied a petitioner could be an expert to testify on their behalf.

In response to Les Barta, Incline Village resident, Mr. Simeoni said there was no statutory provision that identifies the burden of proof, but there was case law and NRS 361.410 provided a clear and convincing standard at the State level.

Chairman Sparks provided the three new Board members, who had not been involved in last year's hearings, with videotape copies of some those hearings so they could familiarize themselves with the proceedings. Mr. Simeoni handed out a copy of a record with the decisions and findings of a County level hearing.

Mr. Simeoni said it was important to provide taxpayers with sufficient time to present their case; but if information was starting to be repeated, that time could be curtailed. Mr. Schmidt asked, if the Board ran out of time to hear all of the petitioners for whatever reason, would relief be granted. Mr. Simeoni said he knew of no options toward that situation, but every effort should be made to hear all petitioners and to provide them sufficient time.

Mr. Simeoni said factors used by the Assessor are approved by the State, and the CBOE has no jurisdiction to change the factors.

In response to a discussion by Mr. McNeill on the definition of market value and full cash value, Chairman Sparks requested the term “full cash value” be used during the hearings so the records are clean, and because there was no clear definition of market value as pointed out by Mr. Schmidt. He said Mr. Simeoni made it very clear the statement taxable value does not exceed full cash value must be used in motions where appropriate.

**04-741E DISCUSSION – OPEN MEETING LAW – PROPERTY TAX
MANUAL – ETHICS IN GOVERNMENT LAW – DISTRICT
ATTORNEY**

Peter Simeoni, Deputy District Attorney, conducted a PowerPoint presentation on the Open Meeting Law, Property Tax Manual, and the Ethics in Government Law. A copy of the presentation was placed on file with the Clerk. Mr. Simeoni said the CBOE was a public body and was subject to the Open Meeting Law. He said the CBOE needed a quorum of three members to conduct business, and he cautioned Board members about avoiding walking quorums. Board members can meet socially, as long it was not intended to evade the Open Meeting Law, but cannot discuss matters before the Board.

Member Schmidt said it was common practice to discuss current issues in general terms. Mr. Simeoni responded that Board members should be very careful on the nature of these conversations because they could be construed as a walking quorum. He admonished the Board members not to deliberate or exact promises on a vote.

In response to Maryanne Ingemanson, Incline Village resident, Mr. Simeoni said NRS 361.340 had been interpreted to mean that if only three Board members were present, the vote would need to be unanimous. Chairman Sparks interjected, during an appeal hearing with only three members participating, if the vote was not unanimous that would constitute a non-action and by default the Assessor’s appraised value would be upheld.

Mr. Simeoni passed out the Acknowledgement of Ethical Standards for Public Officers as required by NRS 281.552, and he asked the Board members who had not already done so to sign it after reading NRS 281.481. He provided some examples of when members should disclose for the record and abstain from voting. Mr. Simeoni said if there were any doubts about the ethics of a situation, contact the District Attorney’s Office as soon as possible prior to the hearing.

In response to Member Schmidt, Josh Wilson, Appraiser, said the entire County was being recosted and broad-based factors were being applied throughout the County. He said if the value produced can be proved to exceed the full cash value, the

Board has the jurisdiction to adjust the valuation, but cannot change the actual factor. Chairman Sparks said this was a procedure that would be discussed as part of an actual hearing, and he would prefer the Board wait until the hearings to discuss this issue.

10:07 a.m. The Board recessed.

10:15 a.m. The Board reconvened with all members present.

04-742E LITIGATION UPDATE

Peter Simeoni, Deputy District Attorney, stated the Nevada Supreme Court upheld the minimum three-day notice requirement under the Open Meeting Law for petitioners coming before the Board; but a petition for a rehearing was filed by the attorney representing the taxpayers. In response to Member Schmidt, Mr. Simeoni stated the Nevada Supreme Court in its order specifically addressed the due process issue under the Constitution by stating no one's Constitutional rights were violated.

Member Schmidt disclosed he was assigned private counsel to represent him in the suit against the CBOE and its members, which was paid for by the County, because of a conflict with the District Attorney's Office.

04-743E CONFLICT IN LITIGATION REPRESENTATION - ASSESSOR'S OFFICE AND CBOE

On motion by Member Koziol, seconded by Member Schmidt, which motion duly carried, it was ordered that the discussion on the possible conflict of the Assessor's Office and the CBOE both being represented in litigation by the District Attorney's Office be continued until after the 2005 CBOE hearings.

Chairman Sparks noted that Commissioner Weber was in attendance.

04-744E SCHEDULING OF 2005 HEARINGS DATES

Sharon Gotchy, Deputy Clerk, distributed to the Board a list of dates and times the County Commissioners' chambers was reserved for the CBOE hearings.

After discussion, on motion by Chairman Sparks, seconded by Member Schmidt, it was ordered that the Clerk give priority to no more than two sessions per day during the last two weeks in January, with review at the end of January to see if the number of petitions received could be heard within the judicially allotted timeframe, at which time the CBOE could request Saturday or evening sessions to conclude hearing the petitions within that timeframe.

**SUBMISSION OF DOCUMENTS AND EVIDENCE PRIOR TO
THE HEARINGS**

Member Schmidt stated he would like to see the evidence submitted by the Assessor or the petitioner prior to the hearing, especially on commercial properties and casinos because there are often professional appraisals, which are substantial documents that cannot be reviewed while listening to testimony.

In response to Chairman Sparks, Member Schmidt said eventually he would like the materials from the petitioner and the Assessor three days in advance. But for this year he would request the petitioner submit the documents as soon as possible. He also requested the Clerk's Office prepare them for the Board as soon as possible and at least the night before the hearings. He said he believed the Board has the authority to require the Assessor's Office to submit their documents three days in advance subject to modifications to procedures being approved by the State. Member Schmidt said he would request petitioners also submit their documents three days in advance.

Alternate Member McCormick said it would be inappropriate to demand the Assessor's Office give the Board their paperwork three days in advance and not demand the same of the petitioner. She said she understood it was planned to provide better instructions to the petitioners, and she would go along with informing them the sooner they get their materials to the Board the better.

Peter Simeoni, Deputy District Attorney, stated the Nevada Administrative Code provides that the CBOE can establish more detailed procedures for the administration of hearings if the State BOE approves them.

Member Schmidt made a motion to require the Assessor's Office submit their documentation three days in advance of the hearing with a strong request to the petitioner to do the same, which was seconded by Member Koziol. The motion and second was withdrawn after being informed by Mr. Simeoni that the Board had no authority to require the Assessor's Office to do so. Chairman Sparks said the Board could only recommend, not require.

In response to Member Schmidt, Ernie McNeill, Senior Appraiser, said the process of doing the reappraisal was different than the process for defending the value, and that was done at the time the appeal was submitted. He said often the points brought up in the appeals have not already been researched. Mr. McNeill said in many cases the preparation for the hearings was finished in the morning for an afternoon hearing because of the volume of work generated by the number of appeals filed.

On motion by Member Schmidt, seconded by Member Koziol, which motion duly carried, Chairman Sparks ordered that a letter be prepared to be distributed to petitioners upon the filing of an appeal that suggests they submit their evidence a minimum of three days in advance of their scheduled hearing with an explanation of why this would be to their advantage, and with a request for eight copies of their evidence.

Member Schmidt moved that every effort be made to coordinate with the Assessor's Office to get all evidence packets three days in advance of the scheduled hearing, and he requested a future agenda item to discuss seeking a written District Attorney's opinion on requiring the Assessor's Office to do so. The motion died for lack of a second.

04-746E HEARING CONTINUANCE POLICY

Member Schmidt stated last year it was the practice of the CBOE to deny a request for continuance based on the conditions placed on the CBOE by State Law to finish the hearings within a specific timeframe. Chairman Sparks replied every request for a continuance last year was granted.

Chairman Sparks called for a motion and none was made.

04-747E HEARING SETUP

Chairman Sparks provided background for the new members on how the chambers were set up last year. He said this year there would be a table for the Assessor and one for the petitioner that would sit in front of the dais. Chairman Sparks said they can also request visual aids.

Alternate Member McCormick suggested adding to the letter going to the petitioner that, if they are going to bring something specific such as a CD, they need to make advance arrangements or bring what equipment they need.

04-748E PROJECTION OF GENERAL AREA MAPS – INCLUDE SUBJECT AND COMPARABLE PROPERTIES

Josh Wilson, Appraiser, said to expedite the process last year the maps were placed into a general book, but this year the subject map with all the comparables would be attached to each appeal. He said they could also be put on the overhead, and Member Schmidt said the general overview map should be projected.

04-749E DIRECT QUESTIONING OF ASSESSOR'S REPRESENTATIVE BY PETITIONER

On motion by Member Schmidt, seconded by Member Koziol, it was ordered that the discussion and possible action on a recommendation and/or adoption of a format that allows some direct questioning of the Assessor's representative by the Petitioner/Appellant with a possible recommendation of such to relevant State agencies be continued until after the 2005 hearings.

04-750E NOTICING – SCHEDULED HEARING DATES

Peter Simeoni, Deputy District Attorney, stated that any changes to noticing need to be approved by the State.

Nancy Parent, Chief Deputy Clerk, stated the Clerk's Office would do the best they could to give the petitioners as much notice as possible. She said if the bulk of the appeals come on January 15, then the first hearing would be January 25th, which limits the time the Board has to conduct hearings.

Chairman Sparks said the Statute identifies the County Clerk as the CBOE's noticing party, and the CBOE sets the timeframe of the notice as was done last year. Mr. Simeoni disagreed saying the CBOE has followed the three-day notice, which is the minimum noticing requirement under the Open Meeting Law.

Chairman Sparks said the Nevada State Board of Taxation, the Nevada State Tax Commission, and the State BOE are meeting on December 15, 2004, and any proposed procedural changes could be considered if this Board submits them in writing by December 9, 2004. He believes the Board has the ability to set a time period and to relay that time period commitment to the noticing party for the hearings. Member Schmidt agreed.

Ted Harris, Incline Village resident, handed out and discussed a paper on Clark County noticing, which was placed on file with the Clerk; and he asked why that could not be done here. Member Schmidt said the policies were set by Clark County, the Clark County District Attorney's Office had no problem with these policies, and they were not approved by any agency of the State.

Mr. Simeoni said this was the Clark County District Attorney's opinion on Clark County policy. He said he was Counsel for the Washoe County Board of Equalization, he has provided his opinion regarding noticing, and the Board can choose to follow that advice or not.

Alternate Member McCormick, said the best thing to do would be to request the hearing party to schedule the hearings as quickly as possible. Chairman Sparks said there had to be a timeframe.

Member Schmidt said there was an opinion that the Board was not limited to February 28th if a reasonable effort was made, and he felt a 10-day notice is reasonable.

Ernie McNeill, Senior Appraiser, discussed the advantages of grouping like properties, which can only be done after the majority of the appeals are received. Chairman Sparks agreed that a majority of the appeals in a neighborhood or a single class of properties needed to be heard together to have the ability to look at equalization.

In response to Member Schmidt, Chairman Sparks said the three-day agenda posting would still be done.

On motion by Chairman Sparks, seconded by Member Schmidt, which motion duly carried, it was ordered that the Board's policy would be that the County Clerk send the notices 10 calendar days prior to petitioners' hearing dates by regular mail.

04-751E REQUESTING DISTRICT ATTORNEY OPINIONS

In response to Member Schmidt's request, Chairman Sparks said this issue was addressed at the last meeting. He said the District Attorney's Office represents the Board, but their representation regarding any action taken by the Board was advisory. Chairman Sparks stated the Board could accept or disregard that advice as long as the Board knows and accepts the consequences. Chairman Sparks said there was an open agenda item that would allow a request for a written legal opinion if a motion was made and seconded and the motion passes.

Peter Simeoni, Deputy District Attorney, commented that such a standing agenda item might run afoul of the complete and clear agenda item requirement of the Open Meeting Law, especially if the Board takes action on a general unspecified legal opinion. He said, if an item was worthy of a written opinion, then it could be placed on a future agenda. Mr. Simeoni said most of the time an opinion could be given immediately at a hearing, with additional research being done if needed. He reminded the Board the District Attorney's Office was an elected office; the Board can request; and, as Counsel to the Board, he would do what he could.

Chairman Sparks said the standing agenda item was there to request information so a response would not have to wait three or four meetings. Mr. Simeoni reiterated that would be an action item, which does not satisfy the Open Meeting Law requirement for complete and clear agenda item topics.

Member Schmidt moved that the Board obtain an updated legal opinion on what constitutes a legally acceptable notice to the petitioner on the time and place of their hearing. The motion died for lack of a second.

04-752E REQUESTING ATTORNEY GENERAL OPINIONS

Peter Simeoni, Deputy District Attorney, said the entities that can request an opinion from the Attorney General are identified in NRS 228.050; and the CBOE is not one of them.

**04-753E ADMINISTRATIVE AND PROCEDURAL CHANGES TO
PETITIONER/APPEAL PROCESS – STATE AGENCIES**

After discussion, on motion by Member Koziol, seconded by Member Brush, which motion duly carried, it was ordered that the discussion of the administrative and procedural changes made to the appraisal, petitioner and appeal processes by State agencies be continued to the next meeting.

04-754E PETITION FORM CHANGES

After discussion, on motion by Member Schmidt, seconded by Member Koziol, which motion duly carried with Chairman Sparks voting “no,” it was ordered that a recommendation be made to the State BOE to reduce the petition form to 8-1/2 by 11 inches, if it could be done without affecting clarity.

04-755E EXTENDING FEBRUARY 28 HEARING DEADLINE

Member Schmidt said he was opposed to tabling establishing a policy to extend the CBOE hearing date to March 31, 2005 if more than 500 petitions are received and relying on Attorney General opinions that clarify vague and ambiguous law. He said it was prudent to recommend the law address extraordinary circumstances.

**04-756E SECRETARIAL SERVICES – LETTER TO STATE
DEPARTMENT OF TAXATION**

Chairman Sparks said the letter that was authorized to be sent at the last meeting in July to the State Department of Taxation addresses a change to the last date the CBOE can notify the State of the members of a second empanelled Board from January 25 to March 10. He said he would electronically transmit the letter to each of the Board members for review and mailing to the State by December 9.

Chairman Sparks said he roughs out the agenda, the Clerk’s Office makes sure proper language is used, and it is sent to the District Attorney’s Office for approval before it is sent out.

04-757E MOCK HEARINGS

Member Schmidt said he had requested discussion on the mock hearings, because the public had been given some assurances by the Board that the mock hearings would take place prior to this year’s hearings. Chairman Sparks said there was a recommendation to try to have the mock hearings, but they would not happen this year.

04-758E APPRAISAL AND APPEAL PROCESS VIDEO TAPES

Member Schmidt said production of an informational and instructional videotape to assist citizens concerned about the appraisal and/or petition/appeal process

was an excellent idea. Chairman Sparks agreed, but said it would not happen this year. Member Koziol agreed.

04-759E ALTERNATE MEMBERS - ADDITIONAL BOARD

Chairman Sparks said it was the current policy of the Board of County Commissioners that all applicants for the CBOE be considered as alternate members or members of an additional Board.

04-760E BOARD MEMBER COMMENTS

Member Schmidt discussed what he considered the highpoints of his meeting with Commissioner Weber and Chairman Sparks on November 19, 2004. His written comments and suggestions were placed on file with the Clerk.

04-761E PUBLIC COMMENTS

Ted Harris, Incline Village resident, spoke about the Taxpayer's Bill of Rights. He also spoke on the value of having an instructional video or CD by the Assessor's Office on how properties are valued. He said last year the Assessor sent property owners 53 pages of statistical data, which was no help to them; and they only needed the comparable sales data.

Les Barta, Incline Village resident, said petitioners want a fair opportunity to present their case, and getting the information the day before the hearing makes that impossible to do. He said the CBOE should recommend to the State BOE that, if a taxpayer has not had sufficient time to review the Assessor's information and time to prepare an adequate response, the appellant be allowed a de novo case in response to evidence he was unable to see before the hearing.

Ernie McNeill, Senior Appraiser, said he does not know what plans there are for seminars or videos, but in the last few years he personally explained the process to 400-500 taxpayers. He said taxpayers are encouraged to contact the Assessor's Office with questions about how their property has been appraised. He said because the petitioner had filed the appeal, the burden of proof was on the petitioner.

Gary Schmidt, local resident, spoke on a Resolution on how the County deals with public records and his experiences in trying to obtain public records. A copy of the Resolution and letter were placed on file with the Clerk.

Maryanne Ingemanson, Incline Village resident, said at the hearings last year, no matter what the appellant said, the last sentence the Board used was always it was not over taxable value. She said this provision was put into law to protect the taxpayer from an over zealous Appraiser. Ms. Ingemanson said any internal problems are effectively ignored if the Board can use that statement.

* * * * *

12:22 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
Jan Frazzetta, Deputy Clerk*