

**BOARD OF EQUALIZATION
WASHOE COUNTY, NEVADA**

FRIDAY

9:00 A.M.

JANUARY 18, 2019

PRESENT:

Philip Horan, Chair
James Ainsworth, Member
Bobbi Lazzarone, Member
Jim Richards, Member
Jamie Krahne, Alternate Member

Nancy Parent, County Clerk
Jennifer Gustafson, Deputy District Attorney
Michael Large, Deputy District Attorney

ABSENT:

Eugenia Larmore, Member

The Board of Equalization convened at 9:02 a.m. in the Central Conference Room of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Chair Horan called the meeting to order, the Clerk called the roll and the Board conducted the following business:

19-003E **AGENDA ITEM 4** PUBLIC COMMENT

There was no response to the call for public comment.

19-004E **AGENDA ITEM 5** OATH OF OFFICE: Clerk to administer oath of office to new or re-appointed Board members. (James Ainsworth, Bobbi Lazzarone, and Jamie Krahne)

County Clerk Nancy Parent administered the Oath of Office to Members James Ainsworth and Bobbi Lazzarone, and Alternate Member Jamie Krahne.

19-005E **AGENDA ITEM 6** ELECTION OF VICE-CHAIRMAN: Possible election of a vice-chair for the 2019 Washoe County Board of Equalization.

Chair Horan suggested deferring this item until Member Larmore was present. The Board agreed.

There was no public comment or action taken on this item.

19-006E **AGENDA ITEM 7** SWEARING IN: County Clerk to Administer Oath to Appraisal Staff.

County Clerk Nancy Parent swore in the appraisal staff that was present at the meeting.

ORIENTATION AND TRAINING:

19-007E **AGENDA ITEM 8A** Washoe County Assessor's Office presentation and overview of assessment process for the 2019/2020 fiscal year.

Chief Deputy Assessor Cori Burke stated the Assessor's Office (AO) began the year with just under 180,000 parcels, all of which were reappraised. 30,000 personal property accounts were also reappraised. She explained the AO used the market value of the land when assessing real property and the replacement cost of any improvements. They utilized both an income approach and a sales comparison approach to determine if anything exceeded market value.

Ms. Burke mentioned the allocation ratio had been 15 percent since 2012. She stated the median sale price in Washoe County was \$380,000 in 2006 and the allocation ratio was 30 percent. She pointed out the market then declined and the allocation ratio dropped as low as 15 percent, where it had remained since 2012. She said the AO raised it to 18 percent in 2019, resulting in a significant increase in land values. Even with that increase there were only 82 appeals, six of which had been withdrawn and six were stipulated.

Ms. Burke said there were nine roll change increase requests for properties escaping taxation and she expected those to be heard on the last meeting day to allow for proper noticing. She commented the time adjustment for track homes was one percent, while the adjustment for semi-custom homes was .5 percent and 1.5 percent for condominiums. She added it was normal for condominiums to lag a year behind single-family residences.

Ms. Burke remarked one appraiser was hearing impaired so she requested that appraiser be scheduled first thing in the morning to accommodate an interpreter. County Clerk Nancy Parent indicated she would work with staff on that.

Chair Horan asked whether there had been any changes made by the State. Ms. Burke recalled the State had previously made a reduction to the values of Walmart properties based on the dark store theory, but in 2018 the Board of Equalization upheld the AO's values and so did the State. She pointed out Walmart appealed again in 2019 but she was unsure what argument they might use.

Chair Horan asked whether Marshall and Swift would be used in 2019. Ms. Burke said it would and added there were no natural disasters in the prior 12 months so the Board would not hear about fires and floods.

Chair Horan praised the AO for allowing people to state their cases, which in turn allowed the Board to make its evaluations. He stated it would not be good to hear at a meeting that an appellant had not been contacted. Ms. Burke responded they reached out to every appellant, adding that one assessor was currently getting a stipulation signed in Carson City.

Ms. Burke commented the County had closed its post office (PO) box and remarked many tax representatives had used that box for years to mail appeals. There had been a lag of four to six weeks for forwarded mail and she was unsure if there were more appeals still en route. She would bring any late arrivals to the Board as they arrived. She mentioned she spoke with the District Attorney's office about how to move forward with delayed appeals while providing enough time for noticing and giving appraisers time to prepare. She clarified the PO box was closed with no notice and she was told it was closed to save money.

Responding to Chair Horan's query about the deadline for filing, Deputy District Attorney Michael Large stated all appeals had to be postmarked by January 15. He suggested leaving time at the end of February to accommodate appeals that arrived late in order to give the assessors time to process them. He stressed there was a statutory obligation that dictated when the Board could hold meetings. He surmised it could result in fuller agendas for the later meetings but he did not anticipate a large number of appeals to come in late. He confirmed Chair Horan's assumption an appellant would still be bound by the postmark date deadline regardless of where the appeal was sent.

19-008E **AGENDA ITEM 8B** Washoe County Clerk's Office presentation and overview of statutory responsibilities as Clerk of the Board and administrative and clerical practices; distribution of State Guidelines to County Board of Equalization Members.

County Clerk Nancy Parent reviewed the documents that had been distributed to the Board, including the welcome letter and the 2019 roster. She emphasized the Board's primary contact should be the Clerk's office (CO) and the District Attorney's (DA's) office. She pointed out the calendar provided in the packet was modified and she would hand out updated calendars; a copy of one was placed on file. She announced the first hearing date would not be until February 11, which was determined after discussions with the Chair and the Assessor's office. She reviewed the calendar and said her recommendation, based on requests made in prior years, was to leave February 25 and February 27 open for continuances and delayed appeals.

Chair Horan stated February 28 would also be available for continuances, but Ms. Parent responded the Board did not have access to the meeting room. Chair Horan suggested they could meet at the University of Nevada, Reno. Ms. Parent agreed a place could be found if necessary; the calendar was based on the availability of the Commission Chambers. She asked whether anyone was unavailable for any of the scheduled hearing dates so alternate Jamie Krahn could be scheduled if needed. She emphasized hearings needed to be completed by February 28.

Ms. Parent reviewed the responsibility chart included in the packet and lauded the AO for noticing petitioners and preparing agendas since they could group similar property types better than the CO. She encouraged the Board to visit the Board of Equalization website and report anything that needed correction; additionally she told the Board they could provide bios for inclusion on the site. She said the County Board of Equalization guidelines from the State were provided pursuant to Nevada Revised Statute. Lastly the motion language was provided which would provide assistance to the Board to make coherent decisions. The language also allowed the CO to use pre-programmed motions to expedite the minute preparation process. She mentioned laptop computers were available to the Board.

Ms. Parent introduced her staff: Chief Deputy Clerk Jan Galassini, who she anticipated would work many hearings as part of succession planning; Department Programmer Analyst Jonathan Lujan; Deputy Clerk Carolina Stickle; Deputy Clerk Doni Gassaway; and Supervisor of the Boards Records and Minutes Division Derek Sonderfan.

Ms. Parent remarked most information would be given to the Board on thumb drives, though she encouraged members to suggest alternate methods if they wished. She added any documentation received by the CO at the time of posting would be included on the website as well. Any documentation received after posting would be posted to the website after the meeting. She noted the CO would provide snacks and said the Board should let her know about any special dietary needs.

Chair Horan expressed appreciation for Ms. Parent's efforts to coordinate the process between all parties.

19-009E **AGENDA ITEM 8C** Washoe County District Attorney's Office presentation of Nevada Open Meeting Law and Ethics in Government Law, and Board's responsibilities to adhere to both.

Deputy District Attorney Jennifer Gustafson conducted a PowerPoint presentation, a copy of which was placed on file with the Clerk, and reviewed slides with the following titles: Legislative Intent of "OML"; When Does the OML Apply?; Pillars of the OML; Public Body; Who is NOT a "Public Body"?; Meeting; What is a Quorum?; Methods of Holding Meetings; Special Note; Serial Communications Prohibited; Watch Out for "Walking Quorum"; Exception: Attorney-Client Communications; Social Function; Notice; Agenda; Action – Voting Minimums; Public Comment; Materials Available to the Public; Minutes; OML Violations; Corrective Action; Enforcement; Golden Rule of OML; Sources of Information; Additional Sources of Information; But wait... there's more!; and Any Questions.

Ms. Gustafson noted Member Richards was not at the meeting last year so she would go into greater detail than the other members might require. She confirmed the Board of Equalization (BOE) was a public body that made decisions which could be appealed to the State Board of Equalization. As a public body the BOE was subject to the

open meeting law (OML). Because a quorum was defined as a simple majority of a public body's membership, three BOE members would constitute a quorum. She clarified not every member had to be physically present to hold a meeting. She cautioned the Board against taking part in an inadvertent meeting by having a quorum of members present on an email.

Ms. Gustafson indicated members in an absence of a quorum could privately discuss public issues, but a quorum of members would have to deliberate and vote on matters in a public meeting. She provided an example of a walking quorum and, since it was difficult to prove the intent to avoid the OML, she asked the Board not to engage in walking conversations with each other. She pointed out any email sent to the Board by the District Attorney's (DA's) office would clearly warn members against replying to everyone.

Ms. Gustafson said the BOE was fortunate to have professional staff to support it because the majority of OML violations occurred in noticing the meetings. She said agendas were prepared on a sixth-grade reading level. Any member of the public could subscribe to receive notice of meetings by email or regular mail. She explained informational discussion was common with boards related to technology.

Chair Horan stated that, since all BOE decisions were appealable, it was important for members to express why they agreed or disagreed with a decision.

Ms. Gustafson said many OML violations happened when a board took action on something that was discussed in a supporting manner but was not listed on an agenda. The purpose of the agenda was to alert the public that a possible decision could be made on any relevant items. She clarified three votes would be needed to take action on an item if four members of the BOE were present; two votes would be needed if three members were present.

Chair Horan asked whether it was appropriate to direct someone, such as a lawyer or a representative of the Assessor's Office (AO), to answer a question posed during public comment. Ms. Gustafson replied the Board could direct the commenter to speak with the appropriate party but not until after the meeting. Deputy District Attorney Michael Large encouraged the Board to avoid a back-and-forth discussion during public comment as it could create problems.

Ms. Gustafson stated copies could be made of any materials at a meeting should the public request them. She commented she typically reviewed Attorney General (AG) opinions from the prior year to see whether any changes had been made. She said one opinion regarding the noticing of litigation procedures in a public meeting would impact the DA's office more than the Board. She mentioned most of the violations for which the AG provided opinions dealt with minutes. She said many people violated the provision that minutes had to be available within 30 working days of a meeting.

County Clerk Nancy Parent said she understood audio had to be available within 30 working days and the minutes had to be approved within 45 days. Ms. Gustafson said she recalled the minutes had to be created and available to a member of the public who might request them within 30 working days. Minutes had to be approved within 45 calendar days or the next regularly-scheduled meeting. Ms. Parent stated she thought that provision was part of Assembly Bill 70 which was not yet law. Ms. Gustafson felt it was established law. Mr. Large suggested keeping to the agenda and considering this topic at a later time.

Ms. Gustafson reviewed some of the other violations referred to in the AG opinions. She stated the Board taking action on an item where the words *for possible action* did not appear on the agenda would be a technical violation of the OML. She said this happened on one of her boards, which had to self-report the violation to the AG's office and take corrective action. Corrective action would be taken as if the original action never occurred. She noted there were stringent requirements for citizens to reporting OML actions and most OML actions in general involved the AG. She felt the published opinions from the AG's office relating to the OML were a good source of information. She encouraged the Board to direct questions to her or Mr. Large.

Member Lazzarone asked how she could talk to other members if she had a question about information on a flash drive without risking a walking quorum. Mr. Large pointed out in that case she would not have the intent to avoid the OML and it would be appropriate for her to seek clarification from other members. Ms. Gustafson agreed with Mr. Large about intent but counseled her to speak with only one person in that situation. Mr. Large said the BOE dealt with complicated, technical issues and it would be appropriate to ask for help. He mentioned that was one reason the members had staggered appointment dates; some Board members had a wealth of knowledge and the OML was not intended to obstruct that type of communication. It was there to prevent a body from doing things in secret.

Chair Horan stated he was adverse to having discussions with any Board members regarding any action they might take. He felt it was appropriate to ask questions but many could be directed to the AO. He thought it was wise to bring up any confusion during a meeting.

Ms. Parent asked whether it was appropriate for Board members to contact the AO outside of a meeting. Mr. Large answered it was appropriate to ask specific questions to the AO, though it would be up to that office to determine what information they would disseminate. Additionally they would have to make sure information provided to one member would be provided to all members. Ms. Gustafson added she and Mr. Large were available for questions as well, though they did not have the subject matter expertise of the AO. Chair Horan said he often would call the AO with a question that he planned to ask during a meeting to give them time to prepare an answer.

Ms. Gustafson reviewed slides with the following titles: Ethics in Government; To Whom Does it Apply?; NRS 281A.400 (3 slides); Conflicts of Interest; Recusal; Ethics Acknowledgement; and Any Questions.

Ms. Gustafson indicated the Board members were public officers. She distributed a summary of rules, a copy of which was placed on file with the Clerk. She did not think the potential for use of inside information obtained through the members' position would be applicable to the BOE. She said the handout provided included language Board members could use if they had to disclose something on the record or abstain from a topic. She recommended any member contact her or Mr. Large beforehand so they could help that member put together language to state for the record. She commented having a financial interest in an item or the involvement of a family member could constitute possible conflicts of interest because they would be objective conflicts. She stated ethics acknowledgements had been passed out and needed to be completed; a copy was placed on file with the Clerk.

Mr. Large pointed out the BOE was unique because it had a statutory limitation in terms of when the Board could serve. Attempts to fix mistakes that had been made were done as quickly as possible, often at the next available meeting. He did not anticipate any issues and was confident any could be fixed as they came up.

19-010E **AGENDA ITEM 9** 2019 HEARINGS: Discussion and possible adoption of rules and procedures to be used by the Board for hearings during the 2019 Board of Equalization meetings, including but not limited to, discussion of public comment periods and direction to staff on petitions filed after deadline date.

County Clerk Nancy Parent stated she believed the Board of Equalization (BOE) used to give two minutes for public comment but they had changed to three minutes. She was unsure whether there were legal restrictions or if the Board wanted to change that.

Deputy District Attorney Jennifer Gustafson said the open meeting law only required periods of time at the beginning and end of each meeting for public comment. County policy allowed citizens to speak on each action item for three minutes. She said it was up to the discretion of the Board.

Chair Horan said three minutes was appropriate but mentioned comments made during a specific item had to be related to that item. He noted it was uncommon to have any public comment but he felt it should be asked for. Ms. Parent questioned whether public comment should be sought after each hearing, to which Chair Horan said yes.

Regarding scheduling, Ms. Parent said the intent was to hold meetings on the days listed on the calendar and any changes would be communicated to the Board. She said withdrawals were typically placed early on an agenda so they could be removed

and confirmed Chair Horan's assertion that the same was done with stipulations. She mentioned the Board had previously allowed the Assessor to grant and reschedule continuances before posting them to an agenda. If the request came after the agenda was posted, it would be brought before the Board at a meeting. These were all placed on the beginning portions of agendas. She agreed with Chair Horan that the order of hearings was determined on a first come first served basis as petitioners checked in at a meeting.

Ms. Parent said late petitions had been sent to the District Attorney's (DA's) office to draft a letter to the petitioner. She expected there could be other circumstances this year due to the mail situation. Deputy District Attorney Michael Large recommended any petitions marked after the January 15 date should be forwarded to the DA's office to write jurisdictional notes. He pointed out the BOE had the authority to see those petitions and issue the letters themselves but Chair Horan did not want to exercise that authority.

There was a brief discussion about exemptions regarding non-profit organizations and Chief Deputy Assessor Cori Burke indicated those businesses had the same deadline to file with no exceptions. She noted there had been situations where appellants did not meet the exemption filing deadline but those applicants still needed to meet the appeal filing deadline. She added stipulations were done on most of those cases because they usually met all the qualifications for an exemption.

Mr. Large recalled there was one instance where someone missed an exemption for a prior year; they received an exemption for one year but not the other. He indicated they would deal with the Assessor on a case by case basis regarding jurisdictional aspects. Chair Horan pointed out there were not many of these instances.

Ms. Burke reminded the Board that, although hearings were determined on a first come first served basis, she requested special accommodations for their hearing-impaired assessor. She noted they would schedule all her hearings on the same day.

19-011E **AGENDA ITEM 10** BOARD MEMBER COMMENTS: This item is limited to announcements or topics/issues proposed for future agendas.

There were no Board member comments.

19-012E **AGENDA ITEM 11** PUBLIC COMMENT

There was no response to the call for public comment.

Chair Horan stressed the importance of the organizational meeting and remarked the first day of hearings would be a real struggle without it. He thanked legal staff, the Assessor's office, and the Clerk's office.

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9:58 a.m. There being no further business to discuss, the meeting was adjourned without objection.

PHILIP HORAN, Chair
Washoe County Board of Equalization

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Washoe County Board of
Equalization

*Minutes Prepared by:
Derek Sonderfan, Deputy County Clerk*