



JEFFREY K. BARTON

Clerk to the Board
1801 27th Street, Bldg. A
Vero Beach, Florida 32960-3394

Telephone: (772) 226-1436, or 226-1916
Fax: (772) 978-1857
E-mail: Axia@indian-river.org
Web address: <http://Clerk.indian-river.org>

July 31, 2009

VALUE ADJUSTMENT BOARD (VAB) 2009 ORGANIZATIONAL MEETING
MINUTES OF JULY 31, 2009

The Value Adjustment Board (VAB) of Indian River County, Florida, met in Building A, Room 102, at the County Administration Building, 1801 27th Street, Vero Beach, Florida, on Friday, July 31, 2009, at 9:00 a.m. Present were Chairman Peter D. O'Bryan, Vice Chairman Joseph E. Flescher, School Board Member Debbie MacKay, and Citizen Members Rose Spytek, and Duane Weise. Also present were VAB Attorney David Hancock, and VAB Board Clerk Maria Suesz.

1. CALL TO ORDER

Chairman O'Bryan called the meeting to order at 9:00 a.m.

2. INVOCATION – ~~Wesley S. Davis~~ Chairman O'Bryan

Chairman O'Bryan delivered the Invocation.

3. PLEDGE OF ALLEGIANCE – Vice Chairman Joseph E. Flescher

Vice Chairman Flescher led the Pledge of Allegiance to the Flag.

INTRODUCTIONS:

Introductions were made by those present: From the Property Appraiser's Office: Supervisor Bruce Goodwin, Chief Deputies Darlene Silverstein and Mickey Umphrey, Property Appraiser David Nolte, and Attorney Canda Brown; From the Clerk's office General Counsel Myra Zilahy, and Chief Deputy Jeff Smith.

4. ELECTION OF CHAIRMAN AND VICE CHAIRMAN-PURSUANT TO F.S. 194.05 (CHAIRMAN MUST BE A BCC MEMBER)

Chairman O'Bryan announced that he has been Chairman for the past couple of years and he preferred not to be nominated, but if it was the desire of the Board, he would accept a nomination. He opened the floor for nominations for Chairman.

Commissioner Joseph Flescher nominated Commissioner Peter D. O'Bryan to serve as Chairman of the Board for the coming year, which nomination was seconded by Citizen Member Weise. After discussion among the Board Members, there were no other nominations, and the nomination was put to vote, the vote was as follows:

Peter D. O'Bryan	___Aye_____
Joseph E. Flescher	___Aye_____
Debbie MacKay	___Aye_____
Rose Spytek	___Aye_____
Duane Weise	___Aye_____

Chairman O'Bryan opened the floor for nominations for Vice Chairman.

Chairman O'Bryan nominated School Board Member MacKay for Vice Chairman of the Board for the coming year, which nomination was seconded by Citizen Member Spytek, and, upon being put to the vote, the vote was as follows:

Peter D. O'Bryan	___Aye_____
Joseph E. Flescher	___Aye_____
Debbie MacKay	___Aye_____
Rose Spytek	___Aye_____
Duane Weise	___Aye_____

5. APPROVE THE MINUTES OF MARCH 27, 2009 MEETING

ON MOTION by Commissioner Flescher, SECONDED by Vice Chairman MacKay, the Board unanimously approved the minutes of the March 27, 2009 Value Adjustment Board meeting, as written.

6. APPOINT ONE ATTORNEY APPLICANT TO SERVE AS SPECIAL MAGISTRATE FOR EXEMPTION/CLASSIFICATION/PORTABILITY HEARINGS, PURSUANT TO F.S. 194.035

ON MOTION by Citizen Member Weise, SECONDED by Vice Chairman MacKay, the Board unanimously approved to appoint Attorney Applicant Julie Zahniser as Attorney Special Magistrate for exemption/classification/portability hearings.

7. APPOINT ONE APPRAISER APPLICANT TO SERVE AS SPECIAL MAGISTRATE FOR REAL PROPERTY VALUATION AND TANGIBLE PERSONAL PROPERTY HEARINGS PURSUANT TO F.S. 194.035

A lengthy discussion by the Board was held regarding whether the Board should appoint an alternate special magistrate. They posed questions to the Property Appraiser David Nolte for his opinion as to the anticipated volume of petitions, and questions regarding the presumption of correctness.

After discussion, the Board decided to appoint an Appraiser Special Magistrate, and they wanted to rank the remaining applicants, so the VAB Board Clerk could contact them if their services were needed.

The Board proceeded to review the applicants' applications and resumes and discussed the fees to be applied to an alternate magistrate.

ON MOTION by Vice Chairman MacKay,
SECONDED by Commissioner Flescher, the VAB
unanimously approved the appointment of Appraiser
Applicant Michael Armbruster as Special Magistrate
for Real Property Value and Tangible Personal
Property hearings.

ON MOTION by Vice Chairman MacKay,
SECONDED by Citizen Member Spytek, the VAB
unanimously approved the appointment of Appraiser
Applicant Kathryn Edmundson, to be the applicant
ranked as first alternate and to be contacted in the event
a second or replacement Appraiser Special Magistrate
was required.

**8. DETERMINE ATTORNEY SPECIAL MAGISTRATE FEES TO HEAR
EXEMPTION/CLASSIFICATION/PORTABILITY HEARINGS PURSUANT TO F.S.
194.013**

ON MOTION by Citizen Member Spytek,
SECONDED by Vice Chairman MacKay the VAB
unanimously approved the hourly rate of pay of
\$120.00 for the Attorney Special Magistrate.

**9. DETERMINE APPRAISER SPECIAL MAGISTRATE FEES FOR VALUATION
AND TANGIBLE PERSONAL PROPERTY**

MOTION WAS MADE by Vice Chairman MacKay,
SECONDED by Citizen Member Spytek, the VAB
unanimously approved staff's recommendation, based
on comparison rates applied in other counties, to

continue with \$105.00 per hour, plus mileage, for Appraiser Special Magistrates.

After discussion and the foregoing Motion, the Board asked that the VAB Board Clerk ensure that the Board is provided a summary of the hourly rate and include travel expenses from other counties in the future.

10. APPOINTMENT OF DESIGNEE(S) FOR VAB TO DETERMINE GOOD CAUSE FOR LATE FILED PETITIONS PURSUANT TO PTO BULLETIN 08-10 (AUGUST 29, 2008, AND PROPOSED RULE 12D-9.106 (FAC))

The VAB Attorney David Hancock reviewed the changes made in the DOR proposed rules regarding the Board designating someone to review the late filed good cause petitions to determine good cause. He preferred the Board designate a mixed committee, instead of one person because of the challenges that one person may be presented with, if they were the only designee. He imagined a mixed committee could be the Chairman, the VAB Attorney, and the VAB Board Clerk.

Property Appraiser David Nolte addressed his concerns regarding the delays in certifying the tax roll due to the late filing of good cause petitions.

Chief Deputy Jeff Smith addressed additional costs to the Tax Collector and the Property Appraiser, due to delays in certifying the tax roll.

Commissioner Flescher suggested extending the deadline only five days for accepting late filing good cause petitions, to give the public a shorter window of opportunity.

Discussion continued regarding the VAB establishing deadlines, and the VAB Attorney Hancock clarified that the Board does not have the authority to lengthen or shorten the filing periods under the current existing statutes, and he defined the parameters of accepting or rejecting late filed petitions according to the existing statutes.

MOTION WAS MADE by Commissioner Flescher
SECONDED BY Citizen Member Weise, for
discussion, to deny staff's recommendation, and to
reduce the number of participating members, and
approve the entire Board to convene for any
assessment for good cause.

Discussion ensued. The VAB Board Clerk provided an explanation to the Board of the process involved in determining a good cause late filed petition, and related that most counties have given this responsibility to their VAB Attorney or an Attorney Special Magistrate. Attorney Canda Brown expressed support of other counties' designations, stated that this process should be a legal determination, and pointed out that it is very limited in scope.

MOTION WAS WITHDRAWN by the Motioner and
the Second.

ON MOTION by Commissioner Flescher,
SECONDED by Vice Chairman MacKay, by a 4-1
vote (Commissioner Weise opposed), the VAB
appointed the VAB Attorney David Hancock as
designee of the Board, to make determination of good
cause for late filed petitions.

**11. APPROVE 2009 INDIAN RIVER COUNTY RULES OF PROCEDURE
PURSUANT TO PTO BULLETIN 09-07 (MARCH 11, 2009) AND PTO BULLETIN 08-10
(AUGUST 29, 2008)**

The Board reviewed the proposed 2009 VAB Rules of Procedure, and Chairman O'Bryan explained to the Board the nature of an ex parte communication.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Vice Chairman Debbie MacKay, to approve the proposed Rules of Procedure, for discussion.

Citizen Member Weise, for clarification, suggested modifying the text in Item I.D. by inserting the words “their respective” before the word “Board”.

MOTION WAS AMENDED by Commissioner Flescher, SECONDED by Citizen Member Weise to insert the words “their respective” before the word “Board” in Item I.D of the Rules of Procedures.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

12. AUTHORIZE STAFF TO REQUEST SECURITY AT THE COUNTY ADMINISTRATION BUILDING DURING THE VAB HEARINGS

Commissioner Flescher noted the positive feedback from the previous year and said that a compelling letter of request for security from the Law Enforcement Officials may serve the Board well.

Board Member Spytek said she would be happy to ask the Vero Beach Chief of Police to provide security during the VAB hearings, and asked to be provided a schedule of the days of the hearings.

ON MOTION by Vice Chairman MacKay, SECONDED by Commissioner Flescher, the VAB unanimously approved to make a formal request for security at the County Building on the days of the VAB hearings.

**13. APPROVE THE ANNUAL CONTRACT OF ATTORNEY DAVID HANCOCK,
PRIVATE COUNSEL TO THE VAB**

Chairman O'Bryan reminded the Board that the contract allows for one or two year renewals. He commented that the hourly compensation voted on for the Attorney Special Magistrate was \$120.00 per hour, and he believed that the VAB Attorney's compensation should be equivalent to the amount given to the attorney special magistrate.

ON MOTION by Vice Chairman MacKay,
SECONDED by Chairman O'Bryan, the VAB Board
unanimously approved the existing contract of the
VAB Attorney David Hancock, with the fee of \$120.00
per hour for attorney time, and the other legal fees for
paralegal and clerical would remain the same.

14. ADDITIONAL MATTERS

Approval of VAB Attorney's invoice for the month of June.

ON MOTION by Vice Chairman MacKay,
SECONDED by Commissioner Flescher, the VAB
unanimously approved to accept and pay the invoice
from the VAB Attorney for the month of June.

15. PUBLIC INPUT

Property Appraiser Nolte thought the VAB did a great job last year.

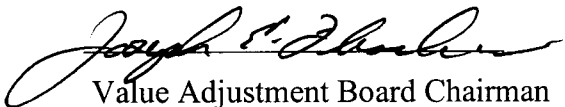
VAB Attorney Hancock shared that he does serve on another county's VAB as VAB Attorney, and although he advised otherwise, that Board did not take his advice and set a deadline for good cause petitions separate from the deadline provided in Chapter 194 of the Florida Statutes.

Vice Chairman MacKay asked if there would be any value to letting the Department of Revenue (DOR) know their frustration in the VAB process with the new requirements that they are setting.

ON MOTION by Vice Chairman Spytek, SECONDED by Commissioner Flescher, the VAB unanimously asked Property Appraiser David Nolte to prepare for the Chairman's signature, a letter to the Department of Revenue (DOR) outlining some of the issues that he is facing with the new requirements that DOR is setting.

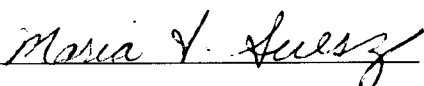
16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 10:30 a.m.


Value Adjustment Board Chairman

ATTEST:

J. K. BARTON, CLERK

By: 
Maria I. Suesz, Deputy Clerk

Minutes Approved: 3 22 -2010