

**JEFFREY K. BARTON**

Clerk to the Board



1801 27<sup>th</sup> Street, Bldg. A  
Vero Beach, Florida 32960-3388  
Telephone: (772) 226-1436, or 226-1916  
Fax: (772) 978-1857  
E-mail: [Axia@indian-river.org](mailto:Axia@indian-river.org)  
Web address: <http://Clerk.indian-river.org>

VALUE ADJUSTMENT BOARD (VAB)  
2011 ORGANIZATIONAL MEETING MINUTES

July 18, 2011

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 Monday, July 18, 2011, at 9:00 a.m. Present were Chairman Joseph E. Flescher, School Board Member Carol Johnson, and Citizen Members Rose Spytek and Duane M. Weise. Commissioner Davis was absent. Also present were VAB Attorney David Hancock, Property Appraiser David Nolte, Assessment Control Clerk Janine Hicks, Appraiser Special Magistrate Applicant John Robinson, and VAB Board Clerk Maria Suesz.

**1. CALL TO ORDER**

Chairman Flescher called the meeting to order at 9:00 a.m.

**2. INVOCATION – ~~Wesley S. Davis~~ Duane Weise**

Citizen Member Duane Weise delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE – Citizen Member Rose Spytek**

Citizen Member Rose Spytek led the Pledge of Allegiance to the Flag.

**4. INTRODUCTIONS & CONTRACT INFORMATION**

Introductions were made by all present.

Chairman Flescher asked that Item 10. be heard following Item 4. to give Mr. Robinson an opportunity to speak if he chose to.

ON MOTION by School Board Member Carol Johnson, SECONDED by Citizen Member Rose Spytek, by a 4-0 vote (Commissioner Davis absent), the Board approved the above changes to the agenda.

Value Adjustment Board Clerk Suesz provided website information regarding where to access the DOR Rules 12D-9 through 12D-16, the Florida Sunshine Law, and the Florida Statutes Chapter 193 through 197, and made available a paper copy of those items.

School Board Member Carol Johnson expressed her appreciation and complimented the VAB staff for the compact disc given to her at her first meeting that included all of the above information. She felt it was very professionally done and she wanted to convey to everyone her appreciation.

**5. ELECT CHAIRMAN AND VICE CHAIRMAN - Pursuant to F.S. 194.015 The Chairman Shall Be a Board of County Commission Member**

Attorney Hancock suggested that the Board nominate a Commissioner for the position of Vice Chairman of the VAB, as the Board had done in the past. Chairman Flescher acknowledged that procedure, and commented on the advantages of having someone on the premises authorized to sign or approve certain VAB documents.

Chairman Flescher opened the floor for nominations for Chairman.

School Board Member Johnson NOMINATED Commissioner Flescher for re-appointment as Chairman, and Citizen Member Spytek SECONDED the Nomination. There were no other Nominations.

Commissioner Flescher CALLED FOR A VOTE on the Nomination for Chairman and by a 4-0 vote (Commissioner Davis absent) the Board accepted the Nomination and re-appointed Commissioner Flescher as Chairman of the VAB for the Tax Year 2011.

Chairman Flescher opened the floor for Nominations for Vice Chairman.

Citizen Member Weise NOMINATED Commissioner Davis for re-appointment as Vice Chairman, and School Board Member Johnson SECONDED the Nomination. There were no other Nominations.

Chairman Flescher CALLED FOR A VOTE on the Nomination for Vice Chairman, and by a 4-0 vote (Commissioner Davis absent) the Board accepted the Nomination and re-appointed Commissioner Davis as Vice Chairman of the VAB for the Tax Year 2011.

**6. APPROVE EXTENSION OF VAB ATTORNEY CONTRACT FOR ONE (1) ADDITIONAL YEAR COMMENCING AUGUST 4, 2011, Pursuant to DOR Rule 12D-9.013(1)(C)**

ON MOTION by School Board Member Johnson, SECONDED by Citizen Member Spytek, by a 4-0 vote (Vice Chairman Davis absent) the Board approved the second extension of the July 31, 2009 Agreement with Attorney David Hancock, for a one-year period beginning August 4, 2011.

**7. APPROVE THE FINAL MEETING MINUTES OF MARCH 10, 2011 FOR THE VAB 2010 TAX YEAR**

ON MOTION by Citizen Member Spytek, SECONDED by Citizen Member Weise, by a 4-0 vote (Vice Chairman Davis absent), the Board unanimously approved the VAB Final Meeting Minutes of March 10, 2011.

**8. APPROVE RESOLUTION SETTING THE FILING FEE TO BE NO MORE THAN \$15 PER PARCEL FOR THE 2011 PETITION FILING, Pursuant to F.S. 194.013**

ON MOTION by Citizen Member Weise, SECONDED by School Board Member Johnson, the VAB by a 4-0 vote (Commissioner Davis absent), approved the VAB Resolution 2011-01, setting the filing fee to be no more than \$15 per parcel for the 2011 petition filing, pursuant to F.S. 194.013.

**9. APPOINT ONE ATTORNEY APPLICANT TO SERVE AS SPECIAL MAGISTRATE FOR EXEMPTION/CLASSIFICATION/TAX DEFERRAL HEARINGS, AND APPOINT ONE ATTORNEY APPLICANT AS ALTERNATE - Pursuant to F.S. 194.035, And Set Hourly Rate of Pay**

- Stanford P. Birnholz, P.A.
- Sherri L. Johnson, Esq.
- Daniel C. Stump, Esq.
- Julie A. Zahniser, Esq.
- Payment by County to Special Magistrates (2010 Hearings)

The Board Clerk provided a brief synopsis of the applicants experience as Special Magistrate, and announced that Attorney Applicant Julie Zahniser, recently withdrew her application due to the heavy volume of work in her personal business.

Property Appraiser David Nolte acknowledged that he knew Attorney Applicant Sherri Johnson from a time that she had represented him as the Property Appraiser, and he highly recommended her. A brief discussion by the VAB followed regarding all of the applicants.

MOTION WAS MADE by Citizen Member Spytek,  
SECONDED by School Board Member Johnson, to  
appoint Daniel Stump, Esq. as the Attorney Special  
Magistrate.

The Chairman sought Attorney Hancock's opinion if he saw a conflict by Attorney Stump as President of the Taxpayer's Association and as a Special Magistrate, and Attorney Hancock stated he did not. A brief discussion followed regarding ex parte communication.

The Chairman CALLED THE QUESTION, and the Motion carried, by a 4-0 vote (Vice Chairman Davis absent), the Board appointed Daniel Stump, Esq. as Attorney Special Magistrate for exemption, classification, and tax deferral hearings for the VAB 2011 tax year.

ON MOTION by Citizen Member Weise, SECONDED BY Citizen Member Spytek, by a 4-0 vote (Vice Chairman Davis absent), the Board appointed applicant Sherri L. Johnson, Esq. as Alternate Special Magistrate for the VAB 2011 tax year.

*Clerk's note: Following Item 11. the Board motioned to set the hourly rate of pay for the Attorney Special Magistrate. The discussion and motion is placed here for continuity purposes.*

The Board Clerk recalled that the VAB had approved the rate of \$120.00 per hour last year for the Attorney Special Magistrate, and pointed out that the Attorney applicants this year were requesting the rate of \$125.00 per hour on their applications. This rate appears to be the average rate currently being paid in other counties for Attorney Special Magistrates.

ON MOTION by School Board Member Johnson, SECONDED by Citizen Member Spytek, by a vote of 4-0 (Vice Chairman Davis absent), the Board approved a flat rate of \$125.00 per hour, to be paid to the Attorney Special Magistrates for the VAB 2011 tax year.

**10. APPOINT TWO APPRAISER APPLICANTS TO SERVE AS SPECIAL MAGISTRATE FOR REAL PROPERTY VALUATION, AND APPOINT ONE AS ALTERNATE, AND SET HOURLY RATE OF PAY – Pursuant To F.S. 194.035.**

- James S. Elam, MAI
- Stephen G. Neill, MAI
- Robert N. Hunter, Jr., MAI
- Adam B. Preuss, GAA
- John Robinson, MAI, CCIM

*Clerk's Note: This item was heard following Item 5. and is placed here for continuity.*

Chairman Flescher asked Applicant John Robinson if he wanted to make his presentation to the Board. Mr. Robinson declined at this time.

VAB Attorney Hancock verified for the Chairman that he reviewed all Special Magistrate applications, and stated that the names listed were qualified applicants according to the Department of Revenue Rules 12D-9.

The Board Clerk recapped the applicant's years of previous experience as Special Magistrate in Indian River County. Afterwards the Board posed several questions to the Board Clerk seeking further information regarding the applicants, followed by a brief discussion between the Property Appraiser Nolte and the Chairman regarding the procedure used in tracking actual time worked by the Special Magistrates.

Mr. Robinson informed the Board that he had six (6) years of experience with the AXIA software program, and the Chairman responded that the only concern he had with Mr. Robinson's application was the requested hourly rate of \$125.00.

Property Appraiser Nolte questioned if it was proper to have the applicant present when the Board was discussing the possibility of hiring them, and that it may be embarrassing to the applicant. The Chairman explained that VAB meetings are quasi-judicial and open to the public.

The VAB Board proceeded to express their opinions of who they wished to select as Special Magistrate, and Attorney Hancock asked that the VAB take action by separate motions for clarity purposes.

ON MOTION by Citizen Member Spytek, SECONDED by School Board Member Johnson, by a 4-0 vote (Vice Chairman Davis absent), the Board appointed Stephen Neill as Appraiser Special Magistrate for the VAB 2011 tax year.

ON MOTION by Citizen Member Weise, SECONDED by School Board Member Johnson, by a 4-0 vote (Vice Chairman Davis absent), the Board appointed James Elam as Appraiser Special Magistrate for the VAB 2011 tax year.

MOTION WAS MADE by Citizen Member Weise, SECONDED by School Board Member Johnson, for discussion, to appoint Adam Preuss as an alternate Special Magistrate for the VAB 2011 tax year.

Discussion ensued by Citizen Member Weise who explained his reason for selecting Mr. Preuss was that he was local, and his salary was open to negotiation.



Attorney Hancock advised that Mr Preuss was in the process of receiving his MAI.

Citizen Member Spytek believed an alternate should be someone who had experience as a Special Magistrate; however, School Board Member Johnson agreed with Citizen Member Weise, and she expressed she often hears that emphasis is put on experience, yet there is no way to get experience, and she felt that the Board would be giving him an opportunity to learn. She suggested that Mr. Preuss be involved on a voluntary basis and preside at a hearing to observe.

The Chairman CALLED THE QUESTION and the Motion carried, by a 3-1 vote (Citizen Member Spytek opposed and Vice Chairman Davis absent). The Board appointed Adam Preuss as the alternate Special Magistrate.

Applicant John Robinson refuted a statement made regarding his experience alleging that he had served as Special Magistrate since 1994, not 1997, and that he has been certified as a MAI (Master Appraisal Institute) since 1989. He wanted to know what factor carried the weight in the Board's decision process. He wanted to know if the requested rate of pay was the driving factor, and questioned whether the Board realized that there are two different types of Board certifications.

Chairman Flescher responded on behalf of himself, to the fact that it was experience, location, and the requested rate combined, as Mr. Robinson mentioned. He advised that all the Board Members have had an opportunity to review the applications, take input of the Board Clerk, and he hoped that all Board Members have utilized everything that was afforded to them in making their decision.

*Clerk's Note: Following Item 11. the Chairman called for a motion to approve the rate of pay for Appraiser Special Magistrates, and that discussion and motion is placed here for continuity.*

ON MOTION by Citizen Member Weise, SECONDED by Citizen Member Spytek, by a vote of 4-0 (Vice Chairman Davis absent) the Board approved the rate of pay of \$105.00 per hour for the Appraiser Special Magistrates for the VAB 2011 tax year.

**11. APPOINT ONE APPRAISER APPLICANT TO SERVE AS SPECIAL MAGISTRATE FOR TANGIBLE PERSONAL PROPERTY HEARINGS, PURSUANT TO F.S. 194.35, AND SET HOURLY RATE OF PAY, MILEAGE AND ONE OVERNIGHT LODGING REIMBURSEMENT IN ACCORDANCE WITH F.S. 112.061**

- Pamela B. Andrea, A.S.A.

The Board Clerk recalled that the Board appointed Pamela Andrea as the Tangible Personal Property Special Magistrate last year, and they approved her request for travel and lodging reimbursement. A brief discussion followed regarding salary and the possible need for an alternate.

ON MOTION by Citizen Member Spytek, SECONDED by School Board Member Johnson, by a 4-0 vote (Vice Chairman Davis absent), the Board appointed Pamela B. Andrea to serve as Special Magistrate for Tangible Personal Property for the VAB 2011 tax year.

ON MOTION by School Board Member Johnson, SECONDED by Citizen Member Spytek, by a 4-0 vote (Vice Chairman Davis absent), the Board approved the rate of \$105.00 per hour, with a maximum of \$100.00 per day lodging, and travel at the State approved rate, for the Tangible Special Magistrate for the VAB 2011 tax year.

**12. AUTHORIZE THE CHAIRMAN TO EXECUTE A CONTRACT FOR EACH APPOINTED SPECIAL MAGISTRATE ON BEHALF OF THE FULL BOARD**

The Board Clerk reminded the VAB Board that at the August 4, 2010 Organizational Meeting, they approved a universal contract for Special Magistrates and Exhibit A to be attached to each contract defining the salary for each Special Magistrate, and based on the decisions made today the contracts and exhibits would be prepared accordingly for the Chairman's execution.

The Chairman asked that a copy of each contract be provided to each Member of the Board once fully executed.

ON MOTION by School Board Member Johnson, SECONDED by Citizen Member Spytek, by a 4-0 vote (Vice Chairman Davis absent), the Board authorized the Chairman to execute a contract for each appointed Special Magistrate on behalf of the full Board.

**13. RE-DESIGNATE VAB ATTORNEY TO MAKE DETERMINATION FOR ALL GOOD CAUSE REVIEWS ON BEHALF OF THE FULL BOARD, PURSUANT TO DOR RULE 12D-9.015(11)(D), 12D-9.019(5), AND 12D-9.021(6), AND (7)**

ON MOTION by Citizen Member Spytek, SECONDED by School Board Member Johnson, by a 4-0 vote (Vice Chairman Davis absent), the Board approved to re-designate VAB Attorney David Hancock to make determination for all good cause reviews on behalf of the full Board, pursuant to DOR Rule 12D-9.015(11)(d), 12D-9.019(5), and 12D-9.021(6) and (7).

**14. APPROVE THE VAB CHAIRMAN TO REVIEW AND AUTHORIZE PAYMENT OF 2011-2012 VAB INVOICES ON BEHALF OF THE FULL BOARD**

ON MOTION by School Board Member Johnson, SECONDED by Citizen Member Spytek, by a 4-0 vote (Vice Chairman Davis absent), the Board approved the VAB Chairman to review and authorize payment of VAB invoices on behalf of the full Board.

**15. AUTHORIZE STAFF TO REQUEST SECURITY AT THE VAB HEARINGS ON A CASE-BY-CASE BASIS FOR THE VAB 2011 TAX CYCLE**

MOTION WAS MADE by School Board Member Johnson, SECONDED by Citizen Member Spytek, to

authorize staff to request security at the VAB hearings on a case-by-case basis.

School Board Member Johnson commented that the School Board is looking at additional measures for Security to be provided at some of their meetings, and she wanted to err on the side of caution. A brief discussion followed and the Motion was amended.

MOTION WAS AMENDED by School Board Member Johnson, SECONDED by Citizen Member Spytek, to authorize funds for security services up to \$500.

Discussion continued between the Chairman and Citizen Member Spytek, and she said the Chief of Police of the City of Vero Beach was uncomfortable providing Security to the VAB, when he was not able to provide that same service to other agencies.

The CHAIRMAN CALLED THE QUESTION and the Motion carried, by a 4-0 vote (Vice Chairman Davis absent), the Board authorized staff to request Security at the VAB hearings on a case-by-case basis, and authorized funding for Security Services up to \$500.

## **16. PUBLIC INPUT**

Property Appraiser Nolte commented that the VAB Attorney may have a hard year ahead because a number of appraisers had banded together and sued the Department of Revenue (DOR) over their training. He said the training was bogus. The lawsuit was a slick decision difficult to understand. "DOR training paperwork is not a rule, it is training, period," he said, and he would try to obtain a copy of the deposition for the VAB attorney.

The VAB Attorney commented that in Brevard County the issue has come up where the appraisers look at the training manual as being law, and as he pointed out it is not the law.

Property Appraiser Nolte advised that the Legislature has put on the ballot for this year a 3% cap on everything, not just homestead, and in a couple years, if it passes, no one will be coming to the VAB except exemptions. Questions were posed to the Property Appraiser by the Board seeking further information.

Attorney Hancock provided an update on the Lewis Barton litigation, stating that the matter has been dismissed in Circuit Court.

The Board Clerk opened discussion regarding Orientation for Special Magistrates and the Board made several suggestions:

- Provide an information letter of instruction
- Piggyback off of another county when they hold their orientation
- Utilize the tools or PowerPoint from another county, modify it to our requirements, and provide it to the Special Magistrate.

The Board Clerk announced that the hearing room has been reserved for hearings to start October 14, 2011 and to run continuously through January 20, 2012 except during holiday weeks.

Property Appraiser Nolte suggested holding hearings in room B-501 due to less traffic and visibility. A brief discussion followed.

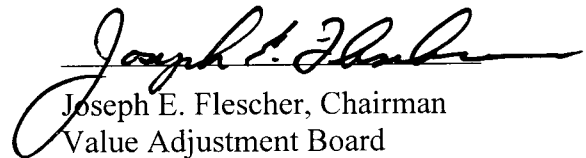
The Board Clerk felt that utilizing the room near the Property Appraiser's office would give the appearance of being biased, and asked for the Board's opinion.

The Chairman preferred the location and visibility of the current meeting room.

The Board Clerk wanted to advise the VAB that the trend around the state since the DOR rules have been adopted in March of 2010 is that the Board Clerks are not attending hearings in their counties; however, the Board Clerks remain on call, if needed. The responsibility of recording the hearing and swearing in the parties who testify has been authorized to the Special Magistrates, as well as the Board Clerk, and some counties around the State have several hearings conducted simultaneously, making it impossible for one person to attend all hearings. The VAB did not support that concept, and expressed the pros and cons of not having the Clerk present at the hearings.

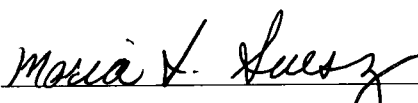
**17. ADJOURNMENT**

There was no further business, and the Chairman declared the meeting adjourned at 10:50 a.m.

  
Joseph E. Flescher, Chairman  
Value Adjustment Board

ATTEST:

**J. K. BARTON, CLERK**

By:   
Maria I. Suesz, Deputy Clerk

Minutes Approved: 1-25-2012

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