

Clearwater, Florida, April 25, 2017

The Pinellas County Value Adjustment Board (VAB) met in the Clerk's Fourth Floor Conference Room, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida, at 1:04 P.M. on this date with the following members present:

Pat Gerard, County Commissioner, Chairman  
John Morroni, County Commissioner  
Michael A. J. Bindman, Citizen Appointee (School Board)  
Carol Cook, School Board Member

Not Present:

Darryl Wilson, Citizen Appointee (Board of County Commissioners)

Also Present:

Ken Burke, Clerk of the Circuit Court and Comptroller  
Mike Twitty, Property Appraiser  
Stephen Watts, VAB Counsel  
Frederick L. Dean, Director, Finance  
Claretha N. Harris, Chief Deputy Director, Finance  
Norman Loy, Manager, Board Records  
Amanda Coffey, Assistant County Attorney  
Alex Luca, Property Appraiser's Office Counsel  
Erin Moore, Property Appraiser's Office  
Uzma Syed, Property Appraiser's Office  
Tony Fabrizio, Board Reporter, Deputy Clerk

#### A G E N D A

1. Meeting Called to Order.
2. Select the Chairman for the 2017 VAB Cycle.
3. Citizens Who Wish to Comment on the VAB Process.
4. Approval of the Minutes of the October 4, 2016 Meeting.
5. Final Action on Recommendations of Special Magistrates.
6. Final Certification of the 2016 Tax Rolls.
7. Selection of Dates for Organizational Meeting and First Certification Meeting for the 2017 VAB Cycle.
8. Recommendation of VAB Counsel and Draft Contract for Legal Services.
9. Final Impact Notice and Statistical Information.
10. Adjournment.

CALL TO ORDER

Chairman Gerard called the meeting to order at 1:04 P.M.

COMMISSIONER GERARD SELECTED AS CHAIRMAN FOR 2017

Clerk Burke related that the Chairman of the VAB must be a County Commissioner; whereupon, Commissioner Morroni moved, seconded by School Board Member Cook, that Commissioner Gerard be reelected Chairman for the 2017 cycle. Upon call for the vote, the motion carried unanimously.

CITIZENS WISHING TO BE HEARD

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and expressed concerns regarding their petitions.

John Waechter, St. Petersburg

Mr. Waechter indicated that he is the property owner who filed petition 2016-0033 appealing a decision by the Property Appraiser's Office to not allocate half of the Save Our Homes cap on a residence he conveyed to his former wife in a divorce. He discussed his Special Magistrate hearing held on October 28, 2016 and gave the following reasons why the Board should accept the Magistrate's recommendation that his petition be granted rather than the advice of Attorney Watts to deny it.

- Section 12D-9.031 of the Florida Administrative Code (FAC), *Consideration and Adoption of Recommended Decisions of Special Magistrates by Value Adjustment Boards in Administrative Reviews*, states that if the Board determines that a recommendation meets the requirements set forth in Subsection 1, the Board shall adopt the recommendation. Those requirements are procedural and were met.
- According to the minutes of the VAB meeting of March 19, 2015, Attorney Watts recommended against denying a Special Magistrate's recommendation appealed by a citizen, advising that the Magistrate's decision is final as to the Board's involvement and that the citizen's only recourse is with the circuit court.

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Responding to Mr. Waechter's arguments, Attorney Watts indicated that he may have misspoken during the referenced meeting, because the final decision on a Special Magistrate's recommendation actually rests with the Board. He discussed the different types of property ownership and tenancy and advised that FAC Section 12D-8.0065, *Transfer of Homestead Assessment Difference; "Portability"* dictates that Mr. Waechter is not entitled to the 50 percent transfer he is seeking.

Responding to queries by the members, Attorney Watts indicated that Mr. Waechter could appeal an adverse decision by the Board to the circuit court; that the Special Magistrate is "hired help" brought in to make a recommendation; and that the Board should deny the Special Magistrate's recommendation.

Kevin Burkhart (phonetic spelling) appeared and indicated that he represents Donna Kennedy Waechter, Mr. Waechter's former wife; and that she opposes Mr. Waechter's petition. He related that the parties had a highly contested divorce involving substantial assets; that she was awarded the real property of the home; that the settlement agreement specifies that the divided property is considered sole and separate, with neither party being able to make a claim against it; and that the Special Magistrate works for the law firm that represented Mr. Waechter in the divorce.

In response to Mr. Burkhart's allegation that the connection constituted a "blatant conflict of interest," Mr. Waechter indicated that the Special Magistrate identified the potential conflict when she recognized his name, disclosed it to the Property Appraiser's Office and offered to recuse herself, and was told she could proceed; whereupon, Commissioner Morroni opined that she should have recused herself.

Ms. Kennedy Waechter indicated that she was married to Mr. Waechter for 41 years; that he presented her with the divorce; that his attorney, Peter Meros, is a law partner of the Special Magistrate, Belinda Lazzara; that Mr. Waechter's petition comes two years after the divorce was final; that she did not learn that Mr. Waechter was seeking the cap transfer until April 7, 2017, when the Property Appraiser's Office notified her that she would be receiving a \$3,000 tax lien; and that Ms. Lazzara changed her mind twice in the last week about her recommendation.

Upon Chairman Gerard's call for a motion, Mr. Bindman moved, seconded by Commissioner Morroni and carried unanimously, that the Special Magistrate's recommendation to grant Mr. Waechter's petition be denied.

Responding to requests by Mr. Waechter and Ms. Kennedy Waechter for a transcript of the proceedings, Mr. Loy stated that a copy of the audio recording can be provided. In response to

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query by Chairman Gerard, Clerk Burke indicated that the VAB handles exemption petitions as well as valuation disputes; and that the matter was properly before the Board.

Later in the meeting, Commissioner Morroni opined that Ms. Lazzara used poor judgement by not recusing herself from the hearing; and that she should not be considered for Special Magistrate reappointment. Clerk Burke recommended caution, noting that judges often want to recuse themselves from cases but cannot if they do not meet specific criteria. Attorney Watts advised that there was technically no conflict of interest because Mr. Meros' fiduciary duty to Mr. Waechter had ended, and opined that Ms. Lazzara made a good faith effort to arrive at the right decision.

Chairman Gerard indicated that the Board could contemplate the matter further when the time comes to appoint Special Magistrates.

Jeffrey Banes, St. Petersburg

Mr. Banes appeared and indicated that he is the property owner who filed petition 2016-1176 appealing a decision by the Property Appraiser's Office to deny a homestead exemption for his waterfront home. Mr. Banes discussed his Special Magistrate hearing held on December 13, 2016 and asked that the Board deny the Magistrate's recommendation that the denial be upheld, asserting that he has lived in the home for five years and proved he did not collect any rent; whereupon, he distributed packets of supporting documents to the Board.

Responding to queries by the members, Mr. Banes indicated that he did not have the supporting documents available at his hearing because they were not requested; that his vehicles have been registered at the home's address for the last five years; and that he has unusually high electric bills because the property has a heated pool and spa and a boat dock.

Assistant County Attorney Amanda Coffey indicated that she is representing the Property Appraiser's Office; and that the office presented evidence at the hearing that the property was rented out; whereupon, she asked that the Board follow the recommendation of the Special Magistrate because the Magistrate was able to review that evidence and the Property Appraiser was not noticed that Mr. Banes would be providing new evidence today.

Responding to queries by the members, Attorney Coffey indicated that the exemption specialist who handled the case would be better able to identify who rented the property and he is not available today; that the rental agreements may not have been in the form of formal leases; and

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that it is her understanding that Mr. Banes was residing in a trailer or recreational vehicle on the property while renting out the house.

Mr. Banes indicated that he allowed guests to stay for free in the home in protest of an ordinance restricting short-term rentals; that he sent them certified letters stating that they did not owe any rent; that he does keep a motorhome on the property; and that he operated in the way that an Airbnb functions.

Attorney Watts advised that the petition involves a question of fact that the Special Magistrate should have covered and, as such, the Board should follow the Magistrate's recommendation. Following brief discussion, Commissioner Morroni moved, seconded by School Board Member Cook, that the Board uphold the Special Magistrate's recommendation that Mr. Banes' petition for homestead exemption be denied. Upon call for the vote, the motion carried unanimously.

#### MINUTES OF MEETING OF OCTOBER 4, 2016 – APPROVED

School Board Member Cook moved, seconded by Mr. Bindman and carried unanimously, that the minutes of the meeting of October 4, 2016 be approved.

#### FINAL ACTION ON RECOMMENDATIONS OF SPECIAL MAGISTRATES – APPROVED

Commissioner Morroni moved, seconded by School Board Member Cook and carried unanimously, that the final recommendations of the Special Magistrates be approved with the exception of the recommendation specific to petition 2016-0033.

Following the vote, Clerk Burke indicated that staff will review information contained in Form DR-488, *Certification of the Value Adjustment Board*, contained in the agenda packet, to make certain the exception is reflected.

#### FINAL CERTIFICATION OF 2016 TAX ROLLS – APPROVED

Commissioner Morroni moved, seconded by School Board Member Cook and carried unanimously, that the Chairman be authorized to sign the final certification of the 2016 tax rolls as soon as it is completed and received.

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2017 ORGANIZATIONAL MEETING TO BE HELD JULY 18, 2017 AND FIRST CERTIFICATION MEETING TO BE HELD OCTOBER 3, 2017

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Following discussion, Commissioner Morrioni moved, seconded by School Board Member Cook and carried unanimously, that the Board hold its 2017 Organizational Meeting on July 18, 2017 at noon and First Certification Meeting on October 3, 2017 at 9:30 A.M.

ATTORNEY WATTS' CONTRACT EXTENDED THROUGH JULY 31, 2017

Chairman Gerard indicated that the a Request for Proposal (RFP) for VAB legal counsel services attracted only two applications and invited discussion as to whether the Board wanted to repeat the process; whereupon, the members expressed general agreement that the Purchasing and Human Resources Departments should be given more time to advertise for the position.

Noting that Attorney Watts is one of the applicants, Commissioner Morrioni opined that it would be prudent to compile a list of viable candidates in advance of Attorney Watts' inevitable retirement. Chairman Gerard concurred and expressed surprise that none of the Special Magistrates had applied; whereupon, Mr. Loy indicated that the second applicant is a Special Magistrate who also serves as VAB Counsel for other counties.

Thereupon, School Board Member Cook moved, seconded by Commissioner Morrioni and carried unanimously, that the RFP for VAB legal counsel services be refined and re-issued.

Noting the need to retain legal counsel through the Organizational Meeting, Mr. Bindman moved, seconded by Commissioner Morrioni, that Attorney Watts' contract be extended through July 31, 2017. Upon call for the vote, the motion carried unanimously, and Attorney Watts agreed to accept the extension.

FINAL IMPACT NOTICE AND STATISTICAL INFORMATION

Clerk Burke indicated that no action is required with regard to the Final Impact Notice and statistical information, copies of which have been made a part of the record.

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ADJOURNMENT

At this time, 1:46 P.M., Chairman Gerard directed that the meeting be adjourned.

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Chairman