

PASCO COUNTY VALUE ADJUSTMENT BOARD – 2008

REGULAR MEETING

MINUTES

**THE MINUTES WERE PREPARED
IN AGENDA ORDER AS
PUBLISHED AND NOT IN THE
ORDER THE ITEMS WERE HEARD**

FEBRUARY 5, 2009

**10:00 a.m. – Historic Pasco County Courthouse
Board Room, 2nd Floor
And 37918 Meridian Avenue
Dade City, FL 33525**

**MEMBERS: Honorable Ann Hildebrand
Honorable Theodore J. Schrader
Honorable Michael Cox, CFP® (County Commission Alternate)
Honorable Frank Parker/Honorable Allen Altman
Mr. Jim McBride, Citizen Representative for the County Commission
Mr. Mike Prillman, Citizen Representative for the School Board**

Call to Order – 10:00 a.m.

Chairman Hildebrand called the meeting to order at 10:08 a.m.

Roll Call

Ms. Linda Dillon called the roll. School Board Member Kathryn Starkey was present as the School Board's representative.

Chairman Hildebrand explained at the last meeting Ms. Catherine Teti distributed Sunshine Manuals to the VAB Members. She requested a motion to reimburse Ms. Teti in the amount of \$170.70 for the manuals.

COMMISSIONER SCHRADER MOVED approval to reimburse Ms. Catherine Teti \$170.70 for the Sunshine Manuals; **MR. PRILLIMAN SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

Election of new Chairman and Vice Chairman to the Value Adjustment Board

COMMISSIONER SCHRADER MOVED to appoint Commissioner Ann Hildebrand to serve as Chairman; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

COMMISSIONER SCHRADER MOVED to appoint Mr. Jim McBride to serve as Vice-Chairman; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

1. Public Comment

Mr. Wade Barber, Chief Deputy Property Appraiser, spoke regarding the past VAB year changes; substantial changes in the assessment of property; the manner in which the hearings were conducted; and the composition of the VAB Board. Despite all of these items, the Clerk's Office, the Property Appraiser's Office and the Hearing Magistrates all worked well together within the confines of the law and had always respected those boundaries. The Board was required to act on the recommendations of the hearing magistrates and 20 exceptions were filed.

Mr. John Dent, Attorney for the Property Appraiser, spoke regarding portability issues; abuses to the homestead exemption; homestead fraud; and multiple homesteads. The Property Appraiser's interpretation was that a family unit was a married couple. Any time a benefit was given to a taxpayer someone picked up the tab. He spoke regarding the millage process; attempts to obtain homesteads under estate planning; and impacts around the State.

Mr. Shaun Bolender spoke regarding the requirements for decisions by the Value Adjustment Board; the rules followed; the current draft rules; the volatile market place; extensions requested; family illness; placement of the rules on the Clerk's website; submission of evidence; and felt the rules still did not exist.

Ms. Teti responded to concerns raised regarding the DOR draft rules and future revisions. She noted Pasco County had their own Rules of Procedures which continued to be in effect until the DOR rules were adopted.

Discussion followed regarding submission of information from the petitioners; the Pasco County Rules of Procedure; and the exception process.

Ms. Sheada Madini explained she had filed a response to the exception filed by the Property Appraiser. She spoke regarding the exception procedure; the Property Appraiser should have been held to the same standard as the petitioner to file an exception on or before December 29th; and that both parties should be held to the same rules and the same standard.

Mr. Barber responded to the concerns raised regarding the rules of procedure and felt no one's due process had been denied. This meeting was scheduled in February instead of December to ensure that everyone had their opportunity.

Ms. Sallie Skipper explained she was mindful of the tax rolls and felt they were "all in this together". She requested the Board not adopt a hard line approach to what was and was not a family unit; to take into consideration other factors; and other extenuating factors regarding homestead exemptions.

Chairman Hildebrand noted this was an ongoing issue for the Value Adjustment Board.

Mr. Paul Stanton spoke regarding the findings of the Special Magistrate and the value of this property.

2. Minutes of October 14, 2008 Value Adjustment Board Meeting.

COMMISSIONER SCHRADER MOVED approval of the Minutes of October 14, 2008;
MR. MCBRIDE SECONDED.

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried with School Board Member Starkey abstaining from the vote.

3. Minutes of December 8, 2008 Value Adjustment Board Workshop.

COMMISSIONER SCHRADER MOVED approval of the Minutes of December 8, 2008;
MR. MCBRIDE SECONDED.

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried with School Board Member Starkey abstaining from the vote.

4. List of Petitions

- (a) Agricultural (AG)**
- (b) Agricultural Late Filing (AGLF)**
- (c) Assessed Value (AV)**
- (d) Homestead (HM)**
- (e) Homestead Late Filing (HMLF)**
- (f) Tangible (TP)**
- (g) Wholly Exempt Late Filing (WXLF)**
- (h) Portability (PORT)**

Chairman Hildebrand noted the listing of petitions.

This item was information only; no action was taken.

5. Exceptions to Special Magistrate Decision Received from the Petitioner and the Response Received from the Property Appraiser

A. AG-001, Cliff Martin, Jarrett Lincoln Form Mercury

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to the Special Magistrate Decision**

Commissioner Schrader spoke regarding the use of the property and the classification. He questioned the position of the Property Appraiser and the Special Magistrate regarding this petition.

Mr. Norman James explained the use of the property determined the classification. He spoke regarding this specific property; the agricultural use was based upon the use as of January 1st; and the property was not planted until June 2008.

Mr. McBride spoke regarding preparation of the land and weather concerns.

Mr. James felt the property was not prepared as of January 1st and spoke regarding factors considered regarding a bona fide use; the purchase price; zoning and the actual physical use of the property.

Commissioner Schrader explained the petitioner purchased the property in November 2006 and assumed they were entitled to the agricultural exemption, but failed to apply for the exemption by March 1, 2007. In 2007, their taxes increased. He did not feel they would make the same mistake the following year. Apparently, the petitioner sought

someone who was in the agricultural business who was growing hay. He spoke regarding a good faith commercial agricultural use of land.

Mr. James referred to the statutory guidelines the Property Appraiser was required to determine whether the use was a bona fide agricultural use. This property failed the test on almost every account including physical use, zoning, and purchase price.

Mr. Dent referred to the Statute and mandated criteria to consider. If there was a change of zoning at the request of the property owner the request would be denied. He spoke further regarding the purchase price and the statutory criteria. Intent to do something was not sufficient to gain favorable treatment for a classified use. The status was as of January 1st.

Discussion followed regarding a written lease with an agricultural user; commercial development preparation; inspection of the property; and hay production.

Mr. James stated as of January 1st the property had not been planted or preparations were begun to make this a hay field. The lease provided was dated after the first of the year.

Mr. Prilliman asked if the use had to be continuous. If there was not a bona fide use because the applicant missed the deadline one year, but in the next year had the use, was it possible to receive the agricultural exemption the following year.

Mr. James stated that was a possibility.

COMMISSIONER SCHRADER MOVED to accept the petitioner's request, to overturn the Special Magistrate and the Property Appraiser's determination and to grant the agricultural exemption; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the motion carried with Chairman Hildebrand voting nay.

Discussion followed regarding the procedures followed; alternatives available to the Property Appraiser; ownership changes with the property; past uses of the property; fencing; and evaluation of the application.

**B. AG-009, Shaun Bolender, Spring Branch Lakes LLC
AG-010, Shaun Bolender, Spring Branch Lakes LLC**

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

Commissioner Schrader questioned whether Mr. Bolender had presented a management plan to the Property Appraiser's Office.

Mr. James stated Mr. Bolender had presented the Property Appraiser with a one page leaflet regarding timber located on the property. He understood Mr. Bolender wished to cut the trees on the property and to then pursue a grazing classification. The property had an agricultural classification in the past by Ms. Futch. The property was sold in 1999 and a group applied for the exemption on the property after that and the request was denied because the timber on the tract had not been maintained. To date, the timber was not a good stand. The use was required to be a bona fide use. Mr. Bolender presented information at the hearing, and the Property Appraiser agreed with the submission. Mr. Bolender was a developer; the claims and expenses were not typical of what was associated with timber production.

Commissioner Schrader stated Mr. Bolender had a site plan that had been approved by the County for the entire parcel. A portion of the property had already been sold. He asked how would the Property Appraiser recognize the balance of the property.

Mr. James explained the remaining amount would be viewed on its commercial viability.

Discussion followed regarding posting the rules of procedure and the VAB needed to determine whether the petitioner was entitled to the exemption.

COMMISSIONER SCHRADER MOVED approval of the petitioner's request for the agricultural exemption; **MR. MCBRIDE SECONDED.**

Discussion followed regarding the information; the VAB record of evidence submitted; timber was located on the property; and the management plan for the property.

Chairman Hildebrand called on the motion; the motion carried with Chairman Hildebrand voting nay.

C. AGLF-003, Rebecca Grillo

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

Commissioner Schrader felt in this instance the petitioner missed the filing deadline.

COMMISSIONER SCHRADER MOVED to support the Property Appraiser's position; **SCHOOL BOARD MEMBER STARKEY AND MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

D. HM-032, Lawrence Bugg

- (1) **Exception to Special Magistrate Decision Received from the Petitioner**
- (2) **Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

SCHOOL BOARD MEMBER STARKEY MOVED to support the Property Appraiser's recommendation; **COMMISSIONER SCHRADER SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

E. HM-034, Rev. Thomas Zimmer

- (1) **Exception to Special Magistrate Decision Received from the Petitioner**
- (2) **Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

Commissioner Schrader stated he contacted the Supervisor of Elections Office and was informed that Mr. Zimmer was removed from the voting record in May 2008 and was a registered voter in another state.

COMMISSIONER SCHRADER MOVED to support the Property Appraiser's decision; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

F. HM-063, Mark Muhlada

- (1) **Exception to Special Magistrate Decision Received from the Petitioner**
- (2) **Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

Commissioner Schrader spoke regarding the process followed last year regarding family units. Last year the VAB was very consistent and unified regarding the family unit. He understood the legislature was to address the issue.

Chairman Hildebrand spoke further regarding the family unit issue.

COMMISSIONER SCHRADER MOVED approval to uphold the Special Magistrate determination; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

G. AV-062, Nancy Tabor

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

H. AV-076, Robert Stansbury, II

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

I. AV-077, Chris & Jeanne Dalcherone

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

J. AV-084, John St. Clair

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

K. AV-086, Paul E. Stanton for Daniel E., Deborah L. & Diane A. Stanton

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

L. AV-180, Robert & Phyllis Stansbury, Sr.

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

M. WXLF-002, Creative World School

- (1) Exception to Special Magistrate Decision Received from the Petitioner**
- (2) Response from the Property Appraiser to Exception filed by the Petitioner to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to uphold the Special Magistrate determination; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

6. Exceptions to Special Magistrate Decision Received from the Property Appraiser and the Response Received (if any) from the Petitioner

A. HM-013, Sallie D. Skipper

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**

Discussion followed regarding the Special Magistrate recommendation.

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

B. HM-017, Marsha J. Morrow-Dulier

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**
- (2) Response from the Petitioner to Exception filed by the Property Appraiser to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **MR. MCBRIDE SECONDED.**

Ms. Sheada Madini, representative, felt the Board's position was directly contradictory to Florida Supreme Court holdings and to numerous Attorney General Opinions. Her client provided numerous documents. She asked what was the purpose of a Special Magistrate if the Board did not consider his findings. This was the petitioner's third year appealing the denial and this action would force the petitioner to consider divorcing her husband. They were complete separate family units. She respected the position of the Property Appraiser and the Board, but felt they should consider the Special Magistrate's findings.

Mr. Dent spoke regarding the Constitution and the head of the household. The Constitution was amended in 1968 and included a restriction regarding family unit. The law had not changed since that time. The Legislature had been asked for a definitive response. Homestead was not a matter of right, but a privilege that one would receive when they complied with the requirements of the law. He spoke extensively regarding the issue.

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

C. HM-029, Ken Tucker

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

D. HM-044, Donald L. Sexton

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

D. HM-045, Mason Wilson

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**
- (2) Response from the Petitioner to Exception filed by the Property Appraiser to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **SCHOOL BOARD MEMBER STARKEY AND MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

E. HM-048, Cherie J. Shirley

- (1) Exception to Special Magistrate Decision Received from the Property Appraiser**
- (2) Response from the Petitioner to Exception filed by the Property Appraiser to Special Magistrate Decision**

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Mr. McBride felt this case was an exception. The petitioner appeared to have done everything possible to complete the divorce documents. He felt the petitioner should not be punished.

Mr. Barber felt after three years, the petitioner could do something to finalize the divorce.

Mr. Dent clarified that Florida was a no-fault State on dissolutions and either party could cause a final hearing.

Mr. Prilliman spoke regarding possible extenuating circumstances that would allow a husband and wife to obtain homestead exemption on separate parcels of land.

Mr. Frank Gray stated he disagreed with the Property Appraiser's position that the parties had to be divorced. Homestead was based upon their intention which was to be determined by all of the facts, not simply by the statements of the parties. If the Legislature wished to define a family unit or that they had to be divorced, that would be acceptable. He felt they needed to review each case individually and determine whether the facts presented overcame the presumption of correctness that was afforded the Property Appraiser. His responsibility was to hear the evidence, find out what was the law, apply it to the case and make a recommendation to the Value Adjustment Board.

Discussion followed regarding family units.

Chairman Hildebrand called on the motion; the motion failed with School Board Member Starkey, Mr. Prilliman and Mr. McBride voting nay.

MR. MCBRIDE MOVED approval of the Special Magistrate's recommendation; **MR. PRILLIMAN SECONDED.**

Chairman Hildebrand called on the motion; the motion carried with Commissioner Schrader and Chairman Hildebrand voting nay.

F. HM-052, Merri K. Nelson

(1) Exception to Special Magistrate Decision Received from the Property Appraiser

COMMISSIONER SCHRADER MOVED to deny the Special Magistrate recommendation and uphold the Property Appraiser's determination for denial; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

7. Motion to Accept the Recommendations of the Special Magistrates

COMMISSIONER SCHRADER MOVED to accept the remainder of the Special Magistrates recommendations; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

8. Motion to Certify the Tax Roll

COMMISSIONER SCHRADER MOVED approval to certify the Tax Roll; **SCHOOL BOARD MEMBER STARKEY AND MR. MCBRIDE SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

9. Discussion regarding New Procedures and Costs to Determine if the Board Wishes to Submit Comments on the New Procedures to the Department of Revenue – Catherine Teti, VAB Attorney

Ms. Teti stated at the last meeting the Board discussed submitting comments regarding the draft rules to the Department of Revenue and explained that comments were submitted by the deadline date in January. She suggested policy type comments be made and that the comments be shared with the Legislative Delegation.

Mr. Prilliman spoke regarding the process followed and requested in the future that photographs be included with the agricultural petitions reviewed by the VAB.

Mr. Barber explained a file was created for the VAB and explained evidence could not be introduced that was not considered at the original hearing. He recommended that when an exception was filed to the Special Magistrate's recommendation that the Clerk include the entire VAB package.

Discussion continued regarding the process followed.

Ms. Teti explained under the current draft rules, next year petitioners would not be able to file exceptions with the Board. One recommended comment was to include more local options. She believed DOR would include procedures for those in their rules, if not, the VAB could adopt local procedures. In the future, it might be desirable for the VAB Members to determine which petitions they wished to pull for review so that the entire record could be available at the final hearing.

Mr. Dent spoke regarding various case law, specifically Cedars of Lebanon v. the Miami/Dade Taxing Authority and noted that January 1st was the guideline.

MR. MCBRIDE MOVED to accept the VAB comments and to forward them;
COMMISSIONER SCHRADER SECONDED.

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

10. Setting of Compensation for Special Magistrates for 2009 VAB

Ms. Dillon noted the current compensation for the Special Magistrates was \$125.00 per hour.

Ms. Teti recommended the compensation be set for the advertisement for 2009.

COMMISSIONER SCHRADER MOVED to set the compensation for the Special Magistrates to be \$125.00 per hour; **SCHOOL BOARD MEMBER STARKEY SECONDED.**

Chairman Hildebrand called on the motion; the vote was unanimous and the motion carried.

11. Miscellaneous Correspondence

This item was information only; no action was taken.

Commissioner Schrader asked if the respective Boards needed to affirm the citizen appointments.

Ms. Teti explained the citizen appointments would continue to be members until they were replaced by their Board or were no longer qualified.

Adjourn

The Board adjourned at 11:45 a.m.

(SEAL)

VALUE ADJUSTMENT BOARD
REGULAR MEETING
FEBRUARY 5, 2009

Prepared By: _____
Donalee Schmidt, Deputy Clerk