

# BOARD OF EQUALIZATION

COUNTY OF ALPINE  
P.O. Box 158  
Markleeville, CA 96120

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**Unapproved:  
Subject to Correction**

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## MINUTES February 2, 2010

### 1. CALL TO ORDER

The Board of Equalization was called to order with Board Members Donald M. Jardine, Henry C. Veatch, Phillip D. Bennett, Terry Woodrow and Tom Sweeney present.

### 2. ORAL COMMUNICATION - GENERAL PUBLIC COMMENT None.

### 3. CONSENT AGENDA

These matters are expected to be routine and non-controversial and are usually approved by a single majority vote without discussion. Items can be removed from the consent agenda to be discussed and considered separately. Prior to approval of the consent agenda the chair will announce that comments or questions will be taken from members of the public, staff or the board on consent agenda items when the comment does not necessitate the item being removed for separate action.

Chair Jardine asked if there were any public comments on any consent agenda item and there were none.

County Counsel Martin Fine requested the minutes reflect applicant's attorney Tim Pemberton and Assessor Dave Peets waiving the time limits during the hearing.

### **MOTION Veatch/SECOND Woodrow approving the consent agenda as follows:**

#### **3.1 Regular meeting minutes of 9-15-2009 as corrected.**

**ALL AYES: MOTION CARRIED.**

### 4. REGULAR AGENDA

#### **4.1 Continued Hearing on Application for Changed Assessment No. 2007-05 Supplemental Assessment for Roll Years 2007-2008, Parcel No. 002-130-0190, David C. and Jean K. Van Den Berg.**

County Counsel Martin Fine reported the Board had held a hearing on 9/15/2009, closed the hearing but continued the meeting to deliberate and consider findings of fact. Fine reviewed the requirements of a decision as set by Rule 324 and explained that the Board of Equalization, in his view, did not have sufficient evidence to make a decision; it was in the Board's purview to continue the hearing to allow the parties to assemble the necessary evidence. Fine explained that under the Board's direction he had reviewed the record and found it insufficient on both the Applicant and the Assessors sides; the Chair of the Board had authorized the notice to reconvene the hearing. Fine reviewed Attachment "A" of the notice which listed the items the Board felt were not adequately addressed at the first hearing; the scope of the hearing was limited only to providing the parties with an opportunity to introduce specific facts relevant to those issues. Fine requested the Board ratify the Chair's action to notice the reconvened hearing.

Applicant's attorney Tim Pemberton objected to the request.

Assessor Dave Peets reported when the hearing was closed the direction was to submit closing statements and the Board took the matter under submission; according to the State Board of Equalization no new evidence could be allowed.

Fine reported his research indicated the Board was allowed to reconvene the hearing, all due process steps had been followed, there was no prejudice towards either party and all parties were provided with plenty of

notice. Fine explained that if the Board felt they had enough evidence based on the record to make a ruling then the Board should do so.

Pemberton reported he had listened to the tape of the 9/15 hearing and he had read the draft minutes; at the close of the hearing Martin Fine had said that there would be no more testimony and set a hearing date for deliberations. Pemberton reported he had asked each Board member if they had any questions regarding the applicant's case and they had none so he assumed the Board was satisfied with the condition of the evidence. Pemberton explained that County Counsel approaching the Chair and requesting a reconvened hearing violated due process; Rule 324 also stated that the Board must make a ruling based on the evidence produced during the hearing; they did not have the authority as a Board or as one member to reopen a hearing; Revenue and Taxation Code 1606 provided for an informal discovery procedure where by the parties exchanged their paper trail; the notice was soliciting new documentary evidence that the applicants had not received and that did not exist at the time of the original hearing. Pemberton submitted an objection to the notice of reconvened hearing in writing to the Clerk.

Fine reported he objected to the document titled Objection of the Notice of Reconvened hearing that Pemberton submitted based on lack of timeliness and not being submitted before the reconvened hearing.

Peets reported he had spoken with the State Board and they had reported a hearing could not be reopened for more evidence once it had been taken under submission; County Counsel and the Board was acting outside of its jurisdiction.

**MOTION Veatch/SECOND Bennett to deliberate, make a decision and draft findings of facts today based on evidence submitted at the hearing.**

**AYES: Board Members Veatch, Jardine;**

**NOES: Board Members Bennett, Woodrow Sweeney;**

**MOTION FAILED.**

Fine reported the Board had three options. They could 1) make a motion to ratify the Chair's decision to reconvene the hearing; open the hearing and accept more testimony; 2) continue the current hearing and direct County Counsel to draft proposed findings of fact prior to the decision and 3) make a decision based on the record and direct County Counsel to make findings of fact in support of that decision.

**MOTION Bennett/SECOND Veatch to deliberate today, make a decision and request Counsel to produce findings of fact supporting the decision at a future meeting.**

**AYES: Supervisors Jardine, Veatch, Bennett;**

**NOES: Supervisors Woodrow, Sweeney;**

**MOTION PASSED.**

The Board recessed to Board Chambers to deliberate.

**MOTION Veatch/SECOND Sweeney to uphold the Assessors value of improvements to Parcel No. 002-130-0190, David C. and Jean K. Van Den Berg at \$1,388,000.**

**ALL AYES: MOTION CARRIED.**

Fine reported findings of fact should be turned into the Clerk's office by Monday February 19<sup>th</sup> by 5:00 p.m. The Board would hold a meeting on March 2, 2010 at 1:00 to review the findings of fact.

## 5. ADJOURNMENT

The Board of Equalization adjourned to the next meeting of the Board of Equalization at the County Administrative Office Building, Markleeville, California.

ATTEST:

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Donald M. Jardine, Chair, Board of Equalization,  
County of Alpine, State of California

Board of Equalization  
Unapproved Minutes  
2-2-2010

Barbara Howard, County Clerk and ex officio  
Clerk of the Board of Supervisors / County Board of  
Equalization, County of Alpine, State of California  
By: Sarah Simis, Assistant County Clerk