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Minutes County of Volusia Value Adjustment Board Organizational Meeting of 2021

On this 12th day of July, 2021, the Value Adjustment Board held its Organizational Meeting for the 2021 session. The meeting location, 123 W. Indiana Avenue, Council Chambers Suite 204, in Deland, Florida. The meeting is open to the public and notice pursuant to F.A.C. 12D-9.007. Chair, Barbara Girtman, called the meeting to order at 8:30 a.m. The Deputy Clerk performed roll call, a quorum was present with the following members in attendance:

Board Members

Barbara Girtman,

Pat Patterson

Linda Cuthbert

Ross Janke

Board Legal Counsel

Aaron Thalwitzer, Esq.

Deputy Clerk

Wanda Bailey

Chair Girtman welcomed new board member Pat Patterson.

The first order of business is Item 1: Ratify VAB Legal Counsel and Adoption of Contract for Legal Services

Chair Girtman asked Attorney Thalwitzer if he meets the qualifications of Florida Statute 194.015 to serve as legal counsel to the Value Adjustment Board. He replied he does. She then asked for a motion to ratify. Linda Cuthbert made a motion to accept Attorney Aaron Thalwitzer as the attorney for the Value Adjustment Board. Pat Patterson seconded the motion. No objections and the motion was approved.

Chair Girtman stated to the board, they had an opportunity to review the contract for legal services. May we have a motion to adopt the contract? Pat Patterson made the motion to approve the contract for Attorney Thalwitzer. It was seconded by Linda Cuthbert. No objections and the motion was approved.

The second order of business is Item 2: Consent Agenda for Minutes for the following meeting: Final Board Meeting of 2020

The Chair stated to the board, before you are the VAB Final Board Meeting minutes of 2020 held March 22, 2021. You had an opportunity to review the minutes, are there any corrections? Hearing none, the minutes are approved as presented.

Item 3: Public Participation

The Chair asked the clerk if there are any request for public participation. The clerk stated there were none.

Item 4: Membership Elections

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There are three elections: Chair, Vice-Chair and Good Cause Designee. The Chair election must be county council member. Chair Girtman stated there are two and one of them is not here. Linda Cuthbert made a motion to elect Ben Johnson as chair of the VAB for Volusia County for this year. It was seconded by Pat Patterson. No objections and the motion passed for Ben Johnson as chair for 2021. Vice-Chair can be any member. She asked for a nomination. Linda Cuthbert made a motion to elect Pat Patterson for Vice-Chair. Barbara Girtman seconded the motion. No objections and the motion passed for Pat Patterson as vice-chair for 2021. Good Cause Designee is either the VAB attorney or a special magistrate. She asked for a nomination. Linda Cuthbert nominated Mr. Thalwitzer and Pat Patterson seconded. No objections and the motion passed for Attorney Thalwitzer as Good Cause Designee for 2021.

Item 5: Activation of the Value Adjustment Board – Adoption of Resolution 2021-001

Chair Girtman states the Resolution 2021-001 activates the Value Adjustment Board for the 2021 session. She asked board members if they had an opportunity to review the Resolution. If so, may we have a motion to adopt the resolution? Pat Patterson made a motion to adopt the resolution for 2021. Linda Cuthbert seconded. No objections and the Resolution 2021-001 is hereby adopted and activates the Value Adjustment Board for the 2021 session.

Item 6: Introductions and General Information

Chair Girtman introduced the VAB attorney, Aaron Thalwitzer, board members: Barb Girtman, Ben Johnson, Pat Patterson, Linda Cuthbert and Ross Janke and the deputy clerk, Wanda Bailey. The VAB contact information is VAB office is located at 123 W. Indiana Ave., Ste 302, Deland, FL 32720, phone number 386-740-5164 and website www.volusia.org/vab. The VAB reference guide is a resource book that contains the Government-In-The-Sunshine Manual, Florida Statute Chapters 192, 193, 194, and 195; Florida Administrative Code Chapters 12D-9, 12D-10, 12D-51 and links to website resources and printed resources available during each board meeting and in the VAB Office, as needed.

She asked Attorney Thalwitzer to advise on Florida's Property Tax System, role of participants, how to participate, and property taxpayer rights. Attorney Thalwitzer states he included a memorandum which goes through moderate details. The Florida's Property Tax System starts with election of the property appraiser. They determine the just value for each county, from there the taxpayer have the right to meet with the property appraiser informally or they can file a lawsuit to appeal with the circuit court or go before the VAB, whether the board itself or special magistrates appointed by the board. The VAB is purely optional. It is not required to preserve any rights or go forward in the circuit court but it provides an alternate form to resolve disputes. After the determination is made by either the VAB through informal meeting with the property appraiser or circuit court; the property tax determination are forwarded to the Department of Revenue by the property appraiser. Then from there, it is forwarded to the tax collector's office and we do not have any role after the value determinations are made finalized by the VAB that completes our role in it. The tax payers have a lot of options in Florida; not every state offers a VAB type process so it is a nice informal dispute resolution mechanism.

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He mentioned briefly that he works for other VABs as the attorney and one of them, Orange County specifically, where he drafted written procedures for a certain point in the process, whether the property appraiser or the petitioner, can ask for reconsideration. In other words, after the special magistrate has made their recommendations, we see either side ask for reconsideration when they feel something is wrong with the recommendation. There are not a lot of procedures in the rules or statutes, virtually none actually. However, some of the larger VABs around the state have enacted some processes to formalize that. The only thing they had to go on is due process. They got to have notice, the opportunity to be heard and it got to be a fair process. That can lead to some inconsistencies, how long do they have, exactly what is the request and what shouldn't be in the request so he did put together for the other board at their request basically some rules governing that based on research from other boards what the rules do require. This is not something the board can vote on today but he wanted to mention it because he believes it is a good idea, it will provide certainty and consistence for both sides. It is not to favor any side but to give a clear process. Sometimes we may have request after request and it is not exactly clear as to what should be considered or not considered and it attempt to put that in place, make it fair but also give the board finality and will know this is the process and this is when it is over. This was his discussion and his report that he didn't want to get missed. The board gets to take advantage of the time that was done for another VAB and much time was put into it but obvious he would not charge the board for work already done for another board. Chair Girtman asked if this was a concern in the pass for reconsideration in Volusia. He believed it was not but sees it as more of a preventative issue.

Linda Cuthbert had a comment on his memorandum. On page 29, 1(b)(i), Locally Elected Officials, the school districts in the state of Florida are unlike municipalities. We do not levy our taxes from the board. It is all done by the permission of the tax payer; it has to go to election. Our half cent sales tax went to the people and was reinstituted or reelected in January 2017 is when it went into officiality. The half cent tax goes directly to the school district and we rebuild and renovate our schools. There are several schools being renovated and built. We would not be able to build these schools without the half cent sales tax. The 1.5 capital millage rate designated by the state as much as we can levy; use to be more. The state has cut it back. We also have the required local effort that is determined by the state not us. We have a .75 millage rate, if we want to go to a one, we would have to go to an election and the tax payer would have to approve it. We also have something that we get from the state that every dollar spent in Volusia County, the school district only receive 96 ½ cent in return for school funding. We are the one county that has lost more state funding as a result of collection of taxes in Volusia County than any other county in the state of Florida. We have lost 170 million since this went into effect in 2004. We all are working on our budgets but she wanted it to be clear that the school district, largest in the county, we get very little response from the state. We are sacrificed. She wanted the taxpayers to know that for every dollar sent to Tallahassee, we only get about 96 1/2 cent in return in funding for schools. That is something we cannot control, it is all determined by the state of Florida. Two thirds of the counties have this problem, one third of the counties get more. For example, Miami-Dade, Broward, Palm Beach, Indian River, Lee counties, Pinellas, Hillsborough, Sarasota, to name a few, Osceola, Orange, all receive more money. For example, Seminole County receives almost full amounts; they are half our size but the same number of students and that is why

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they are able to spend more money and pay their teachers and staff higher. She wanted to make that known because in the memorandum it states that ‘locally elected officials in each jurisdiction set a millage, or tax, rate for the upcoming fiscal year.’ We are somewhat hindered by that, the school district. She just wanted everyone to understand that since it is part of the memorandum.

Item 7: Board Meeting Schedule

Board Meetings will be held in Council Chambers, 123 W. Indiana Ave., Ste. 204, Deland, Florida and begins at 8:30 a.m., unless otherwise noticed.

- A. The Special Session Meeting is scheduled for September 20, 2021; Reserving an alternate of September 27, 2021
- B. The Final Board Meeting is scheduled for January 10, 2022; Reserving an alternate of January 17, 2022.

Pursuant to 194.032, F.S., the schedule shall be adjusted in accordance with the number of petitions filed and conclusion of hearings, which allows board activity to be rescheduled, and continuing in session until all petitions are heard. She asked for a motion to approve the board meeting schedules for 2021. Pat Patterson made a motion to approve the board meetings schedules for 2021. Linda Cuthbert seconded. No objections; the motion carried.

Item 8: Petition Hearing Schedule

Petition Hearings are held here at 123 W. Indiana Avenue, Ste. 302, Deland. Hearing dates range from October 4, 2021 thru November 30, 2021, beginning at 8:30 a.m. and continue thru 2:30 p.m., daily. Pursuant to 194.032, F.S., the hearing schedule shall be adjusted in accordance with the number of petitions filed and conclusion of hearings; which allows board activity to be rescheduled, continuing in session until all petitions are heard.

Telephonic procedures are permitted for those petitioners that demonstrate good cause. The petitioner shall complete the telephonic hearing request form and submit supporting documentation to determine if good cause exists. She asked for a motion to adopt the hearing schedule and the telephonic procedures for 2021. Pat Patterson made a motion to approve the petition hearing schedule, location, dates, times, telephonic hearings and other locations. Linda Cuthbert seconded. No objections; the motion carried.

Item 9: Remuneration and Conditions for Magistrate Services

There are three contracts: Attorney, Appraiser, and Tangible Personal Property. Each contract reflects remuneration rate of \$125.00 per hour (increase of \$25.00) and it excludes travel time, expenses, and mileage reimbursement. She asked for a motion to adopt the contracts, remuneration rate, and terms for magistrate services. Pat Patterson made a motion to approve Item 9, the remuneration and conditions for magistrate services. Linda Cuthbert seconded and noted the lengthy discussion regarding the rate and commended the board on forward thinking. No objections; the motion carried.

Item 10: Appoint Special Magistrates for 2021

Pursuant to Florida Statute 194, the purpose of a special magistrate is to preside at hearings, review petition files, and make recommendations to the board. There are (3) magistrate types:

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Appraiser, Attorney, and Tangible Personal Property. Chair Girtman asked Attorney Thalwitzer to discuss the Memorandum regarding magistrate qualifications. He reviewed the applications and wanted to make one revision to one of his memos. In preparing for today's meeting, he went through the applications again and noticed one of the value applicant, Mr. Ruden. He lists on his application a license number, says he is properly licensed and includes license information. However, it's not Florida, it's Georgia. He double checked and looked it up; he is not certified in Florida although he is an experienced appraiser. He wanted to make an oral revision to his memo, Mr. Ruden is not qualified. All the others still are and most of them if not all of them have worked for other boards as well as this one and are experienced. He does approve of hiring all of them except Mr. Ruden. Attorney Thalwitzer, said some of the applicants are returning magistrates from previous sessions. The Chair asked him if there are any performance concerns we need to be aware of? He said when he reviews it is generally for qualifications. He reviewed the list of magistrates and said he has heard, although he does not get directly involved with the magistrates, that Mr. Robert Sutte can be slow and take more resources than others. He is perfectly competent and qualified, not to say he is not legally able to do the job. He suggested using Mr. Sutte as an alternate. Chair Girtman asked Attorney Thalwitzer if each magistrate category requires separate vote. He stated no but to mention in the motion that Mr. Ruden will not be a part of the group. Linda Cuthbert had a question. If we do not have Mr. Ruden, that means we would have four appraiser magistrates, three attorney magistrates and two tangible personal property magistrates, with Mr. Sutte as an alternate. Are those numbers adequate? Attorney Thalwitzer stated he was not sure and that we may be late again or on the verge, it is not a lot. Linda Cuthbert stated and asked as petitions come in, how would we know if this is not sufficient and what can we do if it isn't? Attorney Thalwitzer stated the board can re-advertise and hire more. Linda Cuthbert asked if that can be done, would we have to reconvene at a special meeting to vote? She asked the Chair if that would be ok to do at the September meeting. Attorney Thalwitzer stated yes and so did the Chair. Chair Girtman stated she has appraiser magistrates as John Robinson, Robert Sutte, Mel G Ward and Richard Steeves; attorney magistrates as Joseph Haynes Davis, Asima Azam and Thomas Tukdarian; and the tangible personal property magistrates as Pamela Andrea, John Robinson and Robert Sutte. She asked for a motion. Pat Patterson made the motion to appoint the appraiser special magistrates, the attorney magistrates and the tangible personal property magistrates with the exception of Alex Ruden. Seconded by Linda Cuthbert. No objections and motion carried.

Item 11: Discussion Memorandum – 2021 Legislative Updates

Attorney Thalwitzer stated his memorandum lists the recent statutes, rules and case laws that relate to the VAB and property taxes in general. This is informational only and if the board had any questions, he would answer.

Item 12: Other Business

No other business.

Item 13: Adjournment

Hearing no other business, The Value Adjustment Board Organizational Meeting of 2021 is hereby adjourned at 9:04 A.M.