



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

Deputy Clerk, Marilyn Tipton, administered the official oath of office to the Board Members: Walt Leberski, Al Plank, Wes Bowlen, James Winer and Kelly Buckner.

The Deputy Clerk swore in the Elko County Assessor, Joe Aguirre, and the following Elko County Appraisers: Janet Iribarne and Katrinka Russell.

TAPE 1A POINT 1.9

**APPROVAL OF MINUTES:**

The Board considered approval of the preceding minutes from the February 23, 2007, meeting of the Board of Equalization.

Chairman Leberski noted that the Board had previously received those minutes.

**MOTION: Board Member Kelly Buckner moved to approve the minutes for the Board of Equalization meeting held on February 23, 2007. Board Member James Winer seconded the motion. The motion was passed unanimously.**

**COMMENTS BY THE GENERAL PUBLIC:**

In accordance with the Open Meeting Law, Chairman Leberski asked for any public comments that members of the audience might have. No public comment was submitted.

Chairman Leberski asked that Joe Aguirre, Assessor, give an overview of the agricultural use assessment process.

Joe Aguirre, Elko County Assessor, stated previously his department had followed an office policy on agricultural assessments but he planned on retiring this year. The employees in his office had requested that he put an agricultural policy in writing. Joe Aguirre commented that he sat upon the Agricultural Committee for the Assessors' Association and the Agricultural Committee for the Legislative Committee for the NAC's. He stated this policy would be presented to the Assessor's Conference in April for review and hopefully would be approved by the Tax Commission. Joe Aguirre believed that agriculture should be claimed as a business and filed with IRS. He stated they would require the Taxpayers to bring in their IRS proving that they have made \$5,000 income from that agricultural business. He was accepting IRS Schedules E or F as proof of their agricultural use.

Alfred Plank inquired if livestock was sold as a capital asset could that capital gain be applied toward agricultural designation and breeding stock sales which were on Schedule D. Joe Aguirre felt that would be applied toward the \$5,000 income requirement. He commented that if an individual was in the agricultural business they had to file a personal property affidavit according to the Department of Taxation. Joe Aguirre stated that they have to file for agriculture by the first of June if they were a new owner. He stated they have gone back to May, and carried them for a year depending upon when they bought the property because of the lengthy escrow process. Joe Aguirre stressed the Department of Taxation needed to put in writing what qualified for agriculture and how they qualified. He stated with the Governor's property, the Governor had a signed lease and they had to accept that this year but next year he would have to claim that on his Income Taxes in 2007.

Wes Bowlen stated that if a person owned 25 or 30 acres and it had been agriculture, then could they continue with agricultural use or did the new owners have to qualify for a three year period? Joe Aguirre explained that the property had to be within production for 3 consecutive years immediately preceding the assessment date to agricultural use, and their definition was half of the feed had to come from the ground, and have \$5,000 income whether from stock or feed. James Winer inquired if the three years had to be under the current owner. Joe Aguirre stated if it was under production for two years and one year with another person then he would probably accept it. He noted that was why they would like to get something in writing because of the different interpretations. Joe Aguirre hoped to get something in writing passed by the Tax Commission stating exact requirements.

Wes Bowlen understood that if they wish to prove that it was agriculture then they must show proof of income under their IRS. James Winer inquired if that applied to next year. Joe Aguirre stated that they started that policy in July of 2006. He noted that they were currently drafting the policy. James Winer inquired with the current policy what other written forms of proof would be acceptable to prove agricultural income. Joe Aguirre replied they had been accepting both sides of checks, feedlot sales slips, and agricultural sales slips. He stated they accepted auction receipts from Twin Falls. He stated the State Appraiser was auditing them for these receipts so he and his staff were requesting those receipts. Janet Iribarne noted they had accepted leases, checks copied front and back, receipts for feed, shipping records, profit and loss statements, audited financial records, and noted there were a lot of Income Tax Statements already being filed. Jim Winer inquired how they would research a lease. Joe Aguirre stated that was why they hoped to put a policy in writing to protect the integrity of the law. Kristin McQueary stated with regards to

NRS 361A.020 1(b), a lease has to be contiguous to other agricultural real property owned by the lessee.

Joe Aguirre stated that nobody had addressed when the deferred taxes became due. He stated they came up with an office policy from the NACs and Statutes that they came due when they file a parcel map, if they changed the surface of the property, or had a change of zoning on the property. He stated they tried to adapt a written policy so they didn't become bookkeepers over a perpetual lien. He noted in the statute it stated at any time a property owner can request to pay the deferred taxes on a portion or the whole piece of property; or become immediately due any time the Assessor was given false information. Kelly Buckner inquired how far back the taxes would go and if it would go back to the time it was first designated agricultural. Joe Aguirre stated it would go back current plus six year back taxes for a total of seven years. He explained the deferred taxes would be the different between what they would have paid versus what they would have paid if it was not under agricultural. He stated that if there was false filings then there would be a 20% accumulative per year penalty. Chairman Leberski inquired what would happen if an owner no longer wanted to be under Ag use, did he have to pay the penalty if he had not changed the use of the land? Joe Aguirre stated he would like to have that spelled out in a policy.

Kristin McQueary felt they should review the facts and circumstances of each case and apply the law to that because each person handles their business and bookkeeping slightly differently. She noted there was a Memo in their packet with the current laws and regulations. Kristin McQueary stated the Board could consider water rights under NAC 361A.220 and look at the size of the parcels, the capacity, the availability or water. She noted that there were several closed basins in the region wherein the State Engineer was not granting anything but domestic use. She stated that if someone had a domestic well but did not have stock water rights or agricultural use water right, then that was something the Board should consider whether they deserve an Ag exemption. She encouraged them to put together all the factors, and apply law and common sense to make their decision. Jim Winer inquired how an individual that had 40 acres of land without water or a water right could claim they were growing feed. He stated that if the person had a domestic well, which they cannot use for that purpose, then how would they grow hay without water? Kristin McQueary noted they would probably be stealing water under Nevada's current water law and encouraged them not to ratify criminal activity. Allie Bear reported that she videoed 400 cattle on the piece of ground that the Governor had purchase and inquired if that property would be considered agricultural or

residential. Kristin McQueary noted that was not on the agenda. Sarah Sweetwater commented that there was property in Lamoille that grows hay without flood irrigating because the water was close to the surface.

Chairman Leberski closed the period for public comment.

**ACTION TO BE TAKEN ON APPEALS:**

Chairman Walt Leberski explained the procedure for the hearing under the Nevada Revised Statutes and the Nevada Administrative Code.

TAPE 1 A POINT 32.4

**PRESTI, JOSEPH MICHAEL**

**Case Nos. 08-005 and 08-006**

**Hearing Date: February 19, 2008**

**SUBJECT MATTER:**

This being the time set for hearing the petition of JOSEPH MICHAEL PRESTI for review of recommended taxable valuation on property described as follows:

**Parcel No. 007-08B-007**

<b>Taxable Valuation:</b>	<b>Land</b>	<b>\$ 38,395</b>
	<b>Improvements</b>	<b>\$ 96,340</b>

**Parcel No. 007 08B 034**

<b>Taxable Valuation:</b>	<b>Land</b>	<b>\$ 80,076</b>
	<b>Improvements</b>	<b>\$ 0</b>

**APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE**

**SUMMARY:**

Janet Iribarne, Appraiser, stated the reason for the appeal was the property has been in agricultural use since purchase and would be in continued agriculture use in the future. She stated the property was west of Lamoille consisting of 20 acres, parcel # **007 08B 034**, vacant ground; and 7 acres, parcel #**007-08B-007** which had a residence on it. Since last week, she reported that Mr. Presti had brought in additional agricultural income that he would like to submit as proof of agricultural use.

**ASSESSOR'S RECOMMENDATION:**

Janet Iribarne stated it was the Assessor's recommendation to the Board that unless the Petitioner submits acceptable proof they would remove the parcels from

active deferred assessment and assess the land based upon market value as described in 361.227 (5) (a), and assess the improvements at taxable value, replacement costs less depreciation as described in NRS 361.227.

**DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:**

1. Petition for Review

**EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:**

- I. Board Letter
- II. Reason of Appeal
- III. Legal Description
- IV. Assessor's Recommendation
- V. Agricultural Use Assessment
- VI. Agricultural Application
- VII. Assessor's Request
- VIII. Petitioner's Response
- IX. Second Assessor's Request
- X. Area Sale Information
- XI. Land Sale Criteria
- XII. Deferred Tax Statement

**PETITIONER PREVIOUSLY SWORN IN: JOSEPH MICHAEL PRESTI**

**DOCUMENTS SUBMITTED BY PETITIONER:**

- A. Receipts for Hay Season 2006 (4 pages)

Joseph Michael Presti lived on the property described by the Assessor's Office. He purchased the seven acres in 1979 from Charles Damele who raised sheep on the property and there was a small water right on that property. In 1985, he purchased the twenty acres parcel that was contiguous with the seven acres which also had water rights. The property was in hay production for over 50 - 60 years. Joseph Presti raised sheep and cattle but was not aware of the Ag deferred situation until 2001. He stated when the Assessor sent him the 2006 notice he thought they were asking him for the 2007 year. He was later notified that it was for the 2006. He stated he had not performed any restrictions that may cause removal of the agricultural assessment. Joseph Michael Presti stated that when they changed the use he had also received the statement for back taxes for the last five years. He understood that if they changed the Ag deferral or changed the zoning then he would have to pay the seven years back taxes. Joseph Michael Presti

stated he had not changed the property and had qualified in 2001 but was never contacted for any other information other than this year. Mr. Presti made the statement that he never intended to sell the property and would keep it in agricultural use. Joseph Michael Presti stated he gave the Assessor's Office receipts in the amount of \$5,010 for the FY 2006 last week. He stated now that the requirements for agricultural use was spelled out then they could go forward but did not think he should be penalized for five years because they were still trying to draft a policy.

**DISCUSSION:**

Wes Bowlen asked if he showed agriculture use on his income taxes. Joseph Michael Presti showed his agriculture use on his IRS but not under the business schedules. Mr. Presti would submit the proper IRS schedules in the future if that was required to prove agricultural use.

Janet Iribarne read the qualifications for Agricultural Use under NRS 361A.030. She stated that the Assessor's Office liked to see proof of the business venture and an IRS tax form would prove it was a business. She stated they had accepted business licenses, fictitious firm names, Articles of Incorporation in the past. She stated that if Mr. Presti would submit his proof of use on his IRS then they would not have any problem with allowing him to continue his agricultural use assessment. She asked the Board to decide if the income he provided was acceptable proof. Janet Iribarne noted that the receipts were from various residents in Elko County which added up to over \$5,000 in income. Katrinka Russell explained that the reason this had come forward was because Mr. Presti had turned his receipts in late after the petition was filed as proof that it was agriculture. She stated that by coming before the Board it would prove that agricultural use was acceptable this year. She asked it be noted for the record that in the future their office and the Board would require everything be done on his IRS forms whether it would be under Schedule D, E or F.

Kristin McQueary stated that until the regulations were changed NAC 361A.130 applies. She read NAC 361A.130 into the record. She agreed with Katrinka Russell that documentation needed to be turned in at the time of the application and those were the types of documentation that the State felt was adequate. She noted Elko County did not require business licenses for most types of businesses. Kristin McQueary stated many ranches do not operate under d/b/a but they may have Articles of Incorporation. She stated there were a lot of non profitable corporations that did not generate sufficient income to generate financial statements. Kelly Buckner noted the County would now require Schedules F or E

and possibly Schedule D. However, according to Kristin McQueary, Nevada law allows for other information to be submitted. Kelly Buckner inquired if he was a taxpayer and provided agricultural receipts or leases then would the Ag requirements be satisfied according to Nevada law. Kristin McQueary stated according to Nevada Law. Kelly Buckner asked if the assessor could request a Schedule D, E, or F. Kristin McQueary noted at this time they must apply the current statutes and regulations. She noted that there was a regulation making procedure through the Board of Equalization. Chairman Leberski understood that the County could require them to submit more than just receipts. Kristin McQueary noted that the statutes and regulations apply if the Assessor wishes to apply a higher standard; then the Tax Commission needed to give the Assessor's Office the authority. She noted that if the taxpayer filed that on their tax records; they should provide the pertinent pages to the Assessor's Office. She noted that if they could not show the income on their tax records then they must ask if this was a fraudulent matter. James Winer noted that certain receipts were requested such as copies of checks front and back but they were turned in late. He believed the question was whether they would accept them now or adhere to the strict policy that if the receipts were not turned in by a certain date, they would lose their Ag tax status. Joe Aguirre stated they had until June 1 to apply. Joe Aguirre stressed that was why he wanted to get the policy spelled out so that the general public can understand. Kristin McQueary read NRS 361A.120 (2) into the record. She noted the Assessor could ask for anything to prove Ag use, and to require a certain type of evidence did not put it outside the law. Kristin McQueary noted that on some properties that if they did not turn in the proof, then the Board would not even have jurisdiction. She stressed that timing would be more important in the future and she felt that was part of the educational aspect being put forth by the Assessor's Office. Joe Aguirre interpreted the statute that they had to file it under their Income Tax as their business. James Winer inquired if the requirement was \$5,000 proof of income per parcel or collectively. Joe Aguirre replied collectively in the same name. Chairman Leberski recognized what they had previously accepted receipts and felt the requirement of IRS was not relevant to this case. Alfred Plank stated that he could purchase software and reproduce a Schedule F so a schedule form may not be a more secure form of evidence. Joe Aguirre stated that Mr. Presti had the hay production but did not submit valid receipts. James Winer clarified that Mike Presti did not turn in the historical information with his Application but ultimately did turn in the receipts which had met the previous requirements.

James Winer felt that the policy should be a separate agenda item and not

apply to Mr. Presti's situation. Joe Aguirre stated they did not receive the receipts until last week and the Petition had already been filed. Joe Aguirre noted that Janet Iribarne had recommended that Mr. Presti be approved for Ag and that he did not owe the deferred taxes.

Mr. Payton was opposed to the County requiring a federal document to document their income. He asked why they should supply a federal Income Tax form for county verification. He recommended that they remain with their past policy of accepting sales receipts such as from an auction barn.

TAPE 1B POINT 21.6

CASE 08-005

CASE 08-006

**DECISION:**

**MOTION: Board Member James Winer moved that with regards to Case Numbers 08-005 and 08-006; petitioner, Mr. Presti, on Parcel Nos. 007-08B-007 and 007 08B 034 that he be allowed to continue with his Ag tax deferment.**

James Winer stated his rationale was that Mr. Presti did ultimately turn in the documentation required pursuant to historical County policy.

**Board Member Wesley Bowlen seconded the motion.**

The motion carried the following vote:

**Voting Aye: Chairman Walter Leberski  
Member Wes Bowlen  
Member James Winer  
Member Al Plank  
Member Kelly Buckner**

**Voting Nay: None**

**Abstaining: None**

**Absent: None**

Joe Aguirre submitted the State Board of Equalization Appeal Forms to Joseph Michael Presti.

-----

**DISCUSSION OF POLICY:**

James Winer inquired if they could give the Assessor some guidance as to policy. Kristin McQueary stated policy making was not on the agenda as an action

item but they could express a personal opinion. She stated they could make a recommendation but it would have to go on the next agenda as an action item. She suggested they set up a separate meeting to review policies and procedure. James Winer recommended that soon the Assessor and his staff review all policies and make sure that there were no other items than this, and to make them more current as tax assessment was performed in current time versus 20 years ago. He recommended that the Board should look at guidance that the future Assessor may use with regards to tax deferral regarding the issues of handwritten checks or receipts from an arm length third party and perhaps officially adopting Schedules D, E, and F. Chairman Leberski inquired if other Board Members would like to join Mr. Winer on his personal recommendation. Wes Bowlen felt they should have another meeting to discuss this issue. He personally felt that they were after something to prove that they actually made that money. He noted that Mr. Payton had voiced concern with going to federal Income Tax forms but unfortunately they did not have a County Income Tax to show how they earned their money. Joe Aguirre noted that when the State Appraiser looked at their agricultural receipts and had asked if the people had reported personal property, which was required by the statutes. He stated about half of the taxpayers were not reporting their personal property. Joe Aguirre cautioned that the State may start going into the field and auditing individuals. Katrinka Russell noted they were asking for federal income form to verify that they were in actual business and create everyone equal and uniformly.

-----

**TAPE 1B POINT 29.1**  
**HARLAN, CONNIE**  
**Hearing Date: February 19, 2008**

**SUBJECT MATTER:**

This being the time set for hearing the petition of CONNIE HARLAN for review of taxable valuation on property described as follows:

**Case No. 08-007**

**Parcel No. 007-080-0BI**

<b>Taxable Value:</b>	<b>Land</b>	<b>\$ 5,949</b>
	<b>Improvements</b>	<b>\$ 30,437</b>
	<b>Personal Prop</b>	<b>\$ 814</b>

**Case No. 08-008**

**Parcel No. 007-080-0BJ**

<b>Taxable Value:</b>	<b>Land</b>	<b>\$ 9,083</b>
-----------------------	-------------	-----------------

**Improvements \$ 85,994**

**APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE**

**SUMMARY:**

Janet Iribarne commented that the reason for the appeal was Connie Harlan was appealing the deferred taxes because she was told by the Assessor's Office that she was in compliance with the Ag status.

**RECOMMENDATION:**

Janet Iribarne stated that if the Petitioner submits acceptable proof of income from agricultural purposes she could be allowed into the program. If not, then they would remove the parcels from the deferred assessment and assess the land based on marketable value as described in 361.227 (5)(a). They would assess the improvements at taxable value as described in 361.227, replacement tax less appreciation. Janet Iribarne stated that if Connie Harlan was not able to submit the acceptable proof, then they need to determine if the recapture taxes were due and payable.

**DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:**

Petition for Review

**EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:**

- I. Board Letter
- II. Reason for Appeal
- III. Assessor's Recommendations
- IV. Subject 1 – Legal Description/Class/Improvements
- V. Subject 2 - Legal Description/Class/Improvements
- VI. Chain of Title Parcel Card
- VII. Agricultural Use Assessment
- VIII. Re-File Request
- IX. Statutes re: Recapture of Tax
- X. Parcel Maps/ Aerial Photo
- XI. Land Value Criteria
- XII. Area Sale Information
- XIII. Zoning
- XIV. Agricultural History
- XV. Agricultural Applications

## XVI. Deferred Tax Statements

**PETITIONER DULY SWORN: CONNIE HARLAN**

### **DOCUMENTS SUBMITTED BY PETITIONER:**

- A. Letter to Board dated February 11, 2008
- B. Photos of Livestock
- C. Photos of Pasture Areas
- D. Photos of Outbuildings and Feed

Connie Harlan was confused because they had informed her she had put her property into a higher use bracket. She commented the property had been held by the family since 1981 and there was a parcel line but she and her mother owned the property together. She testified that the property had always been used as agricultural. Connie Harlan reported there were five different fields fenced off and she could get 15 ton off of one pasture in a good year. She did have residual hay and animals. She stated that she could show proof of income and had friends who could back up her Ag claim. However, she was told by Joe Aguirre for years she was in compliance because it was agricultural as long as she had the \$5,000 in assets. She understood that she was not required to sell the assets each year. Her original application was submitted for agriculture use in May 1997 and there was no income documentation required at that time. Connie Harlan stated when she received the letter from the Assessor she came in and spoke to the Assessor. She had contacted the County Assessors in Humboldt, Pershing, the Senior Deputy Assessor of Lander County and the Eureka County Assessor on February 1, 2008. She was told by those counties' Assessors that if a party no longer qualified for agricultural and could not prove the \$5,000 in receipts; then they would put the property into market value and assessed the taxes as such. She noted that the other counties did not charge deferred taxes. She questioned why they had to comply now with the receipts when before she had been told all she had to have was the assets. Connie Harlan testified that she could have sold her hay or livestock to come up with those receipts.

### **DISCUSSION:**

Janet Iribarne commented that 361A.020 and 361A.030 had not changed in since 1981 which requirements required receipts totaling \$5,000 per year. She did not know why Connie Harlan thought she was in compliance. Janet Iribarne stated that some of the other counties in the state determined that coming out of Ag and converting to a higher use were different things. However, that was not in the statutes. Janet Iribarne stated that an Ag lien was billed immediately if converted to

a higher use. However, if the property comes out of Ag use it was always calculated perpetual on the property for the next 7 years. Janet Iribarne stated that if the property was converted to a higher use during the next 7 years, the recaptured tax was billed for the remaining years left on the lien. Janet Iribarne noted that a parcel map was present and there were buildings on each of the parcels. However, the parcel map and the buildings were pre-existing the agricultural application being approved by the Assessor. She noted that the other counties have not had similar circumstances where someone may not qualify for Ag use. Janet Iribarne stated the statutes said anything other than agricultural would be a higher use. Katrinka Russell noted that there were two terms: 1) coming out of Ag and 2) converting to higher use. She stated on this case they were trying to make it clear that if she sold the property or did anything to it then the deferred taxes would become due. Chairman Leberski inquired if Petitioner came out of Ag use and went into open space would her taxes go up but she would not owe the back taxes. Janet Iribarne stated only if she converts the property within the next 7 years. Wes Bowen noted that Petitioner was confused as to what was required of her to qualify. Joe Aguirre stated the leniency in the past years to qualify was more lenient than what it was now. He stated that, in the past, if they were trying to build a herd and they had \$5,000 worth of livestock; then they would consider that as \$5,000 of income so they did not have to sell them to show proof. Joe Aguirre noted that now they have to show \$5,000 in assets every year and half the feed has to come from the property. Wes Bowen understood that she was not phonying anything and had sold animals. Joe Aguirre noted that Connie Harlan had hayfields and did not have to prove the past three years. He reiterated they were trying to create a standard policy to be approved by the Tax Commission. James Winer clarified that the Assessor started the policy in 2006 and that this was the first the time applicants renewed under this policy. Kristin McQueary read into the record a portion of NRS 361A.030 (1). She stated that statute had not been amended since 1997. Alfred Plank inquired if there was any definition of gross income. Kristin McQueary replied "minimum gross income" and felt that was an accounting definition. Alfred Plank believed there was recognized income and realized income based on an increase of fair market value. Kristin McQueary felt they would want to speak with the individual producer to see if they operate on a cash basis rather than an accrual base of accounting. Janet Iribarne stated they were also capable of calculating the capacity of the ground and hay. Alfred Plank inquired if that helped define gross income. Janet Iribarne stated that gave a potential gross income. She noted that the state articulated that it may be capable of agricultural use but it had to be a business

venture for profit in order to qualify. James Winer inquired how they communicate to the people there was a new policy. Joe Aguirre stated they sent 45 letters to the borderline people. Kelly Buckner asked for clarification that it had come out of agricultural and was in a higher use. Joe Aguirre stated they were trying to get that defined. He stated for the last two years this had been discussed with the Tax Committee and the NAC Committee but they never addressed it. He stated the County was trying to define it and carry it to the Tax Commission for their approval. Kelly Buckner stated if they apply next year and was given agricultural assessment value again then what happened to the perpetual lien at that time. Joe Aguirre stated that one year was not perpetual. He stated that if they start paying regular taxes for seven years then there was no perpetual use and that was always the office policy. He noted that there were people who have property that would qualify for agricultural but it was not on record because they did not want that lien on their property. He noted that perpetual lien was recorded in the Recorder's Office.

Kelly Buckner inquired if this board could make a determination or create a policy with regards to this perpetual lien whether or not the property comes out of Ag and goes to into a higher use if that lien was now due and payable. Chairman Leberski felt according to NRS 361A.031 the deferred taxes were due when converted to a higher use. Kristin McQueary stated that if the Board makes that determination it would provide guidance to the Assessor's Office on similarly situated properties. Kristin McQueary stated their decision would have some precedence value depending upon how they qualify their motion. She stated it would also set a precedent as to whether it would be appealed to the State Board of Equalization.

**PETITIONER'S SON DULY SWORN: CORY HARLAN**

Cory Harlan, Lamoille resident speaking on behalf of his mother, testified that they had not converted the land to a higher use. He felt they should not be charged the back taxes if they had not converted to a higher use.

Chairman Leberski stated he had observed that area this last summer and had observed the Harlan's property with cattle upon it. He inquired if in the future Mrs. Harlan could give the Assessor some proof of the \$5,000 gross income. Connie Harlan stated for the period he was asking for 2007 she could not show that proof but from now on she could. Mrs. Harlan stated her intention was to continue using it as agricultural as she has in the past. Connie Harlan noted that in the evaluation if they were going to take her out of agricultural and put to market value; they had compared her 40 acres to 10 acres parcels. She felt that a 10 acre parcel

was somewhere to build a house upon. Janet Iribarne stated that there was a 14.09 acres piece or property and a 23.51 acre piece of property. She stated they were assessed as they were defined and a parcel map split that acreage. Connie Harlan stated that she could remove that division line because that property would not be sold as long as her son was alive. James Winer clarified that staff recommended the change not because there was a parcel map created, but because Applicant did not meet the proof of burden on the \$5,000 gross income. He noted the Applicant stated she did not know of the \$5,000 requirement so she did not keep her records but in the future she would keep records.

Katrinka Russell reviewed page 21 of their exhibits (Exhibits XVa through XVf), the applications that the Petition had signed stating she could show proof of income. Connie Harlan stated that \$5,000 was not marked on one of the applications and the one in 2004 was not filled out in her handwriting it was in Joe's handwriting.

Alfred Plank noted in 2006 they started this standardization policy and he inquired if there should have been a transition period. He stated if they were to recognize this transition period and allow the leniency for one more year what problems Kristin saw. Kristin McQueary stated they may get more additional appeals next year. She believed their motion would have some precedence value and it should be limited to the facts and circumstances of the individual case. She stressed that they would have to put reasons in their motion. She commented to Mrs. Harlan that for future reference when she signed a legal document she was indicating that she had read that application and agreed to it even though the application was filled out by someone else. Katrinka Russell stated they wanted to make it clear for the record that the Ag deferred bill was there because she did not qualify for Ag. However, that bill was not due until she sold, transferred or converted the land to a higher use. Katrinka Russell explained that if she changed the property a year from now or 5 years from now she would owe two years. James Winer noted that if it went into this new classification next year but she came in with the correct paper work and \$5,000 gross income could it be converted back and there would be no back tax due. Katrinka Russell stated that was correct because of the prior history and they would not require 3 years worth. Wes Bowlen inquired if that would erase that future lien. Katrinka Russell replied no. Wes Bowlen inquired if it would be there for 7 years even if she was granted Ag next year. Katrinka Russell stated she would not owe for that one year. Kristin McQueary clarified that would be minus the one year she paid different taxes. James Winer asked about the difference in tax. Janet Iribarne stated it would be \$37,200 for the

14 acre parcel. Wes Bowlen felt it was a real abomination that they had it in agriculture for a long time and then it was put in different use and the taxpayer is slapped with 7 years back taxes. Joe Aguirre stated that they were trying to establish a written policy. In the statute, it clarifies any higher use was any other use other than agriculture. Joe Aguirre did not feel that Connie Harlan or Pauline Beitia owed the deferred taxes but it was not clarified. Wes Bowlen felt that if she took it from Ag on her own that was fine but if the County did it because of a policy change, he would be upset.

**TAPE 2A Point 37.1**

**DECISION:**

**MOTION: Board Member Wesley Bowlen moved that they leave Connie Harlan's property in agriculture.**

Chairman Leberski asked that he state the case numbers and parcel numbers.

**Board Member Wesley Bowlen amended his motion that under Case Nos. 08-007 and 08-008, Connie Harlan, they leave her in Agricultural based upon the fact that there was total confusion as far as what she had to come up with proof and based on the fact that in the future she would provide the necessary documentation as far as what she needs to comply with the agricultural requirement. Board Member Kelly Buckner seconded the motion.**

Kelly Buckner agreed with the motion but asked that the motion be more specific with respect to moving forward and proving the agricultural assessment. He suggested that they limit the time frame. If in two years it had not been put back in agricultural assessment, etc. He suggested that it be proved in the next, current tax year, 2008, that it in fact it qualified for the agricultural assessment.

Petitioner, Connie Harlan, understood that in 2008 she would have to show agricultural qualification. Wes Bowlen agreed that would be his recommendation.

**Board Member Wesley Bowlen amended his motion that Connie Harlan would come back and apply or show in 2008 that she qualified for the agricultural exemption.**

James Winer asked that the record reflect to all Elko County Taxpayers, when they sign a legal document; read it first and know what you are agreeing to. Connie Harlan explained she was having a difficult time and had just lost her husband.

The motion carried the following vote:

**Voting Aye: Chairman Walter Leberski**

**Member Wes Bowlen**  
**Member James Winer**  
**Member Al Plank**  
**Member Kelly Buckner**  
**Voting Nay: None**  
**Abstaining: None**  
**Absent: None**

Joe Aguirre submitted State Board of Equalization Appeal Forms to Connie Harlan.

-----  
**Chairman Leberski called a recess at 11:06 a.m. and reconvened the meeting at 11:15 a.m.**

**TAPE 2A POINT 37.9**  
**PAYTON, CALLAN/DENISE**  
**Case No. 08-009**  
**Hearing Date: February 19, 2008**

**SUBJECT MATTER:**

This being the time set for hearing the petition of CALLAN/DENISE PAYTON or review of assessed valuation on property described as follows: Parcel No. 009-330-003.

<b>Taxable Valuation:</b>	<b>Land</b>	<b>\$ 64,000</b>
	<b>Improvements</b>	<b>\$ 11,174</b>

**APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE**

**SUMMARY:**

Janet Iribarne stated the reason for appeal was the Petitioner had written informing them that the land sustains livestock. The petitioner believes it should remain Ag exempt because it was agricultural seven years before purchase. She noted that Petitioner believed it should be equal value as to other surrounding parcels owned by Power Compacter Inc. and Noel Owen's. Janet Iribarne stated that she had received livestock sales receipts from Mr. Payton this morning. She reported that the property is Section 9, T. 36 N., R. 35 E., M.D.B&M. consisting of 640 acres. The subject property is located in the Independence Valley approximately 4 to 5 miles South East of the Honor Camp I-80 Freeway Interchange on the west base of the Pequop Mountain Range.

**ASSESSOR’S RECOMMENDATION:**

The Board upholds the Assessed Value as appraised for the 2008-09 tax year. Assess the land based on market value as described in 361.227 (5)(a). Assess the improvements at taxable value as described in 361.227. Uphold the use of this property as Land Use Code 180 (Minor Improvements, No usable structures).

**DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:**

Petition for Review

**EXHIBITS SUBMITTED BY THE ASSESSOR’S OFFICE:**

- I. Board Letter
- II. Reason for Appeal
- III. Legal Description
- IV. Assessor’s Recommendation
- V. Agricultural Use Assessment
- VI. Agricultural Application
- VII. Improvement Information
- VIII. Neighboring Properties
- IX. Area Valuation
- X. Property Sale Information
- XI. Seller’s Agricultural Status
- XII. Petitioner’s Proof of Income
- XIII. Deferred Tax Payment

**PETITIONER’S REPRESENTATIVE DULY SWORN: CALLAN PAYTON**

**EXHIBITS SUBMITTED BY CALLAN PAYTON:**

- A. Comparable Sales
- B. Livestock Sales Receipts

Callan Payton asked what the assessed value of his property was. Janet Iribarne stated that the value of the property per acre was valued at \$100.00 per acre. Callan Payton noted of the 105 comparable sales (Exhibit A), the highest was valued at \$4,000. He inquired why his parcel was assessed at \$22,000 when there was no County road to it and no electricity to the property. He asked for the agriculture exemption and noted the land was in Ag for 7 years prior. He commented that he was sent a statement for the deferred taxes and was assessed a 5% penalty because it was late. Callan Payton commented that he had no choice but to pay it. He testified that he had pastured 5 horses and 10 head of steers and

submitted copies of the Twin Falls Livestock and Producers Livestock Marketing Association receipts. Callan Payton had invested about \$10,000 in fencing it because the neighbors had about twenty head taking up residence on it. Callan Payton reported that he had put a domestic water well on it in 2007.

**DISCUSSION:**

Chairman Leberski inquired if the whole section was fenced. Callan Payton replied in the affirmative. Chairman Leberski asked how many head of cattle he ran on that acreage and for how long. Callan Payton replied 5 head of horses and 10 steers from early spring to late summer. Wes Bowen inquired if he sold those and if it was the \$4,000 receipt. Callan Payton commented that there were receipts of \$3,654 and of \$1,661.00. Janet Iribarne stated the receipts totaled \$5,315 for his first year in business. Chairman Leberski inquired if it was under Ag use previously under Nevada Land and Resources and received an affirmative response. Katrinka Russell noted it was previously assessed under Ag as part of a larger operation but now the 640 acres had to stand on its own. She explained that this was the first year that Mr. Payton had provided proof but they needed three years of gross income. James Winer inquired if Mr. Payton had other parcels which would qualify if that was under Agriculture use and received a negative response. Wes Bowlen understood that Joe Aguirre based his decision upon the information he had prior to this information being submitted. Mr. Payton noted that he could prove that it was more agriculture now than in the past because he had fenced it and furnished receipts. Wes Bowlen noted that information was not brought to them until 9:00 o'clock this morning. James Winer believed there were two separate issues before the Board. One was the statutory requirement of three years prior Ag use and proof as the stand alone parcel; not as part of the bigger operation. Secondly, the issue was the evaluation put on it. He understood Mr. Payton felt that it was taxed too high based upon his comparable sales. Janet Iribarne stated Nevada Lands and Resource was agricultural use, third class grazing and evaluated at \$2.27 cents per acre. James Winer inquired if the rest of the comparable sales were agricultural exempt. Janet Iribarne noted some of the sales were located in the City of Wells questioned if they were comparable sales. James Winer noted that on page 11 (Exhibit X) the Assessor had submitted a list of comparable sales on parcels that were not in agricultural use. Janet Iribarne agreed that most were not in agriculture use and they ranged from \$75.00 per acre to \$147.00 per acre. Chairman Leberski asked if they were all located in Independence Valley and received an affirmative response.

Kristin McQueary stated under NAC 361A.180 they had different ways to

evaluate Ag property in (2)(b). She inquired if it was possible for the Assessor to look at that parcel for three years to see if it qualified that way. Chairman Leberski understood that they could go back 3 years if it was shown that the particular section could produce \$5,000 income. Janet Iribarne understood it had not been included in the lease under Nevada Land and Resources and if it had then he needed to submit that proof. Callan Payton understood that Scott Merrill had it prior to Noel Owens. He believed that prior to Mr. Owens it was part of the ranch. Chairman Leberski noted that the Egberts had that property previously. Callan Payton pointed out that after he purchased it he fenced it and grazed cattle on that property all summer. He noted there were receipts for the sale of the cattle.

Wes Bowlen acknowledged that Mr. Payton had paid his money but only for one year. Janet Iribarne stated if he had not paid then it would have gone through the collection process. Wes Bowlen believed that Mr. Payton was being penalized with the additional tax. He stated if Mr. Payton proved up over the next two years did Mr. Payton get his money back. Katrinka Russell replied, no. Katrinka Russell felt that point should be brought up at legislature. Chairman Leberski stated Mr. Payton could take further action if he wanted to get his refund but that was not before this Board at this time. Alfred Plank noted that the lease had been recorded and asked if there was a process to reclassify it to agricultural for purposes of this discussion. Kristin McQueary stated there was no proof that this parcel as a stand-alone parcel and could produce \$5,000 gross Ag income. She noted that proof needed to come in with the application pursuant to NRS 361A.020 (1) (a). James Winer noted that Mr. Payton had one year of proof. Wes Bowlen stated the Assessor's Office said that there was not 3 years of assessed information. Katrinka Russell stated if they were running it for Ag operations she inquired how many head of livestock he could run on a domestic well and if he planned on building a home. Mr. Payton stated that he did not have a home there but it was in future plans. Katrinka Russell inquired why he had not applied for an Ag well. Mr. Payton stated he could pump 1800 gallons on a domestic well and the 15 head did not drink that much water.

Kelly Buckner inquired if it went to higher use when sold. Janet Iribarne stated that was one of the issues with the Ag deferred. He understood that if Mr. Payton had bought a ranching operation in total then the Ag carry over. He did not feel that they could carry that Ag operation over on this section. James Winer stated the Applicant could go to Nevada Land and Resource or to the people who had it leased and ask them for previous documentation to show the County that they had \$5,000 worth of income over the past two or three years. Kristin McQueary inquired if there

was a stream or creek running through the property other than watering from his domestic well.

**TAPE 2 B POINT 25.8**

**DECISION**

**MOTION: Board Member Wesley Bowlen moved that they leave the 640 acres on Ag use based on the fact that if it was not proved up in the next three years as far as Ag was concerned; then it would revert to specials lands or open space.**

Janet Iribarne requested clarification that Mr. Payton would have to provide them two more years of agricultural income. Wesley Bowlen replied that was correct and noted it had been agriculture but nobody can prove how much.

**The motion died due to a lack of a second.**

Kristin McQueary asked the Chairman if there were other sources for stock water when that parcel was part of the larger operation. Mr. Payton stated the water well was a mile away on the Power Compactor Inc.'s property. Kristin McQueary inquired if it was domestic or stock water use. Mr. Payton stated it had been used for stock water for the last several years. Wes Bowlen noted his property was fenced so there was no relevance. Kristin McQueary noted that helped define its stand-alone value or its value as part of the larger operation. She noted the issue of domestic use on a domestic well may be more important in the future.

**TAPE 2 B 26.9**

**AMENDED DECISION:**

**MOTION: Board Member Kelly Buckner moved that they keep the Assessor's recommendation as far as the assessed value on Parcel No. 009-330-003, Case No. 08-009. Board Member James Winer seconded the motion.**

Kelly Buckner explained the rationale for the record was that the parcel had changed hands and was under different ownership. He stated it has not been proven over a three year period to comply with the agricultural assessment requirements of Nevada law. James Winer strongly urged that Mr. Payton get documentation from the prior owner to prove the \$5,000. He noted that Mr. Payton had every right to petition this to the State Board of Equalization. He stated there was some validity to Mr. Bowlen's comments that once you have proved for two years could they be reimbursed for the difference. James Winer noted that was not in the statutes and this Board did not have the flexibility to change that. He felt that the issue or reimbursement lay in the hands of the State Legislature.

The motion carried the following vote:

<b>Voting Aye:</b>	<b>Member</b>	<b>James Winer</b>
	<b>Member</b>	<b>Al Plank</b>
	<b>Member</b>	<b>Kelly Buckner</b>
<b>Voting Nay:</b>	<b>Member</b>	<b>Wes Bowlen</b>
	<b>Chairman</b>	<b>Walter Leberski</b>
<b>Abstaining:</b>	<b>None</b>	
<b>Absent:</b>	<b>None</b>	

Joe Aguirre submitted the State Board of Equalization Appeal Forms to Callan Payton.

Chairman Leberski noted that Mr. Payton protested the value of \$100.00 per acre on the special use assessment. Janet Iribarne explained that \$100.00 per acre was used straight across the entire county. She noted that Mr. Payton paid \$100.00 per property for his property. Chairman Leberski stated that Mr. Payton had submitted a list of comparable properties but those sections listed were agricultural assessed. Mr. Payton stated that there was no legal access to the property, no electricity to the parcel and inquired how the Assessor had arrived at the total of \$100.00 per acre. Mr. Payton inquired if the section was assessed as open space. Janet Iribarne stated that it was zoned as open space but was called special lands. Mr. Payton understood that if he proved up over the next two year as Ag then it could be transitioned back to Ag. James Winer stated Mr. Payton could petition to have it Ag if he could prove the prior owner had Ag listing and the \$5,000 minimum gross income over the last two years. Mr. Payton commented that the lease covered several parcels and would not be specific to this parcel. Janet Iribarne stated that the leases she had observed had parcel numbers on them. She noted that those leases were expired and they would have to re-qualify. Chairman Leberski stated they were placing the burden upon Mr. Payton to get those records. Mr. Payton stated that he was offered a lease on the property but felt that was unethical. Chairman Leberski asked for a motion as to the \$100.00 evaluation.

## **TAPE 2B POINT 37.9**

### **SECOND DECISION:**

**MOTION: Board Member James Winer moved that on Case No. 08-009, Parcel 009-330-003, they go with the recommendation from the Assessor's Office of the price per acre of \$100.00. Board Member Alfred Plank seconded the motion.**

James Winer stated the rationale was that amount was the standard in the industry for this neighborhood and it was the price paid per acre by Mr. Payton approximately one and half years ago.

Chairman Leberski stated he had always argued the evaluation of \$100.00 per acre in Independence Valley because that was a little high for that particular location. His opinion was that it should be \$80.00 per acre.

The motion carried the following vote:

<b>Voting Aye:</b>	<b>Member</b>	<b>James Winer</b>
	<b>Member</b>	<b>Al Plank</b>
	<b>Member</b>	<b>Kelly Buckner</b>
	<b>Member</b>	<b>Wes Bowlen</b>
<b>Voting Nay:</b>	<b>Chairman</b>	<b>Walter Leberski</b>
<b>Abstaining:</b>	<b>None</b>	
<b>Absent:</b>	<b>None</b>	

Chairman Leberski informed the Petitioner that he had the right to appeal their decision to the State Board of Equalization. Joe Aguirre submitted appeal forms to Callan Payton.

-----

Chairman Leberski asked if the parties could come back after lunch for their hearing. All parties agreed to the lunch break. Joe Aguirre noted for the record that San Jacinto had been settled and they had withdrawn.

**MOTION: Board Member Wes Bowlen moved that they adjourn for lunch and come back after 1:30 P.M. Board Member James Winer seconded the motion. The motion was passed unanimously.**

**Chairman Walter Leberski called the lunch recess at 12:01 p.m. and reconvened the meeting at 1:33 p.m.**

TAPE 3a POINT .1  
**SWEETWATER, SARAH**  
**Case No. 08-001**  
**Hearing Date: February 19, 2008**

Board Member James Winer disclosed that Sara Sweetwater was a client and recused himself from this case. James Winer left the meeting room at 1:34 p.m.

**SUBJECT MATTER:**

This being the time set for hearing the petition of SARAH SWEETWATER for review of taxable valuation on property described as follows: Parcel No. 001-630-039.

<b>Taxable Valuation:</b>	<b>Land</b>	<b>\$ 54,397</b>
	<b>Improvements</b>	<b>\$ 2,457</b>

**APPRAISER SWORN IN: KATRINKA S. RUSSELL**

**SUMMARY:**

Katrinka Russell stated the property is located by the intersection of 12<sup>th</sup> and River Street. It used to be a part of a larger parcel, (6.00) acres until it was made smaller with a boundary line adjustment to a compact size of .915 acres. It is located in a multi-use neighborhood that ranges from residential to industrial. This property is zoned for industrial. However, it is being assessed under Land Use Code 181, *Minor improvements – Usable building but no livable structures*. It currently had two sheds, is enclosed on almost all four sides with fencing. She stated the Petitioner feels that she is being assessed over market value and that her property should be considered for topography and being in the floodplain. She stated they based their values on market sales and feel that the current sale prices have factored in the extensive grading and excavation involved with being in the floodplain area.

**ASSESSOR’S RECOMMENDATION:**

It was the Assessor’s recommendation to not make any changes to the current value.

It is required by law for the Assessor’s office to review sales annually and make changes to reflect the current market, whether the values decrease or increase, we made adjustments accordingly. The petitioner can rest assured that if the values decrease, we will adjust her values accordingly. If the values increase, she will be protected from substantial increase in property taxes by the “tax cap” legislation that was passed in 2005.

**DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:**

Petition for Review

**EXHIBITS SUBMITTED BY ASSESSOR’S OFFICE:**

- I. Board Letter
- II. General Appraisal Data
- III. Legal Description

- IV. Tax Year Data
- V. Sales Supporting Value
- VI. Property Photos
- VII. GIS Map / Assessment Maps
- VIII. Assessor's Recommendation

**PETITIONER DULY SWORN: SARAH SWEETWATER**

Sarah Sweetwater noted for the record that the property was on 13<sup>th</sup> Street and River not 12th and River Streets. She commented that Twelfth Street would make it more in value because it was paved. She noted that on page 7 (Comparable Sales) price per acre was \$63,553.53 per acre on the property which belongs to Western Nevada Supply but on her documentation received from the Assessor's Office had the price at \$59,450 instead of \$63,553. She noted that was also shown on the map in their book (Exhibit VIIb). Katrinka Russell stated that amount was what Sarah Sweetwater had sold it for to Western Nevada Supply. Sarah Sweetwater wanted to clarify that they were currently appraising her .915 acre at \$59,450. She noted the property contiguous to Western Nevada Supply was Stitzel's property and was appraised at \$26,000 per acre. She stated Western Nevada Supply bought her property but did not want the other property she retained. She noted it was a wing of a barn that had belonged to the McBride Farm House. Sarah Sweetwater did not contest the evaluation on the two buildings but the evaluation on the property. She stated Western Nevada Supply had done a lot of dirt work to prepare the lot to store their equipment on. Sarah Sweetwater commented that only ¼ of her property was on the level and it would be extremely expensive to put in a retaining wall. She asked that this Board look at 2/3 of her property at a lower rate. She stated there were no improvements, there was no water and it does not have electricity or phone. Katrinka Russell inquired when Western Nevada Supply approached her to buy the property did they try to buy the entire parcel from her. Sarah Sweetwater stated that they did not want the side part. She wanted to retain the two buildings to make it into a sculpture park. She stated originally they drew the map for them to buy all the land that went over the edge but Western Nevada Supply did not want that piece of property.

**DOCUMENTS SUBMITTED BY PETITIONER:**

- A. Letter dated February 10, 2008 with map attached

**DISCUSSION:**

Katrinka Russell stated when Sarah Sweetwater did the boundary line adjustments allocating the 4.390 acres to Western Nevada Supply; they were

required to leave it at the remainder value under AB 489 which was passed in 2005. She stated that cost per acre value was left on the remaining piece. Katrinka Russell stated typically they would have converted that over to \$5.00 per square foot which would have put it at a higher value than what it was now. She noted that all the other parcels around her were at \$59,450. Katrinka Russell stated the parcel that Sarah was referring to valued at \$2,600 per acre was a 20 acre piece that was land locked and there were not a lot of assets. Sarah Sweetwater stated Silver Street was along the frontage of that property. Chairman Leberski requested clarification if it was \$5.00 per square foot or \$5.00 for frontage. Katrinka Russell replied \$5.00 per square foot because properties that front River, Douglas and Water were commercial properties and were valued at \$5.00 per square foot. Chairman Leberski inquired how they arrived at the per acre price of \$63,553. Katrinka Russell noted on the US GIS map Sarah Sweetwater sold the property to Western Nevada Supply for \$63,533 per acre. Katrinka Russell stated that Sarah Sweetwater fell under the remainder cap law so they left the evaluation at \$59,450 per acre. Sarah Sweetwater noted that when she was in the Assessor's Office they had told her she was lucky because they could have evaluated it at \$5.00 per square foot. She noted that Corky Caldwell was never told that and his property was fronted by Twelfth and Thirteenth Streets. Sarah Sweetwater felt that she was being threatened. She noted that Corky's property was also under an acre. Kelly Buckner inquired what the Caldwell parcel was assessed at. Katrinka Russell replied that Corky Caldwell's parcel was 1.03 acres and he was assessed at \$59,450 per acre.

Alfred Plank inquired what the \$59,450 per acre equated to per square feet. Katrinka Russell replied \$1.36 per square foot. Chairman Leberski stated he had viewed the property and there was a slope on a portion of the property. He noted across the river they have an acre price of \$32,000. He felt one of the considerations in that price was they would have to do a lot of dirt work to develop it. Katrinka Russell agreed there was a lack of infrastructure and the City required them to put in utilities. Chairman Leberski inquired if it would be reasonable to apply that price to Ms. Sarah Sweetwater's property on the slope and the rest at \$59,450 per acre upon the flat. Katrinka Russell noted that on the east side of Sarah Sweetwater's property there was a utility easement which she would not want to build upon to a width of about 40 feet. Katrinka Russell stated it would be hard to apply topography there. She had spoken to a gentleman at Western Nevada Supply and he indicated that they wanted to buy the entire parcel from her. He told her that they did a lot of dirt work to accommodate access to their warehouse on the

back side of that property. Chairman Leberski asked if the easement was for telephone and TV. Sarah Sweetwater inquired if there was a different evaluation for easements. She noted the width of the property from Thirteenth Street all the way back to Western Nevada Supply there was a road width utility easement that she could not build upon. She stated that James Winer did sell that property and was aware that Western Nevada Supply did not want that slope. Katrinka Russell noted that she had been with the County for eleven years and there had never been adjustments for any easements since she had been here. Chairman Leberski commented that usually when private property was appraised there were adjustments for easements. Kelly Buckner agreed that usually they make adjustments for the easements. Joe Aguirre stated that in the past they have never acknowledged easements. He commented that they have found that most people develop pieces of property and use those easements to their advantage such as access to their property. He stated one came from where Dennis lived on Sunset. Joe Aguirre stated a lady had complained that the County had an 80 foot easement on her property but the road was only 60 feet so she felt her taxes should be lowered. He stated the Board ruled that at such time until they utilized the road she would have use of that. Kelly Buckner inquired if that was residential or commercial. Joe Aguirre replied it was residential. Katrinka Russell noted on page 7 there were comparable sales listed for that neighborhood. Chairman Leberski noted in those comparables it listed the \$32,000 which was the piece or property across the river. He noted it was a larger parcel but it was where they had to do the fill to level the property. Katrinka Russell stated that was 17 acres and there were requirements put on by the City for infrastructure. Alfred Plank inquired what the total vertical drop was and how much fill would be needed on the lowest portion. Sarah Sweetwater stated that she had a lot of fill brought in to fill the area between the barns. She stated it took 7 bellydump truck loads. Chairman Leberski stated in looking at the map and looking at the property he estimated that she would have to bring in 6 to 7 feet of fill to make it level with where her barn is to use the land. Sarah Sweetwater noted on page 7 the Western Nevada Supply property was purchased from her for \$279,000 and they bought all of the six acres except .915 from her which was 5.15 acres. Chairman Leberski inquired if they raised the assessment. Katrinka Russell replied no. She noted that there was confusion on the exact amount of acreage because there were two records of survey. Katrinka Russell stated originally Sarah was assessed for 6 acres then there was a correction of 5.93 acres and Sarah ended up with .915 acres. She stated that would mean 5.02 acres were sold. Katrinka Russell stated that correction would mean

4.39 acres. Sarah Sweetwater stated the deed stated she had .915 acre remaining. Katrinka Russell inquired if that was specified on the deed. Sarah Sweetwater would have to look at that deed. Chairman Leberski inquired if that would have to go on the parcel map. Katrinka McQueary noted the Recorder's Office was across the hall. Sarah Sweetwater stated when she was first negotiating with Chris Walther she wanted them to purchase straight down 13<sup>th</sup> Street. She had the original map were they would purchase back part that dropped off. Sarah Sweetwater stated they had discussed the issue of building a retaining wall that would be taller than their fence. She stated they originally planned on bringing the 13<sup>th</sup> Street down into their property. Sarah Sweetwater stated that Western Nevada Supply changed their mind and now their trucks come in on River Street and down the slope into their property. She stated that the utility line was for gas, sewer and water was on the one side. She stated that she gave propane utility rights to bring the gas line across her property when she owned the whole six acres. Sarah Sweetwater stated the only usable part was ¼ of the property and the rest was in the flood plain. She had paid a man from Ryndon to try and slope that topography but there was debris from the farm equipment. Chairman Leberski noted that the land value had stayed the same since 2006-2007. Katrinka Russell noted that Sarah Sweetwater had come in to talk about her assessment after January 15<sup>th</sup> of last year. Sarah Sweetwater was told that she was too late to file a protest but she could turn in a petition for the next year. Katrinka Russell stated she took the Petition over to Sarah Sweetwater after a year so she could protest her value this year.

Kristin McQueary inquired under what statute was the bill for the remainder value. Katrinka Russell stated under 361.4722 or it may be a regulation that was currently in process. She noted that any time a property was split they could not automatically set a new value. She stated if a remainder was left it had to remain at its old value until it was further subdivided, improved, built upon, etc.

Chairman Leberski noted Joe Aguirre handed him a copy of the deed to Western Nevada Supply LLC but it did not show the acreage. He believed the record of survey would show the total acreage. Joe Aguirre noted on page 3 it quoted acreage. Chairman Leberski commented that it referenced the parcel map but not the boundary line adjustment map. He inquired about the difference in acreage that Katrinka Russell and Sarah Sweetwater were discussing. Katrinka Russell stated Sarah Sweetwater retained .915 acre. Kelly Buckner noted that Sarah Sweetwater originally thought the property was 6 acres but that was not correct. Katrinka Russell stated that would be 39,856 square feet was retained by Sarah Sweetwater.

**TAPE 3A POINT 41.2**

**Case No. 08-001**

**DECISION**

**MOTION: Board Member Kelly Buckner moved that the value on the property, because of the easement and because of the issues with regards to the slope in the back be reduced from the \$54,397 per acre be reduced to \$47,500 per acre.**

Kelly Buckner stated the reason being the easement scenario of 45 feet across her property and the slope in the back. He had more concern with the easement from a commercial standpoint than he did with the slope in the back because it could be mitigated but the easement could not.

Katrinka Russell inquired if they could come up with a percent for the topography and a percent for the easement so they could continue to apply that until it was corrected or removed. She stated that even if the land values went up they could still apply a percentage to the topography and percentage to the easement without having to come back to the Board every year.

Kelly Buckner inquired how they determine the percentage for the slope and the easement. Katrinka Russell noted that in his motion he came up with \$47,500 per acre and that number could be converted into a percentage for easement and topography in his motion. Katrinka Russell stated then they could calculate the percentage on that which would allow them to apply that every year. Kelly Buckner clarified that they need a value per acre for the usable space and a value per acre for the easement and slope. Katrinka Russell explained they would apply a percentage of obsolescence.

Chairman Leberski noted Sarah Sweetwater said a percentage of 3.05% was involved in the slope and .610 acre was on the better evaluation. He suggested that that they take those figures and work backwards. He noted under Sarah Sweetwater computations \$36,264.50 for the .610 acres and Kelly's valuation was \$47,500 per acre.

**Board Member Kelly Buckner amended his motion to use percentages now of 65% of the property as usable property and 35% of the property to apply their obsolescence formula to but he did not know what number that came up to as far as value. He stated that was his motion on Case No. 08-001, Parcel No. 001-630-039.**

Kelly Buckner clarified that his motion was to use 65% of the property as a

usable value and 35% of the property as functional obsolescence.

Alfred Plank inquired if they should split the 35% between the easement and the topography of the land. Katrinka Russell stated that she could do that and she would map out the easement and put the remainder to topography.

**Board Member Alfred Plank seconded the motion.**

The motion carried the following vote:

<b>Voting Aye:</b>	<b>Chairman</b>	<b>Walter Leberski</b>
	<b>Member</b>	<b>Wes Bowlen</b>
	<b>Member</b>	<b>Al Plank</b>
	<b>Member</b>	<b>Kelly Buckner</b>
<b>Voting Nay:</b>	<b>None</b>	
<b>Abstaining:</b>	<b>Member</b>	<b>James Winer</b>
<b>Absent:</b>	<b>None</b>	

Sarah Sweetwater noted that she had learned a lot. She noted they were requiring people whose land use changes to pay seven years previous tax so she inquired if she would receive a refund for the prior years she had paid above the evaluation. Chairman Leberski did not think that would happen. Sarah Sweetwater stated that she appreciated Boards more than what she did before because they do a lot of work. She voiced her appreciation.

Joe Aguirre submitted a State Board of Equalization appeal form to the Petitioner, Sarah Sweetwater.

-----  
Board Member James Winer reentered the meeting room.

**TAPE 3B POINT 1**

**BEAR, ALLIE T.**

**Hearing Date: February 19, 2008**

**Case No. 08-002**

**Parcel No. 006-32H-012**

<b>Taxable Value:</b>	<b>Land</b>	<b>\$ 238,320</b>
	<b>Improvements</b>	<b>\$ 0</b>
	<b>Personal</b>	<b>\$ 0</b>

**Case No. 08-003**

**Parcel No. 006-32H-011**

<b>Taxable Value:</b>	<b>Land</b>	<b>\$ 158,040</b>
-----------------------	-------------	-------------------

Improvements \$ 12,669  
Personal \$ 0

Case No. 08-004

Parcel No. 001-861-002

Taxable Value:

Land \$ 158,040  
Improvements \$ 0  
Personal \$ 0

Chairman Leberski recused himself because he had previously worked with Allie Bear.

James Winer disclosed that Allie Bear was a real estate broker and he was as well. He stated Allie Bear formally hung her license at his brokerage years ago. He did not believe that he had to recuse himself but he felt that should be disclosed.

Vice-chairman Wes Bowlen assumed control of the meeting.

**SUBJECT MATTER:**

This being the time set for hearing the petition of Allie T. Bear for review of assessed valuation on property described as follows: Parcel No. 006-32H-011, Parcel No. 006-32H-012, and Parcel No. 001-861-002.

**APPRAISER, PREVIOUSLY SWORN IN: KATRINKA S. RUSSELL**

**SUMMARY:**

Katrinka Russell stated she would do the presentation for all three parcels. She noted all three parcels were situated next to each other and the only difference was 001-861-002 was in the city limits but the other two were not. The subject properties are owned by Allie Bear, a local realtor. The properties are located at the east end of Elko City along what is called the "old Hwy 40". It is located right next to the Bear Ranch and next to the Ruby Dome headquarters. They are good size parcels ranging in sizes from 7.319 acres to 13,242 acres. They are accessible directly from the highway.

The reason for the appeal is that the taxpayer had indicated that she feels the property is not being assessed at market value. She is basing this on the Railport as a comparable property since Elko County has sold one 44.415 acre parcel at roughly \$10,000 an acre. We currently have the parcels on the two pages set at \$18,000 per acre. These values have been set at this since the parcels were created with map #290771 in 1990. These values have remained constant with the

sales in the area.

**DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:**

Petition for Review

**EXHIBITS SUBMITTED BY THE ASSESSOR'S OFFICE:**

- I. Board Letter
- II. General Appraisal Data
- III. Tax Year Data
- IV. Sales Supporting Value
- V. Proper Photos
- VI. GIS Map / Assessment Maps
- VII. Assessor's Recommendation

**ASSESSOR'S RECOMMENDATION:**

It is the Assessor's recommendation not to make any changes to the current value.

TAPE 3B POINT 4.3

**PETITIONER DULY SWORN:** ALLIE T. BEAR

**DOCUMENTS SUBMITTED BY PETITIONER:**

**EXHIBITS SUBMITTED BY THE PETITIONER:**

- A. Real Estate Appraisal Record
- B. Purchase Agreement
- C. Water Right Deed
- D. Assessor's Special Lands Map
- E. List of Roll Numbers and Acreage
- F. Railport & Industrial Park Flyer
- G. Conceptional Map of Railport

Allie Bear noted that when she went into the Elko County Economic Development to have her parcels put on the website with a price on them she was told they were not worth that much. She was told that the railport ground was between \$7,500 and \$10,000. Allie Bear understood that it was appraised at \$10,500 per acre. Katrinka Russell stated they had it at \$10,000 an ace. Allie Bear stated it was hard to compete when the County was selling theirs at half of what her property was worth.

## **DISCUSSION:**

Allie Bear asked that they check parcel #006-32H-002 to see what it was appraised at. She noted that property was within 200 feet of her land. Katrinka Russell stated it was owned by Steve Dorsa and appraised at \$131,743 for the land only. She noted that would be \$18,000 per acre. Allie Bear stated her records showed that before the boundary line adjustment it was at \$9,414.00 per acre. Allie Bear stated it was hard to compete with the County. She stated that if the County knew this land was worth so much why did they accept the appraisal on the railport \$10,000.00 per acre. She noted it was similar ground and within three and one-half miles from her parcels. Kristin McQueary inquired about the zoning on all three parcels. Allie Bear replied light industrial on all three. James Winer inquired if railport was light industrial. Katrinka Russell noted that it was zoned now at the highest of industrial. She stated the County had it at \$10,000 to promote industry but they could sell it for more. She stated it was not Elko County's intent to compete; the intent was to promote industry and to get companies to come in. James Winer inquired about the total acreage of the railport when it appraised at \$10,000 per acre. Kristin McQueary stated there were several different appraisals. The portion that was sold to Pacific Steel portion was appraised separately than the frontage where the trailer court used to be. She stated they were just finishing the appraisal of the property between the two railroad tracks. James Winer understood that when it was purchased from the ranch owners it was appraised at \$10,000 per acre. Allie Bear stated that may be because of the perpetual agricultural lien against it. Kelly Buckner noted there was a realtor sign on one of the parcels and inquired what she was asking for on parcel 001-861-002. Allie Bear stated that was advertised for lease. Kelly Buckner inquired if other parcels were offered for sell and received a negative reply from Ms. Bear. Wes Bowlen asked what she had asked for it before. Allie Bear replied \$25,000 per acre but now she was competing with ground in the same area for \$10,100 per acre. James Winer inquired if she had asked for \$25,000 for a long time and if she had sold any ground. Allie Bear stated she never sold any acreage. Wes Bowlen inquired if the railport parcels could be broken down to any size of acreage. Katrinka Russell reviewed the separate acreage sold at the railport. She noted that the County had a conceptual design but a company could come in and indicate what acreage they wanted. Katrinka Russell stated the County was leaving the remaining acreage open. Kristin McQueary noted the County's plans were to put in a rail spur for transloading to load and unload trains. She stated that full acreage won't be for sale because the transloading facility would take upon some of the land. Kristin McQueary stated the

County envisions that if there were to be parts shipped by train the company would utilize the railport area rather than other industrial uses. She stated it was designed for people who would benefit from rail transportation one way or another. Wes Bowen noted the smaller acreages were valued at a higher rate than larger acres. He asked Ms. Bear Allie what the size of her acreage was. Allie Bear replied there was a 13 acre piece with hill, a 7.3 acre parcel and an 8.8 acre piece. Wes Bowen believed that the acreage closer to town would carry a higher value. He inquired if the County would offer \$10,000 for a seven acre piece. Katrinka Russell noted the County would sell the acreage at \$10,000 per acre regardless of the size because they were not in it to make money. She stated the County was selling it at the price it cost them to purchase it. Kristin McQueary noted that governmental appraisals were only good for 6 months so the price could fluctuate. He stated when the whole ranch sold it was at \$10,000 per acre. However, he noted that Katrinka Russell had mentioned other acres which were sold for more. He commented the original acreage included wetlands and hillside which would make it at \$10,000 an acre on average but they had frontage property which would be worth more. Kristin McQueary noted that there was a separate property for Pacific Steel because they wished to move more rapidly. She stated the appraisal on the frontage property along the road before the first set of tracks was appraised at a higher value than the middle portion of the property that was between the tracks. She noted the property closer to the mountain and a non contiguous piece on a hillside with no access. Kristin McQueary stated the original appraisal was done on the whole property. However, as more interest came in they were having the front portion appraised separately. Kristin McQueary did not know the numbers on that appraisal and it had not been accepted by the County Commissioners. Kristin McQueary believed the front would appraise higher than the back property because of access issues. James Winer noted Kristin referenced statutes and commented that the appraisals could not be older than 6 months. He asked if the County had to sell at the appraisal price. Kristin McQueary noted that they were selling for economic development so they could apply a different value. Allie Bear noted that when the County sold below the appraiser level for economic development then it put a hardship on the taxpayer who had his property appraised at a higher value. She noted that it was her tax dollars paying for the ad (Exhibit F) but her property was appraised higher than what the County was discounting their property for. Allie Bear stated she did not have a problem if the County's property had been appraised at \$15,000 an acre but she had a problem with them selling it at half price. Kristin McQueary stated one of the reasons the County was required to get an appraisal is

to protect the taxpayers and the government. She noted the base of using the economic development statute was that there was a public meeting held where the merits of that decision was debated and decided upon before the County could agree to that. She noted there was a public process to protect everyone involved. Kristin McQueary stated it was the County's hope that by economic development they would bring in more people and more development. She noted that once that ground was in private ownership and being utilized there would be a higher appraised value and they would bring in more jobs. She noted there would be a glitch at the initial sales.

James Winer noted as a real estate broker in the community he worked with private property landowners whose argument was their tax dollars were funding their competition. He noted a prime example was when the City of Elko sold land to a private hospital when there were two or three more sites available that were in private hands. James Winer believed that it behooved the County on all these sales to make sure in the record and recorded so all the appraisers get it that it was a non-arm's length transaction and that it should not be used for appraisal purposes because it was sold for economic purposes. He stated then the appraisers would not be able to use that sale because it was for economic development. Kristin McQueary noted that once the appraisal comes in then they evaluate what offers they have and whether they meet the criteria of economic development set of statutes. Kristin McQueary stated there were other venues such as County Commission meetings and ECEDA meetings they could avail themselves of what was going on with those groups. James Winer noted that they could also educate the appraisers and tell them they using a comp under economic development. He stated there were private parties to private party, arms-length transactions in the area which did not have anything to do with the County. He stated they were labeled Liebherr at \$37,140 per acre and High Mark Construction for \$6,800 per acre. He noted those were non railport related and was property exposed to the market. James Winer believed Ms. Bear's parcels should get more weight than the economic development sales. Allie Bear inquired if he felt those economic development sales should be included in the appraisals. James Winer felt they should to establish their baseline of value. Kristin McQueary noted that the appraisal did use outside sales as comparables. She noted that the appraisals they have received were two inches thick and those sales were included. She noted that anyone could request a copy of those appraisals, they were public documents.

Alfred Plank inquire what impact the 3.5 miles would have upon the fair market value and would the presence of the railport affect the future market value of her

three parcels because they were between town and the railport. Allie Bear noted the County railport had direct freeway access which would be a plus for light industrial or industrial. Alfred Plant inquired if that would make her property more or less valuable. Allie Bear believed her property would sit stagnant until the County's ground was sold. Wes Bowlen inquired about the sales of the County's property. Kristin McQueary reported that they were just finishing the appraisals. She noted those appraisals had to be accepted and Elaine Barkdull of ECEDA was waiting for them because of prospective buyers. Kristin McQueary expected that the portion with the frontage would sell more quickly than the middle portion. Wes Bowlen inquired how many acres were in the railport. Katrinka Russell noted that it began with 880 acres. James Winer commented that a large portion was hillside, river and wet lands. Katrinka Russell believed that there was only about 100 acres that were usable. Kristin McQueary noted the frontage portion was approximately 180 acres and the middle portion between the tracks was the bulk. She stated there was some property on the hillside past the rails.

Joe Aguirre noted the railport itself was designed to cater to a transloading facility which was a particular type of clientele either from trucking to rail or rail to trucking. He stated that because of the location and the transcontinental highway going through Elko he did not feel that Allie Bear's property would be catering to that type of clientele. Joe Aguirre stated after listening to her he was more sympathetic to her because of the competition.

Allie Bear noted that she paid her taxes up to this point but it was hard to compete when someone else came in and discounted the County property at half price.

James Winer stated he was under the impression when the railport started that they could only sell to business that would specifically use rail to trucking or trucking to rail. He noted that the Union Pacific had given the railport a million dollars work in switching gears had said they would donate the switches but they wanted them to sell to rail to get their investment back. James Winer asked if sales could only happen with people who sign contracts on rail. Kristin McQueary stated the only parcel the County had sold was to Pacific Steel and their business was shipping out scrap metal. She understood that they would use the railport facility and that was why Pacific Steel bought the lot were they did. James Winer inquired if sales could happen to people who were non rail users. Kristin McQueary did not know but felt they could. She stated that area was designed to attract rail users. James Winer stated that was a big issue when that property was sold to the County that they would not be competing. Kristin McQueary noted that the railport would

attract people that sell or buy things in bulk and they need to use rail access. Kristin McQueary questioned why anyone would buy out there unless they were interested in rail transportation. James Winer noted that if the business told them they would bring in jobs they may get the property for a lower price. Kristin McQueary commented that there would be less infrastructure on the railport properties. She noted there was no water system, no sewer system so it would appeal to users that did not need an enormous amount of infrastructure. Allie Bear commented that there was no infrastructure on her property either. Kelly Buckner stated the County was selling the property at approximately one-half price. However, he noted that Petitioner's property was along Highway 40 where various industries had built and they were continuing to build there. He felt that the demand would be greater for a lot of different industries closer to town particularly if it was within the city limits than being in the railport. Kelly Buckner felt there was some justification from Allie's standpoint that she was competing with the County at a reduced price. However, he felt they were looking at a different industry need which would look at Allie Bear's property rather than the railport property.

**TAPE 3 B 31.8  
DECISION**

**MOTION: Board Member Kelly Buckner moved that the appraisals on Case Nos. 008-02, 008-03, 008-04, Parcels 006-32H-011, 006-32H-012 and 001-861-002, would be reduced to \$15,000 per acre given the fact that they were closer to town.**

Kelly Buckner stated it was his opinion that they would be more desirable parcels than those located at the railport. He noted this would give some relief to the taxpayer who had the parcels listed significantly higher, than the appraised value.

**Board Member James Winer seconded the motion.**

James Winer noted that on the third parcel which ended in 012; he felt there should be some relief because of the huge topographical challenges. He commented that the property that was flat would be worth more than that which had a hillside with vertical challenges. He asked if at the railport they have to put in their own wells. Kristin McQueary reported that there was no municipal water system or sanitary sewer system. James Winer inquired about fire suppression. Kristin McQueary noted the County requirements for fire suppression were based on type of use and what type of chemicals they store. She stated the County was looking at reserving a portion for a Fire Station but noted the entire County was upon a

Volunteer Fire Department System. James Winer hoped the County had researched this. James Winer noted that Allie Bear's property was close to a city well. He stated that fire suppression may kill the value of the property. He noted they would need water for firefighting in order to develop. Kristin McQueary stated that was a risk that people evaluate when they by County property versus City property.

Wesley Bowlen asked that Kelly Buckner repeat his motion.

***Board Member Kelly Buckner moved that the appraisals on Case Nos. 008-02, 008-03, 008-04, Parcels 006-32H-011, 006-32H-012 and 001-861-002, that the assessed value be decreased from the projected \$18,000 per acre to \$15,000 per acre. James Winer stated he would still second that motion.***

The motion carried the following vote:

<b>Voting Aye:</b>	<b>Member</b>	<b>Wes Bowlen</b>
	<b>Member</b>	<b>James Winer</b>
	<b>Member</b>	<b>Al Plank</b>
	<b>Member</b>	<b>Kelly Buckner</b>
<b>Voting Nay:</b>	<b>None</b>	
<b>Abstaining:</b>	<b>Chairman</b>	<b>Walter Leberski</b>
<b>Absent:</b>	<b>None</b>	

Vice-Chairman Bowlen informed the Petitioner, that she had the right to appeal their decision to the State Board of Equalization. Joe Aguirre submitted an appeal form to Allie T. Bear.

James Winer asked that someone on the County staff let him know who the County Commissioners could sell property to in the railport and who they may not sell property to. He inquired if they had to be rail related enterprises. Kristin McQueary noted there was a master plan on the area. James Winer stated he had received different information from the elected county officials. He noted if could sell to anybody; then they would affect the private property owners. Kristin McQueary noted that in the railport there was larger acreage available for people that need larger acreage than 13 acres.

**TAPE 3B POINT 35.6**  
**GENERAL DISCUSSION:**

Joe Aguirre stated it was brought up earlier today those different agricultural pieces had different parcel numbers. In the County Code, it stated that any transfer that was done illegally was a misdemeanor to anyone that works in the Assessor's Office. Joe Aguirre stated they made a decision in the past that the parcel numbers, as long as they were in the same township and range, they would have the same number on the same deed. He noted that if you received a parcel of land by more than one deed then you would have different numbers. He noted in the past that was how they helped Community Development keep track of the property sales.

James Winer noted on the first two cases the Ag run with the person and the property but on the third case it had prior Ag use but the parcel did not run with the person. He noted that there were grey areas in the Agricultural use. Joe Aguirre noted they were trying to identify two points today, to qualify and the other was the deferred or the lien. He noted that the lien was always applied to the property but to qualify it applied to the individual. Joe Aguirre commented that in the past when they made a new piece that piece had to qualify because it was part of a larger piece. He noted that if Mike Presti had sold 20 acres of meadow grounds they knew it would get qualified because of the feed capabilities. However, when a person buys 640 acres of sagebrush it would be more difficult to show Ag use. He stated that piece had to stand on its own.

James Winer noted that when Mr. Payton's property became free standing from Nevada Land and Resources, then someone should have paid 7 years back taxes. Joe Aguirre commented that Mr. Payton had acquired the property within a few months prior to him having to file an Application. Therefore, they gave Mr. Payton another year extension to give him time to file. Joe Aguirre stated that when he requested Mr. Payton to give him information it was not submitted until today.

Kelly Buckner commented that on the Talbot property in Lamoille recently sold and the back taxes were immediately due on the deferment. He asked why Nevada Land and Resources did not have to pay those deferred taxes. He stated they parceled off the land and it changed the use. In theory, he stated it went to a higher use. Katrinka Russell noted that Nevada Land and Resources did not file a map. Joe Aguirre stated that if they sell the sale was after the fact and the lien went with the property. Katrinka Russell noted that a rancher who wants to build another house has to file a map even though he has a legitimate business would have to pay Ag referred. Kelly Buckner noted that parcel was sold. Chairman Walter Leberski believed that it was a separate parcel to begin with. Kristin McQueary noted that this was in nature of public comment and they could not take action based on anything discussed but it could be placed on the next agenda. She noted

that one of the differences was that both Mr. Presti and Ms. Harlan had the prior history on their parcels but Mr. Payton did not have a prior history. She noted Walt Leberski was right that if you sell an entire section and there was a legal description that existed/ then they and did not have to file a map. Walt Leberski noted the statute read that the deferred tax followed that land and became a lien on that land. He stated in contracts they write it stated who would pay for the deferred taxes. Walt Leberski agreed that Nevada Land and Resource changed the use but the lien stays on the land that Mr. Payton now owns. Therefore, Mr. Payton had to pay the deferred taxes or the County could take it. Katrinka Russell noted Nevada Land and Resource had a sale contract wherein at the bottom it talked about the payment of the Ag deferred taxes. Walter Leberski noted that Nevada Land and Resource specifically put the burden upon the buyers. He stated unless the buyers were familiar with taxes; they don't follow up on that. James Winer noted that the new owner did not know and they did not tell him. Walter Leberski stated the owner signed for it. James Winer commented that the owner did not read what he signed. He noted that Connie Harlan was also forewarned about signing before understanding what she signed.

#### **WITHDRAWALS:**

Walter Leberski inquired if they could take these as a group. Joe Aguirre gave the Board an overview of the withdrawals. Joe Aguirre stated they were having problems understanding the low income credits. He noted no two projects were the same and briefly explained the tax credit for the Quail Apartments versus the credit given to San Jacinto. He felt that those credits should be amortized over a period of time that the individual gets to use the tax credits. Joe Aguirre noted that the Rural Housing Authority disagreed with him. He noted that Jim or Holly Gregory would discuss this with him. He believed it should be used as their income. He noted in Wendover there were houses with low income credits. Joe Aguirre stated on the Quail Apartments; the City of Elko had asked that they not be given that tax relief. He stated that they built those apartments and then applied for the home funds that were tax exempt without notifying the City before it was built. Joe Aguirre reiterated that it was extremely complex and every case was different involving the low income credits. He noted the ones in Fernley sold for \$50,000 in three sections of cash to Clorox. He stated that guy received \$150,000 but they could not use that as income. Joe Aguirre stated they settled with San Jacinto on advice of Jim Gregory.

James Winer noted that there were certain state and federal guidelines with regards to income tax credits. He stated if the County financial department did not

know how to classify them; then they should hire a Nevada account that was proficient at tax credits. Joe Aguirre stated they had asked San Jacinto to bring in their income tax statement next year to understand the provision. James Winer suggested they hire a third party specialist to understand this process.

**MOTION: Board Member Wes Bowlen moved that they approve the withdrawals as the Assessor has presented them. Board Member Kelly Buckner seconded the motion. The motion was passed unanimously.**

**APPROVAL OF RE-OPENED ROLL CHANGE LOGS:**

**MOTION: Board Member Kelly Buckner moved that they accept the roll change logs as presented by the Assessor. Board Member Wes Bowlen seconded the motion. The motion was passed unanimously.**

**VII. 2009 MEETING DATE:**

The Board discussed scheduling a meeting date for the next meeting to be held in February of 2009.

Walter Leberski noted that each year the Assessor sets the date. Kristin McQueary noted that because of the notice changes and the difficulty to get a consensus among the Board she asked that they schedule before next year.

James Winer commented that he attended a national convention which falls in February but did not know if it was mid month or later in February.

Walter Leberski inquired if it could be before February 15, 2009, or if they could give a span of dates between the 15<sup>th</sup> and the 22<sup>nd</sup> of February. Joe Aguirre stated sometimes it took a week to 10 days to prepare. He stated they did a lot of research on agriculture this year. James Winer noted earlier in February would be better for him. Katrinka Russell noted February 24<sup>th</sup> would be last Tuesday. The Board decided to schedule a tentative date for February 17, 2009; subject to revision.

Joe Aguirre stated he would begin preparing for the Senior Citizen's rebate program.

**ADJOURNMENT:**

There being no further business to come before the Board, Chairman Leberski adjourned the meeting.

APPROVED,

---

WALTER LEBERSKI, Chairman

ATTEST:

MARILYN TIPTON, Deputy County Clerk