

BRISTOL BAY BOROUGH
SPECIAL ASSEMBLY MEETING
BOARD OF EQUALIZATION

April 24, 2008

I. Call to Order

The Special Assembly meeting was called to order at 8:35 p.m. by Mayor Daniel J. O'Hara, on April 24, 2008. The meeting was held in the Assembly Chambers of the Borough Building, Naknek, Alaska.

II. Roll Call

Present: Assemblymen Eddie Clark, J.C. Tudor, Bill Hester and Mayor Daniel J. O'Hara.

Absent: Shelby Boothe and Carvel Zimin, Jr.

Also Present: Arne Erickson, Assessor and Tami Johnson, Clerk. Also present in the audience was Tanya Hansen the accounts receivable clerk, Dave Soulak the Borough Manager and Allan Ossakow the Borough Treasurer.

III. Assembly Convenes as Board of Equalization

Daniel J. O'Hara stated at this time the Assembly will convene as the Board of Equalization.

IV. Appeals – Real Property Assessments

1. Outpouring Ministries- Arne Erickson recommended a denial of the appeals for the two pieces of property in question and cited his memorandum and also provided opinions of the state assessor, Steve Van Sant and the Borough attorney, Tim Verrett.. This is not an issue properly before you the Board of Equalization, a board that sits to insure that the valuation of property is fair, just, equitable and non-discriminatory and the assessment practices are followed in a consistent manner. The appeal of the Outpouring Ministries is something that is properly addressed to the legislative body of the Borough, the one that establishes enacts the code of ordinances and enforces that and may change upon date that which is contained within. The Outpouring Ministries is, to the best of my

knowledge a religious organization recognized as such, non-profit. They feel that they should be tax exempt on two parcels of property in the Borough Subdivision that had been donated to them and they feel their rights are being denied, that exemption is recommended for denial. The laws that deal with this issue are very specific, that if a non profit and or religious organization or any other organization is tax exempt, does own a piece of real property that is in active use for one of the purposes for which their formed that it is indeed tax exempt. The key word here is "It must be in a valid use, not just ownership, but in a valid functional use." Items would be a church, a religious school, a charter school, things of that nature. In this case the land is vacant undeveloped land. It is also true that this land is currently zoned in such capacity that their intended uses are not allowable. That too, must come in and be fully operational before you can consider tax exemption. Once the land were to become usable for their intended purpose and they carry forth and put it in a viable operational use, then certainly it is eligible for tax exempt status, but not until such date. Arne read the e-mail from the state assessors office, Steve VanSant which said, The lots will not be exempt unless they are used for religious purposes. If a church is on them or they are used exclusively for religious purposes, parking lot etcetera, they are exempted, otherwise they should pay tax. Finally, it is contained in their letter of appeal that to not grant them exempt status is a denial of their constitutional rights. The United States Supreme Court has heard only one case on the legality of zoning. Zoning is found to be both lawful and Constitutional it is not a deprivation of rights, that just because you own a piece of property, you can not use it for your intended use, that is not a denial of rights. Again, this is not a matter that is properly before you. This is a board that deals strictly with the consistency and equitability of property valuation. This board sets to determine whether property is properly valued. If each of you has the same identical piece of property, do I apply the same standards to each, do you each have the same value? That is the job you have, to make sure all decisions are fair, just, equitable and non-discriminatory. In this case the property is valued consistently with every piece of property within the Borough Subdivision. Bill Hester asked Arne Erickson, when speaking with the state assessor, was the question brought up about use? The definition of use meaning that there is already an existing structure or could use be the planning of an immediate structure? They are about to do dirt work, have a lumber package coming and they have put a lot of effort and planning into this. Is it having a structure on it, constitutes use, or planning an immediate structure. Arne stated it has to be an allowable operational use.

Russ & Rhonda Olsen – stated that they actually agreed with what Mr. Erickson has said. We weren't sure if this was the board that we were supposed to actually come before. We were told however that this was the one. We kind of thought

that you were dealing with valuing pieces of property rather than determining whether or not a piece was tax exempt or not. Rhonda Olsen stated that one thing they wanted to address is first of all that we tried on three occasions to approach the Borough Manager about correcting this, we recognize that it is our responsibility to show eligibility for exemption and in December we tried to do that by presenting our IRS statement that says we are an exempt organization. One thing that we also felt we needed to clarify is, that it may have caused some confusion from the very beginning and have tried to address it many times is that we're not a church. We are a non profit religious organization that focuses on, our purposes are to deliver the word of God through teaching Evangelism, Christian education, youth activities, publishing and media ministries. To provide opportunity for all ages to take active part in a mission outreach, whether by personal training field participation or local involvement through fundings or helps. We also have the right to own land, to benefit the purposes that we have. We are not a church. We are a non profit religious organization that has been determined to be a charitable, public charity, we have our tax number and every year we have to prove that we are staying within our scope of operation and we have to prove to the IRS every year to keep our non profit status. Russell Olsen stated that one of the intended uses of one of the pieces of property is as a playground and we don't need to have a building on, however the lumping us together as a church, it must have a place of worship per say is germane as to what we are talking about. Mr. Olsen wanted to make sure that everyone was very clear on that we are not a church and we are not a school per say, we have the right to operate a school and we are a non profit religious organization, under 5013C per IRS. A playground is something the children use and according to their attorney is perfectly legitimate for the school as one of the outreaches here. Dan O'Hara stated that the issue here today is that there is nothing on the property, so state law kicks in and you have to pay taxes on it. Russell Olsen stated that in speaking with the state assessor Steve Van Sant, there was one instance that he told them, that there was an organization that applied or was granted a non profit status and a year later they had not done anything with the property and at that point the state stepped in, regulation stepped in and they were then charged the normal property tax rate, but they were given a year to do that. Mr. Olsen stated that he knows all of the Assembly members are long time Alaskans and know the building season doesn't start January 1, here February 1, March 1, or maybe even April 1. Sometimes your lucky to break ground in June. We fully intend to proceed with this, we have done everything that we can to proceed. We have a building permit and then we have received a letter that says our building permit is in limbo. At this point, we are not wanting to step over our bounds and follow the regulations that the Borough has laid down to us, we are merely trying to move forward as fast as we can, in good faith trying to put

something on the piece of property. That's kind of where we're at and we're kind of appealing for a little reasonableness as far as our time frame goes. We are wanting, not special favors, but some reasonable responses from the Borough. We are appealing for a little flexibility at this point. Bill Hester wanted to ask a question, at first there was going to be a land swap, which would put two lots side by side and that didn't happen, then possibly exchanging the two original lots with pieces of equal value and size, so you would have two pieces together, that was unacceptable or decided against? Rhonda Olsen informed the Assembly we were given a plat of what was available and the two we would want were right next to Mark Bradford on the other side and we didn't think that was worth pursuing and the lots were zoned single family. The other option that was given to us was some undeveloped land that needed to be platted and surveyed and was cost prohibited, not only to us but to you also. That is why we have opted to keep the lots we have and will develop both of them. Russell Olsen stated that one lot will be built up on with a structure and the plan for the other lot is for a playground and natural science area for local plant life. We plan on using it as a place to go for field trips. Rhonda Olsen asked the Assembly to please be reasonable with where we're headed. We have been at Borough meetings since January and have seen many appeals for money and we are not appealing to you for money, but to run a non profit organization we rely on the goodwill of the people, the public. Arne Erickson stated the tax year begins with ownership as of January 1 and applies to the following January 1. Arne stated he values property as of January 1, not what it's going to be further down the road, or retroactively. This is state law, as of January 1 of a given year establishes tax liability, where is, how is. Bill Hester stated that most definitely next January 1, it will fall into tax exempt. Mrs. Olsen stated that the burden of proof was upon them to show that they were tax exempt they made the effort to prove that in December. Arne Erickson stated that nobody is debating that the organization is tax exempt, they meet all the guidelines. The property is vacant land and their intended use at this time is not allowable. The other thing is somebody would have been liable for the taxation on the property. If Outpouring Ministries had taken ownership on January 2, the previous owner would have been responsible for the tax liability. Arne Erickson stated that with the intended usage is not allowable under the current zoning designation for the property. J.C. Tudor stated that under the current zoning of the Block 10, Lot 1 under the Borough code, 18.11.040 (a),(b) and (c) it falls under single family residence. No one knew about this 20 years ago, no one caught it until right now. Technically, it is single family and it was a mistake, a clerical oversight. The Olsen's stated that according to tax roles it is zoned commercial. Arne read the Borough Code of the Naknek River Subdivision which is the written word, this is your law of the land in Bristol Bay Borough. Bill Hester stated a mistake has been made on the zoning maps, so the

law falls back on the original designation. Rhonda Olsen stated that the land has enjoyed a commercial or local business zoning for twenty-five years and we spoke to our attorney this week and if you take that away in that way, then I'm afraid that will have to have legal action, because your overstepping your bounds by doing that. Obviously it was a clerical oversight which happens. J.C. TUDOR MADE A MOTION TO DENY THE APPEAL OF THE OUTPOURING MINISTRIES SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY EDDIE CLARK. A short discussion followed concerning appraisal. BILL HESTER MADE A MOTION TO AMEND THE ASSESSMENT ONE LOT TO 35,000 AND ONE LOT TO 32,000 AS THE APPRAISAL OFFICE HAS DETERMINED SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.

2. Vince Giammanco - The tax lot being appealed was 12-140-016. Arne Erickson stated that this property had been heard on a previous appeal and was reduced from 15,000 to 12,000. There was no supporting documentation submitted that establishes a worth of \$2,000 – \$5,000. We try to rely on most current sales and unfortunately there aren't a whole lot of sales. The assessment is current with other properties in the area. J.C. TUDOR MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$12,000.00 SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. EDDIE CLARK SECONDED THE MOTION AND IT PASSED UNANIMOUSLY.

3. Charlie Cabanilla - The tax lot being appealed was for lot 20-019-613 which is in the Naknek River Subdivision. Arne Erickson recommend there be no change since the value is consistent with land values established in the immediate area. BILL HESTER MOVED TO DENY THE APPEAL OF CHARLIE CABANILLA SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY J.C. TUDOR. MOTION PASSED UNANIMOUSLY.

4. Leonard Gianni - The tax lot being appealed was for 12-142-738. This is located in the proximity of Garlic Gulch towards the river. Arne Erickson stated that he and Mr. Gianni have had several discussions over the last three years on this and Mr. Gianni says that the property is not worth it and the Borough is being arbitrary. Mr. Gianni has told Arne that he has made attempts to sell. Arne has tried to research this as much as possible, trying to find evidence that he really has marketed the land or intended to market the land and cannot find anything of that nature. Without any supporting data to lower it, I recommend the appeal be denied. J.C. TUDOR MOVED TO DENY THE APPEAL OF

LEONARD GIANNO SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY BILL HESTER AND THE MOTION PASSED UNANIMOUSLY.

V. Appeals – Personal Property Assessments:

1. Charles Allen - Arne Erickson stated that is for one of the large trailers that is used to move drift boats in and out of the water. The appeal from Mr. Allen stated that it cost him \$10,000.00 in 1991. Arne stated he had tried to contact Mr. Allen several times today and never got an answer and did drive out to his home to discuss this. I recommend lowering from \$11,200.00 to \$10,000.00 which is consistent to similar trailers of this sort. BILL HESTER MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$10,000 SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. J.C. TUDOR SECONDED THE MOTION AND IT PASSED UNANIMOUSLY.

2. John Carlson – Marston Inc. - Arne Erickson stated this appeal is on F/V Magic. This is a 1980 Roberts and have come up with a value based on its marine registry. This vessel has sold for 24,000.00 and recommended the value be lowered to the selling price. J.C. TUDOR MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$24,000.00, SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY BILL HESTER AND MOTION PASSED UNANIMOUSLY.

3. Anthony Campo - Arne Erickson stated this appeal in on F/V Lady Katherine and he recommended a reduction from \$24375.00 to \$18,125.00. J.C. TUDOR MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$18,125.00 SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY BILL HESTER AND MOTION PASSED UNANIMOUSLY.

4. David Newson - Arne Erickson stated the next appeal in on the F/V Esculent. I recommend no change. The filed appeal is non-responsive as to establishing a basis for appeal or supporting information to support it. The assessment appeal lists the value as 16,600.00 and the assessment notice also has \$16,600 which are identical. I recommend it be denied because I have no basis to go anywhere with it. J.C. TUDOR MOVED TO DENY THE APPEAL OF DAVID NEWSON SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE

AND NON-DISCRIMINATORY. SECONDED BY BILL HESTER MOTION PASSED UNANIMOUSLY.

5. Fred & Sally Pike - Arne Erickson stated this appeal is on a 2006 Evinrude 150 h.p. outboard. I recommend a reduction of 5% depreciation which comes out to 8,600.00. BILL HESTER MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$8,600.00 SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY J.C. TUDOR AND MOTION PASSED UNANIMOUSLY.

6. Alan See - Arne Erickson stated this was interesting in that the F/V Haleigh C was not reported this year. It is indeed registered in the appellant's name for this district this year. The same was found also for F/V Independence and also the Jill we found registered. J.C. TUDOR MOVED TO DENY THE APPEAL OF ALAN SEE SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY BILL HESTER MOTION PASSED UNANIMOUSLY.

7. Ralph Ertz - Arne Erickson stated the appeal before you is on F/V Think or Thwim. This is a 1986 Rozema, and all that exists is the aluminum hull, no engine, no hydraulic, no operational equipment. It has not fished in almost 20 years. Mr. Ertz actually put the value of the vessel. Arne recommends a reduction. BILL HESTER MOVED TO ACCEPT THE ASSESSOR'S RECOMMENDATION AND BEYOND; AND LOWER THE ASSESSED VALUE TO \$18750 SINCE IT'S FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY J.C. TUDOR MOTION PASSED UNANIMOUSLY.

8. Joe & Beatrice Bonanno - Arne Erickson stated this appeal is on the F/V Lady Bea II and was assessed at 33,375.00. The owners stated in their appeal it was worth 20,000.00, but couldn't come up with any substantiating information. Arne stated he felt this was a fair assessment at this point in time. J.C. TUDOR MOVED TO DENY THE APPEAL OF JOE & BEATRICE BONANNO SINCE THE ASSESSMENT IS FAIR, JUST, EQUITABLE AND NON-DISCRIMINATORY SECONDED BY BILL HESTER MOTION PASSED UNANIMOUSLY.

9. Mark Noste - Arne Erickson stated the last appeal before you is for the F/V Seeker which is a 1980 Roberts and this is similar to the previous vessel that sold for \$24,000.00. BILL HESTER MOVED TO ACCEPT THE ASSESSOR'S

RECOMMENDATION AND LOWER THE ASSESSED VALUE TO \$25,000.00 SINCE IT'S FIAR, JUST, EQUITABLE AND NON-DISCRIMINATORY. SECONDED BY J.C. TUDOR AND MOTION PASSED UNANIMOUSLY.

- VI. Adjournment
THE MEETING WAS ADJOURNED BY GENERAL CONSENSUS AT 9:54 P.M.

Daniel J. O'Hara, Mayor

ATTEST:

Tami M. Johnson, Clerk