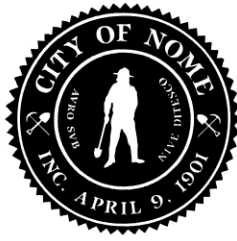


Mayor
John K. Handeland

City Manager
Lee Smith

City Clerk/Treasurer
Dan Grimmer



Nome Common Council
Kohren Green
Scot Henderson
Mark Johnson
Maggie Miller
Adam Martinson
Cameron Piscoya

**NOME COMMON COUNCIL
BOARD OF EQUALIZATION MEETING AGENDA
WEDNESDAY, MAY 14, 2025 at 5:30 PM
COUNCIL CHAMBERS IN CITY HALL**

102 Division St. ▪ P.O. Box 281 ▪ Nome, Alaska 99762 ▪ Phone (907) 443-6663 ▪ Fax (907) 443-5345

ROLL CALL

Members Present: C. Johnson, C. Green, C. Henderson, C. Miller, C. Martinson (Excused),
C. Piscoya (Excused)

Also Present: John K. Handeland-Mayor, Dan Grimmer-City Clerk, C. Cacciola-City Attorney, Lee
Smith-City Manager

In Audience: Brad Soske Brian James, Anna Lionas, Ben Townsend, , Dan Pardee (NSHC),
Steven Osborn (NSHC), Rick Frye (NSHC)

APPROVAL OF AGENDA

A Motion to approve the agenda was made by C. Green and seconded by C. Henderson.

At the roll call:

Aye: C. Johnson, C. Henderson, C. Miller, C. Green

Nay:

The motion **CARRIED**.

2025 REAL PROPERTY APPEALS

A. Appeal 25-54 198.2.023, Brian James,

A Motion to approve the not tax this parcel not be taxed this year but that this does not set a precedent for 2026 was made by C. Johnson and seconded by C. Henderson.

At the roll call:

Aye: C. Johnson, C. Henderson, C. Miller, C. Green

Nay:

The motion **CARRIED**.

B. Remand in 2NO-23-156CI: 20-PLEX, Block MS 1298 (192.1.085), Vacant Land Value,

A Motion to approve the land value that was asked for and agreed upon by the City and NSHC in response to the 2023 Superior court judgement was made by C. Henderson and seconded by C. Green.

At the roll call:

Aye: C. Johnson, C. Henderson, C. Miller, C. Green

Nay:

The motion **CARRIED**.

C. 25-04-10 City of Nome Decisions on NSHC Exemptions,

In previous years the assessor did not require determinations of taxability based upon a factual basis. The City Attorney recommends that the BOE hear from the NSHC Attorneys and then Mr. Cacciola will respond to each item.

- D. NSHC Patient Hostel, Wellness Center, Operations Building, Block 116 Lot 1A (001.115.01),**
- E. NSHC Prematernal Home/Patient Hostel West/Old BHS Building, Block 110 Lot 1-2**
- F. NSHC Kusqii House, Block 33 Lot 19 (001.131.01A), (001.211.03A),**
- G. NSHC 7 Plex, Block 91 Lot 3&4 (001.221.05A),**
- H. NSHC 20 Plex, Block MS 1298 (192.1.085),**
- I. NSHC Nome Duplex, Block 118 Lot 7 (001.118.07),**
- J. NSHC HAT Building, Block 110 Lot 3A (001.211.03B),**
- K. NSHC West Campus, Block 127 Lot 7 A (001.201.05),**

R.Frye NSHC Attorney claims that these properties are part of Federal preemption and are therefore not taxable. NSHC asserts that the assessor errors in determining taxability. NSHC Relies upon three bases for exemption which are charitable purposes, hospital purposes and federal preemption of taxes. NSHC feels that the assessor erred by overvaluing the Patient Hostel by applying a 1/3 value of the overall value of the parcel.

NSHC relies upon the Superior Court decisions as its proof that the appealed properties are exempt. NSHC declares that none of its revenue is non-business related.

NSHC declares that property used for support of its own purposes should be considered exempt.

Mayor Handeland asked for clarification on the special apportionment for the NSHC Cafeteria which NSHC is not contesting this year. C.Green identified that there is a server room that is shared with GCI within the hospital and asked if that space also has special apportionment or a lease.

S.Osborne NSHC Attorney stated that pervasive oversight will be exempt from local taxation if the balance of interest's part from the federal and tribal side outweighs the interest in taxation on the state side.

The Mayor asked about what self-determination meant. The NSHC Attorney explained that the hospital decides what funds get used for under self-determination. The NSHC attorney stated that Federal and Tribal interest in providing hospital services outweigh the State and Municipal interest in taxation.

C.Cacciola the City of Nome Attorney asked the Board of Equalization to accept the findings of the Assessor as their own and let NSHC appeal to the Superior Court. C.Cacciola explained that NSHC asserts that the Supreme Court had ruled before in favor of Federal Preemption when in fact they have never done so. He stated that the reason for that was due to it only being applicable to reservations in Indian country. There are no reservations or Indian country in Nome. C.Cacciola gave examples of cases where preemption was not upheld by the supreme court and is not upheld outside of Indian country or reservations.

C.Henderson asked for clarification on profit motive. C.Cacciola outlined that the NSHC revenues are being used by entities that are NOT nonprofits as the employees that rent/lease them are not designated nonprofit. It is the position of the City and Assessors that an entity does not need to operate at a loss to be considered exempt. C.Cacciola noted that NSHC is claiming as an operating expense for their property as the same as their revenue. Anything beyond the cost of operating they are claiming as a surplus. His position was that you cannot claim both depreciation at the same time as moving surplus into a Lease restricted reserve.

C.Henderson asked if there were restrictions on how they use the surplus funds. Mr. Pardee responded that these surplus funds have governing bylaws where they can only be used for the buildings that they are set aside for. The City Attorney identified that the rental Properties revenues exceed the operating costs. The assessor also considers that the revenue or operating surplus that is received demonstrates profit motive.

NSHC provided that the Alaska Constitution and the statutory exemption requires that the properties be used exclusively for exempt purposes. The also would require that the uses be direct and primary uses to the exempt purposes. NSHC disagrees with the Assessors opinion or interpretation of how different NSHC properties are primarily being used. NSHC asserts that all the NSHC properties are used "exclusively for hospital purposes". NSHC states that they have a funding agreement that requires them to provide housing for patients, family members and escorts. NSHC agreed that the Other two

buildings on the Patient Hostel Parcel were correctly listed as exempt. It is the position of NSHC that the patient hostel itself was overvalued.

Mayor Handeland asked for clarification about apportionment and questioned if NSHC talked with the assessor this year to come to an understanding of value on the Patient Hostel. NSHC stated that it is included in the appeal.

NSHC gave an Appraisal to the Council for consideration on the value of the Patient Hostel parcel. C.Cacciola objected to this being presented as the City Assessor did not have sufficient time to review this document. Mr. Pardee from NSHC said that this document was included within the packet contents included by NSHC. Further evaluation of packet contents did not find this document within the packet though. There was a difference of opinion between NSHC and the City to when the valuation was appealed and what was being appealed. NSHC objected to the timeline presented by the City.

C.Cacciola presented that the exemptions were denied for the patient hostel due to section C. of the exemption statute. Section C states that income from the property must be solely from use of the property from nonprofit, religious, hospital or charitable use. The question is if it is used solely for those purposed or solely by those entities. It is the position of the assessor that NSHC receives payment for use of the Hostel as they charge insurance companies for the use of the facilities. It is obvious that the hostels are used by third parties. NSHC receives funds for people staying there. C.Cacciola stated that one does not receive payment for using its own property for its own purposes. Furthermore, from NSHC's own projections of revenue it shows that the revenue brought in far exceeds costs. It is the position of the Assessor that a large profit margin is not considered reasonably necessary for the accomplishment of the exempt activity. It is the position of the assessor that the excessive revenue shows profit motive even if the activity or charitable motive itself does not indicate profit motive. There has not been a disclosure of revenue in the past which is why the exemption was denied.

S.Osborne from NSHC indicated that the revenue that is brought in has to be spent in a certain way under a funding agreement. R.Frye from NSHC indicated that the superior court rejected the third-party use argument. He also indicated that congress had approved the ISDA and contracting tribes to collect third party revenues to help fund this underfunded field. IHS was also authorized to deliver services to non-beneficiaries as long as it did not result in the decrease of services to beneficiaries.

On further appeals NSHC continues with the position that NSHC uses these properties for Hospital Purposes and that there is inadequate housing to offer therefore they are required as per their leasing agreement. IHS compensates NSHC for their operation of these facilities.

C.Cacciola stated that under the NSHC funding agreement NSHC can decide how they provide housing and what that means. He stated that NSHC uses it for their purposes even though there is rental income. It is the City Position that NSHC isn't using the property and the renters are leasing the space to use for a place to live for their own purposes. He stated that a person's home is not for the purpose of serving their employer. There is a question about the staffing agency is used as a for profit business use of the property. It is the position of the City that the residents of these apartment complexes are not nonprofit or charitable organization and therefore the revenue from payment of leases/rents is taxable.

C.Cacciola talked about the 2022 and 2023 cases on exemption being in the supreme court and that federal stopple is in place for subsequent years.

There is a difference of opinion between the Assessor and NSHC as to what decisions from what courts have deference.

All further points of interest by the City and NSHC were already addressed previously.

It was generally agreed upon that both entities were waiting upon Supreme court decision on the 2022 and 2023 cases on Federal Preemption.

It was decided upon by the Board of Equalization that the decision of the Board would be made during the May 20th Council Meeting.

The Council recessed into executive session at 09:11PM

ADJOURNMENT

Immediately after the executive session the Council adjourned.

APPROVED and SIGNED THIS 27th DAY OF MAY 2025

JOHN K. HANDELAND
MAYOR

DAN GRIMMER
CITY CLERK