

**West Virginia Board of Public Works  
Wednesday, January 5, 2022 – 10:00 a.m.  
Governor’s Cabinet and Conference Room  
Minutes**

**Attendees:**

Members

Governor Jim Justice  
Attorney General Patrick Morrissey  
Secretary of State Mac Warner  
Commissioner of Agriculture Kent Leonhardt  
State Auditor John B. McCuskey by teleconference line  
State Superintendent of Schools Clayton Burch by teleconference line  
Sarah Canterbury for State Treasurer Riley Moore

Guests:

Commissioner Matthew Irby, State Tax Department  
Frank Capehart, State Tax Department  
Michael White, State Tax Department  
Chad Toney, Division of Highways  
Brian Abraham, Governor’s Office  
Berkeley Bentley, Governor’s Office  
Russ Rollyson, Auditor’s Office  
Jeff Waybright, Auditor’s Office  
Kathy Schultz, Attorney General’s Office  
Curtis Green, Comm. Of Agriculture Office  
Ryan Cole, CSX Transportation  
Steve Adams, Ogden Newspapers  
Chuck Flannery, Secretary of State’s Office  
Donald Kersey, Secretary of State’s Office  
Landon Palmer, Secretary of State’s Office  
Maureen Lewis, Secretary of State’s Office

The West Virginia Board of Public Works re-convened on Wednesday, January 5, 2022 at 10:00 a.m. in the Governor’s Cabinet and Conference Room, Building 1, Suite 10 of the State Capitol Complex. The meeting was called to order and chaired by Governor Justice. A quorum of members was established.

The second item on the agenda was the approval of minutes from the November 10, 2021 WV Board of Public Works meeting. Secretary Warner made a motion to approve the minutes. Commissioner Leonhardt seconded the motion. The motion carried.

The next item on the agenda was the discussion, review and vote on the final tax assessments for public utilities for tax year 2022. Commissioner Irby addressed the Board. He referred to a document prepared by the Tax Department containing an adjustments worksheet of companies they are recommending adjustments to the tentative values for. Based on discussions with the

taxpayers, most of the changes are related to a heightened focus on the income approach to value. The document also contains the final values after adjustments that they recommend the Board adopts. Governor Justice asked for clarification of the values in each column on the document. Commissioner Irby responded that the first column is the recommended final values for tax year 2022, the second column is what the tentative value was in September, and the last column is the final value from tax year 2021. He continued that Exhibit II of the document shows a recommended final value for 2022 of approximately 12.4 billion dollars, which is very close to the 2021 final value. The difference is a negative .2% drop. Governor Justice expressed concern about a lower number considering the positive direction the State is moving in with record revenues. Commissioner Irby replied that these values are based on income from 2020, which was affected by the Covid pandemic. He anticipates next years' assessments will reflect the increase in income the companies are expected to have from 2021.

Secretary Warner asked for an explanation of the decrease in value of the pipeline companies. Commissioner Irby responded that it was due to a stronger focus on the income approach to value. One of the companies raised the issue of economic obsolescence at the last meeting. The Tax Department did not accept any of those values, but instead moved them closer to an income approach to value rather than a cost approach to value. Commissioner Leonhardt asked why it was changed from a cost approach to an income approach. Commissioner Irby explained that they follow a Legislative rule that asks them to do that. They are to produce a cost approach to value and an income approach to value then correlate the two and come up with the final value. It says when all else is equal, they should prefer the income approach. Attorney General Morrissey asked if there was consistency across the board or do certain industries get one approach and others get a different one. Commissioner Irby replied that it's both ways. For the most part, they are consistent across the board but there are unique circumstances that cause them to shift the approach. They generally use approximately 70% income approach and 30% cost approach. Frank Capehart stated that in the cases that the 70/30 formula is not used, it is because the taxpayer has provided inconsistent income information, or consistent negative income information. When the formula varies, it's almost always because of poor data. Attorney General Morrissey asked if it is correct that there is a general rule of breakdown between cost and income, but based upon additional facts, the formula might be adjusted one way or another. Commissioner Irby responded that was correct. Frank Capehart stated it is data driven toward the reliability of the data.

Sarah Canterbury asked for an update on the issues presented by Shenandoah Junction Public Sewer at the last meeting. Frank Capehart responded that the company had a one-time write off of loss. They had some transactions listed that the Tax Department auditors misinterpreted as income. Once it was clarified that this was a write-off of liabilities they were unable to collect, the section was removed. The company was re-valued.

Governor Justice stated he had some concerns. He agrees that the 70%/30% formula used by the Tax Department is generally reasonable. If the numbers presented today are reflective of the 2020 year, he understands that the Board must vote and move on. However, it's tremendously important to West Virginia that the tabulating is done equitably and in the most advantageous yet fair way to the companies and to the State. He continued that he understands that many of the companies are going to have disagreements with their assessment and that can be burdensome for the Tax Department. Because of the importance to the State, getting to the fair medium can be a struggle. He stated that the State is moving and the Tax Department should not be willing to

accept mediocrity in the reporting from the companies and the tabulating. Going forward, the numbers should significantly climb. That should be planned for and targeted. Auditor McCuskey stated that he had a comment. This is a very important duty and the Board did not receive the valuations from the Tax Department until roughly 20 minutes before they are to be voted on. He agreed with the Governor's comments, and stated he didn't understand how the Board is supposed to vote and make a very important financial decision for the State when given less than a day to review the data and how they came up with it. He continued that sometime between now and next year, a better process needs to be developed to give the decision makers more ability to review what is being discussed. Governor Justice agreed. He stated he would instruct Secretary Hardy to get involved and find a way to do it better.

Secretary Warner made a motion to approve the tax assessments as recommended by the Tax Department for tax year 2022. Attorney General Morrissey seconded the motion. The motion carried.

The next item on the agenda was the certification of tax rates on each class of property according to the provisions of W. Va. Code §11-8-8. Attorney General Morrissey made a motion to approve the tax rates on each class of property. Commissioner Leonhardt seconded the motion. The motion carried.

The next item on the agenda was the consideration and approval of the following deeds:

1. Between the Department of Agriculture of the State of West Virginia and the County Commission of Monroe County, West Virginia dated November 1, 2021, approved as to form by the Attorney General's Office November 18, 2021.
2. Between the West Virginia Department of Transportation, Division of Highways and the City of Hinton dated December 20, 2021, approved as to form by the Attorney General's Office January 3, 2022.

Curtis Green addressed the Board regarding deed number 1. He explained this is for a small parcel in Union, WV. The Department of Agriculture has owned it since 1962. It was formerly a Farmers Market, but for the last 30 years it has been used as an ambulance center. It's currently leased by the Monroe County Commission. The Department of Agriculture thinks it's better served under local control.

Attorney General Morrissey made a motion to approve deed number 1. Secretary Warner seconded the motion. The motion carried.

Chad Toney addressed the Board regarding deed number 2. He explained that this a property that the Division of Highways no longer needs in Hinton, WV. This transfer is to allow public access to boat ramps that will be constructed by the City of Hinton.

Attorney General Morrissey made a motion to approve deed number 2. Secretary Warner seconded the motion. The motion carried.

With no further business, Attorney General Morrissey made a motion to adjourn. Commissioner Leonhardt seconded. The motion carried. The meeting adjourned.



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Mac Warner, Secretary of State and Ex-  
Officio Secretary of the Board of Public  
Works