

**West Virginia Board of Public Works
Wednesday, August 22, 2012 – 2:00 p.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Glen B. Gainer III, State Auditor
Natalie E. Tennant, Secretary of State
Darrell V. McGraw, Jr., Attorney General
Dr. Jorea Marple, State Superintendent of Schools
Danny Ellis, Assistant Treasurer for John D. Perdue, State Treasurer
Sandy Marinacci for Gus R. Douglass, Commissioner of Agriculture
Peter Markham, General Counsel for Governor Earl Ray Tomblin

Guests

Jeff Amburgey, Tax Department
Nancy Baire, Tax Department
Dawn Warfield, Attorney General’s Office
Kathy Schultz, Attorney General’s Office
Wayne Williams, Attorney General’s Office
Russ Rollyson, Auditor’s Office
Chuck Lawrence, Department of Administration, Real Estate Division
David Hildreth, Department of Administration, Real Estate Division
John McHugh, Division of Highways
Mike Wells, Pleasants Co. Bd. of Education
Heather Deskins, General Counsel, Dept. of Education
Chuck Heinlein, Dept. of Education
Randa Gregg, St. Mary’s Oracle
Ashley Summitt, Secretary of State’s Office
Judy Cooper, Secretary of State’s Office

The West Virginia Board of Public Works met on Wednesday, August 22, 2012 at 2:00 p.m. in the Governor’s Cabinet and Conference Room of the State Capitol Complex. The meeting was called to order and chaired by Auditor Gainer. A quorum of members was established.

The first item on the agenda was the approval of the minutes from the April 4, 2012 West Virginia Board of Public Works meeting. Dr. Marple moved to approve the minutes with Peter Markham seconding. The motion carried.

The second item on the agenda was discussion regarding the proposal submitted by the State Tax Department for a peer review of the utility appraisal process and the response by the State Auditor’s Office. Jeff Amburgey addressed the Board. Based on the motion passed at the December 15, 2011 Board of Public Works meeting, the Tax Department has been in contact

with the International Association of Assessing Officers (IAAO) for the peer review. The Tax Department thinks that this is the most qualified organization. They performed a similar review of this process in the 1980s. In May, the IAAO presented the Tax Department a draft of the scope of work they propose doing. The Commissioner made a few changes. The final draft was submitted to the Tax Department on July 17, 2012 and is now before the Board. The proposal recommends using two experts on the project. These would be appraisers from two different states. One would be the primary reviewer, who would come to the Property Tax Division and look through records and procedures to see if anything may be lacking. The Second would review the conclusions of the first. The Tax Department submitted a second memo to the Board requesting guidance on how to proceed and whether this could be considered a sole source. Mr. Amburgey referenced the response memo from Auditor Gainer requesting that the review be independent. If the project were bid out, there are many organizations that may have a vested interest in the appraisal process in West Virginia. Dr. Marple asked what the state purchasing division advised as to whether or not it's a sole source. Mr. Amburgey introduced Nancy Baire, the purchasing manager for the Tax Department. Ms. Baire explained that the purchasing division could not give a solid answer until they receive a direct purchase order. The biggest issue is finding an organization that is not biased. Auditor Gainer believes that this is the most qualified group that can be truly independent and that would make them a sole source. Purchasing makes the final decision. All the Board can do is direct the Tax Department to go ahead and request that it be a sole source contract. Secretary Tennant asked if there was an estimate of the cost. Mr. Amburgey explained that a key number in purchasing is \$25,000. Some reviews could be under that amount, but according to the depth of the review it could be as much as \$100,000. He estimated it would be \$50,000 or less. Danny Ellis asked what the time frame was from the beginning to the completion of the review. Mr. Amburgey answered that he couldn't say until the contract gets awarded. Auditor Gainer said that in the peer review of his office, the physical work gets done and you get a preliminary report. The agency gets an opportunity to respond or clarify. Then a final report is submitted. It generally takes three to four months. Dr. Marple asked for clarity of the purchasing procedures. Ms. Baire explained that once the Tax Department knows they can proceed, they will get a quote from IAAO. If it's under \$25,000 it can be done in-house. If it's over \$25,000, it gets sent to the purchasing division as a direct purchase. Depending on the dollar amount, it will either go through purchasing and get advertised as a sole source or be done in-house. Dr. Marple asked if they must get three quotes. Ms. Baire answered yes, but if it's justified as a sole source it will be done that way. It will go through the bulletin as either direct purchase, sole source or advertised through purchasing as a direct purchase sole source. The Board discussed issues with using in-state or smaller firms for the review. There were concerns with in-state firms having conflicts of interest or a smaller firm not having the expertise. Auditor Gainer stated that whatever the cost is, that's what the Board needs to bear because of the importance of the work. It will show that the standards and practices used in setting assessments are in accordance with what other like tax bodies are doing. Secretary Tennant made a motion that the Board allows the Tax Department to ask IAAO for a quote to review the public utility valuation assessment processes and practices so it can be sent to the purchasing division to be determined whether or not it's a sole source. Peter Markham seconded. The motion carried. The Attorney General abstained.

The third item on the agenda was discussion of the following deeds listed 1 through 11 seeking approval by the Board of Public Works.

1. Between the West Virginia Board of Education and Board of Education of the County of Pleasants, dated May 9, 2012, approved as to form by the Attorney General's Office May 11, 2012.
2. Between the City of Clarksburg and the State of West Virginia, Department of Administration, Real Estate Division, dated August 22, 2012, approved as to form by the Attorney General's Office August 8, 2012.
3. Between the Harrison County Building Commission and the State of West Virginia, Department of Administration, Real Estate Division dated August 22, 2012, approved as to form by the Attorney General's Office August 8, 2012.
4. Between the County Commission of Fayette County, WV and the West Virginia Department of Transportation, Division of Highways, dated May 18, 2012, approved as to form by the Attorney General's Office August 6, 2012.
5. Between the Upshur County Development Authority and the West Virginia Department of Transportation, Division of Highways, dated May 30, 2012, approved as to form by the Attorney General's Office August 2, 2012.
6. Between the City of Anawalt and the West Virginia Department of Transportation, Division of Highways (Parcel 1), dated May 24, 2012, approved as to form by the Attorney General's Office July 16, 2012.
7. Between the City of Anawalt and the West Virginia Department of Transportation, Division of Highways (Parcel 2), dated June 26, 2012, approved as to form by the Attorney General's Office July 16, 2012.
8. Between the West Virginia Department of Transportation, Division of Highways and the Town of Danville, dated June 25, 2012, approved as to form by the Attorney General's Office July 18, 2012.
9. Between the West Virginia Department of Transportation, Division of Highways and Enlarged Hepzibah Public Service District, dated December 6, 2011, approved as to form by the Attorney General's Office May 10, 2012.
10. Between the West Virginia Department of Transportation, Division of Highways and the Clay County Business Development Authority, dated March 21, 2012, approved as to form by the Attorney General's Office July 16, 2012.
11. Between the West Virginia Department of Transportation, Division of Highways and the City of Morgantown, dated March 28, 2012, approved as to form by the Attorney General's Office August 10, 2012.

Heather Deskins addressed the Board concerning deed number 1. The parcel of property is approximately 14 acres. It will be deeded to the Pleasants County Board of Education for the

construction of a new high school. The high school will be situated immediately adjacent to a multi-county vocational center that is located on property owned by the WV Board of Education. The location of the school will be a benefit to the students of Pleasants County. It will be built in a way that does not prohibit expansion of the vocational center. The deed contains a reverter clause. Secretary Tennant made a motion to approve deed number 1 with Peter Markham seconding. The motion carried.

David Hildreth addressed the Board concerning deed number 2. He stated that both deeds number 2 and 3 are relative to the same project. Number 2 is a gift deed. The City of Clarksburg is conveying three parcels to the State to be used for the state office building that's going to be constructed in deed number 3. Deed number 3 is essentially regarding a lease purchase agreement that the State of WV had with the Harrison County Building Commission. The State of WV paid all of the lease payments and the purchase was concluded, but was never conveyed to the State. The three parcels in deed number 2 will be used as a parking lot. Secretary Tennant asked if solar panels and the best efficiency and energy are being used to construct the building. Mr. Hildreth explained that when bidding out the work, they advertise an expression of interest for the architect to build a leed silver building. Leed stands for Leadership in Energy and Environmental Design. It is a green building. In Clarksburg, they are proposing geo-thermal wells that will pay for themselves in eight years and save the state \$2,000,000.00 in twenty years. Secretary Tennant made a motion to approve both deeds 2 and 3 with Peter Markham seconding. The motion carried.

John McHugh addressed the Board concerning deed number 4. This is in connection with a standard Highways project. The County Commission of Fayette County will be conveying to the DOH a non-controlled access right-of-way for completion of the project. This is for improvements to Glen Jean Lane in Fayette County in preparation for the upcoming Boy Scout Jamboree. Dr. Marple made a motion to approve deed number 4 with Sandy Marinacci seconding. The motion carried.

John McHugh addressed the Board concerning deed number 5. He explained that the Upshur County Development Authority is conveying to the DOH a non-controlled access right-of-way, specifically for an access road to the Upshur County Industrial Park near Buckhannon. Secretary Tennant made a motion to approve deed number 5 with Peter Markham seconding. The motion carried.

John McHugh addressed the Board concerning deed number 6. He explained that this is another pending Highways project. In this deed the City of Anawalt will be conveying to the DOH a non-controlled access right-of-way totaling 3,230 square feet. This is for the replacement of the North Railroad Street Bridge which is over Tug Fork in McDowell County. Mr. McHugh continued by stating that deed number 7 is for a different project, but also with the City of Anawalt. This is also for a non-controlled access right-of-way for placement of a bridge over Little Creek in McDowell County. Dr. Marple made a motion to approve both deeds 6 and 7 with Peter Markham seconding. The motion carried.

John McHugh addressed the Board concerning deed number 8. This is a corrective deed. About five years ago, the DOH attempted to convey this property to the Town of Danville. At the time,

they failed to get approval from the Board of Public Works. There were also some errors in the deed. Secretary Tennant made a motion to approve deed number 8 with Sandy Marinacci seconding. The motion carried.

John McHugh addressed the Board concerning deed number 9. The Enlarged Hepzibah Public Service District made a request for some property to install a lift station. The property is located near Gypsy in Harrison County. Secretary Tennant made a motion to approve deed number 9 with Danny Ellis seconding. The motion carried.

John McHugh addressed the Board concerning deed number 10. The DOH will be conveying to the Clay County Development Authority almost 30,000 square feet as well as a maintenance garage. The development authority needs the property for storage and other uses. Secretary Tennant made a motion to approve deed number 10 with Danny Ellis seconding. The motion carried.

John McHugh addressed the Board concerning deed number 11. This deed involves two small strips of property that are adjacent to the Waterfront complex along an access road. The Morgantown Building Commission just needs a little more property for the access road. Dr. Marple asked if the deed contained a reverter clause. Mr. McHugh stated it did. Secretary Tennant made a motion to approve deed number 11 with Danny Ellis seconding. The motion carried.

The final item on the agenda was the discussion of pending legal matters. Secretary Tennant made a motion to move into Executive Session with Peter Markham seconding. The Board went into Executive Session.

Auditor Gainer stated that no action was taken in Executive Session and there was nothing further to report. He asked for any other business before the Board. Secretary Tennant asked, as the December meeting approaches, if the Board should do something for Commissioner Douglass. Auditor Gainer stated it would be nice to recognize him for his years of service. Danny Ellis made a motion to adjourn the meeting with Secretary Tennant seconding. The meeting adjourned.



Natalie E. Tennant, Secretary
of State and Ex-Officio
Secretary of the West Virginia
Board of Public Works