

**West Virginia Board of Public Works
Thursday, April 4, 2013 – 1:30 p.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Earl Ray Tomblin, Governor
Natalie E. Tennant, Secretary of State
Glen B. Gainer III, State Auditor
John D. Perdue, State Treasurer
Patrick Morrissey, Attorney General
Walt Helmick, Commissioner of Agriculture
Dr. James Phares, State Superintendent of Schools

Guests

Charlie Lorenson, Tax Department Commissioner
Jeff Amburgey, Tax Department
Amy Jacobs, Tax Department
Kris Pinkerman, Tax Department
John McHugh, Div. of Highways
Eric Hudnall, Div. of Highways
Gary Furbee, West Virginia University
Thomas Aman, Morgantown Building Commission
J.R. Sabatelli, City of Morgantown
Danny Ellis, Treasurer’s Office
Isaac Lewis, Department of Education
Russ Rollyson, Auditor’s Office
Tracy Webb, Attorney General’s Office
Kathy Schultz, Attorney General’s Office
Wayne Williams, Attorney General’s Office
Ashley Summitt, Secretary of State’s Office
Jake Glance, Secretary of State’s Office

The West Virginia Board of Public Works met on Thursday, April 4, 2013 at 1:30 p.m. in the Governor’s Cabinet and Conference Room of the State Capitol Complex. The meeting was called to order and chaired by Governor Earl Ray Tomblin. A quorum of members was established.

The first item on the agenda was the approval of the minutes from the December 3, 2012 West Virginia Board of Public Works meeting. Auditor Gainer moved to approve the minutes with Treasurer Perdue seconding the motion. The motion carried.

The second item on the agenda was the approval of the certification of the levy rate on each class of property pursuant to the provisions of §11-8-8 of the West Virginia Code. Charlie Lorenson addressed the Board and introduced Jeff Amburgey. Mr. Amburgey explained that the referenced section of code is basically a rubber stamp process of approving the state property tax rates. These rates bring in about six million dollars to the state. Attorney General Morrissey asked if there was actually a decision to make because it is his understanding that there are no state road bonds. Mr. Amburgey responded that the rates as set in §11-8-6a of the code could be increased if there were bonds, but there are not so the rates set in

code must be approved. Attorney General Morrissey asked if it is still required even though there are no bonds. Mr. Amburgey said it was since the code states that the Board shall levy the rates prior to April 15. Auditor Gainer made a motion to certify the tax levy rates with Treasurer Perdue seconding. The motion carried.

The third item on the agenda was an update on the Tax Department peer review of the processes used in assessing public utility companies. Jeff Amburgey addressed the Board and stated, for the benefit of the new members, he would like to give the Board a brief overview of the Tax Department's work with the Board of Public Works on the utility assessments. He referred to Chapter 11 article 6 of the WV Code that defines what kind of companies will file with the Tax Department for review by the Board. These are mainly utility companies. He continued by referring to §11-6-9 of the code. The Tax Department provides the tentative assessments to the Board on or before September 15th each year. Then statutorily as provided in §11-6-11 the Board must meet on or before October 1st to officially accept the tentative assessments. Following that meeting, there is a protest hearing for the assessed companies. Finally, in December, the Board meets to finalize the assessments. The Auditor's office then bills and collects from the companies in order to distribute the funds to the Counties. In regards to the peer review update, Mr. Amburgey explained that in December 2011, the Board voted to have a peer review of the public utility appraisal process. The Tax Department contacted the International Association of Assessing Officers (IAAO). The Tax Department explained to the Board that this would be the most independent and most qualified organization. In August, the Tax Department provided the Board a memorandum asking how to proceed with the review and if they should request a sole source contract with IAAO. The Board voted for the Tax Department to proceed, get a bid from IAAO and submit it for a determination on the sole source. It was determined that it could not be a sole source and the project must be bid out. That took place in November and IAAO was the low bidder. They were awarded the contract. The project is taking place between January 15, 2013 and January 14, 2014. Mr. Amburgey has been in contact with the primary reviewer and has already sent him requested information. His name is Lawrence Walters. He is a professor at Brigham Young University. His resume is available to the Board members upon request. He has performed a similar review for the State of Wyoming. He will be making an onsite visit to the Tax Department office in late April. Mr. Amburgey hopes to have draft recommendations before the protest hearing for the upcoming year.

The fourth item on the agenda was consideration of the Morgantown Building Commission's request for the subordination of a deed Reversionary Clause in favor of West Virginia University to the 2013 Collateral Documents, and to any deeds of trust, trust indentures or other security documents which secure obligations which may hereafter be issued by the Building Commission to refinance the Building Commission's Lease Revenue Bonds, Series 2008 A. Gary Furbee addressed the Board and stated that West Virginia University support the City's request. This is the second time this issue has been brought before the Board of Public Works. Governor Tomblin asked for an explanation of the project. Mr. Furbee explained that the history goes back to 2006. The City of Morgantown and WVU entered into an arrangement where the fire station that serves Ruby Memorial Hospital and the Evansdale campuses was relocated into the heart of the campus. In conjunction with the County, the University provided 1/3 acre to the city. In exchange, there was an intangible benefit as well as about 1/8 of an acre that was the prior home of the old fire station. The reverter clause was inserted in the original deed. When it came time to finance in 2008, the city had to approach the Board because the reverter clause was an impediment to their financing. They are back this time to take advantage of low rates. Secretary Tennant asked that since they are refinancing the existing indebtedness, how much has been paid down so far and what is the amount of the refinancing. Thomas Aman responded. He explained that the city will get a substantial debt service savings of approximately \$222,000 over the life of the bonds. The old debt total with principle and interest would have been 5 million 67 thousand dollars. The new debt is approximately 4.8 million dollars. As far as the principle, there is still 3 million 763 thousand dollars still outstanding from the original bonds plus accrued interest until closing. In addition, there are monthly payments on the

2008 bonds in the interim. It will take between 45 and 60 days to close. The new bonds are projected to be about 3.8 million dollars. The 2008 bond issue is the bank requirement for real estate collateral, which is the fire station. In order for that to be valuable to them, the subordination of the reversionary clause is necessary. Mr. Aman continued stating that rates are currently so low, he doesn't anticipate having to refinance again. However, since these are 25 year bonds, rates could come down in the future. The request is to extend the subordination to future refinancing to avoid having to keep coming back to the Board for the same provision. Secretary Tennant asked if Mr. Aman thinks the bonds will be paid off within the next 25 years. Mr. Aman responded that the maturity of these bonds is October 2028. Secretary Tennant asked if the bank has changed. Mr. Aman replied that it was Monongahela Valley Bank. They changed their name to MVP Bank. It's the same bank that purchased and holds the bonds. Wesbanco is the trustee on the new bond issue. Treasurer Perdue made a motion to approve the request with Secretary Tennant seconding. The motion carried.

The fifth item on the agenda was discussion of the following deeds listed 1 through 3 seeking approval by the Board of Public Works.

1. Between the Jackson County Development Authority and the West Virginia Department of Transportation, Division of Highways, dated January 10, 2013, approved as to form by the Attorney General's office March 25, 2013.
2. Between the City of Kingwood and the West Virginia Department of Transportation, Division of Highways, dated May 3, 2012, approved as to form by the Attorney General's office March 25, 2013.
3. Between the West Virginia Department of Transportation, Division of Highways and the West Virginia State Police, dated December 20, 2012, approved as to form by the Attorney General's office March 25, 2013.

John McHugh addressed the Board concerning deed number 1. He explained that this is for the advance of the industrial access road in the Jackson County Maritime and Industrial Centre. The road has already been completed. This is the conveyance of the industrial access road agreement between the parties. Auditor Gainer made a motion to approve deed number 1 with Treasurer Perdue seconding. The motion carried.

John McHugh addressed the Board concerning deed number 2. He explained that this property is needed for a bridge replacement project. This is the Morgan Run Arch Bridge. It's located south of Kingwood. The city is conveying to the Div. of Highways a small parcel. The project is expected to be completed by July 31, 2013. Treasurer Perdue made a motion to approve deed number 2 with Auditor Gainer seconding. The motion carried.

John McHugh addressed the Board concerning deed number 3. He explained that this deed involves property that is located north of St. Marys. This is where the WV State Police detachment currently stands. They have been leasing the property since 1971. They recently requested to have the property conveyed to them. The deed does contain a reversionary clause in the event that the property ceases to be used for public purposes. Secretary Tennant asked what the property will be used for. Mr. McHugh responded that it will continue to be the State Police detachment. Treasurer Perdue made a motion to approve deed number 3 with Auditor Gainer seconding. The motion carried.

The final item on the agenda was an Executive Session for the discussion of pending legal matters. Attorney General Morrissey stated that since the last Board of Public Works meeting, his office has been focusing on the collection from delinquent tax payers. That has continued with the help of the Tax Department and the Auditor's Office. Taxes collected since the last meeting total \$393,413.00. He continued that his office would be happy to provide more detail on the status of collections in Executive Session. He noted that since there have been no firm recent settlement offers and there are no pending litigation issues it may not be needed at this time. The Board decided not to go into Executive Session.

With no further business, the meeting was adjourned.

A handwritten signature in black ink, reading "Natalie E. Tennant". The signature is written in a cursive style with a horizontal line underneath the name.

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