West Virginia Board of Public Works
December 19, 2013 – 2:00 p.m.
Governor’s Cabinet and Conference Room
Minutes

Attendees:
Members
Governor Earl Ray Tomblin
State Auditor Glen B. Gainer
Secretary of State Natalie E. Tennant
Agriculture Commissioner Walt Helmick
Attorney General Patrick Morrisey
State Superintendent of Schools Dr. James Phares
Josh Stowers for State Treasurer John D. Perdue

Guests:
Mark Matkovich, Commissioner, State Tax Department
Jeff Amburgey, State Tax Department
Scott McNeil, State Tax Department
Eric Hudnall, Division of Highways
Beth Lowe, Division of Highways
Gabrielle Wohl, Governor’s Office
Peter Markham, Governor’s Office
Joe Garcia, Governor’s Office
Chris Ferro, Department of Agriculture
Tim Conaway, Boone County Commission
John McHugh, WV Military Authority
Gary Furbee, West Virginia University
Sherri Goodman, Department of Education
Kathy Schultz, Attorney General’s Office
Tracy Webb, Attorney General’s Office
Russ Rollyson, Auditor’s Office
Ashley Summitt, Secretary of State’s Office
Judy Cooper, Secretary of State’s Office
Sheryl Webb, Secretary of State’s Office
Curt Zickefoose, Secretary of State’s Office
Bradley Harris, Secretary of State’s Office
Jake Glance, Secretary of State’s Office
Claire Burgess, Secretary of State’s Office
Michael Garcia, Secretary of State’s Office
Phil Kabler, WV Gazette
Jennifer Donohue
Trip Gabriel, New York Times
Ty Wright, New York Times
The West Virginia Board of Public Works met on Thursday, December 19, 2013 at 2:00 p.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 Earl Ray Tomblin. A quorum of elected officials was established.

(Attached is a transcript of the meeting.)

Natalie E. Tennant,
Secretary of State
And Ex-Officio Secretary of the
Board of Public Works
STATE OF WEST VIRGINIA
BOARD OF PUBLIC WORKS

MEMBERS OF THE BOARD:

GOVERNOR EARL RAY TOMBLIN

NATALIE TENNANT, SECRETARY OF STATE

DR. JAMES PHARES, SUPERINTENDENT OF SCHOOLS

JOSH STOWERS, PROXY FOR THE TREASURER

PATRICK MORRISEY, ATTORNEY GENERAL

WALT HELMICK, COMMISSIONER OF AGRICULTURE

GLEN GAINER, AUDITOR

December 19, 2013
2:05 PM

WEST VIRGINIA CAPITOL COMPLEX
Building 1, Governor's Conference Room
Charleston, West Virginia

PENNY L. KERNS
Certified Court Reporter
and Notary Public

GARRETT REPORTING SERVICE
"PROFESSIONAL STENOMASK FOR THE RECORD"

POST OFFICE BOX 20200, CHARLESTON WEST VIRGINIA 25362 • (304) 346-0460 FAX (304) 757-7425
INDEX

Speakers ................................................. Page
Jeff Amburgy .............................................. 3
Sherry Goodman .......................................... 6
Tim Conaway .............................................. 8
Eric Hudnall .............................................. 10
John McHugh ............................................. 16
Gary Furbee .............................................. 19

Reporter's certificate, 27
GOVERNOR TOMBLIN: The Board of Public Works will come to order. The first item on the agenda is number two on your list. Receive and approve the final assessments from the public utilities for tax year 2014, and we have Jeff Amburgy. Jeff, do you want to address the Board, please?

MR. AMBURGY: If it pleases the Board, Jeff Amburgy, Director of the Property Tax Division. The Board held a meeting on November 13th to solicit comments from the public utility companies operating in West Virginia, hearing any protests they may have of the values that were tentative on September 13th. At that meeting no utilities protested. That was the first time in many years.

Even though there were no protests, oftentimes after we send out the tentative notices, companies will notify us of some issues that were in the tentative assessments or they may file a return late or they may file an amended return. So the department sent a memorandum to the Board members recently recommending some changes to the tentative assessments. It is attached to the memo as an exhibit.
The recommended changes set forth in the exhibit would modify the tentative value total of $9,129,740,500 to a final value of $9,103,441,100. The recommended final would still represent an increase of about $153,000,000 when compared to the values the Board finalized last year.

The Tax Department is here today to recommend that the Board modify the tentative assessments of September 13th to include the recommendations that we attached in the exhibit on the memo to the Board. At this time I’ll be glad to entertain any questions the Board may have.

GOVERNOR TOMBLIN: Are there any questions of Mr. Amburgy? If not, do I hear a motion to approve the modified final assessments of the Tax Department for public utilities for tax year 2014?

COMMISSIONER HELMICK: I so move.

SECRETARY TENNANT: Second.

GOVERNOR TOMBLIN: It has been moved by the Agriculture Commissioner and seconded by the secretary of state. All those in favor of the motion will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.
(No response.)

GOVERNOR TOMBLIN: The ayes have it, and I declare the motion adopted. The final assessments are approved. The next item will be a series of property transfers and the first will be between the City of Charleston and the West Virginia Division of Corrections. Who do we have to speak to this transfer, anybody?

(No response.)

GOVERNOR TOMBLIN: Well, we don't have anybody here. Actually, you do have all the deeds and so forth. They should be in your packet today. Do I have a motion to approve the transfer between the City of Charleston and the West Virginia Division of Corrections?

COMMISSIONER HELMICK: I move.

ATTY. GENERAL MORRISEY: Second.

GOVERNOR TOMBLIN: Commissioner Helmick moves and the Attorney General seconds. All those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Let me ask, is there a discussion?

SECRETARY TENNANT: The only discussion I
would have is just to point out that this one was, in
absence of anyone from the Department of Corrections or
the City of Charleston, that it was just asking to have,
being used for handicap ramps at the entrance of the
Department of Corrections facility. Just for the
record, I just wanted to mention that.

GOVERNOR TOMBLIN: All right. Further
discussion? If not, all those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I
declare the motion adopted. The next one between the
West Virginia Board of Education and the City of St.
Marys.

MS. GOODMAN: Sherry Goodman, staff
attorney. This is simply for a temporary construction
easement and a permanent easement and right of way for a
well that the City of St. Marys wants to place on the
property of the Mid-Ohio Valley Technical Institute, and
there is a reverter in the deed if the well ever stops
producing, that it will revert back.

GOVERNOR TOMBLIN: Okay. Do I hear a
motion to approve?
DR. PHARES: So move.

GOVERNOR TOMBLIN: The Superintendent moves. Second?

ATTY. GENERAL MORRISEY: Second.

GOVERNOR TOMBLIN: The Attorney General seconds. Discussion? If not, all those in favor of the motion will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. The next transaction between the Board of Education of the County of Mingo and the Department of Transportation, Division of Highways.

SECRETARY TENNANT: I think there's -- we have a new -- I think we have a new one, and it's in your new packet. Number three, the smaller packet, is a new deed. It's Boone County.

GOVERNOR TOMBLIN: All right. Let's get the right one here. I see it now. Okay, let's go back and try it one more time. The next transaction between the County Commission of Boone County and Southern West Virginia Community College Board of Directors. Yes,
MR. CONAWAY: I'm Tim Conaway, representing the Boone County Commission. This is a transfer of approximately ten acres to the Southern West Virginia Community and Technical College. It's property that was formerly acquired by the Boone County Commission. The purposes of the transfer is hopefully Southern will build an educational facility on the property. Both Southern and Boone County believe that such a facility would be of benefit to the area.

There is consideration passing in the amount of $275,000. There is not a reverter clause, primarily because of the amount of the consideration and also because the property is expected to remain vacant for a period of time while Southern acquires funding to construct the facility. I'd be happy to answer any questions the Board has.

GOVERNOR TOMBLIN: Are there questions?
SECRETARY TENNANT: You think the $275,000 is, as it's stated in here, adequate, that it wouldn't need a reverter clause? It doesn't have a reverter clause. I mean your plan is you feel it's a significant amount of money?

MR. CONAWAY: Well, County
Commission, the property appraised for $440,000. The County Commission bought it for $420,000. The County is keeping two acres out of the purchase. So if it’s not adequate consideration, it’s pretty close. And the Commission thinks that it would be a boon to Boone to have educational facilities there for obvious reasons, to help educate our kids.

GOVERNOR TOMBLIN: Do I hear a motion?

SECRETARY TENNANT: I move that we accept this deed between the County Commission of Boone County and Southern West Virginia Community College Board of Governors.

GOVERNOR TOMBLIN: The Secretary moves.

Do I hear a second?

AUDITOR GAINER: Second.

GOVERNOR TOMBLIN: The Auditor seconds.

Discussion? All those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. Thank you, sir. The next transaction between, now we’re on track again, the Board of Education of the County of Mingo and the West
Virginia Department of Transportation, Division of Highways.

MR. HUDNALL: Thank you, Governor.

Eric Hudnall for the Division of Highways, Right-of-Way Division, Legal Section. This deed, the purpose of this deed is to build an access road and an overpass to Tug Valley High School. Total take right at two acres. Right around two acres for non-controlled access to the permanent drainage easement as well as a temporary construction easement of four hundred forty-five square feet.

GOVERNOR TOMBLIN: Are there questions?

Do I hear a motion?

DR. PHARES: So move.

GOVERNOR TOMBLIN: The Superintendent moves.

AUDITOR GAINER: Second.

GOVERNOR TOMBLIN: The Auditor seconds.

Discussion? If not, all those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. The next transaction is
between the West Virginia Department of Highways and --
the Department of Transportation, Division of Highways
and the City of Charleston.

MR. HUDNALL: Thank you, Governor.

This one is a sale of DOH right-of-way to allow the City
of Charleston to take ownership of an area that
previously they were leasing from the department for a
sewer pump station over here on Court Street close to
Green's Feed and Seed. It also included a little strip
of existing right-of-way that was in front of that to
allow them to have access back into that facility.

GOVERNOR TOMBLIN: Are there questions
of counsel?

SECRETARY TENNANT: I guess the question
-- I don't know if I read this correctly. Will this
count as the recorded deed now that they were looking
for?

MR. HUDNALL: Yes.

SECRETARY TENNANT: Okay.

MR. HUDNALL: Well, I don't

understand the question actually.

SECRETARY TENNANT: Here it said the City
began major renovation of the Court Street and in
preparation was unable to locate a properly recorded
deed. So this is going to --

MR. HUDNALL: This is going to give

them title to something that's been there for a long
time.

SECRETARY TENNANT: That's right. Right.

Okay.

GOVERNOR TOMBLIN: Do I hear a motion?

AUDITOR GAINER: So move.

GOVERNOR TOMBLIN: Auditor moves. Do I

hear a second?

ATTY. GENERAL MORRISEY: Second.

GOVERNOR TOMBLIN: Attorney General

seconds it. Discussion? If not, all those in favor

will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I

declare the motion adopted. The next item is between

the City of Clarksburg and the Department of

Transportation, Division of Highways.

MR. HUDNALL: Thanks, Governor.

This is an acquisition of an industrial access road

where the department took in .68 of a mile of Ohio
Avenue and five hundred and eighty feet of North Fourth
Street in Clarksburg to construct this industrial access
road.

GOVERNOR TOMBLIN: Are there questions
of counsel? Do I hear a motion to approve?

COMMISSIONER HELMICK: So move.

GOVERNOR TOMBLIN: Mr. Helmick moves.

Do I hear a second?

ATTY. GENERAL MORRISEY: Second.

GOVERNOR TOMBLIN: Attorney General
seconds. Discussion? All those in favor will say aye?

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no?

(No response.)

GOVERNOR TOMBLIN: And the ayes have it.

I declare the motion adopted. Item number seven between
the State of West Virginia for the use and benefit of
the State Armory Board and the West Virginia Department
of Transportation, Division of Highways. Counsel?

MR. HUDNALL: Thank you, Governor.

This is an acquisition for WOHH to allow construction of
an access road to the Moorefield Readiness Center, also
known as Freedom Way, for a total take of 8.1 acres, 8.1
acres, but it’s a nominal consideration so this deed
also has a reversionary clause in it.

GOVERNOR TOMBLIN: Are there questions of counsel? Do I hear a motion?

SECRETARY TENNANT: So move.

GOVERNOR TOMBLIN: Secretary moves. Do I hear a second?

AUDITOR GAINER: Second.

GOVERNOR TOMBLIN: Auditor seconds.

Discussion? If not, all those in favor of the motion will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. Item number eight. The State of West Virginia for use and benefit of the State Armory Board of West Virginia, Department of Transportation.

MR. HUDNALL: This deed is to allow the construction of the Coonskin Park Project. It's approximately thirty-two thousand square feet. It's on the west bank of the Elk River on 119 to allow the tie in on that side of the river.

GOVERNOR TOMBLIN: Questions of counsel?
If not, do I hear a motion to approve?

MR. GAINER: So move.

GOVERNOR TOMBLIN: Auditor moves.

Second?

SECRETARY TENNANT: Second.

GOVERNOR TOMBLIN: Secretary of State seconds. Discussion? All those in favor of the motion will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. The next one also between the Armory Board and the Division of Highways. Counsel?

MR. HUDNALL: This is an exchange deed between the Department of Transportation and the State Armory Board where the Department of Transportation acquired .47 of an acre and the Armory Board conveyed to the -- I'm sorry. The Armory Board -- Transportation conveys to the Armory Board .58 of an acre and this is all in relation to the Morgantown roundabout.

GOVERNOR TOMBLIN: Questions of counsel?

If not, do I hear a motion to approve?
ATTY. GENERAL MORRISEY: Motion to approve.

COMMISSIONER HELMICK: Second.

GOVERNOR TOMBLIN: The Attorney General has moved and the Commissioner of Agriculture has seconded. Discussion?

(No response.)

GOVERNOR TOMBLIN: All those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. The next item is number ten between the Armory Board and the Marion County Board of Education.

MR. MCHUGH: Good afternoon. John McHugh for West Virginia Military Authority.

Effectively this is the conveyance of the old Fairmont Armory over to the Board of Education of Marion County. And what they’re going to do is they're going to use this to consolidate some existing facilities and at the same time use it to provide gymnasium space for Fairmont Senior High School.

This is a conveyance of 6.95 acres and the
total consideration is three hundred thousand dollars. This particular deed does contain a reversionary clause in the event it is no longer used for public purposes and attached to it is a plat depicting the property and also a resolution or minutes from both grantor and grantee.

GOVERNOR TOMBLIN: Are there questions of counsel?

DR. PHARES: We’ve been trying to buy that for ten years in Marion County and now I’d like to make the motion.

GOVERNOR TOMBLIN: Do you have a personal interest in that?

DR. PHARES: No, I don’t, but I have six years invested in trying to get that property.

GOVERNOR TOMBLIN: Lots of time.

DR. PHARES: Yeah.

GOVERNOR TOMBLIN: All right. The Superintendent moves. Do we hear a second?

AUDITOR GAINER: I’ll second as a member of the Armory Board. We’re glad to get this done.

GOVERNOR TOMBLIN: It’s been moved and seconded. Discussion? If not, all those in favor will
say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it and I declare the motion adopted. Item number eleven for the State Armory Board. The State Armory Board has been busy. For the City of Morgantown.

MR. MCHUGH: This deed essentially was actually already approved by the Board in 2010, but we couldn’t proceed because of the highway project that Mr. Hudnall talked about earlier. But now that that’s done, we can go ahead and proceed to convey this property to the City of Morgantown. And this is part of a larger exchange that was done in order to build the new armory in Morgantown. So really all that we did was change the description in the deed that was approved earlier.

GOVERNOR TOMBLIN: Are there questions of counsel? Do I hear a motion to approve?

AUDITOR GAINER: So move.

GOVERNOR TOMBLIN: Auditor moves. Do I hear a second?

SECRETARY TENNANT: Second.
GOVERNOR TOMBLIN: The Secretary
seconds. Discussion? All those in favor will say aye.
(Ayes responded.)
GOVERNOR TOMBLIN: Opposed, no.
(No response.)
GOVERNOR TOMBLIN: The ayes have it. I
declare the motion adopted. The next item, number
twelve, between the WVU Board of Governors on behalf of
the University and the County Commission of Monongalia
County.
MR. FURBEE: Thank you, Mr. Governor. On behalf of West Virginia University, I’m
Gary Furbee, the senior associate general counsel, and I
will be addressing both items, twelve and thirteen. In
essence, the County Commission and the University agreed
about eleven years ago to exchange parcels that totaled
less than a quarter of an acre each. The University is
the beneficiary of an extra .02 acres out of
transaction. Both parcels are very close proximity to
one another.

Essentially, the county is transferring to the
University what would have been the front yard of the
Youth Services Center and the University is transferring
to the County what is the back yard. The front yard for
the last ten years has been the main entrance to Ruby
Memorial Hospital and Mountaineer Field and the
transaction is hopefully going to be completed with the
approval of these two deeds.
Neither deed has a reverter given the close
proximity and the equal exchange of acreage. We view
them to be of equal value and, quite honestly, if you
have the benefit of the plat, which I'm not sure if you
do, one of the parcels being exchanged by the County is
.01 acre. It would be a little cumbersome for future
title for attorneys.

GOVERNOR TOMBLIN: Whole new meaning for
the back yard brawl, I guess. Are there questions for
counsel?

AUDITOR GAINER: Initially we didn't
have the approval and action by the Commission and the
Board of Governors. Has that all taken place now?

MR. FURBEE: It has. In both
cases official approval occurred in 2002. The
University is still relying on that Board of Governors
adoption. For the County, just to be sure because they
had a changeover, they put it on their agenda last week
and it was moved and motioned to authorize this
exchange.
AUDITOR GAINER: I'd move approval.
GOVERNOR TOMBLIN: Any further questions? If not, the Auditor moves.
SECRETARY TENNANT: I'll second.
GOVERNOR TOMBLIN: The Secretary of State seconds. Discussion? If not, all those in favor will say aye.

(Ayes responded.)
GOVERNOR TOMBLIN: Opposed no.
(No response.)
GOVERNOR TOMBLIN: The ayes have it. As counsel said, item number thirteen is dealing with the same issue.
MR. FURBEE: Exactly the same.
GOVERNOR TOMBLIN: Are there questions on that one? If not, do I hear a motion to approve?
AUDITOR GAINER: So move.
GOVERNOR TOMBLIN: The Auditor moves.
SECRETARY TENNANT: Second.
GOVERNOR TOMBLIN: Secretary seconds. Discussion? If not, all those in favor will say aye.
(Ayes responded.)
GOVERNOR TOMBLIN: Opposed no.
(No response.)
GOVERNOR TOMBLIN: The ayes have it. I declare the motion adopted. The next item on the agenda is unfinished business relating to recommendations on the procedural rules of this board.

What I would suggest is that over the next several weeks, that our counsel for the Board, our individual attorneys sit down and look at these discussions, because I think there's at least three different proposals out there and maybe others that I have not seen, but to be able to sit down around the table and have a discussion on how we best resolve those few differences we have.

Obviously if there's legislation that needs to be introduced, I'll be happy to do that because I'll be doing some cleanup bills anyhow. I would just suggest that if we get the motion of approval that -- I realize we've got the holidays and the legislature doesn't move very quickly, but as soon after the first of the year as possible that each of our counsel sit down together to try to resolve some of the differences and work out the language we would like to go forward with. Discussion?

SECRETARY TENNANT: Sure. If I may, Governor, I would just like to say that the Secretary of State's office put this forward as a simple procedural
rule. It doesn't necessarily mean legislative authority or any legislation passed with it because --

GOVERNOR TOMBLIN: The only reason I say that, there are some issues of law in there.

SECRETARY TENNANT: Yes, I take that back. You are exactly right, because of the various interpretations among the attorneys. You're right about that.

GOVERNOR TOMBLIN: Clarification.

SECRETARY TENNANT: And we wanted to present this, to have this type of discussion, because I think we've had some very good discussion and open and honest discussion that I think you talked about the spirit of continued collaboration. I appreciate that and that has been exactly what we had intended from the Secretary of State's office.

Quite frankly, we recognized that we had to have, this Board of Public Works had to have some by-laws in place. By Code we have to have procedural rules, and they hadn't been officially in place, so this was the opportunity to put this out, especially with three new board members, that we would be able to have this discussion. So I think your idea of having the lawyers look at it with our input as well. And I would
certainly defer to the Auditor who is the senior member
now on this Board.

AUDITOR GAINER: I just want to thank
the Attorney General at least for taking a stab and
making recommendations and doing a draft and we
appreciate the work you've done.

ATTY. GENERAL MORRISEY: Thank you.

AUDITOR GAINER: That's never an easy
thing when you're dealing with your peers, elected
officials. At least getting to this point where we have
a document that we're able now to sit down and discuss
is moving in the right direction. I want to thank the
Attorney General for at least helping us get to this
point as well.

ATTY. GENERAL MORRISEY: I appreciate it.

GOVERNOR TOMBLIN: Any further
discussion? Okay. Do we hear a motion -- do we need --
SECRETARY TENNANT: I'm not even sure we
need a motion.

AUDITOR GAINER: If it's on the table,
I think we can leave it.

ATTY. GENERAL MORRISEY: To table it till the
next meeting.

GOVERNOR TOMBLIN: All right. The
Attorney General has moved to table the motion until the next meeting.

ATTY. GENERAL MORRISEY: I move to table it.

SECRETARY TENNANT: Second.

GOVERNOR TOMBLIN: Till the next meeting, and seconded by the Secretary of State. All those in favor of the motion will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(No response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the matter adopted. Is there any other item to come before the Board?

AUDITOR GAINER: Do we need to approve the minutes or are we going to wait and do that since it's a continuation of the meeting?

GOVERNOR TOMBLIN: It's my opinion that we do not need to approve the minutes because we were in recess. We've been in recess.

SECRETARY TENNANT: It was recessed last time and we haven't adjourned yet.

AUDITOR GAINER: I move that we adjourn.

GOVERNOR TOMBLIN: The Auditor moves
that we adjourn. Do I hear a second?

SECRETARY TENNANT: I'll second.

GOVERNOR TOMBLIN: All those in favor will say aye.

(Ayes responded.)

GOVERNOR TOMBLIN: Opposed no.

(NO response.)

GOVERNOR TOMBLIN: The ayes have it. I declare the Board adjourned.

(WHEREUPON, the meeting was adjourned at 2:28 PM.)
REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF PUTNAM, To-wit:

I, Penny L. Kerns, Certified Court Reporter, do hereby certify that the foregoing is a correct verbatim record of the proceedings had and testimony taken at the time and place set forth herein.

Given under my hand this 20th day of January, 2014.

Penny L. Kerns, CCR
Notary Public