

**West Virginia Board of Public Works
Tuesday, April 3, 2018 – 10:30 a.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Secretary of State Mac Warner
State Treasurer John D. Perdue
Commissioner of Agriculture Kent Leonhardt
State Superintendent of Schools Dr. Steven L. Paine
Jeff Waybright for State Auditor John B. McCuskey
Kathy Schultz for Attorney General Patrick Morrisey
Mike Hall for Governor Jim Justice

Guests

Jeff Amburgey, Tax Department
Stefan Zakaib, Division of Highways
Charlie Houdyschell, Division of Highways
Cheryl Davis, Division of Highways
John Gray, Attorney General’s Office
Russ Rollyson, Auditor’s Office
Harry Freeman, Town of Chapmanville Business Owner
Phillip Williamson, Town of Chapmanville Business Owner
Steve Connolly, Secretary of State’s Office
Chuck Flannery, Secretary of State’s Office
Judy Cooper, Secretary of State’s Office
Maureen Lewis, Secretary of State’s Office
Phil Kabler, WV Gazette

The West Virginia Board of Public Works met on Tuesday, April 3, 2018 at 10:30 a.m. in the Governor’s Cabinet and Conference Room of the State Capitol Complex. The meeting was called to order and chaired by Mike Hall. A quorum of members was established.

The first item on the agenda was the approval of minutes from the September 29, 2017, November 16, 2017, December 14, 2017 and January 25, 2018 West Virginia Board of Public Works meetings. Treasurer Perdue made a motion to approve the minutes from all four meetings with Secretary Warner seconding. The motion was adopted.

The second item on the agenda was the certification of the levy rate on each class of property pursuant to the provisions of §11-8-8 of the West Virginia Code. Jeff Amburgey addressed the Board. He explained that the referenced portion of code states that the Board shall certify the rates in W. Va. Code §11-8-6a. It is an action item that is a standard procedure. Dr. Paine made a motion to certify the tax levy rates with Treasurer Perdue seconding. The motion was adopted.

The final item on the agenda was discussion of the following deeds listed 1 through 4 seeking approval by the Board of Public Works:

1. Between the West Virginia Department Transportation, Division of Highways and the Lincoln Economic Development Authority, dated January 30, 2018, approved as to form by the Attorney General's office February 21, 2018.
2. 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, dated November 21, 2017, approved as to form by the Attorney General's office March 20, 2018.
3. Between the West Virginia Department of Transportation, Division of Highways, the Town of Chapmanville and Dignity Hospice of Southern West Virginia, Inc., dated January 12, 2018, approved as to form by the Attorney General's office March 29, 2018.
4. Between the West Virginia Department of Transportation, Division of Highways and Deerwalk Volunteer Fire Department, dated March 19, 2018, approved as to form by the Attorney General's office March 29, 2018.

Stefan Zakaib addressed the Board. He requested that deed number 4 be removed from consideration. Since the Deerwalk Volunteer Fire Department is not a government agency, the transfer does not require Board of Public Works approval.

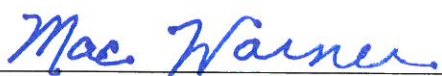
Stefan Zakaib addressed the Board concerning deed number 1. He explained that the property transfer has already taken place, but the deed required some technical corrections due to grammatical errors. Treasurer Perdue made a motion to approve deed number 1 with Dr. Paine seconding. The motion was adopted.

Stefan Zakaib addressed the Board concerning deed number 2. He explained that this is an exchange with the State Armory Board. Treasurer Perdue made a motion to approve deed number 2 with Secretary Warner seconding. The motion was adopted.

Stefan Zakaib addressed the Board concerning deed number 3. He explained that this transfer involves two deeds between the Town of Chapmanville, Dignity Hospice of Southern WV and the Division of Highways. In 2016, they entered in to an agreement of exchange to relocate 2nd Street in the area. There were some discrepancies between the parties that have been worked out. The agreement will re-open 2nd Street in a different location. Treasurer Perdue asked that anyone present with questions concerning the agreement be allowed to speak. Mr. Hall asked if there was someone wishing to speak. Phillip Williamson addressed the Board. He is a longtime owner of a greenhouse business in Chapmanville. He continued that the issue being discussed has kept the street leading to his business closed for two seasons. This resulted in a 40% loss last year. His concern is that the road may stay closed another year and he has not been given a date of when the street will re-open. He stated that he questions why the Town of Chapmanville can't retain ownership of 2nd Street and the Division of Highways maintain their easement of maintenance, as it was before the exchange took place. Treasurer Perdue asked the Division of Highways representatives if they would be able to work this out with Mr. Williamson. Charlie Houdyschell, the attorney for the district, addressed the Board. He explained that the situation that gave rise to this was an inter-governmental development agreement from early 2016. The hospice and the town jointly approached the Division of Highways. The terms included allowing the hospice to develop over 2nd Street in exchange for an old Exxon property in the area referred to as old 2nd Street. The portion of 2nd Street that is actually a public right-of-way varies and is about 16 feet in width. Traffic at that time was cutting through the Exxon parking lot and using it as part of 2nd Street. The Exxon station was private property that was sold to the hospice. They extended their facility and put in a parking lot. The

Hospice was wanting old 2nd Street in exchange for an end of their lot that lines up better with the off ramp. Mr. Houdyschell continued that it is his understanding that the local business owners are in agreement with opening a new 2nd Street. If Highways builds the road, they would like to own a non-controlled right-of-way. Although there are some disagreements and local animosity among the parties involved, the Division of Highways is determined to re-open the road in the new location and fulfil the agreement. Commissioner Leonhardt asked what would be needed to establish a time frame. Mr. Houdyschell stated that it is a priority, but since he is not an engineer on the project, he is unable to provide one. Commissioner Leonhardt asked if there were any additional property transfers needed to assure that this happens. Mr. Houdyschell responded no. Mr. Zakaib stated he would contact the district administrator and get a time frame from him. Mr. Williamson addressed the Board again. He explained that although he has made several requests, he has been unable to get anything in writing from the Division of Highways that says they are going to re-open 2nd Street. He continued that his goal is not to prevent the deeds from being approved, it is to be sure that Chapmanville receives from the Division of Highways, interest in 2nd Street. He would like Highways to maintain its maintenance easement on the new, proposed 2nd Street. He would also like the Board to request that this happen as soon as possible. Secretary Warner asked the representatives from Highways if they disagreed with Mr. Williamson's position. Mr. Houdyschell responded that they would not have an interest in conveying the property back over to the city. He continued that he was not aware that the city would be interested in having the property turned back over. Secretary Warner stated that the city's input appeared to be missing from the proceedings today. He suggested getting a fact sheet from each of the parties in order to work on an agreed to solution. Mr. Houdyschell responded that by signing the deed, the city has agreed to the arrangement. Treasurer Perdue asked if Highways would be willing to enter into a memorandum of understanding with the business owners. Mr. Zakaib responded that they would be willing to stay in contact and notify them of a time frame. Treasurer Perdue stated he would like to see it worked out with the business owners through a memorandum of understanding that the street will be re-opened as soon as possible since this affects their businesses. Mr. Houdyschell responded that there were too many unknown variables with Highway projects that can change priorities. They do not normally enter into agreements with surrounding property owners as to a specific time frame. He continued that the business owners are third parties and not a party to the transaction in this situation. Mr. Hall stated the question before the Board is whether they want to make a motion on the deed. Commissioner Leonhardt made a motion to approve deed number 3. Secretary Warner asked Mr. Williamson if this discussion appearing in the minutes would be enough for further planning with project officials. Mr. Williamson responded that he just wanted his request, that at some point, Chapmanville be considered for ownership of 2nd Street to be on record. Secretary Warner seconded the motion. Mr. Hall asked for discussion. Treasurer Perdue stated he would like Highways to go on record stating that they are willing to work with the land owners in a reasonable time. Mr. Zakaib responded yes, upon approval of the deed, they will do all they can. The motion was adopted.

With no further business, Treasurer Perdue made a motion to adjourn with Commissioner Leonhardt seconding. The motion was adopted. The meeting adjourned.



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