

**West Virginia Board of Public Works
Thursday, July 18, 2019 – 10:00 a.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Jim Justice, Governor
Mac Warner, Secretary of State
John B. McCuskey, State Auditor
Patrick Morrissey, Attorney General
Jennifer Greenlief for Kent Leonhardt, Commissioner of Agriculture
Josh Stowers for John D. Perdue, State Treasurer

Guests

Ward Lefler, Division of Highways
John McHugh, Adjutant General Department
Sam Peal, Adjutant General Department
David Hildreth, Div. of Real Estate
Paul Parlock, Virginia Power Energy Services
Jeff Amburgey, Tax Department
Zak Ritchie, Tax Department
Arie Spitz, Dinsmore & Shohl
Nelson McKown, Dinsmore & Shohl
Russ Rollyson, Auditor’s Office
Mike McKown, Auditor’s Office
John Gray, Attorney General’s Office
Kathy Schultz, Attorney General’s Office
Steven Travis, Attorney General’s Office
Brian Abraham, Governor’s Office
Mike Hall, Governor’s Office
Jordan Damron, Governor’s Office
Rebecca Blaine, Governor’s Office
Donald Kersey, Secretary of State’s Office
Chuck Flannery, 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 Thursday, July 18, 2019 at 10:00 a.m. in the Governor’s Cabinet and Conference Room of the State Capitol Complex. The meeting was called to order and chaired by Governor Justice. A quorum of members was established.

The first item on the agenda was the approval of minutes from the October 1, 2018, December 14, 2018, January 31, 2019 and April 13, 2019 West Virginia Board of Public Works meetings. Secretary Warner made a motion to approve the minutes. Attorney General Morrissey seconded. The motion carried.

The second item on the agenda was the consideration of a utility request for relief from erroneous assessment pursuant to W. Va. Code §11-6-12a from Dominion Energy for Virginia Power Services Energy Corp., Inc. Paul Parlock addressed the Board. He explained that he is asking for exoneration on a Board of Public Works underground gas storage assessment because Virginia Power Services Energy Corp. is not a public utility. It is a gas marketing corporation within the Dominion Energy umbrella. They file locally and pay taxes to five counties on the stored gas. Governor Justice asked what the financial impact was. Mr. Parlock responded that they end up paying more taxes. The Board of Public Works assessment was \$854,000, but they pay a combined \$1,570,000 to the counties. Attorney General Morrissey asked Jeff Amburgey to provide further information. Mr. Amburgey explained that each year the Tax Department gets a list from the large pipeline companies of all the companies that have gas stored underground in storage facilities. The Board is responsible for assessing all utilities that have stored gas. There are many companies on the list. Sometimes they are able to identify the marketing companies by the company name. In this case, they were not able to tell so they sent them a return. Since there was no response, they put the assessment out. In February, the company contacted him to explain that they were not a utility and were already filing locally. The Tax Department agrees that they should be filing locally because they are not a utility. They recommend approving the exoneration. Auditor McCuskey asked if Virginia Power Services Energy Corp. was a subsidiary of Dominion Energy. Mr. Parlock responded that was correct. Auditor McCuskey asked if Dominion Energy was a utility. Mr. Amburgey responded that they contain three utility companies. Mr. Parlock continued that this is in addition to approximately 30 to 40 non-utility companies. Auditor McCuskey asked if it was properly filed as a separate entity from the utility portions of Dominion Energy in order for this to get accurate. Mr. Amburgey responded yes. Attorney General Morrissey summarized the main questions. The first is to determine that this company is not a utility. The second is that this entity will be paying taxes locally. Third is the reason this is before the Board is because you can't tax the same property twice lawfully. Mr. Parlock added that he can verify the filing of returns for this company back to 2003. Auditor McCuskey asked if there was a change in the name or another change that caused this. Mr. Amburgey responded that this was the first year this company showed up on the list they receive. Mr. Parlock confirmed that there had been a name change. Secretary Warner made a motion to grant the request for relief from erroneous assessment for Virginia Power Services Energy Corp., Inc. Attorney General Morrissey seconded. The motion carried.

The third item on the agenda was consideration of the following deeds listed 1 through 4 seeking approval by the Board of Public Works.

1. Between the County Commission of Monongalia County, West Virginia and the West Virginia Department Transportation, Division of Highways, dated January 16, 2019, approved as to form by the Attorney General's office April 4, 2019.
2. Between the State of West Virginia, for the use and benefit of the State Armory Board and the Logan County Board of Education, dated January 7, 2019, approved as to form by the Attorney General's office April 8, 2019.
3. Between the State of West Virginia, for the use and benefit of the State Armory Board and the City of Salem, dated February 2019, approved as to form by the Attorney General's office April 8, 2019.

4. Between the City of Charleston and the State of West Virginia, Department of Administration, dated May 7, 2019, approved as to form by the Attorney General's office May 20, 2019.

Ward Lefler addressed the Board concerning deed number 1. He explained that this property transfer is necessary for improvements on a sidewalk project for the Americans with Disabilities Act. This will allow the Division of Highways to construct the adequate sidewalk.

John McHugh addressed the Board concerning deeds number 2 and 3. Deed number 2 involves a transfer of the Armory in Logan County to the Logan County Board of Education. They are going to use it for administrative offices as well as a bus garage. Deed number 3 involves a transfer of property to the City of Salem. They will use it for a community center. Both deeds have been before the State Armory Board and have been approved. In addition, they both contain reversionary clauses.

David Hildreth addressed the Board concerning deed number 4. He explained that this is a gift conveyance from the City of Charleston to the State of West Virginia. It is for 372 feet from Washington Street up to the railroad right of way on Jefferson Street. This is for the purposes of the General Services Division to expand the central chiller plant. This will result in annual cost savings by shaving off the peak energy costs.

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

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

Attorney General Morrissey made a motion to approve deed number 3. Secretary Warner seconded. The motion carried.

Attorney General Morrissey made a motion to approve deed number 4. Secretary Warner seconded. The motion carried.

The final item on the agenda was pending legal matters regarding litigation with Shenandoah Personal Communications Company, LLC and Kanawha River Railroad, LLC. Attorney General Morrissey made a motion that the Board go in to Executive Session. Secretary Warner seconded. The motion carried. The Board went in to Executive Session.

Governor Justice re-convened the Board from Executive Session. He stated that no votes had been taken. Attorney General Morrissey explained that the Board had been discussing pending litigation matters. He requested a briefing from the Board's outside counsel who has been having discussions with several companies. Arie Spitz addressed the Board. Mr. Spitz explained that he would only be discussing things in general terms so as not to waive the privilege with respect to any of the details that had been discussed in Executive Session. He continued that they had, pursuant to the Board's instruction, engaged in settlement discussion with Shenandoah Communications and Kanawha River Railroad for the purpose of seeking to resolve these cases. After significant negotiation, two proposals were brought to the Board for consideration to effectuate possible settlements. He stated that he felt they were the best deals they could get on behalf of the Board.

Auditor McCuskey made a motion to authorize the Board's legal counsel to move forward with these settlement instructions. Attorney General Morrissey seconded. The motion carried with a unanimous vote.

With no further business, Attorney General Morrissey made a motion to adjourn the meeting. Secretary Warner seconded. The motion carried. The meeting adjourned.



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