

**West Virginia Board of Public Works
Monday, August 28, 2017 – 2:00 p.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Mike Hall for Governor Jim Justice
Mac Warner, Secretary of State
John D. Perdue, State Treasurer
Kent Leonhardt, Commissioner of Agriculture
Dr. Steve L. Paine, State Superintendent of Schools
John B. McCuskey, State Auditor by teleconference line
Jeff Waybright as proxy for Auditor McCuskey
Kathy Schultz, Senior Deputy Attorney General for Patrick Morrissey, Attorney General

Guests

David Hildreth, Department of Administration, Real Estate Division
Misty Moore, Department of Administration, Real Estate Division
Eric Hudnall, Division of Highways
John McHugh, Adjutant General’s Office
Joey Wiseman, Department of Education
Russ Rollyson, Auditor’s Office
Steve Connolly, Secretary of State’s Office
Chuck Flannery, Secretary of State’s Office
Judy Cooper, Secretary of State’s Office

The West Virginia Board of Public Works met on Monday, August 28, 2017 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 Mike Hall. A quorum of members was established.

The first item on the agenda was the approval of the minutes from the April 6, 2017 West Virginia Board of Public Works meeting. Commissioner Leonhardt made a motion to approve the minutes with Secretary Warner seconding. The motion carried.

The second item on the agenda was a presentation by the State Department of Education for consideration and approval of the following Instructional Material Bonds pursuant to WV Code §18-2A-4:

Publisher	Bond Number
Contracts and Bonds for Science Adoption	
1. Bedford, Freeman and Worth Publishing Group	1000892055
2. Cengage Learning	K09253452
3. Discovery Education, Inc.	20BSBHC9461
4. Houghton Mifflin Harcourt	800021352
5. IAT Interactive, LLC – dba – It’s About Time	4732992

6. Pearson Education, Inc. publishing as Prentice Hall	9197425
Contracts and Bonds for Music and Science Adoption	
7. Pearson Education, publishing as Scott Foresman	9197426
Contracts and Bonds for English Language Arts Adoption	
8. Bedford, Freeman and Worth Publishing Group	1000892057
Contracts and Bonds for Visual Arts Adoption	
9. Davis Publication, Inc.	1001039214
Contracts and Bonds for English Language Arts and Health/Wellness Adoption	
10. Goodheart-Wilcox Publisher	71738446
Contracts and Bonds for Music, Science and Visual Arts Adoption	
11. McGraw-Hill Education, L.L.C.	015042263
Contracts and Bonds for Off-Cycle Social Studies Adoption	
12. Bedford, Freeman and Worth Publishing Group	1000892056
13. Cengage Learning, Inc.	K0925349A

Dr. Paine addressed the Board and introduced Joey Wiseman. Mr. Wiseman explained that there is an instructional material adoption process. Companies that are awarded the bids enter into contract and must have bonds available. This is putting the bonds and contracts on public record. Treasurer Perdue asked if all of the bonds had been approved as to form by the Attorney General's office. Mr. Wiseman indicated they had. Treasurer Perdue made a motion to approve the bonds with Secretary Warner seconding. The motion carried.

The third item on the agenda was presentations of the following deeds listed 1 through 6 seeking approval by the Board of Public Works.

1. Between the West Virginia State Police and the Board of Education of the County of Greenbrier, dated May 12, 2017, approved as to form by the Attorney General's Office May 30, 2017.
2. Between Mingo County Redevelopment Authority and the West Virginia State Police, dated April 7, 2017, approved as to form by the Attorney General's Office April 28, 2017.
3. Between The West Virginia Department of Transportation, Division of Highway and the Lincoln Economic Development Authority and the Lincoln County Commission, dated July 25, 2017, approved as to form by the Attorney General's Office August 16, 2017.
4. 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 December 9, 2016, approved as to form by the Attorney General's Office December 29, 2016.

5. Between the Morgantown Utility Board and the West Virginia Department of Transportation, Division of Highways, dated February 13, 2017, approved as to form by the Attorney General's Office August 16, 2017.
6. Between the Board of Education of Marshall County, WV and the West Virginia Department of Transportation, Division of Highways, dated April 11, 2017, approved as to form by the Attorney General's Office May 30, 2017.

David Hildreth addressed the Board concerning deed number 1. He explained that this a conveyance from the WV State Police to the Greenbrier County Board of Education. In 2000, Greenbrier County gave the State Police this property to construct a detachment. The detachment was not built and there are no longer intentions for it to be built. The Greenbrier County Board of Education asked for the return of the property. This is a re-conveyance of the property for zero consideration. The State Police did not pay anything for the property and are returning it for nothing. Commissioner Leonhardt asked if there was any objection from the State Police on the transaction. Mr. Hildreth responded that this is being done at the request of the State Police. Treasurer Perdue made a motion to approve deed number 1 with Commissioner Leonhardt seconding. The motion carried.

Misty Moore addressed the Board concerning deed number 2. She explained that this was a lease purchase made in 2002 for the Mingo County Redevelopment office to build and lease to the State Police for 15 years. Upon completion of that, they would own the property. Treasurer Perdue made a motion to approve deed number 2 with Dr. Paine seconding. The motion carried.

Eric Hudnall addressed the Board concerning deed number 3. He explained that this deed corrects an error in a previous deed that had been approved by the Board of Public Works. The error consisted of the placement of a reversionary clause in the deed that should not have been there. He continued that initially the property had been purchased by the Division of Highways for a Lincoln County headquarters. It was determined that it was not a suitable site after the purchase. This will re-convey the property without the error. Dr. Paine asked for further explanation of the removal of the reversionary clause. Mr. Hudnall responded that the property was originally sold to Highways for one dollar with the intent that if it was not used it would be re-conveyed with no conditions. Treasurer Perdue made a motion to approve deed number 3 with Commissioner Leonhardt seconding. The motion carried.

Eric Hudnall addressed the Board concerning deed number 4. He explained that this deed involves the former entrance to Coonskin Park. This is transferring the road that travels through the Armory to the Armory Board and transferring to Highways enough land so a turn-around could be built. The construction has already been completed. Treasurer Perdue made a motion to approve deed number 4 with Dr. Paine seconding. The motion carried.

Eric Hudnall addressed the Board concerning deed number 5. He explained that this conveyance is for .008 acres of land for a permanent acquisition and a temporary construction easement of .034 acres for 2 bridges located along Scotts Run in Osage, WV for the consideration of \$4,535. Treasurer Perdue made a motion to approve deed number 5 with Secretary Warner seconding. The motion carried.

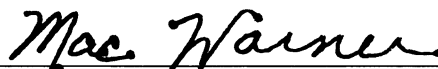
Eric Hudnall addressed the Board concerning deed number 6. He explained that this is for construction of the McDonalds/Upper Plaza project in Moundsville, WV. The land is located in front of John Marshall High School and ties back to the temporary construction easement access in to the school. Total consideration was \$15,500. The purpose is to upgrade the road from 3 lanes to 5 lanes. Treasurer Perdue made a motion to approve deed number 6 with Dr. Paine seconding. The motion carried.

The final item on the agenda was discussion by the Board about potentially seeking changes to W. Va. Code §§5-4-1(b) and 11-6-23(e).

The first discussion was concerning the provision of W. Va. Code §5-4-1(b) which states that members of the Board of Public Works can only vote in person at regular meetings, or by designee. Treasurer Perdue stated that although there have been many technology advances, he had concern that all Board members would be calling in if allowed. Commissioner Leonhardt asked for clarification on the code requiring 4 actual members be present to establish a quorum and voting by designee. The code allows for no more than three designees. Commissioner Leonhardt stated that he agreed with Treasurer Perdue's concern. Mr. Hall asked if correct interpretation of the statute, that states voting must be done in person, means physically present and not be electronic means. Kathy Schultz responded it is her understanding that a Board member can participate in a meeting by electronic means but cannot vote by those means. They must have a designee present at the meeting to cast a vote. She continued that although it is not the Attorney General's agenda item, she thinks the discussion is to see if the Board desires a little more flexibility written in to the statutory framework. This could allow the possibility that if someone were to appear by video conference or by phone that they could also vote in that fashion, which is not currently possible. Mr. Hall asked if the fact that the Auditor was participating by teleconference line, but had a designee present to vote was an example of the issue. Ms. Shultz responded it is up to the Board and ultimately the Legislature to decide if, in the future, it would be acceptable for a constitutional officer to appear by phone and then vote by phone without sending a designee as many other boards do. Mr. Hall asked for further comment. Dr. Paine stated that he agreed with Treasurer Perdue's original concern. He continued that he thinks it's important to have a presence in the meeting room.

The next discussion was concerning the provisions of W. Va. Code §11-6-23(e). Steve Connolly addressed the Board to explain that this involves a certified mailing that the Secretary of State's office does on behalf of the Board of Public Works to public utility businesses that are delinquent in tax payment. The issue is that in many cases the amount owed is less than the cost of sending the piece of mail. He stated that the question is whether the Board would like a statutory change to make the requirement of sending the mail more cost effective, based on the amount owed. Kathy Shultz added that the tax payers would still get a notice, it would just not be sent by certified mail. For example, one business owed 19 cents. Mr. Connolly continued that the companies would still get noticed and the Secretary of State's office would still verify the notice was sent. Mike Hall asked if that required a code change. Mr. Connolly responded that the code does not currently give any other options. Treasurer Perdue asked Ms. Shultz if it was true that verification by certified mail will hold up in court, while verification of regular mail may not. Ms. Shultz responded that the way she understands it, there are 2 separate notices that the Secretary of State provides. The first one goes out after the Board finalizes the tax assessments. The Secretary of State provides certified or registered mail for the substantial tax payers to the state. Upon litigation, she can provide proof of when that tax payer received notice. The discussion today does not involve that mailing. This is the notice to the tax payers on the delinquency list. She continued that proof of when large public utility companies received notice of the final assessments was more important for court purposes than this subsequent mailing after. Mr. Connolly stated he would work on some draft language to present to the Board for a vote.

With no further business, Treasurer Perdue made a motion to adjourn the meeting. The motion carried. The meeting adjourned.



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