WEST VIRGINIA CODE: §8-17-8

§8-17-8. Procedure when total cost to be apportioned among all abutters.

If the petitioner has stated in the petition that he desires the total cost to be apportioned among all of the abutters, the governing body shall, as soon as the petition is granted, cause notice to be given to all abutters that the petition has been granted; that the engineer's memorandum, certifying reasonable necessity, the plans and specifications and the cost estimates, will be reconsidered, before work is started, at a public meeting of the governing body on the date and at the time and place named in the notice; and that all abutters will be given an opportunity to protest or be heard concerning any or all particulars of the engineer's memorandum at that meeting or an adjournment thereof. Such notice to abutters may be by service on such abutters in the manner in which process commencing a civil action under the law of this state is permitted to be served, at least ten days before said meeting. In lieu of such service of such notice, the following described notice, or one in substantially the same form, may be given, and shall be deemed to have been served on all such abutters, by publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality:

"NOTICE TO ALL PERSONS OR CORPORATIONS OWNING PROPERTY ABUTTING ON ..... (here describe the portion of the street, alley, public way or easement, sewer right-of-way or easement, to be improved) IN THE ..... (city, town or village) OF ..... (name of municipality);

A petition has been granted by the ..... (council, board of directors, commissioners or other governing body) of the ..... (city, town or village) of ..... (name of municipality) to improve the portion of the ..... (street, alley, public way or easement, or sewer right-of-way or easement) above described in ..... (name of municipality) by ..... (grading, regrading, paving, repaving, surfacing, resurfacing, curbing, recurbing or repairing, or the building, renewing or repairing of sidewalks, or the constructing of sanitary or storm sewers, or both, or other general description of the proposed improvement), as specifically described in the engineer's memorandum certifying the reasonable necessity of the proposed improvement, the plans and specifications thereof, and the estimate of the items of cost thereof, and to apportion the cost of such improvement among the owners, as of ..... (the date of the first publication of this notice), of the abutting property.

The engineer's memorandum above described and the granting of the petition will be reconsidered by the ..... (council, board of directors, commissioners or other governing body) at a public meeting to be held on the ..... day of ....., 19....., at ..... M. at ..... Any abutting owner or interested party will be given an opportunity to protest or be

heard at said meeting or an adjournment thereof.

..... (name of recorder)

..... (official position)."

An affidavit of publication of the notice, made by the newspaper publisher, or some person authorized to do so on behalf of such publisher, and a copy of the notice shall be made a part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of said notice upon all persons owning any interest in any property abutting upon any portion of said street, alley, public way or easement, or sewer right-of-way or easement, to be improved shall conclusively be deemed to have been given when such newspaper publication shall have been completed.

Any part or parts of the engineer's memorandum may be modified or remodified at the protest meeting in accordance with the evidence introduced at such meeting, including the extent of the portions of the streets, alleys, public ways or easements, or sewer rights-of-way or easements, proposed to be improved as designated in the engineer's memorandum. If, after modification or remodification at such protest meeting, the memorandum indicates that the improvement is not reasonably necessary or that its estimated total cost is more than $1,000, or both, then the petition shall be automatically revoked; and the petitioner shall be charged with all municipal expense in connection therewith except the salaries and wages of regular municipal employees, which charge shall be made by ordinance or resolution of the governing body and a statement of said charge shall be mailed to the petitioner at the proper address, determined as aforesaid.

If the engineer's memorandum has not been so modified or remodified at the protest meeting as to render the petition automatically revoked as provided above, the governing body shall order, by ordinance or resolution, the proper municipal authorities to proceed with the accomplishment of the improvement according to the plans and specifications in the engineer's memorandum, as modified or remodified at the protest meeting in the event that they were modified or remodified.

WV Legislature