

# **WEST VIRGINIA MUNICIPAL HOME RULE BOARD**

## **MEETING MINUTES**

**MONDAY, AUGUST 4, 2014**

A meeting of the West Virginia Municipal Home Rule Board was held at 8:00 a.m. on Monday, August 4, 2014, at the West Virginia Economic Development Authority offices in Charleston, West Virginia.

The following members were present:

Chris Fletcher, Member  
Joshua Jarrell (designee for Development Office Executive Director Keith Burdette)  
Brian Jones, Member  
Jim Morgan, Member  
Floyd (Kin) McKinley Sayre III, Member  
Patsy Trecoast II (designee for the Honorable Earl Ray Tomblin)

The following member was absent:

Herb Snyder, Member

Others present:

Arnott, Steve, City of Dunbar  
Barles, Jesse, City of Dunbar  
Burgy, Gerald, City of South Charleston  
Byrnside, Ron, City of Dunbar  
Canterbury, Tom, City of Milton  
Casebolt, Dave, City of Nitro  
DeBarr, Steve, City of South Charleston  
Dooley, Lisa, West Virginia Municipal League  
Economou, Susan, City of Charleston  
Ellis, Butch, City of Dunbar  
Fulknier, Connie, City of Dunbar  
Greenlee, Terry, City of Dunbar  
Gurderson, Kalea, WSAZ-TV  
Helmick, Brian, Spilman, Thomas and Battle  
Houser, Shannon, WSAZ-TV  
Leirhman, Hugh, City of Dunbar  
McClure, Scott, City of Milton  
Montgomery, John, City of Nitro  
Moore, Michael, City of South Charleston  
Mullens, Frank, City of South Charleston  
Pettitt, Hannah, City of South Charleston  
Price, Debora, West Virginia Municipal League

Price, Natalie, WSAZ-TV  
Richardson, Jessie, West Virginia University  
Rogers, Jay, City of Fairmont  
Smith, Phyllis, City of Milton  
Timony, Erin, State Journal  
Welch, Berneda, City of Dunbar  
Young, John, City of Nitro  
Zerkle, Chuck, City of Milton

The meeting was called to order by Chair Trecoast. It was reported that notice of the meeting was lawfully given, a quorum was present, and the meeting was convened.

A motion was made by Kin Sayre to approve the minutes of the Monday, July 7, 2014, meeting. The motion was seconded and unanimously approved.

#### Chair's Report

Chair Trecoast welcomed guests and expressed his gratitude to the West Virginia Economic Development Authority for allowing the Municipal Home Rule Board the use of their facility.

#### Old Business

The Board accepted the legal opinion from the City of Shinnston certifying that the actions of the City of Shinnston did not violate code or charter of the City of Shinnston as regards holding their public hearing to apply to Phase II of the Home Rule Pilot Program on a federal holiday. In addition, the members received supplemental application information from the City of Bluefield concerning their Proposal #1: B&O Tax Reduction and Retail Sales Tax Implementation.

After discussion, the Board rejected the legal opinion furnished by Steptoe and Johnson dated July 29, 2014, certifying that the application submitted by the City of St. Albans did not violate any provisions of the State Code, specifically Section 8-1-5a(g) at the time of the submission of their plan. The Board felt that the City of St. Albans did not fulfil their obligation and requirements, as outlined in the West Virginia State Code. Based upon the documents received by the City of St. Albans on or before June 2, 2014, and the failure of the City to provide the opinion requested by the Home Rule Board on July 11, 2014, Kin Sayre moved that the St. Albans application is deficient and should not be considered for the Home Rule Program. Additionally, the City of St. Albans did not hold a public hearing on the written plan on or before June 2, 2014, nor was an ordinance adopted authorizing the municipality to submit the written plan to the Municipal Home Rule Board. The motion was seconded by Chris Fletcher and unanimously carried. Chair Trecoast agreed to convey the Board's unanimous decision to the St. Albans mayor as soon as possible.

#### New Business

The application from the City of Dunbar was presented by the Honorable Terry Greenlee and his team of city officials, as well as Jessie Richards of the West Virginia University College of Law. A frank and cordial exchange of views was heard by the Board concerning the application. No comments were received from representatives of state

government, trade associations, or businesses. However, a member of the Dunbar City Council, Steve Arnott, expressed his wholehearted support for Dunbar's home rule application.

Pertaining to this application, the Board encouraged the City of Dunbar to reevaluate, at their convenience, the estimated revenue projections on the sales tax taking into consideration exemptions, such as food, pharmaceutical sales, car dealerships, fuel sales, etc.

City Counsel Scott McClure, the Honorable Tom Canterbury and other city officials presented the application from the City of Milton. No comments were received from representatives of state government, trade associations, businesses, or citizenry.

The Board respectfully discussed the use, when feasible, of either an urban renewal or development authority, as economic property decisions are being made by the municipality, but agreed that is it not always the simplest tool.

The Honorable Jim Morgan of the West Virginia House of Delegates and ex-officio member of the West Virginia Home Rule Board dropped by briefly to thank the members for their time and expertise. He is most hopeful that a few of the common initiatives/issues put forth by the cities may be addressed by the West Virginia Legislature in the future.

The application for the City of Nitro was delivered by City Council Member John Montgomery, the Honorable David Casebolt, and other city officials. No comments were received from representatives of state government, trade associations, businesses, or citizenry.

With respect to this application, Home Rule Board members respectfully suggested the City: 1) Review the Mabscott vs. a fire department case in relation to the expenditure of the 6.5 percent allocation to pension funds from the insurance surcharge on insurance premiums; 2) Consider establishing a "Parks and Recreation Board" (a separate entity); 3) Furnish figures as regards unfunded liabilities, partially due to the 7 percent annual increase, for the Firemen's and Policemen's pension plans; 4) Utilize the Metropolitan Planning Organization (MPO) to commission required Department of Transportation highway studies as needed; and, 5) Use good "design" to slow traffic for safety purposes, such as cross walks with speed tables, etc.

City Attorney Michael Moore, the Honorable Frank A. Mullens Jr. and other city officials discussed the application from the City of South Charleston. No comments were received from representatives of state government, trade associations, businesses, or citizenry.

Home Rule Board Member Kin Sayre reiterated that conservative estimates as regards the proposed sales tax are necessary to avoid financial pitfalls. The meeting participants discussed: 1) The merits of utilizing a development authority, urban renewal authority, or ordinance for the sale of municipal properties; 2) The State Fire Marshal's position concerning on-spot citations; 3) Adoption of the property maintenance code and certification of inspectors; and, 4) Strong ordinances versus temporary variances.

Marketing Director Jacob Fetty presented the application from the City of Spencer. No comments were received from representatives of state government, trade associations, businesses, or citizenry.

The Board requested that Mr. Fetty furnish the total retail and service sales B&O tax reported to the City of Spencer, as well as classification determinations for the 15 percent coming from retail sales.

#### Adjournment

Members were reminded that the next regularly scheduled meeting would be held August 11 at 8:00 a.m. in Wheeling with each city presenting for 30 minutes. With no further business, a motion was made to adjourn the meeting. The motion was seconded and the meeting was adjourned at 2:00 p.m.