

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

MONDAY, NOVEMBER 16, 2015

A meeting of the West Virginia Municipal Home Rule Board was held at 10:00 a.m. on Monday, November 16, 2015, at the Capitol Complex in Charleston, West Virginia.

The following members were present:

Joshua Jarrell (designee for WV Development Office Executive Director Keith Burdette)
Brian Jones, Member
Robert Kiss (designee for the Honorable Earl Ray Tomblin)
Floyd (Kin) McKinley Sayre III, Member

The following member participated by conference call:

Chris Fletcher, Member

The following ex-officio members were present:

Craig Blair, West Virginia Senate
Gary Howell, West Virginia House of Delegates

Others present:

Rick Atkinson, City of South Charleston
Van T. Broughton, City of Elkins
Dave Clark, Woodlands Development Group
Steve Connolly, West Virginia Fire Marshal Office
Lisa Dooley, West Virginia Municipal League
Kim Haws, City of Bridgeport
Carrie Hodousek, Metro News
Beth McCoy, West Virginia Municipal League
Michael Moore, City of South Charleston
Hoy Murphy, West Virginia Department of Commerce
Chad N. Proudfoot, West Virginia University Extension Service
Don Smith, West Virginia Press Association
Jimmy Smith, City of Bridgeport
Samantha Smith, West Virginia Press Association
Sutton Stokes, City of Elkins
Kenneth E. Tyree Jr., West Virginia Fire Marshal Office
Gregory Vaughn, City of Harpers Ferry

The meeting was called to order by Chair Kiss. 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 September 14, 2015, meeting. The motion was seconded by Brian Jones and unanimously approved.

Chair's Report

Chair Kiss welcomed guests, but did not have an official report.

Old Business

No old business was discussed.

New Business

- Kim Haws with the City of **Bridgeport** explained their **plan amendment** to impose up to a one percent sales and use tax with a reduction in the manufacturing Business and Occupation Tax to help fund the construction and ongoing operational and maintenance costs of an indoor recreation facility to be located near the current Bridgeport Recreation Complex. The funds may also be used for Parks and Recreation, civic and cultural facilities. The funds would be placed in a general revenue account, but earmarked as a "special account."

The Board confirmed that the City of Bridgeport: 1) provided notice at least 30 days prior to their public hearing related to their plan amendment by a Class II legal advertisement; 2) made the proposed amendment available for public inspection at least 30 days prior to their public hearing; 3) held their public hearing; 4) adopted an ordinance authorizing the submission of the proposed amendment to the Board; 5) provided comments offered during their public hearing to the Board; and, 6) furnished to the Board a letter from an attorney licensed to practice law in West Virginia certifying that the proposed amendment complies with W. Va. Code §8-1-5a.

There were no public comments received from the audience and/or participating state agencies.

Following a brief discussion regarding: 1) the potential use of bond monies to pay long term debt; 2) the issuance of bonds via a bond counsel for the city's building commission; and, 3) affirmation of the requirements outlined in W. Va. Code § 8-1-5a, Kin Sayre made a motion to approve the plan amendment under the Municipal

Home Rule Program. The motion was seconded by Chris Fletcher and unanimously carried.

- **South Charleston's** City Attorney Michael Moore and Rick Atkinson responded to questions concerning their proposed **plan amendment** to impose a one percent municipal consumer sales/use tax reducing the Business and Occupation Tax on utilities (water, natural gas, electric, and power companies), as well as places of amusement. The City respectfully requests to table their initial request approved by the Home Rule Board on October 6, 2014, to impose a .50 percent sales tax. The City plans to use the increased revenue for the underfunded police/fire pensions, infrastructure improvements, and statutory requirements.

The Board confirmed that the City of South Charleston: 1) provided notice at least 30 days prior to their public hearing related to their plan amendment by a Class II legal advertisement; 2) made the proposed amendment available for public inspection at least 30 days prior to their public hearing; 3) held their public hearing; 4) adopted an ordinance authorizing the submission of the proposed amendment to the Board; 5) provided comments offered during their public hearing to the Board; and, 6) furnished to the Board a letter from an attorney licensed to practice law in West Virginia certifying that the proposed amendment complies with W. Va. Code §8-1-5a.

There were no public comments received from the audience and/or representatives of state government.

Following a brief discussion and affirmation of the requirements outlined in W. Va. Code § 8-1-5a, Kin Sayre made a motion to approve the plan amendment under the Municipal Home Rule Program. The motion was seconded by Brian Jones and unanimously carried.

- The **application** from the City of **Elkins** was presented by City Clerk Sutton Stokes.

Board Member Kin Sayre referenced past litigation and voiced concern regarding the City's "right of first refusal" to purchase any delinquent-tax property inside the city limits for taxes owed before the property is listed for Sheriff's auction.

Next, Chris Fletcher questioned if the Home Rule Board could authorize the City's request to allow the elimination of distance requirements between bars/restaurants and churches.

It was noted by Kin Sayre that the municipalities participating in the Home Rule Pilot Program have the authority to pass an ordinance, act, resolution, rule or regulation that is not contrary to certain environmental laws, laws governing bidding on government construction and other contracts, the Freedom of Information Act, etc.

Chair Kiss further queried the membership about the authority and intent of the Home Rule Program/Board. Does the Board have the authority to reject a City's proposed initiative if the Home Rule Program's legislative statute does not specifically delineate it as a contrary category?

In addition, Don Smith of the West Virginia Press Association appealed to the Board and City of Elkins to "public notice" the sale of real or personal property ensuring the citizenry of Elkins were kept apprised of such transactions.

Steve Connolly of the West Virginia Fire Marshal's Office implored the Board to recognize the value of the International Property Maintenance Code (IPMC), trained/certified personnel, and adequate due process for property owners.

In response, Mr. Stokes indicated that the City would gladly "public notice" the sale of real or personal property. Further, he assured the Board that the City has properly IPMC and building code trained/certified personnel, and merely requests authority to issue on spot citations.

Lastly, Senator Blair strongly suggested that the Home Rule Board offer proposed legislative changes as warranted and deemed necessary. This item will be included on the Board's meeting agenda for January.

Following a brief discussion and affirmation of the requirements outlined in W. Va. Code § 8-1-5a, Kin Sayre made a motion to approve the plan under the Municipal Home Rule Program excluding the "Right to Purchase Tax-Delinquent Properties." The motion was seconded by Chris Fletcher and unanimously carried.

- Mayor Gregory Vaughn outlined the **application** from the City of **Harpers Ferry**.

A lengthy discussion was held regarding the enforcement of building codes, IPMC trained/certified personnel, the enforcement of Harper Ferry's nuisance ordinance, the Jefferson County Historic Society, the West Virginia Historic Preservation Office, etc.

Mayor Vaughn acknowledged that adopting the IPMC is on his list of objectives for the near future. In addition, Chad Proudfoot mentioned that the initiative delineates that “trained” law enforcement officers would be issuing code citations. In the meantime, he was encouraged by the Board to work closely with the West Virginia Fire Marshal’s Office.

Don Smith of the West Virginia Press Association reiterated the importance of “public notice” for the sale of real or personal property ensuring the citizenry of Harpers Ferry are kept apprised of such transactions. Furthermore, Mr. Smith and the Board membership acknowledged that Harpers Ferry was not asking for such a waiver in this instance.

No other comments were received from representatives of state government, trade associations, or the public.

Following affirmation of the requirements outlined in W. Va. Code § 8-1-5a, Kin Sayre made a motion to approve the plan under the Municipal Home Rule Program. The motion was seconded by Joshua Jarrell and unanimously carried.

Adjournment

Members were reminded of the next regularly scheduled meeting on January 11, 2016, in Charleston. With no further business, a motion was made to adjourn the meeting. The motion was seconded and the meeting was adjourned at 12:30 p.m.