

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

MONDAY, APRIL 4, 2016

A meeting of the West Virginia Municipal Home Rule Board was held at 10:00 a.m. on Monday, April 4, 2016, at the Capitol Complex in Charleston, West Virginia.

The following members were present:

Brian Jones, Member
Robert Kiss (designee for the Honorable Earl Ray Tomblin)
Floyd (Kin) McKinley Sayre III, Member

The following members were absent:

Chris Fletcher, Member
Joshua Jarrell (designee for WV Development Office Executive Director Keith Burdette)

The following ex-officio members participated by teleconference:

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

Others present:

James Bailey, West Virginia Legislature
Steve Connolly, West Virginia Fire Marshal Office
David E. Cramer, West Virginia Department of Transportation
Catie Wilkes Delligatti, Bowles Rice McDavid Graff and Love
Kathy Emery, West Virginia Division of Environmental Protection
Jim Ford, City of Shepherdstown
Sammie Gee, Jackson Kelly, PLLC
Brian Helmick, Spilman Thomas and Battle
Martin Howe, City of Clarksburg
Arlie Hubbard, West Virginia Legislature
Fred Hypes, Dunn Engineers
Brenda Lilly, City of Auburn
Linda McNeil, City of New Cumberland
John Manchester, City of Lewisburg
Gregory A. Morgan, City of Clarksburg
Hoy Murphy, West Virginia Department of Commerce
Luke Peters, MOVRC, City of Auburn
Fred Rader, MOVRC
Susan Riggs, Spilman Thomas and Battle
Paul Robinson, Charleston

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Randy L. Spellman, City of Bridgeport
Kenneth E. Tyree Jr., West Virginia Fire Marshal Office

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 January 11, 2016, meeting. The motion was seconded by Brian Jones and unanimously approved.

Chair's Report

Chair Kiss welcomed guests. In addition, he advised the membership that no legislative action concerning the Home Rule Program was taken during the recent session.

Old Business

No old business was discussed.

New Business

- Randy Spellman with the City of **Bridgeport** again explained their **plan amendment** permitting local certification and supervision of code enforcement officials and inspectors, and exempting the city from the code official/inspector licensing authority delegated to the State Fire Commission under existing statutory law. It was noted that City personnel are tested and certified by the International Code Council (ICC), which also provides continuing education for individuals it certifies. The City would continue to adopt and follow the State Building Code as defined by the State Fire Commission.

Randy Spellman and Ken Tyree of the West Virginia Fire Marshal's Office affirmed that several meetings were held in the past few months with all involved parties, including the Fire Commission. The five areas of concern were quickly resolved and presented for legislative action; however, no action to the rules for Title 87 Series 7 was taken by the West Virginia Legislature during their 60-day regular session. Senator Blair and James Bailey reported that it was merely an oversight and that, if at all possible, they would make sure the rule changes were made during the upcoming interim or recommend it be put on "the call" by the Governor.

Hence, a motion was made by Kin Sayre to approve the amendment for the City of Bridgeport. After a brief discussion among the membership, the motion was seconded by Brian Jones. There were no negative public comments received from the audience nor further observations from representatives of state government. The motion passed.

- **Clarksburg's** City Attorney Greg Morgan responded to questions concerning their proposed **plan amendment**, which is similar to Bridgeport's amendment permitting local certification and supervision of code enforcement officials and inspectors.

Kin Sayre made a motion to approve Clarksburg's amendment to their current home rule plan. The motion was seconded by Brian Jones. Then, it was mentioned that a complaint had been filed against the city in circuit court, and the case was now in "discovery." Further, the motion and the second to approve Clarksburg's amendment was withdrawn after Chair Kiss stated that he would have to recuse himself from the vote; he also serves as chair on behalf of the Governor on the West Virginia Housing Development Fund. He was concerned his vote on the matter could be a factor in future litigation of another issue. In conclusion, action on this matter was tabled till the next meeting of the Home Rule Board slated on Monday, July 11.

- The proposed **home rule plan** for the City of **Lewisburg** was outlined by John Manchester.

The Board confirmed that the City of Lewisburg: 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.

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

A motion was made to approve the plan under the Municipal Home Rule Program. The motion was seconded and carried.

- **New Cumberland's** Mayor Linda McNeil responded to questions concerning their proposed **home rule plan** to impose a municipal sales, services, and use tax at a rate not to exceed one percent and a .10 percent reduction of its B&O tax sales on retail.

The Board confirmed that the City of New Cumberland: 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.

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

Kin Sayre made a motion to accept the City of New Cumberland in the Municipal Home Rule Program. The motion was seconded by Brian Jones and carried.

- The **application** for the City of **Shepherdstown** was presented by Catie Wilkes Delligatti and City Council Member Jim Ford.

The Board confirmed that the City of Shepherdstown: 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.

The members learned that Jefferson County had not yet decided whether to hold a referendum in regards to the "Sunday brunch bill." Additionally, David Cramer from the West Virginia Division of Highways expressed concern regarding the city's proposed initiative to reduce speed limits and placement of other restrictions on state roadways within municipal boundaries. Mr. Cramer indicated the city could be in conflict with federal guidelines, which may possibly result in a loss of federal funds.

Kin Sayre made a motion to accept the City of Shepherdstown in the Municipal Home Rule Program. The motion was seconded by Brian Jones.

It was further noted by Mr. Connolly of the Fire Marshal's Office that the city had not yet filed their Property Maintenance Code with the West Virginia Fire Commission. No other comments were received from representatives of state government, trade associations, or the public.

Then, Mr. Sayre amended his motion to accept the City of Shepherdstown in the Municipal Home Rule Program, and that his motion also include that the city must file the appropriate Property Maintenance Code with the Fire Commission. The motion was seconded and carried.

- Weston city officials were not present to advance their application to the Home Rule Board. Hence, the application will be reviewed at the next meeting in July.
- Attorney Brian Helmick summarized the **application** being submitted by the City of **Auburn**.

Following a brief discussion about the city and its application, the Board confirmed that the City of Auburn: 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.

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

Kin Sayre made a motion to accept the City of Auburn in the Municipal Home Rule Program. The motion was seconded by Brian Jones and carried.

Adjournment

Members were reminded of the next regularly scheduled meeting on July 11, 2016, in Morgantown. With no further business, a motion was made to adjourn the meeting. The motion was seconded and the meeting was adjourned at 11:45 a.m.