

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

MONDAY, OCTOBER 3, 2016

A meeting of the West Virginia Municipal Home Rule Board was held at 10:00 a.m. on Monday, October 3, 2016, at the Morgantown City Hall in Morgantown, West Virginia.

The following members were present:

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

The following ex-officio members were absent:

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

Others present:

Anoop Bhasin, West Virginia Alcohol Beverage Control Administration
Andy Blake, City of Ranson
Chris Bontoft, City of Charles Town
Dick Callaway, City of St. Albans
Dave Casebolt, City of Nitro
Joshua Cline, City of Bluefield
William File, City of Beckley
Bill Hannabass, City of Oak Hill
Kim Haws, City of Bridgeport
Robert Herron, City of Wheeling
Barbara Hughes, City of St. Albans
John Montgomery, City of Nitro
Hoy Murphy, West Virginia Department of Commerce
Gary Robinson, West Virginia Alcohol Beverage Control Administration

The meeting was called to order by Chair Stadelman. 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 July 11, 2016, meeting. The motion was seconded by Chris Fletcher and was unanimously approved.

Chair's Report

Chair Stadelman welcomed guests. The proposed 2017 home rule board quarterly meeting schedule was approved by the membership; it will be posted to the home rule website. Kin Sayre made a motion to approve the January 9, 2017, meeting date in Charleston, as well as the dates for the other three quarterly meetings. The motion was seconded by Brian Jones and passed unanimously.

In addition, Chair Stadelman reminded participating home rule pilot cities that their annual progress report is due by Thursday, December 1. Further, he noted that a template will be shared electronically and also posted on the home rule website.

Old Business

A letter dated July 12, 2016, from Bluefield's Mayor Thomas Cole was formally received by the Board. Meeting participant, Joshua Cline with the City of Bluefield, confirmed the deletion of the third bullet (Grant proper policing authorities to, among other actions, investigate underage drinking in private clubs, enforce set last call, and closing times of such clubs.) from their July 11, 2016, approved plan amendment.

A motion was made by Kin Sayre to accept the removal of Item No. 3 from Bluefield's plan amendment approved by the Home Rule Board on July 11, 2016. The motion was seconded by Chris Fletcher and was unanimously approved.

New Business

A motion was made by Chris Fletcher to collectively consider the "Sunday Brunch" home rule plan amendments submitted by Beckley, Bridgeport, Charles Town, Morgantown, Nitro, Oak Hill, and Wheeling. The motion was seconded by Kin Sayre and was unanimously approved.

The Board learned that Harrison, Monongalia, Ohio, and Jefferson Counties will include "Sunday Brunch" on the November ballot, but Kanawha and Raleigh Counties will not.

Representatives from the West Virginia Alcoholic Beverage Control Administration (ABCA) and the Board membership briefly discussed the potential for litigation as regards the outcomes for the "Sunday Brunch" referendum.

Board Member Chris Fletcher reiterated his position for the record that he is not in agreement that the "Sunday Brunch" initiative is appropriate for the home rule approach. He again voiced his opinion that the issuance of a liquor license by the State and the State's regulation of hours of operation or time of sale under a liquor license does not prevent a municipality from carrying out its municipal duties and responsibilities in the most cost-efficient, effective or timely manner because the municipality is not engaged in the issuance of the license or regulating the hours of operation or the time of sale. If the municipality was unauthorized to issue a liquor license, but restricted by the State concerning hours of operation or time of sale, then changes to the hours of operation or time of sale would arguably be a home rule initiative. Nevertheless, he is not in opposition of the "Sunday Brunch" proposal(s), and will vote accordingly.

It was noted that no supporting hard data is currently available measuring the successfulness of the "Sunday Brunch" plan amendments. Anoop Bhasin of the ABCA disclosed that there has been some confusion with businesses in border areas. However, upon contact/further clarification, those entities outside the city limits complied and cancelled related activities.

The Board confirmed that the aforementioned cities: 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 plan 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 plan 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 plan amendment complies with W. Va. Code §8-1-5a.

With no further questions or comments from the Board, applicable state agencies, or citizenry, upon being put to the vote, the Board unanimously approved the "Sunday Brunch" **plan amendments** for the cities of **Beckley**, **Bridgeport**, **Charles Town**, **Morgantown**, **Nitro**, **Oak Hill**, and **Wheeling**.

- Andy Blake with the City of **Ranson** explained their **plan amendment** permitting the: 1) On-premises sale of wine, beer, and liquor on Sunday at 7:00 a.m. for earlier NFL game times taking place in Europe; 2) Off-premises sale of wine and beer on Sunday at 7:00 a.m.; 3) Regulation of feral cats; and, 4) Modification of the certification process of building inspectors.

It was affirmed 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.

Subsequently, there was a lengthy discussion concerning the role and restrictions of the Home Rule Board, as well as the merits of supporting the ABCA regulations and the intent/guidance of the West Virginia Legislature as regards the "Sunday Brunch" referendum.

The Board confirmed that the City of Ranson: 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 plan 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 plan 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 plan amendment complies with W. Va. Code §8-1-5a.

With no further questions or comments from the Board, applicable state agencies, or citizenry, Kin Sayre made a motion to approve Item No. 1 permitting the on-premise sale of wine, beer, and liquor on Sunday at 7:00 a.m. The motion was seconded by Joshua Jarrell. Members Chris Fletcher, Brian Jones, and Chris Stadelman voted nay. The motion failed with a two to three vote.

Kin Sayre moved to amend the motion to approve the on-premise sale of wine, beer, and liquor on Sunday at 10:00 a.m. The motion was seconded by Chris Fletcher and it passed unanimously.

A motion was made by Kin Sayre to approve the off-premise sale of wine and beer at 7:00 a.m. The motion was seconded by Joshua Jarrell. Members Chris Fletcher, Brian Jones, and Chris Stadelman voted nay. The motion failed with a two to three vote.

Kin Sayre moved to amend the motion to approve the off-premise sale of wine and beer at 10:00 a.m. The motion was seconded by Joshua Jarrell. Members Chris Fletcher, Brian Jones, and Chris Stadelman voted nay. The motion failed with a two to three vote.

A motion was made by Kin Sayre to approve the initiative concerning feral cats. The motion was seconded by Chris Fletcher and it passed unanimously.

Kin Sayre moved to approve the modified certification of building inspectors as presented by the City of Ranson. No members opposed. The motion was seconded by Brian Jones and carried.

- Mayor Dick Callaway of **St. Albans** explained their plan amendment to enact a one percent municipal sales tax and reducing or eliminating a portion of the municipal B&O tax for the business of operating amusements in the city.

After affirmation that St. Albans utilized the model tax ordinance furnished by the West Virginia State Tax Department, Kin Sayre made a motion to approve the proposed plan amendment contingent upon receipt of a copy of the ordinance passed prior to the Board's October 3, 2016, meeting authorizing the submission of the proposed amendment. The motion was seconded by Chris Fletcher and was unanimously carried. It was further noted that the Board would call a special meeting via teleconference to review the subject amendment, if it was determined the ordinance authorizing submission of the proposed amendment was not passed prior to the Board's October 3, 2016 meeting.

Adjournment

Members were reminded of the next regularly scheduled meeting on January 9, 2017, in Charleston. With no further business, a motion was made to adjourn the meeting. The motion was seconded and the meeting was adjourned at 11:15 a.m.