

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

THURSDAY, OCTOBER 19, 2017

A meeting of the West Virginia Municipal Home Rule Board was held at 10:30 a.m. on Thursday, October 19, 2017, at the Elkins City Hall, Council Chambers, Elkins, West Virginia.

The following members were present:

Chris Fletcher, Member  
Brian Jones, Member  
Dave Hardy (designee for the Honorable Jim Justice)

The following members participated by conference call:

Wesley White (designee of the Executive Director of the West Virginia  
Development Office)  
Honorable Ed Gaunch, West Virginia State Senate

The following members were absent:

Honorable Gary Howell, West Virginia House of Delegates  
Mark Polen, Member

Others who participated by conference call:

Don Smith, WV Press Association  
Lalena Price, Communications Director – WV Department of Revenue

Others present:

Ryan Simonton, Attorney for City of Morgantown  
Paul Brake, City Manager, City of Morgantown  
Ken Tennant, Fire Marshal, City of Morgantown  
Mark Caravazos, Fire Chief, City of Morgantown  
Ken Tyree, WV State Fire Marshal, Office of the State Fire Marshal  
Marilynn Cuonz, Elkins City Council – 4<sup>th</sup> Ward  
Linda Vest, City Council – Elkins City Council – 5<sup>th</sup> Ward  
Tim MacVean, The Inter-Mountain  
Leah Kniceley, WBOY 12 News

Jenny Belt, Resident  
Luncinda Barrick, Executive Secretary, City of Elkins  
Taylor Bennett, WV Community Development Hub  
Lisa Dooley, Executive Director, WV Municipal League  
Beth McCoy, Administrative Assistant Programs, WV Municipal League  
Katelyn Campbell, WV Community Development Hub  
Jessica Sutton, City Clerk, City of Elkins  
Van Broughton, Mayor, City of Elkins  
Geraldine Roberts, Attorney for City of Elkins  
Celeste Barber Webb, General Counsel, Office of the State Fire Marshal, WV  
Attorney General's Office  
Allen Prunty, Deputy Secretary and General Counsel, WV Dept. of Revenue

The meeting was called to order by Chair Hardy at 10:45 a.m. It was reported that the notice of the meeting was lawfully given, a quorum was present, and the meeting was convened.

Introductions of the City of Morgantown's attorney, city manager, fire chief and fire marshal were made. Mr. Prunty addressed the board with regards to the amended minutes emailed earlier in the morning and to make sure all changes marked in yellow had been reviewed by all members. A motion to approve the amended minutes of the July 25, 2017 meeting was made by Chris Fletcher and seconded by Brian Jones. The motion was unanimously approved.

#### Chair's Report

Chair Hardy welcomed guests. A discussion was held regarding the WV State Fire Commission v. Municipal Home Rule Board litigation, and it was decided to table the discussion until the Fire Marshal's counsel, Celeste Barber Webb, arrived. Upon arrival, Ms. Webb updated the Board regarding the case and advised that she was filing regular status reports with the WV Supreme Court and requesting that the case remain in abeyance.

#### Old Business

None.

#### New Business

- Chair Hardy advised the Board of Chris Fletcher's role for the City of Morgantown and the potential conflict of interest that may interfere with Mr. Fletcher's voting privileges on Morgantown's proposed plan amendment. Mr. Prunty advised the Board regarding an Advisory Opinion of the WV Ethics Commission that addressed a situation very similar to that presented by Mr. Fletcher's status and found no conflict of interest. Upon advice of counsel, the Chairman declared that Mr. Fletcher did not have a conflict of interest.

- Ryan Simonton, attorney for the City of Morgantown, explained their proposed plan amendments regarding No. 1 - The Fire Marshal's arson and explosives offenses arrest authority; No. 2 - Treating nonconforming uses of land for agricultural, industrial, and manufacturing purposes the same as other uses; No. 3 – Waiving the certified mail requirement for notices of zoning changes; No. 4 – Authorizing the disposition of real estate without auction and addressing factors relevant to determining the fair value of property for lease or sale; No. 5 – Authorizing the expenditure of public funds on school projects in partnership with the Monongalia County Board of Education; and No. 6 – Eliminating the property ownership requirement for park board membership.

Chair Hardy confirmed that the city's legal notice published on August 4, 2017 met the 30-day requirement.

The Board confirmed that the City of Morgantown: 1) provided notice at least 30 days prior to their public hearing related to their plan amendment; 2) made the proposed plan amendment available for public inspection at least 30 days prior to the public hearing; 3) held the public hearing; 4) adopted an ordinance authorizing the submission of the proposed amendments to the Board; and 5) provided comments offered during the public hearing to the Board; and that the Board received confirmation that Ryan Simonton, attorney for the City of Morgantown, is licensed to practice law in the state of West Virginia and that the proposed amendments comply with WV Code § 8-1-5a.

Mr. Simonton reported that no disapproving comments were made at the public hearing on the proposed plan amendments.

The city's proposed amendment No. 1 (Fire Marshal's arson and explosives offenses arrest authority) was discussed. The Board questioned Fire Marshal Tennant, Fire Chief Mr. Caravazos, Mr. Simonton and Mr. Brake. State Fire Marshal Ken Tyree advised that he had no objections to the proposed amendment. Mr. Fletcher moved to approve amendment No. 1; Mr. Jones seconded the motion; and the motion passed on a 4-0 vote.

Mr. Fletcher moved to approve amendment No. 2 (zoning for nonconforming land uses); Mr. Jones seconded the motion; and the motion passed on a 4-0 vote.

Chair Hardy asked Mr. Brake to address amendment No. 3 (waiving the certified mail notice requirement of zoning changes). Mr. Jones then moved to approve amendment No. 3; Mr. Fletcher seconded the motion; and the motion passed on a 4-0 vote.

After some discussion regarding amendment No. 4 (authorizing the sale of municipal property without an auction), Mr. Jones moved to approve amendment No. 4; Mr. Fletcher seconded the motion; and the motion passed on a 4-0 vote.

After a brief discussion, Mr. Fletcher moved to approve amendment No. 5 (expending public funds for school projects); Mr. Jones seconded the motion; and the motion passed on a 4-0 vote.

Mr. Jones then moved to approve amendment No. 6 (eliminating the property ownership requirement for park board membership); Mr. Fletcher seconded the motion; and the motion passed on a 4-0 vote.

Telephone participant Don Smith, Executive Director of the West Virginia Press Association, commented that the City's presentation of its proposed amendments and the ensuing discussion were informative and provided full disclosure of the City's requests. Mr. Smith expressed his appreciation for the "transparency" of the Board's proceedings, and he commended Chair Hardy for conducting the meeting so as to inform the public and encourage public input, which he identified as some of his organization's greatest concerns.

### Adjournment

Members were informed that the next meeting date is scheduled for Wednesday, January 17, 2018 at 10:30 a.m in Charleston. With no further business, a motion was made to adjourn the meeting; the motion was seconded; and the meeting was adjourned at 11:45 a.m.