

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

WEDNESDAY, JULY 11, 2018

A meeting of the West Virginia Municipal Home Rule Board was held at 10:30 a.m. on Wednesday, July 11, 2018, at the Department of Revenue, State Capitol Complex in Charleston, West Virginia.

The following members were present:

Dave Hardy (designee for the Honorable Jim Justice)  
Brian Jones, Member  
Wesley White (designee of the Executive Director of the West Virginia  
Development Office)  
Mark Polen, Member  
Carl Fletcher (designee for Senator Gaunch)

The following members participated by conference call:

Chris Fletcher, Member

The following members were absent:

Honorable Gary Howell, West Virginia House of Delegates

Others present:

Scott James, Mayor, City of St. Albans  
Tim LaFon, Attorney, City of St. Albans  
Carl Fletcher, Representative for Senator Gaunch  
Susan Economou, City of Charleston  
Katelynn Campbell, WV Community Development Hub  
Taylor Bennett, WV Community Development Hub  
Allen Prunty, Deputy Secretary and General Counsel, WV Dept. of Revenue  
Lisa Dooley, West Virginia Municipal League  
Travis Blosser, West Virginia Municipal League  
Ken Tyree, WV State Fire Marshal  
Stacy Nowicki, Attorney

The meeting was called to order by Chair Hardy at 10:33 a.m. It was reported that the notice of the meeting was lawfully given, a quorum was present, and the meeting was convened. A motion to approve the minutes of the October 19, 2017 meeting was made by Brian Jones and seconded by Mark Polen. The motion was approved with a 5-0 vote.

### Chair's Report

Chair Hardy welcomed guests. He announced the reason the April 11, 2018 meeting was canceled was due to no business items to be placed on the agenda. The date and time of the October meeting was set for October 10, 2018 with the location to be determined. The Municipal Home Rule Board is due to sunset on July 1, 2019 due to current legislation. Three bills will be introduced this legislative session, HB 4158, HB 4420, and SB 432. HB 4420 would have ended the program, but it died in the House Government Organization Committee. Chair Hardy asked Lisa Dooley from the WV Municipal League if she had any comments. Ms. Dooley will be presenting SB 432 at the WVML annual conference with updates at meetings with the fire marshal and tax. The board will meet at the conference in August and will vote. They will be introducing on both sides and getting lined up after the November elections. Winsor Boggs, intern at the Department of Revenue, will be putting together a presentation from past meetings for the Secretary to present at the conference. Ms. Dooley said that the Secretary's presentation will be a big push. Mark Polen brought up the issue of the sunset date of July 1, 2019 and if the program continues for another year after the sunset date has been reached? Ms. Dooley stated that ordinances remain in effect as adopted unless the city appeals/repeals them. Mr. Polen stated he thought there was an actual phase out mechanism. Allen Prunty will research this issue and send an email out to the board with his findings.

Allen Prunty spoke on the litigation between the WVMHRB and the fire marshal. He stated the litigation goes back to 2013 or so, and that it was a disagreement between Clarksburg and Bridgeport. He stated that eventually it was authorized by the Home Rule Board in 2016 to enact ordinances which exempted them from building code. In the Kanawha County Circuit Court case, it was dismissed with no appeal, but a writ of prohibition was filed with the Supreme Court. This was held in abeyance in the Supreme Court pending settlement of the issue of being exempted by the Home Rule Board from state building code. It would relieve the fire commission from authority regarding building codes. Further discussion ensued regarding the case specifics and legislation from 2016. Ken Tyree, State Fire Marshal, said he hoped a settlement was reached soon and hopes that the case will progress in a way to bring resolution. He didn't have any further input on the case. Chris Fletcher spoke up and wanted to clarify several things regarding restriction to certification and continuing education requests. Mr. Prunty spoke on the issues brought up by Mr. Fletcher to explain further. Mr. Prunty asked to research some information while the meeting continued.

### Old Business

None.

## New Business

- Tim LeFon, attorney for the City of St. Albans, explained their proposed plan amendments regarding the Brunch Bill.
- Chair Hardy confirmed that the City of St. Albans complied with all legal requirements as provided in WV Code § 8-1-5a in order to submit their proposed amendment to the Home Rule Board.

The city's proposed amendment (The Brunch Bill) was discussed. The city received a few oral comments on the brunch bill, which were overwhelmingly in favor of the bill, but did receive some opposing comments based on religious beliefs. Anoop Bhasin from the ABCA had no issue with the Brunch Bill request as long as it is in the code. Mr. Polen moved to approve the amendment; Mr. Jones seconded the motion; and the motion passed on a 5-0 vote.

The Board took a 10 minute recess while Mr. Prunty researched the question of the history of the sunset law.

Chair Hardy announced the meeting back in session. Mark Polen read W.Va. Code 4-10-6, which states that the program is to continue until the first day of July on the next succeeding year to wind up their affairs.

Further discussion of the history of the litigation between the Home Rule Board and the fire marshal ensued.

## Adjournment

Members were informed that the next meeting date is scheduled for Wednesday, October 10, 2018, at 10:30 a.m. with the location to be determined. With no further business, a motion was made to adjourn the meeting; the motion was seconded; and the meeting was adjourned at 12:03 p.m.