

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

MEETING MINUTES

TUESDAY, APRIL 16, 2019

A meeting of the West Virginia Municipal Home Rule Board was held at 10:30 a.m. on Tuesday, April 16, 2019, 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)
Chris Fletcher, Member
Mark Polen, Member
Honorable Greg Boso, West Virginia Senate

The following members participated by conference call:

Brian Jones, Member
Wesley White (designee of the Executive Director of the West Virginia
Development Office)
Honorable Gary Howell, West Virginia House of Delegates

Others present:

Kelly Powlowski, Counsel for the City of Nutter Fort, WV
Joseph T. Santer, Counsel for the City of Parkersburg
Susan Economou, WV Municipal League
Travis Blosser, WV Municipal League
Jason Pizatella, Counsel for the City of Follansbee, WV
Doug Skeen, City of Ripley
Ryan Simonton, Counsel for the City of Morgantown
Allen Prunty, Deputy Secretary and General Counsel, WV Dept. of Revenue
Leslie Dillon, Deputy General Counsel, WV Dept. of Revenue
Anoop Bhasin, General Counsel, WV Alcohol Beverage Control Administration
(via telephone)
Diana Smoljanovich, City Manager for the City of Weirton

The meeting was called to order by Chair Hardy at 10:34 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 January 16, 2019 meeting was made by Chris Fletcher and seconded by Brian Jones. The motion was approved with a 5-0 vote.

Chair's Report

Chair Hardy welcomed guests. He asked the Department of Revenue's Deputy General Counsel, Leslie Dillon, to give an update on the recently passed SB 4 which makes the Home Rule Program permanent. Mr. Dillon explained the effective date and other changes that will happen due to the passage of the bill. Senator Boso also gave positive comments about SB 4 and looks forward to what the future hold with more control at the local level.

Old Business

State Fire Commission v. WV Municipal Home Rule Board – Chair Hardy asked Leslie Dillon to give an update on the settlement of the suit. Mr. Dillon informed the Board that the Settlement Agreement has now been executed by all parties and the case has been dismissed from the court's docket. The Board has drafted a policy statement that when passed will satisfy the terms of the settlement agreement. Chris Fletcher spoke to move that an amendment be made to the policy statement and was seconded by Mr. Polen. The motion passed with a 5-0 vote. Chair Hardy called the question of adopting the policy as amended which carried with a 5-0 vote.

New Business

City of Follansbee

- Jason Pizatella, attorney for the City of Follansbee, explained their proposed plan amendments regarding the Brunch Bill.
- Chair Hardy confirmed that the City of Follansbee 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 no comments on the brunch bill at the public hearing. Anoop Bhasin from the ABCA spoke up to mention that, with the passage of SB 561, municipalities wouldn't need to amend their plans with the Brunch Bill after the effective date of June 7, 2019. Mr. Pizatella informed the Board that the City has a spring festival that occurs prior to the effective date, and that is the reason the City is requesting to amend its plan. Mr. Fletcher moved to approve the amendment; Mr. Polen seconded the motion; and the motion to approve the City's plan amendment passed on a 5-0 vote.

City of Parkersburg

- Joseph T. Santer, attorney for the City of Parkersburg, explained the City's proposed plan amendment to permit additional regulation of open collection and accumulation of materials and objects on residential property.
- Chair Hardy confirmed that the City of Parkersburg 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 was discussed. Mr. Dillon interjected to inform the Home Rule Board and counsel for the City that he had spoken to counsel for the State Fire Commission and noted that the and counsel for the Commission determined that the proposed City ordinance did not attempt to amend the State Building Code. Mr. Dillon reiterated that neither the Home Rule Board, nor any other body other than the legislature, can authorize or empower the City of Parkersburg to amend the State Building Code. The Board has no objections to the ordinance as drafted. Mr. Dillon wanted the record to reflect that the Home Rule Board does not purport to authorize the City to amend the State Building Code. Mr. Dillon suggested that the proposed plan amendment be edited to correctly state its purpose. A discussion ensued to address the problems with which the City is trying to correct with this amendment. Mr. Santer provided photographs of the property to the Board members. (Attachment 1) A discussion regarding the State Fire Marshal's approval was conducted and Mr. Dillon stated that he has written confirmation from counsel for the State Fire Commission stating that the Commission did not have a problem with the ordinance that the City was requesting. (Attachment 2) A motion was made to accept Parkersburg's plan application amendment by Mr. Fletcher and was seconded by Mr. Polen. After further discussion, Mr. Fletcher moved to amend the motion to accept the proposed plan amendment to include language to reflect that the Board is not purporting to amend the State Building Code, rather it is authorizing the City to enact the ordinance as submitted, which has been found not to be violative of the State Building Code. The motion was seconded by Mr. Polen. The motion as amended was passed unanimously with a 5-0 vote.

City of Morgantown

- Ryan Simonton, attorney for the City of Morgantown, explained its proposed plan amendment which seeks to (1) add campaign finance reporting, and (2) authorizes the use of the Board of Zoning Appeals as the appeals board for Subdivision and Land Development.
- Chair Hardy confirmed that the City of Morgantown 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.

Ryan Simonton presented the City's plan application regarding campaign finance reporting. Leslie Dillon, Deputy General Counsel for the Department of Revenue, interjected to let Mr. Simonton know that the Secretary of State's Office has concerns with the request to enact additional campaign finance reporting. He stated that he was not aware that the City has had any type of contact with the Secretary of State's office regarding this request. Mr. Simonton stated that the City is seeking authorization to add just one additional campaign finance report. The report would be consistent with the current reporting system. Mr. Simonton requested that the Board consider a motion to approve Morgantown's plan as amended by a motion to authorize the City to require one additional campaign finance report prior to its municipal election consistent with the reporting already required by the Secretary of State's office provided, however, the reporting for that initiative will be managed by the city clerk's office. Mr. Dillon asked counsel what the problem was that the municipality was trying to solve. Mr. Simonton stated that city council has voted and agrees unanimously that the current reporting system allows candidates to take loans and not report those effectively until after the election. Counsel hopes to make clear where campaign finances are coming from. Chair Hardy suggested that counsel draft a paragraph with language to add reporting requirements which would be managed locally. Chair Hardy would like to have the Secretary of State's Office to approve as well. Mr. Polen suggested that the Board table this for now and stated he is not prepared to support the plan amendment as it stands today. Mr. Fletcher suggested that Morgantown consider withdrawing the plan amendment. Mr. Simonton withdrew the plan amendment request with the Board's consent. No objections made by Board members.

A brief discussion was held on Morgantown's request to use the Board of Zoning Appeals Board for the Subdivision and Land Development Ordinance. Mr. Polen moved to approve the amendment; Mr. Fletcher seconded the motion. The motion carries unanimously with a 5-0 vote.

Weirton

- Diana Smoljanovich, Finance Director for the City of Weirton, explained the City's proposed plan amendment to enact the Brunch Bill.
- Chair Hardy confirmed that the City of Weirton 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.

A brief discussion was held on Weirton's plan amendment. Anoop Bhasin of the WVABCA mentioned again of his comments of SB 561, which will allow municipalities to enact the Brunch Bill as of June 7, 2019. Mr. Fletcher moved to approve the amendment; Mr. Polen seconded the motion; and the motion passed on a 5-0 vote.

Comments from the Board

Chris Fletcher brought up the letter the Board received from the City of Wardensville, WV expressing their intent to submit a Class IV application when the program opens up in June, 2019.

Adjournment

Members were informed that the next meeting date is scheduled for Wednesday, July 10, 2019, 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 11:48 a.m.