

**STATE FIRE COMMISSION MEETING**  
• State Fire Marshal's Office • Charleston, WV •

May 12, 2016

The official business meeting was called to order at 11:00 a.m. by Chairman Carl Sizemore.

**ROLL CALL:**

**Commissioners Present In Person**

Carl Eastham, Doug Estep, Grant Gunnoe, Robert Miller, and Virgil White.

**Commissioners Present By Conference Telephone Call**

Phil Hart, Tom Keefer, and Carl Sizemore.

**Commissioners Absent**

Dave Camp, Doug Mongold, Jim Oldaker, Ted Shriver, and Vic Stallard.

**UNFINISHED BUSINESS:**

Consideration of City of Clarksburg Matter –

Counsel Connolly spoke regarding Judge Jennifer Bailey decision. Judge Bailey ruled in favor of the City of Clarksburg stating that the WV Fire Commission had exceeded its jurisdiction in determining the due process rights of the citizens of the city. Counsel spoke that Judge Bailey basically states that due process rights are determined by a court rather than the State Fire Commission.

Counsel brief that because the City had modified its local ordinance to conform to the state statute the commission no longer had jurisdiction per Judge Bailey. Demolition process was or was not meeting status.

Counsel advised of the appeal process. Stated yes, the Commission could appeal and base an appeal around her decision being made on the wrong statute. However, Counsel noted this case has gone on for 2 ½ years. An appeal would be a high hurdle to get Supreme Court to overturn her decision.

City of Clarksburg has presented to the Home Rule Board a request for removal from State Fire Commission oversight along with City of Bridgeport which has been granted. Counsel stated given the City of Clarksburg request there, the hurdle to get the decision overturned is great. Counsel's recommendation is to allow the recommendation to stand.

Commissioner Gunnoe questioned what the Home Rule Board release actually means. And does it just apply to the Building Code. Counsel concluded yes and that for the City of Bridgeport they will no longer be under State Fire Commission ruling or jurisdiction come July.

Marshal Tyree read an email from a gentleman named Mr. Shaffer in relation to supporting the citizens of the City of Clarksburg. Mr. Shaffer is a former City Councilman for the City of Clarksburg.

Commissioner Gunnoe questioned an upcoming hearing going forward but Counsel stated that the hearing will no longer go forward due to the decision by Judge Bailey and her decision prohibits us from holding that hearing.

Discussion involved around Home Rule Board and the decision of the Board to grant these cities exemption.

Counsel Connolly stated that the Commission has 30 days from the date of the Judges decision appeal and the June Commission meeting would have been too late appeal the process.

Commissioner Miller stated he feels the Commission needs to appeal the decision. Commissioner Gunnoe stated he is not in favor of appeal.

MOTION made by Commissioner Miller to appeal the decision at hand made by Judge Jennifer Baily regarding the City of Clarksburg, seconded by Eastham. With all the ayes and nays having been taken on an individual roll call voice vote, the motion failed.

It is noted that the Motion failed 5 (No Appeal) to 2 (Appeal).

Commission Sizemore ask if there were any further motions or comments. It is noted there was none.

**GOOD OF THE ORDER:**

Commissioners made mention of the new Fireworks Law passing. Questions arose as to if the Cities need to do anything in particular to prepare or have in place for the Fireworks. Marshal Tyree stated that the information will be disseminated through the Fire Department Services and the rule will be on the WVSFMO website by close of business day.

Commission Gunnoe asked about the Cities ability to regulate and enforce. Counsel Connolly and Marshal Tyree confirmed that the Cities will have the right to regulate and enforce. Brief discussion continued.

**TIME AND PLACE OF NEXT MEETING:**

Next Committee Meetings will take place Thursday, June 2, 2016 at the WV State Fire Marshal's Office in Charleston, WV beginning at 10:00 a.m.

Next Commission Meeting will take place Friday, June 3, 2016 at the WV State Fire Marshal's Office in Charleston, WV beginning at 9:00 a.m.

Future meetings are set for August 18<sup>th</sup> and 19<sup>th</sup> at Snowshoe Mountain Resort, Snowshoe, WV.

**ADJOURN:**

Commissioner Gunnoe made a motion to adjourn at 11:40 a.m. Second by Commissioner White. With all the ayes and nays having been taken on a voice vote, the motion passed.

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