WEST VIRGINIA CODE: §16-13E-5

§16-13E-5. Notice to property owners before creation or expansion of community enhancement district and construction or acquisition of project; form of notice; affidavit of publication.

(a) Before the adoption or enactment of an order or ordinance creating a community enhancement district, the governing body shall cause notice to be given to the owners of real property located within the proposed community enhancement district that such ordinance or order will be considered for adoption or enactment, as the case may be, at a public meeting of the governing body at a date, time and place named in the notice and that all persons at that meeting, or any adjournment thereof, shall be given an opportunity to protest or be heard concerning the adoption, enactment or rejection of the order or ordinance. At or after the meeting the governing body may amend, revise or otherwise modify the information in the petition for the community enhancement district or project as it may deem appropriate after taking into account any comments received at such meeting.

(b) The notice required in this section shall be published at least thirty days prior to the date of the meeting as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the county or municipality in which the proposed community enhancement district is located. The notice shall be in the form of, or substantially in the form of, the following notice:

"NOTICE TO ALL PERSONS OWNING PROPERTY LOCATED WITHIN ..... (here describe the boundaries of the proposed community enhancement district) IN THE ..... (county or municipality) OF ..... (name of county or municipality):

A petition has been presented to the ..... (county commission, city council or other governing body) of the ..... (county or municipality) of ..... (name of county or municipality) requesting establishment of a community enhancement district under chapter sixteen, article thirteen-b of the Code of West Virginia to ..... (here describe the project both within and outside of the proposed community enhancement district to be financed, developed, constructed, acquired, extended or improved, or the lots or parcels of land which may be protected, in the case of a flood relief project) in ..... (name of county or municipality) by ..... (here provide general description of the project) as the ..... (county commission, city council or other governing body) may deem proper and to assess the total cost (or, if the assessments are only necessary to pay for part of the total cost, the approximate percentage of the total cost) of such improvement on the property. A copy of the petition is available in the office of the ..... (name of clerk or recorder) for review by the public during regular office hours.

The petition to create a community enhancement district and to make such improvements, and estimates therefor, will be considered by the ..... (county commission, city

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council or other governing body) at a public meeting to be held on the ..... day of ....., ..., at .....m. at ..... Any owner of property whose property may be affected by the creation of the above-described community enhancement district, and any person whose property is not located within said community enhancement district but wishes his or her property to be included, will be given an opportunity, under oath, to protest or be heard at said meeting or any adjournment thereof:

..... (name of clerk or recorder)

..... (official position)."

(c) An affidavit of publication of the notice made by the newspaper publisher, or a person authorized to do so on behalf of such publisher, and a copy of the notice shall be made part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of said notice upon all persons owning any interest in any property located within the proposed community enhancement district shall conclusively be deemed to have been given upon the completion of such newspaper publication.

(d) The petitioners shall bear the expense of publication of the notice and the meeting, as requested by subsection (e) of this section.

(e) After the public meeting and before the governing body may adopt or enact an order or ordinance creating a community enhancement district, the governing body shall mail a true copy of the proposed order or ordinance creating the community enhancement district to the owners of real property in said district. Unless waived in writing, any petitioning owner of real property shall have thirty days from mailing of the proposed ordinance or order in which to withdraw his or her signature from the petition in writing prior to the vote of the governing body on such ordinance or order. If any signatures on the petition are so withdrawn, the governing body may pass the proposed ordinance or order only upon certification by the petitioners that the petition otherwise continues to meet the requirements of this article. If all petitioning owners of real property waive the right to withdraw their signatures from the petition, then the governing body may immediately adopt or enact the ordinance or order.

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