

**OPEN MEETINGS ADVISORY OPINION NO. 99-09**

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**WEST VIRGINIA ETHICS COMMISSION  
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS**

**GOVERNMENTAL BODY/MEMBER SEEKING OPINION**

Ms. Cece Harris, City of Ronceverte Recorder

**OPINION SOUGHT**

Are the committee meetings of a City Council subject to the open meetings provision of the Open Governmental Proceedings Act?

**FACTS RELIED UPON BY THE COMMITTEE**

The City Council of Ronceverte is composed of five members, plus the Mayor and Recorder, all of whom have voting rights. The Council has established seven committees composed of three members each: Rules, Tax and Finance, Public Safety, Public Works, Historic Preservation, Planning and Development and Administration. Committee members are to meet informally, discuss matters pertaining to their subject area, and present a recommendation to City Council as to whether further action should be taken. There is no specific quorum requirement or other written procedures for these committees.

**PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMITTEE**

West Virginia Code §6-9A-2 provides the following definitions:

As used in this article:

(3) "Governing body" means the members of any public agency having the authority to make decisions for or recommendations to a public agency on policy or administration, the membership of a governing body consists of two or more members; for the purposes of this article, a governing body of the Legislature is any standing, select or special committee, except the commission on special investigations, as determined by the rules of the respective houses of the Legislature.

(4) "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action. Meetings may be held by telephone conference or other electronic means...

(6) "Public agency" means any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power. The term "public agency" does not include courts created by article eight of the West Virginia constitution or the system of family law masters created by article four, chapter forty-eight-a of this code.

### **ADVISORY OPINION**

In general, meetings of the governing body of a public agency must be open to the public. The City Council committees are public agencies within the plain language of the Act, which includes "committee, subcommittee or any other agency or subunit of the foregoing. . . ." Their members come within the definition of governing bodies which requires of membership of "two or more members" of a public agency "having authority to make. . . recommendations to a public agency on policy or administration. . . ."

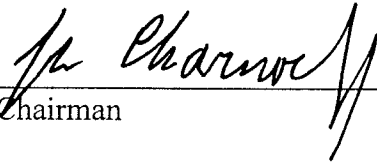
The more difficult question is whether committee meetings qualify as a "meeting" under the Act. A meeting is the "convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision. . . ."

The Requester points out that the committees, which do not have a quorum of City Council members, cannot make decisions for the Council, and their recommendations are discussed at public City Council meetings. However, the Ethics Commission's Open Governmental Meetings Committee considers the quorum requirement in the definition of meeting to refer to the committee's quorum, not City Council's quorum. Although there is no specific quorum requirement for these committees, it obviously takes the presence of at least two people to discuss issues and formulate recommendations.

Further, the public's interest in the city government decision making process includes policy discussions which result in recommendations by several Council members to City Council as a whole. These committees do not simply gather facts to be reported to the Council. They produce recommendations to be made to a public agency, which is one of the necessary indicia of a governing body under the Act. Therefore, the Ethics Commission's Open Governmental Meetings Committee finds that a convening of City Council committees constitutes a meeting for the purposes of the Open Governmental Proceedings Act.

A danger exists that the deliberative process of a City Council would be hidden from public scrutiny if it merely endorsed, without discussion recommendations made by a minority of its members in a private committee meeting. The Act did not intend that result.

A City Council committee, the purpose of which is to formulate policy recommendations to the Council body as a whole, is a governing body of a public agency and its meetings must be open to the public.

  
Chairman