

## OPEN MEETINGS ADVISORY OPINION NO. 2000-08

Issued On August 3, 2000 By The

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

#### OPINION SOUGHT

Wetzel B. Walker, a member of the Town Council in Rainelle, West Virginia, asks if the Council is required to exclude a citizen from speaking at a scheduled meeting when the topic the citizen wishes to address is not on the meeting agenda.

#### FACTS RELIED UPON BY THE COMMITTEE

The Town Council meets periodically and issues an agenda of matters to be discussed with its meeting notices. The members are uncertain whether they can permit a citizen to address the Council on a matter which is not listed in the agenda. This issue is not covered by any meeting rules previously adopted by the Town Council.

#### CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The legislative policy behind the Open Governmental Proceedings Act is contained in W. Va. Code § 6-9A-1, and includes the following:

Open government allows the public to educate itself about government decision-making through individuals' attendance and participation at government functions, distribution of government information by the press or interested citizens, and public debate on issues deliberated within the government.

W. Va. Code § 6-9A-2(4) defines "meeting" as "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."

Unless a specific legal exemption is applicable, W. Va. Code 6-9A-3 requires that "all meetings of any governing body shall be open to the public." The Code further provides that "[a]ny governing body may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend." The statute additionally notes that "persons who desire to address the governing body may not be required to register to address the body more than fifteen minutes prior to time the scheduled meeting is to commence."

#### ADVISORY OPINION

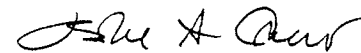
The Open Governmental Proceedings Act permits governing bodies to make reasonable rules governing citizen presentations, but such rules may not require a citizen to register more than fifteen

minutes before the meeting in order to address the governing body. The Act is primarily directed at the conduct of governing bodies, not persons who appear at an open meeting.

In Open Meetings Advisory Opinion 2000-02, this Committee concluded that the Act requires “reasonable advance notice to the public of all agenda items which require a decision or deliberation towards a decision.” That Opinion further observed that, in the course of a scheduled meeting, members of the public “may raise a specific issue which is not specifically listed in the agenda.”

In the absence of an emergency situation, the Council may discuss a new issue raised by a citizen in attendance only to the extent necessary to determine whether official action will be needed. If some official action is required, the item will need to be rescheduled for another meeting.

Although the Act limits the Council’s ability to deliberate about an issue not on the agenda, nothing in the Act prohibits the Council from listening to a citizen complaint, concern, suggestion, request for assistance, or other feedback commonly presented to local government bodies. Therefore, the Act does not require the Council to prohibit a citizen from addressing a meeting solely because the citizen wishes to speak to an issue which is not on the agenda.



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Chairman