

COPY

OPEN MEETINGS ADVISORY OPINION NO. 2001-06

Issued On May 3, 2001 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

Linda McLaughlin, Treasurer of the Town of Marlinton, asks if the Open Meetings Act permits a Special Election Committee to vote by secret written ballot as provided in the town's election ordinance.

FACTS RELIED UPON BY THE COMMITTEE

The election ordinance for the Town of Marlinton, adopted in 1989, contains a procedure for filling vacant seats on the Town Council. The ordinance provides that a Special Election Committee, consisting of the remaining members of the Town Council and three citizens previously elected to serve on a Select Committee, select the replacement for a vacant position by simple majority vote. The ordinance specifies that the Special Election Committee will vote by secret written ballot.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-8 provides, in pertinent part:

(b) A public agency may not vote by secret or written ballot.

ADVISORY OPINION

The Open Meetings Act does not permit a public agency to vote by secret or written ballot. This statute supersedes any local ordinance which may provide otherwise. Accordingly, the Special Elections Committee should publicly vote on the nominees for a vacated seat on the Town Council.



Chairman