

## **OPEN MEETINGS ADVISORY OPINION NO. 2001-32**

**Issued On November 1, 2001 By The**

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

#### **OPINION SOUGHT**

The Berkeley County Development Authority (BCDA) asks that its proposed procedural rules be reviewed for compliance with the Open Meetings Act.

#### **FACTS RELIED UPON BY THE COMMITTEE**

BCDA proposes adopting procedural rules governing the issuance of meeting notice and meeting agendas for all regular and special meetings. BCDA meets monthly on the second Wednesday of each month. In addition to posting a notice of its regularly scheduled meetings on the front door of its office, BCDA will similarly post notice of any special meetings at least two days in advance, excluding Saturdays, Sundays and legal holidays. Agendas will be made available to the public and the media on Friday preceding each regular Wednesday meeting. A complete copy of the proposed procedural rules are attached to this advisory opinion as Appendix A.

#### **CODE PROVISIONS RELIED UPON BY THE COMMITTEE**

W. Va. Code 6-9A-3 provides in pertinent part:

Each governing body shall promulgate rules by which the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in advance, to the public and news media, except in the event of an emergency requiring immediate official action.

#### **ADVISORY OPINION**

The Open Meetings Act requires each governing body to promulgate certain procedural rules. As a minimum, these rules must state how and when the date, time, place and agenda of all regular meetings, as well as the date, time, place and purpose of all special meetings, will be made available to the public and news media.

Those provisions in BCDA's proposed procedural rules governing meeting notices and meeting agenda are generally consistent with previous opinions from this Committee regarding these matters. However, the proposed rules should be revised to include a specific provision that the date, time, place and purpose of any special meetings will be included in the posted notice advising the public

of such meeting. Further, if more than one matter will be addressed at a special meeting, a meeting agenda will be prepared and made available to the public and media at the same time the meeting notice is issued. Once these revisions have been made, the proposed rules will satisfy the minimal requirements of W. Va. Code § 6-9A-3.

In addition to describing meeting notice and agenda procedures, Governing bodies may elect to include other provisions governing meeting procedures in their rules. Consistent with its legislative mandate to consider whether a proposed action violates any provision in the Act, this Committee will review additional provisions in a governing body's procedural rules. However, the Committee's opinion, and any immunity which the governing body receives, will be limited to whether these additional rules are inconsistent with the Act. The opinion will not address discretionary application of a rule to a specific situation, unless the requester provides a proposed set of facts describing that situation.

Having noted the limited scope of its opinion, the Committee finds that no provisions in any additional rules proposed by BCDA are inconsistent with the Act.



---

Chairman

**RULES OF PROCEDURE  
BERKELEY COUNTY DEVELOPMENT AUTHORITY**

The Berkeley County Development Authority meets each month on the second Wednesday at 9:30 a.m. in the Board Room of BB&T, 148 S. Queen St., Martinsburg, WV unless otherwise announced. Any additional special or called meetings will be announced to the public by posting at the front door of the Authority's office at 110 West Burke Street, Martinsburg, West Virginia no less than two days (excluding legal holidays, Saturdays and Sundays) in advance thereof. Authority meetings that are canceled or are days in which holidays fall will also be so noticed by posting at said front door.

A schedule of the regular meetings of the Berkeley County Development Authority will be posted at the front door of the Authority's office at 110 West Burke Street, Martinsburg, West Virginia and notice of any change of the meeting location will be posted at said location at least three days (excluding legal holidays, Saturdays and Sundays) in advance of such meeting. Agendas for monthly meetings will be available to the public and the media after 9:00 a.m. on the Friday before the meeting.

**ITEMS FROM THE PUBLIC**

The Berkeley County Development Authority establishes time on each agenda devoted to items from the public. Any member of the public is invited to speak on a given topic during that designated time. If the item requires official action by the Authority, and is not a scheduled agenda item, the issue will be scheduled for the following Authority meeting so that it may be noticed to the public prior to Authority action.

These established Rules of Procedure for the Berkeley County Development Authority agendas have been reviewed and approved by the Authority this \_\_\_\_ day of \_\_\_\_\_, 2001.

James M. Seibert  
President

Robert T. Crawford  
Executive Director