

OPEN MEETINGS ADVISORY OPINION NO. 2002-04

Issued On March 7, 2002 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Berkeley County Commission asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Berkeley County Commission meets weekly on Thursday at 9:30 a.m.. The Commission also holds regular meetings on the first Monday of each month at 10:00 a.m., and the first Thursday of each month at 7:00 p.m.. A schedule of these regular meetings is provided to the public. The rules provide that "any additional special meetings will be noticed to the public as they are scheduled." Agendas for all regular meetings are made available two days in advance. A complete copy of the Commission's rules is attached 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.

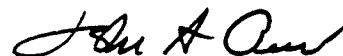
This Committee has previously determined that a County Commission that meets weekly, or more frequently, should make its meeting agenda available to the public two days in advance of each meeting. Further, this Committee has decided that notice of the date, time, place, and purpose of any special meeting should be made available two days in advance. In calculating this two-day period, Saturdays, Sundays, legal holidays, and the day of the meeting, are not counted.

Although the Berkeley County Commission's procedural rules generally provide that an agenda will be made available two days in advance of a meeting, the rules do not provide that this agenda deadline must be adjusted when, for example, there is an intervening Wednesday holiday between a regular Thursday meeting and the usual Tuesday deadline for issuing the meeting agenda. Likewise, the rules fail to provide that notice of any special meetings will be issued at least two days in advance.

In addition, although the County Commission's correspondence indicates that the meeting schedule and agenda are posted on the Commission's web site, the rules do not specify how the meeting agenda is to be made available to the public. Ordinarily, the agenda should be posted in a public place in the county courthouse, and copies should be available at a designated location during normal business hours. Additional dissemination through an Internet web site, publication in local print media, or announcements through local radio and television venues is encouraged, but not specifically mandated under the Act.

Once these notice provisions are revised in accordance with this opinion, the County Commission's rules will satisfy the minimum 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 adopted by the Berkeley County Commission are inconsistent with the Act.



Chairman

**RULES OF PROCEDURE
BERKELEY COUNTY COMMISSION AGENDA**

COMMISSION MEETING DATES

The Berkeley County Commission meets each Thursday at 9:30 a.m. The Commission meets on the first Monday of each month at 10:00 a.m. and the first Thursday of each month at 9:30 a.m. and 7:00 p.m. Any additional special meetings called by the Commission will be noticed to the public as they are scheduled. Commission meetings that are cancelled by the Commission or on days in which holidays falls will be so noticed.

COMMISSION AGENDA SUBMITTAL DATES

The Berkeley County Commission shall accept items for inclusion on the weekly meeting agenda until 12:00 noon on each Friday. In the event that a given Friday is a scheduled holiday, the deadline for submittal will be 5:00 p.m. on the Thursday before the holiday. Agendas for the weekly meetings will be available to the public and the media after 9:00 a.m. on the Tuesday before the Thursday Commission meeting. Agendas for the monthly Monday a.m. meeting will be available on the preceding Thursday after 10:00 a.m.

ITEMS FROM THE PUBLIC

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