

## **OPEN MEETINGS ADVISORY OPINION NO. 2002-19**

**Issued On October 3, 2002 By The**

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

#### **OPINION SOUGHT**

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

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

The McDowell County Commission meets twice monthly on the second and fourth Wednesday of each month. The Commission has adopted procedural rules providing that a meeting agenda will be posted at least three days in advance, excluding Saturdays, Sundays and legal holidays. Notice of special meetings including the date, time, place and purpose will similarly be posted at least two days in advance. A complete copy of the Commission's procedural rules is 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**

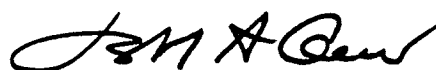
The Open Meetings Act requires each governing body to promulgate certain procedural rules. As a minimum, these rules must state how and when the date, time, place and agenda of all regular meetings, as well as the date, time, place and purpose of all special meetings, will be made available to the public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

The provisions in the Commission's procedural rules governing meeting notices and meeting agendas are generally consistent with previous opinions from this Committee regarding these matters. The rules 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 Commission are inconsistent with the Act.



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Chairman

**MCDOWELL COUNTY COMMISSION POLICY PROCEDURES FOR  
MEETING AGENDA RULES**

The McDowell County Commission will hold its regular meeting at 4:00 p.m. on the 2nd and 4th Wednesday of each month in the Office of the County Commission in the McDowell County Commission Office, Wyoming Street, Welch, West Virginia. The agenda for each meeting will be posted on the door in the Commission Office before the close of business at least three days in advance of the meeting.

For purposes of counting this three-day period, Saturdays, Sundays, legal holidays, and the day of the meeting shall not be included. For example, in the case of a regular business Wednesday meeting, in the absence of an intervening legal holiday, the agenda will be posted the close of business on the preceding Friday.

Whenever a special meeting is scheduled, notice of the meeting containing the date, time, place, and purpose will be posted in the same manner at least two days in advance of the meeting. In counting this two-day period, Saturdays, Sundays, legal holidays, and the day of the meeting shall likewise be excluded.

Except for emergency matters requiring immediate official action by the Commission, no action will be taken on a matter that has not been included on the meeting agenda for a regular meeting or included in the purpose of a special meeting as previously provided. In the event of an emergency requiring immediate official action, notice of the date, time, place, and purpose of the meeting, and a statement explaining the nature of the emergency requiring a meeting with less notice than usual, will be posted in the same manner as far in advance of the meeting as possible. In the event of an emergency meeting, the meeting minutes will also reflect the nature of the emergency requiring the Commission to meet without affording the usual public notice. Should an item be added to the agenda of a regular or special meeting on an emergency basis, the minutes of that meeting will similarly reflect the nature of the emergency .

Any person wishing to address the commission may register to do so no later than 15 minutes prior to the meeting. However, unless the matter was properly placed on the agenda at least two days prior to the meeting, no action will be taken on a matter that does not involve an emergency requiring immediate official action, and that matter will be held over to be placed on the agenda for the next meeting.

News media, such as local radio and newspapers, will be notified forty eight hours in advance of any regular or special meeting, with the understanding this is only a notification and is not required to be published or broadcast.