

OPEN MEETINGS ADVISORY OPINION NO. 2003-02

Issued On March 6, 2003 By The

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

OPINION SOUGHT

The Morgan County Planning Commission (Commission) asks if certain discussions among some of its members constitute a meeting under the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Commission consists of 11 members, one of whom is a sitting County Commissioner. Several days before each monthly meeting, the Commission President and County Planner will discuss what items will be on the agenda, and what information needs to be provided by the Commission staff, county engineer, applicants, or others, so that proper action can be taken at an upcoming meeting. One additional Commission Member may occasionally participate in these discussions. None of these discussions involve a decision or deliberation toward a decision on the merits of any matter requiring the Commission's action.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

"Meeting" means 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. The term meeting does not include:

(E) Discussions by members of a governing body on logistical and procedural methods to schedule and regulate a meeting.

W. Va. Code § 6-9A-2(4).

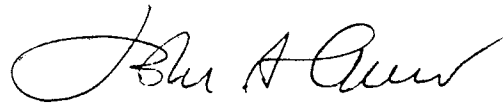
"Quorum" means the gathering of a simple majority of the constituent membership of a governing body, unless applicable law provides for varying the required ratio.

W. Va. Code § 6-9A-2(7).

ADVISORY OPINION

A quorum of the Morgan County Planning Commission involves 6 of 11 members. When only 2 voting members of an 11-member governing body are present, as described in this inquiry, such a gathering will not constitute a "meeting" subject to the Act. Further, discussions of logistical arrangements for a meeting are explicitly excluded from the definition of a covered "meeting."

Therefore, even a quorum of the Commissioners may meet to discuss purely logistical matters, such as which items are to be included on the agenda, and what data or documentation needs to be provided by various participants in advance of the meeting, without violating the Open Meetings Act. However, any conversation among a quorum of the members of a governing body which involves deliberating toward a decision on a matter requiring official action must be deferred until such matter can be placed on the agenda of a properly noticed meeting.



Chairman