

OPEN MEETINGS ADVISORY OPINION NO. 2003-06

Issued On July 10, 2003 By The

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

OPINION SOUGHT

The Glen Dale City Council (Council) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Council meets twice monthly on the second and fourth Monday of each month. The Council has adopted procedural rules which require posting an agenda for each regular meeting at least three days in advance of the meeting and issuing notice of a special meeting at least two days in advance. A complete copy of the Council's current 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.

The provisions in the Council'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 of the Council are inconsistent with the Act.



Chairman

RULES AND REGULATIONS

CITY COUNCIL

GLEN DALE, WV 26038

GOVERNING RULES

RULE I.

Except as otherwise provided in the Constitution of the United States and the State of West Virginia, the laws of the State of West Virginia or the Charter of the City of Glen Dale, all questions of order, the methods of organization and the conduct of business of the municipal council shall be governed by Roberts Rules of Order in all cases to which they are applicable, and in which they are not inconsistent with the governing rules of council.

INFORMAL MEETINGS

RULE II.

Council, with a quorum of the governing body can only meet to discuss purely logistical matters, such as when and where to hold a meeting, and what items need to be included in the agenda, and what staff members or documents need to be available during the meeting to support the matters on the agenda.

MEETINGS

TIMES AND PLACES ESTABLISHED

RULE III.

(A)

The Council shall hold regular meetings on the second and fourth Mondays of each month at 7:30 p.m.; provided, however, that the regular meeting date and time may be changed to a different date and time upon being duly passed by the majority of the members present. Provided further that in the event that the regular meeting date and time are so changed, notice shall be given to the general public of such change by Class I Legal Publication. When the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal, national or religious holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.

(B)

Special meetings may be called at any time by the Mayor, or upon request of a majority of Council. Notice of any special meeting shall be given as provided in Rule III(E)(2).

(C)

All meetings of the Council shall be held in the Council Chambers of the City Building of the City of Glen Dale unless otherwise specified by the Mayor.

(D)

All regular and special meetings of the Council shall be open to the public provided however, that the Council may recess for the purpose of conducting an executive session, limited to its membership plus any person or persons requested to attend such executive session by a majority of the Council. Such executive session shall be conducted and held in the manner specified in Chapter 6, Article 9A, Section 4 of the West Virginia Code, as amended, and only for the purpose therein stated.

(E) NOTICES

(1) Regular Meetings. A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the Glen Dale City Building of the date, time and place fixed and entered of record by Council for holding of regular scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than three days before each regular meeting is to be held. In computing this three-day period, the day of the meeting, Saturdays, Sundays, and legal holidays are not counted. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined. When a meeting is postponed, at least two days' advance notice of the new meeting date and time must be provided.

(2) Special Meetings. A notice shall be posted by the City Clerk at the front door or bulletin board of the Glen Dale City Building not less than two days in advance of any special meeting. This two-day notice period shall be computed as previously provided in Rule III(E)(1). Such notice shall include the date, time, place and purpose for which such special meeting shall be held. If the meeting is being held for multiple purposes, an agenda may be issued and posted with the meeting notice. If a special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

AGENDA

RULE IV.

(A)

All matters requiring official action by the Council, including all reports, communications, ordinances, resolutions, claims, license reports, contracts, documents, or other matters to be submitted for consideration by the Council, shall be delivered to the City Clerk not later than 4:30 P.M. Tuesday, one week prior to the regular Council meeting. The Clerk will prepare an agenda of such matters and any additional matters

which she may have to present, following the prescribed order of business as hereinafter provided in Rule XI, stating each item requiring official action so as to make the public aware of the matters which will be dealt with at the meeting. A copy of the completed agenda shall be furnished to each member of Council.. Items received after the deadline for submitting agenda items will be placed on the next regular council agenda, unless the item involves a matter requiring immediate official action and the Council determines to include it as provided in Rule IV(B). Upon request, the Clerk shall also furnish the Mayor, City Attorney, and Department Heads with a copy of the same, prior to the Council meeting, and as far in advance of the meeting as the time for preparation will permit. Once the meeting agenda for a regular meeting, or the meeting notice for a special meeting, has been posted in accordance with Rule III, copies shall be provided to the news media or any member of the public upon request.

(B)

In the event of an emergency requiring immediate official action by the Council, the Council may decide to suspend Rule IV(A) by unanimous vote of those present. If the matter constituting an emergency arises in time to be included on a revised meeting agenda, the facts and circumstances of the emergency will be explained on the meeting agenda, as well as documented in the meeting minutes. If the matter constituting an emergency doesn't arise in time to be included in a revised meeting agenda, the facts and circumstances of the emergency will nonetheless be explained in the meeting minutes.

PRESIDING OFFICER - DUTIES

RULE V.

(A)

The Presiding Officer of the Council shall be the Mayor. In the absence of the Mayor the Recorder shall serve as the Presiding Officer.

(B)

In the absence of the Mayor or Recorder at any regular or special meeting of the Council, the presiding officer of the meeting shall be elected by the majority of the members of the Council present. The City Clerk or her designee shall conduct the election. The City Clerk shall entertain nominations from the Council for the position of Presiding Officer, each nomination requires a second. After nominations for Presiding Officer have been closed, the City Clerk shall call for a vote, which vote shall be by a roll call, pursuant to Rule XIII of these governing rules

(C)

The presiding officer shall preserve strict order and decorum at all regular and special meetings of the Council. He shall state every question coming before the Council and announce the decision of the Council on all matters coming before it. A majority vote of Council shall govern and conclusively determine all questions of order not otherwise herein covered or as otherwise provided by law.

PARLIAMENTARIAN

RULE VI.

The City Attorney shall act as parliamentarian, and when requested, shall advise and assist the presiding officer in matters of parliamentary law.

CITY ATTORNEY

RULE VII.

The City Attorney, or his designee, shall be available to the Council at all regular and special meetings. The City Attorney or his designee, shall draft ordinances, resolutions, or other legal documents when requested by a Council Member.

CALL TO ORDER ROLL CALL

RULE VIII.

The Mayor shall take the chair at the hour appointed for the meeting and shall immediately call the Council to order.

Before proceeding with the business of the Council, the Recorder or designee, shall call the roll of the members, and the names of those present shall be entered in the minutes.

QUORUM

RULE IX.

A majority of the total number of the Council shall constitute a quorum. Should no quorum attend within thirty (30) minutes after the hour appointed for the meeting of the Council, the Mayor, or in his absence the presiding, may thereupon adjourn the meeting until the next day at the same hour and place.

READING OF MINUTES

At each regular meeting of the Council, a journal of the proceedings of the last meeting shall be read, and corrected if erroneous, and signed by the presiding officer for the time being; provided, that the reading of the journal of the proceeding of the last meeting may be dispensed with by a majority vote by the governing body if the members thereof have received and examined a copy of the journal or a synopsis thereof prior to the meeting at which this journal is signed. Upon the call of any member the yeas and nays on any question shall be taken and recorded in this journal.

OPEN MEETINGS
ORDER OF BUSINESS

RULE X

All regular and special meetings of the Council shall be open to the public. The business of the Council shall be taken up for consideration and disposition in the following manner:

1. Pledge of Allegiance
2. Roll Call
3. To read, correct and approve the minutes of the previous meeting
4. To receive and consider reports of standing committees
5. To receive and consider reports of special committees
6. To receive and consider messages from the Mayor
7. To receive and consider resolutions, petitions, motions
8. Unfinished business
9. Ordinances, second reading
10. Ordinances, first reading
11. Miscellaneous business
12. Public Forum.. Thirty (30) minutes maximum. Five (5) minutes per person
13. Adjournment

RULES OF DEBATE

RULE XII.

(A)

Questions under consideration - A motion presented and seconded is under consideration and no motion shall be received thereafter, except to: 1) To adjourn; 1)To lay on the table, to postpone or to amend, until the question is decided; or 3) To refer to a committee. These motions shall have preference in order in which they are mentioned and the first two shall be decided without debate.

(B)

Limitations on debate: No member shall speak more than twice upon the same subject without leave of the Council. Nor more than once until every member choosing to speak shall be spoken.

(C)

A member of the Council once recognized, shall not be interrupted when speaking unless it be to call him or her to order or as herein otherwise provided. If a member of the Council, while speaking, be called to order, he or she shall cease speaking until the question or order by determined by the presiding officer, and if in order he or she shall be permitted to proceed. Any member of the Council may appeal to the Council from the decision of the presiding officer upon a question or order, whereupon without debate the

presiding officer shall submit to the Council the question, "Shall the decision of the chair be sustained?", and the Council shall decide the question by a majority vote.

(D)

Privilege of closing debate: Any member of Council may close debate by moving the previous question which requires 2/3 vote.

ROLL CALL FOR VOTING

RULE XIII.

Upon any roll call there shall be no discussion or explanation given by any member of Council voting, and he shall vote "yea" or "no;" unless he shall first receive permission from a majority of the Council to explain his vote. A member of the Council may abstain from voting on any matter. The vote upon every motion, resolution, or ordinance shall be taken by a roll call and the vote is to be entered in the minutes.

MANNER OF ADDRESSING COUNCIL TIME LIMIT

RULE XIV.

Each person desiring to address the Council shall stand and give his or her name and address in an audible tone of voice for the record, and unless further time is granted by the majority of the Council, shall limit his address to 5 minutes. All remarks shall be addressed to the presiding officer and Council as a body and not to any individual member of the Council. No person, other than members of the Council, and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No question shall be asked by a member of Council except through the presiding officer.

DECORUM

RULE XV.

(A) - By Council Members:

While the Council is in session, the members must preserve order and decorum. A councilperson shall not, by conversation or otherwise, except as herein provided, delay, or interrupt the proceedings or the peace of the Council, or disturb any member while speaking or refuse to obey the orders of the Council or its presiding officer.

(B) - By Other Persons

Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Council shall forthwith be barred by the presiding officer from further audience before the Council, unless permission to continue or again address the Council be granted by the majority vote of the Council. The Chief of Police, or such

members of the Police Department as he may designate, shall be the sergeant-at-arms of the Council meetings. He, or they, shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting.

COUNCIL COMMITTEES

RULE XVI.

All standing and special committees, and the chairman thereof, shall be appointed by the presiding officer at regular or special meetings. All committees shall consist of five members, including the chairman.

PREPARATION OF ORDINANCES, ETC

RULE XVIIJ.

The City Attorney or his designee, when requested, shall prepare ordinances, resolutions, motions, contracts, or other documents, which shall be delivered to the Clerk in conformity with Rule IV and Rule VIII. A copy of the same shall be forthwith furnished to each member of the Council by the Clerk. All prepared ordinances, resolutions and legal documents shall be approved by the City Attorney or his designee and bear his notation that they are correct in form.

NOMINATIONS AND ACTION THEREON

RULE XVIII.

(A)

Upon the receipt from the Mayor of any nomination to any office or position, the same shall be read under "Item" messages from the Executive Office, by the Recorder or his designee, and unless otherwise ordered, shall be considered by the Council under "new business". When taken up for action the presiding officer shall put the question on each nomination as follows: "Will the Council confirm the nomination?" On that motion, a vote shall be ordered, and if the majority votes to confirm, the presiding officer shall announce "The nomination is confirmed". If less than the majority vote to confirm, the presiding officer shall announce, "The nomination is rejected".

EXPENDITURES OF COUNCIL

RULE XIV.

Before a member of the Council shall make any agreement to buy, purchase, or contract services, or in any way commit monies of the Council in excess of \$100.00, or request

any monies for services, expenses or fees in excess of \$100.00, he or she will first have prior approval of the Finance Committee and a majority of Council.

REPORTS AND RESOLUTIONS

RULE XX.

All reports and resolutions shall be filed with the Recorder and entered in the minutes.

READING AND ACTION OF ORDINANCES

RULE XXI.

Ordinances will be voted on at first reading, and if defeated will not be brought back up for second reading.

ADJOURNMENT

RULE XXII.

A motion to adjourn shall always be in order and decided without debate.