

OPEN MEETINGS ADVISORY OPINION NO. 2004-01

Issued On February 5, 2004 By The

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

OPINION SOUGHT

The **City of Ronceverte** (City) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The City Council meets monthly on the first Monday of each month, except in December when the regular monthly meeting is held on the second Monday. The City is proposing to adopt procedural rules which will require that notice of this meeting schedule be posted on the bulletin board at City Hall and that agendas for all regular meetings be similarly posted, and delivered to local news media, at least three days in advance of the meeting, excluding Saturdays, Sundays, legal holidays and the day of the meeting. Notices of special meetings shall similarly be posted and delivered to local news media at least three business days prior to the meeting. A complete copy of the City's 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.

The provisions in the City of Ronceverte'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 meeting rules proposed by the City of Ronceverte are inconsistent with the Act.



Chairman

RONCEVERTE CITY COUNCIL

01 - NOTICE AND CONDUCT OF MEETINGS

01-1 General

- 1.1 Scope - This procedural policy establishes requirements for notice of meetings and general rules for conduct of said meetings of the Ronceverte City Council hereafter referred to as "City Council."
- 1.2 Authority - WV Code §6-9A-1, et seq.
- 1.3 Filing Date - February____, 2004
- 1.4 Effective Date - April _____, 2004

01-2 Preface.

2.1 The West Virginia Legislature has provided in Article 9A of chapter 6 of the West Virginia Code that all regular and special meetings of governing bodies shall be open to the people of the State and that the people shall be given reasonable advance notice of the time, date, and location of such meetings being convened, provided, however, that governing bodies may hold executive sessions as part of the duly convened regular or special meetings under certain circumstances as permitted by law;

2.2 The Legislature has provided in Section 3, Article 9A, Chapter 6 of the West Virginia Code that:

Each governing body shall promulgate rules by which the date, time, and agenda of all regularly scheduled meetings and the 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 attention.

01.3 Notice of Meetings.

- 3.1 The City Council shall meet at the Ronceverte City Hall, Council Chambers at 200 W. Main Street, Ronceverte, WV, 24970, or at such other locations as the City Council may from time to time deem necessary.
- 3.2 Regular Meetings - Notice of regularly scheduled meetings shall be posted by the City Council on the bulletin board at City Hall. Regular council meetings will be held on the first Monday of each month except for December, which will be held on the second Monday. Regular meetings will be held at City Hall Council Chambers at 7:00 PM. The agenda of each meeting shall be posted on the bulletin

board at City Hall at least three days prior to the date of the meeting. Meeting notices and agendas shall be delivered to the local public news media at least three days prior to the date of the meeting. The three-day period will exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said City Hall location as soon as feasible after such cancellation or postponement has been determined.

- 3.3 Special Meetings - The notice of any special meeting shall be posted by the City Council on the bulletin board at City Hall not less than three days before a specially scheduled meeting is to be held, stating the date, time, place, and purpose for which such special meeting shall be held. Meeting notices and agendas shall be delivered to the public news media at least three days prior to the date of the meeting. The three-day period will exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If the special meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said City Hall location as soon as feasible after such cancellation or postponement has been determined.

01-4. Conduct of Meetings.

- 4.1 Presentations - Persons desiring to place an item on the City Council's agenda must make a written request to the Mayor not less than ten (10) days prior to the date of the meeting. Persons desiring to address the City Council are encouraged to make arrangements in advance with the Mayor's office. However, advance arrangements are not necessary as such persons may sign in prior to the scheduled commencement of any regular or special meeting. Persons having signed in and wishing to address the Council on non-agenda items will be allowed to do so under the Public Comments section once the Mayor recognizes him/her. Speakers must provide his/her name, and the subject to be addressed. No official action may be taken on a Public Comments subject matter until it can be presented as an agenda item at the next subsequent meeting. Presentations shall be limited to five (5) minutes, unless otherwise designated by the Mayor. Delegations are encouraged to use a spokesperson to present their concerns or proposals.
- 4.2 Attendance - In the event that there is not room enough to conduct a scheduled meeting due to the number of members of the public that wish to attend, a scheduled meeting can be moved to accommodate all those wishing to attend upon proper motion by any member of the City Council. Upon proper motion by a member of the City Council any scheduled meeting may be recessed and reconvened at a later date and time in the event that facilities are not readily available to accommodate the members of the public wishing to attend the meeting.
- 4.3 Conduct - The Mayor can remove any member of the public attending a scheduled meeting of the City Council that is disruptive, to the extent that orderly conduct of the meeting is compromised, from the meeting with the assistance of a member of

the Police Department upon proper direction.

- 4.4 Executive Sessions - If authorized by one of the exceptions in WV Code 9-6A-4, the City Council may hold an executive session during any regular or special meeting. During the open portion of a meeting, prior to convening an executive session, the Mayor shall identify the authorization for conducting an executive session and shall present it to the members of the public present at the meeting. An executive session shall only be held upon a majority affirmative vote of the members of the City Council present and no decision shall be made in executive session.
- 4.5 Media Broadcasts - The City Council shall allow the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a scheduled meeting. The equipment shall be placed or used within the meeting room so as to prevent undue interference with the meeting. In the event that the Mayor determines that the size of the meeting room is not sufficient to accommodate all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape recording in the meeting room without unduly interfering with the meeting, the Mayor may require the pooling of the equipment and personnel operating the equipment.

01-5. Minutes.

- 5.1 Written minutes of all meetings of the City Council shall be prepared and maintained and shall be available to all members of the public after being approved at the following regularly scheduled meeting, and shall include, at least, the following:
- (1) The date, time, and place of the meeting;
 - (2) The name of each member of the City Council present and absent;
 - (3) All motions, proposals, resolutions, orders, and measures proposed, the name of the person proposing the same and their disposition;
 - (4) The results of all votes and, upon the request of a member, pursuant to the rules, policies, or procedures of the City Council for recording roll call votes, the vote of each member, by name;
- 5.2 A draft copy of the minutes, clearly marked, shall be open to the inspection of any member of the public, within ten working days after the meeting, at the City Hall Administration Office.