

OPEN MEETINGS ADVISORY OPINION NO. 2004-02

Issued On February 5, 2004 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The **Martinsburg-Berkeley County Parks and Recreation Board** (Board) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Board meets monthly on the third Tuesday of each month. The Board has adopted procedural rules which require these meetings to be announced through public service announcements in the local newspaper and on local radio stations. Agendas are made available in the Board's offices three days in advance of each regular meeting, not counting Saturdays, Sundays, legal holidays or the day of the meeting. Notices of special meetings are issued at least three days in advance by newspaper publication. A complete copy of the Board'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 Board'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 Board are inconsistent with the Act.



Chairman

**RULES OF PROCEDURE
MARTINSBURG-BERKELEY COUNTY PARKS & RECREATION BOARD**

The Martinsburg-Berkeley County Parks & Recreation Board meets each month on the third Tuesday at 11:30 AM in the Conference Room of the Martinsburg-Berkeley County Parks & Recreation Office, Berkeley 2000 Recreation Center, 273 Woodbury Avenue, Martinsburg, WV. The meetings are announced three working days in advance by PSAs in the newspaper and on radio stations. A list of meeting dates for the year is posted in the Berkeley 2000 Recreation Center. Any special meetings of the Board are announced three working days in advance in a like manner. Parks & Recreation Board meetings which are canceled due to inclement weather will be noticed to the public by radio spots and rescheduled for the fourth Tuesday of the month. Such meetings will be noticed in the newspaper at least three working days in advance. For purposes of counting any time in these Rules, Saturdays, Sundays, legal holidays, and the day of the meeting shall not be counted.

Agendas for monthly meetings will be available to the public and the media in the Board's offices after 12:00 PM three days prior to the meeting.

ITEMS FROM THE PUBLIC

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

These established Rules of procedure for the Martinsburg-Berkeley County Parks & Recreation Board agendas have been reviewed and approved by the Board this 20th day of January 2004.