

OPEN MEETINGS ADVISORY OPINION NO. 2006-08

Issued On September 7, 2006 By The

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

OPINION SOUGHT

The Marshall County E-911 Board asks if it can adopt by-laws which authorize a quorum of less than a majority of the members to conduct the Board's business.

FACTS RELIED UPON BY THE COMMITTEE

The Marshall County E-911 Board is in the process of updating their by-laws. They are considering a quorum provision that would allow business to be conducted by less than a majority of the voting members.

The statute which authorizes the establishment of enhanced emergency telephone systems also provides for the appointment of an advisory board consisting of at least six members to monitor the operation of the system. W. Va. Code § 24-6-5(f). The statute further authorizes the board to "adopt such policies, rules and regulations as are necessary for its own guidance." There is no provision relating to a quorum.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-2 provides the following pertinent definitions:

(4) "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. Meetings may be held by telephone conference or other electronic means

(7)"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.

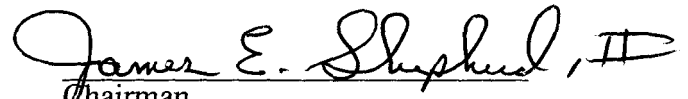
ADVISORY OPINION

This Committee finds that W. Va. Code § 24-6-5(e) explicitly authorizes an E-911 Board to "adopt such policies, rules and regulations as are necessary for its own guidance." By-laws governing the conduct of Board meetings will typically include a provision defining what constitutes a quorum for conducting official agency business.

The Open Meetings Act provides that a quorum of a governing body of a public agency consists of a majority of the membership, "unless applicable law provides for varying the required ratio." Where, as here, the enabling statute neither contains a specific quorum requirement nor specific authority for the Board to deviate from this required ratio, this Committee concludes that the Act prohibits the Board from establishing a quorum in its by-laws which consists of less than a majority of the voting members.

This advisory opinion is limited to questions arising under the Open Governmental Proceedings Act, W. Va. Code §§ 6-9A-1, *et seq.*, and does not purport to interpret other laws or rules. Pursuant to W. Va. Code § 6-9A-11, a governing body or member thereof that acts in good faith reliance on this advisory opinion has an absolute defense to any civil suit or criminal prosecution for any action taken

based upon this opinion, so long as the underlying facts and circumstances surrounding the action are the same or substantially the same as those being addressed in this opinion, unless and until it is amended or revoked.


Chairman