

OPEN MEETINGS ADVISORY OPINION NO. 2001-23

Issued August 9, 2001 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Roane County Commission asks: (1) when they must issue the agendas of their regular meetings; (2) how specific their agendas must be; and (3) may they take official action on matters raised during the public comment period, if those matters were not on the meeting agenda.

FACTS RELIED UPON BY THE COMMITTEE

The Roane County Commission meets at 7:00 P.M. on the second and fourth Tuesday of each month.

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

(1) The Open Meetings Act requires meeting agendas, but does not specify how much in advance of the meeting the agenda must be made available to the public and news media. The Committee must establish what is reasonable on a case-by-case basis.

In a prior Open Meetings Advisory Opinion (OMAO), 2001-04, the Committee ruled that a County Commission meeting twice a month would comply with the Act by making its agenda available at least three days before its regularly scheduled meetings. The Committee also ruled in OMAO 2001-10 that the day of the meeting, Saturdays, Sundays and legal holidays are not counted as notice days.

The Roane County Commission, meeting twice a month, would comply with the Act by making its meeting agendas available at least three days before those meetings. In the absence of an intervening legal holiday, the Commission would comply with the Act by making the agenda of its Tuesday meetings available any time before the close of business on the preceding Thursday.

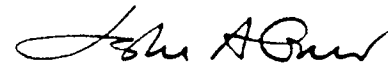
When the Commission has made its agenda available three days or more before the meeting, it may, at its option, amend the agenda to add additional items of business - items not known at the time the

original agenda was prepared and made available to the public. Amendments may be made as late as two days before the meeting, and made available to the public and media in the same manner as the original agenda.

(2) The statute does not establish how specific a meeting agenda's description of the items of business must be. The Committee ruled in OMAO 2001-13 that the Act requires the language to be sufficient to make the public aware of the specific matters to be dealt with at the meeting and that generic language, such as "personnel matters," is insufficient.

The statute requires more detailed and specific descriptions of the items of business, such as "hiring Jane Doe to fill a vacant Clerk-Typist position in the Assessor's Office," "hiring John Law to fill a newly created Deputy Sheriff position in the Sheriff's Department," or "consider plan to remodel County Assessor's offices."

(3) Except in an emergency, the Commission may not take official action on matters raised by the public, if the matter was not on the meeting agenda. The Commission may consider whether the matter requires official action, and if it does, place the matter on the agenda of a subsequent meeting for official action.



Chairman