

OPEN MEETINGS ADVISORY OPINION NO. 2001-28

Issued On September 6, 2001 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The City of St. Albans asks for guidance concerning the deadline for making its meeting agenda available to the public and media. It also asks if the agenda requirements in the Open Meetings Act apply to City Council Committees.

FACTS RELIED UPON BY THE COMMITTEE

The City Council meets twice a month on the first and third Monday. An agenda is made available to the public on the Friday preceding each meeting. The City Council has approximately seven standing committees consisting of two to five Council Members. Some Council Committees meet on a regular basis while others meet only intermittently as required.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-2(6) defines a "public agency" as: "[a]ny administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power."

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 . . . are made available, in advance, to the public and news media. . . ."

ADVISORY OPINION

The Open Meetings Act requires public agencies to make meeting agendas available in advance to the public and news media. The Act does not specify how far in advance an agenda must be issued. This Committee has concluded that "reasonable notice" must be provided.

In the case of a County Commission meeting twice a month, the Committee has previously ruled that the Commission may comply with the Act by making an agenda available at least three days in advance of its regularly scheduled meeting. The Committee finds that the same three-day notice period is appropriate for the St. Albans City Council meeting twice a month.

In calculating the number of days in the notice period, Saturdays, Sundays, and legal holidays are not counted. Therefore, in the absence of an intervening legal holiday, the St. Albans City Council

would comply with the requirements of the Act by making the agenda of its regular Monday meetings available to the public and media at any time before the close of business on the preceding Wednesday.

When the City Council has made its agenda available three days or more in advance of 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 in the same manner as the original agenda.

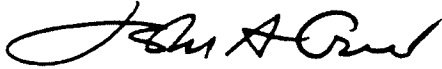
However, no amendment of the agenda may be made less than two days before a meeting, unless it is to deal with an emergency matter. Routine matters that come up after the deadline for issuing an amendment has passed must be held over to the next meeting. If an agenda is amended to accommodate action on an emergency matter, both the meeting agenda and the meeting minutes must explain the facts and circumstances of the emergency.

This Committee has previously determined that a City Council Committee, consisting of two or more members, the purpose of which is to formulate recommendations to the Council as a whole, is a governing body of a public agency, and must conduct its meetings in compliance with the Act. Therefore, standing committees appointed by St. Albans City Council must provide advance notice of the date, time and place of each meeting, and make available to the public and media an agenda listing all items requiring official action by the Committee at a particular meeting.

A municipal committee that meets regularly may provide notice of its meetings in the same manner as the city council. When such regular meetings occur no more frequently than every two weeks, the committee should make a meeting agenda available to the public and media at least three days in advance. If more frequently, it should be available two days in advance.

The meetings of committees that meet irregularly are considered special meetings. Notice of special meetings should be given at least two days in advance and, like notice of regular meetings, must include the date, time and place of the meeting. Unlike regular meetings, special meeting notices must also explain the purpose of the meeting.

If only one or two matters will be dealt with at a special meeting, these matters may be described in the statement of the meeting purpose contained in the notice, and no separate agenda will be necessary. However, if the meeting will deal with several matters, a separate meeting agenda should be prepared and included with the meeting notice.


Chairman