

OPEN MEETINGS ADVISORY OPINION NO. 2002-20

Issued On November 7, 2002 By The

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

OPINION SOUGHT

The Berkeley County Commission seeks to verify that its revised procedural rules are in compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

In Open Meetings Advisory Opinion 2002-04 issued on March 7, 2002, this Committee generally approved procedural rules adopted by the Berkeley County Commission, noting that the rules needed to more specifically provide for intervening legal holidays in the agenda notice period, a two-day notice period for special meetings, and where meeting agendas will be made available to the public. The requestor has submitted revised procedural rules. These rules are attached 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 Berkeley County Commission'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 rules adopted by the Berkeley County Commission are inconsistent with the Act.



Chairman

**RULES OF PROCEDURE
BERKELEY COUNTY COMMISSION AGENDA**

COMMISSION MEETING DATES

The Berkeley County Commission meets each Thursday at 9:30 a.m. The Commission meets on the first Monday of each month at 10:00 a. m. and the first Thursday of each month at 9:30 a.m. and 7:00 p.m. Any additional special meetings called by the Commission will be noticed to the public as they are scheduled two days in advance of the meeting. For purposes of counting any time period in these Rules, Saturdays, Sundays, legal holidays and the day of the meeting shall not be counted. Commission meetings that are canceled by the Commission or on days in which holidays fall will be so noticed. Notice is provided by posting on the Commission's web site and on the main Courthouse door at 100 West King Street.

COMMISSION AGENDA SUBMITTAL DATES

The Berkeley County Commission shall accept items for inclusion on the weekly meeting agenda until 12:00 noon on each Friday. In the event that a given Friday is a scheduled holiday, the deadline for submittal will be 5:00 p.m. on the Thursday before the holiday. Agendas for the weekly meetings will be available to the public and the media after 9:00 a.m. on the Tuesday before the Thursday Commission meeting in the County Commission office located at 126 West King Street and on the Commission's website. Agenda's for the monthly Monday a.m. meeting will be available on the preceding Thursday after 10:00 a.m. in the County Commission offices located at 126 West King Street and on the Commission' s website. In the event of an intervening legal holiday, the agenda will be made available one working day earlier.

ITEMS FROM THE PUBLIC

The Berkeley County Commission establishes times on each agenda devoted to items from the public. Any member of the public is invited to speak on a given topic during those designed times. If the item requires action by the Commission and is not a scheduled agenda item, the issue will be scheduled for the following Commission meeting so that it may be noticed to the public, in the manner specified, prior to Commission action.