

OPEN MEETINGS ADVISORY OPINION NO. 2003-03

Issued On April 3, 2003 By The

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

OPINION SOUGHT

The Monongalia County Planning Commission (Commission) asks that its procedural rules be reviewed for compliance with the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

The Commission is proposing to adopt procedural rules which will require that notice of all regular meetings be posted at least five days in advance of a meeting and that agendas for such meetings will be posted and available at least three days in advance of a meeting, not including Saturdays, Sundays and legal holidays. Notice of special meetings including the date, time, place and purpose will similarly be posted at least three days in advance. A complete copy of the proposed procedural rules are 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.

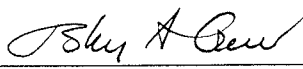
ADVISORY OPINION

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 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 proposed by the Commission are inconsistent with the Act.



Chairman

01 - NOTICE AND CONDUCT OF MEETINGS

01-1. General

1.1 Scope - This procedural policy establishes requirements for notice of meetings and general rules for conduct of said meetings of the Monongalia County Planning Commission, hereafter referred to as "Planning Commission."

1.2 Authority - WV Code § 6-9A-1, et seq.

1.3 Filing Date -

1.4 Effective Date -

01-2. Preface.

2.1 The West Virginia Legislature has provided in Article 9A of Chapter 6 of the West Virginia Code that all regular and special meetings of governing bodies shall be open to the people of the State and that the people shall be given reasonable advance notice of the time, date, and location of such meetings being convened, provided, however, that governing bodies may hold executive sessions as part of duly convened regular or special meetings under certain circumstances as permitted by law;

2.2 The Legislature has provided in Section 3, Article 9A, Chapter 6 of the West Virginia Code that:

Each governing body shall promulgate rules by which the date, time, place, and agenda of all regularly scheduled meetings and the 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 attention;

01-3. Notice of Meetings.

3.1 The Planning Commission shall meet at the Monongalia County Health Department's Conference Room 1 at 453 Van Voorhis Road, Morgantown, WV 26505, or at such other locations as the Planning Commission may from time to time deem necessary .

3.2 Regular Meetings - Notice of regularly scheduled meetings shall be posted by the Planning Office on the front door of the main level of the Monongalia County Courthouse. In addition, notices shall be posted on the Planning Commission's website. Meeting notices shall be posted at least five days prior to the date of the meeting. Said notices shall contain the time, date, and location of the meeting. The agenda of the meeting shall be posted on the Planning Commission's website and made available at the County Planning Office, located at 1000 Elmer Prince Drive, Room 215, Morgantown, WV 26505, 304-598-5103, at least three days prior to the date of the meeting. Meeting

notices and agendas shall be delivered to various forms of public news media including local newspaper, radio, and public access television at least three days prior to the date of the meeting. The three-day period will exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said Courthouse location as soon as feasible after such cancellation or postponement has been determined.

3.3 Special Meetings - The notice of any special meeting shall be posted by the Planning Office on the front door of the main level of the Monongalia County Courthouse not less than three days before a specially scheduled meeting is to be held, stating the date, time, place, and purpose for which such special meeting shall be held. Notices and agendas shall be posted on the Planning Commission's website not less than three days before a special meeting. Meeting notices and agendas shall be delivered to various forms of public news media including local newspaper, radio, and public access television at least three days prior to the date of the meeting. The three-day period will exclude the day of the meeting, along with Saturdays, Sundays, and legal holidays. If the special meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at said Courthouse location as soon as feasible after such cancellation or postponement has been determined.

01-4. Conduct of Meetings.

4.1 Presentations - Persons desiring to place an item on the Planning Commission's agenda must make a written request to the Planning Office not less than ten (10) days prior to the date of the meeting. Persons desiring to address the Planning Commission are encouraged to make arrangements in advance with the Planning Office. However, advance arrangements are not necessary as such persons may sign in prior to the scheduled commencement of any regular or special meeting. Persons having signed in and wishing to address the Planning Commission on non-agenda items will be allowed to do so under the Public Comments section once the President recognizes him/her. Speakers must provide his/her name, mailing address, telephone number, and the subject to be addressed. No official action may be taken on a Public Comments subject matter until it can be presented as an agenda item at the next subsequent meeting. Presentations shall be limited to five (5) minutes, unless otherwise designated by the President. Delegations are encouraged to use a spokesperson to present their concerns for proposals.

4.2 Attendance - In the event that there is not room enough to conduct a scheduled meeting due to the number of members of the public that wish to attend, a scheduled meeting can be moved to accommodate all those wishing to attend upon proper motion by any member of the Planning Commission. Upon proper motion by any member of the Planning Commission, any scheduled meeting may be recessed and reconvened at a later date and time in the event that facilities are not readily available to accommodate the members of the public wishing to attend the meeting.

4.3 Conduct - The President of the Planning Commission can remove any member of the public attending a scheduled meeting of the Planning Commission that is disruptive, to the extent that orderly conduct of the meeting is compromised, from the meeting with the assistance of the Sheriff of Monongalia County upon proper direction.

4.4 Executive Sessions - If authorized by one of the exceptions in WV Code 9-6A-4, the Planning Commission may hold an executive session during any regular or special meeting. During the open portion of a meeting, prior to convening an executive session, the President shall identify the authorization for conducting an executive session and shall present it to the members of the public present at the meeting. An executive session shall only be held upon a majority affirmative vote of the members of the Planning Commission present and no decision shall be made in executive session.

4.5 Media Broadcasts - The Planning Commission shall allow the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a scheduled meeting. The equipment shall be placed or used within the meeting room so as to prevent undue interference with the meeting. In the event the President determines that the size of the meeting room is not sufficient to accommodate all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming, and tape recording in the meeting room without unduly interfering with the meeting, the President may require the pooling of the equipment and personnel operating the equipment.

01-5. Minutes.

5.1 Written minutes of all meetings of the Planning Commission shall be prepared and maintained and shall be available to all members of the public after being approved at the following regularly scheduled meeting, and shall include, at least, the following:

- (1) The date, time, and place of the meeting;
- (2) The name of each member of the Planning Commission present and absent;
- (3) All motions, proposals, resolutions, orders, and measures proposed, the name of the person proposing the same and their disposition;
- (4) The results of all votes and, upon the request of a member, pursuant to the rules, policies, or procedures of the Planning Commission for recording roll call votes, the vote of each member, by name;

5.2 A draft copy of the minutes, clearly marked, shall be open to the inspection of any member of the public, within ten working days after the meeting, at the County Planning Office.

5.3 Approved minutes shall be posted on the Planning Commission's website.