

OPEN MEETINGS ADVISORY OPINION NO. 2003-05

Issued On June 5, 2003 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Tucker County Solid Waste Authority (Authority) seeks guidance on issuing notice of regular and special meetings and for making the meeting agenda available to the public and the media.

FACTS RELIED UPON BY THE COMMITTEE

The Authority usually meets twice a month on the first and third Thursday of each month. Meeting notices are posted at the Court House, Post Office and Authority office.

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 purposes 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 public agencies to inform the public of (1) the time, date, place and purpose of their meetings and (2) what will be dealt with at the meetings. This means agencies must (1) give "meeting notice," telling the public when and where the meeting will be held, and (2) provide a "meeting agenda," telling the public the items of business with which the meeting will deal.

Meeting notices and meeting agendas may be separate documents or may be combined in a single document. More often than not agencies will post or publish notice of a regular meeting prior to making the meeting agenda available to the public.

Meeting Notice - Regular Meetings A governing body which meets in accordance with a fixed schedule, as the Authority does, may comply with the meeting notice requirement by posting notice of its meeting schedule annually, and keeping this notice posted throughout the year. Posting such schedules at the County Court House, the Post Office in the county seat, and at its own office, in accordance with current practice, would fully comply with the Act.

Meeting Notice - Special Meetings The Authority would comply with the Act if it posted notice of a special meeting at least two days in advance of the meeting date. Notices of special meetings

must include the date, time and place of the meeting and, unlike regular meeting notices, must 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 purpose statement within the meeting 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 made available with the meeting notice.

The number of days before the meeting referred to above excludes the day of the meeting as well as Saturdays, Sundays, and legal holidays. Therefore, in the absence of an intervening legal holiday, the Authority would comply with the Act by issuing notice of a special meeting to be held on Friday at any time before the close of business on the preceding Wednesday.

Meeting Agendas The Act requires public agencies to make meeting agendas available in advance to the public and news media. The Act does not specify when or how this must be done.

When The Authority would comply with the Act if it makes its agenda available at least three days before each regularly scheduled meeting. Days are counted as described above.

How The Authority would comply with the Act, if it posts the agenda in an appropriate public space, such as the Authority office, in addition to having copies of the agenda available to be picked up at its office. If the Authority meetings are routinely covered by the news media, providing a copy to those media at the time the agenda is posted is encouraged.

When the Authority 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.

In addition to regularly scheduled meetings and special meetings, public agencies may hold emergency meetings. Emergency meetings may be held with little or no advance notice. Any meeting notice issued, and the meeting minutes, must fully explain the purpose of the meeting and the facts and circumstances justifying an emergency meeting.



Chairman