

**OPEN MEETINGS ADVISORY OPINION NO. 2005-02**

**Issued On March 3, 2005 By The**

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

**OPINION SOUGHT**

Ted Tuttle, a member of the Fairview Town Council, seeks to determine who has authority to cancel or reschedule a meeting of the Town Council.

**FACTS RELIED UPON BY THE COMMITTEE**

The requester is concerned that regularly scheduled meetings of the Town Council are being cancelled or rescheduled by the Mayor, even though the Town Recorder is available to preside over the meeting in the Mayor's absence, a quorum of the members will be available, and a majority of the Council Members would prefer to hold the meeting as scheduled.

**CODE PROVISIONS RELIED UPON BY THE COMMITTEE**

W. Va. Code § 6-9A-2 includes the following definitions:

(4) "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action. Meetings may be held by telephone conference or other electronic means. . . .

(7) "Quorum" means the gathering of a simple majority of the constituent membership of a governing body, unless applicable law provides for varying the required ratio.

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. . . ."

W. Va. Code § 6-9A-11(a) provides: "Any governing body or member thereof subject to the provisions of this article may . . . request an advisory opinion from the West Virginia ethics commission committee on open governmental meetings as to whether an action or proposed action violates the provisions of this article."

**ADVISORY OPINION**

The Open Meetings Act requires governing bodies of public agencies to give advance notice of the date, time and place where a meeting will be held. There is no provision in the Act regarding cancellation of a scheduled meeting. Moreover, the question of who has authority to call, postpone

or cancel a meeting of a municipal governing body is not addressed anywhere in the Act. That issue is governed by general municipal law.

The Committee has no authority to provide an opinion on matters that are outside the scope of the Open Meetings Act. Accordingly, this Committee may not render an opinion on the issues submitted by the requester.



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Chairman