

OPEN MEETINGS ADVISORY OPINION NO. 2002-01

Issued On February 7, 2002 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

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

FACTS RELIED UPON BY THE COMMITTEE

The Berkeley County Planning Commission has adopted procedures governing the issuance of meeting notice and meeting agendas. The rules provide for publishing notice of meetings a week in advance and making meeting agendas available to the public at the same time. A complete copy of the Commission's procedural rules is 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 adopted by the Commission are inconsistent with the Act.



Chairman

BERKELEY COUNTY PLANNING COMMISSION AGENDA

PLANNING COMMISSION MEETING DATES

The Berkeley County Planning Commission meetings are held at 119 West King Street, Martinsburg, WV, in Meeting Room # 7 on the first and third Mondays at 7:00 p.m. Special Meetings which have been called by the Planning Commission will be published in The Journal and noticed one week prior to the scheduled meeting. Planning Commission meetings are held on the following Tuesday, when Monday is a holiday. Notice of any meetings that are cancelled will be given through the news media.

PLANNING COMMISSION SUBMITTAL DATES

The Berkeley County Planning Commission meeting and submittal dates are set in December of the previous year and approved by the Planning Commission. All items for inclusion on the Planning Commission agendas are to be submitted by 5:00 p.m. on the dates noted on the Meeting and Submittal Dates. Agendas for the meeting will be available to the public, the media, and posted in the Planning Commission office on the Monday before the Planning Commission meeting.

SUNSHINE LAW

The Berkeley County Planning Commission allows 15 minutes prior to the start of the Planning Commission meeting for the general public to sign up under the Sunshine Law. This time is devoted for the public to speak on any topic. The Planning Commission will take no official action regarding the issue. If action is required then the Planning Commission shall place the item on the next available Planning Commission agenda for discussion and action.

These established Rules of Procedure for Berkeley County Planning Commission agendas have been reviewed and approved by the Berkeley County Planning Commission this 7th day of January, 2002.