See Appendix at *XX Chief Service and Functions Authorized for City and County Governments in West Virginia*, J. McClung, Esq. , V. Parsons

DECISION MAKING ROLES

The commission makes decisions that are legislative, quasi-judicial, advisory and administrative.

Legislative Duties

Legislative decisions include decisions that are rulemaking in nature such as to adopt, amend or repeal an ordinance.   There are public notice and hearing requirements set forth in the Open Meeting Act as well as the statutes addressing the powers of the commission. See W. Va. Code § 6-9A-1–12.

Administrative Duties

Administrative duties can include record retention, FOIA responses, ordering of supplies, etc. and generally can be delegated to staff.

Quasi-Judicial Duties

There are limited areas where the commission, as a body, acts as a judge or judicial body such as by taking information or evidence and making a "ruling" or decision. When the commission is called upon formally to hear facts and make a decision they are performing a quasi-judicial role similar to what a judge does. For instance, the jurisdiction to probate wills lies with the county commission.   This includes the appointment of an administrator or executor.   The commission can also revoke the powers of an administrator where proper.   See W.Va. 44-5-1 *et seq*.

The procedure in each area where the commission acts in a quasi-judicial capacity is set forth in the statute where the power or authority is set out.   Generally in making a decision when serving in a quasi-judicial role, due process must be followed. Due process includes proving advance notice and a reasonable opportunity to be heard for any interested party.   The commission must make a record of the proceeding as well. This can often be done by audio recording and obtaining and retaining any relevant records.

When serving in a quasi-judicial role it is important that a decision be made only based upon the evidence or information and testimony provided to the commission as a whole.   You are not to consider information that was not part of that record. Information that is not part of the record is often referred to as *ex parte*.