

August 24, 2005

Mr. Clarence Colby
4121 Ellsworth Street
Gary, IN 46408

Re: Formal Complaint 05-FC-147; Alleged Violation of the Open Door Law by the Calumet Township Board

Dear Mr. Colby:

This is in response to your formal complaint alleging that the Calumet Township Board of Lake County ("Board") violated the Open Door Law by amending the agenda of the July 12, 2005 meeting. I find that the Board did not violate the Open Door Law.

BACKGROUND

You allege that the Board, at its July 12, 2005 meeting, voted to amend the agenda to include Resolution No. 2005-08, and then approved the resolution. You state that you believe that amending the Board's agenda violated the Open Door Law because the public was not given prior notice of the Board's intention to include this item on the agenda.

You filed your complaint with my office on July 25, 2005. I sent a copy of your complaint to the Board. Philippa Cody-Tolliver, Chairperson of the Board, responded. I have included a copy of her response for your reference. Ms. Cody-Tolliver states that the Board did vote to amend its agenda during the July 12 meeting. She contends that there is no requirement in the Open Door Law that an agency give advance notice of the matters it will be acting upon at a public meeting; therefore, the Board did not violate the Open Door Law.

ANALYSIS

It is the public policy of the State of Indiana that official action of public agencies be conducted and taken openly, in order that the people may be fully informed. Ind. Code 5-14-1.5-1. Hence, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. IC 5-14-1.5-3(a).

Public notice of the *date, time and place* of a meeting must be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. IC 5-14-1.5-5(a)(emphasis added). The governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. IC 5-14-1.5-4(a).

There is nothing in the Open Door Law that requires a public agency to utilize an agenda. Also, the notice requirements in the Open Door Law do not require that an agency give advance notice of what will be discussed during a *public* meeting. The agenda, if one is utilized, must be posted only just prior to the meeting. This office has stated many times that a governing body may add to or deviate from its agenda during the course of a meeting.

Here, the Board adopted a formal resolution during the course of the public meeting to add Resolution 2005-08 to the agenda. The Board did not violate the Open Door Law when it added the resolution to the agenda. Boards may deviate from the posted agenda during a public meeting; persons wishing to learn the business of the Board must attend the public meeting.

CONCLUSION

For the foregoing reasons, the Calumet Township Board did not violate the Open Door Law.

Sincerely,

Karen Davis
Public Access Counselor

cc: Philippa Cody-Tolliver