

May 21, 2007

F. Paul Magin III  
321 North Benton Street  
Goodland, IN 47948

*Re: Formal Complaint 07-FC-105; Alleged Violation of the Access to Public Records Act by the Town of Goodland*

Dear Mr. Magin:

This is in response to your formal complaint alleging that the Town of Goodland (“Town”) violated the Access to Public Records Act by refusing to provide a copy of a record. I find that the Town violated the Access to Public Records Act.

#### BACKGROUND

You allege that you hand-delivered your request to the Town on April 16. You requested a copy of a grant proposal for the construction of a bike path and other facilities in Foster Park. The Clerk-Treasurer had to retrieve the Town’s copy from the proposal agent. However, when you returned to the Town the Clerk-Treasurer told you that you could view the document, but could not have a copy. The decision to not allow copies was made by James Butler, Town Council President. He declined to provide the copy until the entire town council had reviewed the proposal. You ask why you would not be allowed to retain a copy of the document if you were allowed to view it.

I sent a copy of your complaint to the Town. The Town has not responded to the allegations, although when this office pursued Mr. Butler for a response, he told my assistant that he had now provided you with a copy of the record.

#### ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). The Town was required to allow inspection and copying unless the record was exempt under any

of the exceptions contained in section 4 of the APRA. If a public agency denies a written request for a record, it must do so in writing and state the exemption that authorizes the agency to withhold the record, and the name and title or position of the person responsible for the denial. IC 5-14-3-9(c).

The Town did not cite an exemption, nor did it outright deny the record to you. Rather, it allowed you to inspect the record but not to have a copy until the entire town council had reviewed the proposal. Unless the record is exempt under section 4 of the APRA, the Town was required to provide a copy of the record or allow you to make a copy of the record yourself. *See* IC 5-14-3-3(b).

#### CONCLUSION

For the foregoing reasons, I find that the Town of Goodland violated the Access to Public Records Act when the Town refused to provide a copy of the grant proposal.

Sincerely,

Karen Davis  
Public Access Counselor

cc: James Butler