

August 28, 2007

Rita Kopala
66559 Ivy Road
Lakeville, Indiana 46536

*Re: Formal Complaint 07-FC-225; Alleged Violation of the Open Door Law by the
Lakeville Town Council*

Dear Ms. Kopala:

This is in response to your formal complaint alleging the Lakeville Town Council (“Council”) violated the Open Door Law (“ODL”) (Ind. Code §5-14-1.5) by not providing appropriate notice for an executive session. I find that the Lakeville Town Council violated the Open Door Law.

BACKGROUND

In your complaint you allege that the Council did not provide proper notice for its July 11, 2007 executive session. You enclosed a copy of the meeting notice which reads as follows: “Executive Meeting; Lakeville Town Council; July 11th, 2007; 6:30pm; Rm #201; Newton Cetner; Discussion on UNIGOV and strategic planning w/Township Board, LaBoa, Pleasant Lake Foundation.” You filed your complaint on July 30 2007.

The Council did not respond to your complaint at my invitation.

ANALYSIS

It is the intent of the Open Door Law that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. I.C. §5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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. I.C. §5-14-1.5-3(a).

The Council is clearly a governing body of a public agency for the purposes of the Open Door Law. I.C. §5-14-1.5-2. As such, except where authorized by statute, the meetings of the Council must be conducted openly and with proper notice to the public. I.C. §5-14-1.5-3.

An executive session may be held only in an instance listed in I.C. §5-14-1.5-6.1. Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. §5-14-1.5-5(a). Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which the executive sessions may be held under subsection (b). I.C. §5-14-1.5-6.1(d).

Here you do not allege the notice was posted inside the 48 hours required by the ODL, so I will assume the notice was posted at least 48 hours in advance of the meeting. Regarding the content of the notice, I find the notice defective under the ODL. First, an executive session notice must list the specific enumerated instance in the ODL for which the executive session is to be held. This has not been done in this matter. Second, an executive session may only be held for one of the instances enumerated in section 6.1 of the ODL. IC. §5-14-1.5-6.1. It is my opinion the topics listed in this notice to not fall under one of the enumerated instances listed in section 6.1. As such, these matters should be discussed in an open meeting.

CONCLUSION

For the foregoing reasons, I find that the Lakeville Town Council violated the Open Door Law.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Lakeville Town Council