

August 28, 2007

Rita Kopala
66559 Ivy Road
Lakeville, Indiana 46536

Re: Formal Complaint 07-FC-226; Alleged Violation of the Open Door Law by the St. Joseph County Council and Board of Commissioners

Dear Ms. Kopala:

This is in response to your formal complaint alleging the St. Joseph County Council (“Council”) and Board of Commissioners (“Commissioners”) violated the Open Door Law (“ODL”) (Ind. Code §5-14-1.5) by not providing appropriate notice for a meeting. A copy of the county’s response is enclosed for your reference. I find that because you were in attendance at the meeting you lack standing to file a complaint.

BACKGROUND

In your complaint you allege that the Council and Commissioners held a meeting on July 10, 2007 for which no notice was posted. You were in attendance at that meeting. You filed your complaint on July 30, alleging there was no notice for the meeting.

The Commissioners responded to your complaint by letter dated August 14 from Deputy County Attorney Kathleen Cekanski-Farrand, and the Council responded to your complaint by letter dated August 14 from attorney for the Council James Olson. Ms. Cekanski-Farrand explains the lack of notice for the meeting between members of the Council and two Commissioners was an oversight. The Commissioners believed notice had been posted. Mr. Olson explains that because the Commissioners called the meeting, the Council believed the Commissioners had posted the notice.

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 and Commissioners are clearly governing bodies 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 and Commissioners must be conducted openly and with proper notice to the public. I.C. §5-14-1.5-3.

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).

A person denied the right to attend any public meeting of a public agency in violation of I.C. §5-14-1.5 or denied any other right conferred by I.C. §5-14-1.5 may file a formal complaint with the public access counselor. I.C. §5-14-5-6.

You were in attendance at the meeting at issue here. Because you were not denied access to the meeting, you lack standing to file a complaint with this office. I.C. §5-14-5-6. Further, based on the facts presented it is my opinion that while it is evident no notice was posted for the meeting, neither the Council nor the Commissioners otherwise violated the ODL.

CONCLUSION

For the foregoing reasons, I find that you do not have standing to file a complaint regarding improper notice of a meeting of the Council and Commissioners because you were in attendance at the meeting.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: James Olson, St. Joseph County Council Attorney
Kathleen Cekanski-Farrand, Deputy County Attorney