



STATE OF INDIANA

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October 1, 2012

Ms. Tina L. McKnight
513 Westwood Court
Winchester, Indiana 47394

*Re: Formal Complaint 12-FC-256; Alleged Violation of the Open Door Law
by the Winchester City Council*

Dear Ms. McKnight:

This advisory opinion is in response to your formal complaint alleging the Winchester City Council ("Council") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* Our office forwarded a copy of your formal complaint to the Council. As of today's date, we have yet to receive a response.

BACKGROUND

In your formal complaint, you allege that you have been contacting Mayor Steven Croyle for over a year regarding issues related to trash pickup in your area. The Council discussed the issue on a number of occasions between March 2012 and July 2012. At the July 2012 meeting, the Council unanimously voted to accept the most responsive and lowest bid to have concrete applied to the area in question. On August 6, 2012, you inquired with the Mayor when the work would be completed, at which time you provide that the Mayor stated that the City had more important things to do. After further issues developed regarding the number of bids received, when the job would be completed, and street parking, you maintain that the Council failed to place the issue on the September 4, 2012 Council meeting agenda. When you attempted to speak during the meeting, you allege that the Mayor slammed the gavel and stated the matter was settled. You maintain that the Council violated the ODL by failing to give you an opportunity to speak at the meeting.

ANALYSIS

It is the intent of the ODL 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. *See* I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, 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. See I.C. § 5-14-1.5-3(a).

You allege that the Council violated the ODL by failing to provide the public with an opportunity to address the body at its September 4, 2012 meeting. Counselor Neal noted in Formal Complaint 08-FC-149, Indiana law only requires that public meetings be open; it does not require that the public be given the opportunity to speak. See *Opinion of the Public Access Counselor 08-FC-149*, citing *Brademas v. South Bend Cmty. Sch. Corp.*, 783 N.E.2d 745, 751 (Ind. Ct. App. 2003), *trans. denied*, 2003; see also I.C. § 5-14-1.5-3 (“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.”). “Indiana law does require a governing body to allow public testimony in certain instances (e.g. a hearing on a proposed budget), but as a general rule the ODL does not guarantee the right to speak at a meeting.” See *Opinions of the Public Access Counselor 08-FC-149 and 10-FC-240*. Thus, while I would strongly encourage all governing bodies to adopt some method to allow the public to comment at meetings of the governing body and ensure that the procedure proceeds in a civilized manner, it is my opinion that Council did not violate the ODL by not allowing you to speak at its September 4, 2012 meeting.

CONCLUSION

For the foregoing reasons, it is my opinion that the Council did not violate the ODL.

Best regards,

A handwritten signature in black ink, appearing to read 'J. Hoage', written in a cursive style.

Joseph B. Hoage
Public Access Counselor

cc: Winchester City Council