



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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October 18, 2013

Ms. Pamela Lau
1936 Northwinds Dr.
Dyer, IN 46311

Re: Formal Complaint 13-FC-282; Alleged Violation of the Open Door Law by the Town of Dyer

Dear Ms. Lau,

This advisory opinion is in response to your formal complaint alleging the City of Dyer ("City") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq.* The City, by William T. Enslen, Esq., responded to your complaint. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 18, 2013.

BACKGROUND

Your complaint alleges the Town of Dyer violated the Open Door Law by failing to give sufficient notice of a meeting and also by soliciting the presence of another public agency.

You allege that on or about August 19, 2013, the City held a Planning Commission meeting wherein the public was not allowed to speak on a pipeline project. This prohibition was issued by Mr. Enslen, the City Attorney. Your complaint was received by this Office on September 18, 2013.

The City filed its response to your complaint on October 8, 2013 claiming Mr. Enslen was not the moderator of the discussion and the meeting had been turned over to the President of the Board during the time the public was prevented from speaking.

ANALYSIS

It is the intent of the Open Door Law (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* Ind.Code § 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 Ind. Code § 5-14-1.5-3(a).

The City of Dyer and its Planning Commission are public agencies under the ODL and therefore, are subject to its provisions. The Open Door Law does not address the right of the public to speak at Open Meetings. While public discourse and discussion is encouraged, nothing obligates a public agency to allow the opportunity for public comment. It matters not if the attorney or the president of the board issues the prohibition; Open Meetings are conducted at the discretion of the agency. This office does not regulate the manner in which public meetings are held.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the City of Dyer did not violate the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: William T. Enslen, Esq.