



STATE OF INDIANA

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September 4, 2014

Mr. Edward Seykowski
607 N. 70 E.
Valparaiso, IN 46383

Re: Formal Complaint 14-FC-163; Alleged Violation of the Open Door Law by the Chesterton Town Council

Dear Mr. Seykowski,

This advisory opinion is in response to your formal complaint alleging the Chesterton Town Council ("Council") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et seq.* The Council has responded via Counsel Charles F.G. Parkinson. 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 August 1, 2014.

BACKGROUND

Your complaint dated August 1, 2014, alleges the Chesterton Town Council violated the Open Door Law by providing improper notice of a public meeting in which an ordinance was passed.

On July 3, 2014, the Chesterton Town Council held a "special meeting" before their regularly scheduled meeting at which the Council passed an ordinance affecting a geographical radius outside town limits proper. You seem to acknowledge the notice may have been posted 48-hours in advance at the place of the meeting; however, you take exception with this as the action taken affected a geographical area extending beyond Chesterton Town limits. You also allude to an Access to Public Records Act violation; however, you do not explicitly allege the violation on your behalf. It appears as if another individual may have been prejudiced by the alleged violation, however, the method of the records request is ambiguous enough to disregard any APRA violation for the purposes of this Opinion.

The Council responds by arguing proper notice was posted 48-hours in advance at the location of the meeting pursuant to the Open Door Law.

ANALYSIS

It is the intent of the Open Door Law (ODL) 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).

"Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. Ind. Code 5-14-1.5-2(c). "Public business" means "any function upon which the public agency is empowered or authorized to take official action." Ind. Code 5-14-1.5-2(e). "Official action" is very broadly defined by our state legislature to include everything from merely "receiving information" and "deliberating" (defined by Indiana Code 5-14-1.5-2(i) as discussing), to making recommendations, establishing policy, making decisions, or taking a vote. Ind. Code § 5-14- 1.5-2(d). A majority of a governing body that gathers together for any one or more of these purposes is required to post notice of the date, time and place of its meetings at least forty-eight (48) hours in advance of the meeting, not including weekends or holidays. Ind. Code § 5-14-1.5-5(a).

According to its response, the Council posted notice of the meetings 48-hours in advance at the Town Hall and the Town's business offices. The meeting was held at the Town Hall. This satisfies the requirements found at Ind. Code § 5-14-1.5-5(a). While the action taken at the meeting may have affected an extended area, there is no obligation under Indiana law requiring the Council to post any other special notice.

The Council also contacted several media outlets and notified them of the meeting. While they may be obligated to do so under Ind. Code § 5-14-1.5-5(b)(2), the media is not under any obligation to further publish the notice or alert their readership. That decision is at the discretion of the editor/producer of the media entity.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Chesterton Town Council has not violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Mr. Charles F. G. Parkinson, Esq.