



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 23, 2016

Mr. James G. Sprague
406 Central Avenue
Connersville, Indiana 47331

Re: Formal Complaint 16-FC-275; Alleged Violation of the Open Door Law by the Fayette County Council

Dear Mr. Sprague:

This advisory opinion is in response to your formal complaint alleging the Fayette County Council ("Council") violated the Open Door Law ("ODL"), Indiana Code § 5-14-1.5-1 et. seq. The Council has not responded despite an invitation to do so on October 19, 2016. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 19, 2016.

BACKGROUND

Your complaint dated October 18, 2016, alleges the Fayette County Council violated the Open Door Law by conducting public meetings without proper notice and failing to post an agenda.

On October 10 2016, the Fayette County Council met for a properly advertised budget hearing meeting. After the meeting adjourned, a councilmember called an impromptu, non-advertised meeting to discuss a health insurance matter. You were advised of the secret meeting by other councilmembers, some of whom objected to having the meeting without notice behind closed doors.

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 Indiana 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 Indiana Code § 5-14-1.5-3(a)*.

Public notice of the date, time, and place of any meeting of a governing body, shall be given at least forty-eight (48) hours before the meeting. *See Indiana Code § 5-14-1.5-5*.

Without the benefit of a response from the Council disputing the secret meeting, I am left to conclude that a violation of the Open Door Law has occurred. If a majority of a governing body meets to discuss public business without notice and allowing the public to observe the meeting, the governing body is out of compliance.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Fayette County Council violated the Open Door Law.

Regards,

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

Luke H. Britt
Public Access Counselor