

February 28, 2002

Mr. Eric M. Cox  
Knightstown Banner Newspaper  
24 N. Washington Street  
Knightstown, IN 46148

Re: *Advisory Opinion 02-FC-07*;

Alleged Failure to Provide Proper Notice under the Open Door Law by the Knightstown Town Council.

Dear Mr. Cox:

This is in response to your formal complaint, which was received on February 4, 2002. You have alleged that the Knightstown Town Council ("Town Council") violated the Indiana Open Door Law ("ODL") by failing to post notice of a special meeting held on Monday, January 28, 2002. Town Attorney Gregory L. Crider responded in writing to your complaint and a copy of his response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Town Council did not violate the ODL with respect to posting notice of its January 28, 2002 special meeting.

#### BACKGROUND

According to your complaint, notice of a special meeting of the Town Council to be held on Monday, January 28, 2002 was not posted at least forty-eight (48) hours in advance as is required under the ODL. You stated that the notice was not posted until Friday January 25th and this violated the ODL.

In response to your complaint, Mr. Crider stated that the Town Council did hold a special meeting at 6:00 p.m. on Monday, January 28th. Notice of this special meeting was posted outside the Town Council Hall on Thursday, January 24th at 11:30 a.m., which is forty-eight (48) hours under the ODL. In addition, the Town Council faxed a copy of this notice to the New Castle Courier-Times at the same time that the notice was posted, so there is a telephone log record of this transmission that evidences compliance with the ODL.

#### ANALYSIS

The intent and purpose of the ODL is 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." Ind. Code § 5-14-1.5-1. The provisions of the ODL are to be "liberally construed with the view of carrying out its policy." Ind. Code § 5-14-1.5-1. The Town Council is a governing body of a

public agency subject to the ODL. Ind. Code § 5-14-1.5-2(b)(2).

A meeting is defined as "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). Meetings of a governing body must be held openly, with the exception of executive sessions, including affording the public the right to attend, observe and record these meetings. Ind. Code §5-14-1.5-3(a). Further, if the ODL applies to a meeting, the Town Council must have posted notice in accordance with Indiana Code section 5-14-1.5-5.

Under Indiana Code section 5-14-1.5-5, the Town Council was obligated to post notice outside their principal office or meeting location at least forty-eight (48) hours before the time of the meeting. Ind. Code §5-14-1.5-5(b)(1). In addition, the Town Council was required to provide notice to "all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body." Ind. Code §5-14-1.5-5(b)(2).

In your complaint, you stated that the meeting notice was posted on Friday, January 25th but you did not provide any facts or information that would support this assertion. According to the information provided by Mr. Crider, the January 28th special meeting notice was posted on January 24th and at the same time a copy was faxed to the New Castle Courier-Times as required under the ODL. Given that the Town Council has a written record of its transmission to the Courier-Times on January 24th this would support their contention that they did post the notice in compliance with the ODL.<sup>1</sup> Based on the information provided to me, therefore, it is my opinion that the Town Council did not violate the ODL with respect to the posting of the notice of its January 28th special meeting.

## CONCLUSION

In conclusion, it is my opinion that the Knightstown Town Council did not violate the ODL with respect to the posting of the notice of its January 28, 2002 special meeting.

Sincerely,

Anne Mullin O'Connor

Enclosures

cc: Mr.Gregory L. Crider, Town Attorney w/o enclosures.

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<sup>1</sup> In telephone conversations with Mr. Crider and Ms. Linda Stearns, the Town Clerk-Treasurer, I

confirmed that your publication had not filed a written request for copies of meeting notices under Indiana Code section 5-14-1.5-5(b)(2) prior to the January 28th meeting.