



STATE OF INDIANA

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June 26, 2008

Christine Conrad
7817 South Harmony Road
Bloomington, Indiana 47403-9453

*Re: Formal Complaint 08-FC-149; Alleged Violation of the Open Door Law
by Indian Creek Township*

Dear Ms. Conrad:

This advisory opinion is in response to your formal complaint alleging Indian Creek Township ("Township") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5) by conducting a meeting without allowing public comment and without providing advance notice of the subject matter of the meeting. It is my opinion the Township did not violate the ODL.

BACKGROUND

You allege that on May 17, 2008 a notice of an appropriation meeting was advertised in the local newspaper. You allege that at the meeting the public was not allowed to ask questions. You further allege that the public was not given notice of the subject matter of the meeting prior to the meeting. My office received your complaint on June 5.

My office sent a copy of the complaint to the Township Board and invited the Board to respond. To date my office has not received a response to the complaint.

ANALYSIS

It is the intent of the Open Door Law 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. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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. I.C. § 5-14-1.5-3(a). The Township Board constitutes a governing body for the purposes of the ODL. I.C. § 5-14-1.5-2. Although you have filed the complaint

against the Township, I assume that since you refer to a meeting and have listed the Township Board President as one of the elected officials responsible for the denial, your allegations related to the Township Board.

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a). Nothing in the ODL requires the notice to include an indication of the subject matter to be discussed at the meeting (except when the meeting is an executive session).

A governing body is not required to utilize an agenda, but a governing body which does utilize an agenda must post a copy of the agenda at the entrance to the meeting location prior to the meeting. I.C. § 5-14-1.5-4(a). Nothing in the ODL indicates how much time before the meeting the agenda must be posted. As such, it is my opinion the agenda must be posted at any time before the meeting begins.

Finally, Indiana law only requires that public meetings be open; it does not require that the public be given the opportunity to speak. *Brademas v. South Bend Cmty. Sch. Corp.*, 783 N.E.2d 745 (Ind. Ct. App. 2003), *trans. denied*, 2003. 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.

CONCLUSION

For the foregoing reasons, it is my opinion the Township has not violated the ODL.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Linda Hollingsworth and Mike Lucas, Indian Creek Township