

July 17, 2007

Sent Via Facsimile

Tim Ellerman
Fax number 812.882.8005

Re: Informal Inquiry Response

Dear Mr. Ellerman:

You have requested an informal opinion from the Office of the Public Access Counselor. Pursuant to Ind.Code 5-14-4-10(5), I am issuing this letter in response to your request.

You have asked for clarification regarding whether a committee appointed by the Mayor of Vincennes is a “governing body,” and as such whether the meetings of the committee are subject to the open meeting and public notice requirements of the Indiana Open Door Law (Ind. Code 5-14-1.5).

You have indicated the Mayor of Vincennes (“Mayor”) has appointed a committee called the Community Economic and Land Use Planning Committee (“Committee”). This committee is charged with making decisions regarding railroad location the city is studying.

Except as provided in chapter 6.1 of this chapter, 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. IC 5-14-1.5-3.

“Governing body” means two or more individuals who are:

(1) a public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business;

(2) the board, commission, council or other body of a public agency which takes official action upon public business; or

(3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated.
IC 5-14-1.5-2(b).

In this instance, you indicate the Committee was appointed directly by the Mayor. In third class cities, which is the classification under which Vincennes falls, the city executive shall preside at all meetings of the governing body. IC 36-4-6-8(b). This makes the Committee a governing body under the first part of IC 5-14-1.5-2 (b)(3) above, “any committee appointed by the governing body or its presiding officer . . .”

“Official action” means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions; or
- (6) take final action.

IC 5-14-1.5-2(d).

While I do not know the extent of the authority granted by the Mayor to the committee, you indicate the Committee will be making decisions regarding the railroad relocation. Even if the Committee is not making decisions regarding public business but is engaging in any of the activities listed above, such as receiving information or making recommendations, it meets the second part of subsection 2(b)(3), “to which authority to take official action upon public business has been delegated.”

Based on the facts presented, it is my opinion the Community Economic and Land Use Planning Committee is a governing body for the purposes of the Open Door Law, which means except as provided in IC 5-14-1.5-6.1, all meetings of the Committee should be open at all times. Furthermore, public notice requirements under IC 5-14-1.5-5 would apply to this Committee.

I hope this guidance is of assistance to you. Please feel free to call me if you have any additional questions.

Sincerely,

Heather Willis Neal
Public Access Counselor