

August 8, 2007

Teri Dick
3987 Pinehurst Drive
Jasper, Indiana 47546

*Re: Formal Complaint 07-FC-200; Alleged Violation of the Open Door Law by the
City of Jasper Board of Public Works and Safety*

Dear Ms. Dick:

This is in response to your formal complaint alleging the City of Jasper Indiana Board of Public Works and Safety (“Board”) violated the Open Door Law (“ODL”) (Ind. Code §5-14-1.5). I find that the City of Jasper Board of Public Works and Safety did not violate the Open Door Law.

BACKGROUND

In your complaint you allege that on June 15, 2007 you discovered a meeting of the Board took place on January 23, 2007 about which you were not notified. You further allege the meeting was conducted without a posted agenda. You indicate in your complaint that a particular issue addressed at the meeting was raised to the Mayor by you and that you were not notified it would be addressed at the January 23 meeting but that Kerstiens Development Inc. was notified of the meeting and allowed to testify. You submitted your complaint on July 6, and I received it on July 9.

The Board responded to your complaint on July 18. In its response, the Board indicated the January 23 meeting was a regularly scheduled meeting, so notice of the meeting was provided to news media in its annual notice. The Board further indicates notice was posted at the entrance of Jasper City Hall since the meetings are held in Council Chambers at Jasper City Hall. Further, the City provides residents with a city calendar listing regular meeting dates. The Board further indicated *The Herald* included notice of the meeting in its January 18 calendar and provided coverage of the meeting in its January 24 newspaper.

The Board further submits the issue discussed at the January 23 meeting was not an issue requiring a public hearing or personal notice. The Board further indicated it does not utilize an agenda and as such is not required to post one.

ANALYSIS

It is the intent of the ODL 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 Board is clearly a public agency under I.C. §5-14-1.5-2(a), and the meeting at issue was a meeting of the governing body under I.C. §5-14-1.5-2(b) and (c).

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). Public notice shall be given by posting a copy of the notice at the principal office of the public agency holding the meeting, or, if no such office exists, at the building where the meeting is to be held and delivering notices to all news media who request notice in writing by January 1 for the succeeding calendar year. I.C. §5-14-1.5-5(b). Notice of regular meetings need be given only one each year, except that an additional notice shall be given when date, time or place of meeting has changed. I.C. §5-14-1.5-5(c).

A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. I.C. §5-14-1.5-4(a).

The January 23 meeting of the Board was clearly a meeting under the ODL, and as such, notice of the meeting was required to be sent to all news media who had requested notice by January 1. Notice was also required to be posted at the principal office of the Board or, if no office exists, at the building where the meeting was to be held. The Board has provided evidence the notice was sent to *The Herald*, which included the notice in its January 18 calendar. The Board further indicated it posted the notice outside the building where the meeting was to be held at least 48 hours in advance of the meeting. As such, the Board fulfilled the notice requirements of I.C. §5-14-1.5-5.

The Board submits there is no requirement in the ODL for personal notice of the meeting to you even though you brought the issue at hand to the City. This is correct; the ODL does not require personal notice, and I do not believe any other law requires personal notice in this instance. Further, the ODL does not require a governing body to provide a time for public comment or questions unless another statute requires such.

You further complain an agenda was not available for the January 23 meeting. The ODL requires an agenda to be posted at the entrance to the meeting location when an agenda is utilized. The ODL does not require use of an agenda.

CONCLUSION

For the foregoing reasons, I find that the City of Jasper Board of Public Works and Safety did not violate the Open Door Law.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Sandra K. Hemmerlein, Jasper City Attorney