
OPINION OF THE PUBLIC ACCESS COUNSELOR

CHERYL L. DUMOND,
Complainant,

v.

ST. PAUL-ADAMS TOWNSHIP FIRE TERRITORY
BOARD,
Respondent.

Formal Complaint No.
22-FC-113

Luke H. Britt
Public Access Counselor

This advisory opinion is in response a formal complaint alleging that the St. Paul-Adams Township Fire Protection Territory Board (Board) violated the Open Door Law.¹ Attorney Douglas M. Kowalski filed an answer on behalf of the Board. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on July 14, 2022.

¹ Ind. Code § 5-14-1.5-1-8.

BACKGROUND

In this case we consider whether the St. Paul-Adams Township Fire Territory Board² violated the Open Door Law (ODL) by holding a meeting with inadequate public notice.

On June 28, 2022, the Board held a meeting to establish a budget for the fire territory. Cheryl Dumond (Complainant) submitted a picture of the notice, which consisted of a business-card-sized piece of paper taped to a window of a local building. She contends this was inadequate notice. While a meeting was indeed properly scheduled for June 29, 2022, she alleges the June 28th gathering was not. She also argues that an agenda was used but not posted. She additionally alleges that others attempted to seek information about the meeting, but those requests went unanswered.³

For its part, the Board argues that the notice was posted on June 24, 2022, at the St. Paul Civic Center where the meeting was held. All meetings of the Town, the Township, and the Board are held at that location.

The Board concedes that the small notice was posted as it was the only material available at the time and the law does not set a standardized size in the Open Door Law for meetings.

² The Fire Territory Board in this case is an interlocal board consisting of members from the Town Council of St. Paul and the Township Board of Adams Township. The Adams Township Trustee is the chairperson of the Board.

³ Dumond also claims the Board did not have a full membership at the time of the meeting. It is unclear as to what she is inferring but the Board confirms that four of the five members were present so that a meeting could proceed.

As for the agenda, the Board claims they were made available at the start of the meeting but not in advance, which the Open Door Law does not require.

ANALYSIS

1. The Open Door Law

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. Ind. Code § 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

Adams Township is a public agency for purposes of the ODL; and thus, is subject to the law's requirements. Ind. Code § 5-14-1.5-2. The St. Paul – Adams Township Fire Territory Board is a governing body of the agency; and thus, subject to the ODL. *See* Ind. Code § 5-14-1.5-2(b).

As a result, unless an exception applies, all meetings of the Board must be open at all times to allow members of the public to observe and record.

2. Public notice

Dumond contends the notice was insufficient as it was inconspicuously posted on the bottom corner of a window on a tiny piece of paper. The Board contends the notice was adequate because the Open Door Law does not designate a size for the notice.

Under the ODL, the governing body of a public agency must give public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting at least 48 hours—excluding weekends and legal holidays—before the meeting as follows:

The governing body of a public agency shall give public notice 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.

Ind. Code § 5-14-1.5-5(b)(1). Here, the posted notice appeared on a piece of paper approximately the size of a business card. Although it is true the Open Door Law does not designate a size for a notice to be legal, the notice in question was comically small.

For a public notice to be sufficient by any reasonable standard, it should be large and obvious enough for an average citizen to read. An 8 ½ by 11-inch standard piece of paper would be the smallest allowable size for a notice.

It is unclear if the window to which the notice was affixed was the usual location for meeting notices to be posted, but the Complainant did not appear to have an issue with the location of the notice – only its size.

It is equally unclear if other members of the public may have overlooked the tiny notice even though Dumond found it.

Public notices should be conspicuous and not a treasure hunt. Just as they shouldn't be posted in a darkened corner of a building with no foot traffic, so too should they be big enough to reasonably stand out to a passerby.

3. Public meeting agendas

Dumond argues the Board strayed out of compliance with the Open Door Law because the meeting agenda was not posted with the notice. The Board concedes that it did not include the agenda with the notice but argues the ODL does not prohibit a governing body from making it available contemporaneous with the start of the meeting.

Under the ODL, 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. Ind. Code § 5-14-1.5-4(a).

Additionally, nothing in the ODL requires posting of an agenda in advance of a meeting.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the public notice posted was inadequately small and overly discreet. Future notices should be much more obvious. As for the other allegations, the Board appears to have been in compliance with the Open Door Law.



Luke H. Britt
Public Access Counselor

Issued: October 18, 2022