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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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JEFFREY D. STOKES,  
*Complainant,*

v.

TOWN OF ST. JOHN,  
*Respondent.*

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Formal Complaint No.  
24-FC-1

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Town of St. John, through its town council, violated the Open Door Law.<sup>1</sup> Attorney Joseph C. Svetanoff filed a response to the complaint on behalf of the town. 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 January 4, 2024.

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<sup>1</sup> Ind. Code § 5-14-1.5-1 to 8.

## **BACKGROUND**

This case involves a dispute about whether the St. John Town Council violated the Open Door Law (ODL) by failing to provide adequate public notice for meetings it convened on New Years Day and the day after.

Jeffery D. Stokes (Complainant)<sup>2</sup> contends the Council violated the ODL by failing to provide public notice 48 hours in advance of the two meetings in question. Stokes also contends the Council's meeting was improper because it did not follow the procedure for calling a meeting under a local ordinance.

On January 24, 2024, St. John filed a response to Stokes' denying the council violated the ODL. Specifically, the Town argues that it posted public notice for the two council meetings in question on December 27, 2023, at 9:51 a.m. Additionally, the Town asserts that it sent the notices to the news media at 11:55 a.m. the same day.

## **ANALYSIS**

### **1. The Open Door Law (ODL)**

It is the intent of the Open Door Law (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. *See* Ind. Code § 5-14-1.5-1.

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<sup>2</sup> This office received two additional complaints in this case from Rebecca Tomerlin and Bryan Blazak, which raise substantially similar claims. This opinion addresses those complaints as well.

Toward that end, except as provided in section 6.1, 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. Ind. Code § ~~5-14-~~ 1.5-3(a).

There is no dispute that the Town of St. John is a public agency for purposes of the ODL; and thus, subject to the law's requirements. *See* Ind. Code § ~~5-14-1.5-2~~. Additionally, the St. John Town Council is a governing body of the county for purposes of the ODL. *See* Ind. Code § ~~5-14-1.5-2~~(b). As a result, unless an exception applies, all meetings of the St. John Town Council must be open at all times to allow members of the public to observe and record.

Under the ODL, "meeting" means 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). "Public business" means "any function upon which the public agency is empowered or authorized to take official action." Ind. Code ~~5-14-1.5-2~~(e). The definition of "official action" includes: (1) receiving information; (2) deliberating; (3) making recommendations; (4) establishing policy; (5) making decisions; or (6) final action (e.g., taking a vote). Ind. Code § ~~5-14-1.5-2~~(d).

## **2. Public notice**

Stokes contends the St. John Town Council violated the Open Door Law by failing to provide adequate public notice for the two meetings it held at the beginning of the year.

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, St. John provided copies of two public notices to this office as part of its answer. The content of the notices is adequate under the ODL because they contain the date, time, and place of the respective meetings.

Central to this dispute is whether the town posted the public notices at least 48 hours in advance excluding weekends and holidays. Stokes and Blazak both claim the notices were not posted far enough in advance, but each provided a different date (January 1 and December 29 respectively).

Notably, the timeline provided by the town, as set forth above, would be adequate under the ODL because the notices were posted at least 48 hours in advance of the meetings.

Stokes did not provide much in the way of evidence to support the claim that the Council failed to provide sufficient public notice under the ODL. Granted, if the sequence of events happened as he and the other complainants contend, it would be out of step with the ODL. There is just no path forward to reach that conclusion here.

Stokes and the other complainants also contend the meetings were improper because they were not called by the proper authority under a local ordinance. This is not an issue governed by the Open Door Law; and thus, it will not be evaluated by this office. A meeting occurs when a majority of a public governing body convenes. The ODL does not contemplate the manner in which a meeting originates, only that when it does, proper public notice must have been given.

Provided that there was a significant audience and the members of the board were present, it is difficult to square the allegations of lack of notice with the fact that the meeting was well attended.

As a final aside, this office strongly discourages any governing body from holding a public meeting on a Federally recognized holiday or any other unusual time which is difficult, impractical, or inconvenient for the average member of the public to attend. While New Years Day meetings may be somewhat of a recent tradition in St. John, the practice should best be left for days gone by.

## CONCLUSION

Based on the foregoing, it is the opinion of this office that the St. John Town Council did not violate the Open Door Law.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt  
Public Access Counselor

Issued: February 23, 2024