



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
JOSEPH B. HOAGE

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

September 28, 2011

Mr. David R. Snyder
236 E. Pendle Street
South Bend, Indiana 46637

*Re: Formal Complaint 11-FC-220; Alleged Violation of the Open Door Law
by the Town of Roseland*

Dear Mr. Snyder:

This advisory opinion is in response to your formal complaint alleging the Town of Roseland ("Town") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* My office forwarded a copy of your complaint to the Town, but we failed to receive a response.

BACKGROUND

In your complaint you allege that the Town failed to provide proper notice for a special meeting that occurred on August 29, 2011. You provided a copy of the notice that was posted by the Town:

Town of Roseland
Notice of Special Meeting
August 29, 2011
At 5:00 p.m.

Discussion of building permit

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. *See* I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, 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. *See* I.C. § 5-14-1.5-3(a).

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. *See* I.C. § 5-14-1.5-5(a). The notice must be posted at the principal office of the agency, or if not such office exists, at the place where the meeting is held. *See* IC § 5-14-1.5-5(b)(1). While the governing body is required to provide notice to news media who have requested notices, nothing requires the governing body to publish the notice. *See* I.C. § 5-14-1.5-5(b)(2). Notice has not been given in accordance with Section 5 of the ODL if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting. *See* I.C. § 5-14-1.5-5(h). The ODL does not require a governing body to utilize and issue an agenda, but should it choose to do so, an agenda must be posted at the entrance to the location of the meeting prior to the meeting. *See* I.C. § 5-14-1.5-4(a).

Here you allege that the Town violated the ODL by failing to provide proper notice to the August 29, 2011 special meeting. The copy of the notice that you supplied in connection with your formal complaint provided the date and time of the special meeting, but did not include its location. As the meeting was held on Monday, August 29, 2011 at 5:00 p.m., notice was required to be posted no later than 5:00 p.m. on Thursday, August 25, 2011. Without the benefit of a response from the Town, it is my opinion that the Town violated the ODL by failing to provide notice that complied with the requirements of I.C. § 5-14-1.5-5 for its August 29, 2011 meeting.

I would encourage the Town to provide proper notice for all of its future public meetings. To the extent the Town persists in providing notice that does not comply with the ODL, I leave you to the remedies provided pursuant to I.C. § 5-14-1.5-7.

CONCLUSION

For the foregoing reasons, it is my opinion that the Town violated the ODL by failing to provide notice that complied with I.C. § 5-14-1.5-5 for its August 29, 2011 special meeting.

Best regards,

A handwritten signature in black ink, appearing to read 'J. Hoage', written in a cursive style.

Joseph B. Hoage
Public Access Counselor

cc: Town of Roseland