

January 3, 2005

Kerry M. Shepherd
P.O. Box 696
Cloverdale, Indiana 46120

*Re: Formal Complaint 04-FC-224; Alleged Violation of the Open Door Law by the
Cloverdale Town Council*

Dear Mr. Shepherd:

This is in response to your formal complaint alleging that the Cloverdale Town Council ("Council") violated the Open Door Law by failing to properly post notice of a meeting. I find that it is a violation of the Open Door Law to post notice of a meeting less than 48 hours prior to the meeting, excluding legal holidays.

BACKGROUND

According to your complaint, the Cloverdale Town Council posted notice of a special session held by the Town Council on Friday, November 26, 2004. You stated that the notice was posted only in the Town Hall, which is not open to the public after 4:30 p.m. Further, you state that the Town Hall was closed on November 25th and November 26th for the Thanksgiving holiday. The purpose of the meeting was to approve the purchase of two used fire trucks.

I sent a copy of your complaint to Patti Truax, the Clerk Treasurer of Cloverdale. I have not received any response to your complaint.

ANALYSIS

It is the intent of the Open Door Law 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. IC 5-14-1.5-1. The Open Door Law provides that notice of meetings of a majority of the governing body of a public agency be given at least forty-eight (48) hours before the meeting, excluding Saturdays, Sundays, and legal holidays. IC 5-14-1.5-5(a).

Also, notice must be posted at the governing body's principal office or, if no such office exists, at the building where the meeting is to be held. IC 5-14-1.5-5(b).

The Cloverdale Town Council is a governing body under the Open Door Law. IC 5-14-1.5-2(a)(2). If a meeting of the majority of the Council was held on Friday, November 26, 2004, then notice was required to be posted at least 48 hours in advance of the meeting, excluding the legal holiday of Thanksgiving, which was Thursday, November 25. *See* IC 1-1-9-1. You assert that the notice was posted at the Town Hall, which is not open after 4:30 p.m. However, you do not state when the meeting notice was posted, or what time the meeting was held. The notice would have been posted in the proper place under the Open Door Law because the Town Hall is the Council's principal office. However, if the notice of the meeting was posted less than 48 hours prior to the meeting, not counting Thursday, November 25 which was a legal holiday, then the notice was not timely posted under the Open Door Law.

Also, you allege that the meeting was held over a holiday weekend when the Town Hall was closed. With the information that I have been given, it is not clear whether the Town Hall was open for business on Friday, November 26, or that the meeting was actually held in the Town Hall. If the meeting *was* held in the Town Hall, and if the Town Hall was not open so that members of the public could observe and record the meeting, the meeting would have been held in violation of the Open Door Law. IC 5-14-1.5-3(a).

CONCLUSION

For the foregoing reasons, I find that the Cloverdale Town Council violated the Open Door Law if it posted notice of its November 26 meeting less than 48 hours before the meeting, excluding Thursday, November 25, and if it held a meeting in a place that was not open to the public.

Sincerely,

Karen Davis
Public Access Counselor

cc: Patti Truax