



STATE OF INDIANA

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January 12, 2015

Mr. Korey D. Henderson
110 Nansue Drive
Tipton, IN 46072

Re: Formal Complaint 14-FC-307; Alleged Violation of the Open Door Law by the Cicero Township Trustee Board (Tipton County)

Dear Mr. Henderson,

This advisory opinion is in response to your formal complaint alleging the Cicero Township Trustee Board of Tipton County ("Board"), violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq.* The Board has responded to your complaint via Ms. Janelle Bradford, Trustee. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor December 10, 2014.

BACKGROUND

Your complaint dated December 1, 2014, alleges the Cicero Township Trustee Board violated the Open Door Law (Ind. Code § 5-14-1.5 *et. al.*) by holding an improper executive session.

You allege the Board met in executive session on or about November 11, 2014 to sign contracts and take final action regarding the Township Volunteer Fire Department. You argue these actions were in violation of the Open Door Law.

The Board responded by conceding these actions took place, but the Board was not aware of the requirements of the Open Door Law. Some of the action was later publicly approved on December 1, 2014 at an open meeting and then an additional meeting was to be held on December 29, 2014, to publicly approve any outstanding agenda items.

ANALYSIS

It is the intent of the Open Door Law (ODL) that 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. 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 Ind. Code § 5-14-1.5-3(a).

Closed door meetings are only allowed via the executive session process. Only certain items can be discussed in executive session. The General Assembly has set forth very specific and narrow subject matters which can only be discussed in executive session.

Ind. Code § 5-14-1.5-6.1(d) states public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held. All discussions in an executive session must fall under the enumerated instances found in subsection 6.1(b). A copy of that statute is attached and incorporated by reference. I encourage the Board to closely and carefully consider the provisions under this statute.

Notice of an executive session must be given 48 hours in advance of every session, excluding holidays and weekends, and must contain, in addition to the date, time and location of the meeting, a statement of the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held. See Ind. Code § 5-14-1.5-6.1(d). This requires that the notice recite the language of the statute and the citation to the specific instance; hence, "To discuss a job performance evaluation of an individual employee, pursuant to I.C. § 5-14-1.5-6.1(b)(9)" would satisfy the requirements of an executive session notice.

My expectation is that the Board follows the Open Door Law to the letter for any upcoming executive sessions.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Indiana Public Access Counselor the Cicero Township Trustee Board violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Janelle Bradford