STATE OF INDIANA

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April 7, 2015

Mr. Joe P. Griffin
65 South 17th Avenue
Beech Grove, Indiana 46107

   Re: Formal Complaint 15-FC-91; Alleged Violation(s) of the Open Door Law by the Beech Grove Redevelopment Commission

Dear Mr. Griffin,

This advisory opinion is in response to your formal complaint alleging the Beech Grove Redevelopment Commission ("BGRDC") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq.* The BGRDC has responded via Mr. Donald Webb, President of the Commission. His 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 on March 11, 2015.

BACKGROUND

Your complaint dated March 11, 2015 alleges a violation of the Open Door Law by the Beech Grove Redevelopment Commission. The complaint alleges an improper notice of the session in violation of Ind. Code § 5-14-1.5-6.1 and Ind. Code § 5-14-1.5-5.

Although not explicitly stated in your complaint, the BGRDC met in executive session on February 19, 2015 at 6:30 p.m. The notice incorrectly stated the meeting was to take place on January 19, 2015 and listed the start time at 6:30, omitting the *post meridiem* notation. You take exception to both errors.

The BGRDC conceded the mistake did indeed occur and has pledged to rectify the problem and be more mindful of the technical requirements of the Open Door Law in the future.

ANALYSIS

It is the intent of the Open Door Law (ODL) 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. 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).

The date, time and location requirements set forth in Ind. Code § 5-14-1.5-5 is not to be taken lightly. They are an essential part of informing the public when a gathering of a majority of a governing body is to take place. That being said, mistakes do occur. It does not appear to be a systemic issue of the BGRDC and I have not fielded any other complaints from interested members of the public. While this is no excuse, it does not seem as if the Commission was ill-intentioned or attempted to subvert the law.

As for the p.m. / a.m. debate, I suggest reasonable individuals would conclude a 6:30 start time would indicate a meeting in the evening hours. Given all of the other Beech Grove meetings apparently take place during business hours or in the evening, this would appear to be the case in the present instance. While I am aware of governing bodies holding *ante meridiem* meetings, I have not encountered a case of a public meeting being held during the wee pre-dawn hours. Unless you were present at 6:30 a.m., on February 19, 2015 waiting for the doors to open, I hesitate to conclude you were prejudiced by the omission. This is especially true, given the fact you would not have been allowed access to a closed-door executive session nevertheless.

The minutes to the executive session have been reviewed and the problem remedied. However, in any event, it is probably good practice to include the a.m. / p.m. indicator on the start time in order to be precise.

CONCLUSION

Based on the foregoing reasons, it is the Opinion of the Public Access Counselor the Beech Grove Redevelopment Commission has technically violated the Open Door Law by failing to list the correct date for an executive session. I have reviewed the minutes to the executive session and the issue has been corrected to my satisfaction.

Regards,

Luke H. Britt
Public Access Counselor

Cc: Mr. Donald Webb