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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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TRACI L. LATOZ,  
*Complainant,*

v.

TOWN OF WILLIAMSPORT,  
*Respondent.*

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Formal Complaint No.  
17-FC-220

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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 Williamsport (“Town”) violated the Open Door Law<sup>1</sup> (“ODL”). The Town responded to the complaint through council president Dave Banta on September 11, 2017. 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 September 5, 2017.

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

## **BACKGROUND**

Traci Latoz (“Complainant”) claims the Town of Williamsport violated the Open Door Law (“ODL”) by authorizing a utility rate increase at a regular public meeting without placing the vote on an agenda.

On August 1, 2017, at a regularly scheduled meeting of the Town Council, the Council voted 2-1 to increase rates on water, sewer, and electric utilities. Latoz, who is a member of the council, claims the council passed the rate increases with little discussion or discourse.

The Council posted an agenda for the meeting but the vote on the utility rate increases was not specifically listed. Council president Banta concedes this occurred as Latoz describes.

## **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, so the people may be fully informed. The ODL’s provisions are to be liberally construed with the view of carrying out its policy. *See* Ind. Code § 5-14-1.5-1.

The Open Door Law is specific as it pertains to agendas in that:

A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other

final action adopted by reference to agenda number or item alone is void.

*See* Ind. Code § 5-14-1.5-4.

The Open Door Law does not regulate deviations from an agenda or a circumstance in which a topic is broached or a vote is taken when it is absent from an agenda. However, it is obvious from the plain language and purpose of the statute that an agenda exists for the purposes of public edification. Hiding the ball when it comes to a controversial vote such as utility rate increases is bad form and violates the spirit of the law.

I generally do not take exception with off-agenda matters being merely discussed. When a vote is taken on such matters, however, it gives the perception of secrecy and hoodwinks the public. This is especially true when the topic is of particular public interest.

**RECOMMENDATION**

Based on the foregoing, it is the Opinion of the Public Access Counselor the Town of Williamsport conspicuously post notice of similar agenda items and topics in the future.

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

Luke H. Britt  
Public Access Counselor