
OPINION OF THE PUBLIC ACCESS COUNSELOR

RANDY A. HOWARD
Complainant,

v.

NEW CASTLE HISTORIC
PRESERVATION COMMITTEE,
Respondent.

Formal Complaint No.
17-FC-224

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the New Castle Historic Preservation Committee (“Committee”) violated the Open Door Law¹ (“ODL”). The Committee has responded via counsel Mr. Dave Copenhaver. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by

¹ Ind. Code §§ 5-14-1.5-1 to -8.

the Office of the Public Access Counselor on September 7, 2017.

BACKGROUND

Mr. Randy A. Howard (“Complainant”) claims the New Castle Historic Preservation Committee violated the Open Door Law (“ODL”) by failing to post notice of a public meeting.

Complainant states that on two occasions, June 12 and July 11, 2017, the Committee held meetings in the Council Chambers without posting 48-hours notice as required by the Open Door Law.

The Committee responded by stating there was no July 11 meeting, but rather it took place on July 10, which is the second Monday of the month according to the Committee’s annual notice. All meetings are publicized on an annual basis. Evidence was submitted demonstrating the annual notice was mailed to four media outlets on December 30, 2016. The notice is also placed on the City’s website.

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.

Pursuant to Ind. Code § 5-14-1.5-5(b), public notice shall be given 48 hours in advance by the governing body of a public agency as follows:

(1) The governing body of a public agency shall give public notice by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held.

Moreover, Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. See Ind. Code § 5-14-1.5-5(d).

Other methods of notification can be required, such as individual media notices and website posting, however, the baseline requirement is a physical notice posted at the meeting location. Based on the information provided, it does not appear as if this requirement was met. It appears to only be a technical violation as the Complainant was in attendance in at least one of the meetings and it seems the public has not been prejudiced. The requirement is still important, however, to notify non-media members of the public and those who do not have access to the Internet.

RECOMMENDATION

Based on the foregoing, it is the Opinion of the Public Access Counselor the New Castle Historic Preservation Committee

post a physical copy of its annual notice in a conspicuous location at the meeting place, building or room.

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

Luke H. Britt
Public Access Counselor