



# STATE OF INDIANA

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March 24, 2009

Gary Snyder  
5101 West 1000 North  
Huntington, Indiana 46750

*Re: Formal Complaint 09-FC-69; Alleged Violation of the Open Door Law by  
the Huntington County Board of Commissioners*

Dear Mr. Snyder:

This advisory opinion is in response to your formal complaint alleging the Huntington County Board of Commissioners ("Commissioners") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5) by conducting a meeting without proper notice. I have enclosed a copy of the Commissioners' response to the complaint for your reference. It is my opinion the Commissioners did not violate the Open Door Law by conducting an administrative function meeting, so long as they did not exclude members of the public who wished to attend.

## BACKGROUND

You filed the present complaint on February 27, 2009, alleging that the Commissioners met on February 26 without providing notice to the public. You further allege that when you learned the meeting was to occur, you telephoned the Commissioners' secretary, who confirmed the Commissioners were planning to meet and notice was not provided.

The Commissioners responded to the complaint by letter dated March 6 from attorney Robert Garrett. The Commissioners contend the gathering was an administrative function meeting, allowed pursuant to I.C. § 5-14-1.5-5(f)(2). The Commissioners explain that the purpose of the meeting was to photocopy county records regarding the establishment of a Capital Improvement Plan. Once the copies were made, the Commissioners separated and the gathering ended. The Commissioners contend that the establishment of a Capital Improvement Plan was placed on the Commissioners' agenda and discussed at length at the public meeting held on March 2.

## 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. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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. I.C. § 5-14-1.5-3(a). The Commissioners constitute a governing body for the purposes of the ODL. I.C. § 5-14-1.5-2.

A “meeting” means a gathering of the majority of the governing body of a public agency for the purpose of taking official action upon public business. I.C. § 5-14-1.5-2(c). “Public business” means any function upon which the public agency is empowered or authorized to take official action. I.C. § 5-14.1.5-2(e). “Official action” means to receive information, deliberate, make recommendations, establish policy, make decisions, or take final action. I.C. § 5-14-1.5-2(d). “Final action” means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order. I.C. § 5-14-1.5-2(g).

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a).

The requirements for providing notice do not apply when the executive of a county meets, if the meeting is held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. Administrative functions do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town. I.C. § 5-14-1.5-5(f)(2). Even though notice is not required, the “administrative function” meeting must be held in the public, since the notice provision of the ODL is *the only provision* that does not apply to an “administrative function” meeting. I.C. § 5-14-1.5-5(f)(2), emphasis added.

Here, the Commissioners met to make copies of documents related to establishing a Capital Improvement Plan. Certainly this constitutes public business, and since a majority of the governing body was present, at least for a period, the gathering is a meeting under I.C. § 5-14-1.5-2(c). In my opinion, making copies with no substantive discussion regarding public business is an appropriate use of the “administrative function” meeting. As such, notice was not required, but the meeting should have been open to the public. If the public was excluded from the meeting, it would be my opinion the Commissioners violated the ODL.

## CONCLUSION

For the foregoing reasons, it is my opinion the Commissioners did not violate the Open Door Law by conducting an administrative function meeting, so long as they did not exclude members of the public who wished to attend.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Robert S. Garrett, Bowers, Brewer, Garrett & Wiley, LLP