

February 12, 1999

Mr. Dennis M. Royalty
Metro North Bureau Chief
1350 Rangeline Road
Carmel, IN 46032

Re: PAC Opinion 99-1: Notices of public meetings rescheduled as a result of county emergencies.

Dear Mr. Royalty:

You have asked whether the Boone County Commissioners' notice provision regarding meetings rescheduled as the result of county emergencies complies with the notice requirements set forth in the Indiana Open Door Law, Indiana Code 5-14-1.5, *et al.* It is my opinion that the Commissioners' notice does not comply with the requirements of the Indiana Open Door Law, in particular, Indiana Code section 5-14-1.5-5, which requires forty-eight hours notice of the date of any meeting.

Background

Boone County Commissioners' meetings are regularly scheduled for the first three Mondays of each month. In January, a county emergency due to snow led to the rescheduling of a Commissioners' meeting. After the next regularly scheduled Monday meeting, one of the Commissioners instructed the County Auditor to have a notification published concerning the meeting schedules anticipated for the coming year. The notice provides:

The Boone County Commissioners will meet in 1999 the FIRST THREE MONDAYS of each week calling meetings to order at 8:30 a.m. On weeks when a holiday falls on a Monday, the Commissioners will meet the following Tuesday at the regularly scheduled time. *In addition, any regularly scheduled meeting cancelled, as a result of any County Emergency will be held during the first available workday at the regularly scheduled time.* The meetings will be held at the Boone County Courthouse, Commissioner's Court, Lebanon, IN.

(Emphasis added.)

The Commissioners have clearly stated their regular meeting times and the alternate meeting times if their regular meeting falls on a holiday, but make reference only to an undetermined date with respect to meetings rescheduled due to county emergencies. In his response, Commissionersâ attorney, David F. Truitt, stated that the requested publication was done without his input; he also stated that he would welcome suggestions to address any problems with the notice provision. A copy of his response is enclosed for your reference.

Analysis

The intent and purpose of the Indiana Open Door Law is 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." IND. CODE $\text{\textasciixchar"005}$ -14-1.5- 1. The provisions are to be "liberally construed with the view of carrying out its policy." IND. CODE $\text{\textasciixchar"005}$ -14-1.5-1.

Indiana Code $\text{\textasciixchar"005}$ -14-1.5-5(a) provides that:

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 (48) hours* (excluding Saturdays, Sundays, and legal holidays) before the meeting.

(Emphasis added). Further,

(n)otice 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.

Ind. Code α 5-14-1.5-5(c). (Emphasis added). These notice requirements ensure that persons who wish to attend, observe and record public meetings are able to determine when and where a meeting will take place. There is no other statutory or case law that provides for a general notice concerning meetings rescheduled due to emergencies, so we must rely upon the rules of statutory construction to provide instruction in this matter.

In interpreting a statute, the court is to determine and give effect to the intent of the legislature by examining its language, giving common and ordinary meaning to words used in the English language. *Town of Merrillville v. Blanco*, 687 N.E. 2d 191, 196. (Ind. App. 1997). Non-technical, undefined words are to be defined by their ordinary and accepted dictionary meaning. *Bulkomatic Transport v. Department of Revenue*, 629 N.E.2d 955, 957 (Ind. Tax 1994), *citations omitted*. The plain meaning of the word "date" is "[a] particular point or period of time at which something . . . is to happen" or "the day of the month." The American Heritage Dictionary of the English Language 337(1981).

Applying these principles of statutory construction, a governing body does not comply with the notice requirements of the Indiana Open Door Law when it gives a general notice that all meetings cancelled as a result of county emergencies will be held during the first available workday at the regularly scheduled time. A one-time general notice of the regularly scheduled meetings does comply with the Indiana Open Door Law, however, the statute is clear that "an *additional* notice *shall be given* where the *date*, time, or place of a regular meeting or meetings is changed." Ind. Code α 5-14-1.5-5(c) (Emphasis added). The Boone County Commissioners' notice provision stating that rescheduled meetings will be held a during the next scheduled workday does not specify a particular point or period of time nor the day of the month of the rescheduled meeting. It would not be clear to persons who wished to attend these meetings just which day the meeting would take place. The notice provision published by the Boone County Commissioners, therefore, is not sufficient under the Indiana Open Door Law.

Conclusion

It is my opinion that publication of a general notice that any regularly scheduled meeting cancelled due to a county emergency will be held during the first available workday does not comply with the forty-eight hours notice requirement of the Indiana Open Door Law because it does not clearly provide the date of the rescheduled meeting.

Sincerely,

Anne Mullin O'Connor

Enclosure

cc: David F. Truitt, Attorney for the Boone County Commissioners.