



STATE OF INDIANA

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May 17, 2016

Mr. Joseph C. Svetanoff, Esq.
Harris Law Firm P.C.
11410 Broadway
Crown Point, Indiana 46307

Re: Informal Inquiry 16-INF-10; Deputy Clerk Treasurers and Executive Sessions

Dear Mr. Svetanoff:

This is in response to your informal inquiry regarding whether Deputy Clerk-Treasurers may attend executive sessions in place of Clerk-Treasurers. I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the Open Door Law ("ODL"), Indiana Code § 5-14-1.5-2(f).

BACKGROUND

You seek a clarification of *Informal Opinion 16-INF-02*. You ask whether a Deputy Clerk-Treasurer may attend an executive session in place of a Clerk-Treasurer, if the Clerk-Treasurer is indisposed.

ANALYSIS

According to the ODL, Indiana Code § 5-14-1.5-1, Indiana public policy provides that, "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."

Indiana Code § 36-5-6-7 contemplates a town Clerk-Treasurer deputizing employees for the purposes of carrying out official duties. As stated in *Informal Opinion of the Public Access Counselor 16-INF-02*, one of the duties of the Clerk-Treasurer is to attend executive sessions of the town's legislative body or council. It is my Opinion that a deputy of the Clerk-Treasurer may fulfill the duties of the Clerk-Treasurer as it relates to executive session duties.

Moreover, Indiana Code § 3-13-11-12(b) states a "chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a circuit, county, city, town, or township office." This provision applies when a position is vacant. However, I interpret vacant to not merely mean when the position is

unfilled, but also when the public official is unable to perform his or her duties for whatever reason. In this case, a deputy clerk-treasurer may fill in for a clerk-treasurer whom is unable to fulfill his or her duties.

Please do not hesitate to contact me with any further questions.

Best regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor