



STATE OF INDIANA

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November 23, 2010

Ms. Jody Owens
1322 S. Morgantown Rd.
Morgantown, IN 46160

*Re: Formal Complaint 10-FC-258; Alleged Violation of the Open
Door Law by the Jackson Township Board*

Dear Ms. Owens:

This advisory opinion is in response to your formal complaint alleging the Jackson Township Board ("Board") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* The Board's response is enclosed for your reference.

BACKGROUND

In your complaint, you allege that you met with Board members at the end of July of this year to discuss an issue related to a tornado siren. The Board members told you at that time that they would let you know what could be done and would talk with the Jackson Township Trustee ("Trustee") about the issue. You received a copy of a resolution in the mail on September 25, 2010, which informed you that the Board held a public hearing regarding the issue. You claim that the Board never published notice of the meeting, and you were unaware beforehand that it was going to occur. You argue that the Board should have informed you of the meeting because it pertained to your issue.

In response to your complaint, the Trustee states that notice of the September 7th Board meeting was published in advance. The Trustee enclosed documents showing that a notice of the meeting was published on July 13, 2010. At that meeting, the Board and Trustee reviewed the Jackson Township budget and discussed whether or not to relocate the tornado siren. The Board ultimately voted three to zero to not relocate the siren. The Trustee argues that because notice of the meeting was provided on July 13th, the Board did not deny you access under the ODL.

ANALYSIS

The General Assembly enacted the ODL intending that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, so that the people may be fully informed. I.C. § 5-14-1.5-1. Accordingly, the ODL requires that, except for those situations where an executive session is authorized, “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).

To that end, the ODL requires 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 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a) (emphasis added). In addition to providing notice to any news media who by January 1 of the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held. I.C. § 5-14-1.5-5(b). The ODL does not require public agencies to send notices to individuals. It appears that the Board in this case published notice of the September 7th meeting in July. It is unclear whether or not the Board also posted notice at its principal office or at the September 7th meeting place. If the Board posted the latter form of notice, the Board complied with the ODL’s notice requirements.

CONCLUSION

For the foregoing reasons, it is my opinion that if the Board posted notice of the September 7th meeting at its principal office or at the building where the meeting was held, the Board did not violate the ODL.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Dan Broyer, Jackson Township Trustee