



STATE OF INDIANA

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December 16, 2010

Mr. Joseph L. Weingarten
14066 Deer Stone Ln.
Fortville, IN 46040

Re: Formal Complaint 10-FC-287; Alleged Violation of the Open Door Law by Fall Creek Township

Dear Mr. Weingarten:

This advisory opinion is in response to your formal complaint alleging Fall Creek Township (the "Township") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.*

BACKGROUND

Initially, I note that you previously filed a similar complaint with this office concerning a meeting held on November 29, 2010. My office granted priority status for that complaint and issued an opinion on December 7th. *See Op. of the Public Access Counselor 10-FC-303.* In this complaint, you allege that the Township failed to post proper notice of a November 15, 2010, meeting of the Township Board. Specifically, no notice was posted at the door of the Township's office.

My office forwarded a copy of your complaint to the Township. In response, Township Trustee Terry Michael acknowledges that the Township did not post notice of the November 15th meeting. As Mr. Michael also informed me in response to your complaint in *10-FC-303*, no Township board member informed him that the meeting was to occur, so he was unaware that notice was required.

ANALYSIS

It is the intent of the ODL that, unless otherwise permitted by statute, governing bodies of public agencies conduct business and take official action openly so that the people may be fully informed. I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, 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 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). 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:

(b) Public notice shall be given by the governing body of a public agency by:

1. 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; and
2. depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency.

I.C. § 5-14-1.5-5(b). Thus, if the Township did not post any notice of its November 15th meeting or deliver such notice to any news media that requested it under subsection 5(b), the Township violated the ODL.

CONCLUSION

For the foregoing reasons, it is my opinion that the Township violated the ODL. As I stated in my previous opinion, I encourage the board members to notify the Trustee of any future meetings in order to ensure that public notice is provided in accordance with section 5.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Terry Michael