



# STATE OF INDIANA

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September 15, 2014

Ms. Virginia F. Perry  
102 Fountain Drive  
Mooresville, IN 46158

*Re: Formal Complaint 14-FC-202; Alleged Violation of the Open Door Law by the Mooresville Redevelopment Commission*

Dear Ms. Perry,

This advisory opinion is in response to your formal complaint alleging the Mooresville Redevelopment Commission ("Commission") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et. seq.* The Commission has responded to your complaint via Mr. Timothy C. Currens, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 9, 2014.

## BACKGROUND

Your complaint dated September 9, 2014, alleges the Mooresville Redevelopment Commission held a meeting after posting improper notice in violation of Ind. Code § 5-14-1.5 *et. al.*

On September 4, 2014, the Commission conducted a public meeting to discuss a bond appropriation. This meeting was preceded by an executive session. Several notices were published in the local paper; however, it appears some of the notices failed to state the date and/or time of the executive session.

## ANALYSIS

It is the intent of the Open Door Law (ODL) 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. See Ind. Code § 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. See Ind. Code § 5-14-1.5-3(a).

Bond appropriation public hearings are one of the unique instances when public agencies

are required to go above and beyond the notice requirements of the Open Door Law. In addition to posting ODL notices, the agency is also required to publish notice in the local newspaper. See Ind. Code § 5-3-1-2 *et. al.* It appears the notices were properly provided to the local newspaper for publication. The issue here seems to be the manner in which they were published.

In the reporting copy of the newspaper section, the notices were editorialized and missing some information. However, in the public notices portion of the paper, the meeting notices were published in their entirety. This satisfies the notices requirements of Ind. Code § 5-14-1.5-3(a). The paper may report on an event in any manner they see fit. Only the meeting notices portion must be posted in a manner consistent with the State Board of Accounts regulation.

As for traditional notice, it appears actual physical notice was posted at the location of the meeting and included all the necessary elements. This also satisfies the requirements found at Ind. Code § 5-14-1.5-5(b):

Public notice shall be given by the governing body of a public agency as follows:

- (1) The governing body of a public agency shall give public notice by 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.

The Open Door Law and the State Board of Accounts notice requirements have been met by the Commission.

In regard to executive session, notice by publication is not necessary although it must meet the 48-hour notice requirement and give the time and date of the meeting. It does appear that the *public hearing agenda* indicates the meeting was held “immediately following executive session”. If this language was substituted for the actual date and time of the meeting in the executive session notice, this would be improper. This was not the case, however. The actual executive session notice properly indicated the commencement of the meeting was to occur at 6:30 p.m. It is my understanding this happened. Although the agenda creates some confusion, the Commission has acted in substantial compliance with the law and the public has not been misled.

## **CONCLUSION**

For the foregoing reasons, it is the Opinion of the Public Access Counselor that the Mooresville Redevelopment Commission has not violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', with a long, sweeping underline that extends to the left.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Timothy C. Currens, Esq.