



STATE OF INDIANA

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December 4, 2014

Mr. Jeffrey A. Rieth, Jr.
6533 Briarwood Place
Zionsville, IN 46077

*Re: Formal Complaint 14-FC-260; Alleged Violation(s) of the Open Door Law by
Zionsville City Council*

Dear Mr. Rieth,

This advisory opinion is in response to your formal complaint alleging the Zionsville City Council ("Council") violated the Indiana Open Door Law ("ODL"), Ind. Code § 5-14-1.5 *et. seq.* Mr. Mark J. Crandley, Esq., attorney for the Counsel responded on their behalf. 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 October 29, 2014. Your request for an expedited opinion was denied due to not meeting the criteria for priority status as set forth in 62 IAC 1-1 *et. al.*

BACKGROUND

Your complaint dated October 27, 2014, alleges the Zionsville Town Council violated the ODL by taking official action outside of a public meeting.

On or about October 7, 2014, the Town of Zionsville was the subject of an unfavorable judgment out of Boone Superior Court. On October 10, 2014, the Council filed an appeal of that ruling with the Indiana Court of Appeals. You contend this decision was made without a public vote. You suspect the decision was made unilaterally by the Council President. Furthermore, you interpret the "Town Council Protocols" - the most recent version of which was adopted by the Council in 2010 - to prohibit the Council President from binding the Council to a decision without a vote.

In its response to your formal complaint, the Council acknowledges your allegations – the President made the unilateral decision to appeal the Court's ruling, however, no closed-door meetings took place.

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).

Please be advised the Office of the Public Access Counselor only makes recommendations and determinations based upon the portions of Indiana Code which address public access. Matters of local governance are outside the scope of the authority vested in the PAC by Ind. Code § 5-14-4-10.

As to the issue of whether the Council President may unilaterally bind the Council to a course of action is a matter of local governance. This Office does not offer guidance or advice on these issues and therefore cannot make a determination in this matter.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Zionsville Town Council has not violated the Open Door Law.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Mr. Mark J. Crandley, Esq.