



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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February 11, 2016

Citizens of Orland

Re: Formal Complaint 16-FC-07; Alleged Violation of the Open Door Law by the Town of Orland Town Council

This advisory opinion is in response to your formal complaints alleging the Town of Orland Town Council ("Council") and Council members Mr. Gene German, Mr. Charlie Clark and Ms. Connie Booher violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 et. seq. The Council has responded via counsel, Mr. Kevin Bruns, 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 January 8, 2016.

BACKGROUND

Your complaint dated January 8, 2016 alleges the Town of Orland Town Council violated the Open Door Law by conducting a public meeting without official notice.

On January 3, 2016, Christmas decorations were taken down in the Town of Orland. The council members were among those taking down the decorations. You contend this involvement constituted a meeting.

On January 25, 2016 counsel responded. Counsel acknowledges the decorations were taken down and the council members were involved in the taking down of the decorations. However, counsel notes the members were not in contact with each other during the process nor were they in close proximity to each other.

Counsel also notes the decorations are owned by the Orland Area Chamber of Commerce. Counsel contends the council members individually chose to assist the Chamber in taking down the holiday decorations. Counsel also contends that even if the members did come into contact, they did not discuss town business.

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).

Under Ind. Code § 5-14-1.5-2(c) “[m]eeting” means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business.” In this case, there does not appear to have been a meeting of the majority of the Town Council because counsel indicated each member made a determination separately to assist with removing the decorations and the members did not come into contact.

Even if the council members did come into contact so that there was a majority of members together removing decorations, the removal of holiday decorations is not related to the functioning of the Town. A town functions the exact same if no holiday decorations are displayed as if it would if those holiday decorations remained displayed year around. Therefore, the removal of decorations is not related to town governance or public business and does not trigger the Open Door Law. It is my Opinion the decoration placement process is innocuous non-public business.

The Open Door Law is not a legal mechanism to prohibit governing body members from being in the same place at the same time or to engage in activities unrelated to their official capacities. By the same token, this Office is not interested in hampering public official’s abilities to engage in civic activities or socialize, nor is it a means by which to harass public officials by subjecting them to baseless allegations of impropriety.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Town of Orland Town Council has not violated the Open Door Law.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Mr. Kevin Bruns, Esq.