



# STATE OF INDIANA

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June 27, 2016

Mr. William H. Springer  
205 South Holloway  
Sullivan, Indiana 47882

*Re: Formal Complaint 16-FC-115; Alleged Violation of the Open Door Law by the City of Sullivan*

Dear Mr. Springer:

This advisory opinion is in response to your formal complaint alleging the City of Sullivan ("City") violated the Open Door Law ("ODL"), Indiana Code § 5-14-1.5-1 et. seq. The City has responded via Ms. Angela Bullock, Esq. Her response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on May 23, 2016.

## **BACKGROUND**

Your complaint dated May 16, 2016 alleges the City of Sullivan violated the Open Door Law by failing to post a notice or agenda of a public meeting.

The City had several meetings scheduled for May 10, 2016 including the City Council, Board of Public Works and the Redevelopment Commission. On May 10, 2016 you arrived at the meeting location around 2:30 p.m., and discovered no notice was posted. When you returned later at 5:00 p.m., an agenda was posted as well as a notice which indicated the Redevelopment Commission meeting was cancelled.

On May 26, 2016 the City responded. The City notes all meeting notices are posted on the door of City Hall and the Sullivan Event Center. The City admits an agenda was not posted until later in the day on May 10, 2016, but contends its actions were proper.

## **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 Indiana 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 Indiana Code § 5-14-1.5-3(a)*.

"Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. Indiana Code 5-14-1.5-2(c). "Public business" means "any function upon which the public agency is empowered or authorized to take official action." Indiana Code § 5-14-1.5-2(e). "Official action" is very broadly defined by our state legislature to include everything from merely "receiving information" and "deliberating" (defined by Indiana Code 5-14-1.5-2(i) as discussing), to making recommendations, establishing policy, making decisions, or taking a vote. Indiana Code § 5-14-1.5-2(d).

Public notice shall be given by the governing body of a public agency as follows: 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.** Indiana Code § 5-14-1.5-5(b)(1).

A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting **prior to the meeting.** Indiana Code § 5-14-1.5-4(a).

The City has stated all notices are posted on the door of the City Hall. City Hall serves as the principal office of the City. While this office is unaware of whether the Board of Public Works or the Redevelopment Commission have separate offices besides or within City Hall, I do not consider it a violation of the ODL for all notices to be posted at the entrance. Because notices were posted at the entrance of City Hall, additional notices in other locations are not required, but are recommended.

The ODL requires agenda to be posted prior to the meeting if utilized. There is no specified length of time prior to a meeting in which an agenda must be posted. The City has stated meetings occurred at 6:00 p.m. and 7:00 p.m. Therefore, posting the agenda at or before 5:00 p.m., satisfied the ODL.

### CONCLUSION

Based on the forgoing, it is the opinion of the Public Access Counselor the City of Sullivan has not violated the Open Door Law

Regards,



Luke H. Britt  
Public Access Counselor

Cc: Ms. Angela Bullock, Esq.