
OPINION OF THE PUBLIC ACCESS COUNSELOR

WARREN AUXIER,
Complainant,

v.

TOWN OF HANOVER STORM WATER ADVISORY
COMMITTEE,
Respondent.

Formal Complaint No.
24-FC-56

Luke H. Britt
Public Access Counselor

This advisory opinion is in response a formal complaint alleging the Town of Hanover Storm Water Advisory Committee violated the Open Door Law.¹ The Town responded through attorney Devon Sharpe². In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the

¹ Ind. Code § 5-14-1.5-1-8.

² A previous version of this opinion was released to the complainant indicating the Town did not respond. The Town did indeed respond although addressed to a former employee. The prior version is moot.

formal complaint received by the Office of the Public Access Counselor on July 23, 2024.

BACKGROUND

The issue in this case is whether the Town of Hanover Storm Water Advisory Committee (Committee) took reasonable steps in accordance with the Open Door Law (ODL) to notice its meetings.

According to complainant Warren Auxier, the Hanover Town Council formed and appointed members to the Town's Storm Water Advisory Committee. He claims the Committee has met several times without notice, notably on March 5, May 29 and July 16 of 2024.

The complaint was filed on July 23, 2024.

The Town responded on August 8, 2024. For its part, the Town contends any deviation from the Open Door Law was inadvertent and therefore, it fully intends to abide by ODL provisions moving forward.

ANALYSIS

1. The Open Door Law

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. Ind. Code § 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

The Town of Hanover (Town) is a public agency for purposes of the ODL; and thus, is subject to the law's requirements. Ind. Code § 5-14-1.5-2. The Storm Water Advisory Committee is a governing body of the Town; and thus, subject to the ODL. *See* Ind. Code § 5-14-1.5-2(b).

As a result, unless an exception applies, all meetings of the Committee must be open at all times to allow members of the public to observe and record.

1.1 ODL definitions

Under the ODL, "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." Ind. Code § 5-14-1.5-2(c).

"Official action" means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;

- (4) establish policy;
- (5) make decisions; or
- (6) take final action.

Ind. Code § 5-14-1.5-2(d). Additionally, “public business” means “any function upon which the public agency is empowered or authorized to take official action.” Ind. Code § 5-14-1.5-2(e).

Here, any violation appears to be unintentional and no vote took place that would prejudice the public. Nonetheless, we would remind the Town that official action is a low threshold and anytime a majority of a governing body meet to conduct public business, that gathering would be considered to be a potentially public meeting and notice and openness requirements would apply.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Town of Hanover Storm Water Advisory Committee deviated unintentionally from the Open Door Law but is seemingly taking steps to address those issues.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor

Issued: December 9, 2024