



STATE OF INDIANA

MIKE BRAUN, Governor

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December 9, 2025

Re: Complaint 25-FC-057
James Simon (Complainant) v.
Huntertown Town Council (Respondent)

This advisory opinion is in response to the above-referenced complaint filed February 22, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 22, 2025, requesting a formal response by November 20, 2025. Respondent was granted a temporary extension to respond and a formal response, submitted by Michael D. Hawk of Hawk Haynie Kammeyer & Smith on behalf of Respondent, was received in this office on November 21, 2025.

The complaint alleges that Respondent violated the Open Door Law (ODL) by having a meeting with three (3) council members without proper notice.

ANALYSIS

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise provided by statute, so the public may be fully informed. Indiana Code (IC) 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. IC 5-14-1.5-3(a).

Respondent is a public agency and governing body for purposes of the ODL, and thus, is subject to the law's requirements. IC 5-14-1.5-2. As a result, unless an exception applies, all meetings of the Respondent must be open to the public at all times to allow the members of the public to observe and record.

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." IC 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. IC 5-14-1.5-2(d)

Complainant states that on February 3, 2025, three (3) members of the five (5) member town council met privately in a room at town hall immediately prior to a regularly scheduled and publicly noticed town council meeting. Details of the private meeting were openly discussed at the February 17, 2025, town council meeting at which they reportedly disclosed reaching a consensus on how to handle the vote on elections.

Respondent's response acknowledged that the three (3) members of the town council were present in a conference room for the discussion of Roberts Rules of Order and how to handle the upcoming vote for officers. The attending members also discussed separate legal advice they had received from two (2) independent lawyers regarding the renewal of the vote for vice president.

Respondent does not deny that a majority of the governing body met in private session to discuss and receive summaries of the legal advice gathered by at least two (2) of the council members. Furthermore, the meeting was held to deliberate as to what action the council should follow as it revisited the election of officers and particularly the vice president.

The Public Access Counselor (PAC) has addressed this issue recently in Opinion 25-FC-087, Kevin Kaplan v. City of Seymour, which references Opinion 21-FC-115, Andy Cook v Westfield Common Council. Opinion 21-FC-115 addressed having council members attending a committee meeting, which constituted a quorum of the council. The opinion found that the committee would violate the ODL, if a quorum of council members were present at a meeting of the committee unless 1) there had been posted a notice for a dual meeting of the governing body and committee, 2) there was a statutory exception based upon the nature of the meeting to allow the quorum being present or 3) it was a chance meeting of the members.

No notice was posted for the pre-council meeting. The Respondent did not raise a qualifying exception to the general rule. The third member joining could not be a chance meeting of the members of the council, when Respondent states that the third council member was there to observe.

On February 3, 2025, given that the town council is comprised of five (5) members, the presence of the third council member constituted a quorum, separate notice of the pre-meeting of the town council would be required, and that meeting should have taken place in public. Even when the third member "only observes" and "no final action is taken", all three (3) members of the town council received information, which constitutes an official action under IC 5-14-1.5-2(d).

Respondent is incorrect in stating that the third council member only observed and since no final action was taken, no violation took place.

The ODL does not require that a final vote be taken in order to constitute a violation. It is enough to have a majority of the members meet and take official action by either receiving information or deliberating a strategy or action. All three (3) members received the information regarding legal advice and therefore took official action, by definition, of the ODL.

CONCLUSION

This office finds that the Respondent violated the ODL by having three (3) members of the town council, constituting a quorum of the town council, attend a private meeting, where no executive session or other exclusion is named nor process followed.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name "Jennifer" being more prominent than the last name "Ruby".

Jennifer G. Ruby
Public Access Counselor