



STATE OF INDIANA

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February 4, 2009

Donald Mullendore
Room G-13 Eagles Landing
Ellettsville, Indiana 47429

*Re: Formal Complaint 09-FC-17; Alleged Violation of the Open Door Law by
the Richland Township Advisory Board*

Dear Mr. Mullendore:

This advisory opinion is in response to your formal complaint alleging the Richland Township Advisory Board ("Board") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5) by conducting a meeting without appropriate notice. A copy of the Board's response to the complaint is enclosed for your reference. In my opinion the Board has not violated the ODL.

BACKGROUND

You filed the present complaint on January 5, 2009 (postmarked December 29, 2008), raising issues related to a December 3 meeting of the Board. You allege the Board held a meeting which should have been open to the public but for which sufficient notice was not posted. The purpose of the meeting was to fill a vacancy in the township trustee position. You further allege the caucus related to this action was conducted improperly.

The Board responded to the complaint by electronic mail message dated January 7 from Township Board Secretary Ranee Love. Ms. Love indicates that the former township trustee died in November 2008. Ms. Love contends the Board held an organizational meeting on December 3 to address the vacancy in the office. Ms. Love posted notice of the meeting 48 hours prior to the meeting. She posted the notice at the Town Hall and at *The Ellettsville Journal* newspaper office. Ms. Love indicates she did not post notice of the meeting at the trustee's office. Ms. Love indicates the December 3 meeting involved discussion of keeping the township business operating in the absence of the trustee. Ms. Love contends the Board did not discuss filling the vacancy.

Ms. Love further indicates that the Board has since held one executive session on December 29 to discuss job performance evaluations of individual employees and held a public meeting on January 5. Finally, Ms. Love indicates she has no information about the caucus, as it was handled by the Monroe County Republican Party.

ANALYSIS

It is the intent of the Open Door Law that 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. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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. I.C. § 5-14-1.5-3(a).

Regarding notice, the ODL provides the following:

(a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) 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; and

(2) delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. . .
I.C. § 5-14-1.5-5.

Here, Ms. Love indicates she posted notice 48 hours prior to the meeting at the Ellettsville Town Hall. The ODL requires the agency to post notice at the agency's principal office, and if there is no office at the location where the meeting is to be held. If the Board office is located in the Town Hall, it is my opinion this notice was sufficient under the ODL. The ODL does not require an agency to post notice of its meetings at the office of another agency (e.g. the trustee's office), even if the business of the meeting concerns that agency.

Regarding your general complaint that the party caucus was handled incorrectly, a caucus is not a meeting for the purposes of the ODL. *See* I.C. § 5-14-1.5-2(c), defining "meeting." The party is not required to follow the requirements of the ODL. Because a party caucus is not a meeting, party rules rather than the ODL would govern. As such, allegations related to the party caucus are outside the purview of this office.

Finally, I would encourage the Board to download and distribute to its members copies of my office's *Handbook on Indiana's Public Access Laws*, available at www.in.gov/pac. Ms. Love indicates the Board relied heavily on the knowledge of the trustee relative to public access matters. This handbook should prove to be a good tool in providing the rules and answering questions the Board might have about meetings as well as access to public records.

CONCLUSION

For the foregoing reasons, it is my opinion the Board has not violated the ODL.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Ranee Love, Richland Township Advisory Board