



STATE OF INDIANA

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August 21, 2009

Lynn Coleman
605 South Thompson Lane
Paoli, Indiana 47454

*Re: Formal Complaint 09-FC-182; Alleged Violation of the Open Door Law
by the Paoli Town Council*

Dear Mr. Coleman:

This advisory opinion is in response to your formal complaint alleging the Paoli Town Council ("Council") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5). A copy of the Council's response to the complaint is enclosed for your reference. It is my opinion the Council has not violated the ODL.

BACKGROUND

You allege the Council violated the ODL by conducting a secret meeting and by refusing to allow public testimony at its July 21, 2009 meeting. You filed the complaint on August 12 (postmarked August 10).

The Council responded to the complaint by letter dated August 18 from Council attorney Todd Young. The Council contends there is no evidence the rumored secret meeting took place. Regarding testimony at the meeting, the Council contends you were afforded the opportunity to speak at the July 21 meeting.

ANALYSIS

It is the intent of the ODL 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).

A meeting is a gathering of a majority of a governing body of a public agency for the purpose of taking official action on public business. *See* I.C. § 5-14-1.5-2(c). If three

of the five members of the Council met to discuss public business, that gathering would be meeting. Here, you contend three of the five members met to discuss an employee's status. You have no evidence of the meeting but point to certain actions to support your claim. The Council contends no such meeting took place. In my opinion, there is not sufficient evidence to support your claim.

You further complain that the Council did not allow enough opportunity for public testimony at the July 21 meeting. Indiana law only requires that public meetings be open; it does not require that the public be given the opportunity to speak. *Brademas v. South Bend Cmty. Sch. Corp.*, 783 N.E.2d 745 (Ind. Ct. App. 2003), *trans. denied*, 2003. Here, the Council did allow you some time to speak, even though it was not required to do so. In my opinion, the Council did not violate the ODL.

CONCLUSION

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

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Bob Gilliatt, Paoli Town Council
Todd Young, Tucker and Tucker, P.C.