



STATE OF INDIANA

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August 27, 2015

Ms. Lois Tomaszewski
26 West Third Street
Peru, IN 46970

*Re: Formal Complaint 15-FC-208; Alleged Violation of the Open Door Law by
Peru Parks Board*

Dear Ms. Tomaszewski,

This advisory opinion is in response to your formal complaint alleging the Peru Parks Board ("Board") violated the Open Door Law ("ODL"). The Board has responded on August 4, via Mr. Mark Hall, President. Pursuant to Ind. Code § 5-14-3-1 *et. seq.* I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on July 20, 2015.

BACKGROUND

Your complaint dated July 20, 2015, alleges that the Peru Parks Board violated the Open Door Law by failing to provide proper notice of a public meeting.

On July 16, The Peru Tribune received a message from Tami Tschiniak, Secretary and Board member; at 3:15 p.m. Tschiniak informed the paper that the Parks Board would hold a meeting that evening at 7 p.m. and that the board members were notified via text message on Wednesday evening. However, no notice was posted. The meeting went ahead and the board took several actions during the meeting, including hiring personnel.

In his response, President Hall acknowledges that the meeting was improperly noticed, but states that it was a mistake rather than an attempt to subvert the ODL. The Board called a properly noticed meeting on July 23. At that meeting, the improper July 16 meeting was noted and declared null and void.

DISCUSSION

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 Ind. 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 Ind. Code § 5-14-1.5-3(a).

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meetings, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. See Ind. Code § 5-14-1.5-5. The Parks Board did not post a notice, nor did they inform the newspaper within the proper amount of time. The governing body of a public agency shall give public notice by delivering notice to all news media which deliver an annual written request for the notices not later than December 31 for the next succeeding calendar year to the governing body of the public agency. See Ind. Code § 5-14-1.5-5(b)(2).

The Board acknowledges this and has taken proper remedial measures. Nevertheless, the special meeting was inappropriate and the Board should ensure this kind of action does not repeat itself.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Peru Parks Board has violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Mark Hall