



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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January 4, 2016

Mr. Tim J. Troutman  
5275 O'Bannon Road SE  
Elizabeth, Indiana 47117

*Re: Formal Complaint 16-FC-295; Alleged Violation of the Open Door Law by the Town of Elizabeth*

Dear Mr. Troutman:

This advisory opinion is in response to your formal complaint alleging the Town of Elizabeth ("Town") violated the Open Door Law ("ODL"), Indiana Code § 5-14-1.5-1 et. seq. The Town has responded via Mr. Hugh Burns, Town Clerk-Treasurer. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on November 28, 2016.

## **BACKGROUND**

Your complaint dated November 16, 2016, alleges the Town of Elizabeth violated the Open Door Law by holding a meeting which was not properly noticed to the public, as well as cancelling a meeting, which was advertised in the local newspaper.

The Clerk -Treasurer states no town council meeting occurred on November 19, 2016. As well as public notice in the county newspaper, the clerk notes the November 17, 2016 meeting was posted at the town office several days prior to meeting.

## **ANALYSIS**

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 Indiana 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 Indiana Code § 5-14-1.5-3(a)*.

Public notice of meetings should be posted with the date, time, and place of any meetings and shall be given at least forty-eight (48) hours (excluding weekends and legal holidays) before the meeting. *See Indiana Code 5-14-1.5-5*. Therefore for the Saturday meeting to be properly noticed, all that is required

is a physical notice posted at the meeting location before the preceding Thursday. While the Council can use a newspaper as a tool for advertising meetings, publication of most Council meetings is not required by law. A meeting can be cancelled at any point prior to the meeting without notice.

Had the meeting been held on Thursday, as you were told, notice would have had to be posted at the town offices by Tuesday. Although some of the pictures are unclear, it appears the Saturday meeting which you expected to attend was properly noticed. Without any other information I am unable to make a determination if the meeting which was held on November 17, 2016 was properly noticed. I would advise the Town council to take the extra steps to ensure that all meetings are properly noticed in the local newspaper and posted at the town office for the public and pursuant to the statute – especially in cases where a meeting would deviate from a regular set schedule.

Please do not hesitate to contact me with any questions.

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: Mr. Hugh Burns