



# STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)234-0906  
Fax: (317)233-3091  
Toll Free: 1-800-228-6013  
Email: pac@in.gov/opac  
Website: www.IN.gov/pac

## OPINION OF THE PUBLIC ACCESS COUNSELOR

<b>TEAMSTERS LOCAL 135,</b>	)	
	)	
<b>Complainant</b>	)	
	)	
<b>v.</b>	)	<b>17-FC-62</b>
	)	
<b>DELAWARE COUNTY</b>	)	
<b>BOARD OF COMMISSIONERS</b>	)	
	)	
<b>Respondent</b>	)	

### ADVISORY OPINION March 26, 2017

This advisory opinion is in response to your formal complaint alleging the Delaware County Board of Commissioners (“Commissioners”) violated the Open Door Law (“ODL”), Indiana Code § 5-14-1.5-1 et. seq. The Commissioners have responded via Mr. John Brooke, Esq. His response is enclosed for review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on March 7, 2017.

### BACKGROUND

The formal complaint dated March 7, 2017 alleges the Delaware County Board of Commissioners violated the ODL by failing to post adequate notice of a public meeting.

On Monday, February 27, 2017 at 1:30 p.m., the Commissioners held a special meeting to pass an ordinance. The public notice posted for the meeting was dated Friday, February 24, 2017. The Complainant argues this is not enough time under the law for adequate notice of a special meeting, as nights and weekends are not calculated in the 48 hour notice rule.



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The Commissioners responded to the complaint by arguing the date posted on the notice was a clerical error and it was actually posted on February 23, 2017, which would be adequate under the law. Supplemental evidence submitted appears to verify the posting of notice on Thursday instead of Friday.

## ANALYSIS

It is the intent of the Open Door Law ("ODL") that 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*. Section 6.1 provides an exception, allowing public agencies to conduct executive sessions which are closed to the public in order to discuss strategies with respect to certain specified topics.

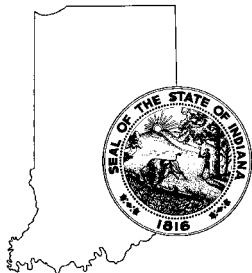
For county executives (county board of commissioners) special meetings must be posted 48-hours in advance pursuant to Indiana Code § 36-2-2-8, and include the subject matter specific to the purpose of the irregularly scheduled meeting. Read in conjunction with the Open Door Law at Indiana Code § 5-14-1.5-5, it is reasonable to expect the 48 hours does not include nights and weekends.

The notice in question was indeed dated February 24, 2017, however, other pieces of information suggest the notice was posted in advance of that date. For example, the notice was published by the Muncie Star Press in the February 24, 2017 print edition and email and fax receipts indicate the notice was prepared on Thursday. This information, coupled with the fact the Complainants were represented in the audience during the actual meeting, suggests the public had adequate notice of the meeting in order to observe and record. Given this information, it is unlikely a Court would find the meeting to be deficient and overturn any final action taken at the meeting.

## CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Delaware County Board of Commissioners did not violate the Open Door Law.

Luke H. Britt



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A handwritten signature in black ink, appearing to read "L. H. Britt".

Public Access Counselor

Cc: Mr. John Brooke, Esq.