



STATE OF INDIANA

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OPINION OF THE PUBLIC ACCESS COUNSELOR

TRACI L. LATOZ

Complainant,

v.

WILLIAMSPORT TOWN COUNCIL

Respondent.

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17-FC-116

ADVISORY OPINION

July 7, 2017

This advisory opinion concerns a formal complaint alleging the Williamsport Town Council (“Council”) violated the state’s Open Door Law (“ODL”). Ind. Code § 5-14-1.5-1–10. On June 5, 2017, the Council responded through President David Banta. The response is included for review. In accordance with Indiana Code § 5-14-5-10, I issue the following advisory opinion to the formal complaint received by the Office of the Public Access Counselor on May 25, 2017.

BACKGROUND

The Complainant, Traci Latoz, filed a formal complaint alleging the Williamsport Town Council violated the ODL by holding a public meeting in a location that failed to accommodate all of the interested members of the public in attendance. Latoz is a member of the Council.

As an initial matter, it is worth noting that the public’s interest in the Council’s meetings has recently grown because of potential changes to Williamsport’s utility rates. On May 1, 2017, the Council held its regular monthly meeting at the town hall. The Complainant asserts that prior to the meeting, it had become clear that there was not enough capacity to accommodate the audience. Specifically, Ms. Latoz claims that approximately twelve attendees were forced to stand in the hallway and some simply left because of the lack of space. Notably, the Council’s two previous



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meetings were held at a nearby fire station to accommodate the unusually large crowds. Still, the Council scheduled the meeting in May for the the town hall. The Complainant claims that the Respondent denied requests to relocate the meeting to a larger space. The Council's minutes from the meeting indicate that Latoz made a motion to move the meeting to the fire station, but the motion failed. Although the Complainant has not provided information as to how many individuals the room did accommodate, the Respondent has indicated the room would hold twenty-five people. The purpose of the meeting was to discuss, among other things, utility rate increases – items of significant public interest.

The Respondent, Mr. Banta, does not dispute that some members of the public—approximately ten to fifteen people—were required to gather in the hallway or stand outside during the Council's meeting in May. Even so, he asserts that it was appropriate to move the Council meeting back to the town hall because the fire station proved to be an unsuitable location for a variety of reasons including noise from passing trains, audience chatter, and poor acoustics. In his view, the elevated noise level made it difficult to effectively conduct the meetings and even more challenging for the clerk-treasurer to keep the minutes. Thus, the Council moved its meeting back to the town hall.

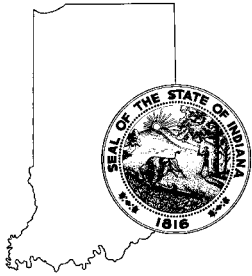
ANALYSIS

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. Ind. Code § 5-14-1.5-1.

The ODL does not require a governing body to make a specific minimum number of seats available at public meetings. Even so, the expectation is that those who want to attend and observe are able to do so. Certain circumstances may indeed dictate a change of venue to accommodate a larger audience, from time to time, when discussing controversial subjects. It appears as if this was done at the two special meetings immediately preceding the meeting in question.

Based on the information provided, it appears as if the two special meetings resulted in the Council's decision to study the rate increase and not vote to implement it. This likely curtailed the interest in the May 1 meeting. It stands to reason a large audience (or as large as the two special meetings) was not anticipated.

The Town appears to have made a good faith effort to accommodate the larger audiences by changing locations of the prior two special meetings. It can reasonably be concluded that the regular meeting simply did not necessitate the larger venue because the controversial topic was tabled until a study was completed. The expectation of the law, and this Office, is one of reasonableness when it comes to



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compliance with the ODL. That an extra 15 people showed up may or may not have been reasonably predicted based on the agenda, but my impression is that the regular meeting would attract a regular sized audience.

I recommend the Council explore alternative venues other than the fire station if a large audience is anticipated in the future. A school gym generally works well, as would a public library, a church or other community hall. I encourage the Council to be creative in finding a venue that accommodates all, within reason. To this point, it appears as if it has done so in a reasonable manner in compliance with the law.

A handwritten signature in black ink, appearing to read "L. H. Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Distribution: Mr. David Banta