

July 5, 2007

Ms. Cheryl Gridley
137 East Pendle
South Bend, Indiana 46637

Ms. Dorothy Snyder
236 East Pendle Street
Roseland, Indiana 46637

Re: Formal Complaint 07-FC-149; Alleged Violation of the Open Door Law by the Town of Roseland

Dear Mr. Sellers:

This is in response to your formal complaints alleging the Town of Roseland, and by Town of Roseland I assume you mean the Town Council (“Council”), violated the Open Door Law (Ind. Code 5-14-1.5) by holding a meeting on February 1 with no public notice. Because the two complaints are so similar in nature, they have been consolidated into one complaint. A copy of the Council’s response to your complaint is enclosed for your reference. I find that the Council did not violate the Open Door Law.

BACKGROUND

Your complaint alleges that on June 3, 2007 you noticed a posting of a rule signed and dated February 1 regulating the use of camera photography during, before and after town meetings. You allege this rule was passed at a meeting for which there was no formal notice.

In response to your complaint, the Council provided a copy of the minutes of the January 31, 2007 meeting of the Roseland Town Council. Those minutes indicate (Item III. J.) the Council, by a vote of 2 to 1, passed a motion “to allow photographs/videos outside of meeting if agreed to by person(s) being taped or interviewed and not to allow within meeting room other than news media.” The response of the Council further indicates this was intended as a Town Resolution, but the letter was not drafted in advance of the meeting. It was drafted instead on

February 1, at which time the document was circulated so the appropriate signatures could be procured; a subsequent meeting was not held.

ANALYSIS

In its response to your complaint, the Council claims your complaint was time barred by Ind. Code 5-14-5-7, which provides that “a person or a public agency that chooses to file a formal complaint with the counselor must file the complaint not later than thirty (30) days after:

- (1) the denial; or
- (2) the person filing the complaint receives notice in fact that a meeting was held by a public agency, if the meeting was conducted secretly or without notice.”

It is my opinion that the date you saw the regulation posted and believed a meeting was held without notice triggered the time limitations for filing a complaint with this office. Your respective complaints were filed on June 4 and June 24, making them timely.

It is the intent of the Open Door Law 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. IC 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. IC 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 meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. IC 5-14-1.5-5(a).

Your complaint does not allege the January 31 meeting of the Town Council was conducted without proper notice but rather that a subsequent meeting was held without proper notice. I do not find that to be the case. I find, rather, that the resolution about which you complain was passed at the January 31 meeting but not signed until February 1. The members of the Council who signed the regulation did not do so at a meeting but did so individually.

CONCLUSION

For the foregoing reasons, I find that the Roseland Town Council did not violate the Open Door Law.

Best regards,

Heather Willis Neal
Public Access Counselor

cc: Michael Lipinsky, Town Attorney