

St. Joseph County meeting may have violated Open Door Law

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SOUTH BEND — The St. Joseph County Council and Board of Commissioners met Monday to discuss the county budget without posting a notice of the meeting, representing an apparent violation of the state's Open Door Law.

The Open Door Law requires public notice of the date, time, and place of any meeting, executive session, or scheduled or reconvened meeting at least 48 hours prior to the meeting, excluding Saturdays, Sundays and legal holidays.

The notice must be posted at the principal office of the agency or, if no such office exists, at the place where the meeting is to be held.

Monday's meeting, which took place at 5:30 p.m. inside the commissioners conference room on the seventh floor of the County-City Building, was not posted outside the commissioners office or the council office.

It also was not advertised in the media, nor did the media receive a news release indicating the time, date and place of the meeting.

The Tribune only learned of the meeting at 5 p.m. Monday, during a conversation with Commissioner Dave Thomas.

Speaking today, council President Rafael Morton blamed the fact that no notice was posted on an administrative error. The council called the meeting, making it, and not the commissioners, responsible for the notice.

"It is standard to give proper notification," he said, "and from an administrative perspective, yes, it should have been posted. But this is something that rarely happens,"

"We pride ourselves in being open and honest with all information that comes out of this office" he continued, "and we encourage, and I personally encourage, the citizens of St. Joseph County to come to all of our meetings."

Monday's meeting included two of the county's three commissioners – Andy Kostielney and Dave Thomas – and seven of its nine council members – Rafael Morton, Mark Root, Mike Kruk, Mark Catanzarite, Corey Noland, Robert McCahill and Dale DeVon – plus Auditor Pete Mullen and Deputy Auditor Teresa Shuter.

During the meeting, which ended about 8 p.m., officials discussed the proposed budgets of county Sheriff Mike Grzegorek, Clerk Terri Rethlake, and Circuit Court Judge Michael Gotsch, each of whom was present during those discussions.

There is no evidence that anyone present at meeting was aware that it had not been posted.

Under the Open Door Law, a meeting is defined as "a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon business." "Official action" means to receive information, deliberate, make recommendations, establish policy, make decisions, or take final action.

In Indiana, any person may contact the Office of the Public Access Counselor to file a formal complaint or seek an informal opinion on matters related to the Open Door Law. In addition, an action may be filed in circuit or superior court against a governing body that violates the law.

Though the public access counselor has no enforcement power, the court, assuming it rules against the offending government body, can issue a declaratory judgment; enjoin continued, threatened, or future violations of the law; or declare a policy, decision or final action void.

As of this afternoon, the Office of the Public Access Counselor, in Indianapolis, had not received any complaints regarding Monday's meeting, according to Public Access Counselor Joe Hoage.

Hoage said he could find just one Open Door Law complaint against the council and Board of Commissioners since 1999. In that case, it was determined that the complainant did not have standing to file the complaint.

The County Council and Board of Commissioners plan to meet again Wednesday to discuss the budget. The meeting will take place at 5:30 p.m. in the commissioners conference room on the seventh floor of the County-City Building.

A notice of the meeting is posted outside the offices of both the council and commissioners.

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