



# INDIANA TOWNSHIP ASSOCIATION, INC.

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March 18, 2020

## **Statement of the Indiana Township Association Concerning Guidance for Public Meetings & Open Door Laws**

Dear Trustees, Township Personnel and Township Board Members:

Late on March 17, 2020, Governor Eric Holcomb issued Executive Order 20-04 which addressed many issues related to the State Public Health Emergency in responding to Covid-19. Among the several items in the Order, the Governor addressed modified Public Meeting and Open Door Laws (Ind. Code § 5-14-1.5 *et. seq.*).

You can find the Governor's Executive Order here:

<https://www.in.gov/gov/files/ExecutiveOrder20-04FurtherOrdersforPublicHealthEmergency.pdf>

As to public meetings the Order provides:

- Public meetings should be limited to essential matters critical to government operations. We interpret this to mean that meetings not related to the necessary operation of a Township should be postponed. For instance, a strategic planning meeting for a future township project should be postponed. A meeting to address keeping township administrative or fire operations running as smoothly as possible during the Public Health Emergency would be essential.
- All specific statutory deadlines for certain meetings are presently suspended for the duration of the Public Health Emergency. For instance, the April 1 Fire Territory and Equipment Replacement Fund deadline or May 1 Cumulative Fund completion deadlines are temporarily postponed. We will continue to look to the State for guidance on how to handle postponed sessions. Please note, this is *not* a requirement that these meeting must be postponed, but if a Township believes these are essential it may go forward.
- Only for the duration of the Public Health Emergency, a Township Board or Merit Commission member may use telephone, computer, video conferencing, or any other electronic means of communication to attend and participate in a meeting as if they were regularly permitted to do so under Ind. Code § 5-14-1.5-3.6. To invoke the ability to attend electronically, the Board must adopt a policy permitting it in advance pursuant to Ind. Code § 5-14-1.5-3.6(f) & (g). A draft resolution is attached. This means that the member attending electronically must be able to communicate with and be understood by all members and the public in attendance. If a member attends electronically voting must be by roll call.



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- Township Boards must still post notices and agendas in advance of meetings unless it invokes its emergency authority under Ind. Code §5-14-1.5-5(d)<sup>1</sup>.

Further guidance has come from the State's Public Access Counselor along with the Governor's Order. The Access Counselor's guidance is related to promoting use of technology for remote viewing of hearings, such as livestreaming. A copy of the Public Access Counselor's guidance is attached. It advises, in part:

- Using larger venues to permit social distancing;
- Shorten meetings to eliminate all non-essential items;
- Allow public comments to be received in advance in writing and given to Board members before the meetings;
- Consider fulfilling public records requests digitally (i.e. scans or faxes).

Please know, the Governor has not waived Title 5 Open Door laws. The Executive Order only provides limited flexibility for virtual attendance, if the Board agrees to do so, and grants extensions for firm deadlines on certain Township related matters. When reading his Order, take care to note the difference between 'public agencies' and 'political subdivisions.' Townships are political subdivisions and not public agencies.

Sincerely Yours,  
INDIANA TOWNSHIP ASSOCIATION, INC.

A handwritten signature in black ink, appearing to read "Deborah R. Driskell".

Deborah R. Driskell, Executive Director  
P.O. Box 611  
Fishers, IN 46038  
(317) 813-3240

Sincerely Yours,  
THRASHER BUSCHMANN & VOELKEL, P.C.

A handwritten signature in blue ink, appearing to read "Jeffrey M. Bellamy".

Jeffrey M. Bellamy, Esq., General Counsel  
151 N. Delaware Street, No. 1900  
Indianapolis, IN 46204  
(317) 686-4773

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1. Public Access Counselor, March 17, 2020 Guidance Memo

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<sup>1</sup> Ind. Code §5-14-1.5-5(d) (d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

- (1) news media which have requested notice of meetings under subsection (b)(2) must be given the same notice as is given to the members of the governing body; and
- (2) the public must be notified by posting a copy of the notice according to subsection (b)(1).