



Dave Askins <dave@bsquarebeacon.com>

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## the council's leadership team and the ODL

3 messages

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Dave Askins <dave@bsquarebeacon.com>

Thu, Jan 7, 2021 at 1:41 PM

To: Stephen Lucas <lucass@bloomington.in.gov>

Cc: Jim Sims <simsji@bloomington.in.gov>, matthew.flaherty@bloomington.in.gov, Sue Sgambelluri <sue.sgambelluri@bloomington.in.gov>,  
Mike Rouker <roukerm@bloomington.in.gov>, Mick Renneisen <renneism@bloomington.in.gov>

Hi Stephen,

Every year Bloomington's city council elects a president and vice president as required under state statute. Every year, the city council also chooses a parliamentarian as required under local code.

This group is known to councilmembers under the label of "the leadership team." On Wednesday Jan. 6, 2020, this common vocabulary was used as follows:

Matt Flaherty, on his election as parliamentarian: "I look forward to working with all of you in that capacity and serving on the leadership team with councilmembers Sgambelluri and Sims."

Jim Sims responded: "Likewise, thank you for joining the team."

Sue Sgambelluri said: "And I am honored to serve as part of a leadership team that will help continue those."

This subset of three city council officers could be described in all kinds of ways: "the council's officers" or "the council's leadership" or "the council's leadership group" or "the council's management" or "the leadership team," among others. Whatever the choice of description, using that description would not necessarily make the three a "committee" under Indiana's ODL.

However, in the case of Bloomington's city council, at the time members vote to elect their officers, they know that the three officers who are chosen will be exactly those three councilmembers who will hold regular meetings through the upcoming year, on Tuesdays, with members of the city administration to review and discuss upcoming agenda items. In terms of the ODL, receiving information in this way counts as an "official act" of the three council officers.

Indeed, one of the historical motivations for a councilmember to serve as president, vice president, and parliamentarian—beyond wanting to carry out the prescribed duties of those individual offices—is the opportunity to have influence on the ongoing creation of the legislative plan, through the regular Tuesday meetings of officers with administration.

Otherwise put, councilmembers know that when they vote for president, vice president and parliamentarian, they are assigning to this group of three the task of meeting with the administration for regular meetings to review and discuss upcoming legislation.

Applying Section 2(a)(3)(B) of the ODL to this set of facts is straightforward. Bloomington city council's "leadership team" which consists of its president, vice president and parliamentarian, should be analyzed as a committee of the council appointed directly by the council to which authority has been delegated to take official action upon public business. It is no defense to claim that this group is somehow not a committee, because the word "committee" is not used to describe the group.

In conclusion, it is the Square Beacon's observation that the regular Tuesday meetings between the council's leadership team with members of the administration, to discuss the calendaring of upcoming legislation among other public business, should be noticed to the public and made accessible to the public under the requirements of the ODL.

There is adequate time now to post notice under the ODL for a potential meeting next Tuesday. I hope you will consider doing that for next weeks and all subsequent leadership team meetings for the coming year.

Thanks!

--Dave

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Stephen Lucas <lucass@bloomington.in.gov>

Tue, Jan 12, 2021 at 11:38 AM

To: Dave Askins <dave@bsquarebeacon.com>

Cc: Jim Sims <simsji@bloomington.in.gov>, Matt Flaherty <matthew.flaherty@bloomington.in.gov>, Sue Sgambelluri <sue.sgambelluri@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>, Mick Renneisen <renneism@bloomington.in.gov>,  
Heather Lacy <heather.lacy@bloomington.in.gov>

Hi Dave,

Thanks for sharing your thoughts. I'm not sure that the Council's President, Vice President, and Parliamentarian constitute a committee directly appointed by the Council, but I think it's a worthwhile question to ask and explore. In order to avoid any unintended ODL issues and until further clarification can be provided, the officers may adjust how they go about discussing scheduling matters with the administration.

Thanks,  
Stephen

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**Dave Askins** <dave@bsquarebeacon.com>

Tue, Jan 12, 2021 at 1:46 PM

To: Stephen Lucas <lucass@bloomington.in.gov>

Cc: Jim Sims <simsji@bloomington.in.gov>, Matt Flaherty <matthew.flaherty@bloomington.in.gov>, Sue Sgambelluri <sue.sgambelluri@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>, Mick Renneisen <renneism@bloomington.in.gov>, Heather Lacy <heather.lacy@bloomington.in.gov>

Hi Stephen,

Thanks. But you haven't provided in your message of (1) a description of how you will seek further clarification, or (2) a description of the adjustment that the leadership committee might make (but, according to your message, also might not make) for discussing scheduling matters with the administration.

One way to seek clarification on this matter is to ask the public access counselor for an advisory opinion, which can be issued even when there's no live dispute. Such an opinion was issued by the PAC last year about the ability of the Bloomington city council to use the "caucus" exemption in the ODL. It was an opinion that councilmembers chose to interpret as not impacting their prevailing practice and eventually resulted in a second PAC opinion that removed any doubt about what the first opinion meant. That means PAC advisory opinions are still of some use, even if such use might be limited.

I would be glad to collaborate with you on drafting a jointly submitted request for an advisory opinion from the public access counselor.

In any case, I would appreciate some clarity on both points above.

--Dave

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