



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF OPEN RECORDS COUNSEL
James K. Polk State Office Building
505 Deaderick Street, Suite 1600
Nashville, Tennessee 37243-1402**

**Justin P. Wilson
Comptroller**

August 4, 2014

The Honorable Alan Broyles
Chairman, Industrial Development Board for Greeneville and Greene County
204 North Cutler Street, Suite 206
Greeneville, Tennessee 37745

Dear Mayor Broyles:

The Office of Open Records Counsel received fifty-nine open meetings complaints regarding the July 18, 2014 meeting of the Industrial Development Board for Greeneville and Greene County (hereinafter referred to as “the Board”). While a number of the complaints focused entirely on the arrest of Mr. Eddie Overholt, many of them focused both on the arrest of Mr. Overholt and the fact that he spoke out at the meeting, because many of the citizens at the meeting were unable to hear the Board’s deliberations during the meeting.¹ This letter will not address the arrest of Mr. Overholt because that is outside the purview of this office, but this letter will address the complaints related to the public’s inability to hear the deliberations during the meeting. Whenever this office receives a complaint regarding a possible open meetings violation, my routine practice is to contact the chairman of the entity that is the subject of the complaint to make him/her aware that a complaint has been filed and to let him/her know what the law requires.

The Tennessee General Assembly has declared “it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.” T.C.A. §8-44-101. Additionally, Tenn. Code Ann. Section 8-44-102(a) reads, “[a]ll meetings of a governing body are declared to be public meetings open to the public at all times except as provided by the Constitution of Tennessee.” While the

¹ I watched a link that contained a video recording of the meeting several times. There are portions of the meeting that are inaudible to me even though there was a microphone on the camera that was being used to record the meeting. The video that I watched is found at

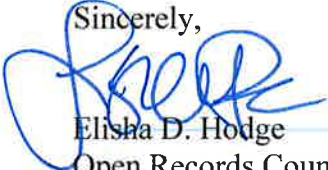
https://www.youtube.com/watch?v=FIO2vLW1p_A&list=UUUT5Cg4hr8c72auth9iksPg.

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only specific language in the open meetings act that addresses the public's ability to hear a meeting is found in the provisions that address meetings that are held electronically², it is the opinion of this office, based upon the declaration from the General Assembly that is referenced above, that all public meetings of a governing body are required to be held in a manner that permits the public to hear the issues being deliberated and/or the decisions being made.

I encourage the Board to consult with its attorney regarding the complaints that have been made and the requirements of the open meetings act. I suggest that the Board specifically discuss ways in which it can ensure that members of the public are able to hear all of the deliberations taking place and decisions being made by the Board in the future. It is important that you speak with your attorney about these complaints because, pursuant to the Tennessee Open Meetings Act, a citizen has the right to bring a lawsuit against an entity when he/she feels that an open meetings violation has occurred. If a lawsuit were brought, a court would determine whether or not a violation of the Tennessee Open Meetings Act occurred based upon the facts presented to the court.

Please let me know if you have any questions.

Sincerely,

Elisha D. Hodge
Open Records Counsel

² See Tenn. Code Ann. Section 8-44-108(c)(3).