

# **IOWA PUBLIC INFORMATION BOARD**

## **MEMBERS**

**Daniel Breitbarth, Des Moines (Government Representative, 2022-2026)**

**Joan Corbin, Pella (Government Representative, 2020-2024)**

**E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)**

**Barry Lindahl, Dubuque (Government Representative, 2020-2024)**

**Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)**

**Monica McHugh, Zwingle (Public Representative, 2022-2026)**

**Julie Pottorff, Des Moines (Public Representative, 2020-2024)**

**Jackie Schmillen, Urbandale (Media Representative, 2022-2026)**

**vacant**

## **STAFF**

**Erika Eckley, Executive Director**

**Brett Toresdahl, Deputy Director**

**Daniel Strawhun, Legal Counsel**

**Use the following link to watch the IPIB meeting live:**

<https://youtube.com/@IowaPublicInformationBoard>

**Note: If you wish to make public comment to the Board, please send an email to [IPIB@iowa.gov](mailto:IPIB@iowa.gov) prior to the meeting.**

## **Agenda**

**March 21, 2024, 1:00 p.m.**

**3rd Floor E/W Conference Room**

**Wallace Building**

**502 East 9<sup>th</sup> Street, Des Moines**

### **1:00 PM – IPIB Meeting**

- I. Approval of agenda\*
- II. Approval of the February 15, 2024 minutes \*
- III. Public Forum (5-minute limit per speaker)
- IV. Comments from the board chair. (McHugh)
  
- V. Advisory Opinion – Deliberation/Action.
  1. **24AO:0002** Relaxed dissident – Chapter 22 – denial of record requests
  
- VI. Cases involving Board Deliberation/Action. (Eckley)
  1. **23FC:0053** Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23 \* Report
  2. **23FC:0119** Richard Hageman – Both Chapters – City of Ute 11/9/23 – \* Dismissal
  3. **23FC:0127** Hendrik van Pelt – Chapter 22 – City of Clive 11/22/23 – \* Dismissal
  4. **23FC:0133** Matthew Knowles – Chapter 22 – Crawford Co. Attorney – 12/7/23 – \* Dismissal
  5. **24FC:0001** Steve St. Clair – Chapter 21 – Winneshiek Co. Bd of Supervisors – 1/3/24 – \* Dismissal
  6. **24FC:0004** Janelle Lund – Chapter 21 – Cedar Rapids Community School District – 1/5/24 – \* Dismissal

7. **24FC:0008** Jeff Sherman - Chapter 21 – Floyd County Bd of Supervisors – 1/22/24 – \*
8. **24FC:0009** Brett Christensen – Chapter 21 – City of Silver City – 1/23/24 – \* Acceptance
9. **24FC:0015** Kelly Smith – Chapter 22 – Pleasant Valley Community School District – 2/7/24 – Dismissal
10. **24FC:0017** Latrice Lacey – Chapter 22 – City of Davenport – 2/12/24 – \* Acceptance
11. **24FC:0020** Charles Nocera – Chapter 22 – Dept. Administrative Services – 2/21/24 – \* Dismissal

VII. Matters Withdrawn, No Action Necessary. (Eckley)

1. **24FC:0005** Jon Uhl – Chapter 21 – City of Davenport – 1/10/24 – \* Withdrawn
2. **24FC:0006** Cheryl Shagens – Both Chapters – City of Davenport – 1/10/24 – \* Withdrawn
3. **24FC:0011** Frederick Shaddock – Chapter 22 – Fairfield Police Department -1/30/24 – \* Withdrawn

VIII. Pending Complaints. Informational Only (Eckley)

1. **23FC:0060** Dina Raley - Chapter 22- Delaware County Sheriff 6/16/2023 - Pending
2. **23FC:0074** Chad Miller - Chapter 21- Scott County Board of Review 7/18/2023 – Pending
3. **23FC:0083** Brendan Chaney – Chapter 21 – City of Iowa Falls – 8/14/23 – Pending Informal
4. **23FC:0100** Travis Johnson – Chapter 21 – Eddysville Blakesburg Fremont CSD Board 10/18//23 – Pending
5. **23FC:0107** Dana Sanders – Both Chapters – Benton Co. Board of Supervisors 10/31/23; **23FC:0109** Valerie Close 11/3/23; **23FC:0110** Lu Karr 11/4/23; **23FC:0113** Molly Rach 11/5/23; **23FC:0121** Adam Carros – Chapter 21 – Benton Co. Bd. of Supervisors 11/17/23 – Pending
6. **23FC:0105** Jeff Law/Kourtnee Mammen – Chapter 21 – River Valley School Board 10/29/23 – pending
7. **23FC:0114** John Bandstra – Chapter 21 – South Central Regional Airport Agency 11/6/23; **23FC:0115** Bert Bandstra – Chapter 21 – South Central Regional Airport Agency 11/10/23; **23FC:0122** Jack Rempe – Chapter 21 – South Central Regional Airport Agency 11/17/23; **23FC:0123** Drew McGee – Chapter 21 – South Central Regional Airport Agency 11/17/23 – Pending
8. **23FC:0118** Leah Schwery – Both Chapters – City of Ute 11/9/23 – Pending
9. **23FC:0126** Tracy Stillwell – Chapter 22 – Hampton Public Library 11/19/23 – Information Gathering
10. **23FC:0130** Keegan Jarvis – Chapter 21 – Swan City Council 11/27/23 – pending
11. **24FC:0003** Andrew Kida – Chapter 22 – Clinton County – 1/6/24 –
12. **24FC:0010** Tirzah Wedewer – Chapter 21 – Manchester City Council – 1/29/24 – Information Gathering
13. **24FC:0013** Bonnie Castillo – Both Chapters – Union Co. Emergency Management Agency – 2/2/24 – Information Gathering
14. **24FC:0014** Keegan Jarvis – Chapter 22 – Swan City Council – 2/6/24 – Information Gathering
15. **24FC:0016** Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 2/8/24 – Information Gathering
16. **24FC:0018** Zach Vulich – Chapter 22 – City of Leland – 2/13/24 – Information Gathering
17. **24FC:0019** Kenneth Brown – Chapter 21 – City of Sidney – 2/21/24 – Information Gathering
18. **24FC:0021** Kathryn Crumly – Both Chapters – City of Grandview – 2/26/24 – Information Gathering
19. **24FC:0022** Mark Waad – Both Chapters – Des Moines Airport Authority – 2/26/24 – Information Gathering
20. **24FC:0023** Shawn Shearer – Chapter 22 – City of Iowa City - 2/19/24 – Information Gathering
21. **24FC:0024** Megan Rimmel – Chapter 22 – Iowa Medical Examiner – 3/6/24 – Information Gathering
22. **24FC:0025** Dana Sanders – Both Chapters – Benton Co. Board of Supervisors – 3/7/24 – Information Gathering
23. **24FC:0026** Dan Nugteren – Chapter 21- South Central Regional Airport Agency – 3/7/24 – Information Gathering

- 24. **24FC:0027** Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 3/8/24 – Information Gathering
- 25. **24FC:0028** Danny Jensen – Chapter 22 – Fort Dodge Police Dept. – 3/12/24 – Information Gathering
- 26. **24FC:0029** Dana Sanders – Chapter 22 – Benton Co. Board of Supervisors – 3/14/24 – Information Gathering

IX. Committee Reports

- 1. Communications – (Toresdahl) –
- 2. Legislative – (Eckley)
- 3. Rules – (Eckley)

X. Office status report.

- 1. Office Update \* (Eckley) - Financial Disclosure reminder
- 2. Financial/Budget Update (FY23) \* (Toresdahl)
- 3. Presentations/Trainings (Eckley) –
  - County Assessors Group
  - Eddyville Blakesburg Community School District
  - Community Services Affiliate
  - Judicial Branch Lunch/Learn
  - Iowa Municipal Officials Academy
- 4. District Court Update (Eckley)

- XI. Next IPIB Board Meeting will be held in the Wallace Building, 3rd Floor, E/W Conference Room  
April 18, 2024 at 1:00 p.m.

XII. Adjourn

**\* Attachment**

# IOWA PUBLIC INFORMATION BOARD

February 15, 2024

## Unapproved Minutes

The Board met on February 15, 2024 for its monthly meeting at 11:00a.m. in the 2nd floor N/S Conference Room in the Wallace Building with the following members participating: Daniel Breitbarth, Des Moines (arrived @11:12pm); Joan Corbin, Pella; E. J. Giovannetti, Urbandale; Barry Lindahl, Dubuque (11:31pm google meets); Joel McCrea, Pleasant Hill; Monica McHugh, Zwingle; Julie Pottorff, Des Moines; Jackie Schmillen, Urbandale (google meets). Also present were IPIB Executive Director Erika Eckley; Brett Toresdahl, Deputy Director; Daniel Strawhun, Legal Counsel. A quorum was declared present.

Others identified present or by phone: Amy Beattie, Thomas Mayes, Brent Hinders, James Theabald, John Bandstra, Jack Rempe, Adam Callanan, Dana Sanders, Molly Rach, Tracy Stillwell, Mikkie Schultz.

On a **motion** by Giovannetti, **second** by Breitbarth, the agenda was unanimously adopted 7-0.

On a **motion** by Pottorff, **second** by Giovannetti, to approve the January 18, 2024 minutes. Unanimously adopted 7-0.

**Public Forum** – John Bandstra spoke.

**Board Chair** Comments – None

**Advisory Opinions** – action

1. **24AO:0001** – Chapter 21 – Notices for Budget Work Sessions – 1/3/24 – A motion by Pottorff and second by Corbin to approve the Advisory Opinion. Unanimously approved, 7-0.

**The board was briefed on cases and took action as indicated:**

1. **23FC:0082** Mellisa Mattingly – Both Chapters – McCallsburg City Council – 8/3/23 – A motion by McCrea and second by Giovanetti to approve the final report and dismiss the case as satisfactorily resolved. Unanimously approved, 7-0.
2. **23FC:0096** Leslie Wiles – Chapter 21 – Redfield Public Library 10/9/23 – and **23FC:0097** Pauletta Cox – Chapter 21 – Redfield Public Library 10/9/23 – A motion by Breitbarth and second by Pottorff to accept the final report and dismiss the case as satisfactorily resolved. Approved, 6-0, with Giovannetti abstaining.
3. **23FC:0100** Travis Johnson – Chapter 21 – Eddysville Blakesburg Fremont CSD Board 10/18//23 – A motion by Giovannetti and second by Breitbarth to accept the report. Unanimously approved, 7-0.
4. **23FC:0101** Braxton Morrison – Chapter 21 – Benton Co. Supervisors 10/18/23; **23FC:0102** Maggie Mangold – Chapter 21 – Benton Co. Supervisors 10/19/23; **23FC:0107** Dana Sanders – Both Chapters – Benton Co. Board of Supervisors 10/31/23; **23FC:0108** Kurt Karr 11/1/23; **23FC:0109** Valerie Close 11/3/23;

**23FC:0110** Maggie Mangold 11/3/23; **23FC:0111** Kaitlin Emrich 11/4/23; **23FC:0112** Lu Karr 11/4/23; **23FC:0113** Molly Rach 11/5/23; **23FC:0121** Adam Carros – Chapter 21 – Benton Co. Bd. of Supervisors 11/17/23 – Dana Sanders and Molly Rach spoke. A motion by Breitbarth and second by Corbin to consolidate the complaints; dismiss complaints 23FC:0101, 23FC:0102, and 23FC:0110 per the settlement agreement by the parties; complaint 23FC:0108 dismissed because the documents have been provided; and, complaints 23FC:0107, 23FC:0109, 23FC:0111, 23FC:0112, 23FC:0113, and 23FC:0121 are accepted. Approved, 6-0, with Giovannetti abstaining.

*Note: Lindahl join meeting at 11:31 a.m.*

5. **23FC:0114** John Bandstra – Chapter 21 – South Central Regional Airport Agency 11/6/23; **23FC:0115** Bert Bandstra – Chapter 21 – South Central Regional Airport Agency 11/10/23; **23FC:0122** Jack Rempe – Chapter 21 – South Central Regional Airport Agency 11/17/23; **23FC:0123** Drew McGee – Chapter 21 – South Central Regional Airport Agency 11/17/23 – Amy Beattie spoke. A motion by Breitbarth and second by Lindahl to approve the acceptance order. Approved, 7-0 with Corbin abstaining.
6. **23FC:0118** Leah Schwery – Both Chapters – City of Ute 11/9/23 – A motion by Breitbarth and second by McCrea to approve the acceptance order. Unanimously approved, 8-0.
7. **23FC:0126** Tracy Stillwell – Chapter 22 – Hampton Public Library 11/19/23 – A motion by Pottorff and second by Breitbarth to table this complaint and refer back to staff to attempt to resolve the matter. Unanimously approved, 8-0.
8. **23FC:0131** Amy McCabe – Chapter 22 – Pleasant Valley School District 11/27/23 – A motion by Pottorff and second by Corbin to approve the dismissal order. Approved, 7-0 with Breitbarth abstaining.
9. **23FC:0134** Todd Oetken – Chapter 22 – Iowa Dept. of Education – 12/11/23 – A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 8-0.
10. **23FC:0137** Adam Callanan – Chapter 21 – Des Moines City Council – 12/21/23- Adam Callanan spoke. A motion by Breitbarth and second by Pottorff to approve the dismissal order. Unanimously approved, 8-0.
11. **24FC:0007** Mathew Boon – Chapter 22 – Fort Madison Police Dept. – 1/17/24 – A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 8-0.

**Matters Withdrawn. No Action -**

1. **23FC:0135** Andrew Keller – Chapter 22 – City of Webster City – 12/20/23 – withdrawn
2. **24FC:0012** Diane Holst – Chapter 22 – Secretary of State – 2/1/24 – withdrawn

**Pending complaints that required no board action. Informational**

1. 23FC:0053 Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23 pending
2. 23FC:0060 Dina Raley - Chapter 22- Delaware County Sheriff 6/16/2023 - Pending

3. 23FC:0074 Chad Miller - Chapter 21- Scott County Board of Review 7/18/2023 – Pending
4. 23FC:0083 Brendan Chaney – Chapter 21 – City of Iowa Falls – 8/14/23 – Pending
5. 23FC:0105 Jeff Law/Kourtnee Mammen – Chapter 21 – River Valley School Board 10/29/23 – pending
6. 23FC:0119 Richard Hageman – Both Chapters – City of Ute 11/9/23 – Information Gathering
7. 23FC:0127 Hendrik van Pelt – Chapter 22 – City of Clive 11/22/23 – Drafting
8. 23FC:0130 Keegan Jarvis – Chapter 21 – Swan City Council 11/27/23 – pending
9. 23FC:0133 Matthew Knowles – Chapter 22 – Crawford Co. Attorney – 12/7/23 – Information Gathering
10. 24FC:0001 Steve St.Clair – Chapter 21 – Winneshiek Co. Bd of Supervisors – 1/3/24 – Information Gathering
11. 24FC:0003 Andrew Kida – Chapter 22 – Clinton County – 1/6/24 – Information Gathering
12. 24FC:0004 Janelle Lund – Chapter 21 – Cedar Rapids Community School District – 1/5/24 – Information Gathering
13. 24FC:0005 Jon Uhl – Chapter 21 – City of Davenport – 1/10/24 – Information Gathering
14. 24FC:0006 Cheryl Shagens – Both Chapters – City of Davenport – 1/10/24 – Information Gathering
15. 24FC:0008 Jeff Sherman - Chapter 21 – Floyd County Bd of Supervisors – 1/22/24 – Information Gathering
16. 24FC:0009 Brett Christensen – Chapter 21 – City of Silver City – 1/23/24 – Information Gathering
17. 24FC:0010 Tirzah Wedewer – Chapter 21 – Manchester City Council – 1/29/24 – Information Gathering
18. 24FC:0011 Frederick Shaddock – Chapter 22 – Fairfield Police Department -1/30/24 – Information Gathering
19. 24FC:0013 Bonnie Castillo – Both Chapters – Union Co. Emergency Management Agency – 2/2/24 – Information Gathering
20. 24FC:0014 Keegan Jarvis – Chapter 22 – Swan City Council – 2/6/24 – Information Gathering
21. 24FC:0015 Kelly Smith – Chapter 22 – Pleasant Valley Community School District – 2/7/24 – Information Gathering
22. 24FC:0016 Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 2/8/24 – Information Gathering

### **Committee Reports**

1. Communications – Meeting of the committee took place immediately following this Board meeting.
2. Legislative – Eckley an updated report of current bills and status to the Board.
3. Rules – Strawhun pointed out a memo for the process of the Red-Tape review for the Board and committee to consider.

**Updates for the board.**

- a. Eckley provided an office update and current statistics. She reminded members of their Financial Disclosure requirement.
- b. Toresdahl shared the FY24 financials.
- c. Upcoming presentations:
  - County Assessors Group
- e. A district court case:
  - Ward appeal –
  - Swarm case –

The next IPIB meeting will be in the Wallace Building, **3rd Floor, E/W Conference Room**, March 21, 2024 at 1:00 pm.

At 12:41 p.m. the meeting adjourned on a motion by Breitbarth and a second by Pottorff. Unanimously approved.

Respectfully submitted  
Brett Toresdahl, Deputy Director

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IPIB, Chair  
Approved

## The Iowa Public Information Board

In re the Matter of:  Debra Schiel-Larson, Complainant  And Concerning:  Indianola Community School District, Respondent	Case Number: 23FC:0053  <b>Informal Resolution Report</b>
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Daniel Strawhun, Legal Counsel for the Iowa Public Information Board (IPIB), submits this Informal Resolution Report for complaint 23FC:0053:

IPIB accepted this complaint on August 17, 2023. The parties have agreed to informally resolve the complaint. A copy of the informal resolution is attached.

It is recommended that IPIB accept the informal resolution and set the matter for compliance review.

Respectfully submitted on March 21, 2024.

### CERTIFICATE OF MAILING

This document was sent by electronic mail on March 12, 2024, to:

Debra Schiel-Larson  
Emily Ellingson, attorney for Respondent



# INFORMAL RESOLUTION

Formal Complaint 23FC:0053

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On March 1, 2023, the Complainant, Debra Schiel-Larson, filed formal complaint 23FC:0053, alleging that the Indianola Community School District (District) violated Iowa Code chapters 21 and 22.

The Iowa Public Information Board accepted the complaint for resolution of the chapter 22 violation on August 17, 2023. The Board dismissed the portion of the complaint alleging a chapter 21 violation.

Upon acceptance of the complaint, IPIB staff conferred with the parties to determine how best to resolve the complaint. During these discussions, it became apparent that the search terms and methodology the District had used to identify documents responsive to the Complainant's request were incomplete and would likely not have yielded a complete response to the request even if the District had not chosen to withhold any of the documents.

Upon learning this, IPIB staff recommended that the Complainant and District agree on a list of search terms that would yield a complete response. The Complainant suggested a list of search terms, and the parties identified a limited number of individuals whose computers and emails would be searched for responsive documents. However, the District reported that searching these terms yielded an unwieldy number of potentially responsive documents that would need to be reviewed to determine if they fit the description of documents that the Complainant had requested via natural language.

Since then, progress toward agreement on an acceptable list of terms has been stalled. **Ultimately, it is the District's legal obligation to produce all public records that the Complainant originally described in her request.** The Complainant's original request is copied in its entirety below:

Pursuant to Iowa Code Chapter 22, the public records law, I am requesting a digital copy of all records related to the Indianola Community School District's Branding Effort. This includes but is not limited to original work on this topic prior to formation of the associated committee, all correspondence and documents, the school district's consultant and their efforts, Branding Committee meeting packets, agendas, meeting minutes and records, etc.

This public information request also includes but is not limited to the information that Superintendent Ted Ihns referenced recently at the Indianola Community School District's Board meeting on March 21, 2023 under "Item I. Other" with branding designs currently under consideration. Superintendent Ihns agreed to forward this information to the School Board members.

Again, it is the District's responsibility—not the Complainant's or IPIB's—to determine the best method of identifying and collecting ALL the records requested so that they may be released to the Complainant in accordance with the law. The original request, as copied above, sufficiently describes the records that are sought. The burden is now on the District to locate those records within its own storage and release them to the Complainant.

Therefore, the parties agree to resolve the complaint pursuant to the following terms:

1. The District shall identify and collect all public records it possess that fit the description of those the Complainant requested in her original request, subject to the following limitation:
  - a. The parties acknowledge and agree that the Respondent is not obligated to search for, identify, and collect any records that were created before January 2, 2022, or after September 7, 2023.
2. If, after identifying and collecting all public records as described in paragraph 1, the District wishes to withhold one or more of those records as confidential, the District shall provide unredacted copies of the records it wishes to withhold to IPIB staff and state the basis of the claimed confidentiality of each record it wishes to withhold. However, if the claimed confidentiality of a record is based on attorney-client privilege, the District is not obligated to provide that record to IPIB staff.
3. Upon receipt of a record claimed to be confidential, IPIB staff shall review the record, determine whether the District may withhold it as confidential, and communicate its determination to the District.
4. The District shall release all records it has identified and collected as described in paragraph 1 to the Complainant, except that
  - a. the District may withhold records that IPIB staff has determined to be confidential as described in paragraphs 3; and
  - b. The District may withhold attorney-client privileged records.
5. Upon receipt of the records, the Complainant shall send an email to the District and IPIB staff stating the following:
  - a. That she has received and reviewed the records; and
  - b. That the alleged violation of chapter 22 complained of in formal complaint 23FC:0053 is thereby resolved.

The date of this agreement is the date upon which all parties have signed it, as evidenced by the signature dates below. The parties shall complete all terms of this agreement no later than 90 days from the date of this agreement, except that IPIB staff may exercise discretion in allowing for reasonable extensions. Upon successful completion of all terms, IPIB shall dismiss this complaint.

THIS INFORMAL RESOLUTION HAS BEEN REVIEWED AND APPROVED BY THE FOLLOWING:

Debra Schiel-Larson  
Debra Schiel-Larson

1 February 2024  
Date

Theodore Ihns  
Indianola Community School District

2-15-24  
Date

By: Theodore Ihns  
(Print Name)

IPIB:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

# The Iowa Public Information Board

In re the Matter of:	Case Number: 23FC:0119
Richard Hageman, Complainant	<b>Dismissal Order</b>
And Concerning:	
City of Ute, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On November 9, 2023, the Complainant, Richard Hageman, filed formal complaint 23FC:0119, alleging that the City of Ute (“City”) violated Iowa Code chapter 21.

## **Background**

This complaint relates to the City’s purchase of a new city truck. The city council first began discussing the purchase at its meeting on May 2, 2022. From there, the issue appeared numerous times on subsequent meeting agendas. At the February 6, 2023, meeting of the council, the council considered from which dealership to purchase the truck. The council voted to purchase the truck from Knoepfler Chevrolet.

In subsequent meetings throughout 2023, the council continued to discuss the truck purchase. The discussions began to shift to deliberation as to whether the City should repair its existing truck, rather than trading it in and purchasing a new one. At the council meeting on August 7, 2023, the council again discussed the truck purchase. The August 7 discussion focused on two different dealerships than had been discussed and voted on at the February 7 meeting, and the council voted to table the issue for further discussion at its September 11 meeting.

However, before the September 11 meeting occurred, the City purchased the new truck. Mr. Hageman alleges that Council Member Litz contacted a majority of the council members to discuss and approve the purchase without giving proper notice or holding an open meeting. The City denies that such communication occurred. It maintains that the council approved the purchase of the truck at the February 7 meeting, and the City, in purchasing the truck, merely acted on this prior approval without further deliberation or approval.

IPIB staff contacted Mr. Hageman to gather additional information about the basis of his allegations. He stated he was not included in the communication he alleges occurred, but assumed the communication occurred because the council had tabled the discussion of the truck purchase at its meeting on August 7, 2023, and the City purchased the truck before the September council meeting. A letter was received by Mr. Donald Bridgeman in which he also believed a secret closed-door meeting also occurred. Neither Mr. Hageman nor Mr. Bridgeman, however, possess documentation of the alleged communication, meeting, or any further information other than their belief something occurred.

### **Analysis**

The issue here is whether the City violated chapter 21 by holding an unnoticed meeting of the council to discuss and approve the purchase of the truck.<sup>1</sup> The City denies the alleged communication between Council Member Leitz and a majority of the other members occurred. Mr. Hageman's allegations are based on his assumption such a communication occurred. He does not have documentation or knowledge of the communication other than the fact that the truck was purchased. Because there is no evidence of an improper meeting, this complaint lacks merit and should be dismissed.

### **Conclusion**

Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements. There is no evidence of an unnoticed meeting in violation of Iowa Code chapter 21.

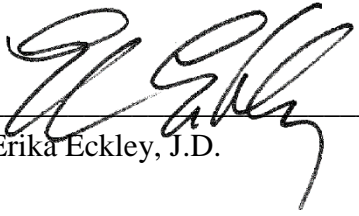
IT IS SO ORDERED: Formal complaint 23FC:0119 is dismissed for lack of merit pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

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<sup>1</sup> Whether the City had been given the authority to purchase the truck at the February 7 meeting is beyond the scope of IPIB's jurisdiction and is irrelevant to an analysis of the alleged violation of chapter 21

By the IPIB Executive Director



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Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on March 13, 2024, to:

Richard Hageman

John Hines, attorney for the City

## The Iowa Public Information Board

In re the Matter of: Hendrik van Pelt, Complainant And Concerning: City of Clive, Respondent	Case Number: 23FC:0127  Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

### Facts

Hendrik van Pelt filed formal complaint 23FC:0127 on November 22, 2023, alleging that the City of Clive (“City”) violated Iowa Code chapter 22 on November 6, 2023.

Mr. van Pelt alleges the City did not provide all records he believes should have been included in the request he made on October 17, 2023. In his record request, he asked the city for records created through a third-party system, Flock Safety. These records are accessible to the City under the terms of an agreement between the City’s Police Department and Flock Safety. He requested data collected from several Flock Safety Falcon devices during a specific period, believing these to be records subject to the provisions of Chapter 22.

Specifically, Mr. van Pelt requested “[d]ata acquired through the Flock Safety systems installed at 100th & Hickman SB, Hickman & 100th EB, Swanson & 100th EB, 100th & University Ave, and – if applicable – any other Flock Safety or similar hardware installed in the area between 104th St and 90th St, bounded by University Ave and Hickman Rd for October 16, 2023, between 9am and 5pm. I am requesting copies of all sensor data originating from the hardware, including but not limited to license plate numbers, photos, and videos, preferably, but not necessarily, electronically.”

The City denied Mr. van Pelt’s request stating, “As the City understands your request, the requested data qualifies as investigative reports from the Clive City Police Department and include ‘intelligence data’ such that they constitute ‘confidential records’ that are prohibited from disclosure pursuant to Iowa Code Sections 22.7(5) and (55) and Iowa Code Chapter 692. In accordance with Iowa Code Chapter 22 and Iowa Code Chapter 692, the City is only authorized to produce such information in response to a subpoena or court order or for other specified purposes as set forth in those chapters—none of which we believe are satisfied by your public records request.”

Mr. van Pelt disagrees the City is a criminal justice agency or the requested data is confidential under Iowa Code § 22.7(5) or § 22.7(55).

### **What are Flock Safety Services?**

To review this Complaint, it is important to understand a little more regarding the underlying Services creating the data, the limitations on the data, and the rights and responsibilities of the parties to the Agreement.

Flock Safety provides license plate recognition system services. The System, as defined by the City's Police Department Policy and Procedure Manual, "is a series of stationary license plate reading cameras positioned at strategic locations throughout the City of Clive and programmed to capture rear images of vehicle license plates and limited vehicle information that may include the make, model, color, and other physical descriptors as they travel on public roadways."

The system provides "'Alerts' to police officers on suspected wanted persons, stolen vehicles, and vehicles from custom hotlists."

Mr. van Pelt's request seeks the data making up footage from four Flock Safety cameras. This footage includes close-up views of vehicle license plates, the location the vehicle is in, timestamps, and still photos of every car that passes through the locations within the camera's view.

The Services Agreement Order Form clearly states the customer is City of Clive – Police Department. And under the definitions of the Government Agency Agreement, "'Agency data' means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage." "Footage" means "still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services." In addition, "[a]s between Flock and Agency, all right, title and interest in the Agency Data, belonging to and are retained solely by the Agency."

Under the terms of the contract between the City and Flock Safety, "Flock deletes all "Footage on a rolling thirty (30) day basis, excluding Wing Replay, which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock system on its own storage devices for auditing for prosecutorial/administrative purposes."

The Agreement further requires that Flock Safety provides the Services to the Agency "solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering" The "Parties may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third Parties, if legally required to do so or if the Disclosing Party has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent, or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of the Disclosing Party, its users, a third Party, or the public as required or permitted by law, including respond to an emergency situation.

### **Law**

"'Intelligence data' means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity." Iowa Code § 692.1(14).



“Intelligence data contained in the files of the department of public safety or a criminal or juvenile justice agency may be placed within a computer data storage system, provided that access to the computer data storage system is restricted to authorized employees of the department or criminal or juvenile justice agency.” Iowa Code § 692.8(1).

“A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer shall not disseminate intelligence data, which has been received from the department or division or from any other source, outside the agency or the peace officer’s agency unless all of the following apply: a. The intelligence data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency. b. The agency maintains a list of the agencies, organizations, or persons receiving the intelligence data and the date and purpose of the dissemination. c. The agency disseminating the intelligence data is satisfied that the need to know and the intended use are reasonable.” Iowa Code § 692.8A.

“Intelligence data in the possession of a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are confidential records under section 22.7, subsection 55.” Iowa Code § 692.18.

### **Analysis**

Whether the City should have a contract with Flock Safety and whether the services are good, bad, or indifferent are outside the jurisdiction of IPIB.<sup>1</sup> In addition, the City entered into the contract with Flock Systems on behalf of the City’s police department. There is no question the City’s police department is a law enforcement agency or that the City may contract on behalf of a department of the City.<sup>2</sup>

Under the terms of the Agreement between the City and Flock Safety, the data collected belongs to the City, so the data requested by Mr. van Pelt would be a public record under Iowa Code § 22.1.<sup>3</sup> The question, then, is whether the data was improperly withheld by the City as confidential under Iowa Code §§ 22.7(5) or 22.7(55).

In responding to the Complaint, the City stated there was no open investigation impacting the requested data at the time the City received the request. If the data were used and stored as part of a criminal investigation, it is likely the data could be withheld as confidential as part of a police investigative file after appropriate review as required under Iowa Code § 22.7(5) and *Mitchell v. Cedar Rapids*, 926 N.W.2d 222 (Iowa 2019).

In this situation, however, there is no current investigation and the data is merely available in a computer data storage system, so it must be determined whether the data is intelligence data as

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<sup>1</sup> IPIB’s jurisdiction as outlined in Iowa Code chapter 23 involves review of compliance with Iowa’s open meetings and public records laws.

<sup>2</sup> Clive Iowa Ordinance Title 5, Chapter 1 Police Department (“The police department of the city is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the city... The police chief has the following powers and duties subject to the approval of the council...)

<sup>3</sup> “‘Public records’ includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, ... or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.”

defined in Iowa Code § 692.1(14). If so, then under the plain language of Iowa Code § 692.18, the data would be confidential under Iowa Code § 22.7(55).

### **Are the Records Confidential Under Iowa Code § 22.7(55)?**

“‘Intelligence data’ means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity.” Iowa Code § 692.1(14). If the Flock Safety data collected contains (1) data or information; (2) compiled to anticipate, prevent, or monitor possible criminal activity; (3) on identifiable individuals, it is intelligence data and would be confidential under Iowa Code § 22.7(55) as well as the limitations within Iowa Code § 692.8A.

### ***Is it Data or Information?***

Based on the Services Agreement, the City receives data and footage from Flock Services.<sup>4</sup> Clearly, the City is collecting data or information.

### ***Is it compiled to anticipate, prevent, or monitor criminal activity?***

The system utilizes the data and provides “‘Alerts’ to police officers on suspected wanted persons, stolen vehicles, and vehicles from custom hotlists.” The City uses the Flock Safety system for criminal investigation purposes, such as checking license plates related to Amber Alerts<sup>5</sup> or stolen vehicle reports. The Agreement limits services provided “solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering.”

The system is used for law enforcement purposes and allows the City’s police department to receive notifications regarding potential criminal activity allowing the department to investigate further after receiving an alert.<sup>6</sup> The system allows for the anticipation, prevention or monitoring of criminal activity.

### ***Is it on identified individuals?***

Footage from Flock Safety includes close-up views of vehicle license plates, the location the vehicle is in, timestamps, and still photos of every car that passes through locations within the camera’s view. The police department can enter vehicle license plate information associated with potential criminal activity. Hotlist entries, under the City’s Policy and Procedure Manual must be associated with an active criminal or traffic investigation.<sup>7</sup>

“‘Individually identified’ means criminal history data which relates to a specific person by one or more of the following means of identification: a. Name and alias, if any. b. Social security number. c. Fingerprints. d. Other index cross-referenced to paragraph “a”, “b”, or “c”. e. Other individually identifying characteristics.” Iowa Code § 692.1(12).

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<sup>4</sup> “‘Agency data’ means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.” “Footage” means “still images, video, audio and other data captured by the Flock Hardware or Agency Hardware

<sup>5</sup> AMBER Alerts are issued when a child has been abducted and there is enough descriptive information about the victim and the abduction to issue an alert to assist in the recovery of the child. This may include a description of a vehicle suspected to be involved and the license plate number of the vehicle.

<sup>6</sup> See Police Department Policy and Procedure Manual LPR Systems Section II(C) “Alerts” and II(D) “Hotlists.”

<sup>7</sup> Police Department Policy and Procedure Manual LPR Systems Section II(D) “Hotlists.”

A license plate is an individually identifiable characteristic of the owner of a vehicle.<sup>8</sup> The vehicle license plate and vehicle information are entered into the Flock Safety system precisely because it identifies a characteristic associated with a potential individual who has been or may be involved in criminal activity.

A license plate is an individually identifying characteristic as it issued to the owner of a vehicle in Iowa. By capturing and flagging license plates tied to potential criminal activity, the Flock System utilizes individually identifying characteristics to notify the City's police department when these individually identifying characteristics are captured in the data.

### **Summary**

The data sought by Mr. van Pelt falls within the definition of intelligence data within the possession of the City's police department, and is therefore confidential under the terms of Iowa Code chapter 692 and Iowa Code § 22.7(55). As such, the City did not violate Iowa Code when it withheld the requested public records as confidential under Iowa Code § 22.7(55).

### **Conclusion**

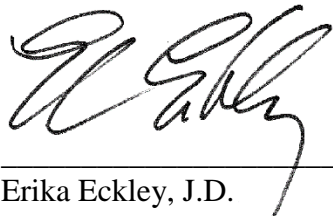
Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

The data requested is a confidential public record under Iowa Code § 22.7(55).

IT IS SO ORDERED: Formal complaint 23FC:0127 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

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<sup>8</sup> "The county treasurer upon receiving application, accompanied by proper fee, for registration of a vehicle shall issue to the owner ... two registration plates for every other motor vehicle. The registration plates, including special registration plates, shall be assigned to the owner of a vehicle. When the owner of a registered vehicle transfers or assigns ownership of the vehicle to another person, the owner shall remove the registration plates from the vehicle." Iowa Code § 321.34.

CERTIFICATE OF MAILING

This document was sent by electronic mail on the March 13, 2024, to:

Hendrik van Pelt  
Kristina Stanger, Clive City Attorney

# The Iowa Public Information Board

In re the Matter of:  Matthew Knowles, Complainant  And Concerning:  Crawford County Attorney's Office, Respondent	Case Number: 23FC:0133  Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On December 7, 2023, Matthew Knowles filed formal complaint 23FC:0133, alleging that Crawford County Attorney's Office ("Attorney's Office") violated Iowa Code chapter 22.

## Facts

Mr. Knowles alleges he has requested 911 call information related to charges of a violation of a no contact order between Mr. Knowles and his ex-fiance who he estimates has made 40-50 911 calls to the Denison Iowa Law Enforcement Center over the last ten years. Mr. Knowles has received twenty-one audio files from the county attorney related to the charges. He claims there are additional 911 calls, potentially a dozen more that county attorney's office has refused to divulge between at least September 2022 and December 2023. He alleges the failure of Attorney's Office to provide the additional 911 calls is a violation of Iowa Code Chapter 21, Chapter 22 or both, open records violation.

In his complaint, Mr. Knowles is requesting IPIB make certain that he receives ALL of the 911 audio files, and all of the required information about each call. He alleges that the 911 information is necessary to prove his ex-fiance's history of making false statements and alleging harassment against him. He alleges the Attorney's Office knows this and is obstructing justice.

In response, the County Attorney's office stated it has provided 911 calls and other discovery materials to Mr. Knowles as part of two criminal complaints in which he is representing himself. The Attorney's Office stated it provided all discovery materials relevant to the criminal

complaints. The Attorney's Office provided all of the twenty-one 911 calls and communication with Mr. Knowles to IPIB staff. The communications show the following:

1. On November 12, 2023, Mr. Knowles sent an email with the subject line "discovery" to the assistant county attorney "Please also include ALL 911 calls or police officer calls to the county attorney's office from Emily Ditto, police bodycam, cruiser cam and responding officers names from September 22 until November 12, 2023. I am certain that by now there are no less than 20 to 30 more. as required per discovery." The assistant county attorney agreed to provide any 911 calls she had and explained that video had already been provided.
2. On November 13, Mr. Knowles stated ... "if you can get all of the dates that Ms. Ditto made contact with law enforcement unsuccessfully to get me arrested that would be great. I will get what I can from the City of Carroll. I will also request it from the police department but it is part of discovery." The assistant county attorney states that she did not plan to respond to the requests for all dates as it was not relevant to the two pending criminal cases.
3. On December 6, 2023, Mr. Knowles wrote again and stated "It is a start for my 9-1-1 request thank you... but the request only goes to April 23, 2023 according to Rod Bradley...I have requested until present...I am also aware emily or someone called in the last couple weeks out to Walmart, again trying to get me arrested. So the saga continues. Cry wolf some more...they don't believe you anymore but have no problem punishing me...it will never stop...please get from April til present December 6, 2023. The assistant county attorney stated, "I do not plan to provide from April til December 6, 2023' as I do not deem it relevant to these two cases."

### **Applicable Law**

The IPIB has the following duties "receive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeding conducted according to the provisions of chapter 17A."

Iowa Rule of Criminal Procedure 2.14 outlines the requirements for disclosure of evidence by the prosecuting attorney upon defendant's request or motion.

### **Analysis**

Mr. Knowles is representing himself in a criminal action. The Attorney's Office is representing the State on the other side of the criminal complaint. The Attorney's Office has provided requested

discovery to Mr. Knowles as part of the criminal complaint process. Mr. Knowles has requested additional discovery from the Attorney's Office. The Attorney's Office has stated the discovery request is not relevant to the criminal complaints. Mr. Knowles filed this complaint to compel the Attorney's Office to provide additional discovery. The court presiding over the criminal complaint would have jurisdiction over a discovery dispute. IPIB does not have jurisdiction as discovery issues are outside the scope of IPIB's authority. Therefore, this Complaint should be dismissed for lack of jurisdiction.

### **Conclusion**

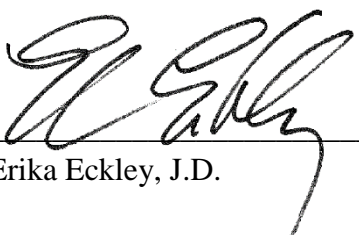
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Mr. Knowles complaint against the Attorney's Office is outside IPIB's jurisdiction.

IT IS SO ORDERED: Formal complaint 23FC:0133 is dismissed as it is legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent on March 13, 2024, to:

Matthew Knowles  
Crawford County Attorney's Office

**The Iowa Public Information Board**

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<p>In re the Matter of:</p> <p>Steve St. Clair, Complainant</p> <p>And Concerning:</p> <p>Winneshiek County Board of Supervisors, Respondent</p>	<p>Case Number: 24FC:0001</p> <p>Dismissal Order</p>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

**Facts**

Steve St. Clair filed formal complaint 24FC:0001 on January 3, 2024, alleging the Winneshiek County Board of Supervisors (“Board”) violated Iowa Code § 21.3 during the week of December 4, 2023.

Mr. St. Clair alleges on December 4, 2023, the five-member Board of Supervisors, agreed at a public meeting to ask the county attorney to draft a resolution regarding the sale of county owned property with the restriction that it be used as a solar field. Mr. St. Clair alleges, after the meeting, the restriction on the use of the property was removed from the draft resolution. He alleges this change was the result of private exchanges between three of the five supervisors. He believes a supervisor spoke privately with two other supervisors, and over the course of a day had multiple contacts with the county attorney. He alleges this was done outside public view.

The Winneshiek County Attorney responded to the complaint. He agreed the Complaint arises from a decision of the Board to sell property in the Freeport Industrial Park. A representative of the adjoining property owner had approached the Board to request the purchase of a vacant lot, on the county-owned property to install a solar field. Deliberations regarding the request were held in open meetings of the Board. The Board voted to put the specific parcel as well as three adjoining parcels up for sale through a public bidding process.

The Board directed the County Attorney to prepare a resolution setting a public hearing for the sale of the properties. There was discussion concerning including restrictive covenants on the sale of the properties. On December 7, 2023, the County Attorney emailed a draft resolution scheduling a public hearing for the sale of the subject properties, along with notices to publish and bid materials. The proposed resolution included a restrictive covenant, prohibiting improvements that were not pedestal mounted.



After providing the draft, the attorney was contacted by a supervisor who expressed his belief the restriction had not been agreed to at the previous meeting and requested it be removed. The supervisor reported he had spoken with two other supervisors, and they agreed with his assessment. The attorney made the requested changes and sent the revised resolution to the full Board. The resolution was presented at the following Board meeting and passed with a vote of three to two.

### **Law**

The requirements set forth in chapter 21 of the Iowa Code apply to meetings of governmental bodies. A meeting is defined as “a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.” Iowa Code § 21.2(2). Thus, a meeting subject to chapter 21 consists of four elements:

1. A formal or informal gathering of members of a governmental body;
2. In such a number so as to constitute a majority;
3. During which deliberation or action occurs; and
4. Such deliberation or action is within the scope of the governmental body’s “policy-making duties.”

*See* 1981 Iowa Op. Att'y Gen. 162 (1981).

### **Analysis**

The minutes from the December 4, 2023, meeting state the following, “The Board reviewed with [the county attorney], the public hearing and bid procedures for the land in Freeport they are considering offering for bid and sale. After discussion, [the Board] would like [the county attorney] to make changes to the bidding procedures and public hearing notice to reflect restricted uses for the property. The Board will consider this again at a future meeting.”

On December 11, 2023, the minutes indicate the following occurred. “The Board considered the issue of sale of land in the Industrial Park in Freeport. Moved by Vermace and seconded by Faldet to set a public hearing on the potential land sale, but not solicit bids at this time. Motion failed with Vermace and Faldet voting aye; and Vick, Kelsay, and Langreck voting nay. Moved by Vick and seconded by Kelsay to adopt resolution 24-27, setting a public hearing for January 8, 2024, at 10:30am on the potential sale of the property, and providing bid procedures for interested buyers. Motion carried with Vick, Kelsay, and Langreck voting aye; and Vermace and Faldet voting nay. Public hearing notice will be published and bid documents will be sent to adjoining property owners.”

Based on the information provided, the Board took no formal action on the resolution at the December 4, 2023, meeting other than to request the county attorney draft a resolution. There was discussion on whether the resolution would include restricted uses of the property, but no formal action on the issue was taken until the December 11, 2023, meeting. At the meeting on the 11<sup>th</sup>, the Board considered the issue and a majority voted to adopt the resolution without the restricted uses of the property. In between the two meetings, there is no evidence that any meeting occurred other than a supervisor speaking with the county attorney and two other supervisors. There is no evidence the discussions occurred contemporaneously. In fact, Mr. St. Clair admits the same.

He stated, “Although it appears that the 3-person majority may not have ‘gathered’ together at any particular instant in time either in-person or electronically, it is well-established that informal exchanges among sub-majorities may combine to trigger open meeting requirements, where, as appears to be the case here, such exchanges involve serial communications, temporal proximity, agency, information conduits, and/or possible maneuvering to evade open meeting requirements. The actions in question occurred outside of public view, depriving the community of its right to observe the Board’s deliberation of the basis and rationale for this important policy reversal.”

The evidence, however, does not show more than a supervisor speaking to others about an issue. There is no evidence these discussions occurred in numbers constituting a majority of the governmental body. Individual supervisors did contact one another for the purpose of confirming the language regarding the resolution related to the selling of county property. Government officials are allowed to talk individually with each other.<sup>1</sup> The deliberation and vote on the resolution took place during an open meeting and the minutes reflect there was a difference of opinion on how to proceed among the Board. Based on these facts, however, there is no violation of chapter 21.

### **Conclusion**

Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

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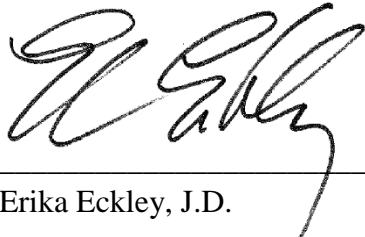
<sup>1</sup> See, e.g., 23FC:0091 - Michelle Hillman/Grand Junction City Council - Dismissal Order (finding one-on-one conversations regarding an issue formally noticed and voted on in an open meeting was not a violation of chapter 21.)

Individual conversations between Board members not in such numbers constituting a majority of the Board on an item formally deliberated and voted on in an open session is not a violation of chapter 21.

IT IS SO ORDERED: Formal complaint 24FC:0001 is dismissed as legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). The Board did not violate Chapter 21.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'E. Eckley', is written over a horizontal line.

Erika Eckley, J.D.

#### CERTIFICATE OF MAILING

This document was sent by electronic mail on the March 13, 2024, to:

Steve St. Clair  
Andrew Van Der Maaten, Winneshiek County Attorney

----- Forwarded message -----

From: **Steve St. Clair** <[smstclair@gmail.com](mailto:smstclair@gmail.com)>

Date: Monday, March 18, 2024

Subject: 24FC:0001 Draft Order

To: "Eckley, Erika" <[erika.eckley@iowa.gov](mailto:erika.eckley@iowa.gov)>

Cc: Andy F Van Der Maaten <[avandermaaten@co.winneshiek.ia.us](mailto:avandermaaten@co.winneshiek.ia.us)>, Board of Supervisors <[supervisors@co.winneshiek.ia.us](mailto:supervisors@co.winneshiek.ia.us)>, Ben Steines <[bsteines@co.winneshiek.ia.us](mailto:bsteines@co.winneshiek.ia.us)>

Executive Director Eckley - Thank you for your email of March 13 providing a copy of the proposed Dismissal Order and an opportunity to email you brief written comments. My comments appear below. Thanks again!  
Steve St. Clair, Decorah, Iowa

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COMPLAINANT'S COMMENTS ON THE PROPOSED DISMISSAL ORDER

Members of the public who attended the regularly-scheduled open meetings of the Board of Supervisors on two consecutive Mondays (12/4/23 & 12/11/23) witnessed a 180 degree reversal of the Board’s position. But the public was not privy to any of the discussions or deliberations among the controlling three supervisors that might explain such a reversal, as those discussions and deliberations occurred out of public view.

The proposed Dismissal Order acknowledges that between public meetings one supervisor spoke with two others, but adds that there is “no evidence the discussions occurred contemporaneously.” Respectfully, there is clear evidence that such discussions were clustered within a timeframe of hours, over one evening and the following morning. This temporal proximity has not been disputed by the county.

The wording of the Dismissal suggests that serial communications among submajorities present no particular problem: “Government officials are allowed to talk individually with each other.” But under controlling precedent such serial communications may violate the law if there is temporal proximity, and/or if some officials act as agents or proxies for other officials.

Members of the public have limited power to get to the bottom of how a complete policy reversal could take place so quickly and invisibly, between open meetings. The power to investigate such matters resides with the IPIB. Respectfully, this matter deserves further investigation, especially in light of the apparent violation of the Open Meetings Law earlier, by the same officials (23 FC:0015).

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# The Iowa Public Information Board

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In re the Matter of:	Case Number: 24FC:0004
Janelle Lund, Complainant	Dismissal Order
And Concerning:	
Cedar Rapids Community School District, Respondent	

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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On January 5, 2024, Janelle Lund filed formal complaint 24FC:0004, alleging that Cedar Rapids Community School District (“District”) violated Iowa Code chapter 21.

## Facts

Ms. Lund alleges that she pulled the District’s agenda for the October 23, 2023, District board meeting scheduled for 5:30 p.m. The version she pulled did not include information regarding hiring the Director of Operations within the Personnel Report of the consent agenda. She also alleges that the minutes she downloaded from the meeting did not include the Director of Operations listed in the Personnel Report either.

In response, the District explained that the tentative agenda and board packet for the October 23, 2023, meeting were physically posted, sent to the media, and posted on the District’s website on October 20, 2023. After this notice was posted, the Board Secretary was notified that a recommendation to hire the Director of Operations needed to be added to the Personnel Report in the Board packet. The revised packet was physically posted, sent to the media and posted on the District website on October 22, 2023.

## Analysis

Iowa Code requires that a tentative agenda be physically posted and shared with the media at least 24 hours in advance of an open meeting. In this case, the District originally posted the required notice on Friday, October 20, 2023 and then updated the document to add an additional item within the Personnel Report on October 22, 2023, for the meeting at 5:30 p.m. October 23, 2023. Whether

the District made this update within the full 24 hours is beyond the jurisdiction of IPIB to determine. The meeting occurred on October 23, 2023, and this matter was brought to IPIB's attention on January 5, 2024, more than 60 days after the meeting. Under Iowa Code 23.7(1), a "complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence."

Further, the minutes downloaded by IPIB from the website include the Director of Operations position listed within the Personnel Report. "Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection." Iowa Code § 21.3. The minutes available have been corrected and include the Director of Operations role within the Personnel Report. Any previous error in the minutes has been corrected, and appears to have been merely harmless error.

### **Conclusion**

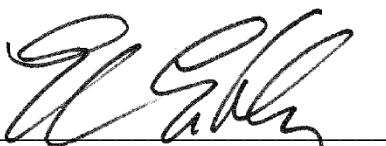
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Whether a corrected agenda was reposted for a full twenty-four hours prior to the meeting is beyond the sixty-day limitation of IPIB's jurisdiction. A previous version of the minutes have been corrected and any error was harmless error.

IT IS SO ORDERED: Formal complaint 24FC:0004 is dismissed as it involves harmless error pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on March 13, 2024, to:

Janelle Lund

Brett Nitzschke, attorney for Cedar Rapids Community School District



Toresdahl, Brett <brett.toresdahl@iowa.gov>

**Fwd: 23FC:0004 Draft Order**

1 message

**Eckley, Erika** <erika.eckley@iowa.gov>  
To: "Toresdahl, Brett" <brett.toresdahl@iowa.gov>

Mon, Mar 18, 2024 at 3:58 PM

----- Forwarded message -----

From: **Janelle Lund** <mistic223@yahoo.com>  
Date: Monday, March 18, 2024  
Subject: 23FC:0004 Draft Order  
To: "brett.nitzschke@ahlerslaw.com" <brett.nitzschke@ahlerslaw.com>, "Eckley, Erika" <erika.eckley@iowa.gov>

I would like to provide some written comments about this issue. Not sure how this is done so I will include them below. Let me point out some inconsistencies with your findings.

ITEM 1 from your report.

"In response, the District explained that the tentative agenda and board packet for the October 23, 2023, meeting were physically posted, sent to the media, and posted on the District's website on October 20, 2023. After this notice was posted, the Board Secretary was notified that a recommendation to hire the Director of Operations needed to be added to the Personnel Report in the Board packet. The revised packet was physically posted, sent to the media and posted on the District website on October 22, 2023. "

From the passage above, the District said it was notified that the the recommendation to hire the Director of Operations needed to be added. after I downloaded the file on October 21st . If you look closely, the district had actually already made the hire and announced it on October 19th as shown in the Cedar Rapids. Gazette article from October 19th shown below:

[New and renovated schools needed in Cedar Rapids, educators say](#)

**New and renovated schools needed in Cedar Rapids, educators say**

Isolated teachers, small classrooms and electrical problems to no longer 'impact learning' under facility plan.

From the article it states "Joining the tour was the school district's new operations director, Chad Schumacher, whose first day of work was Thursday.". The school district knew at least a day before the agenda was posted that they had already hired the Operations Director, so why was it not on the agenda? It really makes no sense that it was left off unless the district wanted to hide the hire. The reason they would want to hide it is because the district was trying to pass a \$220 million dollar bond that many of the residents were against and their new hire was from OPN, the firm that was hired to help push the bond through. This was just two weeks before the bond went for a vote and there may have been many



comments brought up about this hire and why they were hiring someone so closely involved with the firm involved with the bond issue and construction of three new elementary schools. By posting the wrong agenda, many community members were not given the opportunity to comment on the hire.

ITEM 2 from your report

"Whether the District made this update within the full 24 hours is beyond the jurisdiction of IPIB to determine. The meeting occurred on October 23, 2023, and this matter was brought to IPIB's attention on January 5, 2024, more than 60 days after the meeting. Under Iowa Code 23.7(1), a "complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence."

From the passage above, it states I have 60 days from the time the alleged violation occur or the complainant becomes aware of the violation with due diligence. I pulled down the minutes from the meeting on November 3rd that showed the Director of Operations was NOT hired at that meeting, so there is no way I would know a violation had occurred. Not until November 20th when I sent an email to the school board did I know that the agenda and minutes were both changed. This is clearly within the 60 days of when I became aware of the violation. How would I have known before that date? By this logic, the school board could update the agenda and minutes 60 days out and I would have no way of filing a complaint. And if the item was added on October 22nd, why were minutes ever posted showing the hires that didn't not include the Director of Operations. This is probably the biggest sticking point I have. The minutes were posted with the wrong appointments and the district has no explanation of why this occurred. This board should investigate how this happened before closing the complaint.

<b>APPOINTMENTS - SALARIED STAFF</b>			
<u>Name</u>	<u>Salary Placement</u>	<u>Assignment</u>	<u>Effective Date</u>
Edwards, Whitney	\$1,680.00	Drama Tech MS McKinley	2023-2024 School Year
Flint, Tara	\$73,160.00	Title I CRA	8/9/2023
Frederick, Morgan	\$1,680.00	Drama Tech MS McKinley	2023-2024 School Year
Kidd, Lovar	\$2,792.00	Show Choir Tech (Temp Contract) McKinley	2023-2024 School Year
Laguna, Rosa	\$45,500.00	Special Education Interventionist Jefferson	10/16/2023
O'Donnell, Kandis	\$5,999.00	WM Basketball Assistant Washington	2023-2024 School Year
Veglahn, Cassandra	\$3,361.00	Volleyball MS Roosevelt	2023-2024 School Year
Veglahn, Cassandra	\$3,361.00	WM Tennis MS Roosevelt	2023-2024 School Year
White, Carol	\$63,860.00 Prorated	World Language Washington	10/12/2023

ITEM 3 from your report

Iowa Code requires that a tentative agenda be physically posted and shared with the media at least 24 hours in advance of an open meeting. In this case, the District originally posted the required notice on Friday, October 20, 2023 and then updated the document to add an additional item within the Personnel Report on October 22, 2023, for the meeting at 5:30

p.m. October 23, 2023. Whether the District made this update within the full 24 hours is beyond the jurisdiction of IPIB to determine. The meeting occurred on October 23, 2023, and this matter was brought to IPIB's attention on January 5, 2024, more than 60 days after the meeting. Under Iowa Code 23.7(1), a "complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence."

I take issue with the complaint not being filed in time. I already showed I could not have been aware of it until the later because of the misleading minutes that were posted and I believe you should wipe that out of this report. That should not be used as a reason to dismiss this complaint. My second point is I'm not even sure what was changed on the Agenda during the October 22nd upload. All we have is a snip of something being uploaded on October 22nd. Where are the emails to the media saying they added the hire to the agenda and a copy of the new agenda attached to the email. That would prove when and what the school district updated on the agenda. Without this information, I think the board needs to continue with the complaint.

Uploaded on: October 22, 2023  
Uploaded by: [rrydstrom](#)  
Uploaded to: [Board of Education Meeting – Monday, October 23, 2023](#)  
File name: Agenda-10.23.23-1.pdf  
File type: application/pdf  
File size: 7 MB

#### ITEM 4 from your report

Further, the minutes downloaded by IPIB from the website include the Director of Operations position listed within the Personnel Report. "Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection." Iowa Code § 21.3. The minutes available have been corrected and include the Director of Operations role within the Personnel Report. Any previous error in the minutes has been corrected, and appears to have been merely harmless error.

If you view the meeting, they don't actually show what they are voting on. They vote on the whole consent agenda and not each item, so it's impossible during the meeting that the item was updated. Again, why were the minutes updated. If the Agenda was changed on October 22nd, why would the minutes posted weeks later have the wrong information? No explanation from the district on this item.

#### ITEM 5 from your report

Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements. Whether a corrected agenda was reposted for a full twenty-four hours prior to the meeting is beyond the sixty-day limitation of IPIB's jurisdiction. A previous version of the minutes have been corrected and any error was harmless error.

Again, it was not outside of the 60 days of when I should have been aware of the updates. No reason to dismiss the complaint. And it's not harmless when the community doesn't have the opportunity to respond to hires, especially an important hire that is important to the community. The school district will come back for the bond request in another 2 years and now we have a new Director of Operations leading this charge without any community input.

Thanks

On Wednesday, March 13, 2024 at 02:58:37 PM CDT, Eckley, Erika <[erika.eckley@iowa.gov](mailto:erika.eckley@iowa.gov)> wrote:

Good Afternoon:

# The Iowa Public Information Board

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In re the Matter of:	Case Number: 24FC:0008
Jeff Sherman, Complainant	Dismissal Order
And Concerning:	
Floyd County Board of Supervisors, Respondent	

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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On January 22, 2024, Jeff Sherman filed formal complaint 24FC:0008, alleging that Floyd County Board of Supervisors violated Iowa Code chapter 21.

## Facts

Mr. Sherman alleges there was an email exchange between Supervisor Mark Kuhn, Supervisor Dennis Keifer, and a Board of Health member, Joanne Robinson. He alleges the Board of Health was drafting a letter that was being improperly shared with the two supervisors. He further alleges the two supervisors are constantly talking out of meetings by phone or text and the email was sent on personal phone that was blocked by IT security.

In response, the County Attorney shared the specific emails referenced and a response from Supervisor Kuhn. Mr. Kuhn stated that he and Supervisor Keifer received an email from Ms. Robinson from the Board of Health. Both Supervisors individually responded to her that she neglected to attach a file she referenced in her email. Mr. Kuhn sent Ms. Robinson a copy of the Board of Health minutes referencing the letter she was writing. No other emails included the two supervisors and no additional communication was provided between the two Supervisors. Supervisor Kuhn flatly denied that he and Supervisor Keifer “are constantly talking out of meetings by phone or text.”

## Applicable Law

The requirements set forth in chapter 21 of the Iowa Code apply to meetings of governmental bodies. A meeting is defined as “a gathering in person or by electronic means, formal or informal,

of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.” Iowa Code § 21.2(2). Thus, a meeting subject to chapter 21 consists of four elements:

1. A formal or informal gathering of members of a governmental body;
2. In such a number so as to constitute a majority;
3. During which deliberation or action occurs; and
4. Such deliberation or action is within the scope of the governmental body’s “policy-making duties.”

See 1981 Iowa Op. Att'y Gen. 162 (1981).

### **Analysis**

The emails provided show that information was exchanged regarding a letter and minutes from the Board of Health. No deliberation occurred in the emails. The IPIB recently reviewed a similar case alleging an improper meeting through emails. In that case (and previous cases), the IPIB found that without active deliberation through the email, there was no possibility there was a chapter 21 violation. “Because no majority ever actively participated, a meeting under Chapter 21 was never formed. A majority of the members of the Council is a necessary element for the formation of a meeting.” 23FC:0098 Joseph Foran/City of Audobon.

The Complaint also alleges that two of the three Supervisors are constantly talking by phone and text outside the open meetings, but no proof beyond the emails was provided to support this allegation.

### **Conclusion**

Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

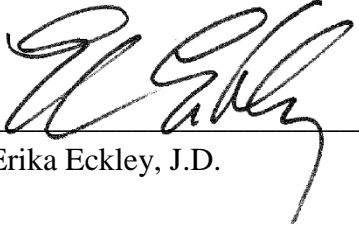
The emails provided do not show a majority of the Board deliberating and no additional evidence of communications by the Board was provided.

IT IS SO ORDERED: Formal complaint 24FC:0008 is dismissed as it is legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review

this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on March 13, 2024, to:

Jeff Sherman  
Todd Pritchard, Floyd County Attorney

## The Iowa Public Information Board

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In re the Matter of:  Brett Christensen, Complainant  And Concerning:  City of Silver City, Respondent	Case Number: 24FC:0009  Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order.

### Facts

Brett Christensen filed formal complaint 24FC:0009 on January 23, 2024, alleging the City of Silver City (“City”) violated Iowa Code chapter 21 on January 9, 2024.

Mr. Christensen alleges at the Silver City council meeting on January 9, 2024, the City Council voted to make a change to the posted agenda at the beginning of the meeting. At the start of the council meeting, the mayor added a nominee for library board to the agenda, and changed the starting dates of the other two nominees. This was not reflected in the posted agenda.

The City Clerk responded by providing a copy of the agenda and minutes from the January 9, 2024 meeting. She stated, the “[a]genda was amended by the Mayor at the meeting, as you can see in the minutes requested. I went over the original agenda to be posted with the mayor on the Wednesday/Thursday prior to the meeting, so myself and Council were unaware of these changes when presented at the meeting.”

The following is an excerpt from the Silver City City Council minutes of January 9, 2024: “Motion to approve 1/9/24 meeting agenda by Boehm, 2nd Thomas. Mayor McNutt added to agenda at the meeting & amended #6 a-c; see below\*. Motion by Schoening, 2nd Damewood. All ayes, motion carried.” And here is the action taken during the meeting: “Dept Reports: Library – motion to approve appointment of Amanda Vanderpool to Library Board for term ending 6/30/26\* by Ramsey, 2nd Thomas. All ayes motion carried. Motion to approve reappointment of Phyllis Boyer to Library board for term ending 6/30/25\* by Schoening, 2nd Damewood. All ayes, motion carried. Motion to approve appointment of Terri Elwood to Library Board for term ending 6/30/24\* by Schoening, 2nd Thomas. All ayes, motion carried.”

### Law

Iowa Code § 21.4(1)(a) requires “a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative

agenda of the meeting, in a manner reasonably calculated to apprise the public of that information.” This notice must be provided “at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.” Iowa Code § 21.4(2(a)).

### **Analysis**

At the beginning of their meeting, the City amended their agenda to include actions not previously noticed as required under Iowa Code § 21.4. No emergency existed justifying the changed agenda, The City failed to provide notice of the actions to be taken at the council meeting at least twenty-four in advance in accordance with the requirements of Iowa Code § 21.4.

### **Conclusion**

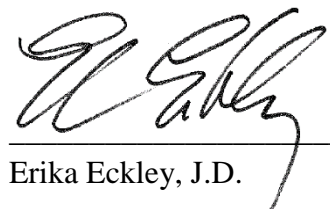
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint meets those requirements.

The City amended its agenda at the beginning of the council meeting and deliberated and took action on items that were not properly noticed to the public at least twenty-four hours prior to the meeting.

IT IS SO ORDERED: Formal complaint 24FC:24FC:0009 is accepted as legally sufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). The City Council did violate the open meeting code section.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent by electronic mail on the March 13, 2024, to:  
Brett Christensen, Complainant  
Sharon McNutt, Mayor, City of Silver City

# The Iowa Public Information Board

In re the Matter of:  Kelly Smith, Complainant  And Concerning:  Pleasant Valley School District, Respondent	Case Number: 24FC:0015  <b>Dismissal Order</b>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On February 7, 2024, Kelly Smith filed formal complaint 24FC:0015, alleging that Pleasant Valley School District (“District”) violated Iowa Code chapter 22.

## Background

On December 21, 2023, Ms. Smith emailed Superintendent Brian Strusz and requested that he provide a list of all books that had been removed from the District’s libraries pursuant to S.F. 496.

On January 11, 2024, in response to the request, Superintendent Strusz stated that the District has not compiled a list of the books that have been removed pursuant to S.F. 496. Ms. Smith then repeated her request: “Under Iowa Open Records law I am requesting to know the books that have been weeded out of all school libraries from the time frame July 1, 2023, through January 11, 2024.”

Because the District had just stated that it did not possess a record responsive to this request, it did not immediately respond to the Ms. Smith’s second request. On February 7, 2024, Ms. Smith filed this complaint, alleging that the District did not respond to her request.

The District submitted a response to the complaint, stating no responsive records exist. The District also provided the email exchange between Ms. Smith and Superintendent Strusz, which shows the District responded to Ms. Smith’s initial request. Additionally, the District provided an email exchange demonstrating Superintendent Strusz replied to Ms. Smith’s duplicate request on February 19, 2024.



IPIB staff spoke to the attorney for the District to gather more information. Specifically, IPIB staff asked whether individual records of the books that had been removed pursuant to S.F. 496 existed. The attorney for the District confirmed no such records exist. She explained the libraries do not keep records detailing why particular books were removed from their collections. She further explained the procedure for removing books varies from library to library.

### Analysis

Ms. Smith alleges the District violated chapter 22 by failing to respond to her request. As detailed above, the District responded to both Ms. Smith's initial request, as well as the duplicate request she sent after the District responded to the initial request.

The District informed Ms. Smith the record she requested did not exist. IPIB confirmed with the District that no record exists. Chapter 22 does not require a government body to create a record that does not exist.

For these reasons, the complaint lacks merit and should be dismissed.

### Conclusion

Iowa Code § 23.8 requires that a complaint be within IPIB's jurisdiction, appear legally sufficient, and have merit before IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The District responded to Ms. Smith's record request. No public record exists. The District is not required to create a public record.

IT IS SO ORDERED: Formal complaint 24FC:0015 is dismissed for lack of merit pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." IPIB will review this Order on March 21, 2023. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'E. Eckley', written over a horizontal line.

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on March 12, 2024, to:

Kelly Smith

Mikkie Schiltz, attorney for the District

**Re: 24FC:0015 Draft Order**

1 message

**Kelly Smith** <jkpnasmith@gmail.com>  
To: "Eckley, Erika" <erika.eckley@iowa.gov>

Wed, Mar 13, 2024 at 7:25 PM

Erika,

My request was not specific to S.F. 496. That was something the district attorney added in. I was asking for any titles books removed from a certain time frame. The district WAS keeping track of books. I have an email from the school librarian asking me to have her return 2 titles that they wanted back to review and they did remove from the library. If they didn't have a list how would they have been tracking my child's books. The district has 22+ databases for the high school library alone and uses follett software which also tracks each title. Please let me know if there is an appeal process through IPIB or if the next step would be to go to through district court.

Thanks,

Kelly Smith

On Wed, Mar 13, 2024 at 4:43 PM Eckley, Erika &lt;erika.eckley@iowa.gov&gt; wrote:

Good Afternoon:

The Iowa Public Information Board (IPIB) will review this Order at its meeting on **March 21, 2024. The meeting will begin at 1:00 p.m.** The meeting agenda and call-in instructions will be posted to the IPIB website ([ipib.iowa.gov](http://ipib.iowa.gov)) on the afternoon of Tuesday, March 19, 2024.

The IPIB normally allows brief (under five minutes) comments from the parties. You are under no obligation, but if you wish to speak at the meeting, please reply to this email and indicate your agreement to this statement:

\_\_\_\_\_ I want to address the Board and respond to any questions Board members may have when the initial processing of this complaint is considered. In the event this complaint proceeds to a contested case, I waive any objection that I might have concerning personal investigation of this complaint by a Board member.

**The IPIB meeting is open to the public. We are now utilizing Google Meet and live streaming of our meetings. You may attend in person at the Wallace Building in Des Moines or remotely. If you would like to attend remotely, you may log into the following meeting:**

**Google Meet joining info****Video call link:** <https://meet.google.com/yde-uvyv-hmc>**Or dial: (US) +1 510-957-3208 PIN: 424 138 157#**

If you prefer, you can provide brief, written comments to the Board prior to the meeting, please forward those to me no later than 4:30 p.m. on Monday, March 18, 2024 so they may be included in the meeting packet. Please make sure you copy all parties on the email as well.

**Erika Eckley, JD, MPA**

Executive Director  
Iowa Public Information Board (IPIB)  
502 East 9th Street  
Wallace Building, 3rd Floor  
Des Moines, Iowa 50319  
(515) 725-1783  
[erika.eckley@iowa.gov](mailto:erika.eckley@iowa.gov)  
[www.ipib.iowa.gov](http://www.ipib.iowa.gov)

# The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0017
Latrice Lacey, Complainant	Acceptance Order
And Concerning:	
City of Davenport, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On February 12, 2024, Latrice Lacey filed formal complaint 24FC:0017, alleging that City of Davenport (“City”) violated Iowa Code chapter 22.

## Facts

Ms. Lacey alleges she submitted a records request to the City on January 31, 2024. On February 9, 2024, she received a letter denying the request. The letter said she lacked a valid necessity for requesting the information. Ms. Lacey followed up on February 12, 2024, with the City to determine whether the letter was a denial of the records request. She received a response that stated, "The letter speaks for itself."

In response, the City explained that Ms. Lacey is the Director of the Davenport Civil Rights Commission (DCRC). The DCRC is a commission established by the City. The City stated that Ms. Lacey’s request was on behalf of the DCRC,<sup>1</sup> but that the records requested<sup>2</sup> were not within

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<sup>1</sup> The request number stated the “Davenport Civil Rights Commission” as the name of the requestor.

<sup>2</sup> The request is for communication records, both written and verbal; including email, and text communications, and meeting notes, to and from the following City of Davenport employees: Michael Matson; Brian Heyer; Tom Warner; Mallory Bagby; Corri Spiegel; Clay Merritt, referencing the following: 1. Assessment, sampling, and remediation of contamination and/or any debris or waste identified at the Veteran’s Memorial park site. 2. Stormwater damage; erosion controls related to VMP, to include all correspondence and communications both within city departments and with external entities, such as state and federal agencies, inspectors, engineers, consulting firms, including Terracon, Friends of Veterans Memorial Park and any other private or public sector entities involved. 3. Budget documents; project schedules; planning, construction, and earthwork activities related to Veterans Memorial Park. 4. All documents relating to the current NPDES and MS4 permits involving the Veterans Memorial Park site and adjacent parcels. 5. A copy of all previously submitted and/or fulfilled FOIAs and associated documents involving the former “Davenport Dump” site. The disclosure of the requested records is in the public

the scope of the DCRC's work and that no DCRC agendas or minutes authorized the DCRC director to make the request for records related to business operations of the City. In fact, the request was similar to a request made by another individual who declined to pay the costs of collecting and copying the records. The City also stated that if Ms. Lacey is seeking the records for her own personal use, she could submit the request personally and pay for the cost of the records.

### **Applicable Law**

In *Gabrilson v. Flynn*, a school board member filed a petition to compel the school district to turn over copies of a student assessment under Iowa Code chapter 22. The court held that the board member needed to have access to documents that were necessary "for the proper discharge of their duties." 554 N.W.2d 267, 275 (Iowa 1996). The court, however, did not find that public officials have an inherent right to access public and confidential records. The records must be related to the official's duties and responsibilities. *Id.* Further, the court stated that access to records as a government official does not necessarily allow public access to confidential documents. *Id.*

"Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record." Iowa Code § 22.2(1). The purpose of a records request is not relevant.

### **Analysis**

Ms. Lacey brought this Complaint under her name, but the records request to the City clearly stated the records were being sought on behalf of the DCRC. The question is whether the City is required to provide the records to the DCRC, a commission of the City, so that it can conduct the business for which it was created. In responding to the records request, the City essentially stated the request was denied because the DCRC did not have a need for the information, the DCRC is a subpart of the City and not entitled to make a records request;<sup>3</sup> and the DCRC was being used to gather information for someone else.

But, none of these reasons respond to the actual records request made. Under *Gabrilson*, if the DCRC needs the records to do its business for the City, then the records should be provided. The history between the City and Ms. Lacey show that both sides have made records requests of the other, so the fact that the DCRC is subpart of the City is only relevant insofar as whether the records should be provided under a *Gabrilson* standard. Finally, if the DCRC legitimately has no need for the records requested for the proper discharge of its duties, then the City could ask for

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interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not in the commercial interest of the requester.

<sup>3</sup> *But see* 21FC:0045 Mallory Hoyt/Davenport Civil Rights Commission and 21FC:0056 Latrice Lacey/City of Davenport (competing complaints regarding records requests from the City to DCRC and from DCRC to the City).

the actual costs of collecting and copying the records. In response to a question regarding the cost of the request from IPIB, the City stated that a similar request had resulted in a fee of \$130, this request had some additional information requested, so the request would be likely more than \$130.

The City's blanket denial of a records request based on the DCRC making the request is likely a violation of Chapter 22, and this Complaint should be accepted.

### **Conclusion**

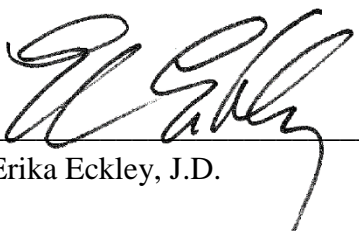
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint meets those requirements.

The City issued a denial of a records request from DCRC. While DCRC may be a subpart of the City, this does not prevent DCRC from requesting records necessary for the proper discharge of its duties or for any other purpose. The City and DCRC have both in the past requested records of the other through chapter 22.

IT IS SO ORDERED: Formal complaint 24FC:0017 is accepted as legally sufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent on March 13, 2024, to:

Latrice Lacey  
Brian Heyer, Assistant City Attorney

IOWA PUBLIC INFORMATION BOARD

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In the Matter of:	)	
	)	Case No. 24FC:0017
Latrice Lacey, Complainant,	)	
	)	
And Concerning:	)	City of Davenport's
	)	Written Statement
City of Davenport, Respondent.	)	On Draft Acceptance Order

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It is likely that the Board receives few complaints such as this – a city employee filing a complaint against the city that employs her alleging her employer failed to provide documents to a subpart of itself. Under §23.8, in order to accept a complaint, the Board is to determine that, on the face of the complaint, the complaint is within the Board’s jurisdiction, appears legally sufficient, and could have merit.

For the reasons that follow, the Board should determine that the complaint is outside the Board’s jurisdiction, legally insufficient, and is without merit. Under the facts and circumstances alleged in this complaint, there is no probable cause to believe there has been a violation of Chapter 22.

Standing

1. The named Complainant, a person, did not submit a request seeking public records from the City of Davenport.

2. The named Complainant was not authorized by the Davenport Civil Rights Commission to file this complaint so she could not file it “on behalf of” the Commission in her own name. Chapter 21 of the Iowa Code informs us that governing bodies can only act through a vote of the members of the body. Attached are the minutes of the Commission’s February 13, 2024 meeting which do not document that the Commission authored the filing of this complaint which would be required by Iowa Code §21.3.

3. For those reasons, the named Complainant has no standing or authority to bring this complaint.

4. The Davenport Civil Rights Commission is not a person under the law and as a consequence it has no standing or authority to bring a complaint under Chapter 22.

This situation is more concerned with internal governmental operations than it is about a Chapter 22 violation. The named Complainant is a city employee supervised by the Davenport Civil Rights Commission which was established by the City of Davenport (named Respondent) as a subpart of itself. When the City of Davenport established the Davenport Civil Rights Commission it did not expressly give the Commission the right to sue and be sued as an independent entity – i.e., as a person. For example, in a dispute between the park board and the city council over who had the right to hire a



person, legal proceedings brought by the park board were quashed for the reason that the park board had no capacity to sue. See, Des Moines Park Board v. City of Des Moines, 228 N.W.2d 904 (Iowa 1940). The authority of the commission to act independently of the parent depends upon the express powers granted to the commission.

#### Response to Statement of Facts in Acceptance Order

In the Fact Statement it reports: “Ms. Lacey alleges she submitted a records request to the City on January 31, 2024.” The fact is she did not submit a request in her own name. A footnote references that the request received by the city identified the Davenport Civil Rights Commission as the requestor.

The Davenport Civil Rights Commission is a subpart of the City of Davenport. The Davenport Civil Rights Commission is not a person under the law. Iowa Code §22.2(1) mandates that a “person” has the right to examine and copy records. The fact that, under the law, the Commission is not a person for purposes of Chapter 22 indicates that the Board lacks jurisdiction under §23.8.

In the Fact Statement it reports that the Complainant “received a letter denying the request.” The fact is she did not. The City of Davenport did not

send a letter to the named Complainant. The City of Davenport did send a letter to the Commission Chair, Michael Guster (City Ex. B).

In the Fact Statement it reports that the letter sent said "... she lacked a valid necessity for requesting the information." The fact is the letter addressed to Chairman Guster did not say that. It said the information sought has nothing to do with anything within the purview of the commission, nothing to do with environmental racism or environmental discrimination, the city does not make Chapter 22 records requests from itself, the commission did not authorize this request, and it appears that perhaps the request was being submitted to circumvent city policy.

Back to the intra-governmental issue, the city code requires the Commission to immediately refer matters related to zoning and land use to the City and the Commission does not investigate, handle, or prosecute complaints against the City because the City is its parent organization. See, Davenport Municipal Code §2.58.330. City Ex. E. The city code also states the director can request "such cooperation, assistance, and data from City departments as may be necessary to carry on the duties and functions prescribed for the commission in this chapter." See, Davenport Municipal Code §2.58.070(5). City Ex. E. The director did not utilize this provision at all.

The request submitted by the Commission was nearly identical to a previous request the city received (City Ex. A, F), but that requestor, anonymous engaged in extensive argument about paying the city's expenses in responding to their request which they authorized. The request in this instance added communication records to and from six named individuals – three of whom were/are attorneys in the legal department. The fact that none of the information sought is relevant to the history of the siting of the old davenport dump, and, in fact, was all current information, indicates it has nothing to do with environmental racism.

The City of Davenport did make clear in its response to the Board that if Ms. Lacey wanted to submit a personal request for the information she could do so and it would be honored subject to her payment of the City's expenses in compiling the information which would include a computer search for the emails and review for attorney-client privileged information given the fact that three city attorneys' names were specifically identified in the request.

Part of the reason the actual Requestor is an important consideration is because the review of emails for confidential information takes significant staff time prior to release. The staff's time is billed as an expense per Iowa law. The request would have one city department requiring two other city

departments to do unnecessary work that is unrelated to the requesting department's scope or purview.

Since the city does not make Chapter 22 records requests of itself, what should have happened was the Commission, through its staff, should have requested "such cooperation, assistance, and data from City departments as may be necessary to carry on the duties and functions prescribed for the commission and director by this chapter." See, Davenport Municipal Code §2.58.070(5). City Ex. E. That is, two city departments should have engaged in communication. No such request for cooperative assistance was made by the director. As a consequence, there was also no opportunity for internal discussion of the commission's need for the information related to its duties and functions.

The duties and functions of the Commission are to secure for all individuals freedom from discrimination based upon protected class status in connection with employment, public accommodations, housing, education, and credit . . ." See, Davenport Municipal Code §2.58.010. City Ex. E. City records regarding the assessment, sampling, and remediation of contamination at Veteran's Memorial Park (an old dump site along the river), stormwater discharge and erosion controls related to Veteran's Memorial Park, budget documents, project schedules, planning, construction and

earthwork activities related to Veteran's Memorial Park, all documents related to NPDES and MS4 permits for Veteran's Memorial Park, and copies of all prior requests for records related to Veteran's Memorial Park are unnecessary and unrelated to the "duties and functions prescribed for the commission and director" in Chapter 2.58.010 of the Davenport Municipal Code, set forth above.

In the Analysis portion of the Acceptance Order it says, "... but the records request to the City clearly stated the records were being sought *on behalf of the DCRC.*" This is an untrue statement. Words are important. Words have meaning. Words provide meaning and context. "On behalf of" indicates someone is acting as the agent of someone or some entity, on the part of. It implies representation. Nowhere in the request does it indicate that the request the city received and responded to was being submitted "on behalf of" the Davenport Civil Rights Commission by Latrice Lacey. It was submitted *in the name of* the Commission.<sup>1</sup> The Commission's meeting minutes do not contain any grant by the Commission to its director authorizing her to submit the request "on behalf of the commission." By law she did not submit the request "on behalf of" the commission. She only did

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<sup>1</sup> The named Complainant has previously filed an IPIB complaint "in the name of" the commission without the commission's authorization.

so “in the name of” the commission. To hold the city culpable for its response to a situation wholly different than the situation it faced would be unjust.

The analysis goes on to say . . . “The question is whether the City is required to provide the records to the DCRC, a commission of the City, so that it can conduct the business for which it was created.” I do not believe that is the correct question. The initial question that needs to be resolved is whether the DCRC has standing under Chapter 22. Is it a person? Is it a taxpayer? Is it a citizen? See, §22.2(1) and §23.5(1).

The analysis goes on to discuss the commission’s need for the information. For sake of argument, what *need* does the Davenport Civil Rights Commission have so as to require the production of the following:

- Communication records, email, texts, notes, between the mayor, the assistant corporation counsel, the corporation counsel, the assistant city attorney, the city administrator, and the director of capital projects, referencing: the assessment, sampling and remediation of soil contamination at a public park site that was formerly a city dump. How do recent communications factor into the historic factors involved in environmental discrimination?
- Stormwater discharge and erosion controls related to the public park (former dump) What do current stormwater discharge and erosion controls have to do with the historic factors involved in environmental discrimination?
- Budget documents, project schedules, planning, construction, and earthwork activities related to the public park (former dump) What do any of these current activities and documents have to do with the historic factors involved in environmental discrimination?

- All documents related to the current NPDES (National Pollutant Discharge and Elimination System) and MS4 (a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that is (1) designed or used for collecting or conveying stormwater and (2) is owned or operated by a city, county, or other governmental entity) permits involving the public park (former dump) What do these current documents have to do with the historic factors involved in environmental discrimination?
- A copy of all previously submitted FOIAs involving the former Davenport Dump. What do prior FOIAs of the same information have to do with the historic factors of environmental discrimination?

The answer to all of those questions is – the requested information has nothing to do with environmental racism. None of that information is necessary or useful to the commission's possible study of the existence, character, causes and extent of practices of discrimination and unfair practices in this city based upon race, color, creed, religion, sex, national origin or ancestry, age, familial status, disability, gender identity, or sexual orientation.

Thus, the analysis's conclusion that the information is necessary is pure assumption; it is without any basis in fact. The Davenport Civil Rights Commission does not need the information requested. It can do nothing within its purview with said information.

The second paragraph of the draft Acceptance Order states “While the DCRC may be a subpart of the City, this does not prevent the DCRC from requesting records necessary for the proper discharge of its duties, or for any other purpose.” But, what does prevent the DCRC from requesting records is the fact that the Commission is not a person as contemplated in Iowa Code Chapter 22. What does prevent the DCRC from requesting records is the fact that it is not a taxpayer as contemplated in Chapter 22. What does prevent the DCRC from requesting records is the fact that it is not a citizen as contemplated in Chapter 22. It is merely a subpart of the City of Davenport; and the city does not request records of itself under Chapter 22.

The draft Acceptance Order also states that the City and the DCRC have both in the past requested records of the other through Chapter 22. This may be true, but is irrelevant for the purposes of the consideration of this particular complaint. Simply stated, the fact that that it happened in the past was a direct consequence of the DCRC director leading the commissioners down the primrose path that they were *autonomous* from the city. The fact that the City submitted requests for documents occurred for no other reason than the city was trying to bring a break-away commission back into line. Why? Because the City could not sue the commission because to do so require the city to sue itself.



## Applicable Law

The draft Acceptance Order references Gabrilson v. Flynn, 554 N.W.2d 267 (1996). There are factors distinguishing *Gabrilson* factually from the present situation.

The first distinguishing factor to note is the *Gabrilson* court, citing the statute, said, “as codified in chapter 22 of the Code . . . *every person* shall have the right to examine and copy public records.” Carolyn Gabrilson, a school board member – i.e., a person, submitted the request under review by the Court in *Gabrilson*. In the present situation, a person did not submit the request to the City of Davenport. In this situation, a subpart of the City of Davenport submitted the request. That subpart, the Davenport Civil Rights Commission, is not a person under the law.

A second distinguishing factor, presented in headnote 10 of the *Gabrilson* decision, is, by law, school board members are charged with the authority to regulate the affairs of the district. Members of the school board are granted policy making power and to adequately exercise that power they are generally allowed access to both public and private records necessary for the proper discharge of their duties. That said, the draft Acceptance Order correctly acknowledges that *Gabrilson* Court’s finding that such access is not without limitation; and the “records must be related to the official’s duties

and responsibilities.” In the present situation, the information requested is useless to the proper discharge of the commission’s duties because of the reasons stated on pages 6-9, and because regulation of the City of Davenport by the DCRC is not allowed.

Third, the purpose of Iowa’s open records law is to open the doors of government to public scrutiny to prevent government from secreting its decision-making activities from *the public*. See, *Gabrilson*.

In *Gabrilson*, the requestor was a person. An individual member of the public. In the present situation the requestor is “the government” and it is making a request of itself. There can be no presumption of openness and disclosure when the request presented does not come from a person or member of the public; but instead comes from within the very government whose records are being sought.

The legislature’s clear intention in Chapter 22 was that governmental information be available to the public. That is not present in this situation.

#### Chapter 22

The City of Davenport should not be penalized for actions taken in response to the context of the words used in the making and submission of a request for information. The City of Davenport’s response was directed to the named requestor – a subpart of the City of Davenport itself. Again, had the

named Complainant wanted this information, she could have made and submitted a request in her own name. She did not do that. Had the named Complainant wanted the information “on behalf of” the Commission, she could have followed the city ordinance provision set out in 2.58.070. City Ex. E. She did not do that.

Iowa Code §22.2(1) states “[e]very person” shall have the right to examine. It does not say every governmental subpart of a governmental subdivision shall have the right to examine public records of the governmental subdivision.

#### Chapter 22 – Enforcement Rights

“The rights of all **persons** under this chapter may be enforced by mandamus or injunction, whether or not any other remedy is also available”  
As applicable to this situation, this would require the requestor – the Davenport Civil Rights Commission – to bring a mandamus action or petition for injunctive relief. It can do neither because it is not a separate legal entity apart from the city. That means the City of Davenport would have to agree to sue itself. The absurdity of that scenario should shed some light on the validity the Complaint 24FC:0017.

## Chapter 23 – Iowa Public Information Board Act

“An aggrieved person, any taxpayer to or citizen of this state . . . may seek enforcement of the requirements of chapters 21 and 22 by electing either to file an action pursuant to . . . 22.10 . . . or in the alternative, to file a timely complaint with the board. Iowa Code §23.5(1).

In this instance, the named IPIB Complainant did not file a request for information with the named Respondent. Since the named IPIB Complainant did not make the request she is not a person aggrieved by the city’s response. The named Requestor is not an aggrieved person, taxpayer, or citizen of this state. It is not person. It does not have standing to bring an action under Chapter 22 or to the Board. Neither does the named IPIB Complainant as she did not file the request that serves as the basis for bringing this complaint to the Board.

### Conclusion

For the reasons stated, the Board should determine that since no aggrieved person, taxpayer, or citizen was involved in the making of the request, the Board lacks jurisdiction over the complaint since Chapter 22’s provisions are only enforceable by a person. The Board should also find that the complaint is legally insufficient and there is no probable cause to believe

there has been a violation of Chapter 22 under the facts and circumstances alleged in complaint 24FC:0017 for the reasons stated herein.

Respectfully submitted,



Brian Heyer  
Interim Corporation Counsel  
City of Davenport  
226 W 4<sup>th</sup> Street  
Davenport, IA 52801  
(563) 326-7735  
[brian.heyler@davenportiowa.com](mailto:brian.heyler@davenportiowa.com)

Certificate of Service

A copy of this written statement was emailed to the named Complainant, [latrice.lacy@davenportiowa.com](mailto:latrice.lacy@davenportiowa.com) at the same time it was submitted to the Board by email.



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Brian Heyer

## The Iowa Public Information Board

In re the Matter of: Charles Nocera, Complainant  And Concerning: Iowa Department of Administrative Services, Respondent	Case Number: 24FC:0020  Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

### Facts

Charles Nocera filed formal complaint 24FC:0020 on February 21, 2024, alleging that the Iowa Department of Administrative Services violated Iowa Code §22.4 on February 12, 2024.

Mr. Nocera states that he was denied the public records by the Iowa Department of Administrative Services and he is appealing to the IPIB, so that he can get the requested records. The following is his public record request: “I have received the hire age (hire date minus birth date) for every active state/province employee from South Carolina, Massachusetts, Rhode Island, Connecticut, Vermont, Quebec, Pennsylvania, Ohio, Illinois, Kentucky, Wisconsin, Louisiana, Texas, South Dakota, North Dakota, Manitoba, New Mexico, Colorado, Wyoming, Nevada, Utah, Idaho, California, Oregon, Washington, British Columbia, and EEOC. I would like the same from Iowa.”

Nathan Reckman, Deputy Director and General Counsel for the Iowa Department of Administrative Services (DAS) provided a response to this complaint. DAS does not have a record responsive to this request. The request is for hire age (defined in the request as hire date minus birth date) of all state employees. DAS does not track hire age or have records that reflect employees’ hire ages. If obligated to respond to this request, DAS would be responsible for creating new records.

Mr. Reckman also points out that Iowa Code § 22.7(11)(a) states that personal information in confidential personnel records is confidential and exempt from disclosure in response to an open records request. Hire date is considered a public record under the explicit exception in § 22.7(11)(a)(2). However, an employee’s birth date is not considered a public record as defined by chapter 22. Birth date is clearly personal information contained within confidential personnel records and therefore exempt from disclosure.

### **Analysis**

Staff reviewed this complaint and the response from DAS. The records that are being requested are not maintained by the department in any format. DAS cannot respond to the request because it does not have records responsive to the request. IPIB's Advisory Opinion #15A0:0004, points out there is nothing in Iowa Code chapter 22 that compels a governmental body to create records in response to a request.

Even if DAS did have responsive records, the records DAS could produce would likely be confidential as they would contain confidential personal information contained in personnel records not otherwise required to be disclosed.

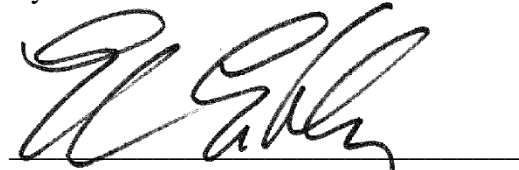
### **Conclusion**

Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 24FC:0020 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). DAS does not have a record responsive to the request and did not violate Iowa Code chapter 22.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on March 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent by electronic mail on the March 13, 2024, to:

Charles Nocera

Nathan Reckman, Deputy Director and General Counsel for the Iowa Department of Administrative Services



Toresdahl, Brett <brett.toresdahl@iowa.gov>

---

## Fwd: Withdraw complaint

1 message

---

**Eckley, Erika** <erika.eckley@iowa.gov>  
To: "Toresdahl, Brett" <brett.toresdahl@iowa.gov>

Wed, Feb 21, 2024 at 2:16 PM

----- Forwarded message -----

From: **Jonathan Uhl** <uhl.jonathan@yahoo.com>  
Date: Wednesday, February 21, 2024  
Subject: Withdraw complaint  
To: Erika Eckley <erika.eckley@iowa.gov>

Erika,

Please accept this email as my formal request to withdraw my complaint. Please let me know if there is anything more I must do.

Thank you,

Jon uhl  
(563) 723-2230

Sent from Yahoo Mail for iPhone

--



**Erika Eckley, JD, MPA**  
Executive Director  
Iowa Public Information Board (IPIB)  
502 East 9th Street  
Wallace Building, 3rd Floor  
Des Moines, Iowa 50319  
(515) 725-1783  
[erika.eckley@iowa.gov](mailto:erika.eckley@iowa.gov)  
[www.ipib.iowa.gov](http://www.ipib.iowa.gov)





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Labels

- 1-16-20 Board Meet... 1
- 1-18-18 Board Meeting
- 1-18-24 Board Meeting
- 1-19-23 Board Meeting
- 1-20-22 Board Meeting
- 1-21-21 Board Meeti... 1
- 1-28-19 Board Meeting
- 2-15-18 Board Meeting
- 2-16-23 Board Meet... 1
- 2-17-22 Board Meet 2

Iowa Public Information Board Complaint 24FC:0006 External Inbox x Related to



**Toresdahl, Brett**

Ms. Shagens- The Iowa Public Information Board is in receipt of the formal complaint that you filed against the City of Davenp



**The Queen of Sleep**

to me

Wed, Feb 21, 11

Good morning Brett,  
 As discussed via phone this morning I would like to withdraw my complaint against the City of Davenport.  
 I appreciate your time and efforts on my behalf.  
 Best regards,  
 Cheryl Shagena



**Toresdahl, Brett** <brett.toresdahl@iowa.gov>

to Erika

Wed, Feb 21, 11

Withdrawal below.

**Re: Iowa Public Information Board complaint 24FC:0011**

1 message

**fred shaddock.net** <fred@shaddock.net>  
To: "Eckley, Erika" <erika.eckley@iowa.gov>

Tue, Feb 13, 2024 at 5:24 PM

Eckley, Erika 2/12/2024 8:05 AM  
on it

Thank you very much for the information.  
Police Chief Thomas sent me the form with the Witnesses.  
So I just now "cc'd" to you in an email to him.  
I will go to the Law Center and pay the \$4.  
Thanks again for bringing this matter to a close.  
Frederick Shaddock

**From:** Eckley, Erika <erika.eckley@iowa.gov>  
**Sent:** Monday, February 12, 2024 8:04 AM  
**To:** fred shaddock.net <fred@shaddock.net>  
**Cc:** David Thomas <dthomas@jeffersoncoiowa.com>  
**Subject:** Re: Iowa Public Information Board complaint 24FC:0011

Mr. Shaddock,

Have you obtained a copy of the accident report? The accident report is not a public record under Iowa law, so you have to follow the process for obtaining it. It will cost \$4. You have to fill out a specific form and make a formal request for it because it can only be released under Iowa law to people specifically involved in the accident. I would assume this would have a list of the witnesses on it and would get you what you need. Here is the code language-

"All written reports filed by a law enforcement officer as required under section 321.266 shall be made available to any party to an accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, other law enforcement agencies, or the attorney general, on written request and the payment of a fee. Iowa Code § 321.271(2),(3).

Erika Eckley, Executive Director  
Iowa Public Information Board (IPIB)

On Fri, Feb 9, 2024 at 6:23 PM fred shaddock.net <fred@shaddock.net> wrote:

I appreciate and honor the Police, and who knows may have to call for their help some day with a burglar. I do not understand why this simple request is taking so long, for over 3 months since the accident on October 17 (PD 2308078).

It feels awkward and uncomfortable to find myself forced into a position of being an apparent annoyance to the Chief of Police - the heroic man who leads Police who bravely protect my home, property, family, and community against criminals.

However, there is no law against disclosing the names of witness to victims of an auto accident victim. That would not make common sense. Yet, there is an Iowa Law permitting Freedom of Information.

All I am asking for is what any accident victim should be promptly given - the name of any Witnesses to the accident, to pass along to the insurance company or for a potential small claims court, or to simply find out what happened.

I figure it will be faster for me to ask the Witness for the video (assume he/she still has it). I don't want to take any more than the minimum time from the Police to obtain the video. I am trying to use the least amount of time possible.

Sorry but I have not asked "to view the squad vehicle and body camera recordings" - although come to think of it, that is an interesting idea. I have consistently only asked for the dash cam video and/or the name of the civilian witness who created it.

Naturally, I will not annoy the Witness, and just plan to call and say: "Thank you Sir (or Madam) for being such a good citizen to stop and submit your dash cam to the Police. My car was hit in the accident. May I please have a copy of the video for analysis?" (Only if the Witness says "no" may I have to ask the Police for it.)

"We...set up a meeting with one of the officers for him to review the recording."

I appreciated that, however was only permitted to view the Officer's monitor from across her desk. I was not permitted to sit close to the monitor, to zoom in, view it in slow motion, or multiple times.

"He also attempted several times to accuse the other party of further alleged criminal acts."

I didn't accuse him, but simply mentioned that someone else accused him of trespassing, and he was arrested and convicted, according to IowaCourts.gov

STATE VS DEETER STINE, BRYAN ALAIN, Case 08511 STA0033798, Citation 2308081

### Board Dashboard

Dashboard for Board Meetings

As of Mar 14, 2024 3:50 PM-Viewing as Erika Eckley

#### Active Cases Report

47

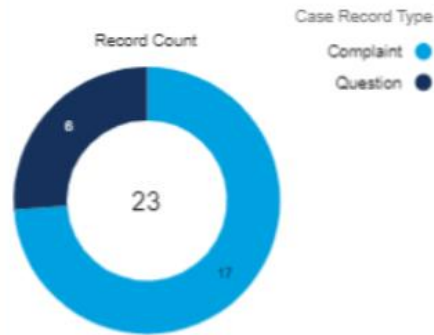
[View Report \(Active Cases Report\)](#)

#### Active Questions Report

0

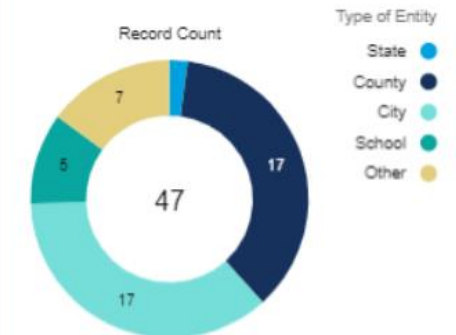
[View Report \(Active Questions Report\)](#)

#### New complaints &/or question last 30 day



[View Report \(New complaints &/or question last 30 day\)](#)

#### Cases by Entity



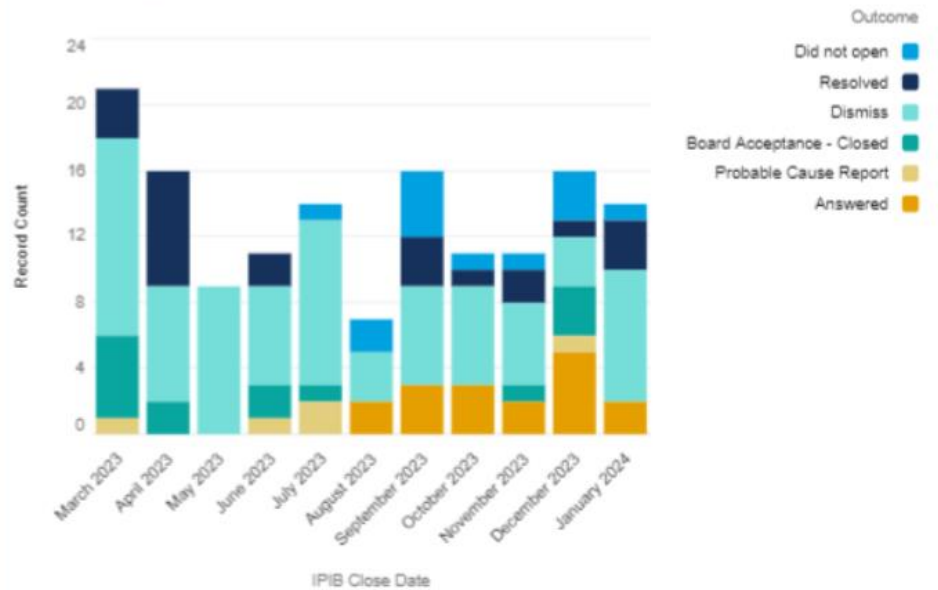
[View Report \(Cases by Entity\)](#)

#### Broad Type (Filed in Current)



[View Report \(Broad Type \(Cases Filed in Current Year\)\)](#)

#### Closed cases (past 12 months)

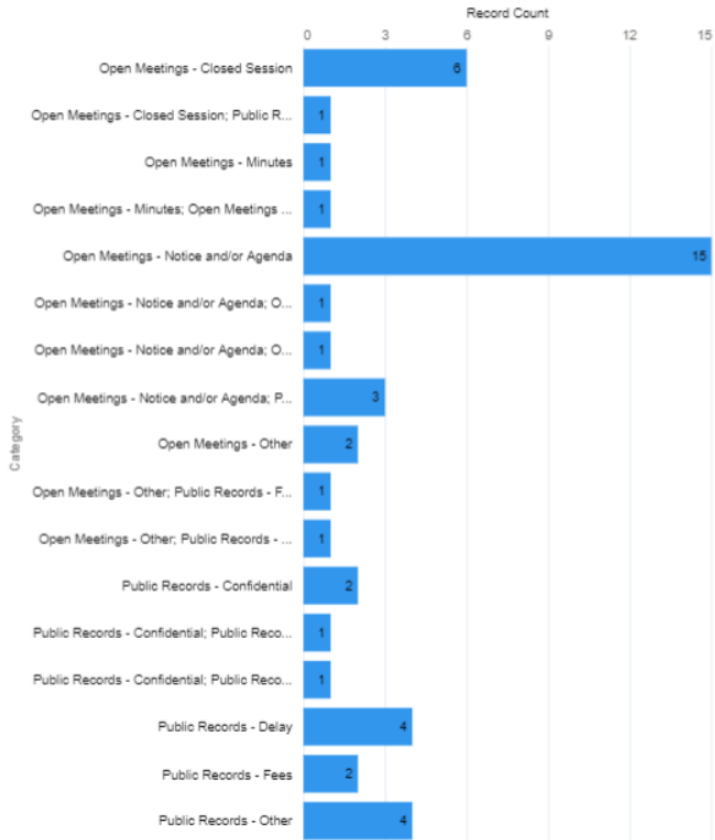


[View Report \(Closed cases \(past 12 months\)\)](#)

### Cases by Type

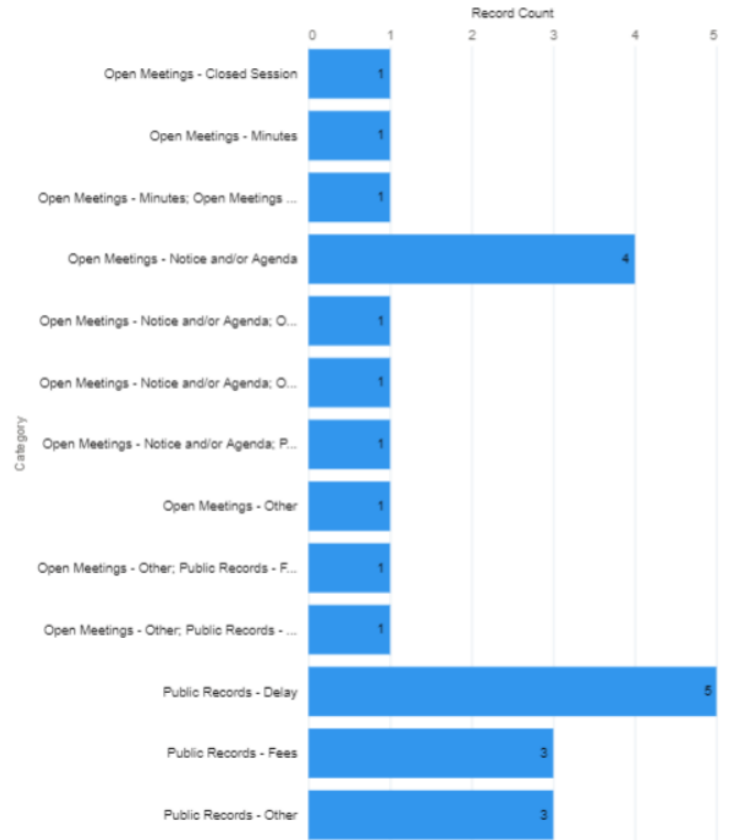
As of Mar 14, 2024 3:50 PM Viewing as Erika Eckley

#### Cases by Type (Active)



[View Report \(Cases by Type \(Active\)\)](#)

#### Cases by Type (Filed in Current Year)



[View Report \(Cases by Type \(Filed in Current Year\)\)](#)

Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 1 of 3

Source: I/3 Budget

FINANCIAL INFORMATION SCHEDULE BY APPROPRIATION

Run Date: 03/06/2024

Spec Dept: All Fund: All Unit Detail: All

Run Time: 01:59:37 PM

Department: All Appropriation: All Recap Unit: All

**Special Department:** 760SD    **Public Information Board**  
**Department:** 592    **Public Information Board**  
**Fund:** 0001    **General Fund**  
**Appropriation:** P22    **Iowa Public Information Board**

Object Class	Year to date	Revised Budget	First Prior Year
	Actuals	I/3 Financial	Revised Budget
	FY 2024	FY 2024	FY 2023

**RESOURCES**

**Appropriations**

05A Appropriation	357,407	357,407	358,039
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<b>Appropriations TOTAL:</b>	<b>357,407</b>	<b>357,407</b>	<b>358,039</b>
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**Receipts**

234R Gov Fund Type Transfers - Other Agencies			7,800
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<b>Receipts TOTAL:</b>			<b>7,800</b>
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**Other Resources**

04B Balance Brought Forward (Approps)	13,543	13,543	11,374
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<b>Other Resources TOTAL:</b>	<b>13,543</b>	<b>13,543</b>	<b>11,374</b>
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<b>TOTAL RESOURCES:</b>	<b>370,950</b>	<b>370,950</b>	<b>377,213</b>
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**DISPOSITION OF RESOURCES**

**Expenditures**

101 Personal Services-Salaries	203,581	286,459	322,007
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202 Personal Travel In State	955	5,298	3,182
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301 Office Supplies	2,453	3,000	2,000
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309 Printing & Binding	0	500	500
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313 Postage	28	150	150
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401 Communications	2,020	5,000	3,000
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Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 2 of 3

Source: I/3 Budget

FINANCIAL INFORMATION SCHEDULE BY APPROPRIATION

Run Date: 03/06/2024

Spec Dept: All Fund: All Unit Detail: All

Run Time: 01:59:37 PM

Department: All Appropriation: All Recap Unit: All

**Special Department:** 760SD **Public Information Board**  
**Department:** 592 **Public Information Board**  
**Fund:** 0001 **General Fund**  
**Appropriation:** P22 **Iowa Public Information Board**

Object Class		Year to date	Revised Budget	First Prior Year
		Actuals	I/3 Financial	Revised Budget
		FY 2024	FY 2024	FY 2023
405	Professional & Scientific Services		9,000	7,000
406	Outside Services	975		
414	Reimbursement to Other Agencies	7,424	17,000	10,000
416	ITS Reimbursements	13,636	22,000	12,000
418	IT Outside Services	980		
434	Gov Fund Type Transfers - Other Agencies Services		9,000	6,000
602	Other Expense & Obligations		13,543	
<b>Expenditures TOTAL:</b>		<b>232,052</b>	<b>370,950</b>	<b>365,839</b>
<b>Other Dispositions</b>				
91B	Balance Carry Forward (Approps)			11,374
<b>Other Dispositions TOTAL:</b>				<b>11,374</b>
<b>TOTAL DISPOSITION OF RESOURCES:</b>		<b>232,052</b>	<b>370,950</b>	<b>377,213</b>
<b>FTE</b>				
<b>FTE Summary</b>				
FTE	FTE		3	3
<b>FTE Summary TOTAL:</b>			<b>3</b>	<b>3</b>
<b>TOTAL FTE:</b>			<b>3</b>	<b>3</b>
<b>Appropriation P22 Net (Res-Disp):</b>		<b>138,898</b>	<b>(0)</b>	<b>(0)</b>

Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 3 of 3

Source: I/3 Budget

FINANCIAL INFORMATION SCHEDULE BY APPROPRIATION

Run Date: 03/06/2024

Spec Dept: All Fund: All Unit Detail: All

Run Time: 01:59:37 PM

Department: All Appropriation: All Recap Unit: All

Special Department: 760SD Public Information Board  
 Department: 592 Public Information Board  
 Fund: 0001 General Fund  
 Appropriation: P22 Iowa Public Information Board

Object Class	Year to date	Revised Budget	First Prior Year
	Actuals	I/3 Financial	Revised Budget
	FY 2024	FY 2024	FY 2023
Appropriation P22 FTE:		3.00	3.20
Fund 0001 Net:	138,898	(0)	(0)
Fund 0001 FTE:		3.00	3.20
Department 592 Net:	138,898	(0)	(0)
Department 592 FTE:		3.00	3.20
Special Department 760SD Net:	138,898	(0)	(0)
Special Department 760SD FTE:		3.00	3.20
Report Total Net:	138,898	(0)	(0)
Report Total FTE:		3.00	3.20