

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

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 prior to the meeting.

Agenda

April 18, 2024, 1:00 p.m.

3rd Floor E/W Conference Room

Wallace Building

502 East 9th Street, Des Moines

1:00 PM – IPIB Meeting

- I. Approval of agenda*
- II. Approval of the March 21, 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** Relaxeddissident – Chapter 22 – denial of record requests *

- VI. Cases involving Board Deliberation/Action. (Eckley)
 1. **23FC:0100** Travis Johnson – Chapter 21 – Eddysville Blakesburg Fremont CSD Board 10/18//23 – * Final Report
 2. **23FC:0105** Jeff Law/Kourtnee Mammen – Chapter 21 – River Valley School Board 10/29/23 – * Report
 3. **23FC:0118** Leah Schwery – Both Chapters – City of Ute 11/9/23 – * Probable Cause Report
 4. **23FC:0126** Tracy Stillwell – Chapter 22 – Hampton Public Library 11/19/23 – * Acceptance
 5. **24FC:0003** Andrew Kida – Chapter 22 – Clinton County – 1/6/24 – * Dismissal
 6. **24FC:0013** Bonnie Castillo – Both Chapters – Union Co. Emergency Management Agency – 2/2/24 – * Acceptance
 7. **24FC:0018** Zach Vulich – Chapter 22 – City of Leland – 2/13/24 – * Acceptance

8. **24FC:0020** Charles Nocera – Chapter 22 – Dept. Administrative Services – 2/21/24 – * Dismissal
9. **24FC:0021** Kathryn Crumly – Both Chapters – City of Grandview – 2/26/24 – * Dismissal
10. **24FC:0026** Dan Nugteren – Chapter 21- South Central Regional Airport Agency – 3/7/24 – * Dismissal
11. **24FC:0030** Leah Schwery – Chapter 21 – City of Ute 3/17/24 – * Dismissal
12. **24FC:0028** Danny Jensen – Chapter 22 – Fort Dodge Police Dept. – 3/12/24 – * Dismissal

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 Matters Withdrawn, No Action Necessary.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

1. **24FC:0024** Megan Rimmel – Chapter 22 – Iowa Medical Examiner – 3/6/24 – * Withdrawn

VIII. Pending Complaints. Informational Only (Eckley)

1. **23FC:0053** Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23 * Report
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 Informal
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: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
7. **23FC:0130** Keegan Jarvis – Chapter 21 – Swan City Council 11/27/23 – pending
8. **24FC:0009** Brett Christensen – Chapter 21 – City of Silver City – 1/23/24 – Pending
9. **24FC:0010** Tirzah Wedewer – Chapter 21 – Manchester City Council – 1/29/24 – Information Gathering
10. **24FC:0014** Keegan Jarvis – Chapter 22 – Swan City Council – 2/6/24 – Information Gathering
11. **24FC:0016** Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 2/8/24 – Information Gathering
12. **24FC:0017** Latrice Lacey – Chapter 22 – City of Davenport – 2/12/24 – Pending
13. **24FC:0019** Kenneth Brown – Chapter 21 – City of Sidney – 2/21/24 – Information Gathering
14. **24FC:0023** Shawn Shearer – Chapter 22 – City of Iowa City - 2/19/24 – Information Gathering
15. **24FC:0025** Dana Sanders – Both Chapters – Benton Co. Board of Supervisors – 3/7/24 – Information Gathering
16. **24FC:0027** Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 3/8/24 – Information Gathering
17. **24FC:0031** Shaylea Caris – Chapter 21 – Shelby City Council – 3/23/24 -Information Gathering
18. **24FC:0032** Old Davenport Dump – Chapter 21 – City of Davenport – 3/28/24 – Information Gathering
19. **24FC:0033** Amy Hagen – Chapter 21 – Osaloosa School District – 4/9/24 – Information Gathering
20. **24FC:0034** Keegan Jarvis – Chapter 21 – Swan City Council – 4/9/24 – Information Gathering

IX. Committee Reports

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

X. Office status report.

1. Office Update * (Eckley) -
2. Financial/Budget Update (FY23) * (Toresdahl)

3. Presentations/Trainings (Eckley) –
Iowa Municipal Officials Academy
Swan City Council
4. District Court Update (Eckley)

XI. Next IPIB Board Meeting will be held in the Wallace Building, 3rd Floor, E/W Conference Room
May 15, 2024 at 1:00 p.m.

XII. Adjourn

*** Attachment**

IOWA PUBLIC INFORMATION BOARD

March 21, 2024

Unapproved Minutes

The Board met on March 21, 2024 for its monthly meeting at 1:00p.m. in the 3rd floor E/W Conference Room in the Wallace Building with the following members participating: Daniel Breitbarth, Des Moines; Joan Corbin, Pella (remote); Barry Lindahl, Dubuque (remote); Joel McCrea, Pleasant Hill; Monica McHugh, Zwingle; Julie Pottorff, Des Moines. Absent: E. J. Giovannetti, Urbandale; Jackie Schmillen, Urbandale. Also present were IPIB Executive Director Erika Eckley; Brett Toresdahl, Deputy Director. A quorum was declared present.

Others identified present or by phone: Mike Venema, Kristina Stanger, Brett Nitzschke, Mark Kuhn, Mikki Schultz, Brian Struse, Latrice Lacey, Brian Heyer, Charles Nocera, Nathan Reckman.

On a **motion** by McCrea, **second** by Breitbarth, the agenda was unanimously adopted 6-0.

On a **motion** by Pottorff, **second** by Breitbarth, to approve the February 15, 2024 minutes. Unanimously adopted 6-0.

Public Forum – None.

Board Chair Comments – None

Advisory Opinions – no action

1. **24AO:0002** Relaxeddissident – Chapter 22 – denial of record requests.

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

1. **23FC:0053** Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23. A motion by McCrea and second by Breitbarth to accept the report. Unanimously approved, 6-0.
2. **23FC:0119** Richard Hageman – Both Chapters – City of Ute 11/9/23 – A motion by Breitbarth and second by Lindahl to approve the dismissal order. Unanimously approved, 6-0.
3. **23FC:0127** Hendrik van Pelt – Chapter 22 – City of Clive 11/22/23 – Kristine Stanger spoke. A motion by Breitbarth and second by Lindahl to approve the dismissal order. Unanimously approved, 6-0.
4. **23FC:0133** Matthew Knowles – Chapter 22 – Crawford Co. Attorney – 12/7/23 – A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 6-0.
5. **24FC:0001** Steve St.Clair – Chapter 21 – Winneshiek Co. Bd of Supervisors – 1/3/24 – A motion by Breitbarth and second by Pottorff to approve the dismissal order. Unanimously approved, 6-0.
6. **24FC:0004** Janelle Lund – Chapter 21 – Cedar Rapids Community School District – 1/5/24 – Brett Nitzschke spoke. A motion by Pottorff and second by Breitbarth to approve the dismissal order. Unanimously approved, 6-0.

7. **24FC:0008** Jeff Sherman - Chapter 21 – Floyd County Bd of Supervisors – 1/22/24 – Mark Kuhn spoke. A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 6-0.
8. **24FC:0009** Brett Christensen – Chapter 21 – City of Silver City – 1/23/24 – A motion by Breitbarth and second by McCrea to approve the acceptance order. Unanimously approved, 6-0.
9. **24FC:0015** Kelly Smith – Chapter 22 – Pleasant Valley Community School District – 2/7/24 – Mikki Schultz and Brian Struse spoke. A motion by Pottorff and second by Breitbarth to approve the dismissal order. Unanimously approved, 6-0.
10. **24FC:0017** Latrice Lacey – Chapter 22 – City of Davenport – 2/12/24 – Latrice Lacey and Brian Heyer spoke. A motion by Breitbarth and second by Lindahl to approve the acceptance order. Unanimously approved, 6-0.
11. **24FC:0020** Charles Nocera – Chapter 22 – Dept. Administrative Services – 2/21/24 – Charles Nocera and Nathan Reckman spoke. A motion by Breitbarth and second by Pottorff to table this complaint for further review. Unanimously approved, 6-0.

Matters Withdrawn. No Action -

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

Pending complaints that required no board action. Informational

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
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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

Committee Reports

1. Communications – No report
2. Legislative – Eckley gave an updated report of current bills and status to the Board.
3. Rules – No report

Updates for the board.

- a. Eckley provided an office update and current statistics. She shared that Daniel Strawhun has left the office to pursue other opportunities.
- b. Toresdahl shared the FY24 financials. We are looking to upgrade technology before the end of the FY.
- c. Upcoming presentations:
 - County Assessors Group

- Eddyville Blakesburg Community School District
- Community Services Affiliate
- Judicial Branch Lunch/Learn
- Iowa Municipal Officials Academy

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**, April 18, 2024 at 1:00 pm.

At 2:21 p.m. the meeting adjourned on a motion by Pottorff and a second by Corbin. Unanimously approved.

Respectfully submitted
Brett Toresdahl, Deputy Director

IPIB, Chair
Approved



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Des Moines, Iowa 50319
www.ipib.iowa.gov

Erika Eckley, JD
Executive Director
(515) 725-1783
erika.eckley@iowa.gov

Advisory Opinion 24AO:0002

DATE: April 18, 2024

SUBJECT: Chapter 22 requirements for MFPRSI records

This opinion concerns a public records request for MFPRSI member records. MFPRSI Advisory opinions may be adopted by the board pursuant to Iowa Code section 23.6(3) and Rule 497–1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” We note at the outset that IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION POSED:

A request for information was submitted to the Municipal Fire and Police Retirement System of Iowa, organized under Iowa Code Chapter 411. The request was denied, citing 411.5(6)(b) and stating, “Member and beneficiary records containing personal information are not public records for the purposes of chapter 22.” The request was amended to request the name and city affiliation of all, “members,” as used by MFPRSI. This request cited the MFPRSI’s Administrative Rules, dated August 19, 2021 which states, “Personal information means information pertaining to or about an individual in a record which identifies the individual and which is contained in a record system. The name and city affiliation of a member are not ‘personal information’ for the purposes of this chapter.” The request was again denied, “Per the Iowa Code, individual information is not public record.”

Iowa Code Chapter 411 contains no definition of “personal information.” The next closest definition exists in the Administrative Rules of the MFPRSI as referenced above. Other uses of “personal information” in the Iowa Code, (for example Chapter 715C) require the name in addition to unique data element(s) that are not being requested here.

By the MFPRSI’s 2023 Annual Report, the system has 9066 members. All of which have attained their membership through employment that is/was publicly available information by being municipal employees. It seems obtuse and counter to the ideals of transparency, that this publicly funded board is not producing a reasonably simple list of its members; that are only participating in the board through publicly funded service.

This request was submitted under Iowa Code chapters that are the jurisdiction of this Board. It was denied citing alternate chapters, but that chapter specifically references Iowa Code Chapter 22. I believe that this request is a specific construal and application of the jurisdiction of this Board. I respectfully request a Board Advisory Opinion on the appropriateness of this records request denial.

Board Members

Daniel Breitbarth ● Joan Corbin ● E. J. Giovannetti ● Barry Lindahl ● Joel McCrea
Monica McHugh ● Julie Pottorff ● Jackie Schmillen ● vacant

OPINION:

Are the names and city affiliation of members of MFPRSI subject to Iowa Code chapter 22?

No. the names and city affiliation of members of MFPRSI are not subject to disclosure under Iowa Code chapter 22. In May 2022, under H.F. 2154, the legislature amended Iowa Code § 411.5. The legislation struck out the following language upon which the administrative rules definition relied: “Member and beneficiary records containing personal information are not public records for the purposes of chapter 22.” In its stead, the legislature added the following language specifically eliminating the requirement that the record include “personal information” and making names and addresses of members and beneficiaries outside the scope of Iowa Code chapter 22 public records. The legislature also limited demographic information to include only summary and aggregate information. Iowa Code § 411.5(2) was amended to state:

The following records maintained under this chapter are not public records for the purposes of chapter 22:

- (a) Records containing social security numbers.
- (b) Records specifying amounts accumulated in members’ accounts and supplemental accounts.
- (c) *Records containing names or addresses of members or their beneficiaries.*
- (d) Records containing amounts of payments to members or their beneficiaries.
- (e) Records containing financial or commercial information that relates to the investment of retirement system funds if the disclosure of such information could result in a loss to the retirement system or to the provider of the information.

(emphasis added).


Iowa Code § 411.5(3), provides, however, that “[s]ummary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.” MFPRSI would be able to provide a summary of the number of members per city affiliation as allowed under the statute.

The records request in this opinion sought the names of members of the MFPRSI and their city affiliation. This request was based on language in an administrative rule that stated this information was not confidential. The legislature, however, in 2022, changed the statutory language to explicitly make the names and addresses of members confidential and not subject to Iowa’s public records laws. Even though the 2021 administrative rule has not been revised to address the change in statutory language, the plain language of the statute makes clear the records sought from MFPRSI about the individual members are explicitly outside the scope of Iowa Code chapter 22 and were properly withheld. While city affiliation and address may not be the same designation if no residency requirement exists, providing a summary of the number of members per a specific city affiliation would provide as much as possible of the requested information in a format allowed by statute.

BY DIRECTION AND VOTE OF THE BOARD:

Daniel Breitbarth
Joan Corbin
E.J. Giovannetti
Barry Lindahl
Joel McCrea
Monica McHugh
Julie Pottorff
Jackie Schmillen

SUBMITTED BY:



Erika Eckley, J.D.
Executive Director
Iowa Public Information Board

ISSUED ON:

April 18, 2024

Pursuant to Iowa Administrative Rule 497-1.3(3), a person who has received a board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The IPIB may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion.

Pursuant to Iowa Administrative Rule 497-1.3(5), a person who has received a board opinion or advice may petition for a declaratory order pursuant to Iowa Code section 17A.9. The IPIB may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requestor demonstrates a significant change in circumstances from those in the board opinion.

The Iowa Public Information Board

In re the Matter of:	Case Number: 23FC:0100
Travis Johnson, Complainant	Informal Resolution Final Report
And Concerning:	
Eddyville Blakesburg Fremont CSD Board of Education, Respondent	

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

On October 18, 2023, Travis Johnson filed formal complaint 23FC:0100, alleging that Eddyville Blakesburg Fremont CSD Board of Education (“Board”) violated Iowa Code chapter 21.

Facts

Mr. Johnson alleges that after the start of the Board’s meeting on October 16, 2023, the published agenda was amended to add an action item regarding the school hiring a volunteer archery coach. The item was discussed and board action was taken at the meeting. There was no advanced notice that this item was to be addressed at this meeting. There was an item on the agenda to approve a list of volunteer coaches for the archery program, but nothing on hiring a head coach. Parties involved such as the current head coach and other members of the archery program were not able to participate in any discussion or provide information to the voting board members. The motion to amend the agenda was by Vandello, and Van Mersbergen clarified that what she was wanting was to add an item to the agenda to address her issue on the head coach. This was not an emergent matter that had to be decided at that meeting. It could be postponed to the next meeting in which the public could be aware that the item would be discussed.

In response, the Board states that the Board felt it was necessary to add the agenda at the last minute to add the archery coach discussion and approval because if they waited until the next meeting the position would not have been posted until November and approved until December.

The minutes of the meeting reflect the change in the meeting agenda and the item added to consider a volunteer head archery coach was discussed and approved. There was no statement regarding

why the issue was emergent and could not wait for the following Board meeting or a special meeting to provide the required notice to the community.

The Iowa Public Information Board (IPIB) accepted the complaint on November 16, 2023. Pursuant to Iowa Code section 23.9, the parties have agreed upon the following terms for an informal resolution of this matter:

1. The Board acknowledges that there was sufficient evidence of a violation of Iowa Code chapter 21 when the Board voted to revise the Board's agenda at the time of the Board meeting when no emergency existed. This addition to the agenda failed to provide the required 24-hour notice to the public regarding the topics of deliberation and action to be taken by the Board. The Board will include this acknowledgement in the minutes of an open meeting.
2. The Board will conduct Open Meetings and Public Records training at an open meeting with notice to the public. This training will be conducted by the Iowa Association of School Boards or the Iowa Public Information Board. This will be scheduled by the Board.
3. The Board will review its policies and procedures for setting agendas and conducting open meetings and make any necessary changes to ensure the Board has steps in place to address what constitutes an emergency for revising an agenda without notice and puts procedures in place to address any issues that do not meet that standard but that need to be addressed at a meeting, such as safety protocols, planning, etc.
4. Amendment of Action of vetting coach will not occur until the 2024-2025 archery season, if amendment fails at the January 15, 2024 board meeting, the previous action item from the October 16th board meeting is nullified.
5. The Board will approve this agreement at an open meeting and provide a copy of this Informal Resolution with its meeting minutes.

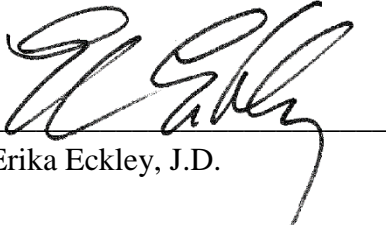
The District signed the Agreement on January 15, 2024, and Mr. Johnson signed on January 18, 2024. All parties had 60 days to meet the terms of this resolution. The Iowa Public Information Board approved this resolution on February 15, 2024.

The District acknowledged violations of Iowa Code chapter 21 and voted to nullify the actions regarding the archery coach taken at the October 16 Board meeting. It approved the informal resolution at its January 15, 2024, Board meeting and included the full text in its minutes. A copy of the minutes has been provided to the IPIB.

On March 25, 2024, staff from the Iowa Public Information Board provided training for the District.

Proof of compliance has been provided. Therefore, the IPIB should dismiss this complaint as successfully resolved.

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 April 10, 2024, to:

Travis Johnson

Mary McCrea, Eddyville Blakesburg Fremont CSD Board of Education

The Iowa Public Information Board

In re the Matter of: Jeff Law and Kourtney Mammen, Complainant And Concerning: River Valley School Board, Respondent	Case Number: 23FC:0105 Informal Resolution and Final Report
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 29, 2023, Jeff Law and Kourtnee Mammen (“Complainants”) filed formal complaint 23FC0105, alleging that River Valley School Board (“Board”) violated Iowa Code chapter 21.

Facts

Complainants allege River Valley School Board had a Board meeting and took a vote on October 16, 2023, to establish sports-sharing activities with the Kingsley Pierson School District (“KPSD”). They allege considering the sport-sharing with KPSD was a very secretive process pushed by a small number of individuals, including two members of the Board. The Complainants allege the vote by the Board on October 16, 2023, was illegitimate because 1) the agenda was not physically posted anywhere (except on the website); 2) the agenda was posted online at 5:00 on Sunday; 3) the agenda posted on Sunday did not have any mention of any kind of sports discussion, let alone a vote; and 4) it was discovered that, someone associated with the Board, modified the agenda after the meeting to include sports sharing with KPSD and there was no vote by the Board at the meeting to change the agenda.

They provided the following additional context. The week prior to the Board meeting there was a meeting with two of the Board members and two of KPSD's members. There were rumors going around among the volleyball athlete's parents about the potential for sports sharing, but no announcements were made to the public. Mr. Law discussed the matter with two of the Board members on Friday, October 13 but neither confirmed the fact they were planning a vote for the meeting on the 16th.

On the day of the Board meeting there were over 100 concerned parents and students in attendance. At the end of the meeting the Board voted to approve sports-sharing. Complainants further allege the vote included no stipulations any high school sports would remain in Correctionville. They are upset the change is scheduled to begin immediately, even though River Valley had coaches and players lined up for the basketball season and people donated \$5,000 for new jerseys for the high school girls.

In response, the Board admits that no agenda was physically posted, but that they substantially complied with the notice requirement because the agenda was emailed out and posted on the District's website. Further, the Board has taken steps to ensure that physical notices are posted moving forward.

The Iowa Public Information Board (IPIB) accepted the complaint on January 18, 2024. Pursuant to Iowa Code section 23.9, the parties have agreed upon the following terms for an informal resolution of this matter:

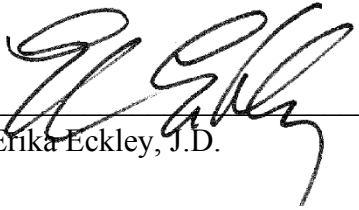
1. The Board acknowledges that for the meeting on October 16, 2023, IPIB has decided that the Board agenda was posted on the District website, but not physically posted, 24 hours prior to the meeting and that the agenda item concerning sports sharing could have been more descriptive.
2. The Board will conduct Open Meetings and Public Records training at an open meeting with notice to the public. This training will be conducted by the Iowa Association of School Boards or the Iowa Public Information Board. This will be scheduled by the Board.
3. The Board will review its policies and procedures for providing notice and setting agenda and make any necessary changes.
4. The Board will reconsider its sports sharing decision at a Board meeting after appropriate notice and clearly stated on the Board's agenda.
5. The Board will approve this agreement at an open meeting and provide a copy of this Informal Resolution with its meeting minutes.

The District signed the Agreement on April 15, 2024, and Ms. Mammen signed on March 26, 2024. Mr. Law has not been in communication with IPIB. All parties had 60 days to meet the terms of this resolution.

The District reconsidered the sports sharing issues at a properly noticed meeting on January 15, 2024, with proof of physically posting the agenda at least 24 hours in advance of the meeting. The agenda clearly stated that the Board would be considering the sharing of athletics with Kingsley-Pierson school district. The Iowa Association of School Boards provided training to the District on April 15, 2024. The District approved the informal resolution at its April 15, 2024, Board meeting.

The terms of the informal resolution address the matters presented in this Complaint. The Board should approve the Informal Resolution. Further, proof of compliance has been provided. Therefore, the IPIB should dismiss this complaint as successfully resolved.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on April 17, 2024, to:

Kourtnee Mammen
Jeff Law
Kristy Latta, attorney for the District

The Iowa Public Information Board

In re the Matter of: Leah Schwery, Complainant And Concerning: City of Ute, Respondent	Case Number: 23FC:0118 Probable Cause Report
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and submits this probable cause report for formal complaint 23FC:0118.

Background

On November 9, 2023, the complainant, Leah Schwery, filed formal complaint 23FC:0118, alleging that the City of Ute (“City”) violated Iowa Code chapters 21 and 22.

The City held a regular council meeting on September 11, 2023. At that meeting, the Council voted to terminate the Complainant from her position as city clerk. The Complainant alleged that this action violated Iowa Code chapters 21 and 22 for the following reasons:

1. The agenda for the meeting did not state that the council would be considering terminating the Complainant, which violated the public notice requirements under Iowa Code section 21.4;
2. The lack of public notice that the council would be considering her termination at the September 11 meeting deprived the Complainant of the opportunity to request a closed session and resulted in the decision to terminate her being made public; and
3. Prior to terminating the Complainant, the City did not notify the Complainant in writing that the information placed in the Complainant’s personnel record as a result of the potential disciplinary action may become a public record, as required under section 22.15.

In support of her allegations, the Complainant provided IPIB staff with a copy of the agenda for the September 11 meeting and the official minutes of the meeting that were published via newspaper. The agenda does not include any item that would indicate that the termination of the

Complainant would be deliberated or acted upon at the meeting. The agenda does include an item titled “OLD BUSINESS (for discussion if any updates).”

The meeting minutes indicate that at a previous council meeting held on August 7, 2023, the Council placed the Complainant on a 60-day probationary review period due to unsatisfactory work performance. The Council outlined essential work duties that would be referenced to assess the adequacy of the Complainant’s performance during the probationary period, such as providing the Council with bank and utility reconciliations, paying claims against the City in a timely manner, and submitting notices and other publications to the press. According to the September 11 minutes, the Complainant had failed to perform these duties in the month since the review period began; thus, the Council voted to terminate her at the September 11 meeting.

The City’s Response

In its response to the complaint, the City stated that it “does not dispute the records and facts provided to the Board by the Complainant.” The City went on to explain that it did not include the agenda item because of previous incidents wherein city clerks “removed or deleted city records while leaving employment.” The City also stated that since the September 11 meeting, the City has taken corrective action by holding a properly noticed special meeting to address the removal of the clerk, providing copies of chapters 21 and 22 to each council member for review, and informing the Council of the training opportunities offered by the League of Cities and IPIB.

Analysis

Did the agenda provide adequate notice?

Notice of an open meeting must include the tentative agenda of the meeting. Iowa Code § 21.4. The items included on the agenda must be sufficiently detailed to apprise the public of the issues that will be deliberated or acted upon at the meeting. *Id.*

When the adequacy of notice provided by an agenda item is in dispute, “[t]he issue to be resolved is not whether the notice given by the governmental body could have been improved, but whether the notice sufficiently apprised the public and gave full opportunity for public knowledge and participation.” *KCOB/KLVN, Inc. v. Jasper Cnty. Bd. of Sup’rs*, 473 N.W.2d 171, 173 (Iowa 1991). “[T]he adequacy of the notice must be determined on the basis of what the words in the agenda would mean to a typical citizen or member of the press who reads it.” *Barrett v. Lode*, 603 N.W.2d 766 (Iowa 1999).

In *KCOB/KLVN, Inc.*, the Court determined that an agenda item that contained the employee’s name and the name of the third party retained to handle employee termination proceedings provided sufficient notice that the termination of the employee would be deliberated or acted upon. In making this determination, the Court relied upon the fact that the potential termination of the employee had appeared on prior meeting agendas and had been discussed at previous

meetings. Further, the Court found that it was well known in the community that the third party named in the agenda item regularly handled employee termination proceedings. Thus, the Court concluded that, in light of this background information, the agenda item consisting of the employee's name and the name of the party handling the termination provided sufficient notice to the public that the termination of the employee would be deliberated or acted upon.

Here, the September 11 agenda made no specific reference to the termination of the city clerk. Nor did it include—in contrast to *KCOB/KLVN, Inc.*—any agenda items generally referencing the issue (e.g., the Complainant's name, discussion of the city clerk position, discussion of employment matters, or any other terms that would alert a member of the public that the issue of termination of the city clerk would be discussed).¹ Because the agenda lacked any item that would have apprised a typical citizen or member of the press of the issue to be decided, the agenda did not provide adequate notice, notwithstanding the fact that the Complainant's work performance had been discussed at the previous meeting.

The City did not provide adequate notice that the Council would be deciding whether to terminate the Complainant at the September 11 meeting. The agenda contained nothing that would alert a typical citizen or member of the press that the termination would be an item deliberated or acted upon at the meeting.

IPIB Action

Under Iowa Code section 23.9, once the Board accepts a complaint, IPIB is required to work with the parties to attempt to resolve the complaint informally. The City signed the Informal Resolution on March 6, 2024. Ms. Schwery did not respond to further communications from IPIB on this issue. The City has completed the terms of the agreement as of April 8, 2024, and provided notice to IPIB of completion. At this point in time, the City has done everything requested to resolve the Complaint.

IPIB Action

The Board may take the following actions upon receipt of a probable cause report:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or

¹ The meeting minutes of the September 11 meeting do not indicate that the termination was discussed under the "Old Business" agenda item. However, assuming *arguendo* that it was, the catch-all "Old Business" agenda item, coupled with the fact that the city clerk was put on probationary review at the previous meeting, still would not have adequately apprised a typical citizen or member of the press that termination of the city clerk would be discussed. This is especially true given that 1) the City does not post past agenda and meeting minutes on its website for later access by the public; and 2) the probationary review period was not set to expire for another month.

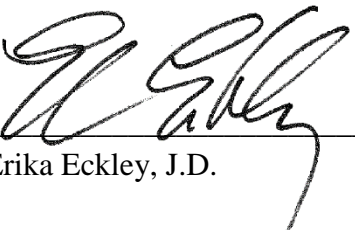
d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

Iowa Admin. Code r. 497-2.2(4).

Recommendation

It is recommended the Board determine probable cause exists to believe the City violated Iowa Code chapter 21 because the agenda at the September 11 meeting did not provide adequate notice the City would be deliberating and acting on the employment of the clerk. However, the City has taken steps to remediate the alleged violation and further action would yield no further benefit, so it should be dismissed as an exercise of administrative discretion.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on April 11, 2024, to:

Leah Schwery
John Hines, Ute City Attorney

The Iowa Public Information Board

In re the Matter of: Traci Stillwell, Complainant And Concerning: Hampton Public Library, Respondent	Case Number: 23FC:0126 Revised 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

Traci Stillwell filed formal complaint 23FC:0126 on November 19, 2023, alleging the Hampton Public Library (“Library”) violated Iowa Code chapter 22 on November 14, 2023.

Ms. Stillwell alleges she submitted a public records request on October 22, 2023, to the Library and received an estimate for fees that were not reasonable or actual estimates.

Ms. Stillwell records request included the following, “I would like copies of all correspondence, both written and digital including any and all social media platforms, emails, and text messaging between you and the members of the Hampton City Council, City Manager, Iowa Library Association, The American Library Association, members of press i.e.: news outlets, newspapers, radio, correspondence with directors of other public libraries, present and past Board of Trustees including the board president, employees of the Hampton Public Library, The Hampton Iowa City Attorney, and with any individual who has challenged a book in Hampton Public Library from January 1, 2023 to present day.”

Ms. Stillwell alleges she received a reply from the Library on October 26, 2023 which included an initial estimate of the fees, but with the possibility of additional, open-ended fees. She believes the open-ended fees are to deter her from moving forward with the request. Ms. Stillwell responded to the library following a conversation with the Iowa Public Information Board on November 3, 2023. A letter was sent to the custodian of the records the same day asking for further explanation of the fees. She received no correspondence in reply from the custodian.

Ms. Kim Manning, Librarian for the Library provided a response. Ms. Manning provided the following estimated fees to Ms. Stillwell. Upon review of the request, the IT firm estimated the work would take approximately four hours at a rate of \$75.00 per hour (\$300 total). She stated

that Ms. Stillwell did not object to this expense. Ms. Manning also provided an estimate of \$300 per hour for the review of the requested records by the Library's local counsel. She also added that depending on the amount and content of the records retrieved, the library may hire different counsel. Ms. Manning states that she is unable to provide additional estimates of fees until the materials are retrieved, how much of it needs to be reviewed by counsel, and how much time it will take.

In a response to the Library, Ms. Stillwell questions the estimate of an IT professional needing four hours to retrieve these records. She also believes reasonable fees should not include attorney fees to verify compliance for the release of requested records. She disagrees that the request would include any confidential information. She also states that a total fee must be agreed upon prior to the records retrieval process.

IPIB staff attempted to work with the parties to put together a reasonable estimate for the records request. Ms. Manning was asked to work with her IT people to determine the number of records used in determining the initial estimate of four hours. Based on this number the Library's counsel, Ms. Rosenberg was asked to determine an estimate for the time and fees to review and redact the records.

During the course of these conversations, it was discovered that the Library had only 30 days of emails available on Ms. Manning's computer and no one has been able to locate where Library emails are hosted and stored. Apparently, the emails are set to automatically delete after 30 days. The Library does not have access to the server and are unclear as to who is hosting the server.

At this juncture, after several meetings with the parties, the matter has not been resolved and more questions have been raised regarding the Library's emails and response to a records request. Ms. Manning has retired from the Library and attempts to resolve these questions and obtain updates and information from the Library have been fruitless. At this time it is unclear if the requested records exist or if they can be recovered.

Law

“[F]ulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses... In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request. A person may contest the reasonableness of the custodian's expenses as provided for in this chapter.” Iowa Code §22.3(1).

“The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records.

Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information.” Iowa Code § 22.3(2).

Analysis

Under Chapter 22, a government body, in responding to a records request, must provide an estimate of the reasonable costs and may require payment of the fee prior to retrieving the record. A “reasonable” cost for a public records request is determinative on the facts and circumstances of retrieving and copying the record. Fees are not meant to be a revenue stream. “Reasonable” fees for retrieving a public record are meant to only offset the cost of retrieving, reviewing, and copying the record.

Ms. Stillwell’s request included an extensive number of emails and communications over a period of ten months that would need to be reviewed by the Library to respond to the request. In response to the request, the Library sought an estimate from the IT services regarding the amount of time necessary to search for the records. The IT services estimated the search would take four hours of their time. There is no evidence that this estimate is unreasonable. If the search takes less time than estimated, the cost of the records request would be based on the actual time it took. At this stage, it is not unreasonable to rely on an estimate from the experts who will be conducting the search.

It is not unreasonable that the records requested by Ms. Stillwell may contain information that could be confidential or require redaction. Iowa Code limits the costs for legal services that can be charged to an individual who requests public records. “A lawful custodian may only charge for the time an attorney spends redacting or reviewing legally protected confidential information. Consequently, a lawful custodian should not charge for an attorney’s preliminary review of records to determine whether the records contain confidential information.” 23AO:0002: Costs for Legal Services. The Library is able to bill for the legal review, but only as related to the review of documents identified as potentially confidential.

In working with the parties to address the fee issue, the Library has now disclosed they are not sure the records exist and are unclear as to where the server is located that may be storing these records. The Library discovered that only 30 days of emails were kept on Ms. Manning’s computer while working with IPIB to address this matter. Despite efforts, there have been no updates or information provided answering where the records are or whether the request can be fulfilled. Good-faith, reasonable delay in responding to a public records request is not a violation of chapter 22, but *unreasonable delay* can constitute a violation. *Belin v. Reynolds*, 989 N.W.2d 166, 174–75 (Iowa 2023).

Conclusion

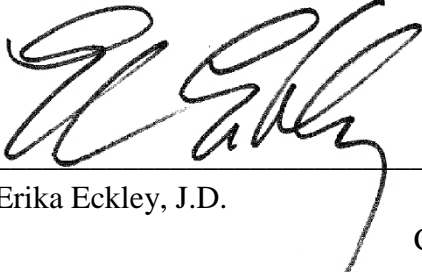
Iowa Code section 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint meets those requirements.

IT IS SO ORDERED: Formal complaint 23FC:00126 is accepted as legally sufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

IPIB has tried to work with the Library to provide a reasonable estimate of the actual costs of production of documents. These efforts have failed and the Library has not provided any further information regarding the availability of records or their intention to fulfill the records request.

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 April 18, 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 April 10, 2024, to:
Traci Stillwell, Complainant
Hampton Public Library

The Iowa Public Information Board

In re the Matter of: Andrew Kida, Complainant And Concerning: Clinton County, Respondent	Case Number: 24FC:0003 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 January 4, 2024, Andrew Kida filed formal complaint 23FC:0003, alleging that Clinton County (“County”) violated Iowa Code chapter 22.

Facts

Mr. Kida alleges he made a public records request to the County on November 15, 2023, requesting all email, text messages, and social media communications between County Supervisor Erin George and City of Clinton Councilwoman Rhonda Kearns between January 1, 2023, and November 14, 2023. A similar request was filed with the City of Clinton, which is not the subject of this complaint.

In comparing the records provided by the County with those provided by the city, Mr. Kida alleges the County failed to provide some records of text messages he received from the city. He alleges he made a follow up request on December 26, 2023, asking for the omitted text messages. In response, he was told by the County’s attorney that some text messages had been deleted from Supervisor George’s phone due to space constraints on her phone. Mr. Kida believes the deletions seem “odd” because he received texts from early in October and some from late in November, but the messages for in between those dates were deleted.

He stated text threads between Ms. George, Ms. Kearns and multiple other unnamed individuals are the only ones missing, along with the associated attachments. He alleges the most distasteful and revealing information was contained in the deleted thread, but multiple other threads with messages on the same days were not deleted. He alleges names and contacts within those messages are being protected, and deleting the messages was intentional.

In response, the County stated that the records that existed were provided to Mr. Kida. In regards to the deleted text messages, the County provided a signed statement from Supervisor George stating the following in regards to a search of her personal iPhone, "I searched these device(s) for the above requested records [Kida's request] to the best of my ability and believe and have turned them over to [redacted] the Clinton County Attorney for review and release as recommended. Further, upon learning of the above records request, I have not deleted or altered any records which may be related to the above records request. Also, if I should discover any relevant record(s) after this search I will provide them in a timely manner." A sworn affidavit from Supervisor George affirming that no messages were deleted after receiving the request.

Applicable Law

If a government official or employee uses privately owned electronic devices or services, such as cell phones, computers, email accounts, smart phones, or such to conduct official government business, then the record generated is a public record." 21AO:0009: Public Records Maintained on Privately-owned Devices. "It is the nature and purpose of the document, not the place where it is kept, which determines its status," *Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967).

"Commingling public communications and reports with private communications on a privately owned electronic device can create difficulty in responding to an open records request. Some communications may arguably be withheld as not being a public record or as a confidential public record under Iowa Code Section 22.7. First and foremost, however, the public business communications are public records, and the custodian must review all records on a device to determine whether they are within a request for examination and copying to justify any denial of release." 21AO:0009: Public Records Maintained on Privately-owned Devices.

"[T]here is nothing in Iowa Code chapter 22 that mandates a governmental body to create a record that does not otherwise exist." 15AO:0004: Creation of Records and Associated Fees.

Analysis

In this matter, the text messages on Supervisor George's personal phone related to County business are public records and would be required to be released if no confidential exception applies. In this case, however, some of the messages were deleted. Mr. Kida has brought this complaint to determine whether these deletions violate Iowa Code chapter 22.

While IPIB strongly recommends against utilizing text messages or similar technology to conduct public business as well as avoiding utilizing a privately-owned cell phone for public business, Supervisor George did. Text messages that had not been deleted were provided in response to the request.

As stated frequently, Iowa’s public records law has no retention requirements for records. Had the text messages been deleted after a request was made, such action would have amounted to a refusal to comply with the request—a clear violation of chapter 22. Supervisor George signed a sworn affidavit, though, affirming the text messages were deleted prior to the records request being made. No contrary evidence has been provided besides the copies of the messages provided in response to a request to another governmental body. Under these facts, a violation of Iowa Code chapter 22 is unlikely to be found.

Conclusion

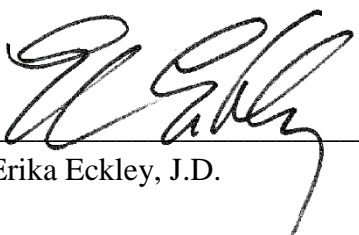
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

No evidence presented that text messages were deleted after the records request was submitted.

IT IS SO ORDERED: Formal complaint 24FC:0003 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 April 18, 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 April 10, 2024, to:

Andrew Kida
Holly Corkery, attorney for Clinton County

The Iowa Public Information Board

In re the Matter of: Bonnie Castillo, Complainant And Concerning: Union County Emergency Management Agency, Respondent	Case Number: 24FC:0013 Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On February 2, 2024, Bonnie Castillo filed formal complaint 24FC:0013, alleging that Union County Emergency Management Agency (“UCEMA”) violated Iowa Code chapters 21 and 22.

Facts

Ms. Castillo alleges UCEMA has not maintained and does not have available board minutes. She alleges a board member requested meeting minutes from 2023 UCEMA meetings. Jo Duckworth, Director of Emergency Management, was not able to quickly provide the requested documents, however, days later after spending time in her office and being viewed typing diligently she produced a copy of what she stated were the approved minutes. She also alleges the minutes are not posted on the UCEMA website where they are supposed to be posted.

Ms. Castillo also alleges UCEMA had a closed session called by the county attorney on January 24, 2024, that was not published on the agenda or announced prior to the start of the closed session. The county attorney came in interrupted the regular meeting, asked all but UCEMA members to leave and held the closed session.

In response, Ms. Duckworth, stated she responded to the UCEMA commission member’s request for minutes on the same day as requested. She also stated she keeps the minutes from the monthly meeting in printed and digital form. She provided copies of a number of previous meetings. Ms. Duckworth admits she has not posted the minutes on the website due to staff time and capacity constraints, but stated Iowa Code § 21.3 does not require posting the minutes on the website.

Ms. Duckworth, however, does admit that UCEMA held a closed session that was not on the meeting agenda because the attorney did not tell her about it. She admits that she, the media and other participants were asked to leave the meeting to hold the closed session.

Applicable Law

“[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.” Iowa Code § 21.4(1)(a).

Analysis

Ms. Duckworth admits that a closed session held purportedly for attorney-client communications was held, but not included in the UCEMA agenda because she was not aware it would occur. Despite the lack of notice, the closed session occurred and media and others were asked to leave the open meeting. This is a violation of Iowa Code chapter 21.

Ms. Duckworth is correct that nothing within Iowa Code chapter 21 requires minutes to be posted on a website, so the failure to do so is not a violation under the statute.

In regards to the public records complaint regarding a failure to provide minutes from previous UCEMA meetings, the evidence provided shows the minutes are available and no additional information was provided in opposition to this information, so there is likely no violation of chapter 22.

Conclusion

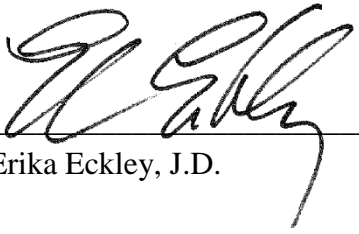
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

UCEMA held a closed session that was not included within the UCEMA’s agenda in violation of Iowa Code § 21.4(1)(a).

IT IS SO ORDERED: Formal complaint 24FC:0013 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

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 April 18, 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 April 10, 2024, to:

Bonnie Castillo
Jo Duckworth

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0018
Zachary Vulich, Complainant	Acceptance Order
And Concerning:	
City of Leland, Respondent	

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

On February 13, 2024, Zachary Vulich filed formal complaint 24FC:0018, alleging that City of Leland (“City”) violated Iowa Code chapter 22.

Facts

Mr. Vulich alleges the City is charging an unreasonable fee for the production of records he requested. In response to the Complaint, the City provided the request made and communications with Mr. Vulich.

The records request included:

1. all meeting documents from October 2019 through December 2023: City estimates this would be approximately 380 pages scanned.
2. Copies of City Council meeting recordings: City states there are three.
3. Copies of council oaths of office and ethics: City estimates approximately 30 pages
4. Copies of City Council insurance and bond information: City estimates approximately 100 pages scanned.

Originally, the City had a fee of \$24 per hour for records requests. After discussion with IPIB, the City revised the cost to reflect the City Clerk’s actual hourly cost of \$20 per hour.¹

¹ Mr. Vulich objected to this amount as the clerk’s previous hourly rate was \$16.30 as disclosed pursuant to a previous request. See 23FC:0120 Zachary Vulich/City of Leland – Dismissal Order. The City provided the City Council minutes from December 14, 2023, reflecting the clerk’s rate of pay increase to \$20 per hour beginning January 1, 2024.

The City estimated it would take approximately twelve hours to produce and review documents and another four hours to scan and copy the documents to a thumb drive. The estimate also states that if the actual time spent on compiling and producing the records is less, a refund of the difference.

Mr. Vulich still disagreed with the estimated costs and believes compiling and producing the records should not take more than two to four hours. He believes the estimated costs are excessive.

The City explained that the meeting documents were in physical books and would take time to collect and scan as well as the time to pull and review the other documents.

Applicable Law

Iowa Code § 22.3(2) allows a government body to charge a fee for the release of records, based upon actual costs. Actual costs are defined to include “only those expenses directly attributable to supervising the examination of and making and providing of copies of public records.”

Analysis

There is no dispute that the City is able to charge for the actual costs of compiling, scanning, and producing the records. The issue in this case is the estimated time and costs from the City. The facts are that all of the documents requested are typical public documents that are required to be produced and retained and should be readily available and accessible to the City in the general course of City business. The records sought are City Council meeting documents, oaths of office, recordings of meetings, and City insurance information. None of these are likely to need much, if any redaction or review based on the nature of the documents.

While it can be difficult many times to determine a reasonable amount of time to collect, review, and produce public records based on the specific resources and equipment available to a City, sixteen hours does seem like an excessive amount of time estimated for completing this specific request based on the nature of the records sought.

Conclusion

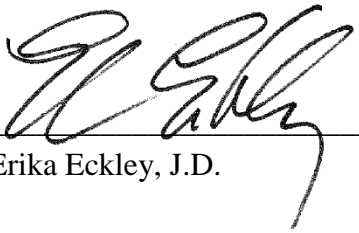
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

The City’s estimate for the time required to compile and scan the City’s meeting documents does not seem reasonable under these specific facts.

IT IS SO ORDERED: Formal complaint 24FC:0018 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

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 April 18, 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 April 10, 2024, to:

Zachary Vulich
Dawn Arispe, City of Leland

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 Revised 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 a confidential 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. DAS cannot respond to the request because it does not have specific data, list, or other records responsive to the request. The specific record being requested is not data maintained by the department, but could be generated through a customized search and manipulation of the data that is collected by DAS. The question

is whether a customized search or programming to calculate new information is required under Iowa law.

DAS collects information about state employees' birth date and the date of hiring. This is kept in a database. The birth date data for each employee, however, is confidential information, so that data, which could be easily generated from the database cannot be provided to Mr. Nocera. The data of hire for employees could be provided to Mr. Nocera, but that is not what he wants. Instead, he seeks the age at hire, which would require a calculation of subtracting the hire date from the birth date for each employee by DAS.

In other words, Mr. Nocera's records request is not asking for a record within the custody of DAS, but rather a request for DAS to create a new record by establishing an entirely new data point or programming a customized search of existing data and manipulating the data to answer a specific question raised by the requester. The only way DAS can respond to Mr. Nocera's request is to create an entirely new record through programming the existing public data to create a new record with the information sought by Mr. Nocera. Iowa Code chapter 22 does not require this for a couple reasons.

Iowa Code Chapter 22 does not require providing a list of confidential data

The first thing to consider is that Mr. Nocera is seeking information based on a list of confidential data subtracted by a corresponding list of non-confidential hire date data to create a new list of the age at the time of hire data for every state employee. This requires DAS to create new data and a new record to respond.

Mr. Nocera's complaint is essentially that other states have chosen to create the data from their systems, so DAS should be compelled to do the same. Nothing in Iowa law allows IPiB to compel DAS to create a record it does not have. *See* IPiB's Advisory Opinion #15A0:0004 (nothing in Iowa Code chapter 22 compels a governmental body to create records in response to a request).

The Iowa Supreme Court has held that "if the underlying communications are confidential, the cloak of confidentiality can extend to a list of those making confidential requests. A contrary holding would lead to absurd results, such as making public a list of job applicants whose individual applications are confidential. *Cf. Milligan v. Ottumwa Police Dep't*, 937 N.W.2d 97, 102, 109 (Iowa 2020) (holding chapter 22 did not require disclosure of lists of names of drivers who had or had not been issued automatic traffic enforcement citations, reasoning that "production of license-plate-and-name combinations could be used to facilitate stalking—exactly the situation the [federal Driver's Privacy Protection Act] was enacted to prevent")." *Ripperger v. IPiB.*, 967 N.W.2d 540, 551 (Iowa 2021).

In this situation, the birth date of a state employee is confidential. Iowa Code § 22.7(11). DAS cannot create a list of the age at date of hire for Mr. Nocera without utilizing the confidential birth date data and subtracting it from the date of hire for each state employee. Mr. Nocera is essentially asking IPiB to require DAS to create a list of confidential data and manipulate it into a new list created to bypass the confidential nature of the information he seeks. Nothing in Iowa Code chapter 22 requires this in response to a public records request.

Iowa law does not require a government body to perform a customized search and manipulation of data when it chooses to utilize a database or other electronic version of public records

The use of electronic data by a government entity is an evolving issue in public records law across the country as more public records are stored in electronic format that would allow for customized searches and potentially expand the scope of and requirement to provide information from public records for virtually any data information stored by a government body.

Iowa's public records requirements have always held that a government body is not required to create a record that does not exist. But, what is the requirement for a government body to respond to a request that can be generated or manipulated because of the data the government body has in a database or any computerized system and the ease in which the database could be programmed to utilize the information to answer specific questions or searches? Does the mere collection of data by the government entity compel it to utilize the data for any and all requests that might include the use of the data beyond simply producing a list of existing datapoints?

Iowa Attorney General Opinion, 1996 WL 169619 (Iowa A.G.) reviewed the question of what the government body could charge for providing a 140-page budget on a "floppy disk" rather than providing a photocopy of the document. In that 1996 opinion, the author notes

Your question invites preliminary comment about chapter 22 and public records stored electronically in computer systems. *We are faced with the problem of interpreting statutory language that, when written, did not address problems connected with "paperless" governmental entities storing their public records in computerized form.* See Grodsky, "The Freedom of Information Act in the Electronic Age," 31 *Jurimetrics* 17, 18 (1990); Sorokin, "The Computerization of Governmental Information," 24 *Colum. J.L. & Social Problems* 267, 267 n. 3 (1990); see also 13 U.L.A. *Uniform Information Practices Code*, Preferatory Note, at 277 (1974). We also are faced with the problem that chapter 22, like certain constitutional provisions, may not always lend itself to sweeping generalities about what is proper and what is improper action on the part of governmental entities. See *Annot.*, 86 A.L.R.4th 786, 790, 793 (1991).

Moreover, with regard to public records stored in computer systems, we recognize that some systems may be expensive to install and update. We further recognize that retrieving certain electronic information and providing it in a particular medium or format to interested persons may generate very high costs. As one commentator has observed,

A fundamental difference between hard copy records and computerized records . . . is that the former may reside within computer systems until they are demanded, sometimes requiring the application of codes or additional programming to be retrieved from host systems in systematic and comprehensible form.

...

[E]lectronic information always needs some type of transformation to be understood. While written information can be read instantaneously, no one can look at electronic bits of data and understand their meaning. *These bits of data often require specialized software for reorganization into readable form.*

Grodsky, supra, 31 Jurimetrics at 27-28, 30 n. 59.

No. 96-2-1, 1996 WL 169619, at *2 (Iowa A.G. Feb. 2, 1996) (emphasis added).

The issue of electronic records and the scope of their retrieval has not gotten any clearer almost thirty years later. More and more information is stored electronically and the use of email and the ability to generate spreadsheets and complex documents are available to every government employee with access to a cell phone or computer. The question raised by this complaint is whether Iowa Code chapter 22 mandates a government entity to manipulate and search its data to answer every customized request for a data point. Merely because an answer could be generated through computer programming, algorithms, or other manipulation is the government entity required to respond regardless of the government entity's use of or need for the information merely because the government entity has the ability to store data on its system?

There is little question that assuming there is no confidential data, DAS would be required to provide a list of the specific data points it has in its database. But, that is not what Mr. Nocera seeks. Instead, Mr. Nocera seeks to require DAS to collect its existing data and then program its system to manipulate this existing data to calculate information and provide the customized information Mr. Nocera seeks. It is akin to being required to answer any question raised in response to a records request. Merely because the database is run by a government entity and could be programmed to answer the question or compute the information, is DAS required, under Iowa Code chapter 22 to do this upon request?¹

Other states have handled this question differently.² A few states have, specifically through statute or court interpretation, required the information to be provided, but any costs for providing the information are paid by the requestor. Most states considering this question, however, have either not required or have allowed government entities to use discretion in determining whether to create a customized search of records. This discretion typically stems from the underlying interpretation of public records law that a government body does not have to create a public record that does not exist. Iowa's statute and precedent lend themselves to the majority's interpretation of not requiring government bodies to create a customized search or manipulation of public data.

In the *Ripperger* case, the Court agreed with IPIB that a list of property owners who had asked to have their names removed from the public name search function on the county tax assessor's website was a "public record" subject to Open Records Act because the list was stored electronically and could be extrapolated from the county tax assessor database. 967 N.W.2d at

¹ If DAS is required, DAS could charge the actual costs of performing this search and programming to create the information.

² See <https://www.rcfp.org/open-government-sections/b-can-the-requester-obtain-a-customized-search-of-computer-databases-to-fit-particular-needs/> (outlining how states handle searches on computer databases as records requests).

550. This list, however, was extrapolated from data that already existed in the system to provide the public name search function block to occur within the county's system. The information was a public record because it was a datapoint that existed in the system. The list could be created from the existing public dataset. The County did not have to program the system to create a new set of data and relied on existing records.

“The purpose of [Chapter 22] is ‘to open the doors of government to public scrutiny [and] to prevent government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.’” *City of Riverdale v. Diercks*, 806 N.W.2d 643, 652 (Iowa 2011) (citing *Rathmann v. Bd. of Dirs.*, 580 N.W.2d 773, 777 (Iowa 1998)); *see also Iowa Civil Rights Comm'n v. City of Des Moines*, 313 N.W.2d 491, 495 (Iowa 1981).

The purpose of Chapter 22 is to provide public scrutiny of a government's decision-making activities through a requirement to provide public records to the public upon request. Requiring a government entity to perform custom searches and programming to manipulate existing data on behalf of any requestor greatly expands Chapter 22's intention and would require government entities to do calculations and research of public records for all requestors merely because some public data existed. This would significantly expand the requirement beyond the provision of providing access to public records used in the decision-making process.

While DAS or other government entities may have the capability to do calculations and manipulations and study of data, Chapter 22 does not require that this additional research and work be compelled as part of a public records request. While Mr. Nocera may request DAS to provide this information, Iowa Code chapter 22 does not compel DAS to do so as part of a records request.

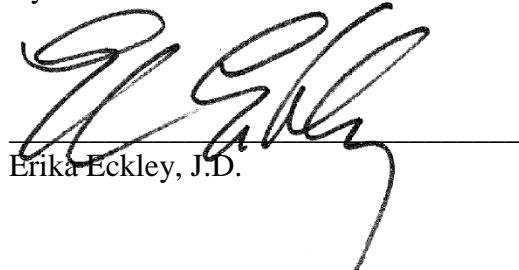
Conclusion

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 April 18, 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 April 10, 2024, to:

Charles Nocera

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

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0021
Kathryn Crumly, Complainant	Dismissal Order
And Concerning:	
City of Grandview, Respondent	

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

On February 26, 2024, Kathryn Crumly filed formal complaint 24FC:0021, alleging that City of Grandview (“City”) violated Iowa Code chapters 21 and 22.

Facts

Ms. Crumly alleges that the City Council has adopted a “consent agenda” for City bills so there are no public records regarding bills paid or income generated. She alleges that without the bills at the meeting there is no way for the public to know or give input on the bills. She alleges that another individual requested a copy of the bills and this was not provided to her at the time.

She also alleges that the Grandview Community Club held a meeting to discuss the Club’s agenda for the year, including business directly relating to the City. This includes using the city-owned park for the club easter egg hunt, closing city streets and arranging a Fourth of July celebration. Ms. Crumly alleges the city would lose money and that it was not proper for the city to donate anything to the Club’s events. She also alleges that City Council members attend the meetings even though they are not members of the Club.

Three Councilmembers responded to this complaint. Their responses were all similar. They all stated that Ms. Crumly is the former mayor of the City. During Ms. Crumly’s time as mayor, the City implemented a consent agenda to streamline meetings. This included approval of the City’s bills. They all describe a contentious meeting on February 12, in which Ms. Crumly and another citizen interrupted the Council meeting midway through. Ms. Crumly also filed complaints against members of the Council for expired golf cart tags, chicken permits, and expired dog permits. They stated that the Council always works to provide any information the public asks

for and all of the claims are published in the paper, but the atmosphere on February 12 was one they were all trying to prevent additional conflict. They stated that there was no request for records, just a dissatisfaction with using a consent agenda and after complaining about the consent agenda, the individual left the building.

In regards to the allegations about the Club, Mayor Garrison stated, “The council members are aware of the open meetings law we talk about it routinely. The council does not gather at or discuss city business at community club meetings. The community Club is a tremendous asset to Grandview and its volunteer members work tirelessly to put on both the 4th of July and Easter Events here in Grandview. I think it’s important to note Grandview is a very small town without enough folks willing to step up and fill council seats or volunteer for community club events so having individuals that are part of multiple small-town groups is commonplace.”

Analysis

Consent agenda

The Complaint appears to be that by failing to provide copies of the bills to be paid as part of the consent agenda during the meeting, the City violated Iowa Code chapter 22. Neither Iowa Code chapter 21 nor Iowa Code chapter 22 require that council packets and documents be provided to the public as a matter of right. If a records request is made, the City must respond, of course, but it is difficult to determine from this complaint whether a request was made. The person who is alleged to have made a request is not the person who made the complaint. The person who made the complaint was the mayor when the consent agenda was put into place.

The City does publish all of the bills approved within the consent agenda in the Wapello Morning Sun in addition to the rest of the minutes of the meeting.

Grandview Community Club

The public-private collaboration between non-governmental entity and the City alone is beyond the jurisdiction of IPIB without an allegation of a chapter 21 violation. The complaint appears to be the collaboration in the community for events and that a few, but less than a majority, of the City Council members may occasionally attend these meetings or be involved as volunteers for the Club. There is no violation of Iowa Code chapter 21.

Conclusion

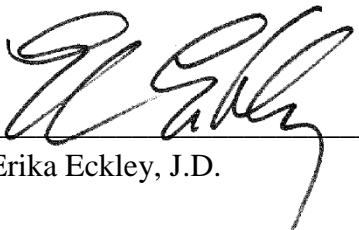
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The consent agenda does not violate Chapter 21 or 22. There is no Chapter 21 violation regarding the Grandview Community Club Easter and Fourth of July events.

IT IS SO ORDERED: Formal complaint 24FC:0021 is dismissed as it is without 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), 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 April 18, 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 April 10, 2024, to:

Kathryn Crumly
Cassi Chapman, Clerk for City of Grandview

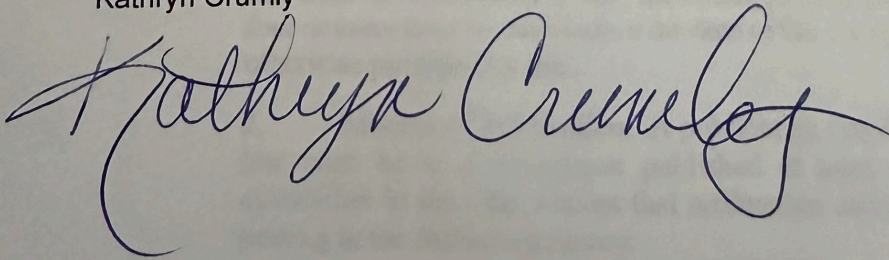
Statement

I strongly disagree with the findings of Ms. Erika Eckley for her dismissal order. The second paragraph in the analysis of the Consent Agenda states the city publishes all bills approved in the Wapello Morning Sun, however when the city provided the IPIB Board with the minutes of the meeting there were no bills attached and the IPIB board never looked further into this. I am attaching a copy of the March 21st Wapello Morning Sun legals section for the IPIB board to look over and would like them to pay special attention to the Grandview notices, I attempted to get the copies of the February papers however with only having a couple days notice I was unable to get this in time.

Ms. Eckley seems to focus on the "consent agenda" as being the center of my complaint, when in fact it is just a part of it. The Consent Agenda itself is not where I have an issue, personally I am not a fan of a consent agenda given that it now has a board or council that is supposedly going thru and examining them on their own time and I personally find it hard to believe that some are actually spending the time doing this. My issue is with the consent agenda the city is now hiding it's spending by not releasing the bills information to the public. This is supposed to be released on request and published within the officially designated city paper and neither of these is happening. I am attaching the Grandview City Code which openly states that they shall publish the minutes and all claims allowed and a summary of all receipts and gross amount of the claims.

The IPIB board received 3 responses from the City of Grandview and I was provided these responses on Thursday of last week, not within the two weeks that the original email sent to the city stated and the city never copied me on their responses like the email stated they were supposed to do. It took me replying to Ms. Eckley's email to get Mr. Toresdahl then to forward me the responses.

Thanks
Kathryn Crumly

A handwritten signature in blue ink that reads "Kathryn Crumly". The signature is written in a cursive, flowing style.

The Iowa Public Information Board

<p>In re the Matter of:</p> <p>Dan Nugteren, Complainant</p> <p>And Concerning:</p> <p>South Central Regional Airport Agency, Respondent</p>	<p>Case Number: 24FC:0026</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:

On March 7, 2024, Dan Nugteren filed formal complaint 24FC:0026, alleging that South Central Regional Airport Agency (SCRAA) violated Iowa Code chapter 21.

Facts

Mr. Nugteren alleges that SCRAA, failed to ‘un-mute’ the telephone system to allow inbound callers to provide public comment during a meeting on March 7, 2024. He provided a copy of the agenda listing an item for public comment. He alleges he has multiple past examples from 2017 and 2019 of trying to provide public input to the Board.

In response the SCRAA states that nothing within Iowa Code chapter 21 requires a governmental entity to allow for public comment during a meeting, but SCRAA did allow for it at the March 7, 2024, meeting. SCRAA provided a copy of the minutes of the meeting, which showed two individuals attended in person and two individuals appeared by phone. No comments were made during the meeting. SCRAA also provided that Pella’s city clerk, Mandy Smith operates the phone for the meeting.

Ms. Smith provided a sworn affidavit that stated the conference call lines are not automatically muted. She did not manually mute the lines. She would only mute the lines if there is a loud disturbance or background noise. She also stated that if a line is muted, there is an automated notice to the caller that they are muted. Because no line was muted, there was no need to unmute anyone during the call.

Minutes provided show the meeting was called to order at noon. The meeting concluded at 12:07 p.m.

Applicable Law

IPIB's Advisory Opinion provides the following:

Iowa Code section 21.7 allows a governmental body to limit public participation at an open meeting:

21.7 Rules of conduct at meetings.

The public may use cameras or recording devices at any open session. Nothing in this chapter shall prevent a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.

...

The Iowa Attorney General has posted two "Sunshine Advisories" on Iowa Code section 21.7. One states that while the public has the right to observe and record a meeting, they do not have the right to actively participate. The other advises that governmental bodies should encourage public comment by allocating time for public comment, "structured by reasonable rules of conduct, such as advance deadlines for requesting an opportunity to speak, and reasonable time limits for oral comments."

19AO:0004 Iowa Code section 21.7, public comment restrictions at an open meeting

Analysis

While nothing in Iowa Code chapter 21 requires public comment be allowed, if SCRAA provided an opportunity for public comment, it needs to allow the public to participate during that period with reasonable rules and limits. Mr. Nugteren's complaint is that he believes he was unable to provide public comment during a SCRAA meeting because his phone was not "un-muted." The evidence provided by SCRAA, through sworn affidavit, is that no telephone lines were muted by Ms. Smith who controlled the conference call, so there was no impediment created by SCRAA to Mr. Nugteren providing a comment during that portion of the meeting.

Conclusion

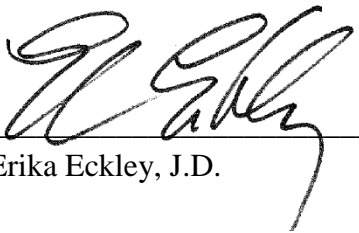
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

There is no evidence SCRAA actions prevented Mr. Nugteren from providing a public comment by telephone at the SCRAA meeting on March 7, 2024.

IT IS SO ORDERED: Formal complaint 24FC:0026 is dismissed as it is without 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), 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 April 18, 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 April 10, 2024, to:

Dan Nugteren
Amy Beattie, attorney for SCRAA



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

Re: 24FC:0026 Draft Order Nugteren Response

2 messages

Danny <nugteren7091@gmail.com>

Tue, Apr 16, 2024 at 9:05 PM

To: "Eckley, Erika" <erika.eckley@iowa.gov>

Cc: "Toresdahl, Brett" <brett.toresdahl@iowa.gov>, Beattie Amy <Amy.Beattie@brickgentrylaw.com>

Ms Eckley,

Here are my written inputs for the Board to consider prior to making a final decision.

I will email attachments separately due to file size.

Please let me know if they do not arrive.

Thank You

Danny

618-531-6698

Bottom Line Upfront (BLUF)

As a Board Member consider two main questions before rendering an Final Analysis and Conclusion;

1. Referencing Ms Smiths sworn statement,

If Line Statement 6 is correct and

If 7 is correct and

If 8 is correct and

If 9 is correct and

If 10 is correct then,

Why was I unable to get any response to six repeated, increasing spoken volume requests (normal talking volume progressing to a yell) during Agenda Item 2 using the procedures listed in the Title Block?

2. How does she know A) who (public or Board Member, Blomgren in this case) is calling in (ie: inbound caller phone number, Caller ID, question caller, Board member separate phone line, etc)? B) How does she know a line is muted? (ie: Line designation text, awareness light, etc) C) Could someone other than her take a muting action? D) Does she monitor the muted lines for caller request during the meeting at the appropriate agenda times, ie Agenda Item 2? E) Did she tell the Chair there are members of the public on the phone wishing to speak?

Evidence:

I called the meeting number approximately 10 minutes prior to meeting start. I don't recall the time prior to start that I heard the 'You have been Muted by the Host' audible message referred in Ms Smith testimony Line 9. So I had Knowledge, I did not give my Approval. However my 'request to be unmuted' claim intent matches her statement 9 description. I couldn't have had 'background noise' which required her muting because at that time, my microphone audio was muted even though I was in a very quiet room. No background noise existed for her to mute the line.

Background

I know what I experienced Mar 7, 2024, I know how to plan, coordinate, lead and execute a telephone conference call. I know protocol. As a USAF Colonel-retired and GS-12 retiring after 30 years of service, I have participated in daily telephone conference and video conferences, Department of Defense (DOD) Classified and Unclassified, for the USAF Air Mobility Command (AMC) Air Operations Center/618th Tanker Airlift Control Center (618AOC/ TACC) from 1996-2016. From 2001-2007 I was on at least two telecons daily. From 2007-2016 I was on two weekly. Today, as a Captain of a major US Airline flying within the Continental US (CONUS), Canada, and Mexico, I initiate 1-2 teleconferences during my 4 day trips. These are conducted while airborne using third party radio services or on the ground via cell phone. I coordinate with at least three parties each telecon. I know how to mute, unmute microphones, and know the errors that occur during these calls. During recurring FAA mandated Check rides every nine months, I'm evaluated on my Crew Coordination, Flight Attendant briefing, Dispatch and Maintenance Support coordination via simulator scenarios.

Board Consideration:

Is the causal factor in this 'muting' event an Error of Omission due to an Expectation Bias created by an SCRAA Board Institutionalized Culture of Lack of Transparency, Lack of Responsibility and Lack of Supervision? Review the Evidence below in this case. Evidence exists that is outside the scope of this claim or Board Responsibility, I can provide if requested.

A sworn affidavit means that the individual 'believes' their testimony is 'true and correct' not what 'actually occurred'. I.e: Error of Omission based on Expectation Bias. In the aviation world using a developing NTSB investigation example, that means Boeing employees 'thought Alaska Airlines 737 Max 9 door plug bolts were tightened' when in fact there is no documentation they were nor did any Boeing employee in fact tighten or quality check the bolts during production. Results, a door plug became detached in flight. A Causal Factor is a Boeing deteriorated Safety Culture, cut corners to enable speed of production. You read the news.

Claim Evidence:

1. SCRAA Minutes provided to this Board are DRAFT until modified and approved by the SCRAA Board members. See Agenda items Ms Beattie provided, each meeting Agenda Item 2 or 3. Both ladies know they are DRAFT until Board approved and failed to annotate the document or explain to this Board.
2. Ms Beattie's Response: Paragraph 10, aka second paragraph from bottom: I agree sentence one is an incomplete thought and an incomplete sentence, my apologies. However further descriptive sentences two and three refer to SCRAA Board lack transparency and failure to listen to the public. The 2012 28E contract is an example, ruled 'Unconstitutional' by the Iowa Supreme Court in June 2022. The Board was aware in Nov 2017 and chose to not make changes.
3. Review the minutes Ms Beattie submitted and note, they may state the name of the public member that presented comments, not what the comments stated. This

omission deletes any formal written record of what the public comment was. Lack of Transparency. See three attachments — minutes of public remarks were included in minutes Nov 17, 2017; Member Barnes voted against Feb 27, 2018; no public comments included on any minutes after Jun 20, 2018. A Board member nor Chairman has ever explained why privately or publicly.

Conclusion:

How did you answer the Opening Questions?

Recommendation:

As a public information board, please review the evidence and agree with the claimant.

Thank You for your time and consideration

Respectfully

Danny Nugteren

The Iowa Public Information Board

In re the Matter of: Leah Schwery, Complainant And Concerning: City of Ute, Respondent	Case Number: 24FC:0030 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 March 17, 2024, Leah Schwery filed formal complaint 24FC:0030, alleging that City of Ute (“City”) violated Iowa Code chapter 21.

Facts

Ms. Schwery alleges that the minutes from the January 10, 2024, City Council meeting failed to include the vote of each member on the question of holding the closed session. She also alleges the minutes show “Miller” recorded as an Aye vote on the motions. Miller's term on the city council ended in 2023. There is no individual vote recorded for current council member “Pithan” on these motions. The minutes were published Jan. 18, 2024 and the City Council approved the minutes at its meeting in February.

In response, the City provided a copy of amended minutes with the previous errors corrected.

Applicable Law

Iowa Code § 21.3 requires “[e]ach 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.”

“The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes.” Iowa Code § 21.5(2).

Analysis

The amended minutes state that the City went into closed session “pursuant to Code of Iowa §21.5(1) to discuss strategy with legal counsel in matters that are presently in litigation or where litigation is imminent and where its disclosure would be likely to prejudice or disadvantage the government.” The vote was “All Ayes.” With the unanimous vote, this would have met the 2/3rd threshold to enter the closed session.

The amended minutes also corrected the name of the council person from “Miller” to “Pithan.”

As the minutes have been amended to include the corrected information, any violation of chapter 21 has been remedied.

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.

All errors and omissions in the minutes have been remedied in the amended minutes for the January 10, 2024, City Council meeting.

IT IS SO ORDERED: Formal complaint 24FC:0030 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 April 18, 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 April 11, 2024, to:

Leah Schwery

John Hines, attorney for City of Ute

The Iowa Public Information Board

In re the Matter of: Danny Jensen, Complainant And Concerning: Fort Dodge Police Department, Respondent	Case Number: 24FC:0028 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

Danny Jensen filed formal complaint 24FC:0028 on March 12, 2024, alleging that the Fort Dodge Police Department violated Iowa Code §22 on January 22, 2024.

Mr. Jensen states that he was denied the public records by the Fort Dodge Police Department and other records were deleted. The following is his complaint to the IPIB: *“They deleted officer Samuelson Jr. body cam footage after I complained that he lied in police report & it was provable by his body cam! They are refusing to release the 2 car cams, other officer involved body cam, the security footage from motel!”*

Captain Steve Hanson of the Fort Dodge Police Department (FDPD) provided the response to this complaint. He responded to the two issues identified by Mr. Jensen.

The first regarded the deleted body worn camera footage (BWC) by Officer Dylan Samuelson. In April of 2022, Mr. Jensen made the same complaint to the FDPD about the missing BWC of Officer Samuelson and the issue was looked into by the department. They learned that on December 15, 2021, Officer Samuelson responded to a call for service. It was the first call of his shift and Officer Samuelson got into his car and goes to the scene. Officer Samuelson did not log into the car camera video system, so it defaulted to the officer that was driving it prior to him. At the end of the incident because he was not logged in as himself the car camera and BWC did not sync together for retention purposes. Because of the classification of the BWC for Officer Samuelson that evening, the retention rules the video deleted off the system on March 16, 2022.

The second issue is that the FDPD is refusing to release the other video associated with this criminal incident. Captain Hanson states that Mr. Jensen was told by the FDPD evidence technician more than once of how to request the video the proper way and that she would have to give him a quote for the cost of the records. Mr. Jensen never followed through according to the evidence tech. The FDPD is currently communicating with a law firm who represents Mr. Jensen

They now have made the proper request for the video and most of it has already been sent to them. There is one video the FDPD is still working on but have communicated with the law firm directly and are working through the details.

Analysis

Staff reviewed this complaint and the response from FDPD. The body worn camera video that was requested has been deleted by the FDPD recording system and considered harmless error. The other video records requested are being provided to Mr. Jensen through his attorney. It appears that the issues of this complaint are being resolved. There does not appear to be a violation regarding deletion of the video and the denial of the public record request is being addressed.

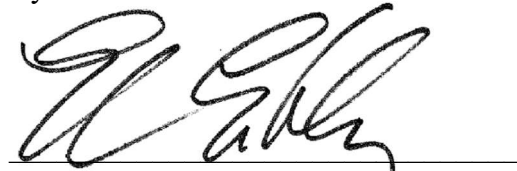
Conclusion

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:0028 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). The Fort Dodge Police Department did not violate any part of the public records 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 April 18, 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 April 12, 2024, to:

Danny Jensen
Chief Dennis Quinn, Fort Dodge Police Department



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

IPIB Complaint 24FC:0024 Response Letter

Megan Rimmel <mremmel@fsmail.bradley.edu>
To: "Toresdahl, Brett" <brett.toresdahl@iowa.gov>

Wed, Apr 10, 2024 at 4:49 PM

Yes, I'd like to withdraw the complaint. I've received the information I needed. Thank you for your assistance!

[Quoted text hidden]



DR. MEGAN REMMEL

ASSOCIATE PROFESSOR OF POLITICAL SCIENCE

COLLEGE OF LIBERAL ARTS AND SCIENCES

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○ (309) 677-2495



Board Dashboard

Dashboard for Board Meetings

As of Apr 11, 2024 1:20 PM-Viewing as Erika Eckley

Active Cases Report

45

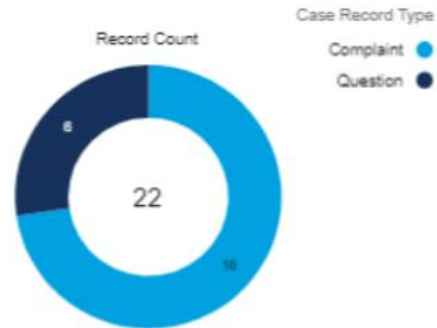
[View Report \(Active Cases Report\)](#)

Active Questions Report

2

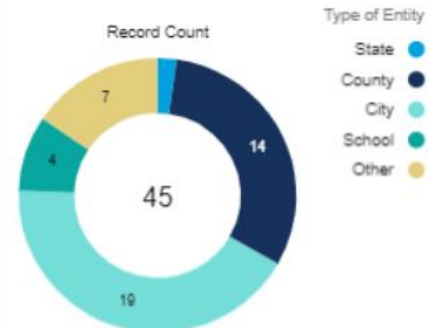
[View Report \(Active Questions Report\)](#)

New complaints &/or question last 30 day



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

Cases by Entity



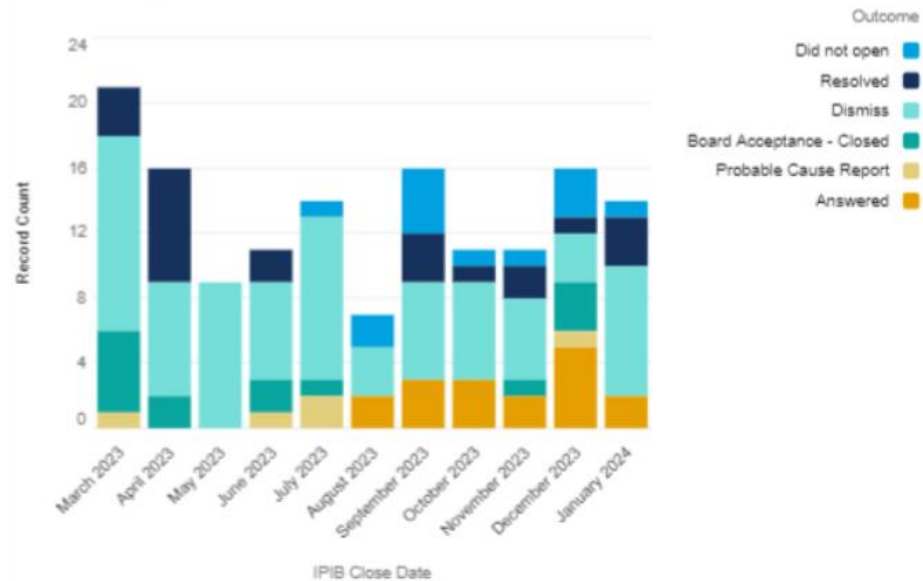
[View Report \(Cases by Entity\)](#)

Broad Type (Filed in Current)



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

Closed cases (past 12 months)

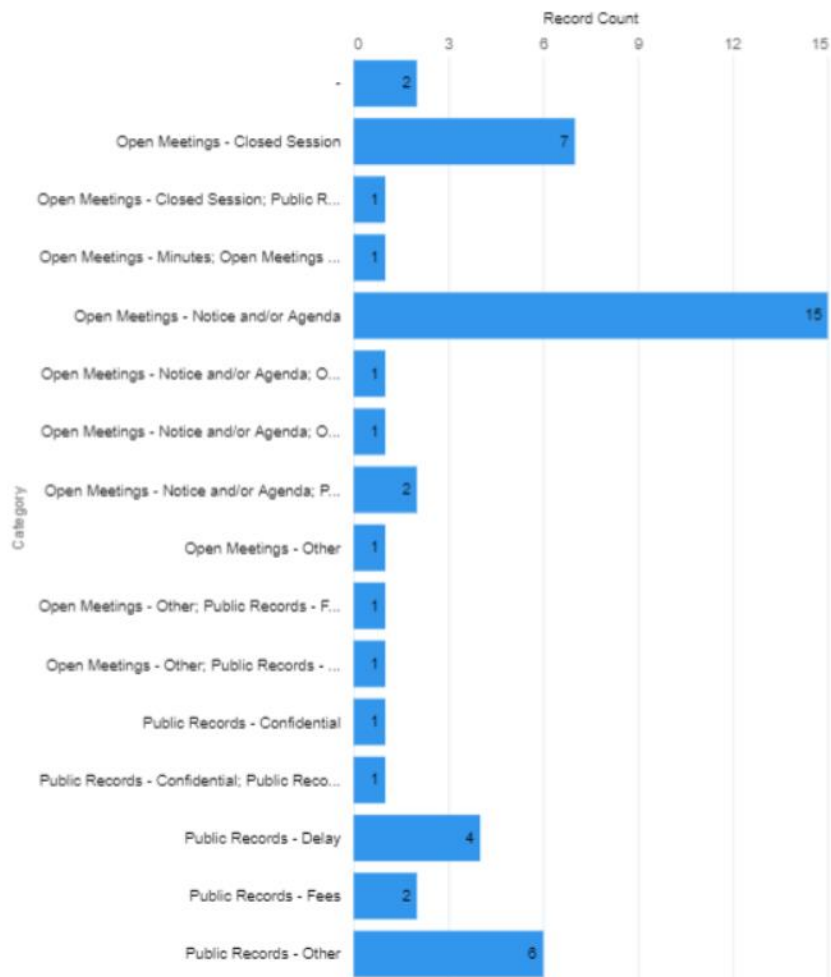


[View Report \(Closed cases \(past 12 months\)\)](#)

Cases by Type

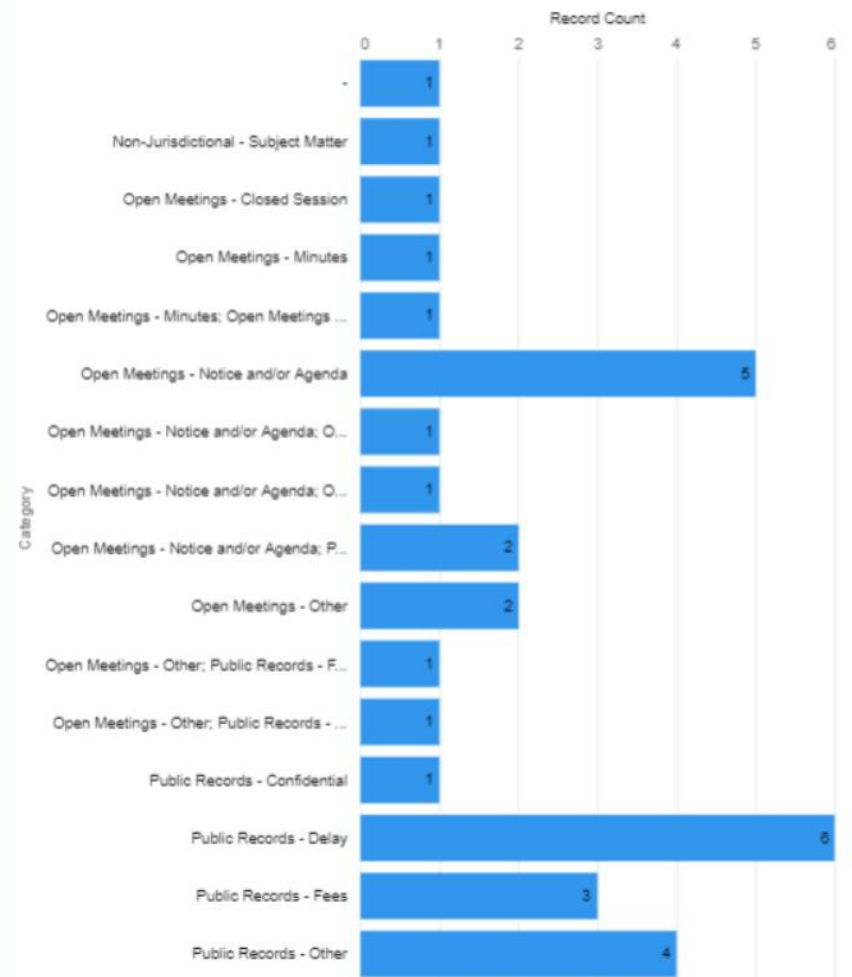
As of Apr 11, 2024 1:19 PM-Viewing as Erika Eckley

Cases by Type (Active)



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

Cases by Type (Filed in Current Year)



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

Fund: 0001 General Fund
 Appropriation: P22 Iowa Public Information Board

Obj/Rev	Obj/Rev Name	Prior Quarter	JAN	FEB	MAR	Current Quarter	Total Year To Date	Annual Budget	Percent of Budget
Obj/Rev Class	Obj/Rev Class Name	(A)	(B)	(C=A+B)	(D)	(E=C/D)			
Expenditures									
1100	Salaries & Wages	77,941	12,368	12,367	11,768	36,503	114,444		
1101	Federal Withholding	11,086	1,716	1,716	1,592	5,024	16,110		
1103	State Withholding	4,065	691	691	643	2,025	6,090		
1105	F.I.C.A.	8,524	1,362	1,362	1,294	4,018	12,542		
1108	State Retirement	6,919	1,122	1,122	1,071	3,314	10,233		
1110	Blue Cross/Blue Shield	1,177	410	410	308	1,128	2,305		
1117	Group Life Insurance-Individual	0	47	47	41	134	134		
1118	Deferred Compensation	465	75	75	75	225	690		
1123	Dental Insurance	257	46	46	46	138	395		
1141	Flexible Spending Employee Share	114	0	0	0	0	114		
1160	Dependent Care	0	0	0	500	500	500		
1311	Employer Share- FICA	8,524	1,362	1,362	1,294	4,018	12,542		
1312	Employer Share- IPERS	10,384	1,684	1,684	1,607	4,974	15,358		
1315	Employer Share-Blue Cross/Blue Shld	9,110	3,708	3,708	3,708	11,124	20,234		
1317	Employer Share-Grp Life Ins	47	8	8	8	23	70		
1318	Employer Share-Disability Income	251	40	40	40	119	370		
1322	Deferred Compensation-State Share	428	75	75	75	225	653		
1323	Dental Insurance - State Share	432	82	82	82	246	678		
101	Personal Services	139,723	24,794	24,794	24,150	73,738	213,461	286,459	75 101
2103	Current Pers Mileage Rate - In-State	758	197	0	0	197	955		
202	In State Travel	758	197	0	0	197	955	5,298	18 202
2218	Photo Copies	84	0	0	0	0	84		
2219	Other Office Supplies	72	0	1,456	0	1,456	1,528		
2220	Subscriptions	600	120	120	0	240	840		
301	Office Supplies	757	120	1,576	0	1,696	2,453	3,000	82 301
2319	Printing Costs	0	0	0	0	0	0		
309	Printing & Binding	0	0	0	0	0	0	500	309

Total Expenditures:	162,724	26,793	28,265	25,743	80,801	243,525	370,950	66 Expenditures
Total Obligations (Exp+Enc):	162,724	26,793	28,265	25,743	80,801	243,525	370,950	66
Total Commitments (Exp+Enc+Pre):	162,724	26,793	28,265	25,743	80,801	243,525		
Remaining Authority (Rev-Obl):	(162,724)	(26,793)	(28,265)	(25,743)	(80,801)	(243,525)	(370,950)	66