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Status Report As Required by Code Subsection 23.6(12)

January 24, 2014

Iowa Code chapter 23, enacted in 2012 and amended in 2013 establishing the Iowa Public Information Board (IPIB), requires the board to “prepare and transmit to the governor and to the general assembly, at least annually, reports describing complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.” This report reviews the work performed by the board in 2013 in accordance with the directives of Chapter 23.

The board

Governor Branstad appointed the board in July, 2012. Since then the board has met on a monthly basis performing a number of organizational activities necessary prior to being authorized to become operational July 1, 2013

The board achieved operational status on July, 8, 2013, with the opening of an office on the third floor of the Wallace Building

Chapter 23 states no more than three members of the nine-member board shall represent the media, and not more than three represent cities, counties or other local governments. The members serve staggered four-year terms, and the board must be balanced by political party and gender. The board appoints a chair from among its members. The board is an independent agency. The nine initial appointees are:

---**Robert Andeweg, JD**, Urbandale (Republican) - Robert is an attorney with the Nyemaster Goode Law Firm in Des Moines. He has served on the Urbandale City Council and currently serves as that city’s Mayor.

---**Tony Gaughan, JD**, West Des Moines (Republican) - Tony is an attorney who is an Assistant Professor of Law at Drake University in Des Moines. His term will expire this year.

---**Jo Martin**, Spirit Lake (Democrat) - Jo is a semi-retired vice president of Times-Citizen Communications in Iowa Falls, having worked for several other Iowa newspapers prior to that. She is a Past President of the Iowa Newspaper Association (INA) and the Iowa Newspaper Foundation (INF). Her term will expire this year.

---**Andy McKean, JD**, Anamosa (Republican) – Andy is an attorney who has served as a City Attorney (Morley, Martelle, and Mechanicsville), a County Supervisor (Jones County 2003-2011) and a State Legislator (State Representative 1979-1993 and State Senator 1993-2003).

---**Gary Mohr**, Bettendorf (Independent) - Gary is Executive Director, External Affairs for Eastern Iowa Community College in Davenport. He was elected to the Bettendorf City Council in November, 2013. His IPIB term will expire this year.

---**Bill Monroe**, Johnston (Republican) (chair) - Bill retired after 29 years as Executive Director of the Iowa Newspaper Association in 2009. Prior to that, he worked at several Iowa newspapers as an editor or publisher. In

Board Members

Robert Andeweg • Anthony Gaughan • Jo Martin • Andrew McKean • Gary Mohr • William Monroe
• Kathleen Richardson • Suzan Stewart • Peggy Weitl

2011, Governor Branstad named him to serve (in a volunteer capacity) as the Governor's Transparency Advisor. He has served on the Executive Committee of the Iowa Freedom of Information Council. His term will expire this year.

---**Kathleen Richardson, JD**, Des Moines (Democrat) - Kathleen is Director and Associate Professor at the Drake University School of Journalism and Mass Communication in Des Moines and has served as Executive Secretary of the Iowa Freedom of Information Council (IFOIC) since 2000. She has also served as a coordinator for the Expanded Media Coverage (camera in the courtroom) program for the Supreme Court.

---**Suzan Stewart, JD**, Sioux City (Republican) - Suzan is Senior Managing Attorney with MidAmerican Energy Company. Her term will expire this year.

---**Peggy Weidl**, Carroll (Democrat) - Peggy retired as the Treasurer of Carroll County on December 31, 2013.

Board Staff

---**Keith Luchtel, JD**, serves as Executive Director. He retired December 31, 2012, from the Nyemaster Goode Law Firm in Des Moines after serving almost three decades as legislative representative for the Iowa Newspaper Association and the Iowa Broadcasters Association, among others. He was employed by the Board following a publicly open application and interview process. He is a graduate of the Drake Law School and the United States Air Force Academy. He had served "of counsel" to the board in a volunteer capacity since appointment of the board in July, 2012. He assisted the board in writing its administrative rules and establishing an office that opened for business on July 8, 2013, the date of his employment.

---**Margaret E. Johnson, JD**, serves as deputy director of the board. She received a bachelor's degree in Journalism from Iowa State University and a law degree from Marshall/Wythe Law School at the College of William and Mary. Her prior legal experience includes serving as a captain with the Army JAGC; assistant district attorney in the 4th Judicial District, Colorado; assistant county attorney for Teller County, Colorado; private practice; the El Paso County GAL office; contract prosecutor for the Iowa Attorney Disciplinary Board and Fremont County, Iowa, county attorney. Her judicial experience is as a substitute juvenile magistrate in Colorado. She joined the staff on July 22, 2013.

---**Cindy Meyerdirk** serves as Administrative Assistant to the board. She moved from NW Iowa, where she held business staff positions, to Des Moines in 2007. Cindy then began government employment with the Iowa Fire Marshal Division of the Department of Public Safety. She served as Assistant to the Building Code Director and served as the Assistant to the Fire Marshal when hired by the IPIB commencing July 5, 2013.

The board's vision

At its first meeting on July 19, 2012, the board outlined its vision for the agency it was setting out to define. The minutes of that meeting state the board said its operation should

- be inexpensive
- be convenient
- provide a one-stop service
- provide uniformity of information and
- provide consistency of information.

Transparency

It is the goal of the board to be the state's most transparent state agency.

The IPIB strives to send notice out earlier than the required 24 hours prior to all meetings and to many more people than only those from the media. To date, 95 people or agencies are being sent meeting notices.

In addition to distributing required tentative agendas the board also sends agenda exhibits and prior meeting minutes when notifying requestors about meetings. The board also posts its agendas on the board's website.

IPIB minutes are posted on the board's website and sent to all who have requested meeting notice.

Complaints Received

As of December 31, 2013, staff has processed 251 "cases". Not all are complaints as indicated below. Case inquiries arrive via the website, mail, phone, email, and office visits. The Case Management System (CMS) developed by staff assigns a number and case type to each. We anticipated an annual case rate of 300 to 350. The 251 cases opened in the first six months include:

Formal Complaints (43) – these cases require investigation and are processed for Board review as outlined in the Rules. Complainants have included citizens, media, and elected officials.

Formal Opinions (3) – these cases require research and investigation and are processed for Board review as outlined in the Rules. Requests have been made by agencies and media.

Declaratory Orders (2) – these requests involve research, investigation and coordination with governmental bodies and other organizations, prior to presentation to the Board as outlined in the Rules. The two requests came from an individual and from media.

Informal Complaints (51) – these informal cases also require investigation, research and mediation. Informal complaints are resolved without the filing of a formal complaint to the Board. The majority of these complaints in 2013 were from citizens requesting assistance in obtaining records or accessing meetings.

Informal Requests (139) – these informal cases require review and research. Informal Requests can normally be resolved within 24 hours. They do not require Board review and action under the Rules. Usually the requestor is a public official, staff, or legal counsel seeking assistance in the interpretation of Chapters 21 and 22.

Miscellaneous Other (13) – this category includes other requests for assistance that do not fall within the above categories, such as training, legislative issues, etc.

Other Requests for Advice, Assistance and Formal Action Received

One formal opinion has been provided to the Iowa Civil Rights Commission at its request concerning application of the open records law (Code chapter 22) to settlement documents.

Informal opinions have been given concerning a wide variety of open meetings (Code chapter 21) and open records issues. The board's "customer base" is of a gratifyingly broad spectrum.

Decisions Rendered

Of the forty-three (43) formal complaints filed in 2013, all but two are resolved. The unresolved cases have involved complicated negotiations between Department of Human Services and the Des Moines Register. One has involved the production of several hundred records and the dispute has come down to one part of one record. The other involves the requested production of a videotape made in a seclusion room of a cottage at the Iowa Juvenile Home at Toledo, Iowa.

Several cases have been dismissed as having not been timely filed - outside the board's sixty-day period of limitation. Also, some requests seek assistance on problems that are not within the board's jurisdiction. On occasion staff has been able to be of assistance on an informal basis to help citizens obtain a satisfactory result with the cooperation of public official in other agencies.

Investigations

No formal field investigations have occurred during the first six months. Some meetings and research trips on the unresolved formal complaints have occurred out of the IPIB office. The investigatory phase of most cases occurs in the process of conciliation, the preferred method of dispute resolution. Good cooperation among parties has been the rule, not the exception. The occasional exception has been overcome with patient persistence, and the cooperation of local government organizations and the attorneys who represent involved local governments.

Hearings Conducted

No formal hearings were required to be conducted in 2013. The conciliatory approach to problem solving has thus far been successful with two exceptions, noted above, that could result in contested case actions pursuant to Chapter 17A in 2014.

Board proceedings

All IPIB meeting minutes for the past year are available on the website (www.ipib.iowa.gov).

Board Outreach and Training

Board members and staff represented the board at the events listed below. In most cases presentations were made concerning the operation of the board, its goals and its powers and duties. The board has made it known to civic, law enforcement, local government, media and professional organizations that it welcomes the opportunity to provide speakers and training opportunities. All presentations emphasize the statutory goal, embraced by the board, of using a conciliatory approach to solving transparency issues. Building a reputation as a resource to be used free of charge by local government officials and custodians of public records is a key board goal.

---Appearances have been made before the following entities in 2013:

- *Iowa Newspaper Association Convention, Des Moines, February 8
- Iowa Broadcasters Association Board, Des Moines, February 19
- University of Iowa President's Cabinet, Iowa City, February 25
- FOI-Oklahoma presentation, Oklahoma City, March 9
- Des Moines Register Update Session, Des Moines, March 25
- Board of Regents' Transparency Task Force meeting, Des Moines, April 5
- University of Iowa Faculty Council, Iowa City, April 16
- Iowa Broadcast News Association, Ames, April 20
- *Board of Regents' Transparency Task Force meeting, Des Moines, May 10
- Iowa Hospital Association, Des Moines, May 22
- Board of Regents' Transparency Task Force meeting, Des Moines, June 19
- *Iowa Broadcasters Convention, West Des Moines, June 26
- Hampton Rotary Club, Hampton, July 10
- Iowa League of Cities E-Central Coalition, Grinnell, August 1
- Iowa Land Records group, Cedar Rapids, August 15

Iowa League of Cities Mid-Sized Cities, Marshalltown, August 23
Iowa League of Cities annual meeting, Dubuque, September 26
*IFOIC Annual Meeting, Iowa City, October 3
*IPIB Symposium, U of I Adler Journalism Building, Iowa City, October 3
*Iowa Center for Public Affairs Journalism Awards Dinner, Iowa City, October 3
Legislative Services Agency CLE, Des Moines, October 17
Attorney General's CLE for Government Lawyers, Des Moines, October 18
Northeast Iowa Regional League of Cities, Dyersville, October 29
ISAC Fall School, Des Moines, November 14
Jefferson Rotary Club, Jefferson, November 18
Advancing Government Accountability Assoc., Des Moines, November 20
Iowa Municipal Attorneys Association, Johnston, November 22
Iowa State Bar Association CLE, Des Moines, December 9
* Indicates No Formal IPIB Presentation Made

Resources and activities

The board members operated with no staff, no budget and no reimbursements of any kind the first six months of 2013. The board continued to meet on a monthly basis and usually has 100% attendance.

Board committees have been formed to focus on several tasks including:

- Developing and implementing administrative rules and procedures;
- Developing and implementing information policy and processes;
- Developing and implementing a legislative recommendations process;
- Developing and implementing a training program in cooperation with government and media organizations and
- Creating and operating the website, www.ipib.iowa.gov.

Board tasks completed in 2013 include:

---**Administrative rules and procedures noticed, adopted and filed.** The board successfully adopted and filed all of its administrative rules to become effective on July 1, 2013. All preliminary drafts of the rules were treated as public records and were sent to anyone requesting information about board agendas and meeting times. This transparent process enabled the board to get input from all affected stakeholders prior to filing the Notice of Rule Making. This in turn resulted in the adoption of a complete set of operating rules without controversy in advance of the statutory operational start-up date of July 1. Supplemental rules incorporating locational and contact information insertions were adopted and filed effective November 20, 2013.

---**Website Created.** Since the board is thinly staffed, it's imperative that the board have a robust website. It is an ever growing source of information. The IPIB website, www.ipib.iowa.gov, opened in late August 2013. The website includes the full text of Chapters 21, 22, and 23. It also includes questions and answers (FAQs) about various issues, copies of selected formal complaint decisions of likely interest, all minutes and agendas for the IPIB, activities of the IPIB and contact information. The website also has links to file a formal complaint or to ask a question. Statistics from the web host for October through December 2013 note 1,260 unique visitors viewing 8,366 pages on the website.

---**Developing a training program.** For the past decade or so, the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Association of School Boards, the Iowa Newspaper Foundation, the Iowa Broadcasters Association and the Iowa Freedom of Information Council have worked together to present training

opportunities for their constituents and the general public. The board is working with these groups and others to expand the availability of training materials and media for use in the second half of 2013. Roundtable discussions with other agency and organization representatives occur three to four times a year to review IPIB training outlines, web FAQs and web training as a way to create state-wide, uniform training. A web-based, self-taught curriculum, Open Government 101, is planned for 2014.

---Information policies and processes established. An email distribution list is available to anyone who wants to receive copies of all general notice items such as meeting notices, agendas and minutes. Other general interest items are also circulated on this list. The policies and processes reflect the board's transparency goal stated above. The executive director is responsible for securing information in the custody of the board that is required to be kept confidential.

---Establishing board goals and metrics to measure progress. The board has established a case management system that continues to be refined and adjusted as experience warrants. The only metric used as a reference point presently is the anticipated case rate of 300 to 350 cases per year when the establishing legislation was enacted in 2012. It is anticipated this metric will be greatly exceeded if current experience and usage of the board's services by the public, law enforcement, local government officials and state officials continues to expand. As the board establishes itself and gains operation experience, it is anticipated that more refined measurements of the board's reach and effectiveness will be developed. At least one year's data will be required.

