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IPIB AO 2015-02

March 26, 2015

**SUBJECT: Is Chapter 21 Public Meeting Notice the Same as Notice Required for a County Public Hearing?**

Kevin Kilgore  
1695 115<sup>th</sup> Street  
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of March 2, 2015, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. 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.

**FACTUAL STATEMENT:**

You advise us that Iowa Code section 21.4 requires public notice for governmental meetings and that Iowa Code section 331.434 requires notice of a public hearing prior to a county taking action in certain situations.

**QUESTION:**

Is the notice for a public meeting under Iowa Code section 21.4 acceptable as notice of a public hearing under Iowa Code section 331.434?

**OPINION:**

We first note that we do not have jurisdiction to interpret Iowa Code section 331.434 or make any determinations as to what constitutes compliance under that statute.

We understand that Iowa Code section 331.434 has a notice provision for items covered under that statute that requires posting of notice for a public hearing far in advance than what Iowa Code section 21.4 requires for a public meeting.<sup>1</sup>

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<sup>1</sup> Iowa Code section 331.434 references a ten day notice for public hearings and Iowa Code section 21.4 requires twenty-four hours notice prior to a public meeting.

**Board Members**

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

We also note that Iowa Code section 21.4(4) provides that if a different Code section requires “giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.” As such, notice under Iowa Code section 331.434 constitutes notice under Iowa Code section 21.4.

Turning to your question, the notice requirements for a public meeting under Iowa Code section 21.4 do not take the place of the notice requirements under Iowa Code section 331.434 concerning public hearings although the reverse is true as we discussed in the above paragraph.

In closing, we again remind you that we are not interpreting Iowa Code section 331.434 and we are not speaking as to whether or not a county is compliance with that statute as such an issue is beyond our jurisdiction.

BY DIRECTION AND VOTE OF THE BOARD

Robert Andeweg, Chair

Anthony Gaughan

Jo Martin

Andrew McKean

Gary Mohr

William Monroe

Kathleen Richardson

Suzan Stewart

Peggy Weitzl

Submitted by: W. Charles Smithson, IPIB Director