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IPIB 19 AO: 0005
DATE: September 19, 2019
SUBJECT: Traffic Monitoring System Open Records Proposed Policy

Tim Pearson, Attorney
Laden and Pearson, P.C.
8410 Hickman Road, Suite 102
Clive, Iowa 50325

RULING:

Dear Mr. Pearson:

This opinion is in response to your filing of August 12, 2019, requesting the advice from the Iowa Public Information Board (IPIB) under Iowa Code § 22.1 (3)(a-b), Iowa Code § 22.1 (2), and rule 497—1. 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. The advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You requested an advisory opinion regarding the proposed policy draft of the Johnston Public Works Traffic Monitoring System Administrative Policy. The city of Johnston operates multiple cameras at various traffic locations. The cameras serve the purpose of monitoring road conditions, traffic conditions, and helping city officials analyze and improve the flow of traffic. In email statements, your client clarified that he wants to know whether the costs comply with Chapter 22. He also sought clarification on whether the city of Johnston could require those seeking public records to provide legal identification, along with their names, addresses, and phone numbers.

QUESTIONS PRESENTED:

The proposal would require making video copies. For that service, the city proposes to charge \$10.00 for the first ten minutes and \$5.00 for each additional five minutes of footage. Is such a requirement permissible under Chapter 22?

May the city require that those seeking the traffic information video present legal identification, name, address, and home numbers on a specified form?

OPINION:

Regarding the question about the cost of reproducing video that constitutes a public record, several different issues require examination. Iowa Code section 22.2(1) requires that a government body allow the observation of public records in the government office.

Sometimes records contain confidential information under Chapter 22 or other state or federal legislation that an agency must redact from video software or paperwork. If so, under Chapter 22.3, an agency may charge for the service of separating confidential material.

Furthermore, the city may use highly specialized computer technology with which someone may need assistance viewing, taking time away from other tasks. It may not be as simple as using a paper file. If supervising the video watching requires detailed supervision or protection, the city may be justified in charging for the actual staff time and expenses.

Board Members

E. J. Giovannetti • Keith Luchtel • Monica McHugh • Frederick Morain • William Peard
Julie Pottorff • Suzan Stewart • Renee Twedt • Mary Unga-Sogaard

If a person requests video copies, then the city may charge for the actual cost involved in fulfilling the request of copying them. Iowa Code section 22.3(1) allows government bodies to charge a reasonable fee for copying services. Under Iowa Code section 22.3(2) the agency may charge actual costs for the lawful custodian or his/her assistant's time providing the copying service.

The city proposes to charge \$10.00 for the first ten minutes of the video. After the first ten minutes, the city would require a \$5.00 payment for each additional five minutes. If the proposed fees accurately reflect the actual costs to provide the record, then the price is appropriate. If not, then the proposed policy should be modified to reflect the value of time, effort, and materials under Iowa Code section 22.3(2).

The city may request, but not require, people requesting records disclose their names, addresses, and phone numbers. However, under Iowa Code section 22.3, a government body must respond to all public records requests, whether those requests come through a phone call, email, or letter. It cannot limit the records' disclosure to people who complete a specific form designed by the city or people who provide legal identification.

BY DIRECTION AND VOTE OF THE BOARD.

Renee Twedt, Chair
E.J. Giovanetti
Keith Luchtel
Monica McHugh
Frederick Morain
William Peard
Julie Pottorff
Suzan Stewart
Mary Unga-Sogaard

Prepared by: Amanda T. Adams

Issued on: 9-19-2019

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.