

To: ccmil@cob.org <ccmil@cob.org>; Daniel C. Hammill <dchammill@cob.org>; Jace A. Cotton <jacotton@cob.org>; Hannah E. Stone <hestone@cob.org>; ehwilliams@cob.org <ehwilliams@cob.org>; Michael W. Lilliquist <mlilliquist@cob.org>; Hollie Huthman <hahuthman@cob.org>; Lisa A. Anderson <laanderson@cob.org>
Cc: mayorsoffice@cob.org <mayorsoffice@cob.org>; Alan A. Marriner <amarriner@cob.org>; Janice L. Keller <jkeller@cob.org>; Jackie A. Lassiter <jalassiter@cob.org>; Satpal Sidhu <ssidhu@co.whatcom.wa.us>; council@co.whatcom.wa.us <council@co.whatcom.wa.us>; phab@co.whatcom.wa.us <phab@co.whatcom.wa.us>; Health <health@co.whatcom.wa.us>; G. CC. Immigration Board <immigrationboard@cob.org>; WREC <wrec@chuckanutthealthfoundation.org>; Cascadia Daily News <ronjudd@cascadiadaily.com>
Sent: Tuesday, March 26, 2024 at 07:29:08 AM PDT
Subject: Additional action required, plus context for 2 other recitals from the ordinance passed to suspend the Immigration Advisory Board

Tue, Mar 26 at 7:29 AM

Dear Bellingham City Council:

I have written recently related to information in one of the recitals in the [ordinance you passed on February 12, 2024](#) to suspend meetings of the Immigration Advisory Board that is untrue, according to public records which have been made available to me. I have included a copy of that email below my signature, so you can have all the recent material I have sent you about the IAB suspension ordinance recitals in one place.

Today I am writing about two other recitals, one of which I believe to contain untrue information. The part of that recital that remains accurate, in combination with a second recital I am highlighting, are ones I also want to provide some information about in order to shed light on issues brought up by at least one City Council Member. These are the two recitals which appear in separate places in [Ordinance 2024-02-006](#):

1. "WHEREAS, IAB board members are required by City policy and State law to participate in periodic training on the Public Records and Open Public Meetings Acts. An attempt to provide this training to the IAB in December 2022 was unsuccessful;"
2. "WHEREAS, the IAB has created multiple subcommittees, including the Federal Contacts Data Subcommittee, Immigrant Resource Center Subcommittee, Outreach Subcommittee, and Process Subcommittee, which meet without City staff;"

Regarding the information in the first recital I listed which I believe to be untrue, in a document I received through a records request, Bellingham City Attorney Alan Marriner had sent out an [Open Government Training Requirement Compliance - Reminder](#) on November 23, 2021. In the reminder - which was sent to a number of City staff

members including the Council Office Manager and Legislative Assistant at that time who was assisting the IAB - the City Attorney presented a table detailing which government Boards/Commissions/Officials were required to participate in which particular types of Open Government Trainings Act trainings.

It was indicated in the table that the Immigration Advisory Board was required to receive training in the Open Public Meetings Act. However, it was also indicated that the Immigration Advisory Board wasn't required to receive training in the Public Records Act.

There were three government categories of officials listed in the table who were indicated as being required to receive training in the Public Records Act, and these were the City Council, the Mayor's Office, along with the Public Records Officer and Designated Records Management Officer. Additionally, I reviewed the PRA Lesson 2 training recording on the Washington State Attorney General's website, and the material was geared toward government officials who would be involved in initiating, carrying out, and monitoring the processes for providing public records to community members.

The [Washington State Attorney General's model rules for compliance with the public records act](#) shows a date of March 02, 2018, and indicates, according to WAC 44-14-0000, training is required for "local elected officials, statewide elected officials, persons appointed to fill vacancies in a local or statewide office, and public records officers." Even where that section of the WAC states that "All agency employees should receive basic training on public records compliance and records retention," it does not say they are required to take the training. Meanwhile, members of the Immigration Advisory Board aren't employees of the City of Bellingham.

If there have been no changes in the requirements of the Public Records Act as related to the Immigration Advisory Board since November of 2021, I call for Council Members to amend [Ordinance 2024-02-006](#) to remove the incorrect information that IAB board members are required by City policy and State law to participate in periodic training on the Public Records Act.

If there have been changes in the requirements, I request to be shown a copy of those changes, and of communications where the IAB has been informed of those changes.

Additionally, during the January 2, 2024 Bellingham City Council reorganization meeting, there had been some remarks from one of the Council Members related to these two recitals, which were ultimately [reported in Cascadia Daily News](#). I wanted to make sure that you all had some clarifying information and context related to them.

First, I know that the Immigration Advisory Board had provided some context of their own regarding the recital mentioning the Open Public Meetings Act that I am highlighting in this email. They did this at their last meeting, two months ago in January of this year. Some of that information and context was provided in their [Proposed](#)

[ordinance with changes suggested by Board Members](#) which was handed out during the meeting, and also in discussion during that [January 16, 2024 IAB meeting](#) (at around 01:13:30 in the meeting recording to which I have [linked](#)).

In particular, details about the [December 13, 2022 IAB meeting](#) were provided, where City Attorney Alan Marriner had attended that meeting with the purpose of providing training on the Open Public Meetings Act. The discussion that took place during that December 13, 2022 meeting about the training video Mr. Marriner had brought with him to use for the Open Public Meetings Act training starts at about 00:08:05 in the [meeting recording](#).

It was fairly quickly recognized by Mr. Marriner that because of the need for consecutive interpretation of the English-speaking video for Spanish-speaking IAB members, it would likely result in the process of the training taking several hours. He indicated he would like to regroup and give the issue of OPMA training in Spanish more thought and that he wouldn't be able to provide the training that night. However, he did take the suggestion of the Legislative Assistant to engage in a Q&A discussion that evening about the Open Public Meetings Act.

The [minutes of the meeting](#) seem to accurately reflect the ultimate decision that was made about the future training, where both Mr. Marriner and members of the IAB agreed that he would work with City staff to come up with a way to provide OPMA training that would be appropriate for Spanish-speaking IAB members for a future date. There is no sign in future IAB meeting minutes that Mr. Marriner returned to provide training.

Also during the Q&A section of the discussion that night, members of the IAB actively participated in asking questions and clarifying details about different facets of the Open Public Meetings Act and Mr. Marriner provided helpful answers and guidance. There were questions asked surrounding the issue of what would be considered a quorum of IAB members. This was asked in the context that the number of active IAB members fluctuated, so the majority number for the board would shift when there were either more or less members.

Mr. Marriner was not sure of a final answer he could give that night, since he was most familiar with situations where that number would be found in Bellingham Municipal Code applicable to their board. IAB members said their previous Council liaison had referenced that Municipal Code indicated their quorum was half of their existing members at any given time, plus one.

This discussion of quorum is relevant to the second recital I am highlighting in this email, related to the following Council Member remarks at the January 2, 2024 City Council discussion about the ordinance to suspend Immigration Advisory Board meetings:

"But I think we're going to need to do a reset and a little bit more guidance because some of the things like forming subcommittees and then not meeting publicly in those, those are things that do not happen under open meetings act."

In [Cascadia Daily News, the commentary was reported in this way](#): "Council member Lisa Anderson mentioned that meetings of board subcommittees violated the state's Open Public Meetings Act."

Since that time I have watched a couple different versions of OPMA training, [one from the Washington State Attorney General's website](#) and [one from the Association of Washington Cities](#). I am attaching relevant slides from the trainings, of which I took screenshots.

It appears from applicable information in these slides that it is only when a quorum of members of an advisory body comes together to discuss or transact business that it is considered to be conducting a meeting, with the caveat that they are not taking public comment.

Regarding the latter stipulation, IAB subcommittees do not take public comment. Additionally, it was apparent from IAB email records that board members would get advisement, as in an email I am attaching from the Council Legislative Assistant in September of 2023, of what number of IAB members was considered non-quorum during a particular timing. In the case of this email it was said: "Since this event is directly related to the work of the IAB, we should limit IAB attendance at this event to less than a quorum in order to remain in compliance with the OPMA. Up to four IAB members may attend. I'm happy to keep track, just let me know if you plan to attend."

During that same timing of September of 2023, the [September IAB meeting agenda](#) lists the names of the IAB subcommittee members at that time. None of the subcommittees contained over 4 members.

And I want to point out, as was the case in the December 2022 IAB meeting and again recently when the issue of Open Public Meetings Act requirements were brought up by the IAB suspension ordinance recitals, IAB members have taken effort and have expressed a desire to operate in compliance with the OPMA.

In the same [reminder that Alan Marriner had sent out](#) showing which kinds of Open Government Trainings the IAB was required to take, it also indicated that it is the City Council Office that is responsible for keeping record of the training.

In the last few months of 2022, leading up to that timing of the December 2022 meeting, there were two significant transitions that took place. One was that in September 2022, Council Member Kristina Martens unexpectedly took over as Council liaison to the IAB, a role previously filled by Council Member Hannah Stone. The other transition was between the former Council Legislative Assistant/Office Manager and a new one that would be filling the function of attending IAB meetings and helping the

IAB in numerous areas. The December IAB meeting was the last one to occur before the legislative assistant who had been aiding the IAB since February 2021 was gone.

These changes and the associated change in historical IAB knowledge can perhaps be a reason that some of the OPMA oversight was disrupted. I have seen a number of records showing that an IAB process subcommittee member was sending out reminders about OPMA training in 2023. I have attached a copy of one of them.

Also, I have corresponded with the current Council Legislative Assistant/Office Manager. While she was not completely clear on which existing members had and had not taken and turned in certification on OPMA training (particularly those who had taken the training before she took her position assisting the IAB), she had been following up on at least two of the certifications, and was aware that one was turned in, and that in the other case, training was taken but certification had not been turned in by the time of the January 2024 IAB meeting.

I believe it is important for Council Members to gain a full understanding of issues surrounding the implications of the IAB suspension ordinance recitals, so that you will be communicating with IAB members without undue bias toward them. Moreover, it is also important to publicly acknowledge and dispell any misunderstandings brought on by any untrue statements in the recitals and by government officials not speaking up earlier to stop inaccurate perceptions from developing in their tracks.

I understand, in situations where errors have been made by multiple participating agencies/communities in a given situation, that all parties making repeated allegations against each other can potentially derail or delay forward movement.

However, I also feel in situations where marginalized communities have been unjustly portrayed, failing to promptly, actively acknowledge and effectively rectify the specific ways we contribute to this injustice compounds decades of trauma caused by aspersions being continually cast upon groups and individuals who must fight for their rights in order to avoid the worst forms of oppression and mistreatment. It is, therefore, more damaging to keep silent about our harmful actions towards those who we have made vulnerable, than it is beneficial to be focussing exclusively on the attempt to distance ourselves from those harmful actions.

The adjudication process that is taking place now related to determining senior water rights in Washington State is just one of the examples of accountability being required at some point when it is not voluntarily offered and cultivated by those with a disproportionate share of power. It's important we remain committed to eliminating that power imbalance, and this requires our acknowledgement and action to right our wrongs.

Sincerely,
Dena Jensen
Birch Bay, WA



Sent: Thursday, March 21, 2024 at 05:32:56 PM PDT

Subject: Regarding one of the recitals in Ordinance 2024-02-006, suspending meetings of the Immigration Advisory Board

Dear Bellingham City Council:

I would have copied this email to BPD Chief Mertzig, but I could not find an email address for her.

I am writing regarding one of the recitals in [Ordinance 2024-02-006 which you passed on February 12, 2024](#) to suspend meetings of the Immigration Advisory Board.

I want to provide some information to shed light on City assertions and request action related to the following recital of the ordinance that was passed to suspend these meetings:

"WHEREAS, IAB Members who establish the meeting agendas have resisted allowing some City presentations to come forward, limiting the City's ability to provide comprehensive information and answer questions posed by IAB Members on topics such as City law enforcement operations and affordable housing initiatives;"

Records I obtained this year from public records requests and the screen recording I made of the October 17, 2023 Immigration Advisory Board meeting contain discussions surrounding a potential staff presentation on housing, along with a police presentation on law enforcement operations which had been suggested by City staff members who were attending IAB meetings. (It's my understanding that the City was not successful in making a recording of the October 17, 2023 meeting. There are three regular IAB meetings in 2023 for which there are no meeting recordings posted.) Here is a link to a copy of the portion of the October 17 meeting screen recording I had made back at that time which corresponds to the transcription I am attaching to this email: https://drive.google.com/file/d/12-sRvYZAILPTbJi4u3iaKwBhaD9IxAtx/view?usp=share_link

The unsubstantiated claim in the recital above - that IAB members who establish meeting agendas have resisted allowing some alluded-to presentations - is untrue. The recital singles out up to 3 members of the IAB that can be reasonably identified, and also conflates those members, so that the assertion falls on all three. If there is any other source of material that outweighs the evident intent of IAB members to receive such presentations shown in the email records and transcription of the meeting discussion I am attaching to this email, I request to be provided with that material.

It is clear from the materials to which I have access, that, far from not wanting to allow presentations, IAB members, including specific members that the recital above made claims about, desired to receive those types of presentations, along with many types of information from the City which would be focused on impacts related to the immigrant community. In the case of the discussion about housing in particular, it was both stated by an IAB member involved in establishing meeting agendas in an email chain discussion (which I have attached a copy of), as well as stated by an additional IAB member during the meeting, that receiving an immigrant-focused housing presentation would have been preferred as early as that October meeting, or, as was stated in other words, "sooner than later."

Records show that it seemed, from the City's perspective, that the need of the IAB to receive some clarifying information about the housing presentation prior to it being placed on the agenda, posed a delay for the presentation. At the October 17, 2023 IAB meeting, IAB members and staff members who were present used some of that time to have a discussion about that need for clarifying information and how to actually be able to have the City present material to the IAB that would be useful to their work.

Staff described what types of efforts could be onerous for their side. IAB members described what types of efforts could be onerous for theirs. After the contributions everybody made, both the City Council Legislative Assistant and the City Communications Director/Interim Deputy Administrator indicated they felt they had helpful input that would allow them to move forward in arranging the presentation, of which IAB members were supportive.

In the case of a presentation from Bellingham Police Chief Rebecca Mertzig, which had been proposed by Communications Director Janice Keller in an email on June 6, 2023, Liz Darrow, as a member of the IAB's Process Subcommittee (the team that was involved with setting agendas) had responded the same day. She indicated that although there were concerns about a presentation to the full Immigration Advisory Board due to a sense of safety for attendees (the IAB has been successful in developing an increasing IAB meeting attendance by immigrants in the community), that the process subcommittee felt "that it would be prudent to offer members of the IAB a meeting with Chief Mertzig to do the learning about the drug ordinance, and then they can present back to the IAB. That way, members of the board and public who don't have a safety issue can opt into that meeting, and then everyone can have the benefit of learning what the rules and processes are from that group of people."

An email chain with additional correspondence related to this meeting, which is attached to this email, continued over the next couple days. The discussion resulted in a confirmation from Liz Darrow that from her perspective, the time and date when Chief Mertzig was available meet with a non-quorum group of IAB members which Janice Keller had sent - along with her proposal to talk further and extend invitations at the June IAB meeting - would work. There wasn't further correspondence about this matter that appeared in public records provided to me of communications between IAB process

subcommittee members and City officials for 2023, and no further discussion about it is recorded in IAB meeting minutes.

In addition to the two presentations directly related to the claims in the recital, throughout the course of their 4 years of meetings, the Immigration Advisory Board has shown a pattern of receiving and participating in numerous presentations from City staff and officials, while IAB members have also sought information from and interacted with Bellingham Police Department officials numerous times.

According to the vote on the City Council motion to remove the wording "findings of fact" in the IAB suspension ordinance, it would seem the City Council views the truth of the suspension ordinance recitals as unimportant. On the other hand, Council Member remarks at the [January 2, 2024 City Council reorganization meeting](#) and at the [January 29, 2024 Committee of the Whole meeting](#), as well as [local news reports](#), reflected the impression that the City was relying on the recitals as a basis of truth for suspending the IAB.

What's more, the material in those recitals was placed there by respected and powerful members of City government. Some of those same officials have voiced their support of the work of the Immigration Advisory Board and were originally were pursuing the action in the form of an emergency ordinance which would have allowed for much less public input and involvement in the process.

Officials have expressed their own concerns about dangers posed by misinformation. However, through participating in race and equity listening sessions among other things, City officials have had direct exposure in the not-too-distant past about the very uneven playing field BIPOC and immigrants have been relegated to when pursuing government actions toward their safety, health, and well-being.

As just one example, City officials have not chosen to suspend City Council meetings or the operations of the Administration in order to allow the City Council and the City Administration adequate time to evaluate the City's purpose, goals, and objectives for maintaining the Immigration Advisory Board, and the level of City resources needed to achieve them; and make any necessary changes to Bellingham Municipal Code (BMC) Chapter 2.26. With reference to the example given by officials related to fixing a plane while it is in flight: while the IAB has been grounded, the planes of the City Council and Administration are still allowed to fly.

Many community members are prone to believe assertions made by officials whom they support, especially in a formal and legally binding document. It follows that untrue assertions in this City ordinance about anyone, and especially any member of a marginalized and mistreated community, further undermine building trust in City officials. Even worse, those assertions pose threats to needlessly damage IAB members personally, their reputations as volunteers seeking to serve their community ethically and in good faith, as well as the reputation of the entire Immigration Advisory Board.

In light of the records and context I have provided, I call for the Council to amend [Ordinance 2024-02-006](#) to remove the inaccurate recital I have included in my email above and to meaningfully consult with the members of the Immigration Advisory Board in order to reach an agreement on an official document that is far more reflective of the elements proposed by Immigration Advisory Board members in their [Proposed ordinance with changes suggested by Board Members](#).

Beyond that, I call for Council Members, the Mayor's office, and City staff to pursue avenues to overcome the kind of responses they have had to IAB members' actions and remarks that have pointed some of them in the direction of taking City action that includes falsely characterizing these volunteers' stated positions and goals.

In your public meetings that have contained discussions of suspending the IAB, numerous officials have variously alleged that IAB members have created tension, an adversarial atmosphere, have made people, including immigrants in our community, feel uncomfortable and concerned about themselves becoming targeted.

At the same time, such assertions about Immigration Advisory Board members that have been made by officials - compounded by unsubstantiated claims like the ordinance recital highlighted in this email - create tension, an adversarial atmosphere, and have, as indicated in public responses, made people, including immigrants serving on the Immigration Advisory Board, feel uncomfortable and targeted.

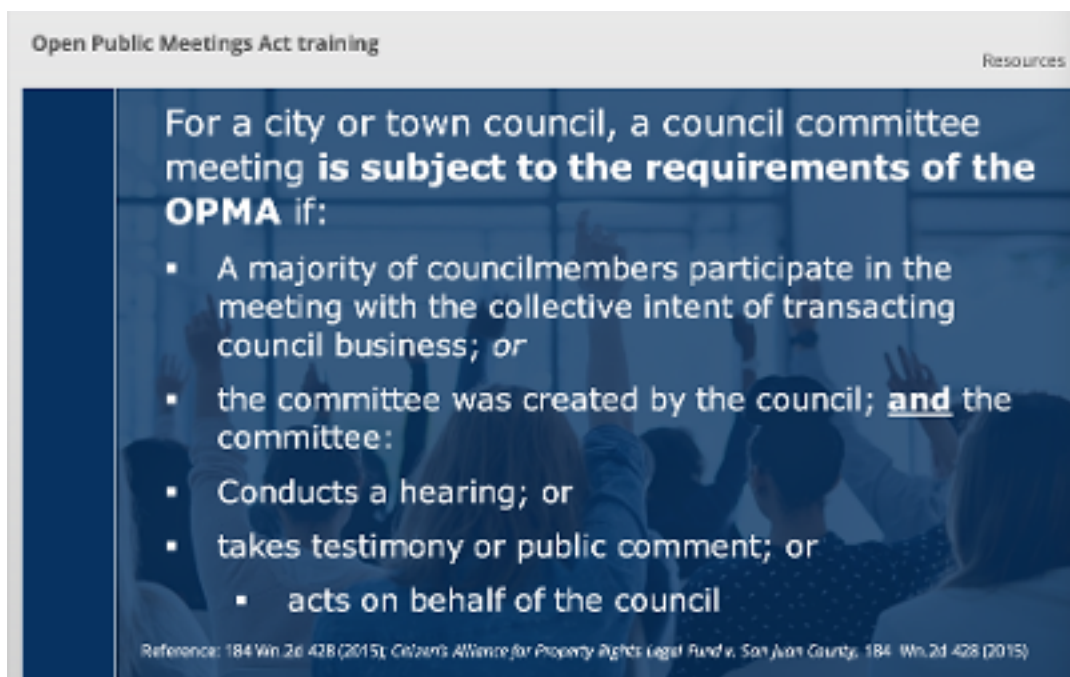
From my perspective, if officials wish to foster an advisory board environment where trust can grow and empathy can flourish, where all participants even more robustly experience and emanate positive energy, encourage one another, and are focused on constructive actions and forward movement, then officials in positions of power must persistently demonstrate these practices.

I look forward to you promptly amending Ordinance 2024-02-006 and to your expediting the resumption of Immigration Advisory Board meetings.

Sincerely,
Dena Jensen
Birch Bay, WA



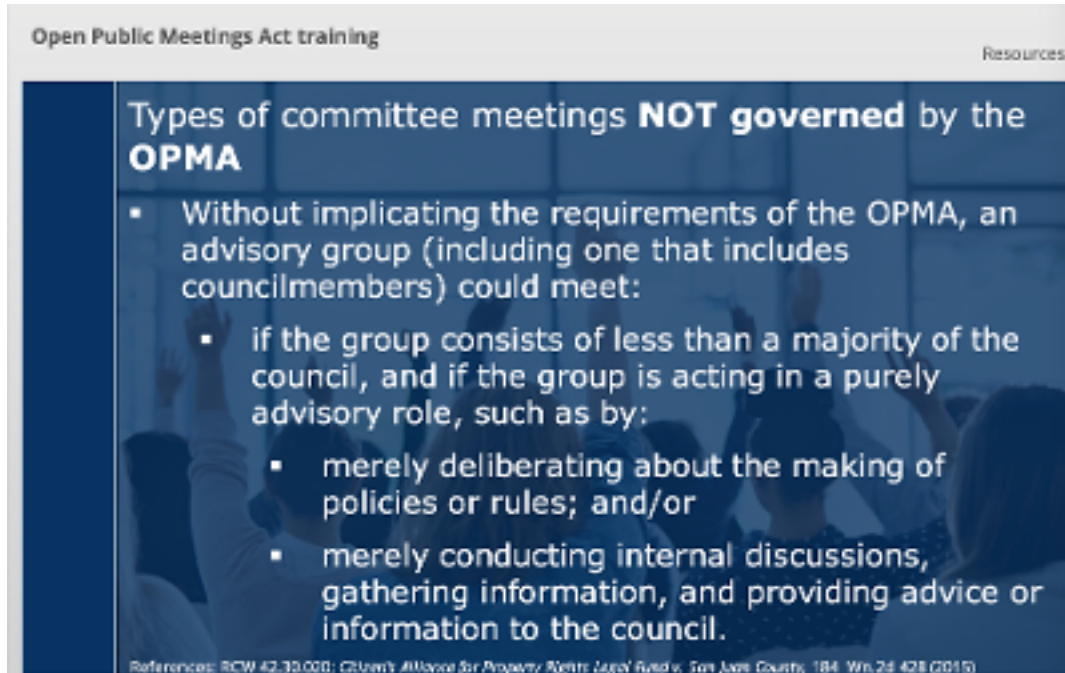
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