

**State of Iowa
City Development Board
Meeting Minutes of May 8, 2019
Iowa Economic Development Authority
200 E. Grand Avenue, 2nd Floor Main Conference Room
Des Moines, Iowa**

Call to order 1:08 p.m.

Present	Absent
Dennis Plautz, Board Chairperson	Chris McKee
Jim Halverson, Board Vice Chairperson*	
Mari Bunney	
Mackenzie O'Hair	

Others Present

Matt Rasmussen, Administrator, City Development Board
Betty Hessing, Administrative Assistant, City Development Board
Emily Willits, Iowa Department of Justice
Lori Pickart, City Clerk, City of Robins*

*Participated via teleconference

Introduction by Chairperson, Dennis Plautz

Chairperson Plautz gave the introduction and welcomed our two newest Board members—Mari Bunney who is from West Des Moines and Mackenzie O'Hair who is from Osceola

Roll Call by Matt Rasmussen, Board Administrator

Chairperson Dennis Plautz, Jim Halverson, Mari Bunney and Mackenzie O'Hair were present, Chris McKee was absent

Request for amendments to agenda

Motion by Mackenzie O'Hair
Motion I move to approve the agenda as presented
Second Jim Halverson
Roll Call All ayes Motion approved

Consideration of April 10, 2019, business meeting minutes

Motion by Jim Halverson
Motion I move the minutes of April 10, 2019, be approved as printed and distributed
Second Mari Bunney
Roll Call All ayes Motion approved

New Business

UA19-03
Robins

Matt Rasmussen reported this request was for a 100% voluntary annexation of 4.76 acres into the City of Robins. The City of Robins received an application by the property owner, Eagle View Land Development, Inc., who owns the properties to the east and south of the requested annexation property. They have plans to develop the properties into a commercial sub-division for contractor's shops, etc. Properties to the north are in Linn County, properties to the west consist of properties still in Linn County and properties in the Robins' city limits. Robins strives to keep residential property in the core part of the city to keep the hometown feel and plans commercial development in the growth area.

The City of Robins and the developer are currently in discussions relating to taking water and sewer utilities to both the existing Eagle View land and the proposed annexation parcel. The property is not subject to a moratorium agreement. Mr. Rasmussen reported the packet appears to be complete and properly filed.

Lori Pickart was present via phone to explain further and answer questions from Board members. Board members had no questions.

Motion by
Motion

Jim Halverson
I move the Board find UA19-03 as complete and properly filed and in the public interest and that it be approved.

Second
Roll Call

Mari Bunney
All ayes Motion approved

Staff Reports

Matt Rasmussen reported that he and Betty Hessing met with Mari Bunney and Mackenzie O'Hair within the past couple weeks and gave them an overview of the different types of annexations and types of actions that the Board typically sees. Matt Rasmussen stated he thinks they have a fairly good understanding of how the Board operates and what their responsibilities are. Chairperson Plautz and Jim Halverson will give some pointers and give more detail in what the Board does.

Matt Rasmussen reported that we do have a few annexations for next month, which includes a couple for Johnston and a couple 80/20's for Altoona.

Emily Willits stated that after our last meeting, we talked about how to do some training since we have three new Board members. Ms. Willits stated she would walk through the training that she has done for new Board and Commission members, generally speaking, not specific to this Board. The Governor's Office typically puts on an

orientation session every Fall for new Board and Commission members and this is the presentation that she gives at that session

Matt Rasmussen stated that since Jim Halverson was having to leave the meeting before it was over, we should do some Q&A with Jim Halverson and Chairperson Plautz first and then have Emily Willits give her presentation on the "Open Meetings, Open Records" Law

Chairperson Plautz asked Jim Halverson to begin with pointers or anything that would be helpful for new Board members. Jim Halverson stated that he's served on the City Development Board since 2000 and Dennis Plautz is the only other person who has served longer. Jim explained he has a background in Urban Planning. He used to be a Planning and MPO Director in the Cedar Rapids area and now he does consulting work. A majority of the cases are unanimous consenting. On occasion we deal with county islands. This is where a city will make an application, or a third party initiates the process to address a number of county islands that exist within the city limits. 80/20 annexations are the ones that involve non-consenting owners or affected property owners that are being forced into an annexation. The term "forced" is just a loose term that he's applying. The 80/20's require a public hearing. We've been doing those more telephonically lately, when he was first appointed, we would often times travel to the venue and that's where the hearing would be conducted. It still doesn't mean that we don't travel, it's just less frequent.

I don't know the backgrounds of you, but if you have some background in real estate—maybe you've served on a Planning Commission before or maybe you have some understanding of how city planning operates and growth management and those kinds of issues—that will be very helpful to you in this role. When we make decisions on 100% voluntaries, there is just one element to consider, but with 80/20's or involuntary annexations, it typically involves a number of decisions, so you're not casting a vote based on one decision. There is a series of findings that are made and that's a good exercise because it not only creates a record, but it also leads you to certain conclusions along that path.

Dennis Plautz and I have sat through hearings that have lasted well over six hours. We've had times where we have continued the hearing to a second day. Those are rare, as we haven't seen one of those in the last five

years

Jim Halverson stated that he really enjoys his service on the Board, which is reflected in his tenure Department staff and Department of Justice attorneys are solid We've had several attorneys from the Department of Justice over the years and they've all been great resources and help us through a lot of precarious situations. Emily Willits replied that they have to handle appeals, so they have an interest to make sure the Board gets it right, which you do

Chairperson Plautz stated he would take off on what Jim just said Chairperson Plautz stated he's been on the Board since 1996, when Terry Branstad was Governor the first time, so it's been awhile The very first case I got thrown into was for Des Moines and West Carlisle, when Des Moines had that great big annexation It was an involuntary and it went on for years Just to show you how things differ from today—this case—which is very simple—and that case, which was very complex When that ended, I was the only person on the Board when it started Everybody else had moved on—with all the appeals and all of the Court proceedings—there are real extremes that you can go through—depending upon the people or the communities involved

To Jim's point, there are so many technical things—as long as I've been on—there are still things that come-up where I'm not sure—but because we are defended and advised, I think one of the best things to do if you have a question about what your role is or what the statute says, ask these guys They are very good at advising us For example, an attorney comes in and says, "Well, you can't do this and this because this is what The Code says" I would always look to Emily to see if she agrees with his interpretation of The Code, rather than interpret it ourselves

The other thing to me, as I've seen things off and on over the years, there are places to insert our own opinions, but the most critical thing, is to rather give an opinion on a local issue, we're sitting here to sit in judgement primarily on whether or not it meets the statutes and we're here to act on what we have authority to act on and not insert our own opinions, but to follow what The Code says. I've noticed over the years, that can be very critical to separate the two and again, that's where Betty, Matt and Emily can help us.

Chairperson Plautz asked Mari and Mackenzie if either

one of them had background in real estate or Planning & Zoning or any of that I think the main point there would be terminology Sometimes there are things thrown out in some of these more complex petitions—if you wonder about the terminology of something, ask staff They have always been good about answering questions

The other thing to Jim's point these things vary a lot One thing we have done, which I think over the years, we've streamlined what we do we used to go to every place that required a public hearing so we would go to Allamakee County and two people would show-up and we would be done in three minutes So, we do a lot more teleconferencing which saves the State money And as Jim said, we got all the islands out of the way—those were the worst over the years Supposedly, there are no islands left Matt Rasmussen replied that there are islands out there

Chairperson Plautz stated those are a few comments . . rather than getting into the technical, like "presumption of validity" and that kind of thing, but just generically You will also get people who don't want to know what the law says—they just don't want to come into a city, or they want us to insert ourselves in the middle of local politics, which we should not be doing Again, we should be interpreting the validity of the petitions and whether they are complying with statutes

Matt Rasmussen stated that our conversations with both Mackenzie and Mari discussed what an island was and one of the things I did point out in The Code was the "presumption of validity" and I also pointed out the one word that is in there that was argued on recently, regarding "residents" and "wishes of the residents" So, we did discuss the "presumption of validity" that the legislature inserted into it

Chairperson Plautz told new Board members to not feel overwhelmed because there is a lot of stuff here It will all come, and you will be veterans in about six months Emily Willits told the new Board members that they are very fortunate because Dennis Plautz and Jim Halverson have a ton of experience and Matt Rasmussen and Betty Hessing do a terrific job of keeping everything organized The Board packets prepared are so well organized We have prepared motions for various types of proceedings for whomever makes the motion Chairperson Plautz stated the process is easy because it's prepared for us You will go through one or two of them and it will be slick There may be people who won't like you anymore—that's

just the way life is—if you're on a City Council, it's the same thing

Jim Halverson stated that knowing what our role is and sticking to that role Dennis spoke to that issue very well Many times, you will hear in cases about zoning and future land use and those kinds of things—there will be situations where the non-consenting folks or the opposition will want you to consider some things that are not necessarily germane We don't want to substitute our judgement for that of locally elected officials, be it City Councils or locally appointed bodies, like Planning Commissions I would reinforce what Chairperson Plautz said earlier—we really want to focus on things that are germane to the role that we have You will pick-up on this once you're in a public hearing where there are a number of parties represented with a variety of different interests and you will get a better sense of what all this means when you start hearing some of the things you will likely hear

Matt Rasmussen asked Jim Halverson or Dennis Plautz to talk about how an annexation works regarding zoning and where that falls in the process Jim Halverson replied that it can vary, but what cities often do, is they will petition to annex a piece of property and then proceed with zoning and then platting it Sometimes those processes happen simultaneously, but often times cities do represent applications that they file, but by the same token, a lot of times it's either civil engineers that might be representing the city and/or an attorney They may present material that shows a planned use You might see a site development plan or maybe a plat of the area The terms of the sequence of an event is pretty obvious in that a city can't exercise their authority unless that area is part of the city itself and so that's why they proceed with an annexation The only minor exception to that rule is when a city has a 28E Agreement or Intergovernmental Agreements with the county they exist within, to do extraterritorial plat review Sometimes that may trigger them advancing a plat, but generally speaking, they are going to want to have the area annexed before

Chairperson Plautz stated the Iowa Code has a conflict there where cities can govern subdivisions within two miles of the city, but they don't have the same authority for zoning, only if the county gives it to them My take away, Jim, from that is it's a local decision and it's not our decision as to how a local body decides to zone property or use that property Sometimes they want to put us in

lieu of a Planning & Zoning decision or a City Council decision that has already been made and that's not our purview Jim Halverson agreed and stated that quite a few years ago, there was a case involving West Des Moines it was really a question of a Conditional Use Permit being an issue That became pretty obvious in the course of the public hearing It was about a mining operation Long story short, it just wasn't something that was germane for us Chairperson Plautz stated there is a lot of that that goes on where people want to put us in between local decisions and have us make decisions on things we have no authority to do and you don't want the authority.

Matt Rasmussen stated that if you ever have a question, feel free to give me a call There is no such thing as a dumb question

Chairperson Plautz commented that with the legislature adjourned now, and they passed this Budget Bill for cities and counties, they have excluded from that 2% spending authority cap, debt service and they have also, as I understand it, excluded territorial expansion from spending, because the 2% is based on spending, not valuation I'm thinking that every City Manager is going to think that one way to beat that is just annex a bunch of property, possibly I could see that being very likely

Another thing I would add is you can annex property in Iowa—I'm paraphrasing—if you need more land, if you need a certain type of land to recover services provided, but the one thing you specifically are prohibited from doing is annexing land solely for the purpose of raising revenue I can see more friction coming as you get down the line a year or two, depending on whether they change the law again or whatever they do That's just a thought

Matt Rasmussen stated that most of the annexations that we see—it's the owners that go to the city to be annexed It's not like an 80/20 where there are non-consenting owners So that would obviously not be a case where they are doing it just for a money-grab, if you will Chairperson Plautz stated the public always says the city is doing it for the revenue only You hear that all the time Matt Rasmussen replied it would be hard to prove that the city is annexing just for the money Emily Willits agreed

Chairperson Plautz stated you can do 80/20's to avoid the creation of an island or to create more uniform boundaries That's subjective to the Board It will all

sink-in as you get the cases Mr Rasmussen reiterated to just ask questions

Chairperson Plautz stated we have had a number of people from the Attorney General's Office over the years, but only three Board Administrators in those years

Emily Willits stated she had a brief legal update regarding Mount Union A year or so ago, the City of Mount Union discontinued One of the roles of the Board following a discontinuance, is to basically almost act as a receiver, to take all of the money that's left from a City and pay off any claims Anything that's left, goes to the County There were some claims that came in and one of them involved a Court Judgement A couple of individuals had sued the City for defamation because of some comments that the Mayor allegedly made, so they brought in this Judgement The Board approved it because it was a Court Judgement So, there are two lawsuits that have stemmed from that One is an appeal of the Board's decision so that's been fully briefed and appealed to the Henry County District Court, it hasn't been decided yet, but it's been fully submitted to the Court. There is another lawsuit going on where the Board was initially named as a defendant, but we got dismissed out, but the lawsuit is still going on against the County and these two individuals who claimed that they were defamed

I wanted to let the Board know that there have been some developments in that second lawsuit that we're not a party to that might impact how the Court views the Judicial Review of the Board's decision Those developments in that second lawsuit are now going up on appeal I think what we're going to do, most likely, is move to stay the Judicial Review proceeding and say don't decide this thing until all that's worked out Chairperson Plautz asked what the ramifications would be and Ms Willits replied she didn't think there are the Board stayed its original decision to pay this claim, so whatever money is left is still sitting in the account for Mount Union—nothing has been paid out so it doesn't change anything for the Board

Chairperson Plautz asked Mr Rasmussen if he talked to new Board members about incorporations, like Vedic City or Twin Lakes Matt Rasmussen stated that every couple years, he will get a phone call from somebody considering forming a new city so he will forward them The Code and the rules regarding incorporation and what the requirement is Since Matt has been the Administrator, we haven't seen that type of action

Chairperson Plautz stated that in the years he's been on the Board we've had three—we turned two down and then Vedic City, which is located by Fairfield, was approved Vedic City went on for a long time

Matt Rasmussen stated we did discuss a few involuntary actions that the Board has seen in the past few years One was the involuntary severance in Marshalltown and the involuntary discontinuance from Luther a few years ago Chairperson Plautz stated that discontinuances are a likely thing to see Incorporations are a tough standard to meet Matt Rasmussen stated we've averaged about one discontinuance per year since he's been the Board Administrator Matt stated he has not talked to any city official recently regarding discontinuance

Chairperson Plautz stated we had a big severance in Clinton before Matt Rasmussen was Administrator. Clinton has 24,000 people and they have 36 square miles of land—they have tons of land that's undeveloped It was really a dispute—a way to get at the City Council by people who lived basically in a rural area, wanting to get their streets paved In the end, they worked out a bunch of agreements and the severance wasn't allowed The more legitimate severances are where somebody is abutting somebody else and wants to sever from one city and be annexed into another city, like in the metro area They are usually mutually agreed to. Mr. Rasmussen stated in the past couple years, we've seen a few of those It's a severance that the City Council approves and then the annexation that comes to the Board The severance actually doesn't need to come to the Board if it's just a severance, but an annexation does For example, West Des Moines and Waukee would both sever and then they would both annex, so they do a land swap That's not uncommon

Emily Willits provided training regarding "Open Meetings/Open Records" law that she does for New Board and Commission Members at Governor's Orientation Session See Attachment A provided at end of minutes

Future Meeting June 12, 2019, at 1 00 p m , City Development Board Business Meeting at IEDA, 200 E Grand Ave , 2nd Floor Main Conference Room, Des Moines, Iowa
Adjourn 2 15 p m

Respectfully Submitted,
Betty Hessing, Administrative Assistant

Attachment A

Legal Overview for New Board and Commission Members

Emily Willits
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May 2019

Every board or commission is assigned an Assistant Attorney General (AAG) to provide legal advice. If you do not know which AAG is assigned to your board or commission, ask the board or commission's staff or send me an email and I will let you know.

This outline provides a general overview of laws and is not intended to cover all applicable laws or the nuances of applicable laws. The outline uses the term "board" to refer to both boards and commissions.

Mission and Authority

1. Boards are created by statute, sometimes called an “enabling act.”
2. Boards only have that authority granted by law.
 - a. Boards are guided by laws in addition to the law that creates a board.
 - b. For example, Iowa Code chapter 272C identifies many duties and powers for all professional licensing boards.
3. Boards may not expand their authority beyond that granted by law.
4. The law may be very specific about how decisions shall be made or may grant a board discretion within specified limits.

Tip: Bring a copy of the main laws governing your board to each meeting.

5. New members should read - and reread - the laws governing the board.
 - a. Staff, other board members, prior minutes of meetings, and websites are good sources of information, but board terms are staggered for a reason: new board members bring a new perspective and vitality.
 - b. Don’t rely exclusively on what others tell you about the mission of the board or its authority.
6. A board’s mission is always a public purpose.
7. When serving on a board, you are representing the citizens of Iowa. Be inclusive and listen, but always make decisions with the board’s public purpose in mind.

Rulemaking

1. Most boards have rulemaking authority.
2. Rules are in a very real way the board's laws.
3. Rules must be authorized by and consistent with statutes.
4. Rulemaking is a powerful authority. Rules:
 - a. Describe the organization and procedures of the board.
 - b. State how the board will implement laws.
 - c. Inform people about guidelines and policy choices that impact their legal rights and duties.

Tip: Bring a copy of board rules to every meeting.

5. The Governor, Legislature, Attorney General, and the public all have a role to play when boards adopt rules -- there are many checks and balances. Starting July 1, 2012, all boards and other agencies are required to review rules on a five-year rolling cycle.
6. In addition to consistency with statutes, rules should be:
 - a. Easy to read and understand.
 - b. Tied to specific needs and objectives.
 - c. Sensitive to costs - benefits should outweigh costs.
 - d. Effective.
 - e. Developed with input by those affected.
 - f. Fair - use rulemaking power wisely.

Decisionmaking

1. No single board member makes decisions for boards.
2. Boards make decisions by taking votes at board meetings.
3. A “quorum” of the board is needed to take a vote.
 - a. A “quorum” may be a majority of board members (e.g., 4 out of 7) or two-thirds of board members (e.g., 5 out of 7).
 - b. Many boards’ enabling acts state what a quorum is. If the board’s law is silent, then a quorum is two-thirds of the members.
4. Once a quorum is attained, most board action is taken upon a majority vote of those participating – but there are important exceptions.
 - a. Boards may only go into closed session upon a public vote by two-thirds of the members or all members present.
 - b. Discipline can only be imposed on a licensee by a majority vote of members or a higher percentage if required by law.

Tip: Before you vote, determine if there is a quorum and how many “aye” votes are required to take the particular action.

5. The votes of all members must be public and clear during the meeting and in the minutes.
 - a. Only take a voice vote when the vote is unanimous.
 - b. Use roll call votes whenever voting to go into closed session or when any member abstains or votes “nay.”
 - c. Never use a secret ballot.

Board Meetings - Inviting the Public

1. **Count Heads!** If a majority of the board is present (in person or electronically), do not discuss board business unless you are at a board meeting preceded by proper notice to the public and a posted agenda.
2. Purely social or ministerial gatherings are not meetings as long as no board business is discussed, but be careful to avoid even the appearance of holding an illegal meeting.
3. Agendas are a board's invitation to the public to watch the board in action.
 - a. Post agendas at least 24 hours in advance.
 - b. Identify all topics on which votes will be taken and matters that will be discussed.
 - c. The detail needed will depend on the public's familiarity with the matter. The less familiar the public is, the more detail is needed.

Tip: Read the agendas posted for your board over the past year. Can you tell what the board planned to vote on or discuss? If not, advocate more detail in your board's agendas.

4. **Stick to the posted agenda.** If a new idea comes up at a meeting and there is no emergency requiring immediate action (which would be very rare), place the topic on the agenda for the next meeting.
5. **Lights! Cameras! Action!** The public has a right to observe the open sessions of your board meetings and may record them or take photographs.
6. The public does not have the right to participate in your meetings, but boards typically provide an opportunity for public comment at meetings.

Board Meetings - Minutes

1. Minutes of board meetings create a permanent record of who met, when they met, what they discussed, what they decided, and by what votes.
2. Accurate minutes are a key tool for conducting the public's business in an open and accountable way.
 - a. Minutes are a vital organizational tool for boards.
 - b. Minutes are a crucial way for citizens to review public action taken on their behalf.
3. Minutes of open sessions must always include:
 - a. The date, time, and place of a meeting.
 - b. Which members were present.
 - d. Actions taken, with sufficient information to reflect members' votes.

Tip: Read your board's minutes for the past year.
Can you tell what the board voted on or discussed?
If not, advocate more detail in your board's minutes.

4. If a closed session is held, the minutes of the open session must include the legal grounds for a closed session, the vote of each member on whether to go into closed session, and any final action taken – no final votes may be taken in closed session.
5. When applicable, minutes must also explain the legal basis for holding a telephonic meeting, an emergency meeting (less than 24 hours notice), or a meeting at a time or place not reasonably accessible to the public.

Board Meetings - Closed Sessions

1. Closed sessions are serious business! Never ask the public to leave the meeting so the board can talk in private – unless the board has a legal basis to hold a closed session.
2. In order to go into closed session, a board must first meet in open session with proper advance notice and posted agenda.
3. A board can only close an open session if expressly authorized by statute. For example, a board is authorized to go into closed session to discuss pending litigation with counsel, certain personnel matters, or whether to initiate disciplinary action against a licensee.

Tip: You should always ask your board's assigned AAG for legal advice if you are not confident you have grounds to vote to go into closed session. Get the advice in writing or make sure the advice is reported in the minutes of the meeting.

4. After announcing the legal basis for a closed session, take a roll call vote. Remember, a board can only close a session upon an affirmative vote of two-thirds of the members or all members present.
5. While in closed session, boards must:
 - a. Record the session (and keep the recording at least a year).
 - b. Take detailed minutes.
 - c. Limit the discussion to the announced basis for the closed session.
6. Final action must be taken in open session. When the closed session discussion is finished, return to open session and allow those who left the room for the closed session to return. Then make a motion and take a vote on any final action in open session.

Public Records

1. Board records are open to public examination unless specifically made confidential under the law.
2. Public records can be in any form, including e-mail. Board members should not commingle official board business emails with personal emails. Your board's staff or AAG can advise on methods of separating emails.
3. Assume any record you create or receive as a board member is a public record that may be open to the public upon request.

Tip: Practice that old adage – only say what you would be comfortable reading on the front page of your local newspaper!

4. Find out who the public records contact is for your board. The contact person (lawful custodian) is most likely your board's executive officer or administrator.
 - a. Requests for public records should be referred to your board's public records contact.
 - b. The public records contact is familiar with the law and can assure proper response to requests for public records.
5. Find out if any of the board records you create or receive are confidential.
 - a. There may be severe penalties for releasing some types of confidential records -- another good reason to refer all requests for records to the board's public records contact!
 - b. Examples of records that may be fully or partially confidential include applications containing social security numbers or credit card numbers, mental health or other patient records, complaints against licensees, and criminal history background reports.

Sunshine Law Enforcement

1. Actions to enforce Iowa's Open Meetings and Public Records Laws can be brought by a citizen of Iowa, a person who pays taxes of any type to the state of Iowa, a person individually aggrieved by a violation, a county attorney, and the Attorney General. Such actions may be brought in court or before the Iowa Public Information Board.
2. Complaints about alleged violations may be made directly to the board, its staff or counsel, or to the Ombudsman's Office, Attorney General, the Governor's Office, the Iowa Public Information Board or legislators.
3. Take all alleged violations seriously.
4. Remedies include removal from office upon a second violation, damages (up to \$2,500 for a knowing violation), expenses and attorney fees, and injunctive relief.

Tip: Iowa public officials, by and large, will comply with Iowa's Sunshine laws when they know what they are. Educate yourself and ask staff or the AAG assigned to the board if you are unsure.

5. Even an honest mistake can be a violation of Iowa's Sunshine laws, but individual board members can avoid personal liability when they rely upon the advice of counsel, formally given in writing or provided orally and memorialized in the minutes.
6. Attorney General Tom Miller has issued dozens of "Sunshine Advisories" to educate public officials and the public about Iowa's Open Meetings and Public Records Laws. The advisories (with index) are found at: <https://www.iowaattorneygeneral.gov/about-us/sunshine-advisories/>. You may also wish to consult the web page of the Iowa Public Information Board at: <https://www.ipib.iowa.gov>.

Board Members as Judges

1. Some boards conduct hearings, such as hearings conducted by professional licensing boards on charges of licensee discipline. These boards sit as judges during the hearing and make final decisions.
2. Some boards make final decisions after a board panel or administrative law judge (ALJ) conducts a hearing. Examples include the Board of Educational Examiners and the Employment Appeal Board.
3. Board members who conduct hearings or review proposed decisions of a board panel or ALJ are governed by the Administrative Procedure Act (APA) and a Code of Administrative Judicial Conduct.
4. The Code of Administrative Judicial Conduct may be found at:

<https://www.legis.iowa.gov/docs/iac/chapter/01-30-2019.481.15.pdf>

5. “A presiding officer shall uphold and promote the independence, integrity, and impartiality of the administrative judiciary.” Canon I.
 - a. All parties are entitled to unbiased, fair treatment – free from improper influences of family, social, political, or other relationships, or prejudgment of the facts.
 - b. All decisions must be made solely on the record in the case. Board members shall not communicate with a party to the case without notice to and an opportunity for all parties to participate.
 - c. Board members may not personally investigate facts and then sit in judgment on those facts.

Tip: Board members acting in the role of judge generally receive specific training on this important role. During hearings, boards are aided by an ALJ and board staff.

Additional Laws Governing Board Members

1. **Gift Law.** Board members may not accept gifts (i.e., receiving something for free or for less than it is worth) from those they regulate or contract with. Ask your AAG, board staff, or the Ethics and Campaign Disclosure Board (<http://www.iowa.gov/ethics>) for guidance on gift law compliance.
2. **Sales or leases of goods or services.** If you sell or lease goods or services to those regulated by your board, ask your AAG, board staff, or the Ethics and Campaign Disclosure Board for guidance on applicable laws.
3. **Lobbyist.** If a board designates a member to represent the board for the purpose of “encouraging the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by members of the general assembly, a state agency, or any statewide elected official,” the member is required to register as a lobbyist under Iowa Code chapter 68B. Seek advice if this is a matter that may arise with your board.
4. **Conflicts of interest.** Conflicts of interest should be avoided, but how and when they arise can be unique to certain boards, especially because the law often requires the appointment of at least some persons who are regulated by the board. Anytime your objectivity may be impaired, seek advice.
5. **Judicial review.** All board action (or inaction) is subject to review in court on a variety of grounds including whether the action is:
 - a. Compliant with the U.S. or Iowa Constitution, statutes or rules.
 - b. Consistent, nonarbitrary, logical, and reasonable.
 - c. Supported by the facts and law.
6. **Antitrust.** If your board is controlled by those it regulates, be especially cautious about actions that may impact competition – seek advice first!

Tip: Board members acting in good faith in their official board capacity are generally defended by the Attorney General and indemnified by the State.