

TO: Freedom of Information Commission
FROM: Danielle L. McGee
RE: Minutes of the Commission's regular meeting of April 10, 2019

A regular meeting of the Freedom of Information Commission was held on April 10, 2019, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:07 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay A. Shaw (participated via speakerphone)
Commissioner Jonathan J. Einhorn
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Victor R. Perpetua, Kathleen K. Ross, Valicia D. Harmon, Paula S. Pearlman, Matthew D. Reed, Danielle L. McGee, and Cindy Cannata.

The Commissioners unanimously voted to approve the Commission's regular meeting minutes of March 27, 2019.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2018-0245](#) Cordaryl Silva v. Dora Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0383](#) Noah Snyder v. Carlton Giles, Chairperson, State of Connecticut, Board of Pardons and Paroles; and State of Connecticut, Board of Pardons and Paroles

Mr. Noah Snyder appeared via speakerphone. Attorney Steven Barry appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2018-0475](#) Angel Caballero v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0191](#) Matthew LaVecchia v. Chairman, Board of Fire Commissioners, City of Milford; Board of Fire Commissioners, City of Milford; and City of Milford

Mr. Matthew LaVecchia appeared on his own behalf and Ms. Mica Notz also appeared on behalf of the complainant. Attorney Debra Kelly appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commissioners unanimously voted to adopt the Hearing Officer's Report as amended*. The proceedings were recorded digitally.

[Docket #FIC 2018-0349](#) Todd Steigman v. Commissioner, State of Connecticut, Department of Children and Families; and State of Connecticut, Department of Children and Families

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0351](#) Todd Steigman v. Commissioner, State of Connecticut, Department of Administrative Services; and State of Connecticut, Department of Administrative Services

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0563](#) Christopher Shuckra v. Chairman, State of Connecticut, Board of Pardons and Paroles; and State of Connecticut, Board of Pardons and Paroles

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0633](#) Robert Cushman v. Chief, Police Department, City of Hartford; Police Department, City of Hartford; and City of Hartford

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0717](#) Steve Smith v. Chairman, Board of Selectmen, Fire Department Funding Subcommittee, Town of East Windsor; Board of Selectmen, Fire Department Funding Subcommittee, Town of East Windsor; and Town of East Windsor

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0756](#) Jessica Huseman v. Commissioner, State of Connecticut,
Department of Children and Families; and State of Connecticut,
Department of Children and Families

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

Mary E. Schwind reported on Docket Nos. CV-17-6041080-S, CV-17-6041081-S, CV-17-6041082-S, and CV-17-6041083-S, *Marissa Lowthert v. Freedom of Information Commission*.

Colleen M. Murphy reported that the FOIC Annual Conference will take place on Friday, May 3, 2019 at The Riverhouse at Goodspeed Landing in Haddam, CT.

Colleen M. Murphy and Paula S. Pearlman reported that staff continue to monitor several pieces of legislation.

The meeting was adjourned at 2:47 p.m.

Danielle L. McGee
MINREGmeeting 04102019/dlm/04112019

* See attached for amendments.

AMENDMENTS

[Docket # FIC 2018-0191](#) Matthew LaVecchia v. Chairman, Board of Fire Commissioners, City of Milford; Board of Fire Commissioners, City of Milford; and City of Milford

The Hearing Officer's Report is amended as follows:

4. By email sent and received by this Commission on April 20, 2018,¹ the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by:

- a. failing to post the agenda for their February 22, 2018 regular meeting and their April 19, 2018 special meeting;
- b. failing to adequately describe the purpose of the executive session convened at the February 22, March 20, **AND** April 17, 2018 regular meetings **AND THE APRIL 19, 2018 SPECIAL MEETING**;
- c. failing to limit attendance at the executive session convened during the February 22, and March 20, 2018 meetings in accordance with §1-231, G.S.;
- d. failing to provide him with notice that he would be discussed in executive session during their February 22, [and] March 20, **AND APRIL 19**, 2018 meetings;
- e. failing to sufficiently apprise the public of the business to be conducted at their February 22, March 20, and April 17 and 19, 2018 meetings on the agenda for those meetings; and
- f. failing to post an agenda for the April 12, 2018 meeting.

The complainant requested that the Commission order the respondents to produce minutes of all the executive sessions convened during the February 22, March 20, April 17, 2018 **AND APRIL 19**, meetings; to declare all actions taken at those meetings null and void; to return the complainant to his full duties with back pay; to compensate him monetarily which should include attorney's fees; and to cease any further action against him.

¹ The administrative record shows that while the complainant's letter of appeal was stamped received and filed April 23, 2018, the letter of appeal arrived in this Commission's general email inbox on April 20, 2018 at 4:49 p.m., 11 minutes before the Commission's office closed.

Paragraph 13 is amended as follows:

13. With respect to the complainant's allegation that the respondents failed to adequately describe the purpose of the executive sessions convened at the March 20 and April 17, 2018 regular meetings **AND THE APRIL 19, 2018 SPECIAL MEETING**, as described in paragraph 4b, above, §1-225(f), G.S., provides:

A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

Paragraph 14 is amended as follows:

14. It is found that the agenda for the respondent commission's meetings held on March 20, [and] April 17, **AND APRIL 19, 2018**, stated as one of the items of business [as] "Executive Session - Personnel Matter" or some variation thereof, but nothing more.

Paragraph 15 is amended as follows:

15. It is also found that when the respondent commission voted to convene in executive session **ON SUCH DATES**, the purpose was **ONLY** described as a "personnel matter."

Paragraph 17 is amended as follows:

17. It is found that the respondent commission failed to identify with sufficient particularity the business to be transacted during the executive sessions convened at its March 20, [and] April 17, **AND APRIL 19, 2018** meetings. **HOWEVER, IN REGARD TO THE APRIL 19, 2018 SPECIAL MEETING, IT IS FOUND THAT THE ENTIRE MEETING FOCUSED ON THE ALLEGATIONS AGAINST THE COMPLAINANT AND THE COMMISSIONERS' RESPONSE TO THOSE ALLEGATIONS. PRIOR TO THE EXECUTIVE SESSION BOTH THE COMPLAINANT AND THE RESPONDENTS MADE PRESENTATIONS REGARDING THE ALLEGATIONS AGAINST THE COMPLAINANT. AT THE END OF THE PRESENTATIONS, THE COMMISSIONERS VOTED TO ENTER EXECUTIVE SESSION. WHEN THEY CAME OUT OF EXECUTIVE SESSION, THEY VOTED TO TERMINATE THE COMPLAINANT. WHILE THEY DID NOT SPECIFICALLY MENTION THE COMPLAINANT IN THEIR MOTION TO MOVE TO EXECUTIVE SESSION, THE EVIDENCE SHOWS THAT IT WAS, OR SHOULD HAVE BEEN, APPARENT TO THE COMPLAINANT AND ANYONE ELSE PRESENT, THAT THE**

COMPLAINANT WAS THE SUBJECT OF THE EXECUTIVE SESSION. BASED UPON THE SPECIFIC FACTS AND EVIDENCE IN THIS CASE, IT IS CONCLUDED THAT THE RESPONDENTS DID NOT VIOLATE §1-225(f), G.S., BY FAILING TO SPECIFICALLY STATE THE REASON FOR SUCH EXECUTIVE SESSION DURING THE APRIL 19, 2018 SPECIAL MEETING.

Paragraph 18 is amended as follows:

18. It is **ALSO** concluded, [therefore] **HOWEVER**, that the respondents **DID** violate[d] §1-225(f), G.S., by failing to state the purpose of the executive session of the March 20 and April 17, 2018 meetings as alleged in paragraph 4b, above.

Paragraph 29 is amended as follows:

29. As already found in paragraph 14, above, the agenda for the respondent commission's meetings held on March 20 and April 17, 2018 stated as one of the items of business as "Executive Session (Personnel Matter)" or some variation thereof, but nothing more. It is found that their April 19, 2018 **AGENDA** also stated as one of the items of business as "[Executive Session (]Personnel Matter[)]."