

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Kevin Cunningham,

Complainant

against

Docket #FIC 2019-0104

Annex Interview Committee,
Town of Plainville; and Town
of Plainville,

Respondents

January 8, 2020

The above-captioned matter was heard as a contested case on May 7, 2019, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.

2. By letter dated and filed February 19, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") in the following ways:

- a. By failing to post an agenda for the January 3, 2019 meeting of the Annex Interview Committee in a timely manner;
- b. By failing to create minutes for the January 3, 2019 meeting of the Annex Interview Committee in a timely manner; and
- c. By failing to create the Annex Interview Committee at an open, public meeting.

3. Section 1-200(1)(A), G.S., provides, in relevant part, as follows:

"Public agency" or "agency" means: (A) Any executive, administrative or legislative office of the state or any political

subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official. . . .

4. Section 1-200(2), G.S., defines “meeting” as:

[A]ny hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power. . . .

5. Section 1-225, G.S., provides, in relevant part, as follows:

(a) The meetings of all public agencies . . . shall be open to the public. . . . Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet web site. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

....

(d) Notice of each special meeting of every public agency . . . shall be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available, and given not less than twenty-four hours prior to the time of such meeting by filing a notice of the time and place thereof . . . in the office of the clerk of such subdivision for any public agency of a political subdivision of the state. . . .

6. At the contested case hearing, the complainant informed the hearing officer that he was withdrawing the allegation set forth in paragraph 2.c, above. The complainant also expressed his desire that, if it were determined that the respondents violated the FOI Act with regard to the allegations set forth in paragraphs 2.a, and 2.b, above, the Commission order the respondents to attend a FOI training session.

7. It is found that the Annex Interview Committee held a special public meeting on January 3, 2019 to interview prospective companies to be the consultant on a state Historic Preservation Office, or SHPO, grant awarded to the respondents to study the feasibility and use of a town annex.

8. It is found that the Annex Interview Committee does not have its own office, and therefore its special meeting agendas must be available in the town clerk's office and posted on the town's website at least 24 hours prior to any such meetings. It is further found that the Annex Interview Committee's special meeting minutes must be available in the town clerk's office within seven business days of any such meetings.

9. It is found that the agenda for the Annex Interview Committee's January 3, 2019 meeting was not provided to the town clerk until February 4, 2019.

10. It is found that the meeting minutes for the Annex Interview Committee's January 3, 2019 meeting were not provided to the town clerk until February 4, 2019.

11. It is concluded that the respondents violated the FOI Act by failing to post the notice of the January 3, 2019 meeting in a timely manner. It is also concluded that the respondents violated the FOI Act by failing to prepare the minutes for the January 3, 2019 meeting in a timely manner.

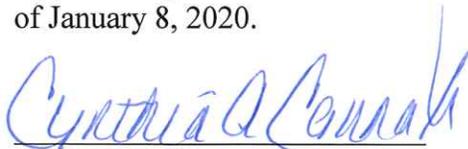
12. By letter dated June 3, 2019, the respondents provided the hearing officer with an update regarding the actions they had taken following the May 7, 2019 contested case hearing in this case. The letter has been marked as respondents' post-hearing exhibit 1. In the letter, the respondents state the following:

In response to the subject FOIC complaint, the Town of Plainfield held a FOIA workshop for town staff, presented by FOIC Public Information Officer Tom Hennick, on Thursday, May 30. The workshop was arranged once the town realized it may have erred on some FOI issues.

13. Because the complainant's desired remedy has already occurred and because a training session was the appropriate remedy to address the violations in this case, no additional remedies are required.

Based on the facts and circumstances of this case, no order by the Commission is hereby recommended.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 8, 2020.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

KEVIN CUNNINGHAM, 405 Moosup Pond Road, Moosup, CT 06354

ANNEX INTERVIEW COMMITTEE, TOWN OF PLAINFIELD; AND TOWN OF PLAINFIELD, c/o Attorney Emily Deans, Robinson & Cole LLP, 280 Trumbull Street, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission