

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Joe Quaranta,

Complainant

against

Docket # FIC 2023-0180

First Selectman, Board of Selectmen, Town  
of Roxbury; Board of Selectmen, Town of  
Roxbury; and Town of Roxbury,

Respondents

March 13, 2024

The above-captioned matter was heard as a contested case on August 21, 2023, 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 complaint filed April 18, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act. Specifically, the complainant alleged:
  - (a) On March 23, 2023, the respondents held a special meeting for a “Budget Workshop,” but “[t]he meeting in fact, was not just a ‘workshop’, but a complete presentation of the 2023-2024 budget including a vote of the BOS [Board of Selectmen] to approve the presentation/budget. To reiterate: the agenda did not stipulate a vote or possible vote”;
  - (b) The minutes of the March 23, 2023 special meeting of the Board of Selectmen were not posted within seven days;
  - (c) The respondents failed to make the 2023-2024 budget “support documents” available to the public; and
  - (d) “[T]he budget documents presented, voted on, and approved at the March 23 [meeting] have changed. The[] documents presented at [t]he following board of finance [meeting] (the next step in the budget process) are different than approved by the [Board of Selectmen]. To my knowledge there has not been any additional

meetings to vote on and approve changes by the [Board of Selectmen] prior to going to the [Board of Finance].”

The complainant requested that the respondents nullify the meeting and vote taken.

3. With respect to the allegation described in paragraph 2(a), above, §1-225(d), G.S., provides, in relevant part, that:

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 . . . . *The notice shall specify the time and place of the special meeting and the business to be transacted.* (Emphasis added).

4. It is found that the respondents held a special meeting on March 23, 2023. It is found that under the “Business” section of the agenda for the March 23, 2023, special meeting, “Budget Workshop” was listed.

5. It is found that, during the March 23, 2023, special meeting, the respondent First Selectman presented a draft proposed 2023-2024 budget to the respondents, the respondents deliberated on that draft, and made various changes to it. It also found that, following the deliberations, Selectman Russ Dirienzo moved to approve the draft budget, as revised during the meeting, and to move such draft to the Board of Finance for its consideration. It is found that such motion was seconded, and that it carried unanimously.

6. The Commission has previously considered whether a public agency may vote during a special meeting, despite the agenda for such meeting not specifying that a vote would be taken. In Docket #FIC 2015-534, Patricia Mechare v. Andrea Downs, Chairman, Board of Education, Regional School District 1 et al. (May 11, 2016), the complainant alleged that the respondents violated the FOI Act “by failing to specify on the agendas that action would be taken on any of the agenda items.” The Commission determined that the respondents did not violate the FOI Act when voting on a matter listed on the agenda as “Anticipated Executive Session for Purpose of Superintendent Evaluation and Contract.” The Commission concluded that “it is inherent in the meeting agenda that the business included therein might be considered *and* acted upon, including by way of vote, at the meeting.” (Emphasis in original).

7. Similarly, in Docket #FIC 2007-249, Jay Kronfeld v. Board of Education Regional School District #12 (Nov. 28, 2007) the Commission determined that a special meeting agenda item providing “Discussion of Building Project Strategies” was “specific enough to fairly apprise the public that the respondent would discuss and possibly vote to put forth a referendum concerning the construction of a new school . . . .” See also Docket #FIC 1994-201, Lisa Wlodarski et al. v. Ridgefield Board of Police Commissioners (Mar. 22, 1995) (finding that an

agenda item to “interview” candidates “was not so restrictive so as to preclude the respondent from voting to select one of the candidates for the vacant position.”)

8. Based upon the foregoing, and the facts and circumstances of this case, it is found that the agenda for the March 23, 2023, special meeting was specific enough to fairly apprise the public that the respondents would discuss and possibly vote on matters related to the budget workshop. It is therefore concluded that the respondents did not violate the FOI Act as alleged in the complaint and described in paragraph 2(a), above.

9. With respect to the allegation set forth in paragraph 2(b), above, that the minutes of the March 23, 2023 special meeting of the Board of Selectmen were not posted within seven days, §1-225(a), G.S., provides, in relevant part, that:

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.

10. Section 1-225(g), G.S., provides that

In determining the time within which or by when a notice, agenda, record of votes or minutes of a special meeting or an emergency special meeting are required to be filed under this section, Saturdays, Sundays, legal holidays and any day on which the office of the agency, the Secretary of the State or the clerk of the applicable political subdivision or the clerk of each municipal member of any multitown district or agency, as the case may be, is closed, shall be excluded.

11. It is found that the minutes for the March 23, 2023 special meeting were posted at the Office of the Town Clerk on Thursday, March 30, 2023 at 5:30 p.m., and on the Town’s Website on Friday, March 31, 2023 at 8:14 a.m.

12. It is also found that the March 23, 2023 special meeting of the respondent Board of Selectmen convened on a Thursday. It is also found that the respondents’ offices are closed every Monday. It is found that the minutes were posted, and therefore available to the public, within seven days (excluding Saturday, Sunday, and Monday), per the requirements of §1-225(g), G.S., with respect to special meetings.

13. It is concluded that the respondents did not violate the FOI Act as alleged in the complaint and described in paragraph 2(b), above.

14. With respect to the allegation set forth in paragraph 2(c), above, that the respondents failed to make the 2023-2024 budget “support documents” available to the public, it is found

that by email dated March 29, 2023, the complainant requested that the respondent First Selectman provide him with “a copy of the 2023/24 proposed budget as read at the March 23rd special Board of Selectmans [sic] meeting titled Budget workshop.” It is also found that on March 30, 2023, the complainant contacted the Office of the Town Clerk and requested access to such record.

15. Section 1-200(5), G.S., provides that:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

16. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours . . . or (3) receive a copy of such records in accordance with section 1-212.

17. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

18. It is concluded that the records described in paragraph 2(c), above, are public records, within the meaning of §§1-200(5) and 1-210(a), G.S.

19. It is found that the Office of the Town Clerk immediately notified the complainant that the office did not maintain a copy of the records described in paragraph 2(c), above. Nevertheless, it is found that, by email dated March 31, 2023, the respondent First Selectman provided such records to the complainant.

20. Based on the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint and described in paragraph 2(c), above.

21. Finally, with respect to the allegation described in paragraph 2(d), above, at the hearing, the complainant expressed concern that an unnoticed, or secret meeting of the respondents convened between the March 23, 2023 special meeting of the Board of Selectmen, and the subsequent meeting of the Board of Finance on April 11, 2023.

22. Section 1-225(a) provides in relevant part that, “[t]he meetings of all public agencies...shall be open to the public.”

23. 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....

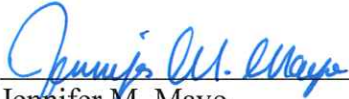
24. It is found, based on the credible testimony of the respondent First Selectman, that no unnoticed or secret meeting of the respondents convened following the March 23, 2023 special meeting, as alleged by the complainant. It is found, however, that the First Selectman received additional budgetary information *after* the March 23, 2023 special meeting, and the First Selectman, on his own, incorporated that information into the budget documentation prior to its presentation at the subsequent Board of Finance meeting.

25. It is therefore concluded that the respondents did not violate the FOI Act as alleged in the complaint and described in paragraphs 2(d) and 21, above.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 13, 2024.

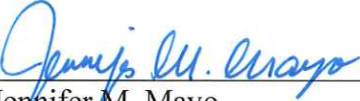
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**JOE QUARANTA**, 1 Judds Bridge Road, Roxbury, CT 06783

**FIRST SELECTMAN, BOARD OF SELECTMEN, TOWN OF ROXBURY; BOARD OF SELECTMEN, TOWN OF ROXBURY; AND TOWN OF ROXBURY**, c/o Attorney Gail E McTaggart, Secor, Cassidy & McPartland, P.C., 41 Church Street, Waterbury, CT 06702

  
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Jennifer M. Mayo  
Acting Clerk of the Commission