A regular meeting of the Freedom of Information Commission was held on September 11, 2019, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:17 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding  
Commissioner Jay Shaw (participated via speakerphone)  
Commissioner Matthew Streeter  
Commissioner Christopher P. Hankins  
Commissioner Lenny T. Winkler  

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

The Commissioners voted, 4-0, to approve the Commission’s regular meeting minutes of August 28, 2019. Commissioner Winkler abstained.

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 2018-0574  Jean Conquistador v. Chief, Police Department, City of Meriden; and Police Department, City of Meriden

Jean Conquistador participated via speakerphone. Attorney Kathleen Foster appeared on behalf of the respondents. The Commissioners voted, 4-0, to adopt the Hearing Officer’s Report. Commissioner Hankins recused himself from the matter. The proceedings were recorded digitally.


Dale Kukucka participated via speakerphone. The Commissioners unanimously voted to adopt the Hearing Officer’s Report. The proceedings were recorded digitally.
Docket #FIC 2019-0231  Noah Snyder v. Rollin Cook, 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 2018-0558  Claire Howard v. Superintendent of Schools, Bloomfield Public Schools; and Bloomfield Public Schools

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

Docket #FIC 2018-0598  Daniel Drew v. Sebastian Giuliano, as member, City Council, City of Middletown; Mary Bartolotta, as member, City Council, City of Middletown; and City of Middletown

Daniel Drew appeared on his own behalf. Attorney Mark Sommaruga appeared on behalf of the city of Middletown. Attorney Michael Harrington appeared on behalf of the respondents. The Commissioners unanimously voted three times 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 2018-0602  Robert Young v. Town Manager, Town of Wethersfield; and Town of Wethersfield

Robert Young appeared on his own behalf. Susan Kniep also appeared on the complainant’s behalf. The Commissioners unanimously voted to adopt the Hearing Officer’s Report. The proceedings were recorded digitally.

Docket #FIC 2018-0603  Gerald Daley v. Mayor, City of Middletown; Clerk, Common Council, City of Middletown; City Clerk, City of Middletown; Common Council, City of Middletown; and City of Middletown

Gerald Daley appeared on his own behalf. Attorney Mark Sommaruga appeared on behalf of the city of Middletown. Attorney Michael Harrington appeared on behalf of the respondents. The Commissioners unanimously voted three times 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.
Gerald Daley v. Mayor, City of Middletown; Director of Information, City of Middletown; City Clerk, City of Middletown; and City of Middletown

Gerald Daley appeared on his own behalf. Attorney Mark Sommaruga appeared on behalf of the city of Middletown. Attorney Michael Harrington appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer’s Report. The proceedings were recorded digitally.


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

Jay Hardison v. Superintendent of Schools, Darien Public Schools; and Darien Public Schools

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

Meryl Anne Spat v. 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.

W. Scott Van Sicklin v. Town Manager, Town of Glastonbury; and Town of Glastonbury

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

Colleen M. Murphy reported that work had begun in earnest on filling the agency’s vacant paralegal position.

The meeting was adjourned at 5:00 p.m.

* See attached for amendments
The Hearing Officer’s Report is amended as follows:

12. By letter dated and filed October 23, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide him with copies of the records described in paragraph [2] 8 above.

14. With regard to the allegations concerning the illegal meeting and the improper meeting referenced in paragraph [7] 13, above, §1-200(2)(A), G.S., defines “meeting,” in relevant part, as follows:

26. It is found that the records requested in paragraph [2] 8. a, above, are the investigative records and communication records that were created in connection with LeClairRyan’s investigation, as well as invoices for legal services performed by LeClairRyan.

27. It is found that the request for the “notice, agenda, and minutes,” set forth in paragraph [2] 8. b, above, pertains to a June 19, 2018 meeting of the subcommittee of the Common Council. It is found that the June 19th meeting is the alleged illegal meeting that the complainant referenced in his complaint.

28. With regard to the request set forth in paragraph [2] 8 .b, above, it is found that, by the time of the contested case hearing, the complainant had received the notice, agenda and meeting minutes for the subcommittee’s special meeting of June 19, 2018. The complainant contended that the FOI Act had been violated nonetheless because he received the requested records from Gerald Daly, a member of the Common Council, but he did not receive the records from any of the three subcommittee members, identified in paragraph 6, above.

30. Accordingly, with regard to the request set forth in paragraph [2] 8. b, above, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.
31. With regard to the request set forth in paragraph [2] 8. a, above, it is found that, on or about December 13, 2018, the complainant received a large package of records responsive to his request. It is found that some of the records contained in the package were redacted. The complainant indicated at the contested case hearing that he was not challenging the redactions in the records that had been disclosed to him. The complainant contended, however, that there are more responsive records, particularly emails between the Common Council and Attorney Mason, and between Linda Reed, the Clerk of the Common Council, and Attorney Mason, which have been withheld in their entirety. In addition, the complainant contended that some city employees may have used personal email accounts to communicate with Attorney Mason. Finally, the complainant contended that, while the Common Council had authority to hire an investigator, it was not authorized to hire an attorney for the purpose of receiving legal advice; accordingly, the complainant contended that none of the requested records should be deemed exempt pursuant to the attorney-client privilege.


36. However, in his closing remarks, the complainant indicated that he has no objection to the respondents redacting the names of current city employees from any of the records ordered disclosed in this case. AT THE COMMISSION MEETING, THE COMPLAINANT INDICATED THAT HE HAS NO OBJECTION TO THE RESPONDENTS REDACTING THE JOB TITLES OF CURRENT CITY EMPLOYEES FROM ANY OF THE RECORDS ORDERED DISCLOSED IN THIS CASE.

37. Accordingly, the Commission need not address the claim that the names of city employees and the names of the complainants (who are also city employees) are exempt pursuant to §1-210(b)(2), G.S.³

³ Although the Commission does not address §1-210(b)(2), G.S., if it had the records at issue would not constitute “personnel” or “similar” files within the meaning of said statute.

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

1. The respondents shall forthwith provide the complainant, free of charge, with a copy of the records identified in paragraph 48, of the findings, above.

2. In complying with this order, the respondents may redact from such records the names of any current city employees, as well as such employees’ job titles.

5 FOR PURPOSES OF THIS CASE, THE PHRASE “CURRENT CITY EMPLOYEES” MEANS THOSE INDIVIDUALS WHO WERE EMPLOYED BY THE CITY OF MIDDLETOWN AT THE TIME THE REQUEST FOR RECORDS IN THIS CASE WAS MADE.
The Hearing Officer’s Report is amended as follows:

13. By letter dated and filed October 23, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide him with copies of the records described in paragraph [2] 8, above.

18. It is found that the records requested in paragraph [2] 8 above, are the invoices for legal services submitted to the Common Council by LeClairRyan.

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

1. The respondents shall forthwith provide the complainant with a copy of the legal invoices. In complying with this order, the respondents may redact from such records the names of any CURRENT city EMPLOYEES2 OR SUCH EMPLOYEES’ TITLES, with the exception of the name of the Clerk of the Common Council, to the extent such name appears in the invoices.

2. HENCEFORTH, THE RESPONDENTS SHALL STRICTLY COMPLY WITH THE DISCLOSURE REQUIREMENTS OF §§1-210(A) AND 1-212(A), G.S.

---

2 FOR PURPOSES OF THIS CASE, THE PHRASE “CURRENT CITY EMPLOYEES” MEANS THOSE INDIVIDUALS WHO WERE EMPLOYED BY THE CITY OF MIDDLETOWN AT THE TIME THE REQUEST FOR RECORDS IN THIS CASE WAS MADE.
Alexander Wood, Matthew Knox, Doreen Guarino, Kimberly Phillips and Journal Inquirer v. Chairman, Police Commission, Town of Suffield; Police Commission, Town of Suffield; and Town of Suffield

The Hearing Officer’s Report is amended as follows:

THE ENTIRE REPORT IS STRICKEN AND THE FOLLOWING IS INSERTED:

The above-captioned matter was heard as a contested case on April 9, 2019, at which time the complainants and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

A proposed decision was issued by the hearing officer on August 23, 2019. By email dated August 30, 2019, the complainants informed the Commission that they had agreed to withdraw their complaint. The Commission takes administrative of that withdrawal.

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

1. The complaint is dismissed.