

TO: Freedom of Information Commission
FROM: Thomas A. Hennick
RE: Minutes of the Commission's regular meeting of January 26, 2022

A regular meeting of the Freedom of Information Commission was held on January 26, 2022. Due to public health concerns surrounding the COVID-19 pandemic, the Commission meeting of January 26, 2022 was conducted telephonically. The meeting convened at 2:01 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jonathan J. Einhorn
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins
Commissioner Lenny T. Winkler
Commissioner Stephen Fuzesi Jr.
Commissioner Victoria W. Chavey

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Kathleen K. Ross, Valicia D. Harmon, Paula S. Pearlman, Danielle L. McGee, Matthew D. Reed, C. Zack Hyde, Jennifer F. Miller, Cindy Cannata, Linda Fasciano and Thomas A. Hennick.

The Commissioners unanimously voted to approve the Commission's regular meeting minutes of January 12, 2022.

Those in attendance were informed that the January 26, 2022 regular meeting of the Commission was being recorded.

[Docket #FIC 2020-0321](#) Shawn Crocker 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. The proceedings were digitally recorded.

[Docket #FIC 2021-0011](#) Abel Reyes 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. The proceedings were digitally recorded.

[Docket #FIC 2021-0016](#)

Andres Sosa v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Andres Sosa appeared on his own behalf. Attorney Tracie Brown appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2020-0098](#)

Andrea Sandor v. New Canaan Library, Inc., Town of New Canaan; and Town of New Canaan

This matter was removed from the agenda.

[Docket #FIC 2020-0122](#)

Energy Policy Advocates v. Attorney General, State of Connecticut, Office of the Attorney General; and State of Connecticut, Office of the Attorney General

[Docket #FIC 2020-0320](#)

Energy Policy Advocates v. Attorney General, State of Connecticut, Office of the Attorney General; and State of Connecticut, Office of the Attorney General

The Commissioners unanimously voted to consolidate the two matters. Attorney Matthew Hardin appeared on behalf of the complainants in both matters. Assistant Attorney General Daniel Salton appeared on behalf of the respondents in both matters. The Commissioners unanimously voted to amend the Hearing Officer's Report in #FIC 2020-0320. The Commissioners unanimously voted to adopt both Hearing Officers reports, Hearing Officer's Report #FIC 2020-0320 as amended. * The Commissioners unanimously voted to stay enforcement of the orders until the respondents perfect an appeal within the time allowable under law. The proceedings were digitally recorded.

[Docket #FIC 2020-0241](#)

Ethan Book v. Christopher Rosario, State Representative, State of Connecticut, General Assembly; and State of Connecticut, General Assembly

Ethan Book appeared on his own behalf. Attorney David Desjardins appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2020-0300](#)

Companions and Homemakers, Inc. v. Commissioner, State of Connecticut, Office of Policy and Management; and State of Connecticut, Office of Policy and Management

Attorney J. Martin Acevedo appeared on behalf of the complainant. Attorney

Gareth Bye appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2020-0326](#)

Altia Lawrence-Bynum v. Water Pollution Department, City of Waterbury; and City of Waterbury

Altia Lawrence-Bynum appeared on her own behalf. Attorney Richard Scappini appeared on behalf of the respondents. The Commissioners unanimously voted to correct the Hearing Officer's Report. The Commissioners unanimously voted to adopt the Hearing Officer's Report as corrected. * The proceedings were digitally recorded.

[Docket #FIC 2020-0380](#)

Aram Ayalon v. Mayor, City of New Britain; and City of New Britain

Aram Ayalon appeared on his own behalf. Attorney John Diakun appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2020-0389](#)

Kent Johnson v. Chief, Police Department, City of Torrington; Police Department, City of Torrington; and City of Torrington

The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2020-0390](#)

Kent Johnson v. Board of Public Safety, City of Torrington; and City of Torrington

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 digitally recorded.

[Docket #FIC 2020-0412](#)

William Bailey v. Chief, Police Department, City of Bridgeport; Police Department, City of Bridgeport; and City of Bridgeport

Attorney Dina Scalo 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 digitally recorded.

[Docket #FIC 2020-0430](#)

Katherine Betlej v. Town Clerk, City of Derby; and City of Derby

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 digitally recorded.

[Docket #FIC 2020-0587](#)

James Brennan v. Joseph Kusiak, Assessor, Town of Seymour; Assessor's Office, Town of Seymour; and Annmarie Drugonis, First Selectwoman, Town of Seymour

James Brennan appeared on his own behalf. Attorney Bryan LeClerc appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

Colleen M. Murphy and Attorney Matthew D. Reed reported on pending appeals.

Colleen M. Murphy reported that staff had begun holding more hearings in contested cases, accelerating efforts to reduce the commission's case backlog.

Colleen M. Murphy recognized the last day at the Commission, January 27, of retiring paralegal Wendy Paradis and Attorney Matthew D. Reed, who has accepted a position with another state agency. Executive Director Murphy thanked Wendy Paradis for more than 15 years of dedicated service and applauded her efforts in establishing the commission's Lawbase system. She also praised Attorney Reed for his work since joining the commission in 2019. Chairman Eagan and Commissioner Streeter also offered their thanks and praise for the departing staff members.

Colleen M. Murphy and Paula S. Pearlman presented proposed legislative initiatives to the Commission for their consideration. The Commissioners unanimously voted to authorize commission staff to move forward with those legislative initiatives when the 2022 session begins next month.

The meeting was adjourned at 4:32 p.m.

Thomas A. Hennick

* See attached for amendments and correction

AMENDMENTS and CORRECTION

[Docket #FIC 2020-0320](#)

Energy Policy Advocates v. Attorney General, State of Connecticut, Office of the Attorney General; and State of Connecticut, Office of the Attorney General

23. With regard to the respondents' contention that IC2020-0320-001 through IC2020-0320-003 were exempt from disclosure pursuant to §1-210(e)(1), G.S. [the respondents' interpretation of §1-210(e)(1), G.S., as an exception to disclosure for any material deemed to be part of the "deliberative process" is misplaced. Such statute actually requires the disclosure of records found to be part of the process by which governmental decisions and policies are formulated.] [I]t is found that the respondents failed to prove that the information redacted from the referenced in camera records was a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency as required by §1-210(e)(1), G.S. Accordingly, it is concluded that the referenced in camera records were not exempt from disclosure pursuant to §1-210(e)(1), G.S., as contended by the respondents.

35. After careful examination of all the in camera records, **THE PRIVILEGED NATURE OF THE COMMUNICATION IS NOT OBVIOUS FROM THE FACE OF SUCH RECORDS.** [it] It is found that the respondent fail to prove that any of their state agency clients had requested legal advice and that the in camera records pertained to any such advice. Therefore, it is found that such records are not exempt from disclosure pursuant to §§1-210(b)(10) or 52-146(r), G.S., as contended by the respondents.

39. It is found that the in camera records identified as IC2020-0320-00[4] 5 through IC2020-0320-018 comprise a document entitled, "Common Interest Agreement...." Such records were withheld from disclosure in their entirety. The respondents failed to provide any specific testimony or evidence that such records contained any confidential information protected by the attorney client privilege. Accordingly, it is found that IC2020-0320-00[4]5 through IC2020-0320-018 were not exempt from disclosure as contended by the respondents.

[Docket #FIC 2020-0326](#)

Altia Lawrence-Bynum v. Water Pollution Department, City of Waterbury; and City of Waterbury

Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §[129] 149 of Public Act 21-2 (June Sp. Sess.).

[Docket #FIC 2020-0390](#)

Kent Johnson v. Board of Public Safety, City of Torrington; and City of Torrington

The above-captioned matter was heard as a contested case on December 21, 2021, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted remotely pursuant to §149 of Public Act 21-2 (June Sp. Sess.). For hearing purposes, this matter was consolidated with Docket #FIC 2020-0389, Kent Johnson v. [Board of Public Safety, City of Torrington; and City of Torrington,] **CHIEF, POLICE DEPARTMENT, CITY OF TORRINGTON; POLICE DEPARTMENT, CITY OF TORRINGTON;** and City of Torrington.

[Docket #FIC 2020-0412](#)

William Bailey v. Chief, Police Department, City of Bridgeport; Police Department, City of Bridgeport; and City of Bridgeport

3. It is found that, by email dated [August 5, 2020] **JUNE 17, 2020**, the respondents acknowledged receipt of the complainant's request, but referred the complainant to the State of Connecticut Police Officer Standards and Training ("POST") Council as the public agency which maintains the records responsive to the request and provided a link to their website.

[Docket #FIC 2020-0430](#)

Katherine Betlej v. Town Clerk, City of Derby; and City of Derby

1. It is found that on August 5, 2020, the complainant made a request through MuckRock.com, to the respondents for the following:

[b] A list of all members of the following committees, commissions, and boards, regardless of whether they are appointed or elected: the Board of Aldermen and Alderwoman (including the following subcommittees: community relations, operations and procedures, Road Bond, VARCA Building Future Use Ad-Hoc, Blight, and any others existing under the Board of Aldermen and Alderwoman), Democratic Town Committee (including leadership positions), Republican Town Committee (including leadership positions), Board of Education (including Athletic Complex Building Committee, Field House Committee, Baseball Field Committee, and School Regionalization Committee, Finance Subcommittee, Negotiations and Personnel Subcommittee, School/ Community Relations and Policy Subcommittee, Student Health and Safety Subcommittee, Plant and Facility Subcommittee, Academic and Curriculum Subcommittee, Athletic Subcommittee), Board of Apportionment and Taxation (including Tax Incentive Committee), Infrastructure Committee, Ethics Board, Shared Services Committee, Parks and Recreation Commission, Pension Board, Planning and Zoning, Water Pollution Control Authority Board, Zoning Board of Appeals, Cultural Commission (including Capital Planning Commission), Cultural Commission

Events, Commission for the Elderly, Police Commission, Inland Wetlands Agency, and the Charter Revision Commission. (“August 5th request”) (emphasis added).

It is found that the August 5th request was [made directly] **ADDRESSED** to the respondent Town Clerk.