

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Gerald Nardone,

Complainant

against

Docket # FIC 2020-0050

Chairman, Western Connecticut Tourism  
District Board; and Western Connecticut  
Tourism District Board,

Respondents

May 12, 2021

The above-captioned matter was heard as a contested case on October 20, 2020, at which time 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 telephonically.<sup>1</sup>

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. The respondent agency was established pursuant to §10-397, G.S., which states in relevant part:

- (a) There are established three regional tourism districts, each of which shall promote and market districts as regional leisure and business traveler destinations to stimulate economic growth....
- (c) The provisions of the Freedom of Information Act, as defined in section 1-200, shall apply to each regional tourism district.

3. It is found that the respondent district board is one of three multi-town regional tourism districts in the state and is comprised of representatives of sixty-three (63) member municipalities. It is also found that the complainant was designated by the Town of Middlebury to serve as a member of the respondent board of directors.

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<sup>1</sup> On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

4. It is found that the respondents conducted a special meeting on January 15, 2020 (hereinafter “the meeting”), and that the complainant attended such meeting.

5. By letter of complaint filed January 30, 2020,<sup>2</sup> the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act when they failed to provide proper notice of the meeting, as follows:

- (a) The meeting notice was not clearly designated as a “special meeting” and its purpose not clearly defined.
- (b) The date of the meeting [on the notice], January 15, 2019, was incorrect.
- (c) The requirement to give advance written notice to the clerks of the 63 [member] municipalities and placed [sic] on their respective public calendars, was not met.
- (d) Minutes of the regular scheduled meeting held November 20, 2019, were never distributed.
- (e) Minutes of January 15, 2020, meeting not yet distributed.

Additionally, the complainant requested that all actions taken at the meeting be declared null and void.

6. The complainant also complained that the meeting was not called in accordance with the bylaws governing the conduct of the respondent board of directors. However, the Commission does not have jurisdiction over the respondents’ compliance with their own regulations and bylaws. Therefore, the Commission declines to make any findings regarding the respondents’ compliance with its own regulations and bylaws.

7. Section 1-225(d), G.S., provides, in relevant part, that:

[n]otice 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 each municipal member for any multitown district or agency. The secretary or clerk shall cause any notice received under this section to be posted in his office. Such notice shall be given not less than twenty-four hours prior to the time of the special meeting; .... The notice shall specify the time and place of the special meeting and the business

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<sup>2</sup> On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains jurisdiction over this matter.

to be transacted. No other business shall be considered at such meetings by such public agency. In addition, such written notice shall be delivered to the usual place of abode of each member of the public agency so that the same is received prior to such special meeting. The requirement of delivery of such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the public agency a written waiver of delivery of such notice. Such waiver may be given by telegram. The requirement of delivery of such written notice may also be dispensed with as to any member who is present at the meeting at the time it convenes. Nothing in this section shall be construed to prohibit any agency from adopting more stringent notice requirements. (Emphasis added)

8. With respect to the allegation described in paragraph 5(a), above, it is found that §1-225(d), G.S., does not include a requirement that a notice for a special meeting specifically include the words “special meeting.” Additionally, it is found that the agenda for the special meeting provided a description of the business to be conducted at such meeting. Accordingly, it is concluded that the respondents did not violate the Act as alleged in paragraph 5(a), above.

9. With respect to the allegation described in paragraph 5(b), above, the complainant alleged that the notice of the special meeting included the wrong date and at hearing further complained that such notice was not signed by any official. With regard to the complaint that the meeting notice was not signed, it is found that §1-225(d), G.S., does not include a requirement that a notice of a special meeting bear any signature. Accordingly, it is found that the respondents did not violate the Act by issuing a meeting notice without a signature of any official. With regard to the date of the notice, it is found that the special meeting notice was improperly dated January 15, 2019, as opposed to the actual scheduled date of January 15, 2020. It is concluded that the respondents violated §1-225(d), G.S., when they prepared and distributed a notice of a special meeting and such notice included the wrong meeting date. It is also found, however, that the improper date was a typographical error common, if regrettable, at the beginning of a new year. The Commission notes that no other person appealed to the Commission alleging they were denied access to the meeting or that they failed to receive proper notice of such meeting because of the improperly dated notice.

10. With respect to the allegation described in paragraph 5(c), above, the respondents failed to prove that they provided the proper notice to the clerk of each of the sixty-three (63) member municipalities pursuant to §1-225(d), G.S. Accordingly, it is concluded that the respondents violated §1-225(d), G.S., as alleged in paragraph 5(c), above.

12. With respect to the allegations described in paragraphs 5(d) and 5(e), above, §1-225(a), G.S., states 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...” It is found that the minutes of the meeting were made available for public inspection by the respondents in accordance with §1-225(a), G.S.

Accordingly, it is concluded that the respondents did not violate the Act as alleged in paragraphs 5(d) and 5(e), above.

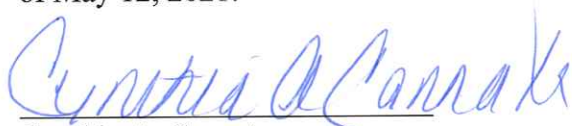
13. Under the facts and circumstances of this case, the Commission declines to declare null and void all actions taken at the meeting.

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

1. Within 30 days of the notice of final decision in this matter, the respondents shall contact the Commission to arrange for a member of the Commission staff to conduct training on FOI Act compliance.

2. Henceforth, the respondents shall strictly comply with the notice requirements as set forth in §1-225(d), G.S., as well as all other requirements of the FOI Act.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 12, 2021.



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:

**GERALD NARDONE**, 224 Mirey Dam Road, Middlebury, CT 06762

**CHAIRMAN, WESTERN CONNECTICUT TOURISM DISTRICT BOARD; AND WESTERN CONNECTICUT TOURISM DISTRICT BOARD**, Attn: Craig Nelson, 83 Bark Street, P.O. Box 1469, Waterbury, CT 06702



Cynthia A. Cannata  
Acting Clerk of the Commission