

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Maria Pereira,

Complainant,

against

Docket #FIC 2022-0009

City Council,
City of Bridgeport; and
City of Bridgeport,

Respondents

October 26, 2022

The above-captioned matter was heard as a contested case on September 7, 2022, 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. It is found that the complainant is a member of the respondent council.
3. By email dated and filed January 5, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) in the following ways:
 - a) the respondent council’s December 6, 2021 regular meeting agenda failed to provide adequate notice that the respondent council would be appointing council members as officers, as liaisons to various boards and commissions, and as members to the school building committee; and
 - b) the respondent council voted on such appointments, which were not included in the respondent council’s agenda for the December 6, 2021 meeting, without first voting to add such matter to the agenda.

4. The complainant further contends that a vote to ratify these appointments was taken even though she informed the respondent council that such unnoticed action would be improper.

5. In the complaint and at the hearing, the complainant requested that the Commission declare null and void the unnoticed appointments. The complainant also requested that the Commission issue a civil penalty.

6. Section 1-225(c), G.S., provides, in relevant part:

The agenda of the regular meeting of every public agency. . . shall be available to the public and shall be filed, not less than twenty-four hours before the meeting to which they refer, (1) in such agency's regular office or place of business, and (2) . . . in the office of the clerk of such subdivision for any public agency of a political subdivision of the state Upon the affirmative vote of two-thirds of the members of a public agency present and voting, any subsequent business not included in such filed agendas may be considered and acted upon at such meetings.

7. It is found that the respondent council filed a notice of its first regular meeting of the council year for December 6, 2021, which included as an agenda item "Appointment of City Council Standing Committees."

8. The Commission takes administrative notice of Rule XII of the respondent council's Rules of Order, which provides:

At the commencement of the City Council year, the following standing committees, each to consist of seven councilpersons, shall be appointed by the President of the City Council and ratified by the City Council. . .

Committee on Ordinances
Committee on Public Safety and Transportation
Committee on Contracts
Committee on Economic and Community Development and Environment
Committee on Miscellaneous Matters
Committee on Education and Social Services
Committee on Budget and Appropriations
Joint Committee

9. It is found that the respondent council held its first regular meeting of the council year on December 6, 2021, which the complainant attended.

10. It is found that, in addition to appointing council members to the standing committees defined in the Rules of Order, described in paragraph 8, above, the newly elected council president announced at the December 6 meeting, under the heading of "Appointment of City Council Standing Committees," the assignment of various council members to serve as:

- a) officers, including president pro tempore, majority leader, deputy majority leader and others;
- b) liaisons to various boards and commissions of the respondent city, i.e. Chamber of Commerce, Fire Commission, Harbor Commission, etc.; and
- c) members of the School Building Committee.

11. It is found that no member of the respondent council made a motion to amend the meeting agenda to add the appointment of city council members as officers, liaisons, and as members of the school building committee.

12. It is found that a motion was raised "to approve the committee assignments, council officer assignments, and liaisons to various commissions and board assignments as presented." It is further found that this motion carried seventeen in favor and two opposed.

13. It is found that officer positions, other boards and commissions, and the school building committee do not constitute "standing committees" as described in the respondent council's Rules of Order.

14. In Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, et al., Superior Court, Docket No. 99-0497917-S, Judicial District of New Britain, Memorandum of Decision dated May 3, 2000 (Satter, J.), reversed on other grounds, 66 Conn. App. 279 (2001), the court observed that one purpose of a meeting agenda "is that the public and interested parties be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views," and that "[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing."

15. In addition, the plain language of §1-225(c), G.S., "requires that a new agenda item, not previously published, may be added to the agenda only after an affirmative vote of two-thirds of the members present and voting to add that item." Zoning Bd. of Appeals of Town of Plainfield v. Freedom of Info. Comm'n, 66 Conn. App. 279, 286 (2001).

16. Based on the foregoing findings, it is concluded that the agenda item "Appointment of City Council Standing Committees" did not sufficiently apprise the public

that the respondent council would be appointing council members as officers, liaisons to various boards and commissions, and as members of the school building committee.¹

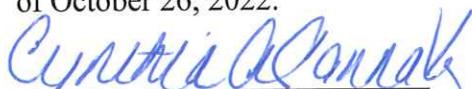
17. It is therefore concluded that the respondent council violated §1-225(c), G.S., when it appointed city council members as officers, liaisons to other boards and commissions, and to the school building committee at its December 6, 2021 regular meeting, without voting to add these items to the agenda, as new business not included in the agenda filed for such meeting.

18. With regard to the complainant's request for an order from this Commission declaring null and void the respondent council's appointments made at the December 6 meeting, the Commission declines to do so. The Commission in its discretion also declines to consider the imposition of a civil penalty against the respondents.

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

1. Henceforth, the respondents shall strictly comply with the requirements of 1-225(c), by fairly and sufficiently detailing on its meeting agendas the business it plans to address at such meetings.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 26, 2022.



Cynthia A. Cannata
Acting Clerk of the Commission

¹ After the hearing and pursuant to an order of the hearing officer, the respondents submitted the following post-hearing exhibits, which have been admitted into evidence and marked as follows: 1) Bridgeport City Council Meeting Minutes from December 3, 2018; 2) Bridgeport City Council Meeting Minutes from December 2, 2019; and 3) Bridgeport City Council Meeting Minutes from December 7, 2020, respectively Post-Hearing Ex. 4, 5, and 6. The Commission notes that the respondent council's agendas for its first regular meetings for the years 2018, 2019 and 2020 do not evidence, as the respondents contended, a clear pattern of the respondent council making additional appointments beyond the standing committees. Although the minutes for the 2019 first regular meeting reflect that the respondent council appointed city council members as officers, liaisons, and to the school building committee at that meeting, the meeting minutes for the first regular meetings in 2018 and 2020 do not. The minutes for the 2020 first regular meeting only identify appointments to the standing committees listed in the Rules of Order; and the 2018 first regular meeting minutes merely state that the appointments of the council standing committees were to remain as they had previously been assigned, with no other information. Regardless, the respondent council's past practice is not dispositive of the issues alleged in the instant case.

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:

MARIA PEREIRA, 206 Bradley Street, Bridgeport, CT 06610

CITY COUNCIL, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT, c/o Attorney Dina A. Scalo, Office of the City Attorney, 999 Broad Street, 2nd Floor, Bridgeport, CT 06604



Cynthia A. Cannata
Acting Clerk of the Commission