

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Ceppetelli,

Complainant

against

Docket #FIC 2023-0131

Chair, Planning & Zoning Commission,  
Town of East Windsor; Planning &  
Zoning Commission, Town of East  
Windsor; and Town of East Windsor,

Respondents

February 28, 2024

The above-captioned matter was heard as a contested case on July 20, 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 email received and filed on March 24, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act when the respondents failed to:

[a] notify the public that Application PZ-2023-5 for a Site Plan Modification at 27 Reservoir Avenue (“Application PZ-2023-5”) would be discussed and acted on at its February 28, 2023 meeting;

[b] add to the February 28, 2023 meeting agenda discussion of the Application PZ-2023-5; and

[c] publish the minutes of and votes taken at the February 28, 2023 meeting in a timely manner.

At the hearing, the complainant also requested that the Commission order FOI training.

3. Section 1-225(a), G.S., provides that:

The meetings of all public agencies...shall be open to the public. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and

shall also be recorded in the minutes of the session at which taken. 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.

4. Section 1-225(c), G.S., provides that:

The agenda of the regular meetings of every public agency, except for the General Assembly, shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer.... 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.

5. It is found that the respondents held a regular meeting on February 28, 2023 ("February 28<sup>th</sup> meeting). It is found that the agenda for the February 28<sup>th</sup> meeting did not include consideration of Application PZ-2023-5, concerning the construction of a playground.

6. It is found that at the February 28<sup>th</sup> meeting, the East Windsor Director of Planning and Development requested that consideration of Application PZ-2023-5 be added to the agenda under "New Business". It is found that no motion was made by the respondents to add such item to the agenda.

7. It is also found that at the February 28<sup>th</sup> meeting, the respondents discussed and moved to approve Application PZ-2023-5. It is found that the respondents voted on and approved such application, subject to certain conditions.

8. It is further found that the minutes of and votes taken at the February 28<sup>th</sup> meeting were not available for public inspection within seven days after such meeting.<sup>1</sup>

9. With respect to the allegations described in paragraphs 2[a] and 2[b], above, it is found that the respondents were not required under the FOI Act to include consideration of Application PZ-2023-5 on the February 28<sup>th</sup> regular meeting agenda. However, it is also found that the respondents failed to obtain the requisite two-thirds vote of those members present and voting to add consideration of Application PZ-2023-5 to the meeting agenda, as required under §1-225(c), G.S.

10. With respect to the allegation described in paragraph 2[c], above, it is found that the respondents failed to make the minutes and votes of the February 28<sup>th</sup> meeting available for public inspection within seven days of such meeting, as required under §1-225(a), G.S.

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<sup>1</sup> It is unclear from the administrative record as to the exact date when the minutes for the February 28<sup>th</sup> meeting were available for public inspection. However, the parties do not dispute that such minutes were made available for public inspection more than seven days after such meeting.

11. Accordingly, it is concluded that the respondents violated §§1-225(a) and 1-225(c), G.S., as alleged in the complaint.

12. At the hearing, the respondents testified that, at some point after the February 28<sup>th</sup> meeting, they became aware of “technical FOI deficiencies” associated with such meeting, and subsequently attempted to cure such “deficiencies”.<sup>2</sup>

13. It is found that the respondents held a regular meeting on May 9, 2023 (“May 9<sup>th</sup> meeting”). It is found that the agenda for the May 9<sup>th</sup> meeting included the following item: “XII. New Business...PZ-2023-15 Town of East Windsor - Site Plan Modification for the construction of a playground at 27 Reservoir Ave.”<sup>3</sup>

14. It is found that at the May 9<sup>th</sup> meeting, the respondents discussed and moved to approve Application PZ-2023-15 for a Site Plan Modification at 27 Reservoir Avenue. It is found that the respondents approved such application, subject to certain conditions.

15. It is found that the minutes of and votes taken at the May 9<sup>th</sup> meeting were available for public inspection on May 12, 2023, within seven days after such meeting.

16. It is found that the notice for the May 9<sup>th</sup> meeting was in compliance with §§1-225(a) and 1-225(c), G.S. It is further found that the respondents timely made available minutes of such meeting in compliance with §1-225(a), G.S.

17. With respect to the remedy sought by the complainant, it is found that although the respondents strove to correct the violations of the FOI Act associated with the February 28<sup>th</sup> meeting, it took approximately two months before such corrective action was taken. The respondents also testified, and it is found, that although they try to comply with the minutes requirements under the Act, they “sometimes” post minutes more than seven days after a meeting. Additionally, the respondents testified that they received FOI Act training from their attorneys in September 2022, prior to the February 28<sup>th</sup> meeting. Accordingly, the Commission finds that the respondents would benefit from FOI Act training.

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

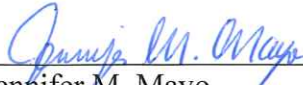
1. Henceforth, the respondents shall strictly comply with the provisions of §1-225, G.S.
2. Forthwith, the respondents, or their designee, shall arrange for a FOI Act training session to be conducted by the staff of the Commission. The respondents, or their designee, shall forthwith contact the Commission to schedule such training session.

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<sup>2</sup> The respondents also testified that subsequent to the February 28<sup>th</sup> meeting, they reapplied for a site plan modification at 27 Reservoir Avenue to address issues raised in an appeal filed in Superior Court concerning the approval of Application PZ-2023-5 at such meeting.

<sup>3</sup> At the hearing, the parties disputed whether the applications considered at the February 28<sup>th</sup> and May 9<sup>th</sup> meetings were the same. However, it was undisputed that both applications were for site plan modifications for construction of a playground at 27 Reservoir Avenue.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 28, 2024.

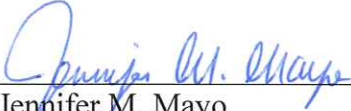
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**MICHAEL CEPPETELLI**, 42 Skinner Road, East Windsor, CT 06106

**CHAIR, PLANNING & ZONING COMMISSION, TOWN OF EAST WINDSOR;  
PLANNING & ZONING COMMISSION, TOWN OF EAST WINDSOR; AND TOWN OF  
EAST WINDSOR**, c/o Attorney Brian L. McCann, Pullman & Comley LLC, 850 Main Street,  
Bridgeport, CT 06601

  
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Jennifer M. Mayo  
Acting Clerk of the Commission