

FREEDOM OF INFORMATION COMMISSION
STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Maria Pereira,

Complainant

against

Docket # FIC 2024-0064

Aidee Nieves, President, City Council, City
of Bridgeport; Miscellaneous Matters
Committee, City Council, City of
Bridgeport; and City of Bridgeport,

Respondents

January 22, 2025

The above-captioned matter was heard as a contested case on November 22, 2024, at which time the complainant and the respondents appeared and presented testimony and exhibits on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondent Bridgeport City Council (“respondent council”) and respondent Miscellaneous Matters Committee of the Bridgeport City Council (“respondent committee”) are public agencies within the meaning of §1-200(1), G.S.
2. By email dated and filed with the Commission on February 1, 2024, and received by the Commission on February 2, 2024, the complainant appealed to this Commission alleging that the respondents, respectively, violated the Freedom of Information (“FOI”) Act by:
 - a. adding to the respondent council’s December 4, 2023 regular meeting agenda, by two-thirds vote of its membership, a resolution calling for a ceasefire of hostilities in Israel, Gaza, and the West Bank (“ceasefire resolution”) that had been drafted by a single city council member and members of a religious organization;
 - b. adopting at the December 26, 2023 regular meeting of the respondent committee a second, amended version of the ceasefire resolution absent the legal authority to adopt resolutions on international policy from the constitution, state statute, or municipal charter;
 - c. failing to post a copy of the order or notice of adjournment on or near the door of the building in which the respondent committee held its December 26, 2023 regular meeting;
 - d. adopting at the respondent committee’s January 2, 2024 meeting a further amended third version of the ceasefire resolution, which was not properly noticed

as an action item on the committee's agenda and was drafted by an unelected group of religious officials and non-city residents who lacked the legal authority to do so;

- e. holding a secret meeting on January 2, 2024 that was attended by various respondent council members, religious officials, and mayoral administration members in a city council caucus room ("caucus room gathering") at which a further amended fourth version of the ceasefire resolution was drafted; and
- f. adopting the fourth version of the resolution drafted in the aforementioned caucus room gathering at the respondent council's January 2, 2024 regular meeting.

The complainant requested certain remedies for the alleged violations described above, including the imposition of civil penalties and the nullification of the resolutions adopted or drafted at the gatherings described in paragraphs 2(b), 2(d), 2(e), and 2(f), above.

Jurisdiction

3. Because the complainant in this matter filed a notice of appeal more than thirty days after the respondents' meetings convened on December 4 and December 26, 2023, the Commission must determine whether it has subject matter jurisdiction over any alleged violation occurring at those meetings.

4. Section 1-206(b)(1), G.S., provides the following in relevant part:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives actual or constructive notice that such meeting was held.

5. It is found that the respondents' meetings convened on December 4 and December 26, 2023, were neither secret nor unnoticed within the meaning of §1-206(b)(1), G.S.

6. It is found that the notice of appeal in this matter was filed more than thirty days after the respondents' meetings convened on December 4 and December 26, 2023.

7. Consequently, it is concluded that with respect to the meetings on December 4 and December 26, 2023, the complainant failed to file her complaint in a timely manner and in accordance with the provisions of §1-206(b)(1), G.S.

8. It is therefore concluded that the Commission has no jurisdiction to address alleged violations occurring at the meetings convened on December 4 and December 26, 2023. Accordingly, the Commission has no authority over the allegations described in paragraphs 2(a), 2(b), and 2(c), above.

Committee Meeting of January 2, 2024

9. Regarding the complainant's claim described in paragraph 2(d), above: the complainant alleges that the respondent committee improperly took action on an item that was not included on the agenda at its January 2, 2024 meeting. She further alleged that the item, a third version of the ceasefire resolution, was drafted by nonelected individuals who lacked the legal authority to do so.¹

10. It is found that the respondent committee's January 2, 2024 meeting held at 6:00 p.m. was a "reconvened meeting" of its regular December 26, 2023 meeting that was adjourned to that specific date and time pursuant to §1-228, G.S.²

11. It is found that such noticed agenda³ for the respondent committee's January 2, 2024 meeting listed one action item, which the respondent committee voted upon at the meeting: Item #24-23: "Proposed Approval to update the job description of the classification of [the] Purchasing Agent pursuant to Civil Service Rule IX, Sec3."

12. It is found that the respondent committee also voted to add, and took action on, a second item that was not listed on the meeting's noticed agenda: Item #20-23: "Resolution calling for an immediate de-escalation and permanent ceasefire in Israel, Gaza and the Occupied West Bank." (See Complainant's Exhibit I, minutes for January 2, 2024 meeting.)

13. Section 1-225(c), G.S., states the following in relevant part: "Upon the affirmative vote of two-thirds of 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."

14. It is found that four respondent committee members and the respondent council president were present and voting at the respondent committee's January 2, 2024 meeting. It is further found that a roll call vote was taken to add Item #20-23, described in paragraph 12, above, to the agenda with three votes in the affirmative and one vote in the negative.

¹ The FOI Act does not grant the Commission jurisdiction over the legality of nonelected individuals drafting action items for public agencies' consideration. Accordingly, such allegation will not be addressed further herein.

² Although the respondent committee voted to "table" the December 26, 2023 regular meeting until January 2, 2023 at 6:00 p.m., the Commission notes that the intent of such action actually was to adjourn and reconvene the meeting on January 2, 2024 at 6:00 p.m. See Complainant's Exhibit G, minutes of respondent committee's December 26, 2023 regular meeting.

³ The Commission notes that, likely due to a clerical error, the Exhibit H notice of respondent committee's meeting of January 2, 2024 is incorrectly dated. Such notice is dated December 20, 2023, which is incorrect because it precedes the regular meeting of December 26, 2023, at which the decision to reconvene on January 2, 2024 was made.

15. It is found that the required two-thirds affirmative vote of the present and voting members was not secured as required by §1-225(c), G.S.

16. Accordingly, it is concluded that the respondent committee violated §1-225(c), G.S., by taking action on a second item at its January 2, 2024 meeting without an affirmative vote of two-thirds of the members of a public agency present and voting.

17. The Commission in its discretion declines to consider the imposition of civil penalties under the facts and circumstances of this case.

Caucus Room Gathering of January 2, 2024

18. Regarding the complainant's allegations described in paragraph 2(e), above: the complainant alleges that an unnoticed secret meeting occurred at the caucus room gathering on the evening of January 2, 2024 while the respondent council's regular meeting was simultaneously in progress.

19. Section 1-225(a), G.S., provides in relevant part that, “[t]he meetings of all public agencies [...] shall be open to the public.”

20. Section 1-200(2), G.S., defines “meeting” as follows, in relevant part:

[A]ny hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction, or advisory power [...]

21. The Connecticut Supreme Court has held that “for a gathering of individuals who are members of a public agency to constitute a ‘hearing or other proceeding,’ [...] it must be comprised of individual members of that public agency who have express authority to take action on behalf of the public agency. This authority may be conferred by statute, regulation, ordinance, charter, or other legal authority.” (City of Meriden v. Freedom of Information Commission, 338 Conn. 310, 326 (2021) (“Meriden”).

22. Additionally, the Court in Meriden held that, “[b]ecause a ‘hearing or other proceeding’ does not require a quorum of a public agency’s members to constitute a meeting, a group comprising less than a quorum of a public agency may conduct a ‘hearing or other proceeding’ when it has the express authority to take action.” (Id.)

23. It is found, based on the credible testimony of the complainant’s witnesses who attended the caucus room gathering, that the gathering was comprised of the following attendees: mayoral administration personnel, city council members, attorneys, and leaders of the Jewish and

Muslim religious communities. It is also found that such attendees cycled in and out of the room during the gathering, with some attending for minutes or seconds and others staying for a majority of the time or for the entire duration.

24. It is found that neither a quorum of respondent council members nor a quorum of respondent committee members attended the caucus room gathering.

25. It is found, based on the credible testimony of the complainant's witnesses who attended the caucus room gathering, that the purpose of the gathering was to discuss, agree upon, and create a fourth draft of the ceasefire resolution for presentation to the respondent council for adoption at its regular meeting that same evening.

26. The complainant contends that the caucus room gathering was ordered and authorized by the respondent council president and, therefore, was a "meeting" within the meaning of §1-200(2), G.S.

27. It is found, however, that even if the allegation described in paragraph 26, above, is true, there is no evidence in the administrative record that the attendees of the caucus room gathering "possessed the express authority to take action on behalf the public agency" as the Court in Meriden instructs the Commission to contemplate. Specifically, neither the respondent council, respondent committee, nor any other public agency bestowed any such authority on the gathering. There is also no evidence in the administrative record that the attendees at the gathering comprised a group formed pursuant to any statute, regulation, ordinance, charter, or other legal authority. Furthermore, it is found that the gathering's attendees had no legal source of power granting them any authority to act, either as a group or on behalf of the respondent council or respondent committee, which is why the group submitted the resolution to the full respondent council for its consideration and a vote. (See paragraph 38, below.)

28. It is further found that there is nothing in the administrative record to suggest that the respondent council's authority to act independently with respect to voting on the resolution, or not voting on it at all, was compromised by the actions of the attendees of the caucus room gathering.

29. Therefore, it is found that the caucus room gathering did not constitute a meeting within the meaning of §1-200(2), G.S., of the respondent council, the respondent committee, or any other body authorized to act on behalf of a public agency.

30. Accordingly, it is concluded that the caucus room gathering was neither an unnoticed nor a secret meeting in violation of §1-225(a), G.S.

Council Meeting of January 2, 2024

31. Regarding the allegations described in paragraph 2(f), above: the complainant alleges that the respondent council violated the FOI Act by adopting at its January 2, 2024 regular meeting the fourth version of the ceasefire resolution that was drafted at the caucus room gathering described in paragraphs 23-25, above. Specifically, she alleges that the version of the

amended resolution that the respondent council acted upon was improperly noticed prior to the council's January 2, 2024 regular meeting.

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

The agenda of the regular meetings of every public agency [...] shall be available to the public and shall be filed, not less than twenty-four hours before the meetings 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.

33. It is found that the first page of the noticed agenda for the respondent council's January 2, 2024 regular meeting lists the ceasefire resolution as an action item in the following manner:

MATTERS TO BE ACTED UPON:

20-23: Miscellaneous Matters Committee Report re: Resolution Calling for an Immediate De-escalation and Permanent Ceasefire in Israel, Gaza, and the Occupied West Bank.

(See Complainant's Exhibit L, agenda for respondent council's January 2, 2024 regular meeting.)

34. The complainant contends that the version of the resolution that was ultimately adopted by the respondent council was not the version that was noticed on the agenda in violation of the FOI Act.

35. The Commission has determined that "all matters on an agency's agenda must be sufficiently specific so that the public is fairly apprised of the matters to be considered at the meeting in question." Sherry Disbury and the Terryville/Plymouth Community News v. Police Commission, Town of Plymouth, Docket #FIC 2004-091 (Sept. 8, 2004); Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, et al., Superior Court, Judicial District of New Britain, Docket No. 99-0497917-S (May 3, 2000, *Satter*, J.), reversed on other grounds, 66 Conn. App. 279 (2001) (the purpose of a meeting agenda "is that the public and interested parties be apprised of matters 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").

36. It is found that the FOI Act does not prohibit a public agency from adopting amendments to an action item that was properly noticed on a meeting agenda.

37. It is also found that the FOI Act does not require a public agency to post notice of the text of an action item or the text of possible amendments to an action item to be offered at a meeting.

38. It is found that, at the respondent council's January 2, 2024 regular meeting, the council took up Item 20-23 on its agenda described in paragraph 33, above. It is further found that, after a period of debate, a council member moved to "amend by substitution with the document that was received which reflects a consensus of a group of religious leaders from both Jewish and Muslim communities of Bridgeport." It is found that such motion passed after a roll call vote. (See Complainant's Exhibit P, meeting minutes for respondent council's January 2, 2024 regular meeting.)

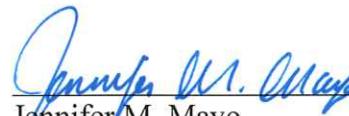
39. It is found that the respondent council's agenda for its January 2, 2024 regular meeting fairly apprised the public of the topic that was to be discussed in action Item 20-23 as described in paragraph 33, above, even if the language ultimately adopted for the item was different from the language of the noticed item.

40. Consequently, it is concluded that the respondent council properly noticed the ceasefire resolution as Item 20-23 on the agenda for its January 2, 2024 regular meeting. Therefore, the respondent council did not violate the FOI Act or the notice provisions of §1-225(c), G.S., by adopting the amended version of the ceasefire resolution drafted in the caucus room gathering as described in paragraphs 23-25, above.

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

1. Henceforth, the respondent committee shall strictly comply with the requirements of §1-225(c), G.S.
2. The action taken at the respondent committee's January 2, 2024 meeting to adopt the third version of the ceasefire resolution is hereby declared null and void.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 22, 2025.



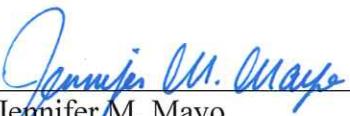
Jennifer M. Mayo
Acting Clerk of the Commission

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:

MARIA PEREIRA, c/o Attorney Jonathan J. Klein, Parlatore Law Group, LLP, 1057 Broad Street, Suite 403, Bridgeport, CT 06604

AIDEE NIEVES, PRESIDENT, CITY COUNCIL, CITY OF BRIDGEPORT; CITY COUNCIL, CITY OF BRIDGEPORT; MISCELLANEOUS MATTERS COMMITTEE, CITY COUNCIL, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT, c/o Attorney Michael C. Jankovsky and Attorney Tyisha S. Toms, City of Bridgeport, Office of the City Attorney, 999 Broad Street, Bridgeport, CT 06604



Jennifer M. Mayo

Acting Clerk of the Commission