

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Susan Huwer,

Complainant

against

Docket # FIC 2024-0384

Bus Lot Working Group, Town of New
Fairfield; First Selectman, Town of New
Fairfield; Superintendent, New Fairfield
Public Schools; and New Fairfield Public
Schools,¹

Respondents

June 25, 2025

The above-captioned matter was heard as a contested case on December 16, 2024, 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. By email dated June 25, 2024 and filed July 1, 2024, the complainant appealed to the Commission alleging that the respondents violated the Freedom of Information Act ("FOI Act") by:

- a. holding unnoticed meetings of the Bus Lot Working Group;
- b. denying the public access to attend the meetings of the Bus Lot Working Group;
- c. failing to properly prepare and post minutes of the Bus Lot Working Group;
- d. failing to record meetings of the Bus Lot Working Group conducted solely by means of electronic equipment; and
- e. failing to comply with the complainant's request for access to certain records.

Relevant Background

2. It is found that, at least since January 2024, the Town of New Fairfield had been searching for a permanent location for a school bus parking lot, which had previously involved litigation as well as public protest.

¹ The caption has been amended to reflect the proper parties based upon the Administrative Record.

3. It is found that the Superintendent of Schools (the “Superintendent”) for the New Fairfield Public Schools (“NFPS”), and the First Selectman (the “First Selectman”) of the Town of New Fairfield (“Town”) agreed to form a working group to focus on finding the best location for the Town’s school bus parking lot (“Bus Lot Working Group”) whereby the Superintendent solicited the assistance of certain individuals who he believed would have some insight into the bus parking lot issue or would otherwise be helpful.

4. It is found that the Bus Lot Working Group was comprised of the following individuals appointed by the Superintendent and the First Selectman: the First Selectman; the Chair of the Board of Education (“BOE”) for the NFPS; the Chair of the Permanent Building Committee (“PBC”) for the NFPS; the Town Engineer; the Director of Business & Operations for the NFPS; the Town Zoning Enforcement Officer; the Director of Buildings and Grounds for NFPS; the New Fairfield High School Principal; the New Fairfield High School Athletic Director; the New Fairfield Middle School Principal; and a representative from Colliers International, a commercial real estate services company.

5. It is found that the Bus Lot Working Group’s purpose was to formally evaluate all previous work performed by the PBC on possible bus parking lot sites, to consider and evaluate other possible sites, and to ultimately find the best and most feasible location to build and operate a school bus lot for NFPS.

6. It is found that, on March 7, 2024, the Superintendent informed the BOE, including the complainant who is a member of the BOE, that he and the First Selectman had formed the Bus Lot Working Group to focus on finding and recommending the best location for the Town’s school bus lot and that such group had its first meeting on March 7, 2024.

7. It is found that the Bus Lot Working Group prepared a memorandum dated June 10, 2024 (“June Memorandum”), by which it provided an update on the group’s progress to the BOE, the Board of Finance for the Town (“BOF”), the Board of Selectmen for the Town (“BOS”) and the PBC.

8. It is found that the Bus Lot Working Group meetings were not open to the public and that no agendas and minutes were publicly posted with respect to the group’s meetings.

9. It is found that the initial meetings of the Bus Lot Working Group focused on reviewing prior work by the PBC related to the school bus parking lot. It is found that thereafter the Bus Lot Working Group established a list of minimum requirements and amenities for an optimal bus lot, developed a detailed assessment matrix with fifteen criteria for the initial evaluation phase, identified a list of nine potential sites, established a numeric scoring system and collaboratively scored each site using the scoring matrix. It is further found that the Bus Lot Working Group narrowed their search to the four highest-scoring sites and deemed those worthy of further evaluation by an engineering firm in a phase two study.

10. It is found that the members of the Bus Lot Working Group agreed to hire an independent engineering firm to evaluate existing sites and develop construction estimates for the proposed sites.

11. It is found that the Bus Lot Working Group prepared a formal request for proposal ("RFP") for hiring an independent engineering firm. It is further found that the group ultimately decided that a public RFP process was unnecessary, and instead unanimously decided to hire a certain engineer who they believed had sufficient and relevant experience.

12. Pursuant to the June Memorandum, it is found that once the engineer completed his study and prepared a report, the Bus Lot Working Group planned to publicly present the engineer's findings and recommendations, along with the recommendations of the group, to the community.

13. It is found that the engineer prepared a proposal, which estimated the cost for his professional services to be \$41,600. It is further found that the Bus Lot Working Group recommended that such expense be equally shared among the BOS, the BOE, and the PBC.

14. It is found that the BOS, BOF, PBC and BOE convened a joint special meeting on June 13, 2024, during which the Bus Lot Working Group presented its June Memorandum and provided an update on its work. It is further found that the BOS, BOF, PBC and BOE voted to approve the engineer's proposal and to pay his fee for the bus lot engineering study.

RECORDS COMPLAINT AGAINST RESPONDENT SUPERINTENDENT AND FIRST SELECTMAN

15. Section 1-200(5), G.S., provides:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

16. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to ... (3) receive a copy of such records in accordance with the provisions of section 1-212.

17. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

18. It is found that the Superintendent and the First Selectman are public agencies within the meaning of §1-200(1), G.S.

19. It is found that, after reviewing the June Memorandum, the complainant requested, by separate emails dated June 12, 2024, that the Superintendent and the First Selectman provide her with a copy of the Bus Lot Working Group's meeting minutes.

20. It is concluded that the requested records, to the extent that they exist and are maintained by the Superintendent, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

21. It is found that, by email dated June 12, 2024, the First Selectman informed the complainant that the Superintendent's office would provide her with the responsive records.

22. It is found that, by email dated June 13, 2024, the Superintendent acknowledged the complainant's June 12, 2024 request.

23. It is found that, on June 17, 2024, the Superintendent provided the complainant with records responsive to her June 12, 2024 request, which included copies of an email dated June 17, 2024 from the Superintendent to the BOE with an update on the Bus Lot Working Group's progress, a list of the group's meeting dates, minutes for the March 7, 2024, March 22, 2024 and May 10, 2024 meetings of the Bus Lot Working Group and the agendas for the March 22, 2024, April 5, 2024, April 12, 2024 and May 10, 2024 meetings.

24. The complainant contended that the Superintendent failed to provide all records responsive to her June 12, 2024 request because he failed to provide minutes for several of the Bus Lot Working Group meetings.

25. At the hearing on this matter, the Superintendent testified, and it is found, that the Bus Lot Working Group did not prepare agendas and minutes for every meeting of the Bus Lot Working Group. He testified further, and it is found, that he provided the complainant with all of the existing agendas and minutes of the Bus Lot Working Group.

26. It is found that the Superintendent provided the complainant with all records responsive to her June 12, 2024 request.

27. Based on the foregoing, it is concluded that the Superintendent and the First Selectman did not violate §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

28. With respect to the complainant's contention that the Superintendent and the First Selectman did not respond to her June 12, 2024 records request promptly, this Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request" See FOI Commission Advisory Opinion #51, *In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk* (Jan. 11, 1982) ("Advisory Opinion #51").

29. It is found that the complainant made her request on June 12, 2024, and received the responsive records on June 17, 2024. It is further found that June 15, 2024 was a Saturday and June 16, 2024 was a Sunday. Accordingly, it is found that the Superintendent provided the responsive records to the complainant within three business days.

30. It is found that the Superintendent promptly complied with the complainant's June 14, 2024 request.

31. Accordingly, it is concluded that neither the Superintendent nor the First Selectman violated the promptness requirements of §§1-210(a) and 1-212(a), G.S., under the facts and circumstances of this case.

MEETINGS COMPLAINT CONCERNING BUS LOT WORKING GROUP

32. The respondents argued that the meetings of the Bus Lot Working Group do not constitute "meetings," of a public agency within the meaning of §1-200(2), G.S., to which the access, notice and minutes provisions in §1-225, G.S., or the recording and transcribing provisions of §1-225a, G.S., apply. Instead, they contended that such gatherings are "administrative or staff meetings" of the Superintendent or the First Selectman, and that each is a single-member public agency. The respondents further contended that the Bus Lot Working Group is not a public agency within the meaning of §1-200(1), G.S., and, therefore, the FOI Act does not apply to it. In their post-hearing brief, the respondents also claimed that the Commission lacks jurisdiction over the majority of the Bus Lot Working Group's meetings identified in paragraph 34, below, because the complaint was not filed within thirty days of such meetings as required by §1-206, G.S. The complainant disputed each of these claims.

Jurisdiction Concerning Meetings Allegations

33. Section 1-206(b)(1), G.S., provides in relevant part that:

[a]ny person ... 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.* . . .

(Emphasis added.)

34. It is found that between March 7, 2024 and July 1, 2024, the Bus Lot Working Group convened twelve times.² Specifically, it is found that the Bus Lot Working Group met on the following dates: March 7, 2024, March 22, 2024, April 5, 2024, April 12, 2024, April 26, 2024, May 3, 2024, May 10, 2024, May 17, 2024, May 24, 2024, May 31, 2024, June 7, 2024, and June 12, 2024.

35. As found in paragraph 6, above, that the complainant attended the March 7, 2024 BOE meeting at which the Superintendent notified the BOE members, including the

² The Commission notes that during the hearing on this matter, the Superintendent testified that the Bus Lot Working Group also met a number of times after the date of the complaint in this matter.

complainant, that the Bus Lot Working Group had met on March 7, 2024. It is therefore found that any appeal alleging that the Bus Lot Working Group March 7, 2024 meeting violated the FOI Act should have been filed within thirty days of March 7, 2024.

36. It is concluded that, because the complaint in this case was not filed within thirty days of March 7, 2024, the Commission does not have jurisdiction over the Bus Lot Working Group's March 7, 2024 meeting.

37. It is found that, although the complainant had knowledge of the existence of the Bus Lot Working Group as of March 7, 2024, the complainant did not have knowledge of any other meetings held between March 8, 2024 and June 12, 2024, as the Bus Lot Working Group did not publish notice of such meetings nor did it inform the BOE such dates. It is also found that the complainant did not have knowledge of the dates of such meetings until June 17, 2024, when the complainant received a list of such meeting dates from the Superintendent, as found in paragraph 23, above.

38. It is found that the complainant filed her complaint with the Commission on July 1, 2024, which is less than thirty days from June 17, 2024.

39. It is therefore concluded that the Commission has jurisdiction over the Bus Lot Working Group's March 22, 2024, April 5, 2024, April 12, 2024, April 26, 2024, May 3, 2024, May 10, 2024, May 17, 2024, May 24, 2024, May 31, 2024, June 7, 2024, and June 12, 2024 meetings.

Whether the Bus Lot Working Group's meetings are "administrative or staff meetings" of the Superintendent and First Selectman

40. Section 1-200(2), G.S., in relevant part provides that:

"[m]eeting" means any 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. "Meeting" does not include ... *an administrative or staff meeting of a single-member public agency....*

(Emphasis added.)

41. The Commission has examined the question of what constitutes an "administrative or staff meeting of a single member public agency" in several prior decisions. In those cases, it was found that single-member public agencies, such as a first selectman, or a chairman of a board of education, gathered with another town official, attorney or staff member, to discuss a ministerial or other routine matter related to the daily administration of that office, and thus the Commission concluded that the gatherings were not "meetings" within the meaning of §1-200(2), G.S. The Commission concluded, instead, that the gatherings were "administrative or staff meetings of a single-member public agency." *Goduti v. Collins, Chairman, Old Saybrook*

Harbor Management Comm'n, et al., Docket #FIC 2008-290 (March 25, 2009); *Holmberg and Bethel Volunteer Fire Dept., Inc. v. Bd. of Selectmen, Town of Bethel*, Docket #FIC 2005-105 (September 14, 2005); *Sheluck, Jr. v. Rosenthal, First Selectman, Town of Newtown*, Docket # FIC 2002-070 (January 22, 2003) ("*Sheluck*"); *Bowman, et al. v. Zemba, Chairman, Bd. of Ed., Regional School District #18*, Docket #FIC 1998-119 (September 23, 1998); but see *Hughes et al. v. Superintendent of Schools, Westport Public Schools; and Kindergarten Review Committee, Westport Public Schools*, Docket #FIC 2001-557 (May 22, 2002) (meetings of committee, created by the assistant superintendent, were not administrative meetings, where duties and responsibilities of the teachers and administrators on the committee were independent of their duties and responsibilities as teachers and administrators in the school system; and meetings of the committee were not akin to routine, daily meetings of the assistant superintendent).

42. It is found, based upon the Administrative Record, that the Superintendent and the First Selectman together formed the Bus Lot Working Group to address the controversial and challenging community concerns regarding the location for a school bus parking lot.

43. It is found that the Bus Lot Working Group is comprised of the chairs of three public boards, six school administrators, two town professional staff members, and a private real estate firm that managed the construction of two of the public schools in the Town.

44. It is found that half of the membership of the Bus Lot Working Group are not members of the Superintendent's staff and none are members of the First Selectman's staff. It is therefore found that the Bus Lot Working Group's meetings are not staff meetings of the Superintendent nor the First Selectman within the meaning of §1-200(2), G.S.

45. In their post-hearing brief, the respondents claim that the meetings of the Bus Lot Working Group were akin to the meeting at issue in *Sheluck, supra*. In *Sheluck*, the First Selectman invited the chair and vice-chair of the legislative council and the chair and vice-chair of the board of finance to a single meeting. The purpose of the gathering was to establish *administrative parameters of the council and board in the upcoming budget approval process*.

46. The circumstances in the instant matter are materially different than those in *Sheluck*. Here, as found in paragraphs 2 through 14, and 34, above, the Bus Lot Working Group met over twelve times, and their work went far beyond mere administrative matters. It is found that the work of the Bus Lot Working Group is not akin to administrative, routine, daily work of the Superintendent nor the First Selectman; rather it is found that the group was conducting substantive work with the goal of addressing a "challenging community issue" as highlighted by the Superintendent in his June 17, 2024 email to the BOE or a "highly challenging community problem" as noted in the June Memorandum.

47. Accordingly, it is found that the Bus Lot Working Group meetings are not administrative meetings of the Superintendent nor the First Selectman.

48. It is therefore concluded that the meetings of the Bus Lot Working Group are not "administrative or staff meetings" within the meaning of §1-200(2), G.S.

Whether the Bus Lot Working Group is a Public Agency

49. With respect to the contention that the Bus Lot Working Group is not a public agency within the meaning of §1-200(1)(A), G.S., such provision provides in relevant part:

“Public agency” or “agency” means: (A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any *committee ... created by*, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official ...

(Emphasis added.)

50. It is found that the Superintendent holds a position of public importance and that the public has an independent interest in his qualifications and performance beyond the general public interest in the qualifications and performance of all public employees.

51. It is found that the First Selectman is an elected official within the Town with substantial authority and oversight over Town affairs.

52. It is found that both the Superintendent and the First Selectman are Town “officials” within the meaning of §1-200(1)(A), G.S.

53. It is found that the Superintendent acted independently from the BOE and the First Selectman acted independently from the BOS when they formed the Bus Lot Working Group.

54. It is further found that the Superintendent, along with the First Selectman, created the Bus Lot Working Group to officially perform an advisory function with respect to the school bus lot and that it constitutes a committee created by two “officials” within the meaning of §1-200(1)(A), G.S. *See Perez v. Freedom of Info. Comm'n*, No. CV084019077S, 2009 WL 1873744, at *4 (Conn. Super. Ct. June 3, 2009) (upholding the Commission’s finding that Arena Task Force was a committee “created by” the mayor to perform an advisory function and that the Arena Task Force fell within the definition of “public agency” in §1-200(1), G.S.); Docket #FIC 87-380; *David S. Cohen et al. v. New Haven Superintendent of Schools and New Haven School Bd. AIDS Task Force* (May 11, 1988) (concluding that the AIDS Task Force was a public agency, and that its gatherings were “meetings” and not “administrative or staff meetings” of a single member public agency, as the task force was responsible for formulating and recommending to the superintendent, for adoption by the board of education, a policy regarding the education of children with AIDS).

55. It is therefore concluded that the Bus Lot Working Group is a public agency within the meaning of §1-200(1)(A), G.S., and that its meetings are subject to the provisions of the FOI Act.

56. Section 1-200(2), G.S., provides in relevant part that:

“Meeting” means any 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*.

(Emphasis added.)

57. Section 1-225(a), G.S., provides in relevant part 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.

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

Notice of each special meeting of every public agency . . . shall be 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 such subdivision for any public agency of a political subdivision of the state . . . The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency.

59. Section 1-225a, G.S., provides in relevant part that:

(b) Any public agency that conducts a meeting . . . solely by means of electronic equipment, shall . . . ensure that such meeting is recorded or transcribed, excluding any portion of the meeting that is an executive session, and such transcription or recording is posted on the agency's Internet web site and made available to the public to view, listen to and copy in the agency's office or regular place of business not later than seven days after the meeting and for not less than forty-five days thereafter;

60. It is found that the Bus Lot Working Group posted no notices, agendas, or minutes

with respect to the Bus Lot Working Group meetings identified in paragraph 39, above, and that the public was not permitted to attend such meetings.

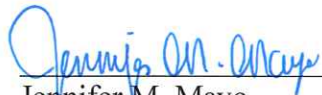
61. It is found that the Bus Lot Working Group met solely by means of electronic equipment on April 12, 2024 and May 10, 2024, but failed to record or transcribe such meetings.

62. It is therefore concluded that the Bus Lot Working Group violated the open meetings provisions of §§1-225(a), 1-225(d), and 1-225a, G.S.

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

1. Henceforth, the Bus Lot Working Group shall comply with all of the public access requirements of §§1-225 and 1-225a, G.S., including open meetings, timely availability of minutes of meetings, posting of notice and agendas of meetings, and recording or transcribing meetings conducted solely by means of electronic equipment.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 25, 2025.



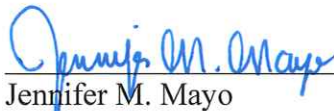
Jennifer M. Mayo
Acting Clerk of the Commission

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:

SUSAN HUWER, 16 Columbia Drive, New Fairfield, CT 06812

BUS LOT WORKING GROUP, TOWN OF NEW FAIRFIELD; FIRST SELECTMAN, TOWN OF NEW FAIRFIELD; SUPERINTENDENT, NEW FAIRFIELD PUBLIC SCHOOLS; AND NEW FAIRFIELD PUBLIC SCHOOLS, c/o Attorney Sarah Gleason, Shipman & Goodwin LLP, 300 Atlantic Street, 3rd Floor, Stamford, CT 06901



Jennifer M. Mayo
Acting Clerk of the Commission