

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Richard Leighton,

Complainant

against

Docket #FIC 2025-0238

Chairperson, Planning & Zoning
Commission, Town of Deep River;
Planning & Zoning Commission, Town of
Deep River; and Town of Deep River,

Respondents

April 8, 2026

The above-captioned matter was heard as a contested case on August 29, 2025, at which time the complainant and the respondents appeared 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 complaint received and filed on April 10, 2025, the complainant¹ appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by discussing his job performance and potential discipline during its March 20, 2025 regular meeting, without notifying him that his job performance would be discussed at such meeting.
3. At the August 29, 2025 hearing on this matter, the complainant clarified that he was challenging the sufficiency of the respondents agenda for their March 20, 2025 regular meeting, and whether it sufficiently apprised the public as to what would be discussed during the meeting. As our Supreme Court noted in Domestic Violence Services of Greater New Haven, Inc. v. Freedom of Information Commission, 240 Conn. 1, n. 9 (1997) (“Domestic Violence Services”):

‘[a]s a practical matter, the FOIA is used repeatedly by members of the public who are unschooled in technical, legalistic language distinctions. It would be unreasonable to deny a member of the public access to the FOIA simply because of arguable imperfections in the form in which a request for public records is couched.’ Perkins

¹ The complainant, Richard Leighton, is the Building Official for the Town of Deep River.

v. Freedom of [Info Comm'n]. 228 Conn. 158, 167 . . . (1993)
 [("Perkinas")]. *Likewise, this reasoning applies to the complaint submitted to the Commission.*

(Emphasis added).

4. It is found that in his complaint, the complainant alleged that he had insufficient notice that the respondents would discuss him or his job performance during their March 20, 2025 regular meeting. It is found that such complaint, when read in light of the principles outlined in Perkins and Domestic Violence Services, reasonably alleges that the agenda for the respondents' March 20, 2025 regular meeting, insufficiently apprised the public of what would be discussed during that meeting.

5. It is found that on March 20, 2025, the respondents convened a regular meeting. It is further found that the agenda for such meeting included a line item for reports that would be given by different individuals, including, the respondent Chairman. Specifically, such report was listed on the agenda as follows:

7. Reports:

...

iv. Chairman

...

6. The respondents testified and it is found that just prior to the March 20, 2025 regular meeting, the respondent Chairman was informed of instances wherein the building official had allegedly issued building permits without having first received approval from zoning and/or wetlands departments (the "building permits matter.")

7. It is found that during the Chairman's report portion of the March 20, 2025 regular meeting, the respondent Chairman raised the building permits matter with the respondent Commission. It is further found that the respondent Commission subsequently discussed the matter and considered proposed actions.

8. It is found that after such discussion, a motion was made and seconded by members of the respondent Commission to "bring the ongoing actions before the Board of Selectmen and ask that it be laid out to the building official that the process has to follow [§8-3(f), G.S.] and that the Commission would like action taken. . . ."

9. It is found that the respondent Commission voted unanimously for the proposed action described in paragraph 8, above.

10. It is found that the portion of the respondents' March 20, 2025 regular meeting designated for the Chairman's report was exclusively used to discuss the building permits matter and consider and act on the motion described in paragraph 8, above.

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

The agenda of the regular meetings of every public agency. . . 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 each subdivision of 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.

12. The respondents aver that the public should have been reasonably aware that the respondent Chairman would raise the building permits matter for the respondent Commission's discussion and action because such matters fall within the purview of the respondent Commission.² The respondents are incorrect.

13. In Docket #FIC 2019-0081, Rosemary Scott v. President, Board of Directors, Knollcrest Tax District, et al., (December 11, 2019), the Commission concluded that an agenda listing various "reports" did not sufficiently apprise the public of the business that was actually conducted during a public meeting.

14. Additionally, 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." Docket #FIC 2024-0064, Maria Pereira v. Aidee Nieves, President, City Council, City of Bridgeport, et al. (January 22, 2025); see also 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.), rev'd 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").

15. A gathering of a multimember public agency is considered a "meeting" only when a quorum of such members convene or assemble to "discuss or act upon a matter over which the public agency has supervision, control, jurisdiction, or advisory power." §1-200(2), G.S. (definition of "Meeting"). It is obvious, therefore, that when a public agency convenes a "meeting" they will be discussing a matter within their purview. Such a truism does not afford

² Specifically, the respondents cite to §8-3(f), G.S., which provides in relevant part:

[n]o building permit or certificate of occupancy shall be issued for a building use or structure subject to the zoning regulations of a municipality without certification in writing by the official charged with the enforcement of such regulations that such building, use or structure is in conformity with such regulations or is a valid nonconforming use under such regulations. . . .

the public with any *meaningful* information regarding what matters the public agency is to consider at such meeting.³

16. It is found that the respondents' agenda described in paragraph 5, above, only indicates that the respondent Chairman will give a report.⁴ Such agenda provides no detail about what matters would actually be discussed and acted upon by the respondent Commission (in this case, the building permits matter).

17. It is found, therefore, that such agenda did not "fairly apprise" the public that the building permits matter would be discussed or acted upon during the respondents' March 20, 2025 regular meeting.

18. It is also found that the respondents *could have* added the building permits matter to their March 20, 2025 regular meeting agenda as a separate line item by a two-thirds vote of those members present and voting pursuant to §1-225(c), G.S. It is found, however, that no such vote was taken prior to the respondent Commission's consideration of the matter.

19. Accordingly, it is concluded that the respondents violated the provisions of §1-225, G.S., by: (i) not providing adequate notice that the building permits matter would be discussed and acted upon during their March 20, 2025 regular meeting; and (ii) by not adding such item to the agenda in accordance with the provisions of §1-225(c), G.S., prior to considering such matter.

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 agenda and notice provisions of §1-225, G.S.

³ The respondents' position that the public should be reasonably aware that all matters within the purview of the respondent Commission may be properly considered during the respondent Chairman's report contradicts the fundamental principle that, "[w]e must interpret the statute so that it does not lead to absurd or unworkable results." See Wilkins v. Connecticut Childbirth and Women's Center, 314 Conn. 709, 723 (2014) (Citations omitted; internal quotation marks omitted). Accepting such interpretation effectively allows for *any* matter within respondent Commission's purview to be considered during the respondent Chairman's report, thereby rendering agenda requirements meaningless.

⁴ The Commission recognizes that providing a "report" section on an agenda is a common practice to signify that a certain individual will provide a brief overview of limited topics. Whether such items on an agenda "fairly apprise" the public of the matters to be discussed is inherently fact specific and must be considered on a case-by-case basis. Such reports, however, are typically brief and focused on a particular individual's limited area of delegated authority (e.g., "Executive Director's Report") or a certain topic *identifiable* topic (e.g., "Report on pending appeals" or "Legislative Report").

Where an agenda lists a "report" by a specific individual, such report should be limited to that individual's area of delegated authority. In this case, however, the respondent Chairman's "report" solely focused on the building permits matter as a discrete topic for the respondent Commission to consider, discuss, and act upon as a body. Such type of matter is more appropriately listed as a separate line item on an agenda and not incorporated into a general "reports" section.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 8, 2026.


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:

RICHARD LEIGHTON, 174 Main Street, Deep River, CT 06417

CHAIRPERSON, PLANNING & ZONING COMMISSION, TOWN OF DEEP RIVER; PLANNING & ZONING COMMISSION, TOWN OF DEEP RIVER; AND TOWN OF DEEP RIVER, c/o Attorney Kenneth R. Slater, Halloran & Sage LLP, 225 Asylum Street, Hartford, CT 06103



Jennifer M. Mayo
Acting Clerk of the Commission