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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Kelle Giachello,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-827

Board of Selectmen, Town of Somers; and Town of Somers,

Respondent(s)

June 30, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, July 22, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE July 10, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE July 10, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE July 10, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Kelle Giachello
Carl T. Landolina, Esq.

2015-06-30/FIC# 2014-827/Trans/wrbp/KKR/TCB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kelle Giachello,

Complainant

against

Docket #FIC 2014-827

Board of Selectmen, Town of
Somers; and Town of Somers,

Respondents

May 15, 2015

The above-captioned matter was heard as a contested case on May 11, 2015, 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 email, dated and filed November 13, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to make available the minutes of the October 30, 2014 meeting of the respondent Board of Selectmen (“board”) in the town clerk’s office and on the town’s website, within seven days of such meeting. The complainant further alleged that the respondents failed to make available, within 48 hours, the record of the votes taken at the October 30, 2014 meeting of the board.
3. It is found that, on October 30, 2014, the board held a regular meeting (“meeting”). It is found that handwritten minutes of the meeting were taken during the meeting by an administrative assistant to the first selectman. It is found that a record of the votes taken at the meeting were included in such minutes. It is found that the handwritten minutes were available for public inspection in the office of the first selectman, located in the town hall, within 48 hours of the meeting.
4. It is found that, on November 13, 2014, the complainant searched for the minutes of the meeting on the town’s website, and did not find them. It is found that, on or about November 7, 2014, another resident of the town, who testified as a witness at the hearing in this matter, appeared in person at the town clerk’s office, requested to inspect the minutes of the meeting, and was told that the minutes had not yet been filed. It is found that the typewritten minutes of the meeting were filed with the town clerk on November 19, 2014.

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

(a)[t]he meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, 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 website. Each public agency shall make, keep and maintain a record of the proceedings of its meetings. (Emphasis added).

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

...Each [public] agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located.... (Emphasis added).

7. Although §1-225(a), G.S., does not specify the location where the minutes and the votes are to be made available, §1-210(a), G.S., requires a public agency to keep and maintain all of its public records in its custody at its regular office or place of business, if the agency has such office or place of business. It is concluded that a public agency that maintains a regular office or place of business is required to make the record of the votes and the minutes of its meetings available at such office or place of business within the specified time frames, and that the law does not require such public agency to make such votes and minutes available in the office of the town clerk.

8. It is further concluded that the board is not required to post the minutes of its meetings on the town's website.

9. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

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

1. The complaint is dismissed.

A handwritten signature in cursive script, appearing to read "Kathleen K. Ross".

Kathleen K. Ross
as Hearing Officer

FIC2014-827/hor//kkr/05152015