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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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Christopher Collibee and WFSB Channel 3,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-101

Mayor, Town of East Haven; and Town of East Haven,

Respondent(s)

October 11, 2012

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, November 14, 2012**. 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 November 2, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE November 2, 2012**. **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 **fourteen (14) copies** be filed **ON OR BEFORE November 2, 2012**, 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: Eric S. Parker, Esq.
Joseph H. Zullo, Esq.

10/11/12/FIC# 2012-101/Trans/wrbp/LFS//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Christopher Collibee and
WFSB Channel 3,

Complainants

against

Docket #FIC 2012-101

Mayor, Town of East Haven; and
Town of East Haven,

Respondents

October 2, 2012

The above-captioned matter was heard as a contested case on August 16, 2012, at which time the complainants 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 letter filed February 21, 2012, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying public access to a meeting of the respondent mayor on February 14, 2012.
3. Section 1-225(a), G.S., provides in relevant part: “The meetings of all public agencies ... shall be open to the public...”
4. Section 1-200(2), G.S., in relevant part, defines “meeting” as:

any hearing or other proceeding of a public agency ... 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...
5. It is found that on February 14, 2012 the respondent mayor conducted a ceremony in which he administered the oath of office to the respondent town’s new interim chief of police.

6. The respondents claim that the swearing-in ceremony was an administrative meeting of a single-member public agency, and therefore not a meeting within the meaning of §1-200(2), G.S.

7. It is found that the respondents described the swearing-in in a press release published prior to the event as “a private ceremony with [the interim chief’s] family and friends.” It is found that, in fact, no family and friends were present; instead, the ceremony was attended by the mayor’s press aide, town counsel, a public relations agent, the town’s acting police chief, the former police chief of Branford, and the new interim chief.

8. It is found that the complainants sought access to the ceremony, but the respondents refused to permit any members of the public to attend.

9. It is found that the respondents held a press conference following the oath of office ceremony.

10. It is found that the mayor is a single-member public agency within the meaning of §1-200(2), G.S.

11. It is found that the town charter expressly grants the mayor the power to appoint and to remove the Chief of Police.

12. It is found that the administration of the oath of office to the chief of police is “a matter over which the [mayor] has supervision, control, jurisdiction or advisory power,” within the meaning of §1-200(2), G.S.

13. The respondents’ witness testified that the administration of the oath of office was “informal,” and nothing more than “a legal formality.”

14. The complainants contend, however, that it is of fundamental importance to the public to have the right to attend and observe the occasion in which a powerful public official affirms his or her obligation to protect and serve the community and to uphold the laws of Connecticut and the United States.

15. It is found that the swearing-in ceremony of the Chief of Police, contrary to the assertions of the respondents, was not a routine matter related to the daily administration of the mayor’s office; Mary Ann Dostaler v. Board of Education, East Hampton Public Schools; Docket #FIC 2010-126 (February 9, 2011); rather, the ceremony was a substantive and significant executive action whereby the mayor, as the representative of the people of the Town of East Haven, vested the new chief with the powers of the office.

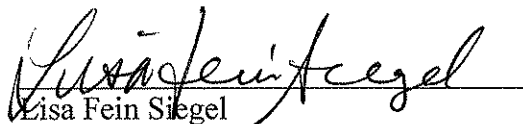
16. It is found, therefore, that the February 14, 2012 ceremony described in paragraph 6, above, was not an administrative or staff meeting of the mayor.

17. It is found that the swearing-in ceremony constituted a proceeding, within the meaning of §1-200(2), G.S.; and it is concluded that the proceeding was a meeting subject to the FOI Act.

18. It is concluded that the respondents violated the FOI Act by denying public access to the meeting. See Caffery v. Portland Volunteer Fire Department; Docket #FIC 1987-003(May 13, 1987) (swearing in of new members and officers of volunteer fire department subject fully to open meetings provisions of FOI Act).

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 open meetings requirements of §1-225, G.S.


Lisa Fein Siegel
as Hearing Officer