

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nancy Rossi,

Complainant

against

Docket # FIC 2016-0358

Chairman, City Council,  
City of West Haven; City  
Council, City of West Haven;  
and City of West Haven,

Respondents

April 12, 2017

The above-captioned matter was heard as a contested case on August 5, 2016, and October 25, 2016, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After the August 5<sup>th</sup> hearing, the complainant submitted, without objection, one after-filed exhibit which was marked as Complainant's Exhibit G: DVD, West Haven City Council Meeting of May 5, 2016.

Subsequently, after the October 25<sup>th</sup> hearing, the complainant submitted, without objection, three additional after-filed exhibits, which have been marked as: Complainant's Exhibit I: Letter from Marguerite Showers to Deborah Collins, dated March 30, 2010 (with attachments); Complainant's Exhibit J: City Council Agenda for April 8, 2013 meeting; and Complainant's Exhibit K: Letter from Charles Marino to Deborah Collins, dated April 26, 2013.

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 dated May 6, 2016, and received on May 9, 2016, the complainant appealed to the Commission, alleging that “[s]everal City Council meetings [of the City of West Haven] that have taken place may have violated several provisions of the Freedom of Information Act” and requested “a hearing to determine if any part of FOIA was violat[ed].” At the hearings in this matter, the complainant contended that the respondents violated various meetings provisions at special budget meetings held on April 27, 2016, April 28, 2016, May 4, 2016 and May 5, 2016, respectively.

Based upon a fair reading of her original complaint, however, it is found that the complainant only raised the following allegations in her complaint:<sup>1</sup>

[a] The agenda for the April 27, 2016 special meeting was improperly noticed within 24 hours;

[b] Items were improperly added to the agenda for the April 27, 2016 special meeting;

[c] The April 28, 2016 special meeting of the full City Council was not noticed; and

[d] Business was improperly conducted at the City Council's May 5, 2016 special meeting that was not noticed on the special meeting agenda.

3. Section 1-200(2), G.S., defines a "meeting" as:

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....

4. Section 1-225(a), G.S., provides that "[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...."

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

Notice of each special meeting of every public agency.... shall be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available, and 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 and in the office of the clerk of each municipal member for any multitown district or agency. The secretary or clerk shall cause any notice received under this section to be posted in his office.... 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....

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<sup>1</sup> The original complaint also raised allegations regarding an April 7, 2016 meeting. However, at the hearings in this matter, the complainant testified that such meeting was not at issue. Accordingly, the April 7, 2016 meeting, will not be further addressed herein.

6. With respect to the allegations set forth in paragraphs 2[a], 2[b] and 2[c], above, the respondents conceded at the hearings in this matter that they violated the meetings provisions set forth in §1-225(d), G.S., of the Freedom of Information (“FOI”) Act. Accordingly, the Commission concludes that the respondents violated §1-225(d), G.S., as alleged in paragraphs 2[a], 2[b] and 2[c], above. Such allegations will not be further addressed herein.

7. With respect to the allegation set forth in paragraph 2[d], above, the complainant claimed that the respondents improperly added an item to the agenda for, and conducted business at, the respondents’ May 5, 2016 special meeting, that was not noticed on the agenda for such meeting. Specifically, the complainant contended that the respondents improperly added an item concerning a resolution to authorize the Mayor of West Haven to adjust the mill rate after the budget had already been voted and adopted by the City Council.

8. The respondents contended, however, that the resolution related directly to the adoption of the City’s operating budget for fiscal year 2016-2017 and the mill rate, and that therefore there was no violation. According to the respondents, if the General Assembly, which at that point in time had yet to adopt the State’s Fiscal Year 2016-2017 General Fund Budget, reduced state funding to the City of West Haven, the mill rate would have to be adjusted so that the operating budget adopted by the City Council would be properly funded.

9. It is found that the respondents held a special meeting on May 5, 2016. It is found that the agenda for such special meeting listed the following:

A Special Meeting for deliberations and actions on Mayor O’Brien’s Recommended Operating Budget and Five Year Capital Plan for Fiscal Year July 1, 2016 to June 30, 2017 and to set the Mill Rate thereon, including appropriations and laying taxes for the City of West Haven Fire Department Allingtown. A Public Session will be held at 5:55 P.M. on the Five Year Capital Plan.  
[Emphasis in original].

- 1.) Call Meeting to Order
- 2.) Pledge of Allegiance
- 3.) Roll Call
- 4.) Clerk to read call of Special Meeting
- 5.) Deliberations
- 6.) Action on Mayor O’Brien’s Recommended Operating Budget for Fiscal Year July 1, 2016 to June 30, 2017 including appropriations and laying taxes for the City of West Haven Fire Department Allingtown.
- 7.) Adoption of Mill Rate
- 8.) Adjournment

10. It is found that, at the May 5<sup>th</sup> special meeting, the City Council approved a budget for fiscal year July 1, 2016 to June 30, 2017. It is found that, shortly after the budget was approved, the City Council considered a resolution to allow the Mayor to change the mill rate.

11. It is found that the resolution, as reflected in the minutes for the May 5<sup>th</sup> special meeting, provides, in relevant part:

...NOW, THEREFORE, in order to comply with the requirements of the Chapter XIX of the Code despite the adoption of the State Budget, it is hereby

RESOLVED that the City Council hereby adopts (i) the City's 2016-2017 General Fund Operating Budget (the "Budget") in the form [presented to this meeting] or [attached hereto] and (ii) the mil [sic] rate required to fund that portion of the Budget to be funded by City property taxes; and be it further

RESOLVED that the City Council hereby authorizes the Mayor to make such adjustments to the Budget (the "adjusted Budget") as may be necessitated by the final version of the State Budget subject to ratification by the City Council of such Adjusted Budget and the ml [sic] rate required to implement the Adjusted Budget, be approved.

12. It is found that the resolution, described in paragraphs 10 and 11, above, related to the items on the May 5<sup>th</sup> special meeting agenda described as "Action on Mayor O'Brien's Recommended Operating Budget for Fiscal Year July 1, 2016 to June 30, 2017" and "adoption of the mill rate." It is further found, under the facts and circumstances of this case, that such agenda "fairly apprised" the public that all matters related to the budget could be discussed.

13. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in paragraph 2[d], above.

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 §1-225(d), G.S.
2. Within two weeks of the issuance of the notice of final decision in this matter, the respondents shall contact the Commission to arrange for an educational training session to be conducted by Commission staff.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 12, 2017.



Cynthia A. Cannata  
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:

Nancy Rossi  
12 Robin Road  
West Haven, CT 06516

Chairman, City Council, City of West Haven;  
City Council, City of West Haven; and City  
of West Haven  
c/o Henry C. Szadkowski, Esq.  
355 Main Street  
West Haven, CT 06516



Cynthia A. Cannata  
Acting Clerk of the Commission