

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

James Spear,

Complainant

against

Docket #FIC 2017-0023

President, Oxford Ambulance
Association; and Oxford Ambulance
Association,

Respondents

September 27, 2017

The above-captioned matter was heard as a contested case on April 28, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

On August 28, 2017, pursuant to an order of the hearing officer, the respondents submitted an after-filed exhibit, which has been marked as Respondents' Exhibit 4: Affidavit of Madalene Taggart, dated August 25, 2017.

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 January 9, 2017, and filed January 10, 2017, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act at their annual meeting of December 14, 2016 ("December 14th meeting"), by failing to make such meeting open to the public. In his complaint and at the hearing in this matter, the complainant alleged that the respondents failed to post an agenda and minutes for the December 14th meeting on the Oxford Ambulance Association's ("OAA") website and in the town clerk's office, and barred members of the public, including himself, from attending the meeting. The complainant requested that the Commission issue an appropriate remedy, including voiding the December 14th meeting and any votes taken at such meeting.
3. Section 1-206(b)(1), G.S., provides, in relevant part, as follows:

Any person...wrongfully 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....

4. Section 1-225(a), G.S., provides:

The 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].

5. Section 1-225(c) G.S., provides:

The agenda of the regular meetings of every public agency, except for the General Assembly, shall be available to the public and 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 Secretary of the State for any such public agency of the state, in the office of the clerk of such subdivision for any public agency of a political subdivision of the state or in the office of the clerk of each municipal member of any multitown district or agency. For any such public agency of the state, such agenda shall be posted on the public agency's and the Secretary of the State's web sites. [Emphasis added].

6. It is found that the OAA's Constitution (Article VIII) and Bylaws (Article IV) set forth certain requirements concerning meetings including, but not limited to, scheduling the OAA annual meeting on the second Wednesday of December. In addition, the Constitution (Article IV) and Bylaws (Article II) provide that elections shall take place at the OAA's annual meeting or at a special meeting called for such purpose.

7. It is found that the respondents held an annual membership meeting on the second Wednesday of December 2016 (*i.e.*, December 14, 2016), which meeting is at issue in this matter.

8. It is found that the complainant was informed by a member of the OAA that the annual membership meeting was scheduled for December 14th at 7:30 p.m. It is found that the complainant and his wife arrived at the December 14th meeting approximately half an hour prior

to the start of such meeting. It is found that no other member of the public was present at the meeting.

9. It is found that, prior to the start of the December 14th meeting, the Executive Director of the OAA, directed the complainant into the hallway and informed him that the Chairman of the OAA Board of Directors instructed her to escort the complainant and his wife out of the meeting as it was a “members’ only meeting.” Although the complainant questioned the Chairman’s authority to make such a request, he and his wife left prior to the start of the meeting. At the hearing, the complainant testified that his conversation with the Executive Director was “cordial.” The respondents do not dispute that such conversation occurred.

10. It is found that during the December 14th meeting, the respondents took up the election of OAA board members, among other items. It is found that one of the existing Board members nominated the complainant for a civilian seat on the Board. It is found that another board member challenged the complainant’s nomination, expressing concerns about the complainant’s character. The complainant was not elected.

11. It is found that the respondents posted a copy of the agenda for the December 14th meeting on a bulletin board in the secured facility in which the OAA is located. It is also found that the respondents did not file the agenda with the town clerk’s office or post such agenda on the OAA or town website, prior to the December 14th meeting. In addition, it is found that typically, members of the OAA are notified of meetings via email, text and/or tone (*i.e.*, radio transmission to members that have radios and voice activated pagers). It is found that members of the public do not have access to such email, text and tone notifications.

12. It is found that the minutes for the December 14th meeting were prepared and posted on the OAA’s bulletin board within one week of such meeting.

13. It is found that, under §1-225(a), G.S., the OAA is not required to post meeting minutes either on its website or on the Town of Oxford’s website. It is also found that, under §1-225(c), G.S., the OAA is not required to post meeting agendas either on its website or on the Town of Oxford’s website.

14. It is found that the OAA made the minutes for the December 14th meeting available for public inspection as required by §1-225(a), G.S.

15. It is found, however, that the respondents failed to post the meeting agenda with the town clerk as required by §1-225(c) of the FOI Act. It is also found that the respondents barred the complainant from attending the meeting.

16. It is concluded, therefore, that the respondents violated §1-225, G.S., as alleged.

17. With respect to the complainant’s request that the Commission declare null and void the December 14th meeting and any votes taken by the respondents at such meeting, §1-206(b)(2), G.S., provides in relevant part:

In any appeal to the Freedom of Information Commission ..., the commission may ... order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. The commission may declare null and void any action taken at any meeting which a person was denied the right to attend....

18. At the hearing, the respondents did not challenge that they are subject to the provisions of the FOI Act. They argued that they are comprised primarily of volunteers who have tried to comply with the requirements for 501(c)(3) organizations, their Bylaws and Constitution, including the provisions for conducting their annual membership meetings, as well as the FOI Act. Any violation of the FOI Act was unintentional.

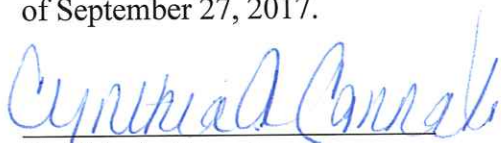
19. The Commission, in its discretion, declines to declare null and void the actions taken at the respondents' December 14th meeting.

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 meeting requirements of §§1-225(a) and 1-225(c), G.S.

2. The respondents shall contact the Commission within 30 days of the mailing of the Notice of Final Decision in this matter to schedule an educational workshop to be conducted by a member of the Commission's staff.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 27, 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:

JAMES SPEAR, 31 MacIntosh Drive, Oxford, CT 06478

PRESIDENT, OXFORD AMBULANCE ASSOCIATION; AND OXFORD AMBULANCE ASSOCIATION, c/o Attorney Francis A. Teodosio, Welch, Teodosio & Stanek, LLC, 481 Oxford Road, Oxford, CT 06478



Cynthia A. Cannata
Acting Clerk of the Commission