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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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Henry Gowan Dacey,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-593

Thomas Hermann, First Selectman; Scott
Centrella, Selectman; Robert Lessler,
Selectman, Town of Easton; and Board of
Selectmen, Town of Easton,
Respondent(s)

May 14, 2013

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, June 12, 2013**. 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 May 31, 2013**. 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 May 31, 2013**. **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 May 31, 2013**, 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: Henry Gowan Dacey
Thomas Hermann, Scott Centrella,
Robert Lessler, and Board of Selectmen, Town of Easton

5/14/13FIC# 2012-593/Trans/wrbp/GFD//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Henry Gowan Dacey,

Complainant

against

Docket #FIC 2012-593

Thomas Herman, First Selectman, Town
of Easton; Scott Centrella, Selectman,
Town of Easton; Robert Lessler,
Selectman, Town of Easton; and Board of
Selectmen, Town of Easton,

Respondents

March 7, 2013

The above-captioned matter was heard as a contested case on March 12, 2013, at which time the complainant 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 email dated and filed with the Commission on October 18, 2012, the complainant alleged that three members of the respondent board violated the Freedom of Information (hereinafter "FOI") Act by "convening and participating in an illegal meeting" after the respondent board adjourned its properly noticed October 18, 2012 special meeting ("special meeting"). The complainant also alleged that the respondents failed to provide notice of such illegal meeting as required by the FOI Act. The complainant further requested the assessment of civil penalties against each selectman.
3. Section 1-200(2), G.S., defines "meeting" in relevant part as follows:

. . . 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 in relevant that:

The 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, G.S., provides in relevant part that:

(d) Notice of each special meeting . . . shall be 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 . . . provided, in case of emergency . . . any . . . special meeting may be held without complying with the . . . requirement for the filing of notice but a copy of the minutes of every such emergency special meeting adequately setting forth the nature of the emergency and the proceedings occurring at such meeting shall be filed with . . . the clerk . . . not later than seventy-two hours following the holding of such meeting.

6. At the hearing on this matter, the complainant contended that the respondent selectmen held an illegal meeting from approximately 8:25 a.m. to 9:05 a.m., after adjourning their properly noticed October 18, 2012 special meeting. The complainant's wife specifically testified that, while walking by the respondent board's meeting room at approximately 8:40 a.m. on October 18, 2012, she overheard the respondent selectmen discussing town business specifically related to the maintenance of the HVAC system at the Samuel Staples Elementary School. The complainant also contended that the respondents' discussion of the school's HVAC system during the illegal meeting, is a matter that respondents' have supervision, control, jurisdiction or advisory power over as elected members of the respondent board. The complainant further contended that the respondents failed to properly notice and create minutes of such illegal meeting.

7. At the hearing, the respondents contended that they did not participate in an illegal meeting after their October 18, 2012 special meeting, as alleged in the complaint, to discuss or act upon a matter over which the respondents have supervision, control, jurisdiction or advisory power in violation of the FOI Act. Thomas Herman, the first selectman, testified that the respondents remained in the meeting room "chatting" about a number of things after adjourning the special meeting, most of which were "social and family matters." The first selectman also testified that the respondents may have talked about town matters that don't involve their authority or policy making, but he did not recall discussing the HVAC system at the Samuel Staples Elementary School after the special meeting. The first selectman further testified that the maintenance of the school HVAC system is a matter over which the Town of Easton's Board of Education has supervision, control, jurisdiction or advisory power, and not the respondents. In addition, he contended that the complainant's allegations lack specificity and are based on presumptions of fact.

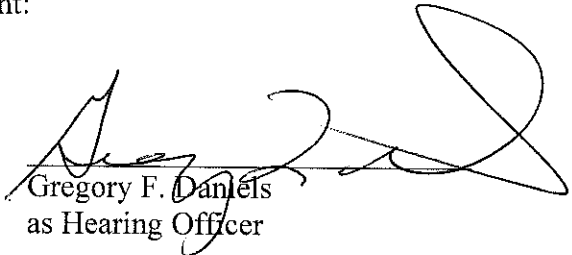
8. It is found that the respondents held a properly noticed special meeting on the morning of October 18, 2012, between 8:05 a.m. and 8:23 a.m., in Conference Room A at the Town of Easton's Town Hall.

9. It is found that the respondents remained gathered while conversing in Conference Room A after adjourning their properly noticed special meeting. However, it is found that respondents did not discuss a matter over which they have supervision, control, jurisdiction or advisory power after adjourning the special meeting, within the meaning of §1-200(2), G.S.

10. Based on the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint. Accordingly, the Commission will not consider the complainant's request for a civil penalty.

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

1. The complaint is hereby dismissed.



Gregory F. Daniels
as Hearing Officer