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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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Paul Baer,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-205

John Bell, Chairman, Fire Advisory Committee,
Town of Thompson; and Fire Advisory Committee,
Town of Thompson,

November 18, 2013

Respondent(s)

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 **special 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, December 18, 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 November 29, 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, an **original and fourteen (14) copies** must be filed *on or before November 29, 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 November 29, 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: Paul Baer
Larry Groh, Jr. and John Bell
Fire Advisory Committee, Town of Thompson

11/18/13/FIC# 2013-205/SpecialMtgTrans/wrbp/LFS/KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Paul Baer,

Complainant

against

Docket #FIC 2013-205

John Bell, Chairman, Fire Advisory
Committee, Town of Thompson; and Fire
Advisory Committee, Town of Thompson,

Respondents

October 25, 2013

The above-captioned matter was heard as a contested case on August 20, 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. On March 18, 2013, the complainant requested copies of all of the Fire Advisory Committee's agendas and minutes, and the committee's meeting schedule of 2013.
3. By letter filed April 8, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records he requested. In addition, the complainant alleged that Fire Advisory Committee meeting agendas, meeting minutes, and schedules of regular meetings were not available in the town clerk's office. The complainant requested the imposition of a civil penalty.
4. Section 1-200(5), G.S., provides:

Public records or files means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.
5. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours...

6. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

7. With respect to the complainant's request for agendas, it is found that the complainant received hard date-stamped copies of the October and November 2012 agendas from the clerk's office.

8. It is found that the respondents do not maintain copies of any of the other agendas that the complainant requested. It is found that the respondents do maintain copies of agendas for meetings that occurred after the complainant's request, and that such agendas are available at the town clerk's office and on the town's website.

9. With respect to the complainant's request for minutes, §1-225(a), G.S., provides in relevant part:

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.

10. It is found that the respondents did not create or maintain any minutes for any of their meetings as of the time of the complainant's request.

11. "The responsibility to create minutes and make them available for public inspection is a continuing one and that the failure to meet such responsibility is a continuing violation..." See William J. Beach v. Chairman, Winsted Zoning Board of Appeals and Winchester Building Inspector, Docket #FIC 1988-362 (December 14, 1988). See also Cynthia A. Keist and Deft J. Keist v. Public Safety Commission, Town of Cheshire; Docket #FIC 2012-548 (July 10, 2013).

12. It is concluded that the respondents violated §1-225(a), G.S., by failing to create and maintain minutes of their meetings.

13. With respect to the 2013 meeting schedule of regular meetings, §1-225(b), G.S., provides in relevant part:

The chairperson or secretary of any such public agency of any political subdivision of the state shall file, not later than January thirty-first of each year, with the clerk of such subdivision the schedule of regular meetings of such public agency for the ensuing year[.]

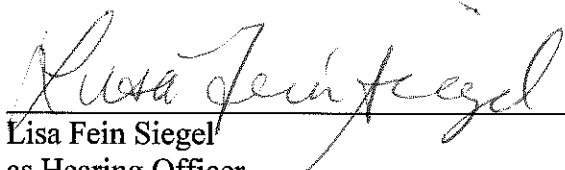
14. It is found that the clerk does maintain a schedule of the committee's regular meetings for 2013.

15. It is found that soon after the complainant's appeal to this Commission, the committee's chairman resigned. It is found that the new chair of the committee is working to learn the committee's obligations under the FOI Act. It is found that the agendas and minutes of the committee's June and July 2013 meetings are available on the town's website.

16. After consideration of the record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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 adhere to the requirements of §1-225(a), G.S.



Lisa Fein Siegel
as Hearing Officer