



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Anna Maria Lemoine, Leslie Rovetti and the
Westerly Sun,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-388

Education Committee, Board of Finance, Town of
Stonington; Board of Finance, Town of Stonington; and
Town of Stonington,
Respondent(s)

April 6, 2015

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, May 13, 2015**. 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 1, 2015**. 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 May 1, 2015**. **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 **fifteen (15) copies** be filed **ON OR BEFORE May 1, 2015**, 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: Anna Maria Lemoine and Leslie Rovetti
Thomas J. Londregan, Esq.

2015-04-06/FIC# 2014-388/Trans/wrbp/CAL/TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Anna Maria Lemoine, Leslie Rovetti
and TheWesterly Sun,

Complainants

against

Docket #FIC 2014-388

Education Subcommittee, Board of Finance,
Town of Stonington; Board of Finance,
Town of Stonington; and Town of Stonington,

Respondents

April 1, 2015

The above-captioned matter was heard as contested case on March 9, 2014, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint. The caption above has been amended in order to reflect the name "Education Subcommittee" generally used by the respondent Town.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondent Board of Finance and the respondent Town of Stonington are public agencies within the meaning of §1-200(1)(A), G.S.
2. By email dated June 18, 2014 and filed with the Freedom of Information Commission ("Commission") on June 19, 2014, the complainants appealed to the Commission, alleging that on March 11, 2014, the "subcommittee for the Board of Education" of the respondent Board of Finance, consisting of Glenn Frishman and Sandy Grimes, held a meeting with Frank Todesco and Dr. Van Riley in order "to discuss the overall [education] budget." The complaint further alleged that no notice or minutes of the March 11, 2014 meeting were on file as required and that the respondent Board of Finance had numerous subcommittees that held meetings in violation of the Freedom of Information Act ("FOIA").
3. Section 1-200(1), G.S., states in relevant part:

"Public agency" or "agency" means: (A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or

official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official....
(emphasis added)

4. Section 1-200(2), G.S., states in relevant part:

“Meeting” means 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. (emphasis added)

5. Section 1-206(b)(1), G.S., states in relevant part:

A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives notice in fact that such meeting was held. (emphasis added)

6. Section 1-225, G.S., states in relevant parts:

(a) 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, which minutes shall be available for public inspection within seven days of the session to which they refer.

(b) 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....

7. It is found that the respondent Board of Finance has, for more than twenty years, had an extensive system of approximately five to eight subcommittees, appointed by the Chairman of the respondent Board, with the advice of the Secretary of the

respondent Board. All six members of the Board of Finance serve on one or more subcommittees, the purpose of which is to be a liaison with and collect information concerning various substantive areas of municipal governance, such as public works, public safety and education.

8. It is found that the Education Subcommittee of the respondent Board has two members, Glenn Frishman and Sandy Grimes.

9. It is found that Superintendent of Schools, Dr. Van Riley, who had been in his position since 2012, initiated the March 11, 2014 get together, asking to meet with Sandy Grimes. The Town was in the midst of the budget process for the July 1, 2014 to June 30, 2015 fiscal year; the education budget had frequently been a contentious issue in the immediate past; and Superintendent Riley was concerned about receiving an appropriation that he considered adequate.

10. It is found that, in response to Dr. Riley's request, Sandy Grimes, stated that he wished to include Glenn Frishman as part of the get together, in that Mr. Frishman served with Mr. Grimes on the Education Subcommittee. As a result of this development, Dr. Riley added that he would like to also include Mr. Frank Todesco, chairman of the Board of Education, at the get together.

11. It is found that the March 11, 2014 gathering was a breakfast meeting convened at 8 a.m. at the Mystic Diner and Restaurant, lasting approximately fifty minutes. While the get together allowed the parties to become more fully acquainted, and included some discussion of family matters including grandchildren, it is also found that the conversation specifically addressed budgetary expectations. Msrs. Grimes and Frishman indicated that a budget increase of 1.5% to 1.9% would likely be acceptable to the Board of Finance, much less than the 4% requested by Dr. Riley or the 3% increase endorsed by the Board of Education. Moreover, it is found that both the operating budget and the capital improvement budget were discussed. It is found that, at the March 11, 2014 get together, Dr. Riley expressed his concern about a budget increase of only 1.5% to 1.9%.

12. It is found that Dr. Riley subsequently acted on the concept discussed at the March 11, 2014 gathering of reducing the requested capital improvement budget, in the hope that this step would result in a larger increase in the operating budget appropriation. However, it is also found that no agreement was reached at the March 11, 2014 gathering and the respondent Board of Finance did not request that Msrs. Grimes and Frishman attend the get together.

13. Complainant, Anna Maria Lemoine, testified and it is found that that she first learned of the March 11, 2014 get together of Glenn Frishman and Sandy Grimes with Frank Todesco and Dr. Van Riley in late May 2014.

14. It is concluded that the Commission has jurisdiction over the complaint, filed, as it was, on June 19, 2014, pursuant to §1-206(b)(1), G.S.

15. It is found that on June 5, 2014, the finance department section of the Town of Stonington website included a statement that acknowledged that: “the subcommittee for the Board of Education consists of Glenn Frishman and Sandy Grimes”, and that “[t]his subcommittee met with Frank Todisco and Dr. Van Riley prior to the public hearing on March 11, 2014, to discuss the overall budget.”

16. It is further found that there was no posting of notice prior to the March 11, 2014 get together on the Internet website or in the office of the Town Clerk, nor minutes available for public inspection.

17. Finally, it is found that there was no detailed testimony at the Commission hearing concerning other meetings, besides the March 11, 2014 meeting, of the Education Subcommittee or other subcommittees of the respondent Board.

18. At the hearing, the respondents argued that the March 11, 2014 get together was an administrative meeting, focusing on the budgetary process and without votes. Respondents argued that the gathering was analogous to the workshop in New London Planning and Zoning Commission v. FOIC, CV 940531947, Superior Court of New London, May 1, 1996, wherein a workshop convened by a zoning enforcement officer was held not to be a meeting of the Planning and Zoning Commission.

19. It is concluded that the Education Subcommittee of the respondent Board, comprised of Glenn Frishman and Sandy Grimes, is a “public agency”, as defined by the express terms of §1-200(1), G.S. The subcommittee is a “committee...created by” the respondent Board. This conclusion follows innumerable previous Commission decisions, including: FIC # 2013-021, Dacey v. Herman et al; FIC # 2011-303, Parizo v. Board of Aldermen, City of Derby; and FIC # 2007-696, Peterson v. Hallahan et al.

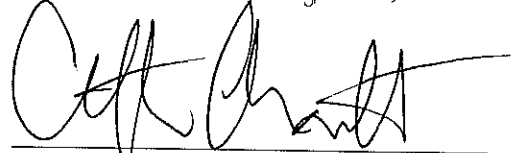
20. It is also concluded that the convening of a quorum of the Education Subcommittee on March 11, 2014 in order to discuss matters over which the Education Subcommittee had advisory power constituted a “meeting”, as defined by §1-200(2), G.S. The convening of a quorum is the fact that distinguishes the present case from New London Planning and Zoning Commission v. FOIC, CV 940531947, discussed at paragraph 18, above, where no quorum of the Planning and Zoning Commission was present.

21. It is finally concluded that the Education Subcommittee violated the requirements of §1-225, G.S., when it failed to post notice prior to its March 11, 2014 meeting or file minutes subsequent to the meeting.

22. Based on the facts and circumstances of this case, including the June 5, 2014 acknowledgement discussed at paragraph 15, above, and the fact that there was detailed sworn testimony at the Commission hearing concerning the discussion at the March 11, 2014 meeting, the Commission, in its discretion, declines to order the filing of reconstructed minutes of the March 11, 2014 meeting.

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

1. Henceforth, the Education Subcommittee and all other subcommittees of the respondent Board of Finance shall strictly comply with all requirements of §1-225, G.S.



Clifton A. Leonhardt
as Hearing Officer

FIC2014-388/HOR/CAL/04012015