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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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Mark Nejfeldt,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-636

Mayor, Town of Plymouth; Town Council,
Town of Plymouth; and Town of Plymouth,
Respondent(s)

February 5, 2016

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, March 9, 2016**. 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 February 26, 2016**. 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 February 26, 2016**. **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 February 26, 2016**, 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: Mark Nejfelt
Attorney William A. Hamzy

2016-02-05/FIC# 2015-636/Trans/wrbp/VDH//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Mark Nejfelt,

Complainant

against

Docket #FIC 2015-636

Mayor, Town of Plymouth;
Town Council, Town of
Plymouth; and Town of
Plymouth,

Respondents

February 2, 2016

The above-captioned matter was heard as a contested case on December 30, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the matter was consolidated with Docket #FIC 2015-642; Elizabeth Reese v. Mayor, Town of Plymouth; Town Council, Town of Plymouth; and Town of Plymouth; and Docket #FIC 2015-735; Helen Nejfelt v. Mayor, Town of Plymouth; Town Council, Town of Plymouth; and Town of Plymouth.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter dated September 23, 2015 and filed September 25, 2015, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") in the following way: by conducting a special public meeting without posting a notice and an agenda, and by asking the complainant to leave the meeting.
3. Section 1-225(a), G.S., provides, in relevant part, 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. . . ."
4. 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. . . .

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

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. . . .

6. It is found that Gosinski Park is a housing complex in Terryville, Connecticut, which is operated by the Plymouth Housing Authority.

7. It is found that the complainant is not a resident of Gosinski Park.

8. It is found that, at a May 5, 2015 regular meeting of the Plymouth Town Council, the Town Council authorized the Mayor to investigate certain issues that were raised by the residents of Gosinski Park, including complaints that money had been improperly taken and/or spent. It is found that the Mayor was charged with investigating the complaints and reporting back to the Town Council with recommendations.

9. Thereafter, it is found that, a few days prior to September 18, 2015, residents from Gosinski Park contacted the Mayor and asked him to come to Gosinski Park to listen to their concerns. It is found that the Mayor agreed and his arrival was planned for September 18, 2015.

10. It is found that the Mayor and one town council member arrived at Gosinski Park on September 18, 2015 and met with some of the residents in a common room at Gosinski Park. It is found that the residents who planned and arranged the Mayor's visit did not inform all park's residents about the visit.

11. It is found that the complainant learned that the Mayor had accepted the residents' invitation. It is further found that the complainant decided to attend the September 18th gathering. It is found, however, that, when the complainant arrived at the gathering, the residents informed him that the gathering was private and they asked him to leave. It is found that the complainant promptly left.

12. The complainant contends that the gathering of the Gosinski Park residents with the Mayor and the town council person was a public meeting, which, as a member of the

public, he was entitled to attend. He further contends that the gathering should have been announced to all by way of a public notice and an agenda.

13. The Mayor and a member of the Plymouth Town Council appeared at the contested case hearing and provided testimony.


14. It is found that, when the residents of Gosinski Park contacted the Mayor and asked him for some time, they did not tell him what they wanted to discuss. It is further found that the gathering at Gosinski Park was organized and hosted by the residents of the park who are private citizens; it was not organized or called to order by the Mayor or by any other public agency.

15. It is therefore concluded that the September 19, 2015 gathering was not a public meeting, within the meaning of §1-200(2), G.S.

16. Accordingly, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

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.


Valicia Dee Harmon
Valicia Dee Harmon
as Hearing Officer