

TO: Freedom of Information Commission
FROM: Thomas A. Hennick
RE: Minutes of the Commission's regular meeting of September 26, 2018

A regular meeting of the Freedom of Information Commission was held on September 26, 2018, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:10 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay Shaw (participated via speakerphone)
Commissioner Jonathan J. Einhorn
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins

Also present were staff members, Mary E. Schwind, Victor R. Perpetua, Kathleen K. Ross, Valicia D. Harmon, Lisa F. Siegel, Paula S. Pearlman, Cindy Cannata, and Thomas A. Hennick.

The Commissioners unanimously voted to approve the Commission's regular meeting minutes of September 12, 2018.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2017-0627](#) Tyrone Pierce v. Luke Bronin, Mayor, City of Hartford; and City of Hartford

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0688](#) Cordaryl Silva v. Dora Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

Cordaryl Silva participated via speakerphone. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2017-0718](#) Ian Cooke v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The matter was removed from the agenda.

[Docket #FIC 2014-444](#)

Marissa Lowthert v. Bruce Hampson, Chairman, Miller Driscoll Building Committee, Town of Wilton; and Miller Driscoll Building Committee, Town of Wilton

Marissa Lowthert appeared on her own behalf. Attorney Patricia Sullivan appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commissioners unanimously voted to adopt the Hearing Officer's Report as amended.* The proceedings were recorded digitally.

[Docket #FIC 2016-0821](#)

James Torlai v. Chief, Police Department, City of Waterbury; Police Department, City of Waterbury; and City of Waterbury

Attorney Richard Scappini appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commissioners unanimously voted to adopt the Hearing Officer's Report as amended.* The proceedings were recorded digitally.

[Docket #FIC 2017-0766](#)

James Torlai v. Chief, Police Department, City of Bridgeport; Police Department, City of Bridgeport; and City of Bridgeport

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0142](#)

James Torlai v. Chief, Police Department, Town of Wethersfield; Police Department, Town of Wethersfield; and Town of Wethersfield

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0623](#)

Dave Altimari and Hartford Courant v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

Attorney William Fish appeared on behalf of the complainants. Assistant Attorney General Terrance O'Neill appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2017-0659](#)

Marcus Rice v. Director of Human Resources, Town of East Hartford; Department of Human Resources, Town of East Hartford; Chief, Fire Department, Town of East Hartford; Fire Department, Town of East Hartford; and Town of East Hartford

Marcus Rice appeared on his own behalf. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2017-0769](#)

Alyssa Peterson v. City Council, City of Hartford; and City of Hartford

Alyssa Peterson appeared on her own behalf. The Commissioners voted, 4- 0, to adopt the Hearing Officer's Report. Commissioner Shaw did not participate in this matter.

[Docket #FIC 2018-0026](#)

Jesse Buchanan and The Record-Journal Publishing Company v. Chief, Police Department, Town of Cheshire; Police Department, Town of Cheshire; and Town of Cheshire

Jesse Buchanan appeared on behalf of the complainants. Attorney Joseph Schwartz appeared on behalf of the respondents. The Commissioners voted, 4-0, to amend the Hearing Officer's Report. The Commissioners voted, 4-0, to adopt the Hearing Officer's Report as amended. The proceedings were recorded digitally. Commissioner Shaw did not participate in this matter.

Mary E. Schwind reported on pending appeals.

The meeting was adjourned at 3:50 p.m.

Thomas A. Hennick
MINREGmeeting 09262018/tah/09272018

* See attached for amendments

AMENDMENTS

[Docket #FIC 2014-444](#)

Marissa Lowthert v. Bruce Hampson, Chairman, Miller Driscoll Building Committee, Town of Wilton; and Miller Driscoll Building Committee, Town of Wilton

The third paragraph of the introductory section of the Hearing Officer's Report is amended as follows:

On August 24, 2015, the complainant appealed the Commission's final decision to the Superior Court. On January 17, 2017, the Superior Court issued a Memorandum of Decision. The Superior Court concluded that, based on the language of §1-206(b)(1), G.S., in effect at the time of the alleged violation, "notice in fact" meant "actual notice to the person filing the appeal." See Lowthert v. FOI Comm'n, et al., Docket No. HHB-CV-15-6030425-S, 2017 WL 950990, at *8 (Conn. Super. Ct. Jan. 17, 2017) ("**LOWTHERT**"). Because the complainant had filed her complaint within thirty days of receiving actual notice of the alleged violation, the Court determined that the Commission had erroneously dismissed the complaint's appeal. See id. On remand, the Court instructed the Commission to exercise its discretion to determine "what remedy, if any, is appropriate for any violation" it may find. See id.

A footnote is added to the end of Paragraph 7 of the Hearing Officer's Report as follows:

¹ SUBSEQUENT TO THE COURT'S DECISION IN LOWTHERT, §1-206(b)(1), G.S., WAS AMENDED BY PUBLIC ACT 17-86, DELETING THE PHRASE "NOTICE IN FACT" AND SUBSTITUTING THE PHRASE "ACTUAL OR CONSTRUCTIVE NOTICE." THE COMMISSION HOWEVER NECESSARILY DECIDES THE INSTANT MATTER BASED ON THE TEXT OF §1-206(b)(1), G.S., IN EXISTENCE AT THE TIME OF THE LOWTHERT DECISION AS REMANDED AND ORDERED BY THE COURT.

Docket #FIC 2016-0821

James Torlai v. Chief, Police Department, City of Waterbury;
Police Department, City of Waterbury; and City of Waterbury

The order in the Hearing Officer's Report is amended as follows:

1. The respondents shall forthwith provide the complainant with a copy of the records responsive to his request **THAT ARE NOT SUBJECT TO ERASURE** without the dates of birth and telephone numbers redacted.

[Docket #FIC 2018-0026](#)

Jesse Buchanan And The Record-Journal Publishing Company v.
Chief, Police Department, Town of Cheshire; Police Department,
Town of Cheshire; and Town of Cheshire

The Hearing Officer's Report is amended as follows:

27. Nonetheless, it is found that IC-2008-0026-92 through 94 are medical records or [concern a medical condition] **CONTAIN MEDICAL INFORMATION**. It is found that there is there is no legitimate public interest in these records. It is further found that their disclosure would be highly offensive to a reasonable person.

28. Finally, it is found that the name **AND RESIDENTIAL ADDRESS** of the female employee may be redacted wherever it appears in the in camera records. **IN ADDITION, THE RECORDS MAY BE REDACTED TO REMOVE THE EMPLOYEE'S EX-HUSBAND'S NAME AND HIS RESIDENTIAL ADDRESS.** See Rocque v. FOIC, 255 Conn. 651, 664 (2001) (the name of a sexual harassment complainant "is not of legitimate public concern" and, by implication, its disclosure would be highly offensive to a reasonable person).

31. After a careful in camera review, it is found that the in camera records contain the residential addresses of police officers in the following locations: IC-2018-0026-1 (line 9, words [10] **8** through 12); IC-2018-0026-15 (line 7, first six words; line 9, first six words; line 11, first six words; and line 13 first six words); IC-2018-0026-39 (line 6, words 2 through 4, 6 and 8); IC-2018-0026-44 (line 6, words 2 through 4, 6 and 8); and IC-2018-0026-52 (line 7, the two words following the word "on").