

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi • email: foi@po.state.ct.us

Katherine Newcombe, Dayna McDermott and  
The Hampton Gazette,  
Complainant(s)

against

Board of Education, Hampton Public Schools,  
Respondent(s)

Notice of Rescheduled  
Commission Meeting

Docket #FIC 2012-312

February 14, 2013

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, February 13, 2013 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, March 13, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the January 15, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before March 1, 2013.

By Order of the Freedom of  
Information Commission

W. Paradis  
Acting Clerk of the Commission

Notice to: Kathrine Newcombe, Dayna McDermott  
Board of Education, Hampton Public Schools

2/14/2013/FIC# 2012-312/ReschedTrans/wrbp/KKR/TAH

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Katherine Newcombe, Dayna McDermott and  
The Hampton Gazette,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2012-312

Board of Education, Hampton Public Schools,  
Respondent(s)

January 15, 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, February 13, 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 February 1, 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 February 1, 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 February 1, 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: Kathrine Newcombe, Dayna McDermott  
Board of Education, Hampton Public Schools  
John Burnham

2013-01-15/FIC# 2012-312/Trans/wrbp/KKR/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kathrine Newcombe, Dayna  
McDermott, and the Hampton  
Gazette,

Complainants

against

Docket #FIC 2012-312

Board of Education, Hampton  
Public Schools,

Respondent

December 24, 2012

The above-captioned matter was heard as a contested case on November 19, 2012, at which time the complainants and the respondent appeared 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 letter dated June 7, 2012 and filed June 12, 2012, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information (FOI) Act by discussing and acting upon an item, at its June 5<sup>th</sup> special meeting, that was not noticed on the agenda for such meeting.
3. Section 1-225, G.S., provides, in relevant part:

(d) [n]otice of each special meeting of every public agency...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...[town] clerk.... The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency....”
4. It is found that the agenda for the respondent’s June 5, 2012 special meeting (“special meeting”) listed, as item five, “2012/2013 BUDGET.” It is found that the respondent discussed, under item 5, various programs and staffing levels that could be reconsidered to address a budget

proposal that had failed approximately one week prior to such meeting. It is found that the respondent board discussed, and voted on a motion to approve, budget cuts from the principal, the special education consultant, and from public school tuition (magnets), and that such motion failed. It is further found that the board also moved to approve a retirement incentive plan with no minimum participation requirement, and that such motion passed 7-2.

5. At the hearing in this matter, the complainants testified, and it is found that, at previous meetings of the respondent, including the March 30, 2010, November 30, 2011, January 25, 2012, February 8, 2012 and February 22, 2012 meetings, the respondent listed "retirement incentives" and "budget" as a separate items on the agendas. According to the complainants, at the special meeting, the respondent improperly discussed, and acted on, a proposal to offer retirement incentives, when that item was not specifically listed on the agenda for such meeting, as had been done in the past.

6. In support of their argument, the complainants testified that there was there was more interest among town residents regarding the issue of offering retirement incentives than there had been in any other issue "in the past decade," and noted that 167 people had signed a petition opposing the offering of retirement incentives. The complainants further noted that the special meeting was not well attended, considering the amount of interest in the topic, and argued that if the respondents had noticed on the agenda that the issue of retirement incentives was to be discussed, more people would have attended the meeting.

7. It is found that the chairman of the respondent board prepared the agenda for the special meeting. The chairman testified, at the hearing in this matter, that at the time he was preparing the agenda, there was no intent to discuss retirement incentives specifically, as there had been at the prior meetings, described in paragraph 5, above, but rather, the intent was to discuss the entire budget, in light of the respondent board's most recent budget proposal having recently been defeated and a new fiscal year soon beginning. According to the chairman, at the time the agenda was drafted, the focus was on the budget as a whole, and all items were "on the table for discussion," which included retirement incentives as well as many other items.

8. In Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC et al., Superior Court, Docket No. CV 99-0497917-S, Judicial District of New Britain, Memorandum of Decision dated May 3, 2000 (Satter, J.), reversed on other grounds, 66 Conn. App. 279 (2001), the court observed that one purpose of a meeting agenda "is that the public and interested parties be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views," and that "[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing."

9. It is found that, under the facts and circumstances of this case, the agenda for the special meeting "fairly and sufficiently" apprised the public that all matters related to the budget, including the offering of retirement incentives, would be discussed.

10. Based upon the foregoing, it is concluded that the respondent 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 complainant is dismissed.

A handwritten signature in cursive script, appearing to read "Kathleen K. Ross", written over a horizontal line.

Kathleen K. Ross  
as Hearing Officer

FIC 2012-312/hor/kkr/12242012