



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

Kate King and The Stamford Advocate,
Complainant(s)

against

Water Pollution Control Authority, City of
Stamford; and City of Stamford,
Respondent(s)

Notice of Rescheduled
Commission Meeting

Docket #FIC 2012-502

April 10, 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, April 24, 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, May 8, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the March 22, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before April 26, 2013.

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Kate King
Michael G. Petrie, Esq.
Chris Dellaselva, Esq.

4/10/13/FIC# 2012-502/ReschedTrans/wrbp/LFS//TAH

Since 1975



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Kate King and The Stamford Advocate,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-502

Water Pollution Control Authority,
City of Stamford; and City of Stamford,
Respondent(s)

March 22, 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, April 24, 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 April 12, 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 April 12, 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 April 12, 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: Kate King
Michael G. Petrie, Esq.
Chris Dellaselva, Esq.

2013-03-22/FIC# 2012-502/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kate King and the Stamford Advocate,

Complainants

against

Docket #FIC 2012-502

Water Pollution Control Authority, City of
Stamford; and City of Stamford,

Respondents

March 18, 2013

The above-captioned matter was heard as a contested case on February 21, 2012, at which time the complainants 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. By letter filed September 14, 2012, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by improperly convening in executive session on September 6, 2012. Specifically, the complainants alleged that the respondents:
 - a. failed to state the purpose of the executive session with sufficient specificity; and
 - b. failed to identify all persons who attended the executive session.
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 1-225(f), G.S., provides: "A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200."
5. It is found that the agenda of the meeting held on September 6, 2012, stated that the respondent Water Pollution Control Authority ("WPCA") planned to enter executive session to discuss "pending legal matters."

6. It is found that during the meeting, one member of the WPCA moved to enter executive session to discuss "pending legal matters."
7. It is found that, upon the objection of the complainant King, who was in the audience, the member revised her motion, moving to enter executive session to discuss "legal strategy."
8. It is found that another member then stated the reason for the executive session as "negotiations."
9. It is found that a third member suggested that the executive session was for a discussion "concerning a personnel matter. A human resources matter."
10. It is found that upon assurance from counsel that the motion was "appropriate," the respondent WPCA voted to enter executive session.
11. This Commission has repeatedly stated that in order for the public to be fairly apprised of the business to be transacted during an executive session, the public agency must give some indication of the specific topic to be addressed, prior to convening such session. Therefore, descriptions such as "personnel," "personnel matters," "legal" or even "the appointment, employment, performance, evaluation, health, dismissal of a public officer or employee" are inadequate and do not state the reason for convening in executive session, within the meaning of §1-225(f), G. S.
12. In Durham Middlefield Interlocal Agreement Advisory Board v. FOIC et al., Superior Court, Docket No. CV 96 0080435, Judicial District of Middletown, Memorandum of Decision dated August 12, 1997 (McWeeny, J.), the court concluded that it was reasonable for the Commission to require something more detailed than "Executive Session Re: Possible Litigation."
13. In Trenton E. Wright, Jr. v. First Selectman, Town of Windham, Docket #FIC 1990-048, the Commission found that the phrase "executive session - personnel matters" was too vague to communicate to the public what business would be transacted.
14. Similarly, in Carlson v. Board of Education, East Granby Public Schools, Docket #FIC2007-388 (march 12, 2008), the Commission found that the phrase "personnel matters" did not fairly and adequately apprise the public of the matters to be addressed in the proposed executive session.
15. It is found that, while the motion to enter executive session was under consideration, members of the audience, including the complainant, tried to guess the reason for the executive session, and asked the respondents whether the session was to discuss "the Derby matter" or a certain employee. It is found that the respondents told them that their guesses were not correct, but did not further elucidate the reason for the executive session.

16. It is found that neither the meeting agenda nor the motion to enter executive session made at the meeting identified with sufficient particularity the reason for the executive session.

17. It is concluded, therefore, that the respondents violated §1-225(f), G.S.

18. With respect to the complainant's allegation that the respondents failed to identify all persons who attended the executive session, §1-231(a), G.S., provides:

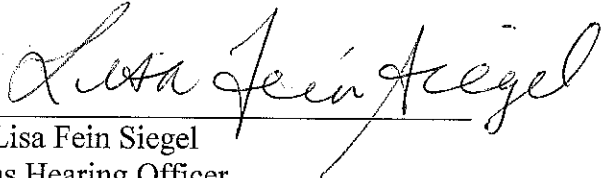
At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion and, provided further, that the minutes of such executive session shall disclose all persons who are in attendance except job applicants who attend for the purpose of being interviewed by such agency. (Emphasis added.)

19. It is found that the minutes of the September 6, 2012 meeting did not disclose all persons who were in attendance at the executive session; accordingly, it is concluded that the respondents violated §1-231, G.S., as alleged.

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

1. Forthwith, the respondents shall create minutes of the executive session of their meeting of September 6, 2012. Such minutes shall contain, at least, the names of all in attendance, items discussed, any motions, and a record of all votes, if any.

2. Henceforth, the respondent shall comply with §§1-225 and 1-231, G.S.


Lisa Fein Siegel
as Hearing Officer