

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

NOTICE OF FINAL DECISION

Bob Kulacz,

Complainant

against

Docket #FIC 2016-0816

Chairman, Pension Board, Town of  
Shelton; Pension Board, Town of  
Shelton; and Town of Shelton,

Respondents

May 15, 2017

TO: Bob Kulacz; Attorney Ramon S. Sous, for the respondents.

This will serve as notice of the Final Decision of the Freedom of Information Commission in the above matter as provided by §4-183(c), G.S. The Commission adopted the Final Decision in the above-captioned case at its regular meeting of May 10, 2017.

By Order of the Freedom of  
Information Commission



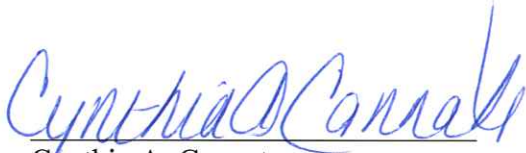
Cynthia A. Cannata  
Acting Clerk of the Commission

## CERTIFICATION OF SERVICE

I certify that a copy of the foregoing Notice of Final Decision, dated May 15, 2017, and Final Decision, dated May 10, 2017, was mailed today, May 15, 2017, via certified mail, to the following counsel and party of record:

Bob Kulacz  
93 Grown Street  
Trumbull, CT 06611

Chairman, Pension Board, Town of Shelton; Pension Board,  
Town of Shelton; and Town of Shelton  
c/o Ramon S. Sous, Esq.  
159 Main Street  
Seymour, CT 06483



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May 10, 2017

The above-captioned matter was heard as a contested case on February 23, 2017, at which time the complainant 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 dated November 16, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by taking several steps designed to impede public access to and participation in their meetings. In particular, the complainant alleged that the respondents:

- (a) cancelled regular meetings that had been scheduled for after-business hours,
- (b) gave as little notice as possible for special meetings held in place of the regular meetings,
- (c) conducted special meetings during business hours, instead of at 5:30 p.m., as had been the custom so that Shelton town employees who may be particularly interested in the Pension Board business could attend without having to take personal leave,
- (d) held at least one such meeting in the mayor’s private office,
- (e) eliminated the public comment part of the meetings,

- (f) no longer posted minutes online, and
- (g) failed to make minutes available.

At the hearing in this matter, the complainant requested the imposition of a civil penalty.

3. The complainant contended that the respondents severely curtailed their employees' access and participation immediately following the Pension Board meeting of September 21, 2016, at which the board was presented with a petition signed by 200 employees opposing the reappointment of the pension advisor under the board's consideration. It is found that the board ultimately reappointed the advisor on December 15, 2016.

- 4. The respondents did not present any evidence at the hearing in this matter.
- 5. Section 1-225(a), G.S., provides:

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. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet website. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

6. It is concluded that the conduct described in paragraph 2(a) through (f), above, does not violate the requirements of §1-225(a), G.S. It is concluded that nothing in the FOI Act prohibits the Pension Board from cancelling a scheduled meeting, providing no more than 24-hour notice of a special meeting, changing the start time of a meeting from what had been customary practice, holding a meeting in the mayor's office, eliminating public comment at meetings, and no longer posting minutes on line.

7. However, with respect to the allegation described in paragraph 2(g), above, that the respondents failed to make meeting minutes available within the time required by §1-225(a), G.S., the complainant alleged that as of November 16, 2016, the minutes for the September 21, 2016 and November 1, 2016 meetings had not been filed with the City/Town Clerk.

8. It is found that the respondents made the minutes for those meetings and two others (November 15, 2016, and December 15, 2016) available on December 27, 2016, after the complainant filed his appeal with the FOI Commission.

9. This Commission has held that “the responsibility to create minutes and make them available for public inspection is a continuing one and that the failure to meet such responsibility is a continuing violation....” See William J. Beach v. Chairman, Winsted Zoning Board of Appeals and Winchester Building Inspector, Docket #FIC 1988-362 (December 14, 1988).

10. It is found that the respondents failed to make the minutes from their meetings from September 21, 2016 through December 15, 2016 available to the public in a timely manner.

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


12. After consideration of the entire record in this case, and especially because only one of the complainant’s allegations constituted a violation of the FOI Act, the Commission declines to consider the imposition of a civil penalty against the respondent chairman of the Pension Board.

13. The Commission observes, however, that although the respondents did not violate the letter of the FOI Act with respect to most of the complainant’s allegations, the respondents’ actions clearly demonstrate an intent to impede rather than to foster transparency, and are contrary to the spirit of the Act.

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

1. Henceforth, the respondents shall comply with the §1-225(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 10, 2017.


  
Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Bob Kulacz  
93 Grown Street  
Trumbull, CT 06611

Chairman, Pension Board, Town of Shelton; Pension Board,  
Town of Shelton; and Town of Shelton  
c/o Ramon S. Sous, Esq.  
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