

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jeffery Leiby,

Complainant

against

Docket #FIC 2018-0056

Chair, Police Commission, Town of  
Woodbridge; Police Commission, Town of  
Woodbridge; and Town of Woodbridge,

Respondents

July 11, 2018

The above-captioned matter was heard as a contested case on May 22, 2018, 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 filed February 6, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by conducting four improper special meetings on January 11, 16, 22, and 29, 2018.
3. It is found that the agenda for the January 11, 2018 meeting stated: “The purpose of this Special Meeting is to discuss budget issues related to staffing and officer safety...” The agenda called for an executive session “To discuss budget issues related to staffing and officer safety.”
4. It is found that the agenda for each of the next three January special meetings stated: “The purpose of this Special Meeting is to discuss personnel matters related to budget issues, staffing and officer safety ...” Each agenda also called for an executive session “To discuss personnel matters related to budget issues, staffing and officer safety.”
5. At the conclusion of the executive session on January 29, 2018, the board reconvened in public session and voted unanimously as follows:

[B]ased on the budget proposal for the Chief, Deputy Chief,  
Lieutenant and Police Officers the following modifications are made:

-In order to meet the safety needs of the officers, we accept the Chief and Deputy Chief's proposal without the 2.5% increase in salary.  
-We strive to get the 24 officers that this budget is requesting, but we do it in the following manner, we reallocate the funds for the Lieutenant's position to the Officers' line so that as proposed ... we are asking that it be for 17 officers and 5 Sergeants... and that we discontinue the Lieutenant's position effective at the end of this contract period, which is June 30.

6. The complainant is the only lieutenant in the Woodbridge Police Department; therefore, the respondents' vote to "discontinue the Lieutenant's position" applied only to him.

7. 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."

8. The respondents claim that their executive sessions were proper pursuant to §1-200(6), G.S., which permits an agency to meet in executive session for ... (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security[.]

9. The respondents stated that the decision to eliminate the lieutenant's position was not a reflection of the complainant's performance, but solely a decision as to how to reallocate resources.

10. The respondent chair testified that the respondent commission was under pressure both to reduce its budget and to increase the number of patrol officers. The respondents claimed that the discussion of the budget was intertwined with the deployment of police personnel, and that to broadcast deficiencies in patrol staffing would empower criminals.

11. It is found that in open session at the respondents' meetings prior to the January budget meetings, police officers and their union representatives expressed their concern that patrol officers were unsafe because there were too few on the road, that they were unable to respond to all incidents in town if they happened simultaneously, and that the town was reckless not to have enough patrol officers on duty to staff the different segments of the day.

12. It is also found that, in addition to the respondents' statement in open session on January 29, 2018, about the number of officers sought by eliminating the lieutenant's position, described in paragraph 5, above, the Chief stated publicly that he was not in favor of eliminating or reducing staff out of concern for public safety, officer safety, and a reduction of proper supervision of patrol staff.

13. It is found that the executive sessions occupied the majority of each of the meetings at which they were held.

14. Specifically, it is found that on January 11, 2018, the respondents met in executive session for 20 minutes in which they discussed, as stated by the Chair in the meeting's minutes,

“issues that related to the safety and the number of officers and generally, the salaries that the Department has.” Then for 8 minutes the respondents publicly discussed the number of officers budgeted for, the receipt of revenue from the schools for a safety officer, and the need for the full commission to be present to vote on the budget.

15. It is found that on January 16, the respondents met in executive session for approximately 20 minutes (to discuss “personnel matters related to budget issues, staffing and officer safety”); then in a five-minute public session the respondents approved the police budget except for the salaries of the chief, deputy chief and lieutenant, which positions were tabled.

16. It is found that on January 22, the respondents met in executive session for more than two hours, and then held no other public discussion or vote.

17. It is found that on January 29, the respondents met in executive session for 45 minutes, and then met in open session for 20 minutes, during which time they voted to eliminate the lieutenant’s position and commented on the action they had just taken.

18. It is found that during the 20-minute open session during which the respondent commission voted to eliminate the lieutenant’s position, one commissioner stated: “It was not an easy decision, guys, this was many, many months in discussion and very difficult.” It is found that the “discussion” referenced by the commissioner were the several executive sessions at issue in this matter.

19. It is found that there had been no discussion in open session at any previous meeting about elimination of the lieutenant’s position or any other position.

20. It is found that the respondents failed to prove that their executive sessions were limited to matters concerning security strategy or the deployment of security personnel, or devices affecting public security, within the meaning of §1-200(6)(C), G.S.

21. It is found, therefore, that the respondents’ executive sessions discussing budgetary concerns during January 2018, culminating in the elimination of the lieutenant’s position, were improper.

22. Accordingly, it is concluded that the respondents violated §1-225(a), G.S., by excluding the public from their budget discussions at such meetings.

23. The complainant also alleged in his letter of complaint that various commissioners conferred out of earshot just prior to or just after their meetings in January and discussed agency business. The complainant alleges that such discussions were improper unnoticed meetings; however, there is insufficient evidence in the administrative record to support such a finding.

24. Section 1-206(b)(2), G.S., provides in relevant part:

In any appeal to the Freedom of Information Commission under subdivision (1) of this subsection or subsection (c) of this section,

the commission may confirm the action of the agency or order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. The commission may declare null and void any action taken at any meeting which a person was denied the right to attend...

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

1. The respondents' vote at their meeting of January 29, 2018, which eliminated the lieutenant's position, is hereby declared null and void.
2. Within 60 days of the notice of final decision in this matter, the respondents shall cause amended minutes to be filed of the executive sessions held January 11, 16, 22, and 29, 2018. In preparing such minutes, the respondents shall ensure, as much as possible, that the minutes disclose what transpired in the executive session to the same degree as would have been revealed by conducting the session in public.
3. Henceforth, the respondents shall strictly comply with the requirements of §1-225, G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 11, 2018.



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:

**JEFF LEIBY**, 52 Bar Gate Road, Guilford, CT 06437

**CHAIRMAN, POLICE COMMISSION, TOWN OF WOODBRIDGE; POLICE COMMISSION, TOWN OF WOODBRIDGE; AND TOWN OF WOODBRIDGE**, c/o Attorney Gerald T. Weiner, 59 Elm Street, New Haven, CT 06507



Cynthia A. Cannata  
Acting Clerk of the Commission