

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

John Goralski and the
Southington Observer,

Complainant

against

Docket #FIC 2018-0755

Dawn Miceli, as member, Town
Council, Town of Southington;
Chris Palmieri, as member,
Town Council, Town of Southington;
Town Council, Town of Southington;
and Town of Southington

Respondents

May 22, 2019

The above-captioned matter was heard as a contested case on March 19, 2019, at which time the complainants and the respondents appeared, stipulated to certain facts, 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 of complaint filed December 31, 2018, the complainants allege that two members of the Southington Town Council engaged in an illegal meeting or proceeding through the institution of a newly initiated program entitled, "Council Chats," or "Community Chats."
3. It is found that such program was intended as an opportunity for these members of the Town Council to make themselves available for public interaction outside of the regular council meeting process. It is further found that the event was advertised via social media and was open to the public. The first of these events took place on December 5, 2018. Two council members were present at the Southington Municipal Center where they met with a few members of the community to discuss a variety of issues.
4. The complainants object to these "Community Chats" and argue that such events constitute a "meeting" or "proceeding" pursuant to §1-200(2), G.S., and as such,

should have been properly noticed and otherwise conducted in accordance with §1-225, G.S.

5. Section 1-200(2), G.S., defines “meeting” as:

any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power....

6. Section 1-225, G.S., states in relevant part that, “the meetings of all public agencies, except executive sessions... shall be open to the public.”

7. The complainants cite the decision of the Connecticut Superior Court in City of Meriden v. Freedom of Information Commission, CV 17 6035943 S, Judicial District of New Britain (Cohn, J.)(January 29, 2018), *currently on appeal in the Appellate Court*. In City of Meriden, the Superior Court held that there was a sufficient factual and legal basis for the FOI Commission to determine that a gathering of four members of the Meriden City Council constituted a “proceeding” of the council and thus a “meeting,” within the meaning of §1-200(2), G.S.

8. In City of Meriden, four members of the Meriden City Council, gathered privately with the city manager and the mayor to discuss a resolution authorizing the formation of a City Manager Search Committee. The group drafted the resolution and the resolution was subsequently placed on the city council’s consent agenda. The resolution was adopted without discussion or change.

9. The respondents argued that the event in question involved only two council members, was not organized or authorized by the city council, and was intended only as an outreach opportunity for these councilors. The respondents further argued that while other councilors were invited, the two councilors who organized the event were cautious to ensure that a quorum of council members would not be present as they did not want the event to be construed as a meeting as defined by §1-200(2), G.S.

10. In determining whether a meeting of a multi-member public agency can occur absent a quorum, the Commission looks to the court’s decision in Meriden Board of Education v. Freedom of Information Commission, CV 99 0496508 S, Judicial District of New Britain (Cohn, J.) (June 6, 2000) (27 Conn. L. Rptr. 298). After a review of the case law, the Court concluded as a matter of law that even without a quorum, “under General Statutes §1-200(2) an agency may in some circumstances hold a ‘proceeding’ and that this will constitute a ‘meeting.’ The proceeding ... must be authorized by the agency itself or constitute a step in the process of agency-member activity.”

11. In the case at hand there is no evidence that the councilors were engaged in an activity that required a quorum, nor is there any evidence that they were engaging in an activity that could be construed to be a step in the process of agency-member activity. There is no evidence that the council specifically or by implication authorized these “community chats”, and there is no evidence that the council in any way organized or selected members to attend these events.

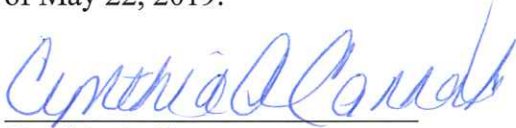
12. Based on the facts and circumstances of this case, it is found that the referenced “council chats” or “community chats” constitute neither a hearing nor other proceeding and are therefore not deemed to be “meetings” as defined in §1-200(2), G.S.

13. Based on the foregoing, it is concluded that the respondents did not violate the open meetings provision of §1-225, G.S.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 22, 2019.



Cynthia A. Cannata
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:

JOHN GORALSKI AND THE SOUTHINGTON OBSERVER, 213 Spring Street, Southington, CT 06489

DAWN MICELI, AS MEMBER, TOWN COUNCIL, TOWN OF SOUTHINGTON; CHRIS PALMIERI, AS MEMBER, TOWN COUNCIL, TOWN OF SOUTHINGTON; TOWN COUNCIL, TOWN OF SOUTHINGTON; AND TOWN OF SOUTHINGTON, c/o Attorney Anthony A. Sheffy, 166 N. Main Street, Southington, CT 06489



Cynthia A. Cannata
Acting Clerk of the Commission