

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Dawn Leger and Bristol Professionals &  
Supervisors Association,

Complainants

against

Docket # FIC 2020-0599

Chairman, City Council, City of Bristol;  
City Council, City of Bristol; and City of  
Bristol,

Respondents

February 23, 2022

The above-captioned matter was heard as a contested case on October 18, 2021, at which time the complainants and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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 14, 2020,<sup>1</sup> the complainants appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by entering into executive session for an impermissible purpose during the regular meeting of the City Council on November 10, 2020.

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<sup>1</sup> On March 25, 2020, the Governor issued Executive Order 7M (§2(1)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), requiring the filing of an appeal with the Freedom of Information Commission not later than thirty days after any alleged denial. Executive Order 7M (§2(1)) applied to any appeal filed prior to April 19, 2021. The Governor also issued Executive Order 7M (§2(2)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which required the Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M (§2(2)), which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed through June 30, 2021. Consequently, the Commission retains jurisdiction over the complaint.

3. It is found that item 23 on the Council's November 10, 2021, agenda was as follows: "Executive Session to discuss impact to personnel/financial functions within the Comptroller's office and the Treasurer's office."

4. At the hearing in this matter, the respondents' witnesses, who were present for the discussions in executive session at the meeting in question, testified that the sole purpose of the executive session was to inform the Town Council of the status of negotiations with Local #233 AFSCME, one of the employee bargaining units, with regard to the reassignment of duties in the treasurer's office. The respondents contended that the discussions in executive session pertained to collective bargaining and that such discussions are permitted in executive session. The respondents failed to state any statutory basis for such contention.

5. Section 1-225(a), G.S., provides 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." Pursuant to § 1-200(6), G.S., the public may be excluded for one or more of the following purposes:

(A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting; (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member's conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled; (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security; (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210.

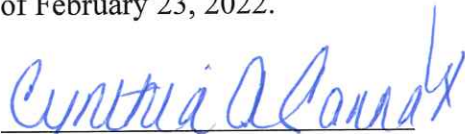
6. Despite the respondents' contention, it is clear from a review of § 1-200(6), G.S., that discussion of the impact to personnel/financial functions as a result of reassignment of duties is not one of the permitted purposes for executive session set forth in § 1-200(6), G.S.

7. Therefore, it is concluded that the respondents violated § 1-225(a), G.S., as alleged by the complainants.

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

1. Within thirty days of the Notice of Final Decision, the respondents shall create minutes of the executive session described in paragraph 4, of the findings above, and shall make such minutes available in accordance with § 1-225(a), G.S.
2. Within thirty days of the Notice of Final Decision, the respondents shall contact the Commission to arrange for FOI training to be conducted by a member of the Commission's staff.
3. Henceforth, the respondents shall strictly comply with § 1-225(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 23, 2022.



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:

**DAWN LEGER AND BRISTOL PROFESSIONALS & SUPERVISORS ASSOCIATION,**  
c/o Attorney Eric Brown, Law Office of Eric Brown, P.O. Box 615, Watertown, CT 06795

**CHAIRMAN, CITY COUNCIL, CITY OF BRISTOL; CITY COUNCIL, CITY OF BRISTOL; AND CITY OF BRISTOL,** c/o Corporation Counsel, Office of the Corporation Counsel, 111 North Main Street, Bristol, CT



Cynthia A. Cannata  
Acting Clerk of the Commission