

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jean-Claude Ambroise,

Complainant

against

Docket #FIC 2022-0198

Personnel and Appointments Committee,
Town Council, Town of Groton; Town
Council, Town of Groton; and Town of
Groton,

Respondents

April 26, 2023

The above-captioned matter was heard as a contested case on January 26, 2023, and February 24, 2023, at which times the complainant and the respondents appeared 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 complaint received and filed on May 5, 2022, the complainant appealed to this Commission, alleging that, on April 5, 2022, during a recess of the regular meeting of the respondent Town Council, the respondent Personnel and Appointments Committee improperly conducted an illegal meeting, to which the public was denied access.
3. More specifically, the complaint alleges that the three members of the respondent Personnel and Appointments Committee, Aundre Bumgardner, David McBride and Scott Westervelt, met illegally in the hallway adjacent to the meeting room, during a recess of the respondent Town Council, in violation of the Freedom of Information (“FOI”) Act.
4. 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.
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. [Emphasis added].

6. It is found the respondent Town Council held a regular meeting on April 5, 2022 (the “meeting”).

7. It is found that during the meeting, Councilor Bumgardner called for a recess, which was granted.

8. It is found that as soon as the meeting was in recess, Councilor Bumgardner asked Councilors Westervelt and McBride to talk in the hallway.

9. It is found that Councilors Bumgardner, Westervelt and McBride exited the meeting room and gathered in the hallway.

10. It is found that Councilor Rachael Franco, a member of the Town Council, immediately approached Councilors Bumgardner, Westervelt and McBride while they were gathered in the hallway and told them that such gathering was considered an illegal meeting in violation of the FOI Act.

11. It is found that after being approached by Councilor Franco, Councilors Bumgardner, Westervelt and McBride immediately walked back into the meeting room.

12. At the hearings, Councilors Bumgardner, Westervelt and McBride credibly testified, and it is found, that they did not engage in any discussions, including discussions of matters over which the respondent Personnel and Appointments Committee has oversight, while they were gathered in the hallway.

13. It is found that the complainant did not offer any evidence to contradict the respondents’ testimony.

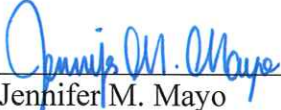
14. It is found that a gathering of the nature described in paragraph 12, above, does not constitute a “meeting” as that term is defined in §1-200(2), G.S., because there was no discussion or action by these individuals of any matter over which the respondents had “supervision, control, jurisdiction or advisory power.”

15. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 26, 2023.



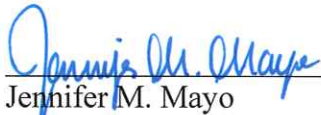
Jennifer M. Mayo
Acting Clerk of the Commission

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:

JEAN-CLAUDE AMBROISE, 169 Shennecossett Parkway, Groton, CT 06340

PERSONNEL AND APPOINTMENTS COMMITTEE, TOWN COUNCIL, TOWN OF GROTON; TOWN COUNCIL, TOWN OF GROTON; AND TOWN OF GROTON, c/o Attorney Eileen C. Duggan, Suisman, Shapiro, Wool, Brennan, Gray & Greenberg, PO Box 1591, New London, CT 06320 and Attorney Richard S. Cody, Suisman Shapiro Wool Brennan, Gray &, 2 Union Plaza, Suite 200, PO Box 1591, New London, CT 06320



Jennifer M. Mayo
Acting Clerk of the Commission