

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Preston Shultz,

Complainant

against

Docket # FIC 2021-0153

Board of Selectmen, Town of Woodstock;
and Town of Woodstock,

Respondents

February 22, 2023

The above-captioned matter was heard as a contested case on November 1, 2022, at which time the complainant and the respondents¹ 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 email dated March 22, 2021, the complainant appealed to this Commission, alleging:

Since the Governor's Executive powers became the law sometime last year per [Executive Order] 7B section 1 issued March 14, 2020, there have been 17 meetings with [Executive Order 7B] in effect for our Board of Selectmen until the February 17, 2021, Special meeting which was not issued under the [Executive Order] 7B header and also was not a zoom meeting so that residents or members of other Boards could participate. This special meeting was the day before a properly 7B Zoomed meeting was held. It should also be noted that documents for the special meetings and the Zoom meeting on the 18th were not made available to the public. The special meeting on the 17th impacted the meeting on the 18th since the results of the 17th required an amendment of the 18th's agenda. The amendment is proposing a major change in our government structure which if you read the agendas and minutes is being rushed through the Board of Selectmen to be done before the Governor's executive orders

¹ The Commission initially designated the Board of Finance as a respondent. However, based on the allegations in the complaint, as clarified at the hearing, the hearing officer removed the Board of Finance and designated the Board of Selectmen as a respondent, in accordance with §1-21j-30 of the Regulations of State Agencies.

expire. Since the Board of Finance has an interest in the change and so does the Town the error in the procedures should not permit the proposed plan to proceed forward. You can also see on the Youtube page for the Town's videos that there was no recording of the 18th and 22nd meetings.²

3. At the hearing in this matter, the hearing officer asked the complainant to clarify his complaint. The complainant stated that his complaint alleged that the Board of Selectmen violated the Freedom of Information ("FOI") Act and/or Executive Order 7B in the following ways:

- (a) The Board of Selectmen denied the public access to its February 17, 2021 special meeting when it convened an in-person, rather than remote (via Zoom), meeting;
- (b) The Board of Selectmen denied the public access to its February 17, 2021 special meeting when it convened in-person at Town Hall, and the public could not access the meeting because Town Hall was locked; and
- (c) The February 17, 2021 special meeting of the Board of Selectmen was not properly noticed.

4. At the hearing, the respondents disputed the complainant's contentions set forth in paragraph 3(a) and (b), above; disputed that the Commission had jurisdiction to determine whether Executive Order 7B was violated; and contended that the allegation set forth in paragraph 3(c), above, was not fairly raised in the complaint.

5. With respect to the allegation that the respondents violated Executive Order 7B, the Commission takes administrative notice of the letter, dated March 10, 2020, from the Governor to the Secretary of the State and the General Assembly, in which the Governor declared public health and civil preparedness emergencies, pursuant to §§19a-131a and 28-9, G.S., due to the Covid-19 pandemic. It is found that Executive Order 7B was issued pursuant to such declaration. Executive Order 7B expired on June 30, 2021.

6. In Bill Effros v. Chairman, Planning and Zoning Commission, Town of Greenwich; Planning and Zoning Commission, Town of Greenwich; and Town of Greenwich, Docket #FIC 2020-0352 (Oct. 13, 2021), the Commission determined that it did not have the authority to enforce Executive Order 7B, and that the Commission lacked jurisdiction over the allegation in that case that the respondents violated Executive Order 7B.

7. Accordingly, it is concluded that the Commission lacks jurisdiction over the allegations in this case that the respondents violated Executive Order 7B.

² Although the complaint mentions meetings which were alleged to have occurred on or about February 18, 2021 and February 22, 2021, the complainant testified at the hearing that only his allegations regarding the February 17, 2021 meeting were at issue.

8. With respect to the allegation set forth in paragraph 3(c), it is found that such allegation was not fairly raised in the complaint, and therefore the Commission is without jurisdiction to adjudicate such claim.

9. The only remaining allegations, set forth in paragraphs 3(a) and 3(b), above, over which the Commission may exercise its jurisdiction, are that the respondents violated the FOI Act by denying the public access to the February 17, 2021 special meeting of the Board of Selectmen when it convened in-person, rather than remotely, and because the public could not enter the building where such meeting was held.

10. Section 1-225(a), G.S., provides, in relevant part, that “[t]he meetings of all public agencies, except executive sessions . . . shall be open to the public.”

11. It is found that on February 17, 2021, the respondent Board of Selectmen convened an in-person special meeting at Town Hall.

12. It is found that the agenda for such meeting was posted at the clerk’s office in Town Hall and on the respondents’ website, in accordance with §1-225(d), G.S. It is further found that the agenda provided that the February 17, 2021 special meeting was scheduled to convene in-person on the lower level of Town Hall.

13. With respect to the complainant’s contention identified in paragraph 3(a), above, the Commission notes that §1-225(a), G.S., guarantees the public the right to attend the meetings of public agencies. However, nothing in the FOI Act requires that a public agency convene its meetings remotely, rather than in-person, as alleged by the complainant.

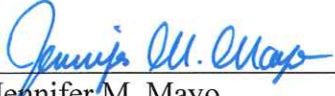
14. With respect to the complainant’s contention in paragraph 3(b), above, that the public was denied access to the February 17, 2021 special meeting of the Board of Selectmen because the building where such meeting was held was locked, it is found that the complainant did not attempt to attend the February 17, 2021 special meeting and therefore could not attest to whether the building was locked. Nevertheless, the respondents’ witness, Crystal Adams, who is the respondent town’s human resources and office manager, credibly testified, and it is found, that she attended the meeting, at all relevant times the Town Hall was unlocked, and therefore, the public had access to the February 17, 2021 special meeting of the Board of Selectmen.

15. Accordingly, it is concluded that the respondents did not violate §§1-225(a), G.S., as alleged in the complaint and identified in paragraphs 3(a) and 3(b), above.

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 February 22, 2023.



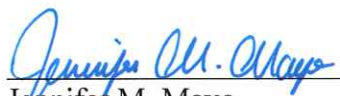
Jennifer M. Mayo
Acting Clerk of the Commission

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:

PRESTON SHULTZ, Skyko International, P.O. Box 704, Putnam, CT 06260

BOARD OF FINANCE, TOWN OF WOODSTOCK; AND TOWN OF WOODSTOCK, c/o Attorney Kenneth R. Slater, Jr., Halloran Sage LLP, 225 Asylum Street, Hartford, CT 06103



Jennifer M. Mayo
Acting Clerk of the Commission