

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ian Thomas,

Complainant

against

Docket #FIC 2024-0451

Chair, Town Council, Town of Groton;  
Town Council, Town of Groton; and Town  
of Groton,

Respondents

June 17, 2025

The above-captioned matter was heard as a contested case on January 15, 2025, at which time 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 email received and filed on August 5, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act during a July 9, 2024 regular meeting ("July 9<sup>th</sup> regular meeting") of the respondent Town Council. Specifically, the complainant alleged that the respondent Town Council improperly considered and acted on business that was not on the meeting agenda without first achieving a two-thirds vote of the members present prior to conducting such business.<sup>1</sup>

3. Section 1-225(c), G.S., provides in relevant part that

[t]he agenda of the regular meetings of every public agency ... shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer, (1) in such agency's regular office or place of business, and (2) ... in the office of the clerk of such subdivision for any public agency of a political subdivision of the state ... Upon the affirmative vote of two-thirds of the members of a public agency present and voting,

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<sup>1</sup> In his post-hearing brief, the complainant alleges additional violations of the FOI Act and the United States Constitution that were not fairly raised in his complaint, and therefore, will not be further addressed herein.

any subsequent business not included in such filed agendas may be considered and acted upon at such meetings.

4. It is found, and the complainant does not dispute, that the agenda for the July 9<sup>th</sup> regular meeting was timely filed and posted by the respondent Town Council in accordance with §1-225(c), G.S.

5. It is found that, at the time of the hearing on this matter, the complainant was a member of the Board of Education for the Town of Groton ("BOE") and that the BOE and respondent Town Council had been involved in supplemental funding discussions, which became contentious between the complainant and the respondent Town Council. It is also found that Mayor Rachael Franco ("Mayor") invited members of the BOE to attend meetings of the respondent Town Council to participate in such funding discussions. It is further found that, at a June 25, 2024 regular meeting of the respondent Town Council ("June 25<sup>th</sup> regular meeting"), the complainant was ruled to be out of order for a lack of decorum by the Mayor, who then recessed the June 25<sup>th</sup> regular meeting.

6. At the hearing on this matter, the complainant testified that he attended both the June 25<sup>th</sup> regular meeting and the July 9<sup>th</sup> regular meeting as a representative, and on behalf, of the BOE.

7. It is found that, at the July 9<sup>th</sup> regular meeting, the respondent Town Council moved to consider item number 5.c. on the meeting agenda (described on the agenda under "NEW BUSINESS" as, "2024-651 FYE 2023 Annual Comprehensive Financial Report") ("financial report") and that auditors hired by the Town of Groton were introduced to provide a presentation regarding such financial report. It is also found that, during the auditors' presentation on the financial report, the complainant moved forward and sat at the table with such auditors. It is further found that, upon noticing the complainant seated at the table with the auditors, Councilor Jill Rusk requested permission to interrupt such presentation, which request was granted by the Mayor.

8. It is found that Councilor Rusk moved to request a formal apology from the complainant for his previous behavior at the June 25<sup>th</sup> regular meeting and to condition the complainant's ability to participate in discussion regarding the financial report, at the July 9<sup>th</sup> regular meeting, upon his furnishing of such apology. It is found that Councilor Rusk's motion was seconded by Councilor Jones, discussion ensued, and the motion passed by a roll call vote of more than two-thirds of the members present. It is also found that the complainant declined to apologize and that the Mayor subsequently directed the complainant to leave the July 9<sup>th</sup> regular meeting before recessing such meeting.

9. At the hearing on this matter, and in their post-hearing brief, the respondents argue that they did not improperly consider and act on new business in violation of §1-225(c), G.S., because Councilor Rusk's motion was a matter of privilege, or parliamentary procedure, pursuant to "Robert's Rules of Order," and that this Commission does not have jurisdiction to enforce "Robert's Rules of Order."

10. It is found that, in support of their argument, the respondents cite to Docket #FIC 91-86, John W. Pillar v. Mayor David Winkler, Jr., et al., (January 8, 1992) (“Pillar”). In Pillar, the Commission found no violation of the FOI Act for acting on a new item of business, when the respondents, there, raised a question of privilege and ejected the complainant in that matter from a public meeting, due to his recurring interruptions that were undermining council activities. The Commission also cited to §1-21h, G.S., in that matter, which permits a public agency to remove members of the public from a meeting only when a person is willfully interrupting such meeting “so as to render the orderly conduct of such meeting unfeasible.”<sup>2</sup>

11. It is found that the Commission does not have authority to enforce “Robert’s Rules of Order.” See Dept. of Public Safety v. Freedom of Information Commission, 103 Conn. App. 571, 577 (2007) (the Commission is a creature of statute with limited jurisdiction; it can only administer and enforce the provisions set forth in the FOI Act). It is also found, however, that while the question of whether it is proper to request an apology from the complainant is outside the jurisdiction of this Commission, the question of whether it is proper to act on such request, under the facts and circumstances of this case, without first adding it to the meeting agenda is squarely within the Commission’s jurisdiction.

12. It is found that, at the time that Councilor Rusk interrupted the auditors’ presentation on the financial report and moved for a formal apology from the complainant, the complainant was sitting quietly at the table and had not interrupted the presentation or any member of the respondent Town Council. It is also found that the Mayor had previously invited members of the BOE to participate in funding discussions, but Councilor Rusk’s motion conditioned the complainant’s ability to participate in such funding discussion upon his furnishing of a formal apology for past behavior. It is therefore found that Councilor Rusk’s motion was not simply a matter of privilege to restore order to the July 9<sup>th</sup> regular meeting due to the complainant’s willful interruptions of such meeting “so as to render the orderly conduct of such meeting unfeasible.”

13. It is found that Councilor Rusk’s motion to request an apology of the complainant, and to condition his participation in the July 9<sup>th</sup> regular meeting upon the provision of such apology, was not included in the meeting agenda described in paragraph 4, above. It is also found that the respondent Town Council failed to conduct an affirmative vote of two-thirds of the members present prior to moving and voting on Councilor Rusk’s motion.

14. It is therefore concluded, based upon the facts and circumstances of this case, that the respondents violated §1-225(c), G.S., by improperly considering and acting on business that was not on the meeting agenda and without first achieving a two-thirds vote of the members present to add such business to the meeting agenda prior to conducting such business.

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

1. Henceforth, the respondents shall strictly comply with the notice and agenda provisions of §1-225(c), G.S.

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<sup>2</sup> Section 1-21h, G.S., was the precursor to what is now §1-232, G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 9, 2025.



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Molly Steffes  
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:

**IAN THOMAS**, 24 Jefferson Drive, Groton, CT 06340

**CHAIR, TOWN COUNCIL, TOWN OF GROTON; TOWN COUNCIL, TOWN OF GROTON; AND TOWN OF GROTON**, c/o Attorney Richard S. Cody and Attorney Kristi D. Kelly, Suisman, Shapiro, Wool, Brennan, Gray & Greenberg, 2 Union Plaza, Suite 200, PO Box 1591, New London, CT 06320



Molly Steffes  
Acting Clerk of the Commission