

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nancy Griswold,

Complainant

against

Docket #FIC 2024-0706

Chairman, Planning and Zoning
Commission, Town of Thomaston;
Planning and Zoning Commission,
Town of Thomaston; and Town of
Thomaston,

Respondents

October 8, 2025

The above-captioned matter was heard as a contested case on April 21, 2025 and July 16, 2025, 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 email dated and filed November 21, 2025, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to post an agenda and create minutes that fairly apprised the public of the purpose of an executive session that took place on November 6, 2024.
3. By email dated and filed December 3, 2024, the complainant filed an amended appeal with the Commission alleging that the respondents violated the FOI Act as follows:
 - a. the agenda of the November 6, 2024 meeting did not fairly apprise the public of the purpose of the executive session;
 - b. the respondent commission convened in an executive session at the November 6, 2024 meeting for an impermissible purpose;
 - c. the respondent commission improperly permitted certain people to attend the executive session at the

November 6, 2024 meeting;

- d. the minutes of the November 6, 2024 meeting do not disclose all persons who attended the executive session;
- e. the minutes of the November 6, 2024 meeting do not accurately describe the purpose of the executive session; and
- f. the votes of each member of the respondent commission were not reduced to writing and were not made available for public inspection within forty-eight hours after the November 6, 2024.¹

4. Section 1-225, G.S., provides, in relevant part, as follows:

- (a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet web site. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

....

- (c) The agenda of the regular meeting 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....

....

- (f) A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and

¹ Because the complainant filed the amended appeal before the Commission issued the Notice of In-Person Hearing and Order to Show Cause, the amended appeal is the operative appeal in this case.

stating the reasons for such executive session, as defined in section 1-200.

5. Section 1-200(6), G.S., provides, in relevant part, as follows:

“Executive sessions” means a meeting of a public agency at which the public is 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;...[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. Section 1-200(9) G.S., provides that:

“Pending litigation” means (A) a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action before a court if such relief or right is not granted by the agency; (B) the service of a complaint against an agency returnable to a court which seeks to enforce or implement legal relief or a legal right; or (C) the agency’s consideration of action to enforce or implement legal relief or a legal right.

7. Section 1-231, G.S., provides that:

(a) At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion and, provided further, that the minutes of such executive session shall disclose all persons who are in attendance except job applicants who attend for the purpose of being interviewed by such agency.

- (b) An executive session may not be convened to receive or discuss oral communications that would otherwise be privileged by the attorney-client relationship if the agency were a nongovernmental entity, unless the executive session is for a purpose explicitly permitted pursuant to subdivision (6) of section 1-200.

(Emphasis supplied).

8. It is found that the Thomaston Planning and Zoning Commission (the “respondent Commission”) issued an agenda for a November 6, 2024 regular meeting, which indicated that it intended to convene in an executive session to discuss the following matters:

- A. Discussion of Pending Litigation – Enforcement – 1 Waterbury Road and 172 South Main Street; and
- B. Discussion of Appointment of New Zoning Official.

9. With regard to the executive session, it is found that the minutes of the November 6, 2024 meeting provide, in relevant part, that:

MOTION made by T. Mueller, seconded by M. Clarizio to ENTER into executive session to discussPending Litigation – Enforcement – 1 Waterbury Road and 172 South Main Street, and...Appointment of New Zoning Enforcement Officer, inviting Land Use Staff, Sara Walker, Recording Secretary, Steven Byrne, Attorney and Nicole Byrne, Attorney, at 8:36 pm. Motion passed unanimously.

Motion made by T. Mueller, Seconded by J. Hartz to EXIT executive session at 9:00 pm. Motion passed unanimously.

(Capitalization in original).

10. With regard to the complainant’s allegation in paragraph 3.a, above, this Commission has repeatedly stated that for the public to be fairly apprised of the business to be transacted during an executive session, the public agency must give some indication of the *specific* topic to be addressed, prior to convening such session. Therefore, descriptions such as “personnel,” “personnel matters,” “legal,” or even “the appointment, employment, performance, evaluation, health or dismissal of a public officer or public employee” are inadequate and do not state the reason for convening in executive session, within the meaning of §1-225(f), G.S. See, e.g. Joseph Tarzia v. Ernie Orgera, Chairman, Water Pollution Control Auth., City of Stamford, et al., Docket #FIC 2012-513 (Aug. 14, 2013).

11. Moreover, in Zoning Bd. of Appeals of Town of Plainfield v. Freedom of Info. Comm’n, No. CV-99-0497917-S, 2000 WL 765186, *3 (Conn. Super. Ct. May 3, 2000), rev’d on other grounds, 66 Conn. App. 279 (2001), the court observed that one purpose of a meeting

agenda “is that the public and interested parties be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views,” and that “[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing.”

12. It is found that the respondent Commission was a party to litigation concerning 172 South Main Street in Thomaston, Connecticut. It is further found that such litigation involved multiple property liens. It is further found that the Superior Court issued a judgment in the case, and the respondent Commission entered the executive session on November 6, 2024 to explore its enforcement options.

13. Regarding the property at 1 Waterbury Road in Thomaston, Connecticut, it is found that the respondent Commission had issued a cease and desist order, directing the property owner to remove all inoperable motor vehicles from the property, except for one. It is further found that the property owner failed to comply with said order. It is further found that the respondent Commission entered into the executive session to discuss whether to take additional legal action with respect to the property owner’s non-compliance with the order.

14. It is found that the nature of the discussions planned for the November 6, 2024 executive session concerning the two properties as set forth in paragraphs 12 and 13, above, were not set forth in the agenda of the November 6, 2024 meeting; rather, the nature of the discussions planned for executive session were explained at the contested-case hearings on this matter and in the affidavits that the respondents submitted into evidence in this case.

15. Given that the November 6, 2024 agenda simply indicated that the respondent Commission would be entering into an executive session to discuss “enforcement” with respect to “pending litigation” concerning two different properties and given that the “enforcement” discussions planned for each of the respective properties were completely distinct, it is found that the November 6, 2024 agenda failed to fairly and sufficiently apprise the public of the matters that the respondents planned to discuss in executive session.

16. It is therefore concluded that the respondents violated the notice requirements of §1-225(c), G.S., as alleged in paragraph 3.a, above, with respect to such matters.

17. It is found that the respondents also convened in executive session to discuss an identified individual’s suitability to become the new zoning enforcement officer.

18. Based on the description in the agenda concerning this discussion, see ¶ 9 above, it is found that the November 6, 2024 agenda fairly and sufficiently apprised the public of the matter that the respondents planned to discuss concerning the new zoning enforcement officer.

19. It is therefore concluded that the respondents did not violate the notice requirements of §1-225(c), G.S., as alleged in paragraph 3.a, above, with respect to such matter.

20. With regard to the complainant’s allegation in paragraph 3.b, above, it is found that the matters the respondents planned to discuss in executive session—that is, consideration of a

new zoning enforcement officer and pending litigation with respect to the two properties—are permissible purposes to convene in executive session, pursuant to §§1-200(6)(A) and (B), G.S.

21. It is therefore concluded that the respondents did not violate the open meeting requirements of §1-225(a), G.S., as alleged in paragraph 3.b, above.

22. With regard to the complainant's allegation in paragraph 3.c, above, it is found that the respondents convened one executive session to discuss both properties as well as the hiring of a new zoning enforcement officer. It is further found that the executive session began at 8:36 pm and ended at 9:00 pm.

23. It is found that the respondent Commission invited multiple people into the executive session. It is further found that all individuals invited into the executive session attended the entire executive session. It is found that, while the minutes of the November 6, 2024 meeting make clear that Attorney Nicole Byrne and Attorney Steven Byrne were two of the individuals invited into said session, it is unclear how many other individuals the following description refers to: "inviting Land Use Staff, Sara Walker, Recording Secretary."

24. At the second hearing on this matter, the respondents clarified, and it is found that "Land Use Staff" refers to Laura Fitch, who is an assistant in the Land Use Department and that Sara Walker is the Recording Secretary.

25. While the respondents conceded that Ms. Walker should not have been permitted to enter the executive session because she did not present any testimony or opinion during the session, the respondents contended that Ms. Fitch's attendance at said session was necessary because she *might have had* an opinion to share regarding the hiring of the candidate for the zoning enforcement officer position. The respondents further contended that Ms. Fitch's attendance at the executive session concerning the potential enforcement actions regarding the two properties was necessary because the respondent Commission *might have had* questions for her concerning such matters.

26. In addition, when questioned by the hearing officer as to why both attorneys were required to be present together for the entire executive session, the respondents represented that the attorneys entered the executive session to provide "a personal reference" for the candidate for the zoning enforcement officer position and legal advice concerning the potential enforcement actions with respect to the two properties.

27. It is found that the respondents failed to prove that Ms. Fitch provided any testimony or opinion during the executive session or that her attendance during the executive session was limited to the period for which her presence was necessary to present testimony or opinion within the meaning of §1-231(a), G.S. ("attendance [at an executive session] shall be limited to members of said body and persons invited by said body to present testimony or opinion...provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion...").

28. It is found that the respondents also failed to prove that it was necessary for both attorneys to be present for the entire executive session. It is therefore found that the respondents

failed to prove that the attorneys' attendance during the executive session was limited to the period for which their presence was necessary to present testimony or opinion within the meaning of §1-231(a), G.S.

29. It is further found that the respondents failed to prove that their attorneys had complied with the provisions of §1-231(b), G.S., prior to entering into executive session to provide the respondent Commission and its members with legal advice. See also §1-200(6)(E), G.S.

30. It is therefore concluded that the respondents:

- (a) violated the provisions of §1-231(a), G.S., when they permitted Ms. Walker to remain in attendance at the November 6, 2024 executive session for the entire duration of such session, without providing any testimony or opinion during such session;
- (b) violated the provisions of §1-231(a), G.S., when they permitted Ms. Fitch to remain in attendance at the November 6, 2024 executive session for the entire duration of such session, without providing any testimony or opinion during such session;
- (c) violated the provisions of §1-231(a), G.S., when they permitted both of their attorneys to remain in attendance at the November 6, 2024 executive session together and for the entire duration of such session; and
- (d) violated the provisions of §1-231(b), G.S., when they permitted their attorneys to enter the November 6, 2024 executive session to provide the respondent Commission and its members with legal advice without first complying with the provisions of §1-200(6)(E), G.S.

31. With regard to the complainant's allegation in paragraph 3.d, above, based upon the findings in paragraph 23, above, it is found that the respondents violated the provisions §1-231(a), G.S., by failing to disclose in the minutes of the November 6, 2024 meeting all persons who were in attendance at the executive session.

32. With regard to the complainant's allegation in paragraph 3.e, above, this Commission has held that implicit in the statutory requirements of §§1-210(a) and 1-225(a), G.S., is that public agencies accurately report what occurs at public hearings and that at a minimum, the public must be "adequately apprised" of what transpires at public meetings. See, e.g. Jaskiewicz v. Murphy, et al., Docket #FIC 2004-482 (Oct. 11, 2005) (in which the Commission ordered the respondents, who had never prepared minutes of the meeting in question, to reconstruct minutes of a meeting, stating that "such minutes shall at a minimum, be

sufficient to adequately apprise the public” of the matters addressed at the meeting); Klimasewski v. Wigg, et al., Docket #FIC 2003-001 (Nov. 12, 2003) (in which the Commission concluded that the respondents had violated §1-225(a), G.S., “by failing to specify the business to be transacted at the December 9, 2002 special meeting, by then discussing [the] same matters at the special meeting, and by failing to include such discussion in the minutes of that meeting.”).

33. It is found that the minutes the respondent Commission prepared concerning the discussion that occurred at the November 6, 2024 meeting relating to the consideration of the hiring of a new zoning enforcement officer adequately apprised the public of the discussion that occurred at said meeting regarding such matter.

34. Accordingly, it is concluded that the respondents did not violate the provisions of §1-225(a), G.S., as alleged in paragraph 3.e, above, regarding such matter.

35. However, like the descriptions set forth in the agenda concerning the discussions planned with regard to the two properties, see ¶¶12-13, above, it is found that the minutes the respondent Commission prepared concerning the two distinct pending litigation discussions that occurred at the November 6, 2024 meeting failed to adequately apprise the public of the discussions that occurred at said meeting regarding the properties. See also ¶ 14, above.

36. Accordingly, it is concluded that the respondents violated the provision of §1-225(a), G.S., as alleged in paragraph 3.e, above, by failing to “make, keep and maintain a record of the proceedings of [their] meetings.”

37. Finally, regarding the complainant’s allegation in paragraph 3.f, above, it is found that the respondents prepared a record of the votes taken at the November 6, 2024 meeting the day following the meeting and said record was available upon request.


38. It is therefore concluded that the respondents did not violate the provisions of §1-225(a), G.S., as alleged in paragraph 3.f, above, regarding such matter.

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 provisions of §§1-225(a), 1-231(a), and 1-231(b), G.S.

2. Forthwith, the respondents, or their designee, shall arrange for an FOI Act training session to be conducted by staff of the FOI Commission. The respondents, or their designee, shall forthwith contact the FOI Commission to schedule such training session.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 8, 2025.


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:

NANCY GRISWOLD, 24 Atwood Road, Thomaston, CT 06787

**CHAIRMAN, PLANNING AND ZONING COMMISSION, TOWN OF THOMASTON;
PLANNING AND ZONING COMMISSION, TOWN OF THOMASTON; AND TOWN
OF THOMASTON**, c/o Attorney Steven E. Byrne and Attorney Nicole L. Byrne, Law
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Molly Steffes
Acting Clerk of the Commission