

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nancy Griswold,

Complainant

against

Docket # FIC 2024-0652

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

Respondents

October 22, 2025

The above-captioned matter was heard as a contested case on March 21, 2025, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

Regarding the after-filed exhibits filed by the complainant on June 17, 2025, to which the respondents objected, the undersigned hearing officer marked them as follows: Table: Byrne & Byrne LLC Invoices (8.01.21 to 5.01.25); objection sustained, marked as “Complainant’s Exhibit E - identification only;” Thomaston Board of Finance, 6.10.25 meeting minutes; objection overruled, marked as “Complainant’s Exhibit F – after-filed” and admitted as a full exhibit; and Thomaston Board of Finance, 11.30.23 meeting minutes; objection overruled, marked as “Complainant’s Exhibit G – after-filed” and admitted as a full exhibit.

Regarding the after-filed exhibits filed by the complainant on August 25, 2025, the undersigned hearing officer marked them as follows: Email with attachment from Sefcik to Fitch, 9.05.24; marked as “Complainant’s Exhibit H – after-filed” and admitted as a full exhibit and Letter from Atty. S. Byrne to Atty. Tzepos, 3.12.24; marked as “Complainant’s Exhibit I – after-filed” and admitted as a full exhibit.

Regarding the complainant’s August 29, 2025 request that the Commission take administrative notice of In re Joseph J. Watley, Case No. 23-50339 (October 21, 2024), which she purported to be a bankruptcy petition, the Commission declines to take administrative notice, given that the complainant did not file a copy of the document with her request, nor did she provide an adequate case citation so that the Commission could locate such document or ascertain its relevance.

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 with the Commission on October 31, 2024, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to properly inform the public of the purpose of the executive session held during their October 2, 2024 regular meeting, both on the noticed agenda and in the minutes for such meeting.

3. By email, received and filed with the Commission on December 6, 2024, the complainant filed an amended complaint, adding the following alleged FOI Act violations relating to the respondents’ October 2, 2024 regular meeting:

- (a) convening an executive session for an improper purpose;
- (b) allowing improper attendees during executive session;
- (c) failing to document all executive session attendees in the meeting minutes; and
- (d) failing to reduce the votes of each respondent commission member to writing and make them available for public inspection within forty-eight hours of such meeting.

4. Section 1-200, G.S., defines “meeting,” in relevant part, 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...”

5. 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.”

6. Pursuant to §1-200(6), G.S., the public may be excluded from an executive session held for the following purposes, among others:

- (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 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...

7. Section 1-200(9), G.S., provides that “pending litigation” means the following:

(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.

Amended Complaint

8. Regarding the complainant's amended complaint, described in paragraph 3, above, the respondents contended that it was not timely and, therefore, the Commission lacks jurisdiction to hear it.

9. Section 1-206(b)(1), G.S., provides the following in relevant part:

Any person denied the right . . . to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial [S]uch notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked if received more than thirty days after the date of the denial from which such appeal is taken.

(Emphasis added.)

10. It is found that the complainant filed an amended complaint containing new allegations with the Commission on December 6, 2024, sixty-five days after the respondents' October 2, 2024 meeting at issue in the instant matter.

11. Accordingly, it is found that the complainant's amended complaint was not timely filed pursuant to §1-206(b)(1), G.S.

12. Therefore, it is concluded that the Commission lacks jurisdiction to hear the amended complaint, and the scope of the appeal in the instant matter must be limited to the appeal described in paragraph 2, above.

Agenda

13. Regarding the complainant's allegation about the adequacy of the meeting agenda, described in paragraph 2, above, §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...."

14. It is well settled, with respect to the notice requirements in §1-225, G.S., that one purpose of a meeting agenda is to allow “the public and interested parties to be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views.” Zoning Board of Appeals of the Town of Plainfield v. Freedom of Info. Comm’n, Docket No. CV 99-047917-S, 2000 WL 765186 at *4 (Superior Court, Judicial District of New Britain, May 3, 2000), reversed on other grounds, Zoning Board of Appeals of the Town of Plainfield v. Freedom of Info. Comm’n, 66 Conn. App. 279 (2001) (“Zoning Board of Appeals”). “A notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participating in the meeting.” *Id.* at *3. In Durham Middlefield Interlocal Agreement Advisory Board v. Freedom of Info. Comm’n, et al., Superior Court, Docket No. CV 96 0080435, Judicial District of Middletown, Memorandum of Decision dated August 12, 1997 (McWeeny, J.), the court concluded that it was reasonable for the Commission to require something more detailed than “Executive Session Re: Possible Litigation.”

15. It is found that on October 2, 2024, the respondent Planning and Zoning Commission convened for a regular meeting. It is found that item 9 on the agenda for such meeting described the following two items of discussion for executive session:

EXECUTIVE SESSION:

- A. Discussion of Pending Litigation – Enforcement – 1 Waterbury Road and 172 South Main Street
- B. Personnel Discussion – Land Use Administrator Vacancy and Recording Secretary

16. Regarding the respondents’ notice for executive session item 9.A, described in paragraph 15, above, the complainant contended that the public was unable to determine the nature of the pending litigation being discussed, given that she believed that the town was a party to multiple civil actions, particularly involving the “172 South Main Street” address.

17. Conversely, the respondents contended that the respondent commission is party to only two causes of action, which involve the two addresses noticed in the agenda in item 9.A, described in paragraph 15, above. Additionally, the respondents argued that using addresses on their agenda sufficiently apprises the public when noticing meetings because zoning issues concern the use of land and not so much who owns it.

18. This Commission has repeatedly held that, for the public to be fairly apprised of the reason for an executive session listed on public agency’s meeting agenda, the public agency must give some indication of the specific topic to be addressed. Descriptions such as “legal strategy” or “pending litigation” are inadequate. *See, e.g., Zandri v. Chairman, Town Council, Town of Prospect, et al.*, Docket #FIC 2020-0109 (February 22, 2021) (agenda item “Executive Session pending litigation and related strategies” fail[ed] to fairly apprise the public); *Lowthert v. Bill Brennen, First Selectman, Town of Wilton, et al.*, Docket #FIC 2014-417 (June 5, 2015) (agenda item “Executive session: Litigation; Employee contract” failed to fairly apprise the public); *Kate King and the Stamford Advocate v. Water Pollution Control Authority, City of Stamford, et al.*, Docket #FIC 2012-502 (May 8, 2013) (“legal strategy” failed to identify with sufficient

particularity the reason for respondents' executive session); George Schober v. Janet Tyler, Superintendent, Lebanon Public Schools, et al., Docket #FIC 2011-471 (July 13, 2012) ("Update from legal counsel" listed under executive session failed to fairly and sufficiently apprise the public of the business to be transacted); Dostaler v. Water Development Task Force, Town of East Hampton, Docket #2009-333 (March 24, 2010) ("pending litigation" failed to adequately apprise the public of business to be transacted); Preston D. Schultz and the Citizens for Prudent Spending v. Board of Education, Woodstock Public Schools, Docket #FIC 2008-236 (February 25, 2009) (agenda item "discussion of attorney/client privilege [sic] documents and pending litigation" did not fairly apprise the public); and Robert Cox v. Ridgefield Board of Education, Docket #FIC 88-165 (January 25, 1989) (the agenda item listing executive session to "receive advice from legal counsel on a legal matter" was insufficient).

19. It is found that, under the facts and circumstances of this case, the respondents should have more specifically identified the pending litigation in the agenda description for executive session item 9.A, described in paragraph 15, above. It is found that, although the respondents may not have needed to include the property owners' names, the agenda did not fairly apprise the public, given that the respondents did not list on the agenda the case caption or docket numbers for the pending litigation purportedly involving 1 Waterbury Road and 172 South Main Street, nor did they provide any evidence that the town makes available to the public a list of all pending litigation involving the town. Furthermore, the respondents did not indicate on agenda item 9.A. which of the three types of "pending litigation," described in paragraph 7, above, would be discussed in executive session.

20. Regarding the respondents' notice for executive session item 9.B, described in paragraph 15, above, the complainant alleged in the pleadings that such description violated the FOI Act for its failure to fairly apprise the public of the reasons for the executive session.

21. This Commission determined long ago, in contested case Docket #FIC 1990-048, Trenton Wright, Jr. v. First Selectman, Town of Windham, that the phrase "executive session – personnel matters" was too vague to communicate to the public the business to be transacted. In the intervening years, the Commission has repeatedly stated that for the public to be fairly apprised of the reason for 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, dismissal of a public officer or employee" are inadequate. See, e.g., Smith v. Peck, Board of Education, Windsor Public Schools, Docket #FIC 2007-003 (August 8, 2007) (agenda item "employee personnel matters," did not fairly apprise the public of the matter to be discussed in executive session); Richard L. Stone v. Board of Selectmen, Town of Cromwell, Docket #FIC 2010-738 (August 24, 2011) (agenda item "[e]xecutive session: [p]ersonnel," did not fairly apprise the public of proposed matter to be discussed); and Smith v. Craig Cook, Superintendent of Schools, Windsor Public Schools, et al., Docket #FIC 2014-833 (September 24, 2015) (agenda item "Potential Executive Session to Review Attorney/Client Privileged Communication Regarding Personnel Matter" did not fairly apprise the public).

22. Conversely, the Commission has held that agendas specifying the nature of the personnel matter and the general position title to be discussed in executive session did sufficiently apprise the public. See, e.g., Congdon-Marr v. Brooklyn Board of Education, et al., Docket #FIC 2015-467 (May 11, 2016) (executive session agenda item “[p]ersonnel [m]atters related to teacher reassignments for 2015-16 school year” sufficiently apprised the public); Baer v. Chairman, Planning and Zoning Commission, Town of Thompson, et al., Docket #FIC 2016-0323 (December 7, 2016) (executive session agenda item identifying the employee to be discussed and the particular topic to be discussed with respect to that employee was sufficient).

23. It is found that, under the facts and circumstances of this case, the respondents sufficiently identified the nature of the “personnel discussion” to be held in executive session, as described in agenda item 9.B and paragraph 15, above, regarding the land use administrator vacancy.

24. It is further found, however, that agenda item 9.B offers no details on the executive session discussion topic of the recording secretary position, and, therefore, did not sufficiently apprise the public.

25. It is concluded, therefore, that the respondents violated the agenda notice provisions of §1-225(c), G.S.

Minutes

26. Regarding the complainant’s allegation about the adequacy of the meeting minutes, described in paragraph 2, above, §1-225(a), G.S., provides the following in relevant part:

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.

(Emphasis added.)

27. It is found that the minutes of the respondents’ October 2, 2024 regular meeting provide, in relevant part, as follows:

MOTION made by T. Mueller, seconded by M. Clarizio to
ENTER into Executive Session for Discussion of Pending
Litigation – Enforcement – 1 Waterbury Road and 172 South Main

Street and Personnel discussion – Land Use Administrator Vacancy and Recording Secretary Vacancy, inviting Land Use Staff and Atty Byrne at 9:18 PM. Motion passed unanimously.

MOTION made by T. Mueller, seconded by B. Davis to EXIT Executive Session at 9:53 PM. Motion passed unanimously.

(Capitalization in original.)

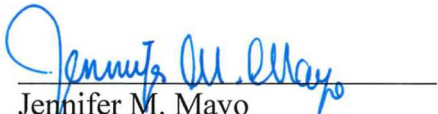
28. It is found that, like the descriptions set forth in the October 2, 2024 regular meeting agenda concerning the planned excessive session discussion topics, see paragraph 15, above, it is found that the minutes the respondents prepared failed to adequately apprise the public of the executive session discussion that occurred at said meeting, with the exception of the discussion regarding the land use administrator vacancy. See also paragraphs 19, 23, and 24, above.

29. It is concluded, therefore, that the respondents violated the minutes requirements of §1-225(a), G.S., by failing to adequately “make, keep and maintain a record of the proceedings of [their] meetings.”

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 agenda and minutes provisions in §§1-225(a) and 1-225(c), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 22, 2025.

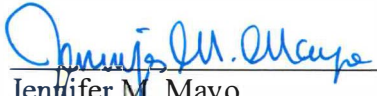

Jennifer M. Mayo
Acting Clerk of the Commission

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:

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 Nicole L. Byrne and Attorney Steven E. Byrne, Law Offices of
Byrne & Byrne, LLC, 1730 New Britain Ave., PO Box 1065, Farmington, CT 06034



Jennifer M. Mayo
Acting Clerk of the Commission