

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nancy Griswold,

Complainant

against

Docket # FIC 2025-0181

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

Respondents

March 11, 2026

The above-captioned matter was heard as a contested case on August 4, 2025, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.¹

In response to an August 8, 2024 order of the undersigned hearing officer, on August 18, 2025, the respondents submitted the following after-filed exhibits, which were entered into evidence absent objection from the complainant and marked as follows: Respondents' Exhibit 1 (after-filed): "1 Waterbury Road Cease and Desist Order (January 11, 2021);" Respondents' Exhibit 2 (after-filed): "172 South Main Street Court Order (November 29, 2021);" Respondents' Exhibit 3 (after-filed): "Bank Execution (January 27, 2025);" and Respondents' Exhibit 4 (after-filed): "Affidavit of Bankruptcy (March 4, 2025)."

In response to the same August 8, 2024 order, on August 22, 2025, the complainant submitted the following after-filed exhibits, which were entered into evidence over the respondents' objections and marked as follows: Complainant's Exhibit G – (after-filed): "Email from Sefcik to Fitch with Attachment (September 5, 2024);" Complainant's Exhibit H (after-filed): "Order Regarding Motion for Judgment in Watley (December 17, 2024);" Complainant's Exhibit I – (after-filed): "Order in Watley (May 8, 2025);" and Complainant's Exhibit J (after-filed): "Invoices from Byrne & Byrne (January 2 to June 26, 2025)."²

¹ At the August 4, 2025 hearing, the respondents requested that the Commission take administrative notice of its Final Decisions in Nancy Griswold v. Chairman, Planning and Zoning Commission, Town of Thomaston, et al., Docket #FIC 2024-0652 (October 22, 2025) and Nancy Griswold v. Chairman, Planning and Zoning Commission, Town of Thomaston, et al., Docket #FIC 2024-0706 (October 8, 2025).

² The Commission notes that the complainant erroneously pre-marked her proffered after-filed exhibits. Therefore, the markings of such exhibits herein differ from the pre-markings in the complainant's August 22, 2025 filing.

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 by and filed with the Commission on March 24, 2025, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by doing the following:

(a) failing to fairly apprise the public of the purpose of the executive session convened at their March 5, 2025 regular meeting;

(b) entering such executive session for an impermissible purpose;

(c) improperly permitting certain individuals to attend such executive session; and

(d) failing to accurately describe the purpose of such executive session in the minutes for the March 5, 2025 regular meeting.³

3. 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.”

Agenda Adequacy

4. Regarding the complainant’s allegation about the adequacy of the meeting agenda, described in paragraph 2(a), 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 [...]”

5. 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 Bd. of Appeals of Town of Plainfield v. Freedom of Info. Comm'n, No. CV 990497917S, 2000 WL 765186, at *4 (Conn. Super. Ct. May 3, 2000), rev'd on other grounds, 66 Conn. App. 279 (2001). “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 Bd. v. State Freedom of Info. Comm'n, No. CV 960080435, 1997 WL 491574, at *3 (Conn. Super. Ct. Aug. 12, 1997),

³ On the record at the contested case hearing, the complainant withdrew her allegation that the respondents violated the provisions of §1-225(a), G.S., regarding the availability of votes for public inspection.

the court concluded that it was reasonable for the Commission to require something more detailed than “Executive Session Re: Possible Litigation.”

6. This Commission has repeatedly held that, for the public to be fairly apprised of the reason for an executive session listed on a 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); Lowther 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 2021-502 (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).

7. It is found that on March 5, 2025, 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 discussion item for executive session:

EXECUTIVE SESSION:

- A. Discussion of Pending Litigation – Enforcement – 1 Waterbury Road and 172 South Main Street

8. Regarding the respondents’ notice for executive session item 9.A, described in paragraph 7, above, the complainant contended that the public was unable to determine the nature of the pending litigation being discussed. The complainant believed that the town was a party to multiple civil actions and that at least three of such actions involved the “172 South Main Street” address.

9. It is found that, under the facts and circumstances of this case, the respondents should have more specifically identified the pending litigation in the March 5, 2025 regular meeting agenda description for executive session item 9.A. Given that the 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, it is found that the March 5, 2025 agenda failed to fairly and sufficiently apprise the public of the matters that the respondents planned to discuss in executive session.

10. It is therefore concluded that the respondents violated the notice requirements of §1-225(c), G.S., as alleged in paragraph 2(a), above, with respect to such matters.

Executive Session Purpose

11. Regarding the complainant's allegation about the purpose of the executive session, described in paragraph 2(b), above, §1-200(6), G.S., provides that the public may be excluded from an executive session held for the following purpose, among others:

(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 [...].

12. The phrase "pending claim," as defined in §1-200(8), G.S., means "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 in an appropriate forum if such relief is not granted."

13. The phrase "pending litigation," as defined in §1-200(9), G.S., 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.

14. Our Supreme Court has held that, "in order for §1-200(6)(B)[, G.S.,] to apply, the public agency either must be bringing or defending a prospective or pending lawsuit in court or in some other legal action in an adjudicatory forum." Planning and Zoning Comm'n of the Town of Monroe, et al. v. Freedom of Info. Comm'n, 316 Conn 1, 13 (2015) ("Monroe"). " 'Pending' claim or litigation includes claim or litigation 'already in existence and in progress,' as well as imminent, threatened litigation not yet filed." Id., citing Bd. of Educ. v. Freedom of Info. Comm'n, 217 Conn. 153, 161 (1991).

15. Additionally, §8-3(e)(1), G.S., provides that:

(1) The zoning commission shall provide for the manner in which the zoning regulations shall be enforced, except that any person newly appointed as a zoning enforcement officer ["ZEO"] on or after January 1, 2024, shall be certified in accordance with the provisions of subdivision (2) of this subsection.

16. It is found that, at the time of the March 5, 2025 executive session, the respondent commission employed a ZEO to enforce the zoning regulations in the respondent town pursuant to §8-3(e), G.S. It is further found that such ZEO had begun his employment for the respondents in November 2024 and continued to hold that position at the time of the contested case hearing (“current ZEO”).

17. Based upon the testimony of the respondents’ current ZEO at the contested case hearing, it is found that, during the executive session convened at the respondents’ March 5, 2025 regular meeting, the respondents discussed ongoing violations of zoning regulations at both the 1 Waterbury Road and 172 South Main Street properties. It is found that such violations pertained to an excessive amount of unregistered motor vehicles stored on the properties.

18. Regarding the property at 1 Waterbury Road, it is found that, on January 11, 2021, the respondent commission’s former ZEO had issued a cease and desist order, directing the property owners to remove all unregistered motor vehicles from the property, except for one (“cease and desist order”). It is found that such order, issued under the former ZEO’s authority, was a municipal administrative action, rather than an adjudicatory action, used to enforce the respondent town’s zoning regulations.

19. During his testimony at the contested case hearing, the current ZEO could not recall whether the respondents had discussed filing an action in court to enforce the cease and desist order during the March 5, 2025 executive session.

20. It is found that the respondents failed to prove that, during the March 5, 2025 executive session, they had specifically discussed “strategy” or “negotiation” relating to the use of “pending litigation” to enforce such cease and desist order within the meaning of §§1-200(6)(B) and 1-200(9)(C), G.S.

21. Given the findings in paragraphs 17 through 20, above, it is found that, at the time of the March 5, 2025 executive session at issue, the respondents were not a party to “pending litigation” regarding 1 Waterbury Road “in court or in another adjudicatory forum,” nor did they discuss “strategy” or “negotiation” concerning an “action to enforce or implement legal relief or a legal right” within the meaning of §§1-200(6)(B) and 1-200(9)(C), G.S., and Monroe.

22. Regarding the property at 172 South Main Street, it is found that, several years prior to the March 5, 2025 executive session, the respondent commission and their former ZEO had been a party to litigation involving the enforcement of zoning regulations against such property’s owner. See Sefcik v. Watley, No. LLI-CV-21-6027971-S (Conn. Super. Ct. November 29, 2021). It is found that such litigation sought to enforce a prior cease and desist order, directing the property owners to remove at least a dozen unregistered motor vehicles from the property. It is further found that, on November 29, 2021, the Superior Court issued an order in favor of the respondents’ motion for judgment on default (“court order”).

23. It is found that the court order, described in paragraph 22, above, found the property owner to have been in continuous, willful violation of the applicable zoning regulations. It is

further found that such court order directed the property owner to cease such violation by January 29, 2022, subject to a daily monetary penalty for continuing violations.

24. It is found that the current ZEO's testimony did not indicate that the respondents' discussion during executive session included "consideration of action to enforce or implement legal relief" awarded in the court order within the meaning of §1-200(9)(C), G.S., and the Court's holding in Monroe. Specifically, the ZEO testified, and it is found, that the respondents discussed the property owner's continued noncompliance with such court order during the executive session at issue.

25. It is found that the respondents failed to prove that, during their March 5, 2025 executive session, they had specifically discussed "strategy" or "negotiation" relating to the use of "pending litigation" to enforce such court order within the meaning of §§1-200(6)(B) and 1-200(9)(C), G.S.

26. Given the findings in paragraphs 17 and 22 through 25, above, it is found that, at the time of the March 5, 2025 executive session, the respondents were not a party to "pending litigation" regarding 172 South Main Street "in court or in another adjudicatory forum," nor did they discuss "strategy" or "negotiation" concerning an "action to enforce or implement legal relief or a legal right" within the meaning of §§1-200(6)(B) and 1-200(9)(C), G.S., and Monroe.

27. Accordingly, it is concluded that the respondents violated the open meeting requirements of §1-225(a), G.S., as alleged in paragraph 2(b), above, with respect to the executive session discussion of 1 Waterbury Road and 172 South Main Street.

Executive Session Attendees

28. Regarding the complainant's allegation about improper executive session attendees, described in paragraph 2(c), above, §1-231(a), G.S., provides the following:

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.

(Emphasis added.)

29. It is found that those attending the respondent commission's March 5, 2025 executive session were five out of the six members of the respondent commission, as well as two invited individuals: the respondent commission's recording secretary and the respondent town's ZEO.

30. Regarding the recording secretary's attendance during the executive session, the respondents conceded that the recording secretary's presence in the executive session for the purpose of taking meeting minutes was not permitted under §1-231(a), G.S.

31. Regarding the ZEO's attendance during the executive session, it is found that the ZEO attended for the entirety of the executive session. It is found that his attendance was requested by the respondent commission to respond to questions from its members concerning the two properties listed on the meeting agenda, 1 Waterbury Road and 172 South Main Street.

32. It is concluded that the respondents violated the provisions of §1-231(a), G.S., when they permitted the recording secretary to remain in attendance at the March 5, 2025 executive session for the entire duration of such session, without providing any testimony or opinion during such session. It is further concluded that the respondents did not violate the provisions of §1-231(a), G.S., when they permitted the ZEO to attend for the entire duration of such session, notwithstanding the impermissible nature of the entire executive session, as concluded in paragraph 27, above.

Adequacy of Minutes

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

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.)

34. 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); and Klimasewiski 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").

35. It is found that the minutes of the respondents' March 5, 2025 regular meeting provide, in relevant part, as follows:

EXECUTIVE SESSION:

MOTION made by T. Mueller, seconded by J. Hartz to ENTER Executive Session at 8:35PM Inviting T. Adili and S. Walker. Motion passed unanimously.

MOTION made by T. Mueller, seconded by J. Hartz to EXIT Executive Session at 8:45PM. Motion passed unanimously.

(Capitalization in original.)

36. It is found that the minutes, described in paragraph 35, above, failed to specify any topic discussed in the executive session convened at the March 5, 2025 meeting. Therefore, it is found that such minutes failed to adequately apprise the public of the topic of the executive session discussion that occurred at said meeting.


37. It is concluded that the respondents violated the 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 requirements in §1-225(c), G.S., the open meeting and minutes requirements in §1-225(a), G.S., and the executive session attendance requirements in §1-231(a), G.S.

2. The respondents are strongly cautioned that future violations of the FOI Act requirements described in paragraph 1 of the Order above may result in the imposition of civil penalties, given their recurrent violations of such requirements as determined by the Commission in its prior Final Decisions: Nancy Griswold v. Chairman, Planning and Zoning Commission, Town of Thomaston, et al., Docket #FIC 2024-0706 (October 8, 2025); and Nancy Griswold v. Chairman, Planning and Zoning Commission, Town of Thomaston, et al., Docket #FIC 2024-0652 (October 22, 2025).

Approved by Order of the Freedom of Information Commission at its regular meeting of March 11, 2026.



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 & ZONING COMMISSION, TOWN OF THOMASTON;
PLANNING & ZONING COMMISSION, TOWN OF THOMASTON; AND TOWN OF
THOMASTON**, c/o Attorney Steven E. Byrne and Attorney Nicole L. Byrne, Byrne & Byrne,
LLC, 270 Farmington Avenue, Suite 365, P.O. Box 1065, Farmington, CT 06034


Jennifer M. Mayo
Acting Clerk of the Commission