

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Tom Arras,

Complainant

against

Docket #FIC 2016-0825

William Butterly, Jr., First Selectman,
Town of Woodbury; Michael Gransky, as
member, Board of Selectmen, Town of
Woodbury; Barbara Perkinson, as
member, Board of Selectmen, Town of
Woodbury; and Town of Woodbury,

Respondents

June 14, 2017

The above-captioned matter was heard as a contested case on March 21, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. This case was consolidated for hearing with Docket #FIC 2016-0745, Tom Arras v. William Butterly, Jr., First Selectman, Town of Woodbury; Barbara Perkinson, as member, Board of Selectmen, Town of Woodbury; Michael Gransky, as member, Board of Selectmen, Town of Woodbury; and Town of Woodbury.

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 letter filed November 23, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to describe with sufficient particularity the subject of the executive session during their meeting of October 27, 2016, and by failing to include in the minutes for such meeting the names of those in attendance. The complainant requested the imposition of civil penalties.
3. Section 1-231(a), G.S., provides in relevant part:

... 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.
4. It is found that, the minutes of the meeting of October 27, 2016, do not include the names of those who attended the executive session.

5. It is therefore concluded that the respondents violated §1-231(a), G.S., by failing to disclose all persons in attendance at the executive session.

6. It is found that the minutes of the respondents' October 27, 2016 meeting state that the respondents convened in executive session to discuss "personnel matters."

7. At the hearing in this matter, the complainant stated that he declined to pursue his allegation that the respondents failed to describe with particularity the subject matter of their executive session.

8. Nevertheless, the Commission observes that it is well established that a meeting agenda must "fairly apprise the public of the action proposed," and of the "matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views." See Zoning Board of Appeals of the Town of Plainfield v. Freedom of Information Commission, Docket No. CV 99-047917-S, 2000 WL 765186 (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 Information Commission, 66 Conn. App. 279 (2001).

9. This Commission repeatedly has held that in order 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. 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., Bradshaw Smith v. Milo W. Peck, Jr., Member, 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); John Voket and the Newtown Bee v. Board of Education, Newtown Public Schools, Docket #FIC 2006-013 (October 11, 2006) (agenda item "executive session – personnel," did not fairly apprise the public); Trenton Wright, Jr. v. First Selectman, Town of Windham, Docket #FIC 1990-048 (agenda item "executive session – personnel matters," did not sufficiently state the reason for the executive session).

10. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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 comply with §1-231(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 14, 2017.



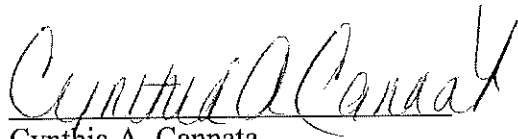
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Tom Arras
P.O. Box 857
Woodbury, CT 06798

William Butterly, Jr., First Selectman, Town of Woodbury;
Michael Gransky, as member, Board of Selectmen, Town of
Woodbury; Barbara Perkinson, as member, Board of Selectmen,
Town of Woodbury; and Town of Woodbury
c/o Thomas A. Kaelin, Esq.
Slavin, Stauffacher & Scott LLC
P.O. Box 323
Woodbury, CT 06798



Cynthia A. Cannata
Acting Clerk of the Commission