

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Phyllis Genel,

Complainant

against

Docket #FIC 2016-0498

First Selectman, Town of  
Woodbridge; Board of Selectmen,  
Town of Woodbridge; and  
Town of Woodbridge,

Respondents

June 14, 2017

The above-captioned matter was heard as a contested case on November 4, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts 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 letter dated July 6, 2016, and filed by July 11, 2016, the complainant appealed to the Commission alleging that the respondent First Selectman violated the Freedom of Information (“FOI”) Act by failing to state on the notice and agenda for the respondent Board of Selectmen’s (“respondent board”) June 22, 2016 special meeting that it was a joint meeting with the Board of Finance (“BOF”).

3. Section 1-200(2), G.S., provides in relevant part that:

“[m]eeting” means 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... A quorum of the members of a public agency who are present

at any event which has been noticed and conducted as a meeting of another public agency under the provisions of the Freedom of Information Act shall not be deemed to be holding a meeting of the public agency of which they are members as a result of their presence at such event.

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

- (a) [t]he meetings of all public agencies, except executive sessions as defined in subsection (6) of section 1-200, shall be open to the public . . .
- (b) [n]otice of each special meeting of every public agency . . . shall be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available, and given not less than twenty-four hours prior to the time of such meeting by filing a notice of the time and place thereof . . . in the office of the clerk of such subdivision for any public agency of a political subdivision of the state . . . The secretary or clerk shall cause any notice received under this section to be posted in his office . . . The notice shall specify the time and place of the special meeting and the business to be transacted....

5. It is found that the respondent board held a special meeting on June 22, 2016, to discuss, in part, a proposal from a real estate developer to purchase and develop property owned by the town.

6. It is found that the notice and agenda for the respondent board's June 22, 2016 special meeting did not indicate that it was a joint meeting of the respondent board and BOF. It is found, however, that three of the six members of the BOF attended the special meeting.

7. It is found that the three members of the BOF were invited to attend by the respondent First Selectman and were seated at the table with the respondent board with their official nameplates in front of each of them. It is found that at the conclusion of the real estate developer's presentation on its proposal, each member of the BOF was asked by the respondent First Selectman to speak and they each offered positive remarks about the proposal.

8. In her letter of complaint, and at the hearing on this matter, the complainant contended that as a result of the BOF members' presence and participation, an unnoticed meeting of the BOF took place during the respondent board's June 22, 2016 special meeting, in violation of the FOI Act.

9. At the hearing on this matter, the respondents' counsel contended that the three members of the BOF were not attending in their official capacity as members of the BOF and that the comments they provided were personal. He explained that the members were invited to sit at the table as a courtesy and out of respect for their positions as public officials.

10. It is found that the BOF has no supervision, control, jurisdiction or advisory power over the issue for which the three members offered their comments. It is found that the three members were not directed to attend the meeting by the BOF and they were not attending as official representatives of the BOF. It is further found that the members of the BOF did not participate in the meeting in any way, other than to offer their remarks, as described herein.

11. It is found that, even though the manner in which the three members of the BOF offered their comments (sitting at the meeting table with their official nameplates) may have given the impression that they were acting in their official capacity, they were not.

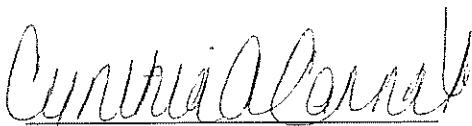
12. Consequently, it is concluded that the BOF did not conduct a meeting within the meaning of §1-200(2), G.S., during the respondent board's June 22, 2016 special meeting. (See Docket #FIC2004-009, Victor Boronsky v. Board of Selectman, Town of New Fairfield. Complaint dismissed in case where all three members of the board of selectman voiced their support of the town counsel during a board of finance meeting.)

13. It is concluded, therefore, that the respondents did not violate the FOI Act as alleged by the complainant.

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

1. The complaint is dismissed.

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:

Phyllis Genel  
30 Richard Sweet Drive  
Woodbridge, CT 06525

First Selectman, Town of Woodbridge; Board of Selectmen,  
Town of Woodbridge; and Town of Woodbridge  
c/o Gerald T. Weiner, Esq.  
59 Elm Street, 5<sup>th</sup> Floor  
New Haven, CT 06510



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