FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Marsha Sterling,

Complainant

against Docket #FIC 2016-0469

Town Manager, Town of Winchester;
and Town of Winchester

Respondents January 25, 2017

The above-captioned matter was heard as a contested case on September 15, 2016, at which time 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 letter, dated April 5, 2016, to the State of Connecticut Department of Education ("SDE"), the respondent town manager informed the SDE's chief financial officer that he was authorized to confirm that the town would contribute an additional $354,000 to the school district to help close a deficit for the fiscal year ending June 30, 2016.

3. It is found that, by email dated May 31, 2016, the complainant requested, from the respondents, records documenting the authorization of the additional spending, described in paragraph 2, above.

4. It is found that, in response to the request, described in paragraph 3, above, the respondents, on May 31, 2016, provided the complainant with a copy of emails between the town manager and the SDE, regarding the town's commitment "to help close the school district's deficit."

5. By email dated and filed June 28, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying the request, described in paragraph 3, above.[1]

[1] Although the complainant also alleged a denial of a request for a copy of an "agreement," the complainant withdrew that portion of her complaint at the hearing in this matter.

6. Section 1-200(5), G.S., provides:

> "[p]ublic records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides in relevant part that:

> [e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.

8. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

9. It is found that, to the extent records responsive to the request, described in paragraph 3, above, exist, such records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. At the hearing in this matter, the complainant contended that the records the respondents provided to her on May 31st were not responsive to her request. According to the complainant, the town's board of selectmen/finance should have publicly discussed and voted to approve or authorize the spending described in paragraph 2, above, and therefore, the respondents should maintain records, such as agendas and minutes, reflecting such approval or authorization. It is found that the complainant was seeking such agendas and minutes or any other records documenting the authorization referenced in paragraphs 2 and 3, above.

11. However, it is found that the board of selectmen/finance did not publicly discuss or vote to approve or authorize the spending, and that no agendas, minutes or other records documenting the "authorization" exist.

12. Based upon the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged.

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 January 25, 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:

Marsha Sterling
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Winchester Center, CT 06094

Town Manager, Town of Winchester;
and Town of Winchester
c/o Kevin F. Nelligan, Esq.
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Cynthia A. Cannata
Acting Clerk of the Commission

FIC/2016-0469/FD/cac/1/25/2017