

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Thomas Supina, Jr.,  
Complainant

Report of Hearing Officer

against

Docket #FIC78-152

Town of Ashford; and Board of  
Selectmen of the Town of  
Ashford,

November 15, 1978

Respondents

The above captioned matter was heard as a contested case on October 17, 1978, 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:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.

2. By complaint filed with this Commission August 7, 1978 the complainant alleged that there was an illegal meeting of the respondent board of selectmen on July 27, 1978 at the site of the Ashford landfill.

3. The complainant alleged that the meeting was held in violation of the requirements of §1-21, G.S. because there was no notice, and no minutes and no record of votes were filed within 48 hours.

4. The gathering in question occurred because the operator of the Ashford landfill contemplated signing a contract with the Town of Ashford to permit the town to continue to use his landfill.

5. In order that the aforesaid operator could better understand what he would have to do to solve certain environmental problems associated with the operation of the landfill, he arranged to meet with a representative of the Willimantic Water Department and a geologist from the Department of Environmental Protection on July 27, 1978.

6. Two of the selectmen of the respondent town, upon hearing that the operator of the landfill would have the aforesaid meeting, made arrangements to be present at the meeting so that they might learn more about the problems relating to the landfill operation.

7. Both selectmen learned of the meeting at the landfill on July 26, 1978.

8. Both selectmen attended the meeting at the landfill July 27, 1978, one of them taking time off from work in order to be present.

9. During the aforesaid meeting the two selectmen present discussed some matters relating to the landfill, including the time frame in which the contract between the operator and the town would have to be signed.

10. The respondent town has three selectmen.

11. It is found that two selectmen constitute a quorum of the respondent board of selectmen.

12. It is concluded that the presence of two selectmen at the landfill constitutes a meeting of a board of selectmen within the terms of §1-18a(b), G.S. because it was a "convening or assembly of a quorum of a multi-member public agency ... to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power."

13. The selectmen claimed that no notice was required for the meeting because it was an emergency in that the selectmen had no time in which to file the required notice.

14. The selectmen took no action at the meeting and most of what transpired at the meeting consisted of a conversation between the geologist, the representative of the Willimantic Water Department and the operator of the landfill.

15. It is found that there was no emergency which required that there be any selectmen at the landfill site.

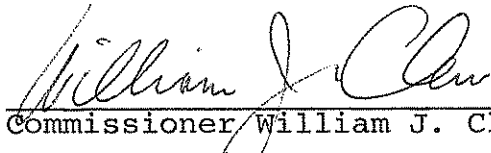
16. It is therefore concluded that the two selectmen held a meeting on July 27, 1978 in violation of the notice and minutes requirements of §1-21, G.S. and §1-19(a), G.S.

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


1. The respondent selectmen shall henceforth comply with the notice and minutes requirements of §1-21 and §1-19(a), G.S.

2. The Commission notes that rather than meeting at the site without the formalities of proper notice, the selectmen had the options of requesting that the meeting be postponed twenty-four hours in order that they could comply with the notice requirements of §1-21, G.S., or of not attending, or of having only one of the selectmen present so that there would be no quorum.

3. This hearing officer's report includes no finding of bad faith or any intent whatsoever on the part of the selectmen to disobey the law. The selectmen who met at the landfill were attempting to get information which would help them serve the public better and they were simply unaware that the public interest and the Freedom of Information Act also require them to post notice and file minutes whenever a quorum of the board of selectmen meets to discuss public business.

  
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Commissioner William J. Clew  
as Hearing Officer

Approved by order of the Freedom of Information Commission on  
November 29, 1978.

  
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Charlene G. Arnold  
Clerk of the Commission