

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Marion Dufourny  
(Jackson Newspapers),

FINAL DECISION

Complainant

Docket #FIC83-75

against

North Branford Board of  
Police Commissioners,

November 4, 1983

Respondent

The above captioned matter was heard as a contested case on June 21, 1983, at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the the entire record the following facts are found:

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. On March 28, 1983 the respondent met in executive session and discussed an increase in the salary of the chief of police.
3. A March 29, 1983 memorandum from the respondent to the town manager and others indicated that on March 28, 1983 the respondent "decided by consensus" an increase in the police chief's salary and that "[t]his consensus was unanimous."
4. By letter of complaint filed with the Commission on April 12, 1983 the complainant alleged that the minutes of the March 28, 1983 meeting stated that no votes had been taken in or out of executive session, although the March 29, 1983 memorandum indicated that a decision had been reached to forward a recommendation to another body concerning the salary of the police chief.
5. Other allegations in the complainant's letter relating to the contents of the agenda and minutes of the March 28, 1983 meeting were not treated at hearing and will not, therefore, be considered by the Commission.
6. The respondent claimed that the secrecy made available to public agencies by the use of executive sessions would be nullified if every agreement reached therein were reduced to vote form.

7. It is found that the respondent convened in executive session on March 28, 1983 pursuant to §1-18a(e)(1), which provides that a public agency may exclude the public from a meeting for the purpose of "[d]iscussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee."(emphasis added.)

8. It is therefore found that any activity by the respondent other than discussion was not a proper purpose for an executive session convened pursuant to §1-18a(e)(1), G.S.

9. The respondent also claimed that the consensus reached involved the creation of a preliminary draft, exempted from disclosure by §1-19(b)(1), G.S., and therefore, the consensus was not subject to mandatory disclosure.

10. It is found, however, that the memorandum from the respondent to other public agencies in the town of North Branford was in the nature of an interagency memoranda, letter, advisory opinion, recommendation or report comprising part of the process by which governmental decisions and policies are formulated, within the meaning of §1-19(c), G.S., and was therefore not exempted from disclosure by §1-19(b)(1), G.S.

11. While agency action generally requires a vote on an issue by a majority of the membership thereof at a public meeting, a vote for purposes of §1-21, G.S. may encompass more than the making of a motion and the recording of votes thereon.

12. It is therefore found that the respondent's consensus on March 28, 1983 constituted a vote on an issue before a public agency within the meaning of §1-21, G.S.

13. It is therefore concluded that the respondent violated §1-21, G.S. when on March 28, 1983 it voted in executive session to recommend an increase in the police chief's salary without recording such vote in the minutes of the meeting.

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

1. Henceforth the respondent shall act in strict compliance with the requirements of §1-21, G.S. regarding the recording of votes of a public agency.

2. Henceforth the respondent shall refrain from taking votes in executive session when such activity is not within the scope of the announced purpose for the executive session, as such purposes are defined at §1-18a(e), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of October 26, 1983.

  
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Mary Jo Jolicœur  
Clerk of the Commission