



7. The minutes were prepared by a clerk which the respondent paid.

8. During the course of her employment the clerk used her own tapes to record the proceedings of the meetings.

9. At some point in the work the clerk began to get her tapes from the selectman's office.

10. When controversy arose concerning the accuracy of a document which purported to contain the charter amendments, and after the complaint was filed with the FOIC, the clerk filed the seven tapes which she had in the town hall.

11. After this complaint was filed the clerk completed and filed the minutes which she had not yet completed, however only the tape and no minutes of the hearing were filed with the town clerk.

12. It is found that the failure of the respondent to file minutes of the hearing is a violation of §1-19(a), G.S. which requires that public agencies make, keep and maintain a record of the proceedings of their meetings.

13. The complainants claimed that all the tapes of the meetings made by the clerk should have been filed with the town clerk.

14. The respondent claimed that because the rules did not require that tapes of the meetings be maintained as a public record, that the tapes were not public records.

15. Section 1-18a(d), G.S. provides that:

"Public 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, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

16. It is found that as long as the clerk used her own equipment and tapes to make the record from which she produced the transcript and as long as she did not file them with the town clerk the tapes belonged to her and were not public records.

17. It is further found that when the clerk recorded the meeting with tapes from the selectman's office, or when she filed the tapes in the office of the town clerk the tapes became public records within the meaning of §1-18a(d), G.S.

18. The clerk filed in the town clerk's office all of the tape recordings which she made using tapes from the selectman's office after the complainants filed their complaint with the FOIC.

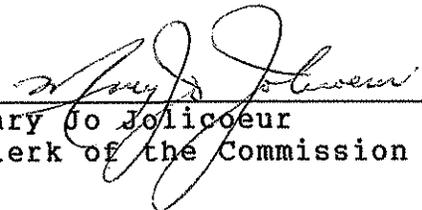
19. It is found that the tapes which were filed in the selectman's office should have been filed in the office from the time the meetings were recorded on them as required by §1-19(a) which provides that public agencies such as the respondent which do not have regular offices shall keep their records in the office of the clerk of the political subdivision in which the public agency is located.

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

1. Inasmuch as the respondent agency has completed the task it was set up to perform no order is appropriate herein.

2. The numerous failures of the respondent agency to keep records of the proceedings of its meetings shows a disregard of the public interest in such records which is irresponsible, and which may have contributed to public misunderstanding of the issues when the vote on the charter revision was taken on November 8, 1983.

Approved by order of the Freedom of Information Commission at its regular meeting of April 25, 1984.

  
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Mary Jo Jolicœur  
Clerk of the Commission