

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Hugh I. Manke,

FINAL DECISION

Complainant

Docket #FIC83-225

against

May 9, 1984

Willington Planning and Zoning
Commission of the Town of Willington,

Respondent

The above captioned matter was heard as a contested case on February 9, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

After consideration of 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 October 4, 1983 the respondent held a special meeting at which it voted 5-2 and 6-1 to approve applications by the EXXON Company for a zone change and a special permit. Present at the meeting were 7 regular members of the respondent and 2 alternates.
3. By letter of complaint filed with the Commission on November 3, 1983 the complainants alleged that the respondent failed to record the names of those voting on the applications. The complainants requested that the October 4, 1983 votes be declared null and void.
4. It is found that at the October 4, 1983 meeting the zoning agent of the Town of Willington took handwritten minutes of the proceedings, which minutes indicated how many persons voted on each motion (7) and who voted against the motions, but did not indicate who was present or who voted in favor of the motions. Such minutes were filed in the offices of the town clerk and of the respondent on October 5, 1983.
5. Within a few days of the October 4, 1983 meeting a typewritten exact copy of the October 4, 1983 minutes was prepared.
6. Due to the presence of the 2 alternates and the lack of any indication as to whether the alternates might have been authorized to vote, it was impossible to determine from the minutes who voted in favor of the motions.

7. The respondent claims that a more complete version of the October 4, 1983 minutes was prepared by the chairman of the respondent and placed on file in the office of the respondent on October 10, 1983. Such third version of the minutes reflects the presence of 7 regular members and 2 alternate members, and records who voted in favor of and who voted against each motion.

8. The minutes referred to at paragraph 7, above, were not initially placed on file in the office of the town clerk, but a copy was placed on file upon receipt of notice that a complaint had been filed with this Commission.

9. It is found that the respondent failed to properly record and make available within 48 hours the votes of its members on October 4, 1983, in violation of §1-21, G.S.

10. It is also found that the respondent's failure to file a copy of the revised version of the October 4, 1983 minutes in the office of the town clerk was misleading, given the respondent's history of filing minutes in both its own office and in the office of the town clerk, although not technically a violation of the Freedom of Information Act.

11. At least one of the complainants attended the October 4, 1983 meeting, and an appeal of the respondent's decision has been taken.

12. It is found that under the circumstances, a null and void order would not be an appropriate remedy.

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 the votes of its members.

2. The Commission suggests that the respondent adopt a policy regarding the filing of its minutes in order to avoid the type of confusion which occurred in the above case.

Approved by order of the Freedom of Information Commission at its regular meeting of May 9, 1984.



Mary Jo Jolicoeur
Clerk of the Commission