

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Gilbert Wassell, Irma
Callaghan and Marie Clark, Docket #FIC83-238

Complainant (s) April 25, 1984

vs.

Board of Aldermen of the
City and Town of Ansonia

Respondent (s)

The above captioned matter was scheduled for hearing February 3, 1984 at which time the parties appeared and presented evidence 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 December 9, 1983 the parties alleged that the respondent had violated the Freedom of Information Act by denying them access to public records pertaining to salary increases by late filing of minutes, and by improper late recording of votes.

3. The complainants sought records pertaining to salary increases which were approved by the respondent board on November 15, 1983.

4. On November 28, 1983 the complainants went to the city clerk's office seeking minutes and other public records pertaining to the salary increases.

5. The minutes of the meeting were provided.

6. When the city clerk was unable to ascertain whether there existed a record of the dates of the meetings of the salary committee, minutes of the salary committee and a record of the phone calls to discuss salaries, she instructed the complainants to request these records from Alderman Antrum.

7. The salary committee is a public agency of the City and Town of Ansonia within the meaning of § 1-18a(a), G.S.

8. Section 1-19(a), G.S. provides in relevant part that

[e]ach such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the secretary of the state as the case may be.

9. The respondent failed to prove that the respondent selectmen or the salary committee of the respondent board had a regular office.

10. The respondent failed to prove that there were no public records pertaining to the salary increases.

11. It is found therefore that the minutes and other records of the salary committee of the respondent should have been maintained in the office of the town clerk and that these records should have been open to public inspection as required by § 1-19(a), G.S.

12. The respondents' claim regarding the impropriety of recording the minutes and votes was premised on the assumptions that minutes must contain the vote of every member of a public agency by name and that the minutes containing votes must be filed within forty-eight hours of the meeting to which they refer.

13. The minutes which were the subject of the complaint were the minutes for the meetings of November 15, November 21, and November 23, 1983.

14. The latest filing of any of the minutes involved occurred five days after the meeting in question.

15. There was no evidence that the complainants attempted to see the record of votes within forty-eight hours of the meetings which were the subject of the complaint.

16. Section 1-21, G.S. provides in relevant part that:

The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available within forty-eight hours and shall also be recorded in the minutes of the session at which taken, which minutes shall be available for inspection within seven days of the session to which they refer.

17. It is found that the complainants failed to prove that the time requirements for making minutes available were not satisfied by the respondent.

18. The complainants claimed that the manner in which the votes of the members of the respondent were recorded failed to satisfy the requirements of the Freedom of Information Act.

19. The minutes listed the names of the aldermen present and the names of those absent.

20. Where votes were unanimous, rather than stating the names of those voting in favor, the minutes state the number followed by the word yes, and the number of those absent followed by the word absent.

21. It is found that nothing in the methodology employed by the respondent for recording votes violates the requirements of the Freedom of Information Act.

22. The respondents routinely caucus before meetings.

23. At hearing the complainants presented evidence that the notices for the meeting on Monday evening, November 18, were not posted until just before the clerk's office closed on Friday afternoon November 15.

24. Section 1-21(b), G.S. provides in relevant part:

In determining the time within which or by when a notice, agenda or other information is required to be given, made available, posted or filed, under subsection (a). Saturdays, Sunday, legal holidays and any day on which the office of the agency, the secretary of the state or clerk of the applicable political subdivision, as the case may be, is closed, shall be excluded. (P.A. 57-468, §1; P.A. 67-723, §2; P.A. 71-499; P.A. 75-342, §6; P.A. 76-435, §§63, 82; P.A. 77-609, §4; P.A. 83-67, §2; P.A. 83-148).

25. It is found that the notices for the special meetings on November 18, 1983 failed to satisfy the statutory requirements of §1-21, G.S. that notices of special meetings be posted twenty-four hours in advance of the meetings.

26. The complainants requested that the Commission act to declare votes on salary increases which were taken November 15, 1983 null and void, and that fines be levied against the board of aldermen for various improprieties and conflicts of interest.

27. The Commission cannot levy penalties with respect to improprieties or conflicts of interest which are not within its subject matter jurisdiction.

28. In view of the findings herein where the complainants proved only one of the alleged violations it is found that it would be inappropriate to nullify the respondents actions on the salary increases.

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

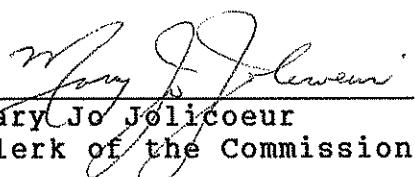
1. The respondent shall henceforth comply with §1-19(a), G.S. by maintaining the records of its committees at the office of the town clerk.

2. The claims of the complainants that the minutes and records of votes were improper are hereby dismissed.

3. Although the evidence showed numerous violations of the Freedom of Information Act by the respondents, the Commission prefers to issue orders only with respect to violations which are both stated in the complaint and proved at hearing.

4. In view of the foregoing and the civil penalties which may be imposed under §1-21i(b), G.S., the Commission cautions the complainants to become better informed with respect to the requirements of the Freedom of Information Act.

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



Mary Jo Jolicoeur
Clerk of the Commission