

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Francis Withington

FINAL DECISION

Complainant

Docket #FIC83-253

against

May 9, 1984

Mayor of the City and Town of
West Haven and Republican Councilmen
of the City and Town of West Haven

Respondents

The above captioned matter was heard as a contested case on February 27, 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 November 30, 1983 a gathering was held at the home of the respondent mayor, attended by several Republican members of the city council. No Democratic members of the city council were present. The gathering involved a discussion of the rules governing the city council, the election of the city clerk, and selection of the council chairman.
3. On December 5, 1983 the city council held an organizational meeting at which newly-elected members were sworn in and a chairman and clerk were chosen. The city council also voted to adopt "Rules Governing the Actions of the City Council, 1983-1985 Session."
4. By letter of complaint filed with the Commission on December 27, 1983 the complainant alleged that a quorum of the city council had attended the November 30, 1983 gathering and that the gathering was held without public knowledge and was therefore illegal. The complainant asked that the Commission impose a civil penalty on the organizers of the gathering and declare null and void any votes of the city council resulting from actions taken on November 30, 1983. At hearing the complainant withdrew his request for a civil penalty and limited his request for a null and void order to the vote regarding the rules.
5. The city council is composed of 13 members, of which 7 constitute a quorum.

6. Present at the November 30, 1983 gathering were council members Siwek, Lawson, Canny, White, Voight and Riccio and council members-elect Collins, Nardini, Dillman and Chatfield. Also present but not members or members-elect of the city council were Ted Adams, Ralph Paolillo, and the respondent mayor.

7. During the course of the gathering those in attendance took "consensus votes, as a result of which the issues being discussed were considered "basically settled" at the close of the gathering. The only issue that was not settled was the choice of a clerk, due to possible reservations on the part of the individual "chosen" about accepting the position.

8. The respondent mayor met the council members at the commencement of the meeting, gave an introductory speech, then left. Mr. Adams may have been present during the discussion of issues, but was not present during the "consensus vote". Mr. Paolillo was present, but did not contribute to the gathering. At least two members of the city council, Ms. Canny and Mr. Lawson, were not present for the entire gathering.

9. The respondents claim that because less than a quorum of incumbent members of the city council was present on November 30, 1983, the gathering was not a meeting as defined by §1-18a(b), G.S.

10. It is found, however, that the November 30, 1983 gathering was a proceeding of a public agency to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.

11. It is concluded that the November 30, 1983 gathering was a meeting as defined by §1-18a(b), G.S.

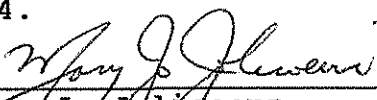
12. No notice of the November 30, 1983 meeting was posted as required by §1-21, G.S.

13. It is concluded that the respondent council members violated §1-21, G.S. when they met, without public notice, on November 30, 1983.

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

1. The Commission hereby declares null and void the vote of the city council on December 5, 1983 regarding the rules governing the city council.

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



Mary Jo Jolicoeur
Clerk of the Commission