

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Matthew Keenan

FINAL DECISION

Complainant

Docket #FIC 84-256

against

July 22, 1985

Montville Board of Selectmen's
Public Safety Committee

Respondent

The above captioned matter was heard as a contested case on April 3, 1985 at the same time as FIC 85-5, Carolyn Peter and the Norwich Bulletin vs. Montville Public Safety Committee. At that 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 respondent is a public agency within the meaning of section 1-18a(a), G.S.
2. By letter postmarked December 30, 1984 the complainant alleged that the respondent had violated the Freedom of Information Act (1) by filing an improper notice for a special meeting; (2) by failing to vote to go into executive session; (3) by holding an illegal executive session; (4) by including persons in the executive session whose presence is not allowed by §1-21g; and (5) by failing to file minutes as required by §§1-21 and 1-19(a) G.S.
3. The respondent agreed that its notice of special meeting did not describe the subject matter of the meeting as required by §1-21 G.S.
4. The respondent held a 90 minute meeting in executive session on December 20, 1984.
5. The meeting was convened in executive session at approximately 8 P.M.

6. When the meeting was convened in executive session at approximately 8 P.M., no reason for the executive session was stated and no vote was taken to go into executive session.

7. Those present included the constables, the first selectman and one of the three selectmen who are members of the respondent committee.

8. Approximately 8:15 P.M. a second member of the respondent arrived.

9. The meeting continued to be closed to the public.

10. The respondent claimed that either it had never held a meeting because a quorum was not present until approximately 8:15 P.M., one quarter of an hour after the time specified in the notice; or, alternatively, that if it had held a meeting, that the meeting was proper as a discussion of personnel matters under §1-18a(1) G.S.

11. The meeting was held to discuss the relationships between the constables and the resident state troopers.

12. The constables were employed by the town while the state trooper was employed by the state police.

13. §1-18(a)(e)(1) G.S. permits an executive session for the limited purpose of "discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee provided that such individual may require the discussion to be held in executive session."

14. It is found that the discussion at the executive session ranged beyond a discussion of the job performance of the constables to include the range of problems and issues generated by the unsatisfactory relationship of the constables and the state trooper.

15. It is found that the executive session was held for a proper purpose under §1-18a(e)(1) G.S. so long as it was limited to a discussion of the performance of town employees; however, when the discussion expanded to include the issues created by the unsatisfactory relationship of the constables and the state trooper that these issues were not a proper purpose under §1-18a(e)(1) G.S.

16. It is further found that the meeting was a meeting under §1-18a(b) G.S. from the time it convened at 8 P.M. until all discussion terminated because it was a proceeding to discuss matters over which the committee had jurisdiction and advisory power.

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

A public agency may hold an executive session as defined in subsection (e) of section 1-18a, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in said section.

18. It is concluded that the meeting should have begun in public and a proper motion made and vote taken before proceeding into executive session for the limited purposes permitted under §1-18(a)(e)(1) G.S.

19. It is found that the respondent failed to produce minutes of its meeting as required by §1-21 and 1-19(a) G.S.

20. §1-21g provides in relevant part:

At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion ..."

21. The first selectman is the director of public safety for the town of Montville.

22. It is found that insofar as the executive session was proper under §1-18a(e)(1) G.S. that the presence of the constables and the first selectman was proper under §1-21g because all had opinions which were pertinent to the matters being discussed.

23. No minutes of the December 20, 1984 meeting were filed.

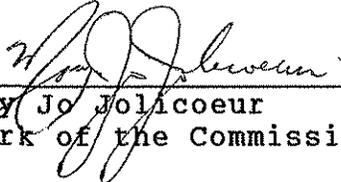
24. It is found the the respondent failed to comply with the minutes requirements of §1-21 and §-19(a) G.S.

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 comply with §1-18(a)(e)(1), §1-19(a) and §1-21 G.S.

2. This decision shall be posted in a place where the public may view it, in or near the town clerk's office for a period of two weeks.

Approved by order of the Freedom of Information Commission at its regular meeting of July 22, 1985.



Mary Jo Jolicoeur
Clerk of the Commission