

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Cynthia A. McCormick and
The Bristol Press

FINAL DECISION

Complainants

Docket #FIC 85-122

against

Farmington Town Council and
The Town of Farmington

Respondents

January 8, 1986

The above captioned matter was heard as a contested case on October 3, 1985 at which time the complainants and the respondents appeared and presented testimony, exhibits 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 the Commission on May 29, 1985, the complainants alleged that the respondent council held unnoticed meetings on May 2, 1985, May 3, 1985 and May 5, 1985; that the respondent council selected a new town manager in executive session on May 5, 1985; and that the minutes of the May 5, 1985 meeting did not record the votes on the selection of the town manager.

3. It is found that on May 2, 1985 and May 3, 1985, the respondent council met in executive session to interview candidates for town manager.

4. It is found that on May 5, 1985, the respondent council met in executive session to discuss its selection of a candidate for town manager. In the executive session the respondent council voted to make an offer to one candidate.

5. The respondents claim that the meetings of May 2, 3 and 5, 1985 were part of one continuous executive session.

6. At a meeting on March 12, 1985, the respondent council scheduled interview sessions for town manager candidates for 10 days in March and one day in April.

7. At a meeting on April 16, 1985, the respondent council scheduled additional interview sessions for May 2 and 3, 1985.

8. On May 3, 1985, the respondent council scheduled the May 5, 1985 executive session to discuss the selection of a town manager.

9. §1-21g, G.S., provides that a public agency is not required to include in the minutes of an executive session the names of job applicants who attend for the purpose of being interviewed by such agency.

10. Previous to the final interviews on May 2 and 3, 1985, the finalists had agreed to have their current employers contacted for references. The respondent council had conducted extensive reviews of the performance of each final candidate in his current job.

11. At the stage of interviewing finalists after contacting their current employers, a meeting of a public agency must conform to the open meetings and notice requirements of §1-21, G.S.

12. §1-21e, G.S., requires special meeting notice for a continued meeting.

13. It is concluded that the respondent council violated §§1-21 and 1-21e, G.S., by failing to provide notice of the meetings of May 2, 3 and 5, 1985, by failing to convene the meetings in public session and by failing to vote properly in public session to go into executive session.

14. The respondents claim the vote on May 5, 1985 to select a new town manager was held in executive session so that if the first choice did not accept the position, the next person chosen would not know that he or she was the second choice.

15. The respondents also claim the respondent council delayed announcing the vote to allow the candidate time to inform his employer of the offer. However, the employer had already been contacted as a reference and therefore knew that the candidate was being considered for the position.

16. §1-18a(e)(1), G.S., allows an executive session for discussion of a personnel appointment. Voting on a personnel appointment must be conducted in public pursuant to §1-21, G.S.

17. It is concluded that the May 5, 1985 executive session vote to select a town manager violated §§1-18a(e)(1) and 1-21, G.S.

18. The minutes of the May 5, 1985 meeting did not record the votes of each agency member in violation of §1-21, G.S.

19. The Commission declines to declare the May 5, 1985 vote to select a town manager null and void because the respondent council was motivated by an understandable desire to respect the wishes of candidates not selected and because the respondent council subsequently voted to appoint the town manager in public session on May 28, 1985.

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

1. Henceforth, the respondent council shall conduct its meetings in conformance with the Freedom of Information Act. The respondent council shall provide proper meeting notice, shall convene in public session before going into executive session, and shall limit executive sessions to a proper purpose pursuant to §§1-18a(e) and 1-21, G.S.

Approved by the Freedom of Information Commission at its regular meeting of January 8, 1986.



Karen J. Haggett
Clerk of the Commission