

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Elizabeth V. Varcoe,

FINAL DECISION

Complainant

Docket #FIC 85-138

against

October 23, 1985

Board of Selectmen of the Town
of Redding and the Town of
Redding,

Respondents

The above captioned matter was heard as a contested case on September 4, 1985 at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. The respondent board is a public agency within the meaning of §1-18a(a), G.S.

2. By letter of complaint filed with the Commission on June 6, 1985, the complainant alleged that the respondent board violated the Freedom of Information Act by holding a special meeting at 9:00 a.m. on May 30, 1985 without proper notice and agenda.

3. Specifically, the complainant claims that Selectman Atwood and Selectman Varisco met with the town assessor and tax collector, without the notice and agenda required by §1-21(a), G.S., to discuss a proposal concerning the town's purchase of a computer.

4. It is found that the respondent board is composed of three members and that two members constitutes a quorum.

5. It is found that Selectman Atwood and Selectman Varisco were present at the Redding Town Hall at 9:00 a.m. on May 30, 1985 at which time they signed a number of town checks. Check signing is one of the administrative functions of members of the respondent board.

6. It is found that neither Selectman Atwood nor Selectman Varisco planned or intended to meet together on May 30, 1985 in their capacities as members of the respondent board.

7. It is found that Selectman Atwood and Selectman Varisco, who do not maintain offices in the town hall, used its hearing room at the same time for a period of approximately one-half hour to perform their check signing duties.

8. It is found that the town assessor, on his own accord and without invitation, entered the hearing room during the period it was used by the two selectmen to sign checks, and stated his concern about Selectman Atwood's delay in reporting on the feasibility of a new computer system that Selectman Atwood was commissioned to study by the respondent board.

9. Selectman Atwood responded to the assessor's concerns and although Selectman Varisco heard this conversation, she did not participate in it.

10. It is also found that during the period the two selectmen signed checks, the town tax collector briefly entered the hearing room but that no business was discussed with her.

11. It is concluded that the period on May 30, 1985, before which the town assessor entered the hearing room and during which Selectman Atwood and Selectman Varisco signed checks, constituted a chance meeting neither planned nor intended for the purpose of discussing matters relating to the official business of the respondent board as a board of selectmen.

12. It is therefore concluded that such period did not constitute a meeting of the respondent board as defined in §1-18a(b), G.S.


13. It is further concluded that the evidence presented was insufficient to establish that the conversation between Selectman Atwood and the town assessor, heard by Selectman Varisco, rose to the level of a meeting as defined in §1-18a(b), G.S.

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

1. The complaint is hereby dismissed.

2. Although the members of the respondent board did not violate or intend to violate the Freedom of Information Act in the context of this case, they should be sensitive to the fact that alert citizens, such as the complainant, can draw reasonable inferences that such violations did occur under circumstances, as here, in which the board's collective business could well have been undertaken.

Approved by order of the Freedom of Information Commission at its regular meeting of October 23, 1985.



Mary Jo Jolicoeur
Clerk of the Commission