

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Robert Boone and the Journal
Inquirer,

FINAL DECISION

Docket #FIC85-57

Complainants

December 11, 1985

against

Board of Finance; Police
Commission and First Selectmen
of the Town of East Windsor

Respondents

The above captioned matter was heard as a contested case on September 5, 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 letter of complaint filed with the Commission on February 28, 1985 the complainants alleged that at a February 7, 1985 meeting the respondent board of finance went "beyond the scope of matters allowed for closed-session discussion and also involved illegal participation by the town treasurer."
3. The complainants also alleged that at a February 22, 1985 meeting the respondent police commission improperly met in executive session to plan a petition drive to oppose a move to disband the town police department. The complainants alleged that the respondent first selectman participated in both meetings as an ex officio member.
4. The complainants requested the imposition of a civil penalty and asked that the Commission order the reconstruction of minutes of both meetings in such a manner as to adequately reflect what occurred at them.
5. The respondent board of finance held a special meeting on February 7, 1985 during which it convened in executive session "to discuss pending litigation with regard to Civil Action Case #H-83-1077." The suit referred to was filed by a police officer against the police department, the town, the police commission and the police chief.

6. Following a two hour executive session the respondent board of finance reconvened in public session and voted to recommend the appropriation of \$45,000 for the settlement of the lawsuit.

7. It is the complainants' position that because the terms of the proposed agreement between the police officer and the police department had been made public and because the suit was not against the board of finance there was no justification for the executive session that was held.

8. The proposed agreement discussed on February 7, 1985 was contingent upon the approval of the board of police commissioners, the board of finance, the board of selectmen and the Town Meeting.

9. It is found, given the role of the board of finance in the resolution of the lawsuit, that discussion concerning the terms of the proposed settlement was a proper purpose for an executive session within the meaning of §1-18a(e)(2), G.S.

10. It is found that the respondent board of finance's recording secretary attended the February 7, 1985 executive session, in violation of §1-21g, G.S.

11. It is found that the town treasurer, who is the town's plan administrator for pension, retirement and insurance programs, attended the executive session to present testimony or opinion regarding the terms of the proposed settlement, within the meaning of §1-21g, G.S.

12. The R board of finance admitted at hearing that it did not make an attempt to limit the treasurer's attendance as required by §1-21g, G.S. To the extent that the treasurer's attendance included periods other than those during which his testimony or opinion were required, such attendance violated §1-21g, G.S.

13. On February 22, 1985 the respondent police commission held a special meeting during which it convened in executive session "to discuss . . . matters concerning security strategy, deployment. .[and] . devices affecting public security."

14. At the time of the February 22, 1985 meeting there was a movement to abolish the police commission and department in favor of a resident state trooper.

15. It is found that while convened in executive session the respondent discussed the effects on town security of replacing the police department with one state trooper and six constables, including the effects on responses to fire alarms and burglar alarms. Of particular concern was the transition period between the two should the petition prove successful.

16. At the conclusion of the executive session, which lasted approximately 2 1/2 hours, the respondent police commission issued a statement which indicated its belief that abolishing the police commission would be "counterproductive in our obligation to provide adequate public safety."

17. It is found that while convened in executive session the respondent also discussed possible strategies for responding to the petition efforts and the effects of the petition drive on police morale.

18. It is found that to the extent that the respondent police commission discussed the effects on town security of the abolition of the police department the February 22, 1985 executive session was held for a proper purpose within the meaning of §1-18a(e)(3), G.S.

19. Other matters, such as the effect of the petition on department morale and strategies for responding to the petition effort, were discussed in executive session in violation of §1-21(a), G.S.

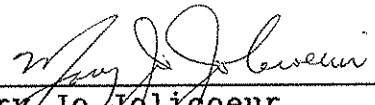
20. The Commission deems inappropriate the imposition of a civil penalty, and declines to order the creation of minutes of either executive session.

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

1. The respondent board of finance shall henceforth limit attendance at its executive sessions to persons who are members of the board and those whose presence is necessary to provide opinion or testimony, as provided in §1-21g, G.S.

2. The respondent police commission shall henceforth limit its discussions in executive session to the announced, proper purpose for the session.

Approved by order of the Freedom of Information Commission at its regular meeting of December 11, 1985.



Mary Jo Jolicoeur
Clerk of the Commission