

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Joseph A. Mannello and Peter H.  
Galullo,

Complainants

Report of Hearing Officer

against

Docket #FIC78-168

City and Town of Waterbury;  
Park Board of the City and  
Town of Waterbury; and President  
of Park Board of the City and  
Town of Waterbury,

November 8, 1978

Respondents

The above captioned matter was heard as a contested case on October 2, 1978, at which time the complainants 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 respondents are public agencies as defined by §1-18a(a), G.S.
2. On July 31, 1978 a quorum of the respondent board met in executive session.
3. By letter filed with this Commission on August 31, 1978, the complainants alleged that the minutes of such meeting did not disclose all persons who were in attendance at such executive session, as required by §1-21g, G.S.
4. By same letter, the complainants further alleged that the minutes of such meeting failed to disclose the time when such executive session convened and adjourned, in violation of the Freedom of Information Act.
5. Lastly, the complainants alleged that such minutes also failed to disclose whether or not any votes were taken at such executive session, in violation of the Freedom of Information Act.
6. That portion of the aforesaid minutes which relate to the respondent board's July 31 meeting in executive session does not separately state all persons who were in attendance therein, in violation of §1-21g, G.S.
7. The failure of such minutes to state the time when such executive session convened and adjourned is further found to violate §1-19, G.S. which provides that "Each such agency shall make, keep and maintain a record of the proceedings of its meetings."

8. With respect to the complainants' last claim, we note that §1-21, G.S. provides that "The votes of each member of any public agency upon any issue before such public agency shall be ... recorded in the minutes of the session at which taken...."

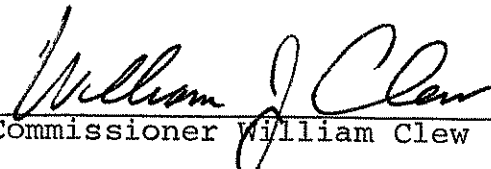
9. In this regard, the complainants contend that the absence of any such vote is required to be negatively stated in the minutes.

10. It is further found that neither §1-21, G.S., nor any other provision of the Freedom of Information Act, requires that the minutes of the meetings of public agencies contain a negative statement that no votes were taken on any issue before such public agency at a meeting.

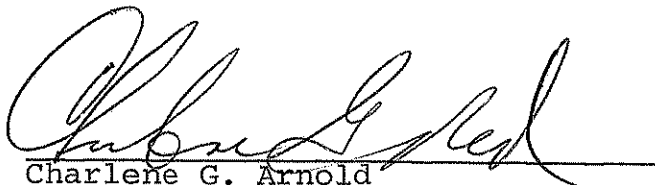
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Henceforth, the executive session portion of the respondent board's minutes shall contain a separate statement of the time when such session convened, the time when such session adjourned, and the names of all persons who attended any portion of such session.

2. That part of the complainants' complaint which asserts that the minutes of meetings must contain a negative statement that no votes were taken is hereby dismissed. In this regard, it should be observed that the complainants and the public are protected by the affirmative requirement, set forth in §1-21, G.S., that a vote, if taken, must be recorded in the minutes. The failure to so record a vote may well jeopardize the legal validity of any such unrecorded action. In this light then the public may safely assume that no votes were taken at a meeting where the minutes of such meeting do not record a vote.

  
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Commissioner William Clew  
as Hearing Officer

Approved by order of the Freedom of Information Commission on  
November 29, 1978.

  
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Charlene G. Arnold  
Clerk of the Commission