

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
D. Joyce Rudzewick,

FINAL DECISION

Complainant

Docket #FIC81-191

against

June 4, 1982

Town of Simsbury; Board of Police
Commissioners of the Town of
Simsbury; Board of Selectmen of
the Town of Simsbury; Conservation
Commission of the Town of Simsbury,

Respondents

The above captioned matter was heard as a contested case on March 17, 1982, at which time the complainant and the respondent boards and commission 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 boards and commission are public agencies as defined by § 1-18a(a), G.S.
2. By letter of complaint filed with the Commission on November 24, 1981, the complainant alleged that emergency meetings of the respondent boards of police commissioners and selectmen, held on November 16, 1981, were called in violation of § 1-21, G.S.
3. At hearing, the respondent conservation commission's motion to dismiss the complaint as to such conservation commission was granted on the ground that the complaint failed to allege that such commission had violated the Freedom of Information Act.
4. At hearing, the Hartford Fire Insurance Company was granted intervenor status to participate at the hearing level only, but withdrew after the granting of the conservation commission's motion to dismiss.
5. Also at hearing, the complainant's motion to strike a letter directed to the Commission by the Hartford Fire Insurance Company was denied.
6. It is found that on November 16, 1981, the respondent board of police commissioners posted notice of an "emergency meeting" to be held that night for "discussion of releasing the scores of the examination for Captain to the individual police officers."

7. It is found that on November 16, 1981, the respondent board of selectmen posted notice of an "emergency meeting" to be held that night for the purpose of making an appointment to the conservation commission.

8. The complainant alleged that no emergencies existed to justify the calling of the November 16, 1981 meetings, and asks that the actions taken at the meeting of the respondent board of selectmen be declared null and void.

9. The respondent board of police commissioners claims that an emergency meeting on November 16, 1981 was necessary to expedite the release of testing scores to candidates for the position of police captain.

10. It is found that the tests and answer sheets for the police captain examination were scored and placed in a safe deposit box on November 10, 1981, and were to be removed when a captain was selected.

11. Due to the failure of all candidates to receive a passing grade on the written examination, a police captain was not selected, and on November 16, 1981, the respondent board of police commissioners met to determine how to release the scores.

12. It is found that since the tests were scored and the need for a meeting to release the scores was known on November 10, 1981, the respondent board of police commissioners could have filed a notice of special meeting twenty four hours in advance of the November 16, 1981 meeting.

13. It is concluded that the respondent board of police commissioners violated § 1-21, G.S. in that the meeting which it held on November 16, 1981 was not an emergency meeting.

14. The respondent board of selectmen claims that an emergency meeting to make an appointment to the conservation commission on November 16, 1981 was necessary to ensure that a quorum would be present at the conservation commission's November 17, 1981 meeting.

15. The respondent board of selectmen also claims that a pending and controversial land development project made the November 16, 1981 appointment necessary to ensure the proper functioning of the commission.

16. It is found that the respondent board of selectmen failed to prove that there could not have been a quorum of the conservation commission present at the commission's November 16, 1981 meeting if the November 16, 1981 appointment had not been made.

17. It is also found that the need to fill a vacancy on the conservation commission was known as early as September 9, 1981, when a member of the commission filed his resignation with the respondent board of selectmen, effective October 1, 1981.

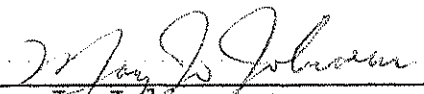
18. It is therefore found that the respondent board of selectmen was aware of a vacancy on the conservation commission in time to file a notice of special meeting twenty four hours in advance of the November 16, 1981 meeting, and that no emergency existed within the meaning of § 1-21, G.S.

19. It is therefore concluded that the respondent board of selectmen violated the requirements of § 1-21, G.S. in that the meeting which it held on November 16, 1981 was not an emergency meeting.

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

1. Henceforth the respondent boards of police commissioners and selectmen shall act in strict compliance with the requirements of § 1-21, G.S. regarding the posting of notices of special meetings.

Approved by order of the Freedom of Information Commission at its regular meeting of May 26, 1982.



Mary Jo Jolicoeur
Clerk of the Commission