

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by           FINAL DECISION  
Robert J. Koskelowski,

Complainant                               Docket #FIC83-107

against                                    December 23, 1983

Seymour Board of Police Commissioners,

Respondent

The above captioned complaint was heard as a contested case on August 25, 1983, at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent is a public agency as defined by §1-18a(a), G.S.
2. The respondent held a regular meeting on April 21, 1983.
3. By letter of complaint filed with the Commission on May 4, 1983, the complainant alleged that on April 21, 1983 the respondent had discussed his non-agenda personnel matter without voting to consider the matter; that the complainant was not notified that he would be discussed; and that the matter was raised under "old business," although it had not, in fact, been previously discussed.
4. The complainant also objected to the public discussion of matters he considered personal and embarrassing.
5. It is found that nothing in the agenda of the April 21, 1983 meeting indicated that the complainant would be discussed.
6. It is found, however, that the complainant was present at the April 21, 1983 meeting.
7. When the respondent reached the "old business" portion of its agenda, the respondent's chairman raised the issue of the complainant's work-related injury and the consequences thereof, stating, however, that it would be considered as "new business."
8. Nothing in the Freedom of Information Act prohibits a public agency from considering agenda items out of sequence.

9. It is found, however, that the respondent failed to vote to consider the issue of the complainant's work-related injury, in violation of §1-21, G.S., although, following completion of the discussion of the complainant, the respondent voted to take up the matter under "new business."

10. The only action taken by the respondent while discussing the complainant was a decision to ask the complainant's insurance company for his medical information.

11. Nothing in the Freedom of Information Act requires a public agency to convene in executive session upon request by an individual being discussed.

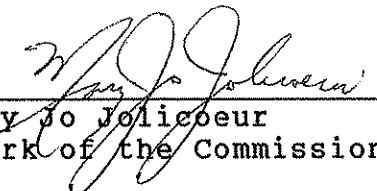
12. It is therefore concluded that the respondent did not violate the Freedom of Information Act when it failed to offer the complainant the option of having his injury discussed in executive session.

13. The Commission notes that due to the presence of the complainant and the limited nature of the discussion, the respondent's raising of a non-agenda personnel matter under the rubric "new business" did not substantially prejudice the complainant. However, doing so is generally not good policy and can only be considered appropriate in cases such as this in which the individual being discussed is present at the meeting.

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

1. Henceforth, the respondent shall act in strict compliance with the requirements of §1-21, G.S. regarding discussion of non-agenda items at public meetings.

Approved by order of the Freedom of Information Commission at its regular meeting of December 14, 1983.

  
Mary Jo Jolicœur  
Clerk of the Commission