

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by )  
Joseph A. Walsh, Complainant ) Report Of Hearing Officer  
 )  
against ) Docket #FIC78-11  
 )  
Town of Seymour; and Board of ) March 22, 1978  
Education of the Town of )  
Seymour, Respondents )

The above captioned matter was heard as a contested case on February 24, 1978 at which time the complainant and the respondents appeared, stipulated to certain facts, and presented evidence 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. The respondent board filed a schedule of its regular meetings for 1978 with the Seymour town clerk December 23, 1977.
3. The respondent board held a regular meeting January 5, 1978.
4. At the aforesaid regular meeting the respondent board held an executive session.
5. By letter filed with this Commission January 19, 1978 the complainant alleged that the aforesaid meeting violated §1-21, G.S. because it was held within 30 days of the filing of the yearly schedule with the town clerk.
6. The respondent board claimed that it had complied with the requirements of §1-21, G.S. by posting minutes at the town clerk's office in November, 1977 which showed that the board had unanimously approved a motion to schedule meetings on the first Thursday and third Monday of every month.
7. It is found that posting minutes showing a resolution to hold regular meetings on a given schedule is not complainance with §1-21, G.S. which requires the chairman or clerk of any public agency of any political subdivision of the state to file a schedule of regular meetings not later than January 31st of each year.
8. It is concluded therefore, that the aforesaid meeting did not comply with §1-21 which requires that no regular meeting may be held within thirty days of the date on which the schedule of regular meetings is filed.
9. The complainant alleged additional violations of the Freedom of Information Act claiming that the executive session was

held for an improper purpose during the aforesaid meeting, and that minutes of the meeting failed to indicate the names of persons during the executive session.

10. The respondent board admitted that the minutes failed to disclose all the names of persons present during the executive session.

11. The respondent contended, however, that the executive session was proper in that it was held for the purpose of discussing strategy with respect to pending litigation to which the public agency is a party.

12. During the executive session the respondent board discussed strategy with respect to a law suit then pending against it, and it set a date for a hearing regarding the termination of the employment of the plaintiff in that lawsuit.

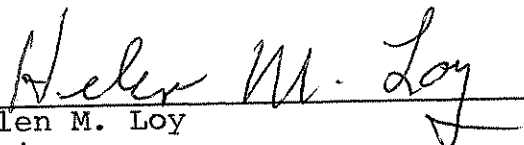
13. It is found that although the discussion of strategy with respect to a lawsuit pending against the respondent board is a proper purpose for an executive session, the motion and vote which set the date for the hearing for the plaintiff in that lawsuit are not strategy and negotiations.

14. It is concluded, therefore that the aforesaid executive session was improper in so far as it included the motion and vote setting a date for the aforesaid hearing.

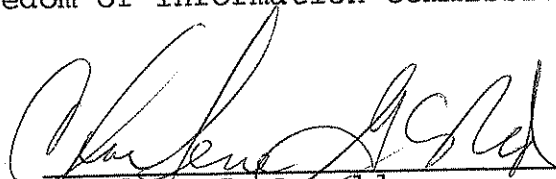
The following order of the Commissioner is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondent board shall henceforth comply with the requirements of §1-18a(e), §1-21 and §1-21g, G.S.

2. The Commission notes that this is the fifth case involving the same parties. In each of these cases the respondent board was found to be in violation of the Freedom of Information Act. The Commission warns that any further violation of the Act may constitute wilful conduct subjecting each member responsible for the violation to fines of up to \$500 per occurrence under §1-21i (d), G.S.

  
Helen M. Loy  
Chairman

Approved by order of the Freedom of Information Commission on  
March 22, 1978.

  
Charlene G. Arnold  
Clerk of the Commission