FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Waterbury Republican and Waterbury American, Complainant	Final Decision
against	Docket #FIC78-46
Town of Plymouth; the Town Council of the Town of Plymouth; and the Sewer Commission of the Town of Plymouth, Respondents	June 14, 1978

The above captioned matter was heard as a contested case on May 1, 1978, at which time the complainant and the respondent town council appeared and presented testimony, exhibits, and argument on the complaint. Because of the similarity of the issues this matter was consolidated with Docket #FIC78-47.

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. At the request of the newly appointed town counsel, the respondent town council acting as sewer authority, scheduled a special meeting for March 1, 1978.

3. Notice for the special meeting stated as its purpose the review of phase III sewer status, in an effort to expedite finishing the project for acceptance.

4. When the aforesaid meeting was convened, the respondent council voted to go into executive session, stating the purpose of the aforesaid executive session as "contracts, negotiations, and possible legal matters."

5. Reporters were ordered to leave the aforesaid meeting while numerous persons who were not members of the town council remained.

6. The executive session continued for approximately ten minutes; after it was adjourned those who had been present at the executive session continued to meet for approximately three hours and twenty minutes.

7. No minutes were filed for the aforesaid meeting.

8. By letter filed with this Commission March 10, 1978 the complainant claimed that the aforesaid executive session, and the failure of the respondents to keep minutes of the proceeding violated the requirements of §1-18a(e), §1-19, and §1-21, G.S.

9. The respondent town council claimed that because the purpose of the aforesaid executive session was to educate the newly appointed town counsel with respect to the phase III sewer project, the attorney-client privilege required the exclusion of the public from the meeting.

10. It is found that both the aforesaid executive session and the more than three hour meeting which followed it constituted a single executive session.

11. It is further found that the aforesaid meeting was not exempted from the requirements of the Freedom of Information Act by the attorney-client privilege.

12. It is concluded that the afoesaid discussion of the status of the sewer project is not a proper subject for an executive sesison under §1-18a(e), G.S.

13. It is further concluded that the respondent town counci violated the requirements of the §1-19 and §1-21, G.S. by failing to file minutes of the aforesaid meeting within seven days.

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

1. Henceforth, the respondent town council shall strictly comply with the requirements of §1-18a(e), §1-19(a), and §1-21, G.S.

2. The respondent town council shall file minutes of the meeting described at paragraph 2 through 6 of the finding within seven days of the date this report is adopted.

3. The Commission istroubled by the respondents' claims that despite "technical" violations of the Freedom of Information Act, the spirit of the Act was followed in the course of the events described herein. Such claim shows a misunderstanding of the Act. The Act is grounded on the assumption that citizens have a right to know what their government is doing. Here an improper executive session kept citizens of the respondent town from having information on a sewer project of local importance. Such a misunderstanding of the intent and the requirements of the law is inexcusable.

4. The respondents are advised to consider carefully the penalties which the Freedom of Information Commission may impose for violations of the Act. §1-21i(d), G.S., provides that it may impose a fine of up to $500.00 for wilful violations of the Act. §1-21k(b), G.S., provides that any member of a public agnecy who fails to comply with an order of the Freedom of Information Commission shall be guilty of a class B misdemeanor. A pattern of repeated violations similar in nature to the ones which are found in this report could be found to justify the imposition of the aforesaid penalties.

Helen M. Loy

Helen M. Loy
Chairman

Approved by order of the Freedom of Information Commission on June 14, 1978.

Charlene G. Arnold
Clerk of the Commission