

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Mr. & Mrs. Joseph D. Jagoda,
Complainants

Report of Hearing Officer

against

Docket #FIC80-27

Town of Portland; and Board of
Selectmen of the Town of Portland,
Respondents

August 27, 1980

The above captioned matter was heard as a contested case on June 30, 1980, at which time the complainants and the respondents appeared, 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 within the meaning of §1-18a(a), G.S.
2. By letter of complaint filed with this Commission on February 11, 1980, the complainants alleged that the respondent board of selectmen had violated the Freedom of Information Act.
3. The complainants first allege that the respondent board held an illegal emergency meeting on January 23, 1980.
4. The meeting of January 23, 1980 was called in response to a letter from the town attorney, advising the board against discussing the termination of the employment contract of the town engineer.
5. The respondent board met on January 23, 1980 for the limited purpose of discussing the matter raised in the January 23, 1980 letter from the town attorney.
6. It is found that the respondent board's emergency meeting of January 23, 1980 was held for a proper purpose and in compliance with the requirements of §1-21, G.S.
7. The complainants next allege that at its regular meeting of January 24, 1980, the respondent board twice went into closed session for improper purposes and without fulfilling the statutory requirements for convening in executive session.
8. At its meeting of January 24, 1980, the respondent board twice recessed during a discussion of the town engineer's employment contract. On neither occasion did the board follow the proper procedures for going into executive session as set forth at §1-21, G.S.

9. At hearing, the first selectwoman testified that the first recess was called to discuss the advice of the town attorney about the possibility of litigation, and the second recess was used to discuss Roberts Rules.

10. It is found that the recesses constituted executive sessions which were held in violation of §1-21, G.S. because neither discussion of possible litigation nor discussion of Roberts Rules constitutes a proper purpose for executive session under §1-18a(e), G.S., and because the sessions were convened without following the procedures set forth at §1-21, G.S.


11. The complainants further allege that the respondent board violated the Freedom of Information Act in that it held a special meeting on January 26, 1980 to discuss and act upon matters which had been tabled until the board's next regular meeting.

12. The respondent board's special meeting of January 26, 1980 was properly noticed. The meeting was called because information necessary for a determination of the matter was available sooner than expected.

13. It is concluded, therefore, that the respondent board did not violate the Freedom of Information Act in holding a meeting to discuss and act upon matters sooner than had been anticipated.


The following order by the Commission 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 §1-21, G.S. by following the required procedures for convening in executive session and by limiting its executive sessions to purposes permitted under §1-18a(e), G.S.



Commissioner Judith A. Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission on
September 10, 1980.



Leslie Ann McGuire
Clerk of the Commission