

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Superintendent Joseph A. Walsh

FINAL DECISION

Complainant

Docket #FIC84-9

against

Bridgeport Board of Police
Commissioners of the City and
Town of Bridgeport

May 23, 1984

Respondent

The above captioned matter was scheduled for hearing on March 6, 1984 at which time the parties appeared and presented evidence and argument on the complaint. Subsequent to the hearing the minutes of the Board of Police Commissioners were made Exhibit E by agreement of the parties and by order of the hearing officer.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.

2. By letter mailed January 12, 1984 the complainant alleged that the respondent acted illegally at a meeting December 13, 1983 and requested that the vote taken at the meeting to involuntarily retire the complainant as a member of the Bridgeport Police Department be declared null and void and that a civil penalty be imposed upon the person responsible for denying his rights.

3. On Friday, December 9, 1983 the Mayor of Bridgeport held a meeting in a private home with the corporation counsel, who was also labor counsel of the city of Bridgeport, and four members of the Board of Police Commissioners.

4. Those in attendance at the meeting decided that Superintendent Walsh should retire and that if he did not agree to retire that his removal should be obtained by involuntary retirement pursuant to §238(b) of the City Charter.

5. It was decided that the motions necessary to effect the involuntary retirement of the superintendent would be prepared in advance of the December 13 meeting of the police Commission in the event that the chief would refuse to retire voluntarily.

6. On the afternoon of December 13 the mayor and the labor counsel for the city visited the complainant and requested him to retire.

7. The complainant refused to retire.

8. There was nothing on the agenda to show that the respondent board would consider the complainant's retirement at the meeting on December 13, 1983.

9. Respondents claimed that the agenda had been prepared prior to the decision to discuss the matter of the superintendents retirement.

10. However the respondent also included on the agenda two items denominated additions to the agenda which were added after the agenda was typed.

11. The complainant had no notice that his retirement would be considered at the meeting and did not attend the meeting.

12. At the December 13, 1983 meeting the matter of the complainant's retirement was raised by the mayor, an ex officio member of the board.

13. §1-21, G.S. provides that the agenda of regular meetings shall be available to the public not less than twenty-four hours before the meetings to which they refer and that only upon affirmative vote of two thirds of the agency members present and voting may any subsequent business not included in such filed agendas be considered and acted upon at such meetings.

14. It is found that where officials of a public agency know more than twenty-four hours before a meeting that a matter will be considered at a public meeting, §1-21, G.S. requires that such matter be included on the agenda for the meeting.

15. It is further found that the respondent knew in advance that the issue of the complainant's retirement would be considered, although they did not know whether their discussion and action of the respondent would concern the complainants voluntary or his involuntary retirement.

16. It is concluded that the respondent violated §1-21, G.S. when the matter of the complainant's retirement was not included on the agenda for the December 13, 1983 meeting.

17. It is further concluded that even if the matter of the complainant's retirement could have been treated under §1-21, G.S. as a matter of new business, that the respondent would have violated §1-21, G.S. by failing to take a vote on whether that matter of new business should be considered by the board.

18. It is concluded that the vote to retire the complainant should be declared null and void.

19. It is found that a civil penalty requested by the complainant is inappropriate in this case because the construction of the agenda requirements of §1-21 G.S. which is developed herein is a matter of first impression.

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 comply with §1-21, G.S
2. The vote to involuntarily retire the complainant which was taken December 13, 1983 is hereby declared null and void.
3. The course of conduct involving the respondents herein which involved the meeting at a private home on December 9, 1983, and a formal vote to force the retirement of the complainant on December 13, 1983 without such action being listed on the agenda violates both the spirit and the letter of the Freedom of Information Act. A repetition of such actions could force the imposition of civil penalties pursuant to §1-21i(b), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of May 23, 1984.



Mary Jo Jolicœur
Clerk of the Commission