

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Stephen L. Massad,
Complainant

Report of Hearing Officer

against

Docket #FIC78-132

City and Town of New London; and
the Personnel Board of the City
and Town of New London,
Respondents

September 27, 1978

The above captioned matter was heard as a contested case on September 12, 1978 at which time the complainant and the respondents appeared, stipulated to certain facts, 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 as defined by §1-18a(a), G.S.
2. On June 7 and 14, 1978, a quorum of the respondent board met to discuss and act upon matters over which it had jurisdiction, control and advisory power.
3. The aforesaid June 7, 1978 gathering was held pursuant to the respondent board's schedule of regular meetings.
4. The respondent board voted unanimously at its June 7, 1978 regular meeting to recess until Wednesday June 14, 1978.
5. No public notice was given to the June 14, 1978 meeting of the respondent board.
6. By letter filed with the Commission on July 6, 1978, the complainant alleged that a record of votes and minutes to both such meetings were not filed within the time required by the Freedom of Information Act.
7. By same letter, the complainant also alleged that notice was not given to the respondent board's meeting of June 14, 1978, in further violation of the Freedom of Information Act.
8. Lastly, the complainant alleged that he was improperly excluded from an executive session discussion of the respondent board held on June 28, 1978.
9. With respect to both the June 7 and 14, 1978 meetings, no record of votes or minutes were filed with the clerk of the respondent city and town until June 30, 1978.

10. Votes were taken at both the June 7 and 14, 1978 meetings.

11. It is found that the respondent board violated §1-21, G.S. in its failure to reduce to writing, within forty-eight hours, the votes of each agency member present and voting at its meetings of June 7 and 14, 1978.

12. It is further found that the meeting of June 14, 1978 constituted a special meeting of the board. The respondent board's failure to post notice thereof not less than twenty-four hours prior to the time of such meeting therefore constituted a violation of the notice provisions of §1-21, G.S.

13. It is also found that the respondent board's failure to file minutes within seven days of its June 7 and 14, 1978 sessions constituted a violation of the minutes provisions of §1-21, G.S.

14. The complainant does not contend, with respect to the respondent board's executive session discussion of June 28, 1978, that such discussion was held for a purpose not permitted under §1-18a(e), G.S. The complainant is here asserting a special right to be present at such discussion in his official capacity as a city councilor named as liason to the respondent board.

15. §1-21g, G.S. requires a public agency to limit attendance to its discussions in executive sessions to agency members.

16. The complainant's status as a member of the respondent board is a matter of local law and not something over which this Commission has any authority to decide.

17. It is therefore found that the respondent board's decision to exclude the complainant, as a non-agency member, from what may otherwise be a properly called executive session discussion on June 28, 1978 does not constitute a violation of any provision of the Freedom of Information Act.

18. The complainant singles out and seeks to have declared null and void an action of the respondent board taken at its June 28, 1978 meeting. This is not an appropriate sanction to impose against the respondent board in the absence of a finding of any violation of the Freedom of Information Act relating to such meeting.

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

1. Henceforth, a record of votes of each member of the respondent board, upon each issue before it at its meetings, shall be reduced to writing and made available for public inspection within forty-eight hours thereof, as required by §1-21, G.S.

2. Henceforth, the respondent board shall post notice of its special meetings not less than twenty-four hours prior to the time of any such meeting, as required by §1-21, G.S. In this context, any meeting held outside of its schedule of regular meetings constitutes a special meeting of the board.

3. Henceforth, the respondent board shall make its minutes available for public inspection within seven days of the session to which they refer, as required by §1-21, G.S.

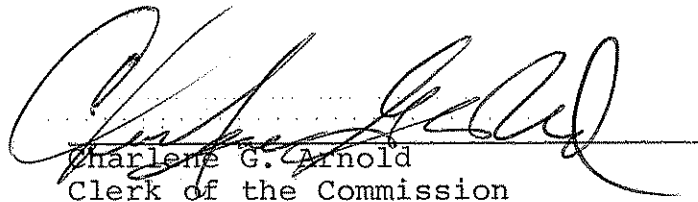
4. That portion of the complainant's appeal herein relating to the respondent board's June 28, 1978 meeting is hereby dismissed.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on
October 11, 1978.



Charlene G. Arnold
Clerk of the Commission