

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Demetra Mariano,

Report of Hearing Officer

Complainant

Docket #FIC81-141

against

November 10, 1981

Commissioners of the Second Taxing
District of the City of Norwalk,
Commissioners of South Norwalk
Electric Works of the Second Taxing
District of the City of Norwalk,

Respondents

The above captioned matter was heard as a contested case on October 2, 1981, at which time the complainant and the respondent commission 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 respondent electric works commission is a public agency as defined by § 1-18a(a), G.S.
2. At all times material to this complaint, the complainant was an employee of the respondent electric works commission.
3. A regular meeting of the respondent electric works commission scheduled for June 18, 1981, was rescheduled and met on June 25, 1981.
4. The respondent electric works commission recessed the June 25, 1981 meeting with the intention of reconvening the meeting on July 7, 1981, but did not reconvene until July 9, 1981.
5. By complaint filed with the Commission on August 7, 1981, the complainant alleged that the respondent electric works commission violated the Freedom of Information Act by improperly convening in executive session at its July 9, 1981 meeting and by failing to provide notice and minutes of such meeting and executive session.
6. Specifically, the complainant alleged that the respondent electric works commission convened in executive session to discuss her salary at its meeting of July 9, 1981 without adequate notice as required by §§ 1-21 and 1-18a(e)(1), G.S., and without stating any proper purpose under § 1-18a(e), G.S.
7. The complainant also alleged that the respondent electric works commission did not make the agenda for the meeting of July 9, 1981 available to the District Clerk, as required by § 1-21, G.S.

8. The complainant further alleged that the minutes of the respondent electric works commission's July 9, 1981 executive session were not prepared and made available as required by §§ 1-21, 1-15 and 1-19(a), G.S.

9. It is found that the respondent electric works commission met in executive session on July 9, 1981 to discuss one or more aspects of the complainant's employment, including the complainant's salary.

10. It is found that an agenda for the July 9, 1981 meeting was prepared and posted by the respondent electric works commission, but that such agenda did not list as one of its items anything relating to personnel matters or discussions of employees' salaries.

11. It is found that the respondent electric works commission failed to prove that it voted at its July 9, 1981 meeting by a two-thirds majority, or otherwise, to discuss business not listed on the agenda for the meeting.

12. It is therefore concluded that the discussion of the complainant's salary at the July 9, 1981 meeting of the respondent electric works commission was in violation of § 1-21, G.S.

13. It is found that the agenda for the July 9, 1981 meeting provided insufficient notice to the complainant that her salary was to be discussed and that the respondent electric works commission failed by any other means to provide meaningful notice to the complainant that her employment or salary would be discussed at that meeting.

14. It is also found that the respondent electric works failed to accord the complainant a meaningful opportunity to invoke her right to a public session regarding the discussion of her employment, in violation of § 1-18a(e)(1), G.S.

15. It is further found that the respondent electric works commission failed to prove that it convened in executive session on July 9, 1981 having first stated in public session a proper purpose for such session, in violation of §§ 1-21 and 1-18a(e), G.S.

16. It is also found that during the executive session held on July 9, 1981, the members of the respondent electric works commission improperly voted on several issues, including the reduction of the complainant's salary, in violation of § 1-18a(e)(1), G.S.

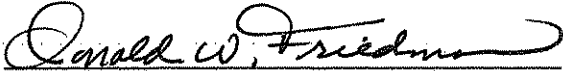
17. It is further found that the votes of each member of the respondent electric works commission taken during the executive session on July 9, 1981 were never reduced to writing in violation of § 1-21, G.S.

18. It is found that minutes were taken at the July 9, 1981 executive session of the respondent electric works commission.


19. It is also found that in spite of a request by the complainant on August 7, 1981, for a copy of the minutes of the executive session, such minutes were not made available to her, in violation of §§ 1-21, 1-15 and 1-19(a), G.S.

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

1. Henceforth the respondent electric works commission shall conduct its meetings in strict compliance with the procedures set forth in § 1-21, G.S., and may convene in executive session only for one or more of the purposes set forth in § 1-18a(e), G.S.
2. Henceforth the respondent electric works commission shall reduce each vote of each of its members to writing and shall make such record of votes and the minutes of each of its meetings available to the public in accordance with §§ 1-21, 1-15 and 1-19(a), G.S.
3. All actions taken by the respondent electric works commission at its July 9, 1981 meeting concerning the complainant's salary are hereby declared null and void.


Commissioner Donald Friedman
as Hearing Officer

Approved by order of the Freedom of Informatio Commission
at its regular meeting of December 9, 1981.


Mary Jo Jelicœur
Clerk of the Commission