

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Frederick Benedikt,

Complainant

against

Town of New Fairfield; Board of  
Finance of the Town of New  
Fairfield,

Respondents

Report of Hearing Officer

Docket #FIC81-193

*May 18, 1982*

The above captioned matter was heard as a contested case on March 22, 1982, in conjunction with Docket #FIC81-194 at which time the complainant and the respondent board 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 board is a public agency as defined by §1-18a(a), G.S.
2. By letter of complaint filed with the Commission on December 1, 1981, the complainant alleged that the respondent board violated §1-21, G.S. in the posting of notices of special meetings held November 9, 1981 and November 16, 1981, and asked that the actions taken at both meetings be declared null and void.
3. At hearing, the respondent objected to the hearing of the complaint on the ground that the complaint was not heard within thirty days of its receipt, which objection was overruled on the ground that the relevant language of §1-21i(b), G.S. is directory and not mandatory.
4. It is found that at 11:50 a.m. on Saturday, November 7, 1981, the respondent board posted notice of a special meeting to be held at 8:00 p.m. on Monday, November 9, 1981 to fill two vacancies on such board.
5. It is found that the town clerk's office is closed on Mondays, and is open on Saturdays from 8:30 a.m. until 12:00 noon.
6. The complainant claims that because the town clerk's office was closed for all but ten minutes of the time between the posting of notice and the special meeting itself, the respondent board failed to post such notice twenty four hours in advance of the meeting, as required by §1-21, G.S.
7. The respondent board claims that the special meeting language of §1-21, G.S. requires only that notice be posted twenty four hours in advance of a special meeting, whether or not there is public access to such notice during any of the twenty four hours.
8. It is found that the legislature in drafting the twenty four hour posting requirement for special meetings in §1-21, G.S., contemplated that the offices of town clerks would be open for business during only a portion of the twenty four hours preceding special meetings.

9. It is found that §1-21, G.S., however, contemplates that public notice of special meetings be provided at a meaningful time and in a meaningful manner.

10. It is found that the notice in question was not provided at a meaningful time and in a meaningful manner.

11. It is concluded that the respondent board violated §1-21, G.S. in the posting of notice of its November 9, 1981 meeting.

12. It is found that at 1:36 p.m. on Friday, November 13, 1981, the respondent board posted notice of a special meeting to be held Monday, November 16, 1981 at 8:00 p.m. to fill a vacancy on such board.

13. The complainant contends that on November 13, 1981 there was no vacancy on the respondent board, and that therefore the special meeting notice was incorrect.

14. It is found that on November 14, 1981, a member of the respondent board submitted his resignation, dated November 13, 1981 to the town clerk, such resignation "to take effect immediately."

15. It is therefore found that although a resignation had not been filed with the town clerk on November 13, 1981, a decision to resign had been formalized in writing by a board member.

16. It is therefore found that the respondent board's November 13, 1981 notice of special meeting did not violate §1-21, G.S.

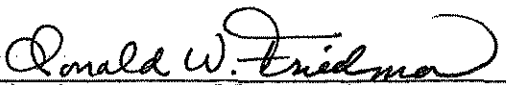
17. The complainant also alleged at hearing that the respondent board had conducted a series of secret meetings, but was unable to offer any proof of such meetings, and ultimately abandoned such claim.

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

1. Henceforth the respondent board shall act in strict compliance with §1-21, G.S. in the posting of notices of its special meetings.

2. The complaint is hereby dismissed with regard to the allegation contained in paragraph thirteen of the findings, above.

3. The Commission suggests that the respondent board devise a method of posting notices in a place accessible to the public even when the town clerk's office is closed.

  
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Commissioner Donald W. Friedman  
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of June 23, 1982.

  
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Mary Jo Jolicœur  
Clerk of the Commission