

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Peter S. Carozza,

FINAL DECISION

Complainant

Docket #FIC84-62

against

August 8, 1984

Waterbury Board of Fire  
Commissioners of the City and  
Town of Waterbury,

Respondents

The above captioned matter was heard as a contested case on June 12, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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. On April 3, 1984 the respondent held a special meeting to "rescind and reconsider decision of Special Meeting of April 2, 1984 Regarding Grievances."
3. Notice of the meeting was given by "sheriff's call" on April 3, 1984. Section 3301 of the city charter provides that the city sheriff shall, "when required, serve all notices and warnings of all meetings of the city . . . and of the several boards and committees of the city."
4. By letter of complaint filed with the Commission on April 23, 1984 the complainant alleged that the respondent failed to post notice of the April 3 meeting at least 24 hours in advance as required by §1-21, G.S. The complainant asked that the Commission declare the action taken at such meeting null and void.
5. It is found that by letter dated March 20, 1984 the complainant, president of the Waterbury Firefighters Association, submitted a grievance to the respondent. The grievance related to two firefighters, Nicholas J. Terni, Sr., and Henry Boylan.
6. The respondent scheduled a meeting for March 29, 1984 to discuss the complainant's grievance. The meeting was cancelled due to the lack of a quorum and rescheduled to April 2, 1984.
7. Notice for the April 2 meeting was posted on March 30, 1984.

8. On April 2, 1984 the respondent met and voted 4 to 2, one member absent, to uphold the grievance of the two firefighters. The complainant was present at the April 2 meeting and spoke on behalf of the firefighters.

9. On April 3, 1984 the respondent met and voted 5-0, two members absent, to rescind the April 2 vote on the grievance. Following the vote to rescind the respondent engaged in further discussion of the grievance, with the complainant again speaking on behalf of the firefighters.

10. At the conclusion of the April 3 meeting the respondent voted 5-0, with two absent, to deny the grievance.

11. The respondent claims that subsequent to the April 2 meeting the mayor, upon becoming aware of what had transpired at the meeting, made a determination that the members of the respondent had acted without knowledge of relevant contract provisions. The complainant was asked at the April 2 meeting whether there was anything in the contract, other than the provision being discussed, which pertained to the "ERC." The complainant replied that there was not.

12. Among the powers granted to the mayor by the Waterbury city code is the power "[t]o call special meetings of any board of the city government when he may deem it expedient." and "[t]o compel the attendance at any duly warned meeting of a member of any city board by the issuance of a warrant signed by him as mayor."

13. An agreement between the city of Waterbury and the Waterbury Firefighters Association provides that upon submittal of a grievance to the respondent, the respondent must give a written answer within fifteen calendar days after receipt of the grievance. The respondent claims that because written notification of the respondent's response had to be sent out on April 4, the 15th day, the April 3 meeting was held as an emergency meeting. Minutes of the April 3 meeting were placed on file within 72 hours after the meeting.

14. No emergency was spelled out in the minutes of the April 3 meeting, but the respondent cites as relevant the fact that the face sheet of the minutes of the meeting indicate that a "sheriff's call" was used to convene the meeting, which in itself indicates the emergency nature of the meeting.

15. The agreement between the Waterbury Firefighters Association and the city of Waterbury provides that the time limits specified therein may be extended by agreement of both parties.

16. The respondent claims, however, that it did not request an extension of time because it did not believe that one would be granted.

17. It is found that the respondent failed to prove that it could not have postponed the meeting in question to April 4, reaching a decision and issuing written notice of the decision on the same date.

18. The Commission also finds significant the fact that the respondent did not ask the union for an extension of time, although exchanges between the respondent and the union at the April 2 meeting indicate the R's belief that such a request would be useless.

19. It is concluded that the April 3 meeting was not an emergency meeting within the meaning of §1-21(a), G.S.

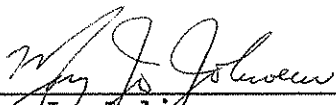
20. It is therefore found that the respondent violated §1-21(a), G.S. when it failed to provide notice of the April 3 meeting at least 24 hours prior to the meeting.

21. The Commission finds, however, that because the complainant had actual notice of the meeting and was, in fact, present at the April 3 meeting, an order declaring the actions of the respondent null and void is not appropriate.

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 act in strict compliance with the requirements of §1-21(a), G.S. regarding the posting of notices of its special meetings.

Approved by order of the Freedom of Information Commission at its regular meeting of August 8, 1984.

  
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Mary Jo Jolicoeur  
Clerk of the Commission