

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Paul Wallace,

FINAL DECISION

Complainant

Docket #FIC 84-82

against

September 26, 1984

Board of Alderman of the
City and Town of Milford,

Respondent

The above captioned matter was heard as a contested case on August 10, 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. At its regular meeting on April 2, 1984 the chairman of the respondent distributed a document entitled "Budget Deliberation Schedule of the Board of Aldermen for the Fiscal Year July 1, 1984 - June 30, 1985." Such schedule provided that on April 23, 1984 the "Board of Aldermen will meet and vote on the following appropriation accounts: General Revenue, Federal Revenue, 111 (Board of Aldermen) - 331 (Civil Preparedness)."
3. The schedule also provided that on April 26, 1984 the respondent would meet and vote on appropriation accounts 340 - 442 and that on April 30, 1984 it would meet and vote on appropriation accounts 551 - 910.

4. By letter of complaint filed with the Commission on May 16, 1984 the complainant alleged that on April 23, 1984 the respondent did not limit itself to the matters scheduled for consideration, rather, the respondent voted on the entire municipal budget, except for the City Clerk account and the Board of Education account.

5. It is found that at a special meeting held by the respondent on April 23, 1984 a motion was made and passed by a vote of 10 to 5 "re: Adoption of the Board of Finance's Recommendations on Appropriations for the General City Government for the fiscal year 1984/1985."

6. At a special meeting of the respondent held on April 26, 1984 a motion was made and passed for reconsideration of the resolution passed on April 23, 1984 regarding the adoption of the board of finance's recommendations for the Fiscal Year 1984/1985. A vote on the resolution itself was then passed, 8 - 7. At such meeting the respondent also voted on certain specific accounts within the budget, including activities 115, 154, 156, 210, 215, 360, 424, 420 and 421.

7. At a special meeting held on April 30, 1984 the respondent again voted on certain specific accounts within the budget, including activities 610, 620, 801, 813, 129 and 551. At such meeting the respondent also voted, 14 to 1, "to adopt the budget for fiscal year 1984/1985 setting the mill rate and establishing the due date."

8. In a memorandum filed at the time of hearing, the respondent claimed that the complainant's letter of complaint failed to disclose the state under the laws of which the Milford Coalition of Municipal Labor Unions and Associations was created or organized, in violation of §1-21j-42(a), Regulations of Connecticut State Agencies.

9. At hearing, the parties agreed that the named complainant was properly Paul Wallace, not the Milford Coalition. The respondent's claim with respect to §1-21j-42(a), Regs of Conn. State Agencies, therefore, need not be addressed.

10. The respondent also alleged that the complainant's letter of complaint failed to specify the section of the Freedom of Information Act allegedly violated. Docket #FIC84-82 continued page 3

11. It is found, however, that the complainant's letter of complaint, as required by §1-21j-42(b), Regulations of Connecticut State Agencies, contains "a concise and explicit statement of the facts on which the commission is expected to rely in granting the relief sought," which statement included the date of the alleged violation, the identity of the public agency, the subject matter of the meeting in question and a description of the alleged violation.

12. The respondent claims that the complainant's reliance on the schedule of budget deliberations as an "agenda" is misplaced, since a public agency is not required to provide an agenda for a special meeting.

13. However, the respondent failed to prove that it had placed on file in the office of the town clerk any notice of special meeting other than the schedule of budget deliberations.

14. The respondent claims that its authority is to review and act on the recommendations of the board of finance regarding the budget for the upcoming year. This year, the respondent claims, it chose to place the entire budget on the floor for consideration at the beginning of the voting proceedings, with detailed deliberation on each internal account to be brought up for questions on the evenings scheduled in the budget deliberation schedule.

15. The respondent claims that individual matters were voted upon according to schedule and that the public was not deprived of an opportunity to witness and participate in the budget voting process.

16. The respondent further claims that it is unreasonable to assert that all necessary action to adopt a budget was taken on April 23, 1984 since on April 26, 1984 and April 30, 1984 the respondent met and voted on items scheduled for discussion on those days pursuant to the budget deliberation schedule.

17. It is found that neither the schedule of budget deliberations, nor any other document adduced at hearing, provided notice to the public that on April 23, 1984 a vote would be taken to adopt the recommendations of the board of finance regarding the entire budget.

18. Section 1-21(a), G.S. provides that notices of special meetings "shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency."

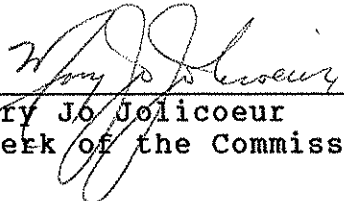
19. It is therefore concluded that the respondent violated §1-21(a), G.S., when it considered and acted upon business not included in the schedule of budget deliberations.

20. Because the issues were not raised in the complaint, the Commission will not address the questions of whether the respondent properly limited itself to the announced purposes of the April 26, 1984 and April 30, 1984 meetings.

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

1. The respondent's vote on April 23, 1984 regarding adoption of the recommendations of the board of finance is hereby declared null and void.

Approved by order of the Freedom of Information Commission at its regular meeting of September 26, 1984.



Mary Jo Jolicoeur
Clerk of the Commission