FREEDOM OF INFORMATION COMMISSION OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Paula C. Miller, Complainant against) Report of Hearing Officer
) Docket #FIC77-136
Town of Wallingford and Board of Ethics of the Town of) August 2, 1977)
Wallingford, Respondents)

The above captioned matter was heard as a contested case on July 27, 1977, at which time the complainant and the respondent board appeared 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. The respondent board held an emergency meeting on June 29, 1977 for the following purpose as stated in the minutes of such meeting: "...to discuss criticism of its actions that appeared in the local press today."
- 3. The question of whether the aforesaid emergency meeting met the requirements of the Freedom of Information Act was raised by letter received from the complainant and filed with the Commission on July 13, 1977. The thrust of that complaint was that the minutes of such meeting failed to disclose an emergency nature justifying waiver of the public notice requirements prescribed by the Act.
- 4. Notice of special meeting was not given by the respondent board to the office of the clerk of the respondent town, and posted therewith, twenty-four hours prior to the time of such meeting, in accordance with §1-21, G.S.
- 5. However, §1-21, G.S. does go on to state that "...any such special meeting may be held without complying with the foregoing requirement for the posting of notice..."
 "...in case of emergency...".
- 6. The question before this Commission is therefore whether or not the facts as herein presented support a finding that such meeting was a case of emergency within the meaning of §1-21, G.S.

- 7. The June 29, 1977 meeting in question was held to discuss newspaper editorials and columns published on June 29, 1977, criticizing the respondent board's performance in the conduct of one of its investigations.
- 8. Such meeting and discussion could have been held at a later time in order to satisfy the time requirements under §1-21, G.S. for the posting of notice of special meeting.
- 9. It is therefore found that the purpose of the meeting in question was not of such an emergency nature, within the meaning of §1-21, G.S., as to justify the respondent board's failure to provide the public with the notice prescribed under the Freedom of Information Act.
- 10. Although the board of ethics utilized an incorrect procedure in meeting on June 29, 1977, the Commission finds such error was not intended as a way to secrete public business.

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 give notice of its special meetings to the clerk of the respondent town no later than twenty-four hours prior to the time of such meeting, in accordance with §1-21, G.S.
- 2. It is noted that the record of the hearing herein reflects that a vote to go into executive session was taken by the board members present at the meeting here in issue, and the minutes which refer to such meeting do not record that such a vote was taken. The respondent board is further advised that \$1-21, G.S. requires that the votes of each member of any public agency upon an issue before such agency is required to be reduced to writing and recorded in the minutes of the meeting at which taken.

Commissioner Donald W. Friedman

as Hearing Officer

Approved by order of the Freedom of Information Commission on August 10, 1977.

Charlene G. Arnold, as Clerk of

the Freedom of Information Commission