## FREEDOM OF INFORMATION COMMISSION OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Peter B. Mann, Complainant	) Report of Hearing Officer
against	) Docket #FIC77-150
Town of Killingly and Inland Wetlands Commission of the Town of Killingly,	September 3, 1977
Respondents	)

The above captioned matter was heard as a contested case on August 29, 1977, at which time the complainant and the respondents appeared, entered into stipulations of fact and presented testimony and argument on the complaint.

After consideration of the entire record, the following facts are found:

- 1. The respondents are public agencies under \$1-18a(a), G.S.
- 2. Pursuant to a proposal at the respondent commission's July 5, 1977 regular meeting, a quorum of that agency gathered at approximately 6:00 p.m. on July 15, 1977 on a parcel of land in order to make a general surveillance of an area regulated by the respondent commission.
- 3. The respondent commission did not comply with either the notice of meetings or minutes requirements of the Freedom of Information Act (FOIA), as codified in Chapter 3, G.S., in regard to the gathering described in paragraph 2, above.
- 4. By letter of complaint filed with this Commission on August 8, 1977, the complainant alleged that the aforesaid gathering constituted a meeting held in violation of the FOIA and requested that the meeting be declared null and void.
- 5. Based upon the surveillance on July 15, 1977, certain decisions were made by the respondent commission at its regular meeting on August 1, 1977.
- 6. There is no claim that the respondent commission's meeting on August 1, 1977 was held in violation of the FOIA.
- 7. The respondent commission contends that since no discussion or action actually occurred at the July 15, 1977 gathering, it was not a meeting under \$1-18a(b), G.S.
- 8. §1-18a(b), G.S., defines meeting, in pertinent part, as "... an assembly of a quorum of a multi-member public agency ... to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power."

- 9. It is found that the respondent commission has supervision, control, jurisdiction or advisory power over the regulated property that was the subject of surveillance on July 15, 1977.
- 10. It was not proved whether any discussion or action occurred during the gathering on July 15, 1977 concerning the subject property.
- 11. Based upon the fact that the gathering in question was planned for a specific time and place at which the respondent commission's membership would meet together as a group, it is concluded that discussion and/or action concerning the subject property was anticipated. Mere surveillance by individual members of the respondent commission would not dictate that such members gather at the same time and place.
- 12. It is therefore concluded that the gathering of a quorum of the respondent commission on July 15, 1977 constituted a special meeting of that agency held in violation of the FOIA. To find otherwise would be to render meaningless the notice of meetings and minutes provisions of the FOIA because without notice and minutes, the public would not know whether any discussion or actions indeed occurred.

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

- 1. Henceforth, the respondent commission shall comply strictly with the notice of meetings and minutes requirements of the FOIA.
- 2. The Commission notes that the respondent commission is a relatively new agency and its members are apparently unfamiliar with the specific requirements of the FOIA. While this case does not suggest a lack of good faith on the respondent commission's part, this Commission urges the respondent commission to become familiar with the requirements of the FOIA in order to avoid unnecessary violations of the spirit, if not the letter, of that law.

Commissioner William J. Clew

as Hearing Officer

Approved by order of the Freedom of Information Commission of September 28, 1977.

Charlene G. Arnold

Clerk of the Commission