

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by John Kisluk, Plainville

File No. 2011-081

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged that during a budget vote held in the Town of Plainville the Respondents unlawfully prevented voters from using the restrooms at the polling place. The Complainant alternately alleges that, *inter alia*, General Statutes § 9-236 did not apply to such vote and, as such, members of the public should have been permitted to use the restrooms.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. On three occasions in the Spring of 2011 a question concerning the 2011 budget for the Town of Plainville was submitted to the electors of the town pursuant to its Charter: April 26, May 10, and May 24. The events relevant to the instant matter concern the vote held on May 24.
2. Chapter VII, § 6 of the Plainville Town Charter, reads, in pertinent part:

There shall be a Town Meeting solely for the purpose of voting on the budget on the Last Tuesday of April at such polling places, as the Council shall determine. Voting at the Town Meeting shall commence at 6:00 a.m. and cease at 8:00 p.m. Voting shall be by way of a "Yes" or "No" vote on voting machines, as that term is defined by the State Statutes, with the voting machine ballot labels provided by the Town Clerk. The Town Clerk and such assistants

shall conduct and moderate the vote. The Town Budget shall be adopted by a majority vote of those attending and entitled to vote.

3. General Statutes § 9-1 (n) defines the term "Referendum" as follows:

"Referendum" means (1) a question or proposal which is submitted to a vote of the electors or voters of a municipality at any regular or special state or municipal election, as defined in this section, (2) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters, which meeting is not an election, as defined in subsection (d) of this section, and is not a town meeting, or (3) *a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters pursuant to section 7-7 or pursuant to charter or special act;*

4. As an initial matter, the Commission concludes that the vote that occurred in the Town of Plainville on May 24 was a "referendum" as defined in General Statutes § 9-1 and was subject to the provisions of Title 9 of the General Statutes concerning referenda, and, in particular, General Statutes § 9-236.
5. The May 24 referendum was held at a single polling place set up at Plainville Town Hall. Respondent Catherine McQueeney was the moderator for this referendum. At all times relevant to the instant Complaint, Respondents Jean Lombardo and Beth Gasparini were, respectively, the Democratic and Republican Registrars of Voters in the Town of Plainville.
6. The Complainant alleges that the Respondents were present at the polling place during the referendum and that on the date in question they impermissibly prevented citizens from using the restrooms located in Town Hall during the hours of voting.
7. General Statutes § 9-236 proscribes certain activities in and around a polling place on the day of any primary, referendum or election, as those terms are defined in General Statutes § 9-1. Section 9-236 reads, in pertinent part:

(a) On the day of any primary, referendum or election, *no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach, except as provided in section 9-294.* Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words "I Voted Today", or (3) the registrars of voters in a primary, election or referendum from *jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located.* The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. *The moderator shall evict any person who in any way interferes with the orderly process of voting.*

...

(c) No person except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 shall be allowed within any polling place except for the purpose of casting his vote. . . . (Emphasis added.)

8. As such, during the hours of voting, no one except those individuals specifically exempted may enter a polling place for any other purpose, even if such purpose is to use a restroom whose access and/or entrance is located within the polling place, if by doing so the individual must enter the polling place.

9. Moreover, even if such bathroom entrance and/or access is not located within the polling place, but is located within 75' of "any outside entrance in use as an entry to [such] polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach, except as provided in section 9-294," any individual accessing such bathroom must take care not to "solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person" within the restricted area or such individual will be in violation of General Statutes § 9-236 (a).
10. The Respondents here do not generally deny the Complainant's allegations, insofar as they admit that a bathroom entrance was located within the polling place and that they restricted access to such entrance during the hours of voting. The Respondents assert that they hung and distributed signs informing voters and those around Town Hall of the temporary restricted access during the referendum.
11. Considering the aforesaid, the Respondents were correct to enforce the provisions of General Statutes § 9-236 (c) by restricting access to the restroom entrance and/or access located within the polling place. Accordingly, the matter should be dismissed.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter is dismissed.

Adopted this 24th day of August, 2011 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stet" followed by a stylized flourish.

Stephen F. Cashman, Chairperson
By Order of the Commission