

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Joan Coe, Simsbury

File No. 2012-148

FINDINGS AND CONCLUSIONS

This Complainant filed this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that the Simsbury Board of Selectmen violated General Statutes § 9-369b (a) by authorizing an explanatory text concerning a referendum question that advocated a position on such question by not including additional information concerning reported opposition by certain town staff or officials.

After a preliminary investigation of the allegations and information contained within the complaint, the Commission makes the following findings and conclusions:

1. The Complainant alleges that an explanatory text concerning a referendum question authorized by the Simsbury Board of Selectmen violated General Statutes § 9-369b (a). See attached text filed as a portion of the complaint.
2. The Complainant alleges that the explanatory text violated the advocacy ban of § 9-369b (a) only in that such text did not include additional information concerning the reported opposition of certain town officers or employees to the referendum question.
3. Connecticut General Statutes § 9-369b (a) provides, in relevant part:

[A]ny municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum ... Such text shall not advocate either the approval or disapproval of the proposal or question
4. The Commission has consistently concluded, “that communications that recommend or urge support of or opposition to a referendum question are subject to the restrictions found in Section 9-369b.” *In the Matter of a Complaint by Jennifer Iannucci, Bridgewater*, File No. 2006-166, ¶ 8.
5. The Commission has historically concluded that communications which urge a particular result, either by express wording of advocacy or when considered as a whole, would make the ordinary reasonable person believe that a particular result is urged, constitute advocacy.

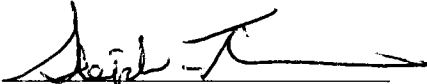
Complaint by Marie Egbert, Hebron, File No. 2010-056 at ¶ 15. In determining whether a communication constitutes advocacy, the Commission reviews the entire communication and considers its style, tenor and timing. *Id.*; see also *Sweetman v. State Elections Enforcement Commission*, 249 Conn. 296 (1999).

6. As far as the issues of style and tenor are concerned, the Commission does not consider hypothetical language that allegedly should have also been included in an explanatory text. “In its determination of whether or not a challenged communication advocates a position on a referendum, the Commission has always considered only what is contained in the four corners of such communication. The Complainants’ claims are in effect based on what should have also been so included. The Commission rejects the Complainants’ standard of review as both unworkable and beyond the scope of Section 3-369b, General Statutes.” *Complaints by David H. Tolly and Roy Duncan, Bloomfield*, File No. 1992-134 at ¶ 9. See also *Complaint by Noreen Farmer, East Windsor*, File No. 2002-236 at ¶ 8.
7. Based on the above, the Commission concludes that the Complaint has not alleged a violation of § 9-369b (a).

ORDER

IT IS HEREBY ORDERED that the complaint be dismissed.

Adopted this 14th day of November, 2012 at Hartford, Connecticut by vote of the Commission.



Stephen F. Cashman, Chair
By Order of the Commission

**TOWN OF SIMSBURY
PUBLIC INFORMATION BROCHURE
CHARTER REVISION COMMISSION
PROPOSED REVISED SIMSBURY TOWN CHARTER
REFERENDUM DATE: TUESDAY, NOVEMBER 6, 2012**

August 12, 2012

Dear Simsbury Resident:

This brochure provides background information about the Proposed Revised Charter. The Proposed Revised Charter is under consideration for a public referendum on November 6, 2012. The ballot question at the referendum will appear as follows:

Shall the Charter of the Township of the Town of Simsbury be amended as proposed by the Simsbury Charter Revision Commission in the June 18, 2012 Proposed Revised Charter and as approved by the Simsbury Board of Selectmen?

The following proposed changes to the Simsbury Town Charter have been recommended by the Simsbury Charter Revision Commission and approved by the Board of Selectmen. The proposed changes in the Town Charter are not final unless approved by Simsbury voters at referendum.

1. Chapter V, Town Meeting. The process for calling a Town Meeting has been revised. Under Chapter V of the current Charter, an annual Town Meeting must be called for consideration of the Board of Finance proposed town budget. Special Town meetings must also be called by the Board of Selectmen for eight (8) specific purposes outlined in Section 503. Under Section 506, both the annual proposed budget from the Board of Finance and any Town Meeting matter that involves an expenditure of more than 2% of the Annual Town Budget must be forwarded on to referendum for final action. When called, the Town Meeting is the final legislative authority for the matters included in the call, subject to referendum approval where required.

With the expansion of the Automatic Referendum requirement to include any financial matter in excess of 2% of the Annual Town Budget, the Town Meeting function as the final legislative authority had been limited. Under the revised Charter, the legislative functions of the Town Meeting have been shifted to the Board of Selectmen, unless a Town Meeting is called by initiative of the Electors as defined in Section 409 of the Proposed Revised Charter. The proposed eight legislative powers of the Town Meeting under Section 409 are exactly the same as those found in Section 503 of the current charter. The referendum requirement for the proposed annual budget and any matter that involves expenditure in excess of 2% of the Annual Town Budget is unchanged in the Draft Charter.

2. Design Review Board. Currently, the Design Review Board is established as the temporary board by the Board of Selectmen for a two-year term. The Commission is recommending that the Design Review Board be included in the Charter as a permanent commission appointed by the Zoning Commission with six (6) regular and up to four (4) alternate members that serve a four year term. The qualifications for serving on the Design Review Board are to be established by the Zoning Commission.

3. Duties of the First Selectman, Section 502. Under Section 502 of the current Charter, the First Selectman is the Personnel Director of the Town. The Commission heard testimony from the First Selectman and her staff regarding the increased complexity in the area of human resources and the need for a human resources professional to serve as the Town personnel director. The revised Section 502 of the Draft Charter

allows the First Selectman, with approval of the Board of Selectmen, to appoint another Town officer as the Personnel Director.

4. Section 708, Constable. The appointed office of Constable has been eliminated in the Proposed Revised Charter.

5. Chapter VIII, Finance and Taxation. The Commission heard testimony from the Finance Director concerning the practical difficulty of meeting the budget deadlines in the current Charter. Based on her testimony and the testimony of the Board of Finance, a number of changes to the budget calendar contained in Section 804, 805, 806 and 808 have been made in the Proposed Revised Charter.

6. Section 808, Duties of the Board of Finance on the Budget. Under revised Section 808 (formerly Section 908), the Board of Finance is given explicit responsibility for oversight of the Town's pension and other post-employment benefit funds, to include responsibility for the prudent investment of the funds and designation of the Town's annual contributions to these funds.

7. Section 810, Emergency Appropriations: Under the current Charter, emergency appropriations are limited to 3% of the Annual Town Budget. Under Section 810 of the Proposed Revised Charter, emergency appropriations are allowed up to 50% of the Town's designated fund balance. The process to approve emergency appropriations is unchanged.

8. Section 1088, Review and Amendment of the Charter. Under Section 1108 of the current Charter, the Charter must be reviewed every five (5) years by the Board of Selectmen. There is no specific date identified to start the five-year period. Under Section 1008 (formerly Section 1108) of the Proposed Revised Charter, the Charter must be reviewed every seven (7) years from the effective date of these Charter revisions, if adopted at referendum.

9. Effective Date of the Revised Charter. The Commission recommends amending Section 1011 (formerly Section 1111) to provide that the effective date of the new Charter is January 1, 2012.

10. Clarifying Language and Technical Changes. The Proposed Revised Charter includes a number of clarifications to existing language and technical changes that do not result in substantive changes.

A complete copy of the Proposed Revised Charter, including a black-lined version outlining each proposed revision, is available in the Simsbury Town Clerk's office during regular business hours and can be reviewed on the Town of Simsbury's website at www.town.simsbury.ct.us. The Town Clerk will mail or otherwise provide a copy upon request.

**THIS PUBLIC INFORMATION BROCHURE WAS APPROVED
BY THE BOARD OF SELECTMEN TO PROVIDE A GENERAL
OVERVIEW OF THE CHARTER REVISION COMMISSION,
PROPOSED REVISED TOWN CHARTER**