

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Linda Goff, New Hartford

File No. 2009-105

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that New Hartford incumbents Phyllis A. Webb (D), Selectman, Earl R. MacInnes (R), First Selectman, and Candidate for Board of Education Jennifer Zenuh authorized the use of public funds of a recreation commission “flyer” that is beneficial to their re-election and election at the November 3, 2009 election in the Town of New Hartford.

After the investigation of the Complainant’s complaint, the Commission makes the following findings and conclusions:

1. The Town of New Hartford Parks and Recreation Department (hereinafter “Recreation Department”) publishes a tri-annual brochure of events and services, and has done so since 2006. The Recreation Department published a brochure titled *New Hartford Recreation Fall/Winter 2009-2010*, in October 2009, which included article and photographs regarding Respondents McInnis, Webb and Zenuh.
2. Recreation Director Dennis Minor authorized the production and publication of this brochure using department funds in June 2009. At that time, he requested Respondents McInnis and Webb to contribute articles regarding their experiences with mentoring, in anticipation of National Mentoring Month in January 2010, for inclusion in the Fall/Winter 2009-2010 brochure. These articles, along with individual pictures of each were included in the brochure, as was a profile of part-time Recreation Department employee Respondent Zenuh.
3. The purchase order for the Town of New Hartford indicates that the *New Hartford Recreation Fall/Winter 2009-2010* cost \$2,443.00. The purchase order was signed by Dennis Minor, Recreation Director, on September 29, 2009. Recreation Department records indicate that the job order for printing this brochure was dated September 17, 2009, and the due date for the print job was October 15, 2009.
4. Respondent Zenuh was elected to the Board of Education, while Mr. MacInnes and Ms. Webb were not re-elected to the Board of Selectman at the November 3, 2009 election in the Town of New Hartford.
5. General Statutes § 9-610, provides in pertinent part:

(d)(1) No incumbent holding office shall, during the three months preceding an election in which he is a candidate for reelection or election to another office, use public

funds to mail or print flyers or other promotional materials intended to bring about his election or reelection. ...

(2) No official or *employee* of the state or a political subdivision of the state shall *authorize the use of public funds* for a television, radio, movie theater, billboard, bus poster, *newspaper or magazine promotional campaign or advertisement*, which (A) *features the name, face or voice of a candidate for public office*, or (B) promotes the nomination or election of a candidate for public office, during the twelve-month period preceding the election being held for the office which the candidate described in this subdivision is seeking.

[Emphasis added.]

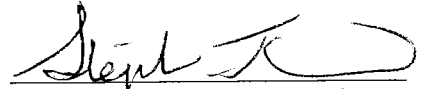
6. The Commission notes that the printed material which is the subject of this complaint is a brochure from the New Hartford Recreation Department, which includes department offerings and events, and is not a “newspaper or magazine” within the meaning of General Statutes § 9-610(d)(2). The Commission therefore concludes that that this subsection would not apply and therefore conducts its analysis of potential violations in this instance under General Statutes § 9-610(d)(1).
7. The threshold question the Commission must answer under § 9-610(d)(1) is whether the Recreation Department brochure, based on the authorization of the use of public funds for its production and its content, is deemed to violate § 9-610(d)(1).
8. The Commission finds that under § 9-610(d)(1) printed materials or mailings authorized at public cost must expressly or implicitly advocate the election of a candidate in order for the Commission to conclude a violation.
9. Furthermore, the Commission finds that in *In the Matter of a Complaint by Roger J. Roche*, Old Lyme, File No. 2007-390, it applied a three part standard to determine whether printed materials produced at public cost are deemed to violate § 9-610(d)(1). Under the *Roche* standard, printed materials must indicate: (1) the candidacy or party affiliation of any elected official; (2) the record of any elected official; or must be (3) a solicitation for contributions or other support for any official's campaign for reelection, or promoting the support of any other candidate, political committee or political party.
10. The Commission applies its standard in *Roche* and concludes that the Recreation Department brochure in this instance, which includes articles pertaining to Respondents McInnis, Webb and Zenuh, does not satisfy *any* of the three prongs of the analysis and therefore is not deemed to violate § 9-610(d)(1).

ORDER

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

That the complaint be dismissed.

Adopted this 22nd day of Sept of 20 10 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission