

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Paul Baer, Thompson

File No. 2013-178

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Town of Thompson failed to timely fill vacancies on its Board of Education and Planning and Zoning Commission.

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

1. Complainant alleges that letters of resignation were separately received from a member of the Board of Education and a member of the Planning and Zoning Commission, both dated October 1, 2013, but received by the town clerk's office on October 7, 2013 and October 16, 2013, respectively.
2. The Complainant alleges that the vacancy created by the resignation on the Board of Education was filled by appointment on November 12, 2013.
3. The Complainant alleges that the Town of Thompson should have either appointed replacements prior to the November 5, 2013 municipal election or allowed vacancy elections for these positions to be included on the ballot for said election.
4. Pursuant to its own investigation, the Commission found that the records of the Thompson Town Clerk's Office show that resignations were received by that office from Board of Education member Jason Akana and Planning and Zoning alternate member Stanley Lesniewski on or about October 7, 2013 and October 10, 2013, respectively. Both letters were dated October 1, 2013.
5. The Board of Education vacancy was filled by appointment by that body at its November 12, 2013 meeting.
6. The Planning and Zoning vacancy was filled by appointment by the Board of Selectmen at its December 17, 2013 meeting

7. General Statutes § 7-103 provides:

Unless otherwise provided by law, any elected or appointed town, city or borough officer, except the town, city or borough clerk, desiring to resign from his office shall submit his resignation in writing to the town, city or borough clerk, as the case may be; and any such clerk desiring to resign from his office shall submit his resignation in writing to the board of selectmen, the chief executive officer of the city or the chief executive officer of the borough, as the case may be. Any such resignation shall become effective upon the date specified therein or, if no date is so specified, upon the date of its submission.

8. General Statutes § 10-219 provides:

If a vacancy occurs in the office of any member of the local board of education, unless otherwise provided by charter or special act, such vacancy shall be filled by the remaining members of said board until the next regular town election, at which election a successor shall be elected for the unexpired portion of the term, the official ballot specifying the vacancy to be filled.

9. General Statutes § 9-220 provides:

If any town office in any town is vacant from any cause, such town, if such office is elective, shall, except as otherwise provided by law, fill the vacancy at the next town election or at a special election called for such purpose in accordance with the provisions of section 9-164, but, until such vacancy is so filled, it shall be filled by the selectmen. The selectmen shall fill all vacancies in offices to which they have the power of appointment.

10. General Statutes § 9-221 provides, in pertinent part:

...

(b) When under the provisions of any general statute, special act or charter, it is required that a vacancy in any municipal office be filled at the next municipal election, *such provisions shall not apply to any such vacancy which occurs after the deadline for the nomination of candidates specified in section 9-452 and any such vacancy thereafter occurring may be filled until such election, by the official or officials authorized to fill such vacancy, by the appointment of a qualified person to serve until such election and shall forthwith be filled after*

such election by the official or officials so authorized who are serving after such election by the appointment of a qualified person,
(Emphasis added.)

11. General Statutes § 9-452 provides, in pertinent part:

All minor parties nominating candidates for any elective office shall make such nominations and certify and file a list of such nominations, as required by this section, not later than the sixty-second day prior to the day of the election at which such candidates are to be voted for. . . .
(Emphasis added.)

12. The relevant deadline for inclusion of a vacancy election the November 5, 2013 municipal election ballot was September 3, 2013.
13. With the above in mind, the Commission concludes that there was no requirement for the Town of Thompson—in this case, the Board of Education and the Board of Selectmen—to make appointments to fill the vacancies prior to the November 5, 2013 municipal election.
14. Moreover, the Town of Thompson was not permitted at law to hold vacancy elections for such elected offices at the November 5, 2013 municipal election. The only options available to the Town of Thompson were to either make appointments covering the period up to the next municipal election in November 2015, which they did here, or to call a special election pursuant to General Statutes § 9-164 (b)¹.
15. Considering the aforesaid, this matter should be dismissed.

¹ General Statutes § 9-164 (b) reads, in pertinent part:

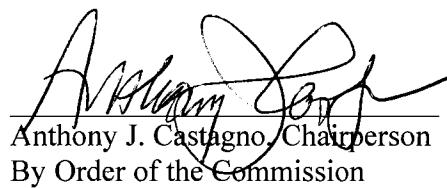
(b) Upon the occurrence of a vacancy in a municipal office or upon the creation of a new office to be filled prior to the next regular election, a special municipal election may be convened either by the board of selectmen of the municipality or upon application of twenty electors of the municipality filed with the municipal clerk. The date of such election shall be determined by the board of selectmen of the municipality, and notice of such date shall be filed with the municipal clerk. In determining the date of such election, the board of selectmen shall allow the time specified for holding primaries for municipal office in section 9-423 and the time specified for the selection of party-endorsed candidates for municipal office in section 9-391. On application of twenty electors of the municipality, the date of such election, as determined by the board of selectmen, shall be not later than the one hundred fiftieth day following the filing of such application. . . .

ORDER

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

That the matter is dismissed

Adopted this 19th day of February, 2014 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission