

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Brian L. Duff, *et. al.*,
Morris

File No. 2018-017

FINDINGS AND CONCLUSIONS

Complainants Bryan L. Duff, Lester L. Duff, Bob W. Kluge and Gail M. Kluge of Morris, Connecticut filed this Complaint pursuant to General Statutes § 9-7b. Complainants alleged violations of General Statutes § 9-369 by Town of Morris elected and public officials pertaining their actions preceding a March 15, 2018 referendum vote. After its investigation, the Commission makes the following findings and conclusions:

1. Complainants alleged that a reconvened annual town meeting scheduled for March 7, 2018 at Morris Town Hall to approve a referendum vote for the Morris Town budget to be held on March 15, 2018 did not occur.
2. Therefore, Complainants alleged that the procedure for holding a referendum pursuant to General Statutes § 9-369 was not followed. Furthermore, Complainants alleged that the March 9, 2018 minutes of the purported reconvened annual town meeting of March 7th did not satisfy the requirements of § 9-369a to submit the Morris Town budget to referendum. Complainants infer that the minutes must reflect an improper gathering of town officials to falsely memorialize a meeting that did not occur.
3. By way of background, on February 26, 2018 a Warning of Reconvened Annual Town Meeting was issued for March 7, 2018 at 7 p.m. That warning was signed by First Selectman Thomas Weik, Selectman Erica Dorsett-Mathews and Selectman Vincent Aiello. Further, that warning included a Notice of Referendum to follow the March 7, 2018 meeting to be held on March 15, 2018 between 12:00 p.m. and 8:00 p.m.
4. Complainants alleged that when they arrived at the aforementioned March 7, 2018 meeting at the Morris Community Hall, the facility was closed and no tire tracks were noticeable in the parking lot that was otherwise covered by continuing snow fall. Consequently, it is Complainants' contention that the March 9, 2018 minutes submitted by "Temporary Clerk" Erica Dorsett-Mathews were fraudulent as the meeting that they purportedly reflect never occurred.
5. Complainants assert that if the above facts were shown to be true that the Town of Morris referendum vote held on March 15, 2018 was held in violation of General Statutes § 9-369 and § 9-369a, which govern the procedures for calling and holding a municipal budget referendum.

6. General Statutes § 9-369, provides in pertinent part:

Whenever at any regular or special state or municipal election any vote for approval or disapproval of any constitutional amendment or any question or proposal is taken pursuant to the Constitution, the general statutes or any special act, unless otherwise provided, such election shall be warned and held, the vote on such amendment, question or proposal cast and canvassed and the result determined and certified as nearly as may be in accordance with the provisions governing the election of officers in the state or in such municipality. The warning for such election shall state that a purpose of such election is to vote for the approval or disapproval of such amendment, question or proposal and shall state the section of the Constitution or of the general statutes or the special act under authority of which such vote is taken. The vote on such amendment, question or proposal shall be taken by a "Yes" and "No" vote on the voting tabulator, and the designation of such amendment, question or proposal on the ballot shall be "Shall (here insert the question or proposal, followed by a question mark)". Such ballot shall be provided for use in accordance with the provisions of section 9-250. The municipal clerk shall number on the ballot the questions to be voted upon according to the order in which they will appear thereon, Each elector shall vote "Yes" if in favor of the amendment, question or proposal or "No" if not in favor thereof. If, upon the official determination of the result of such vote, it appears that a majority of all the votes so cast are in approval of such amendment, question or proposal, such amendment, question or proposal shall, unless otherwise provided, take effect forthwith.

7. General Statutes § 9-369a, provides in pertinent part:

Whenever by law it is provided that a question may be submitted to a vote of the electors of a municipality at an election, as that term is defined in section 9-1:

(a) The electors of the municipality entitled to vote by absentee ballot at the election under the provisions of section 9-135 shall be entitled to vote upon any such question.

(b) When the clerk of the municipality determines that the necessary action has been taken for submission of the question, he shall, at least forty-five days prior to the election, file in the office of the Secretary of the State a statement setting forth the designation of the question as it is to appear on the ballot at the election, the date upon which the submitting action was taken and the reference to the law under which the action was taken. Such designation shall be in the form of a question, as provided in section 9-369. Whenever it is specifically provided in the general statutes that any such

question may be approved for such submission within the period of forty-five days prior to such an election, and action is taken to submit a question within such period, the clerk of the municipality shall file the statement required by this subsection with the Secretary of the State immediately upon the taking of such action.

(c) When action is taken for submission of a question, from the time of such action through the day of the election, the clerk of the municipality shall make the full text of the question and the designation which is to appear upon the ballot available for public inspection. If the designation is not prescribed by law, the clerk shall phrase the designation of the question in a form suitable for printing on the ballot. The warning of the election shall include a statement that the question is to be voted upon, the designation of the question to appear on the ballot, and a statement that the full text of the question is available for public inspection in the clerk's office.

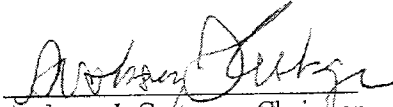
8. Respondents cooperated with this investigation and provided responses to this complaint. Respondents all corroborated that they in fact attended a meeting on March 7, 2018 at Morris Community Hall for the purpose of holding the Reconvened Annual Town Meeting. Respondents consistently reported that the meeting was held during a snow storm and that it was brief due to the short Agenda and weather conditions.
9. Further, the Commission finds, and the Complainants admit, that on the night of the scheduled reconvened town meeting, they arrived approximately 25 minutes *after* its 7:00 p.m. scheduled start.
10. The Commission finds therefore that Complainants cannot, with certainty, confirm the underlying facts that gave rise to this complaint and subsequent allegations that General Statutes § 9-369 and § 9-369a were violated pertaining to actions preceding the March 15, 2018 referendum in the Town of Morris.
11. Finally, Respondents asserted that the minutes that reflect the aforementioned meeting were accurate and properly filed and deny they falsely reflect the timing and circumstances of the March 7, 2015 meeting. The Commission, after investigation, found a lack of evidence contrary to this claim.
12. The Commission finds that there was a lack of evidence to support Complainants' allegations pertaining to a failure by the Town of Morris to hold a reconvened town meeting that resulted in (1) the filing of false minutes regarding the same and (2) the holding of a March 15, 2018 referendum vote that failed to meet the requirements of General Statutes § 9-369 and § 9-369a. The Commission concludes, as a matter of fact and law, that the allegations of violations of those sections in this instance should be dismissed.

ORDER

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

That the Complaint be dismissed.

Adopted this 15 day of Aug 2018 at Hartford, Connecticut


Anthony J. Castagno, Chairman
By Order of the Commission