

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Greg L. Haythorn,
Weston

File No. 2021-130

FINDINGS AND CONCLUSIONS

Complainant Greg L. Haythorn, of the Town of Weston, State of Connecticut, brought this complaint¹ per Connecticut General Statutes § 9-7b, alleging that the Town of Weston violated campaign finance laws by approving expenditures that advocated for a referendum in violation of General Statutes § 9-369b. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainant alleged that the Town of Weston (hereinafter “Respondent”) violated campaign finance laws by the production of printed materials and the actions of its employees that served to advocate for the approval of a May 1, 2021, town-wide budget referendum.
2. Specifically, Complainant alleged that: “Explanatory texts” were § 9-369b violations because they explicitly “advocat[ed]for voter support of requested spending increase.”
3. By way of background, on April 24, 2021, the Annual Town Budget Meeting of the Town of Weston adjourned to a final consideration of a budget by referendum on May 1, 2021.
4. This disposition is final as to the Respondent and all relevant Weston officials and municipal bodies, as well as those individuals named by Complainant in his complaint.²
5. General Statutes § 9-369b provides in pertinent part:

(a)(1)(A) Except as provided in subdivision (2) of this subsection, any municipality may, by vote of its legislative body, authorize the preparation, printing and dissemination of concise explanatory texts or other printed material with respect to local proposals or questions approved for submission to the electors of a municipality at a referendum. ...

¹ See *Complaint by Gregg L. Haythorn*, Weston, File No. 2021-130 (received on May 27, 2021, and approved for further investigation by the Commission at its June 2, 2021, Commission meeting).

² Complainant specifically named and/or identified the following individuals, officials, and Weston municipal bodies as potential Respondents: Steve Ezzes, Board of Finance; Tony Besco, Board of Education; Chris Spaulding, Board of Selectman; Amy Gare, Board of Finance; and, Samantha Nestor, Board of Selectman.

(B) Each such explanatory text shall be prepared by the municipal clerk and shall specify the intent and purpose of each such proposal or question. ***Such explanatory text shall not advocate either the approval or disapproval of the proposal or question.***

The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public dissemination and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be posted at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at the clerk's discretion at locations which are frequented by the public. The explanatory text shall also be furnished to each absentee ballot applicant pursuant to subsection (d) of section 9-140. Each such explanatory text shall be subject to the approval of the municipal attorney.

[Emphasis added.]

6. The production of explanatory texts is explicitly restricted to authorization by the relevant legislative body and must be “be prepared by the municipal clerk and shall specify the intent and purpose of each such proposal or question.” Further, they must be approved by the municipal attorney and “shall not advocate either the approval or disapproval of the proposal or question.” (See General Statutes §9-369b)
7. The Commission has determined that a communication is advocacy or promotes a referendum if “...when in part, or taken as a whole, it urges the listener or reader to vote in a particular manner.” Further, the Commission will consider the “style, tenor and timing of a communication” as factors when reviewing alleged violations § 9-369b. (See SEEC § 9-369b FAQs; *Complaint by Cythina J. McCorkindale*, File No. 2019-092 and *Complaint by George Zipparo*, Redding, File No. 2013-093B).

8. The threshold question is whether the Town of Weston authorized, produced and disseminated an explanatory text in connection with its May 1, 2021, referendum pursuant to General Statutes § 9-369b; such that an analysis can be made by the Commission to determine whether it promoted a position on a referendum in violation of that section.
9. By its counsel, Nicholas R. Bamonte, Respondent provided a response and exhibits in connection with this complaint and investigation. Respondent asserted in part: “...*the Town did not prepare or publish any explanatory texts pursuant to C.G.S. § 9-369b for the FY 21-22 budget referendum. Nor did it prepare or publish any materials that advocated for approval or disapproval of the proposed budget.*”³
10. Further, Respondent asserts that the “only documentation” that was made available to the public for the FY 21-22 budget referendum was the following:
 1. *Postcard mailer notifying residents of Annual Town Budget Meeting and Referendum voting dates, times and locations*
 2. *Legal notice of the Annual Town Budget Meeting published in the Norwalk Hour*
 3. *Automated "Reminder - Referendum Voting" notification sent to residents via email and/or text message who had previously signed up for such notifications*
 4. *Referendum ballot, which posed the following three questions:*
 - a. *"Shall the Town Operating Budget for Fiscal Year 2021-2022 as determined by the Annual Town Budget Meeting be approved?"*
 - b. *"Shall the Board of Education Operating Budget for Fiscal Year 2021-2022 as determined by the Annual Town Budget Meeting be approved?"*
 - c. *"Shall the Capital Budget for Fiscal Year 2021-2022 as determined by the Annual Town Budget Meeting be approved?"*
 5. *Proposed FY 21-22 Budget, which solely consisted of spreadsheets detailing the line items for the entire proposed budget to be voted on at referendum*

³ See “Letter of Response by Town of Weston” (received June 30, 2021).

11. The Commission finds, based on a review of documents, printed communications regarding the May 1, 2021 referendum, a published legal notice, a published classified advertisement, available minutes from the April 24, 2021 meeting and additional supporting documentation, that there is a lack of evidence that Respondent authorized, produced and disseminated an explanatory text pertaining to the May 1, 2021 budget referendum pursuant to General Statutes § 9-369b.
12. The Commission therefore finds no factual basis upon which to further consider Complainant's allegation or to apply its standards and analysis for determining whether an explanatory text contained prohibited advocacy pursuant to General Statutes § 9-369b, as alleged by Complainant.
13. After investigation, the Commission concludes that an alleged violation by the Respondent of General Statutes § 9-369b was not supported by the facts. This allegation is therefore dismissed.
14. The Commission for the reasons detailed herein determines that this matter should be dismissed.

ORDER

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

That this matter is dismissed.

Adopted this 15th day of December, 2021 at Hartford, Connecticut.



Stephen T. Penny, Chairman
By Order of the Commission