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ENFORCEMENT COMMISSION

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by William E. Marsh,  
Windsor Locks,

File No. 2022-014A

**AGREEMENT CONTAINING CONSENT ORDER**

This agreement, by and between Ann Marie Claffey, Town of Windsor Locks, State of Connecticut and the authorized representative of the State Elections Enforcement Commission (hereinafter "Respondent"), is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant alleged that the Windsor Locks Police Department (WLPD) and the Windsor Locks Senior Center (WLCS) violated General Statutes § 9-369b by making expenditures to promote a "Yes" vote at a March 3, 2022 bonding referendum regarding a new police station and senior center.
2. This settlement is limited to Respondent as related to allegations pertaining to her activities prior to the March 3, 2022 referendum. Any additional allegations and individual Respondents are treated under a separate document.<sup>1</sup>
3. At all times relevant to this complaint and investigation, Respondent was the Director of the WLSC.
4. By way of background, Windsor Locks held a referendum on March 3, 2022 regarding whether to approve bonding for the development of a new senior center and police station.
5. Complainant specifically alleged:  
*On March 3, 2022, the Town of Windsor Locks held a referendum to approve bonding for a new police station and senior center. On March 2 and 3, the Windsor Locks Police Department posted 7 messages on their official Facebook page supporting the "Yes" side in the referendum. Three of these posts were a statement in favor of the referendum from Police Chief Eric Osanitsch. One of these posts included a photo of a "Vote Yes" yard sign.*

<sup>1</sup> This Complaint was split into two separate matters for administrative purposes; File No. 2022-014A addressed here and File No. 2014-014B. The latter treats Respondent Windsor Locks Chief of Police Eric Osanitsch and his activities relating to the allegations and the activities prior to the referendum.

*Five of these posts included an image that stopped short of saying to vote yes, but which any resident would know was a post in favor of the referendum. ...*

*On March 2, the Windsor Locks Senior Center posted a message on their official Facebook page from the chair of the Senior-Center Committee in favor of the project.*

...

*I heard that the senior center posted a "Yes" yard sign in their window on election day, not in a location for public postings.*

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

...

***(4) Except as specifically authorized in this section, no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question or to otherwise influence or aid the success or defeat of any such referendum.*** The provisions of this subdivision shall not apply to a written, printed or typed summary of any official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. ***For purposes of this section, the maintenance of a third-party comment posted on social media or on an Internet web site maintained by the state, a municipality or a regional school district permitting such third-party comments shall not constitute an expenditure of state or municipal funds.***

[Emphasis added.]

7. Complainant provided a screen shot of a Facebook page from March 2, 2022 at 11:36 PM. Respondent does not dispute that this post appeared on the WSLC Facebook page as alleged. The content is excerpted below:

*To: Windsor Locks Community  
From: Mike Rosadini, Chair, Windsor Locks Senior Center Study  
Committee*

*I want to express my thoughts and some facts in support of the proposed Senior Center and Police buildings. For the Senior Center, our 15-member Committee has been meeting monthly for two-plus years and has come up with what we believe is a cost-effective building, with a beautiful outdoor area in a good location, especially next to the Police Station. It is not perfect, but with continued thoughtful planning and ultimate operation by the Town it will be a property we will be proud of.*

*I wanted to provide some information to consider in advance of tomorrow's referendum vote: ...*

*Facts After Investigation*

8. Respondent Claffey, through counsel, provided an affidavit in response to this complaint. Her response is excerpted as follows:

- *The Windsor Locks Senior Center maintains its own Facebook page. As Director, I am in charge of posting items to the page.*
- *The Town scheduled a town-wide referendum to allow the electors to vote on a resolution proposing the acquisition of property on Spring Street for the purpose of constructing a new police station and senior center and to approve bonding for these projects.*
- *The vote was scheduled for March 3, 2022.*
- *Prior to the referendum the Chair of the Windsor Locks Senior Center Study Committee asked me to post a document he had prepared on our Facebook page. A copy of the letter is attached as Exhibit A. This document was posted on March 2, 2022.*
- *On March 3, 2022, the day of the referendum, my office received an email from Kurt Brace with a request that it be posted on the Facebook page. It was a copy of a previous email from Joanne Shapiro and Barbara Kelley (from the local Conservation Service) to former Town Planner Jennifer Rodriguez.*
- *This email was sent at 3:07p.m. on March 3, 2022.*



- *The Windsor Locks Senior Center Director's office was closed at that time and did not reopen until the next day; the day after the referendum.*
- *For that reason, Mr. Brace's email was not posted on the Facebook page.*
- *The week of the referendum, signs promoting the project were left at the Senior Center.*
- *The sign read "Back the Blue and the Seniors Too".*
- *I posted the sign in the window.*
- *Shortly thereafter I left the center for a meeting at the Town Hall with the First Selectman. I mentioned to the First Selectman that I had posted the sign and he informed me that I should take the sign down immediately.*
- *I called the Windsor Locks Senior Center office and asked one of the employees to take the sign down.*
- *The sign was in the Senior Center office window for no more than an hour.*
- *I was unaware that the actions I took as described herein were potential violations of state statute.*

9. Respondent admits in her response that she posted materials from the committee studying the proposed building of a new senior center on the WLSC social media page. Further, Respondent admits that she hung in a WLSC window a sign reading "Back the Blue and the Seniors Too. VOTE YES March 3."
10. A screenshot from the WLSC social media page dated one day prior to the March 3, 2022 referendum, in the form of a letter from the senior center project study group, includes language that stresses that the project is something of which Windsor Locks could be "proud."
11. This social media post by Respondent was one day prior to the referendum that included a vote on whether to fund that senior center project. The Commission must determine whether the tenor of that post, and its casting the proposed senior center in a favorable light, was "advocacy" in the context of applying General Statutes § 9-369b.

*General Statutes and "Pending" Referenda*

12. The Commission has consistently held that General Statutes § 9-369b only applies when a referendum is "legally pending," or when "the last legal condition" has been satisfied to ensure that the referendum will take place. *See Complaint by Thomas A. Karhrl, Old Lyme, File No. 2007-185 and Complaint by Matthew Paulson, Bethel, File No. 2015- 030.*

13. In this instance, there is no dispute that the complained of conduct occurred while the March 3, 2022 referendum was pending in Windsor Locks. Therefore, in applying § 9-369b, the Commission must determine whether the WLSC social media page in question and the hanging of the sign advocating a “yes” vote was advocating for a referendum at public cost and therefore prohibited by General Statutes § 9-369b.

*Precedent for Websites and General Statutes § 9-369b*

14. The Commission has concluded that the use of municipal funds to disseminate material that advocates a position on a referendum on a website constitutes a violation of General Statutes § 9-369b (a). *See Complaint by AvalonBay Communities, Inc.*, File No. 2001-186; *Complaint by Edward J. Hardy*, Oxford, and File No. 2003- 172; *Complaint by Matthew J. Grimes*, Brookfield, File No. 2008-070 (posting of a letter advocating a “Yes” vote for the passage of a referendum found to be a § 9-369b violation). More specifically, the Commission has found a violation of § 9-369b where, as in this instance, a link on a publicly funded website connects to advocacy materials that are otherwise privately funded and maintained on a personal website. *See Hardy*.
15. Similarly, the Commission has concluded that advocacy materials that were privately created, but posted a publicly funded library website, was is illustrative of a § 9-369b violation. *See AvalonBay*. Finally, the Commission has concluded that the use of publicly funded email accounts on the morning of a referendum to disseminate links to town websites that contained advocacy materials for the passage of a referendum was a violation of § 9-369. *See Complaint by George Ruhe*, Wethersfield, File No. 2012-054 (where the Superintendent of a public school system used his public email account to disseminate links to town websites that contained materials from the town building committee pertaining to renovations that were the subject of the referendum).

*Application of Law*

16. The Commission finds that the use of a publicly funded social media page and the use of a public facility to hang signs both satisfy the use of public funds for the purpose of General Statutes § 9-369b.
17. The Commission finds that the posting on the WLSC social media page, which is maintained at public cost, of a communication that was favorable of the proposed construction of a new WLSC, which was a subject of the March 3, 2022 referendum, was promotional material and therefore was prohibited by General Statutes § 9-369b.



18. The Commission concludes therefore that Respondent violated General Statutes §9-369b by posting material that contained advocacy on a publicly funded social media page while a referendum was pending.
19. The Commission finds that the sign "Back the Blue and the Seniors Too. VOTE YES March 3." promoted approval of the March 3, 2022 referendum regarding the construction of a police station and senior center in Windsor Locks. The Commission finds that hanging a sign in the window of the WLSC, a publicly funded facility, which promoted approval of the March 3, 2022 referendum was therefore prohibited by General Statutes § 9-369b.
20. The Commission concludes that Respondent, by hanging a sign that promoted a "yes" vote on a referendum in the window of the publicly funded WLSC just one day prior to the March 3, 2022 referendum violated General Statutes § 9-369b.

*Penalty Considerations*

21. Section 9-7b-48 of the Regulations of Connecticut State Agencies provides that, in the determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
  - (1) the gravity of the act or omission;
  - (2) the amount necessary to ensure immediate and continued compliance;
  - (3) the previous history of similar acts or omissions; and,
  - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
22. Respondent has no prior violations with the Commission and upon learning of the prohibitions of advocating for a referendum at public cost had the sign in question removed from the window of the WLSC. The Commission determines consistent with its penalty authority that ordering Respondent to henceforth strictly comply with General Statutes § 9-369b is sufficient to ensure immediate and continued compliance with that section.
23. Respondent admits all jurisdictional facts and agree that this agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b -56 of the Regulations of Connecticut State Agencies.