

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Joseph A. DeLucia,
Norwich

File No. 2023-005

FINDINGS AND CONCLUSIONS

Complainant alleges that the Chief of the Laurel Hill Volunteer Fire Department violated General Statutes § 9-369b by using public funds to advocate for a “no” vote at the February 1, 2023 referendum in the City of Norwich. After an investigation of the complaint, the Commission makes the following findings and conclusions:

1. Complainant alleges that:

The respondent is the Chief of the Laurel Hill Volunteer Fire Department [“LHVFD”]. As chief, he is responsible for the conduct and deportment of the members and that of the facility. On 1/22/2023, the complainant observed a political sign on the property that advocates "vote no" on the upcoming referendum. Furthermore, there is a sign attached to the building. That sign contains a message advocating "remember to vote no on February 1st" (the date of the referendum).

...

The firehouse and the property where it is located are owned by the fire company. However, the equipment, the fire apparatus and the operational and maintenance budgets are provided by taxpayer dollars through the overall city budget approved annually by the City Council. I believe that the placement of political signs and the display of advocacy on the building sign constitutes a misuse of taxpayer-funded resources for political purposes.

2. General Statutes § 9-369b prohibits the use of public funds to advocate either for the approval or disapproval of a pending referendum.
3. At all times relevant to this matter, Mr. Aaron Westervelt was LHVFD Chief and was named as a Respondent in the matter. Chief Westervelt cooperated fully in this investigation.

4. 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. For the purposes of this section, in a municipality that has a town meeting as its legislative body, the board of selectmen shall be deemed to be the legislative body of such municipality.

...

(C) Any such other printed material shall be prepared by the person or persons so authorized by the legislative body, shall not advocate either the approval or disapproval of the proposal or question and shall be subject to the approval of the municipal attorney.

5. The Commission applies a three-prong test to determine whether a communication violated General Statutes § 9-369b: (1) whether the communication advocates; (2) whether the communication was made with public funds; and (3) whether the communication was made while a referendum was pending. *See In the Matter of a Complaint by Matthew Paulson*, Bethel, File No. 2015-030 and *In the Matter of a Complaint by Patrick S. Dwyer*, Bridgewater, File No. 2014-049.
6. The sign affixed to the LHVFD firehouse and the lawn sign on its property each contained the exhortation to “Vote No” at the February 1, 2023 referendum, while it was pending.
7. Therefore, the threshold issue for the Commission to determine in applying its three-pronged test for General Statutes § 9-369b in this instance is whether public funds were used to post a “no vote” sign on the LHVFD firehouse, as well as the placement of a “no vote” sign on its property as prohibited by that section.¹
8. Complainant does not dispute that the LHVFD firehouse in Norwich is not owned by the City of Norwich.

¹ The Commission has historically advised that the prohibition on the use of state or municipal funds to advocate for a referendum also applies to the use of public facilities, supplies, and equipment and postal permits to advocate a position on a referendum. *See SEEC FAQ – Prohibition on Expenditure of Public Funds Relating to Referenda* (Rev 05/08).

Facts After Investigation

9. In its investigation, the Commission confirmed that records indicate that the firehouse is owned by the volunteer fire department itself and not by a municipality or other public entity.
10. Commission investigators interviewed LHVFD Chief Westervelt in the course of this investigation. Chief Westervelt stated that Trust Your Firefighter Pac, was the contributing source of the signs in question, placed on the property of the LHVFD. Further, Chief Westervelt stated that he was the Chairperson of this ongoing political committee, and it was registered with the Norwich Town Clerk's office. He stated that the signs were paid for with private funds from the ongoing political committee.
11. The Commission finds that Trust Fire Fighters PAC ("TFFP") is an ongoing political committee that was registered with the City of Norwich City and Town Clerk on January 9, 2023.
12. The Commission further finds that TFFP on January 25, 2023 reported expenditures for the signs that gave rise to this complaint on its *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) filed for the period seven days preceding a referendum with the Norwich City and Town Clerk's office.
13. Specifically, the Commission finds that the TFFP reported expenditures in the amounts of \$2,100.41 and \$295.12 for signs. The Commission finds therefore sufficient evidence that the signs that gave rise to this complaint were paid for by an ongoing political committee and not with public funds.

Analysis Conclusion

14. The Commission, after investigation, finds that the LHVFD Chief did not use public funds when he permitted the posting of signs paid for by TFFP that advocated a "no" vote at the February 1, 2023 referendum on the LHVFD firehouse and its grounds for purposes of applying General Statutes § 9-369b.
15. The Commission concludes therefore that the LHVFD Chief, under the narrow and specific circumstances detailed herein, did not violate General Statutes § 9-369b as alleged.
16. The Commission therefore dismisses the allegation of a violation of General Statutes § 9-369b by Complainant as it was not supported by the facts or the law after investigation.
17. The Commission 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 5th day of April, 2023 at Hartford, Connecticut.



Stephen T. Penny, Chairman
By Order of the Commission