

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Donald A. Brown. Thompson, and  
William A. Warner, North Grosvenordale (Thompson)

File No. 2023-015

**FINDINGS AND CONCLUSIONS**

Complainant alleged that the Thompson First Selectman's Office violated General Statutes § 9-369b by distributing printed materials at a Town Meeting on January 18, 2023 advocating in favor of a January 31, 2023 referendum, and having these same materials distributed by town employees at the town transfer station prior to the referendum vote. After an investigation of the complaint, the Commission makes the following findings and conclusions:

1. At all relevant times, Amy J. St. Onge was First Selectman in the Town of Thompson. Complaint identified Ms. St. Onge as the sole Respondent in his affidavit of complaint.<sup>1</sup>
2. On January 18, 2023 the Town of Thompson held a Town Meeting to consider convening a referendum to approve funding for three capital improvement projects by the town. The Town Meeting was adjourned at its conclusion with the referendum scheduled for a vote on January 31, 2023.
3. Complainant alleges that the Thompson First Selectman's Office violated General Statutes § 9-369b by distributing printed materials advocating for a January 31, 2023 referendum at a Town Meeting on January 18, 2023, and having these same materials distributed by town employees at the town transfer station prior to the referendum vote.
4. The Respondent in this matter, Thompson First Selectmen Amy St. Onge, was also a Respondent in a previous complaint regarding violation of General Statutes § 9-369b filed on May 23, 2022 (file # 2022-028), which alleged violation of General Statutes § 9-369b for disseminating materials advocating for the approval of a May 16, 2022 referendum.<sup>2</sup>
5. Complainant alleges in the Statement of Facts of this complaint that:

---

<sup>1</sup> The Commission, in the course of this investigation identified no additional potential respondents.

<sup>2</sup> In that matter, the Commission concluded that the Respondent failed to obtain required authorization and approval for the production and dissemination of the informational materials regarding the May 16, 2022 referendum, and henceforth ordered the Respondent to strictly comply with the provisions of § 9-369b. That order was signed by the Chairman of the Commission on May 17, 2023, subsequent to the events that gave rise to this complaint.

*Thompson had a Town Meeting on January 18, 2023, followed by a referendum of January 31, 2023 for three capital improvement projects. At the Town Meeting the selectman's office provided literature for the attendees of the Meeting.*

*The literature was also printed as leaflets and handed out to citizens at the Thompson Transfer Station, Pasay Road, Thompson between January 19<sup>th</sup> and January 28<sup>th</sup> by DPW workers, during normal working hours on Town property. Don Brown was handed one during his visit to the transfer station. When Mr. Brown asked the employee who had given him the literature to hand out, his reply was the first Selectman, Amy St. Onge.*

*A variation of this literature was handed out on January 31<sup>st</sup> during the referendum by a local PAC, Citizens for the Future Progress in Thompson. The text is the same except the header and footer were changed, well within the right of the PAC. This does show coordination between the PAC and the First Selectman.*

*On February 22 the First Selectman was asked about the literature and she stated in an email "we always hand out a flyer to inform the public about referendums," except she attached a copy of a separate piece of literature. Later the same day, during a public conversation between the School Board Chair Kathleen Herbert (Treasurer of the local PAC), Don Brown, Bill Warner, and others, Ms. Herbert said she was aware of the literature being passed out by town employees at the transfer station, and said it was legal because they removed the words "Vote Yes."*

*The literature was in violation of Connecticut Statute 9-369b for the following reasons: It advocated for the approval of the three items at referendum by minimizing the effects on taxpayers without telling the complete story or the amount of the actual tax increase, the Town Clerk had not prepared the text for the literature, the literature was distributed by town employees during work hours under the direction of the First Selectman using municipal funds while the Board of selectman had not approved the text and the text was not approved by the town attorney. This is similar to the complaint (2022-028) filed against the First Selectman May 19, 2022, which you are still investigating.*

6. In support of the allegations the Complainant provided two different versions of a three-column handout as exhibits. The body of each version of the document contained a separate column for each of the three capital improvement projects to be voted on through the referendum with bullet points below each item identifying **why the town needs each of the improvements** and **why the timing of the projects is important** (the "Fact Sheets".)

7. While the two versions of the Fact Sheets contained the exact same information in the body of the respective documents, the header and footer of each document, which identified the title and the distributor of the handout, differed.
- + 8. One version was titled "Town Meeting Fact Sheet." The header states that it was provided by the Town of Thompson, CT, and language in the footer directs readers to visit [www.thompsonct.org](http://www.thompsonct.org) for additional information.
9. The second version of the Fact Sheets is titled "Referendum Fact Sheet." In addition to the title of the document, the header contains the phrase "Vote Yes" and includes information on projected home value increase if the referendum projects were to be approved. The footer of the Referendum Fact Sheet contains a disclosure that the document was "Paid for by: Citizens for the Future Progress of Thompson, K Herbert Treasurer." Citizens for the Future Progress in Thompson ("Citizens PAC") is a political committee registered with the Town of Thompson.
10. In addition to the two versions of the Fact Sheets, the Complainant also provided two copies of an information sheet regarding the referendum created by the Respondent. The two copies appear to be the same handout, with one printed in landscape orientation and one printed in portrait orientation. These documents contain only the time and date of the referendum, the subject of the questions on the referendum ballot, contact information for learning more about the referendum, and information on registering to vote and absentee ballot availability (the "Informational Materials".)
11. Respondent St. Onge denies that the Town Meeting Fact Sheet was handed out by town workers and asserts that the only material handed out at the town transfer station prior to the referendum were the Informational Materials. The Respondent admits, however, that she was involved in the preparation and distribution of the Town Meeting Fact Sheet that was made available at the Town Meeting.

#### Law and Analysis

12. 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.

(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.

(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.

...

(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.

13. General Statutes § 9-369b prohibits the use of public funds to advocate either for the approval or disapproval of a pending referendum. 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.

14. Though there is disagreement between the parties as to what information was handed out by town workers at the transfer station, the Respondent does not dispute that the “Town Meeting Fact Sheet” was created with town funds and provided to attendees of the January 18, 2023 Town Meeting. 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 the communication was made while the referendum was pending.
15. The Commission has held that a referendum is legally pending when all of the necessary legal conditions have been satisfied to require that a referendum be held. *In the Matter of a Complaint by Alex Ruskewich, Wilton*, File No. 2014-118A.
16. Where a municipality utilizes an adjourned town meeting format the Commission has held that all necessary legal conditions have been satisfied when a town meeting is adjourned to convene a referendum, as the time, place, manner, and question are all in place at that time. *In the Matter of a Complaint filed by Kirk Carr, Clinton*, 2014-053.
17. The Commission finds that on January 18, 2023, the Town Meeting approved the referendum question and adjourned the Town Meeting to convene the referendum for a vote on January 31, 2023. As the time, date, and question to be placed on the ballot were all determined at the time of the adjournment, the Commission finds that the January 18, 2023 date is the date the referendum was pending for purpose of this analysis.
18. It follows that because in this instance the January 31, 2023 referendum was not pending until the adjournment of the January 18, 2023 Town Meeting, any materials disseminated by the Town and/or the Respondent prior to the adjournment were not subject to the prohibitions of General Statutes § 9-369b.
19. The Commission therefore dismisses the allegation as it pertains to the Fact Sheets disseminated at the January 18, 2023 Town Meeting prior to its adjournment.
20. The Complainant also posits that the similarities between the Town Meeting Fact Sheet prepared by the Town and the Referendum Fact Sheet prepared and distributed by the Citizens for the Future Progress in Thompson political committee is evidence that Respondent worked with the political committee to produce and disseminate these materials. In response to the allegations of the Complaint, Kathleen Herbert, treasurer of Citizens for the Future Progress in Thompson stated in part:

*.....the pamphlet attached to the complaint was never handed out by our group and never intended to be handed out inside the transfer station. It was created as an informational piece of literature for the public to be placed on a side table at the town meeting. Our PAC volunteers handed out a different version outside the Transfer Station fence and not inside the Transfer Station itself.*

*When volunteers handed out literature at polling places they used a similar piece of literature or pamphlet but it had Vote Yes and other financial information gathered from the Financial Director. This was handed out by volunteers who were instructed to stay outside the 75 foot markers and to the best of our knowledge obeyed our instructions. I was at a polling place myself along with others and saw no one with in the 75' boundry.*

21. The Commission finds no evidence to support the claim of improper coordination between the Respondent and the political committee. Citizens for the Future Progress in Thompson as a registered political committee is free to produce or reproduce materials regarding referendums and distribute them as long as they are in compliance with applicable disclosure provisions of Title 9.
22. Based on the foregoing 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 7<sup>th</sup> day of February, 2024 at Hartford, Connecticut.



---

Stephen T. Penny, Chairman  
By Order of the Commission

**ORDER**

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

That this matter is dismissed.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024 at Hartford, Connecticut.

\_\_\_\_\_  
Stephen T. Penny, Chairman  
By Order of the Commission