

REPRESENTATIVE POLICY BOARD
CONSUMER AFFAIRS COMMITTEE
JUNE 26, 2023
MEETING TRANSCRIPTION

Stephen:

It is 5:30, so I can call the Consumer Affairs meeting for June to order. Jennifer, we have a quorum yet?

Jennifer:

Yes, we do.

Stephen:

So we'll start off with our safety moment. This has to do with heat safety. Lots of good tips there. I read through it. If you haven't seen that, please do so. Another good job by Jennifer on the safety moment. Our next item on the agenda is public comment. We have anybody, Jennifer?

Jennifer:

No, we do not.

Stephen:

Okay. Item three is our presentation for today. Jeff, we've been anticipating your discussion of governance, FOIA, and ethics. So I'll turn it over to you for the try to keep this all engaged in this discussion.

Jeff:

Okay. I'm going to share my screen. Can everybody see my screen?

Stephen:

Yes.

Jeff:

So what we're doing is, I did the Finance Committee and Land Use Committee presentations previously, and what I'm going to do is hit on really the key data points for you to be aware of with regard to your governing documents. Touch on some FOI primer type issues and ethics and conflict of interest issues. When it comes to the governance of the RPB there's really three governing documents. We start with the enabling legislation, which created the water authority back in 1977, and obviously the enabling legislation, you've had an opportunity to review it in different contexts as RPB members, but really the most significant sections for the RPB are the sections that I put on this first slide. Section four sets forth the composition of the RPB in terms of which municipalities have a seat at the table, what the weighting of the respective members is, as well as establishes the three standing committees that we refer to as statutory committees, Finance Committee, the Consumer Affairs Committee, and the Land Use Committee.

Section 10 sets forth the requirements with respect to public hearings. Section four 14, and we'll get more into these later on. Section 14 sets forth the RPB's rate making role and how the RPB goes about in setting rates and charges for the system. Section 17 contains some basic ethics provisions that are mimicked and mirrored in the RPB's bylaws. Section 18 deals with the disposition of land. Section 19, the application process. Section 22 deals with the issuance of bonds, and section 30 with appeals. Now, just quickly a few comments on these. In section 14, the language that the legislature chose to use when it gave the RPB rate making power was the following. The RPB is charged with setting just and equitable rates. That's the key phrase, just and equitable rates to provide sufficient funds for all of the things that the regional Water authority does, and in enabling legislation on section 14, on page 16 of the enabling legislation, there's a laundry list of the different tasks and different services that the water authority provides.

And when the charge is given to the RPB to set just an equitable rates, it is with that context in mind that just an equitable rates are intended to fund everything the water authority does specifically pay the cost of maintaining, repairing, and operating the water system, pay principle and interest on bonds that are issued, meet requirements of any resolution, authorizing bonds, make payments in lieu of taxes to the municipalities in which the authority owns land, provide for maintenance, conservation and appropriate recreational use of the land of the authority, and pay all other reasonable and necessary expenses of the RPB. So it's really a very basic charge, which is when you hear an issuance test rate application, you are required by the name of legislation to approve the rates unless you find that the rates and charges will either provide funds in excess of the amount required for the purposes that I just described, or funds that will prove insufficient for those same purposes.

With respect to the ethics provision, as I indicated, section 17 of the enabling legislation has a very simple couple paragraphs on ethics, and really what it comes down to is two things. Number one, any member of the RPB is financially interested or has any personal interest, direct or indirect in a proposed contract or a proposed purchase of supplies, material, equipment, contractual services. Then you have to disclose that conflict to the chair of the RPB and recuse yourself from deliberations and voting on the matter. And then the second part of the two part ethics provision in section 17 of the Enable legislation is simply a gift policy. RPB members are not allowed to accept gifts in excess of \$10 and in the aggregate in any calendar year in excess of \$50 from anybody that does business with or is seeking to do business with the Regional Water authority.

As I mentioned, the application process, and we'll get more into this as we go into the rules of procedure for the RPB, but the application process in terms of the macro level parameters for when an application is required are set forth in section 19 of the enabled legislation. As you know, the authorities not allowed to buy land or commence any project that costs more than 2 million or acquire or make an investment in any business for more than a million dollars without having a public hearing and without the approval of the weighted majority of the RPB.

One thing that I mentioned to the other committees that perhaps most people don't know about is that the enabling legislation actually creates an appeal or anyone that claims to be aggrieved by any decision of the RPB. So whether it's a rate application, whether it's a capital project, whether it's a proposed acquisition or investment, anybody that claims to be aggrieved has the right within 45 days after publication of your decision to appeal that decision to Connecticut's superior Court. And that appeal is treated as a record based administrative appeal, like an appeal from a planning and zoning commission, for example, would be by the Superior Court. And the Superior Court would apply the arbitrary and capricious standard giving deference to the RPB. As long as the record is supportive of the decision, it's unlikely that an appeal would be sustained. Now, the reason I mention this-

Stephen:

Hey, Jeff. Excuse me for a minute. When this was written, there was no for-profit ventures, but this, just to be clear, this applies to the for-profit ventures as well?

Jeff:

Yes.

Rochelle:

And can I just clarify something? They're not, they're part of the RPB and after they're acquired, they become part of the RPB and are not for profit. I just want to clarify that.

Stephen:

What?

Jeff:

Right.

Rochelle:

We're doing it under the enabling legislation and that's what gives us a pardon.

Jeff:

It's just semantics, right? Steve, the comment you made that Rochelle took issue with was that they were acquiring for-profit entities. But to answer your question, they're for profit pre-acquisition, and then once they get folded into the RWA, they become part of the nonprofit enterprise.

Stephen:

But they're still a for-profit entity within the organization. And competition could take issue with that and appeal that.

Jeff:

Well, your question has to do with the app appellate rights, not whether they're for-profit, right?

Stephen:

Yeah.

Jeff:

Yeah. That legislation applies to anything that you decide that someone claims to be aggrieved by. So aggrievement, I think if it's a competitor, they're probably not going to be deemed to be aggrieved. Certainly a rate payer, a customer is going to satisfy the aggrievement requirement because they have a financial interest in the decision that you make.

Stephen:

Well, couldn't a competitor be aggrieved by saying, you're a nonprofit organization. You shouldn't be here in this area competing?

Jeff:

No, because agreement has to be specific to the party claiming to be aggrieved, so they're no more aggrieved than any other company that's in that business.

Stephen:

Okay, thanks.

Jeff:

All right. The second eDocument of the three-headed monster, that is your governance system, are your bylaws. And what I did with respect to the bylaws, the rules of procedure and the job descriptions for RPB and committee members is I embedded the text from the specific documents into this document so that you have one document you can look at and hopefully use as a tool going forward. So when you see these excerpts from the documents, these are copied and pasted. These are not paraphrased or summaries. This is actually from the document. The first item is in section one of your bylaws, you have an executive session provision. Now, as you know, the authority has on a number of occasions, convened an executive session.

Executive session has very specific meeting and very limited application under the Connecticut Freedom of Information Act, specifically under Connecticut General Statute 1-200, which is the first section of Connecticut's Freedom of Information Act, the definition section. Now, the executive session is an exception to FOIA. In other words, FOIA applies to two things, public meetings of public agencies and public records of public agencies. So with respect to public meetings, all meetings are supposed to be held in public unless there's an exception under FOIA, and that exception is what's called an executive session.

Under the definition of executive sessions within FOIA, there are five different categories of executive sessions. One is a discussion concerning the appointment, performance, evaluation, or dismissal of a public officer or employee. Now, if you want to talk about somebody in executive session, you're required to give that individual notice that you're going to be talking about them in executive session, and they have the option to require you to talk about them in public session.

The second is strategy and negotiations with respect to pending claims or pending litigation. Pending claims or pending litigation are defined terms under FOIA, a pending claim is a specific demand for something, so it's not enough if you think somebody might make a claim, you have to have actually received a formal notice in writing with a demand for some sort of legal relief, whether it's monetary or otherwise.

The third is matters concerning security strategy or the deployment of security personnel or devices affecting public security. The fourth is discussion of the selection of a site or the lease sale or purchase of real estate. When publicity regarding that site lease or sale of that real estate would adversely impact the price.

And then lastly, and this is one that gets overlooked quite a bit, is a catchall and the catchall allows an executive session to discuss any matter which would result in the disclosure of public records or information contained therein in subsection B of section 1-210. Now, section 1-210 of the Connecticut General Statutes is a section of the Freedom of Information Act that identifies exempt records, and

there's a long list of roughly 30 different types of records that are exempted. So, if you would be discussing any of the information that would be contained in those exempt records, you can do so in executive session.

Examples, preliminary drafts, commercial or financial information trade secret or proprietary information, engineering or architectural drawings, if there's a security issue, records when there's a reasonable basis to believe disclosure may result in a safety risk, safety, or security manuals or reports. So if any of those grounds exist for an executive session, the proper approach is to place the matter on the agenda and identify the statutory subsection that's applicable, and upon a two-thirds vote of members present in voting, you can convene an executive session.

In addition to stating the purpose for the executive session, the motion should indicate whom if anyone in addition to the public agency is being invited into the executive session. No votes can be taken in executive session. No motions can be made an executive session. There's no such thing as a motion to come out of executive session. It's a harmless irrelevant motion. So sometimes I say, don't do that. Sometimes I let it go depending on how tired I am at that point of the meeting.

In terms of the agenda, if it's a regular meeting and you don't have an executive session on the agenda, you can amend the agenda at the meeting upon two thirds vote. If it's a special meeting, you cannot amend the agenda. So if you don't have an executive session on your agenda for a special meeting, you're not having an executive session at that special meeting. Standing committees, I talked about the fact that the statutory committees, which are also known as standing committees, are the three main committees. The bylaws also establish an executive committee. The bylaws also provide that the chair of the RPB is an ex officio member of all committees with full voting rights.

Section 6.4 of the bylaws contains a mirror image of the ethics provision that I referenced from the enabling legislation. Again, it's a two-part mini code of ethics, if you will. The first part is if you have a personal interest directly or indirectly, financial or otherwise, you need to disclose it and you need to recuse yourself from the discussion and the vote. The second part is the gift policy. \$10 max per gift, \$50 max per calendar year from anyone who does business with or is seeking to do business with the regional water authority. The RPB bylaws contain a limitation of liability and indemnification provision for RPB members, and this really copies the Connecticut general statutes.

The bottom line is if you act in good faith and you don't knowingly break the law, you don't knowingly disregard your duties as an RPB member and put your own personal interest first. You're going to be okay. All right. So you can read the various requirements in terms of being indemnified and defended and held harmless in the event that you were sued for something you did in your capacity as an RPB member, including as a committee member, as long as you didn't put your personal interest first and you acted within the scope of your duties as an RPB member, you don't have anything to worry about.

There's also a non-discrimination provision in the bylaws and the non-discrimination provision is pretty basic. In discharging your duties as RPB members, you're not allowed to make decisions or commit any acts that would discriminate against anyone for any of the usual reasons, race, color, religious creed, sex, sexual orientation, age, national origin, ancestry, past history or present condition, mental condition learning disability or physical disability. Now, most of you as RPB members don't really have an opportunity to discriminate, but keep in mind that in your interactions with employees of the RPB as well as with staff of the RPB, these non-discrimination provisions apply to you. You've all gone through recently appointment of five member authority members, so you understand the process by which the nomination and selection protocol occur. But that's all set forth in your bylaws within Article nine.

The third of the three documents are the rules of practice and the rules of practice in terms of what the RPB does on a weekly and monthly basis are probably the most significant of the governance documents in terms of relevance. The functions of the RPB are identified in the rules of practice, and we talked about in the enabling legislation at a macro level, the identification of when a public hearing is required and when you can adjudicate matters without a public hearing. But when you look at the functions, it gives you a nice laundry list of what the RPB has jurisdiction over, both with a public hearing and without a public hearing. So with a public hearing, as you know, you approve rates, you establish land use standards and disposition policies for water supply system land, you adjudicate projects that cost more than \$2 million or non-core acquisitions or investments in an amount in excess of \$1 million.

You adjudicate the acquisition of other water supply systems. The last time one of those happened was just before I started back in 2008, when the RWA acquired Birmingham Utilities from the Valley, you adjudicate locations for new plants. You amend land use standards and land disposition policies if substantial. Several times you've had non-substantial amendments without a public hearing, and that's because your rules of practice only require a public hearing where the land use standards are deemed substantial by the board under the definition in the enabling legislation. The sailor transfer of an interest in real property, we've had plenty of those. We've got a couple applications today, I believe.

Development of real property of the water system for any non-water use, and adjustments to rates and charges to cover pilot. Then of course, you have a number of tasks that you're able to perform without a public hearing. Investments of a relatively small amount and non-core businesses appointing the CEO by the authority setting the interest rate on unpaid rates or charges for the water supply system.

We talked about non-substantial amendments to the land use plan, appointment of authority members, and setting their compensation removal of authority members for cause. Establishing the OCA and selecting an outside auditor. Protective orders you all have experience with in connection with various applications, whether it's a capital project or non-core investment or acquisition. Process for putting the protective order in place is identified in section six of the Rules of practice. The scheduling and noticing of public hearings to be conducted by the RPB are set forth in sections 10 and 11 of the rules of practice. Contents of the public notice. The conduct of the hearing. Everyone's pretty familiar with the presiding member process, and we just obviously had one last month. We're going to have another one. We had one this month. We'll have another one next month. So we've had a lot of practice with the script.

Rules of evidence. We ever only talked about this very much at the RPB public hearings, but the presiding member holds the gavel. The presiding member can exclude irrelevant in material or unduly repetitious evidence. The presiding member can allow documentary evidence in his or her discretion to come into the record. The presiding member can allow cross-examination of witnesses at the public hearing in his or her discretion, proposed findings of fact, conclusions of law, were familiar with that process.

Applications. The sections on applications are very important because we've had a lot of applications, and at the finance committee and other committees, I'm often asked to weigh in as to the question of completeness. As you know, when the RPB assigns an application from the authority to a committee for completeness purposes, the RPB is entrusting that committee to evaluate compliance with the rules of practice and reporting back to the RPB as to whether an application is complete and therefore is ripe to be set down for either a public hearing or an RPB meeting to take evidence, make a record, and eventually adjudicate it. The generic section to start with is section 24. So what I do is I have a copy of all of the application sections that we're going to go through. I print it out and I stick it in an application. When I receive an application from Jennifer and the first time that I read an application, I'm using the rules of practice as a checklist before I even start to look at the merits of it.

I usually read an application three times. The first time I read it, I'm reading it to determine whether it's complete. The second time I read it, I'm reading it to educate myself and to really begin to understand and absorb the substance of it. The third time I read it is after I receive responses to my interrogatories when I sit down to write a memo to the RPB with my recommendation. So the first time I'm sitting down, I'm looking at section 24. Very basic. Do we have the items required in section 24 in the application? Then I'm going to the specific application type. Okay? After I go through section 24, I'm looking at the special components.

So if it's a rate application, I'm pulling out my Section 31 using that as a checklist, going page by page, checking off whether I find each of the items required in section 31 in the rate application. So if it's a application for a capital project over \$2 million or an investment and an encore biz over a million, in addition to my section 24 checklist, I've got my section 33, a special components checklist. And I'm looking to make sure for these capital projects or these non-core business opportunities that the authority has in the application complied with Section 33-A.

Section 33-B has one additional requirement for projects that cost more than 2 million. Section 33-C has additional requirements in the event that we have a project that exceeded authorized expenditures, a project that you previously approved, and they're coming back to you for more money on. 33-D has additional components for the non-core business over a million dollars. So that's another checklist that I've got inside my copy of the application, making sure that all of the items required by 33-D are in fact set out substantively within the application. If it's an application to dispose of real property, then in addition to section 24, I've got my section 37 checklist. I'm going through my section 37 checklist and making sure that everything that's required to be included for the proposed disposition of real property owned by the authority is in fact in the application.

So in addition to the enabling legislation, the bylaws of the RPB and the RPB Rules of Practice, we also have detailed job descriptions for RPB members and for RPB officers and for chairs of statutory committees. The RPB job descriptions, and again, these are not summaries, these are in fact documents that you all should have copies of, and I've copied and pasted them in here for convenience purposes. But the RPB member job description is very, very detailed, and you'll see that the items that we went through, whether it's in our discussion of the enabling legislation and our discussion of the bylaws in our discussion of the rule of practice, those are captured as bulleted job description items. So if you're ever wondering what you're supposed to be doing, you can always take a look at this handy dandy list, and you'll see that there's quite a bit that the RPB members do. Not that you needed me to remind you of that.

Then when we look at the RPB chair. The RPB chair responsibilities are very specific. And one of the interesting things is that in the RPB chair's job description, there's a reference to Robert's Rules of Order. Now, Robert's rules of Order, for those of you that deal with parliamentary procedure, either in a municipal realm or in another environment, understand that Robert's rules of Order are intended to provide a very disciplined, very organized, very efficient means of running a meeting. And so the chair of the RPB has the gavel and has the ability to invoke Robert's rules. Now, most of the regional water authority RPB meetings are orderly, and we haven't had many circumstances where the chair has needed to really gavel anyone or invoke rules of parliamentary procedure. But that doesn't mean they don't apply. They do apply and everything from motion practice to all discussions being through the chair to rules of decorum and etiquette that are set forth in Robert's rules of order applied to the RPB, and in fact, Robert's rules of order, which were created by a troublemaker from Virginia to organize his church.

The bigger the group, the more important Robert's rules of order become. When you have five member boards and commissions, for example, Robert's rules typically are relaxed, but when you have larger boards, like the full RPB, Robert's rules can be an important tool to keep the group on task. We also have a description for the RPB Vice Chair and what the RPB Vice Chairs specific responsibilities are, much of which have to do of course, with presiding over meetings of the RPB in the absence of the chair. Chairs of Statutory Committees have their own job description. And we see that back in the time when this was written, there was a note that the executive assistant to the RPB does not attend RPB committee meetings. Now, in my 15 years, that's not been true. The Executive Assistant does attend RPB committee meetings for the most part.

Now, I talked about conflict of interest provisions already, and I showed you in section 17 of the legislation and in section 6.4, the RPB bylaws, that two-pronged conflict of interest code, if you will. Number one, if you have a conflict because of a personal interest, financial or otherwise, there's nothing wrong with having a conflict. The problem arises when you fail to disclose and you fail to recuse and abstain.

It's important to note that RPB members are considered to be fiduciaries, and so that means there's a higher standard of care. You're held to a higher standard. You have to act in good faith. You have to act within the scope of your authority. You have to protect the confidentiality of material that you obtain in your capacity as an RPB member, whether it's an executive session or through a protective order. You can't use your position for personal gain, and you can't accept any gifts or anything of value from a vendor or a potential vendor unless it's under \$10 individually or under \$50 in a calendar year, as we talked about before. And really, like I said, there's nothing wrong with having a conflict. It's what you do about it. Where you get into trouble is when you have a conflict and you participate in the deliberations and vote regardless of the conflict.

And again, this is that section of the enabling legislation. I've copied and pasted it here for you. The bylaws section, they're almost identical. They both pertain to two different scenarios. Real simple, right? Fill the rules, you think you have a conflict, disclose it to the Chair of the RPB. If it's at a committee level, disclose it to the Chair of the Committee. Recuse yourself from the discussions and just tell people, I'm recusing myself. That's all. Don't vote. And if you have a question, you can always contact me or Murtha to get an off the record or on the record, whichever you prefer, advisory opinion.

There's also a memo that you should be aware of, which is the RPB policy concerning the management of confidential information that was adopted by the RPB back in 2005, and sets forth a process for determining if information is confidential, sets forth the process for submission of information, which is the protective order vehicle. Sets forth the process for executive session, which I've covered for you tonight, and sets forth practical suggestions for handling confidential information. Handling of confidential information is obviously very important because if you breach the confidentiality of an executive session where you breach the confidentiality of a protective order, arguably, you've then committed a breach of fiduciary duty, and you've lost that indemnification and hold harmless protection that exists for you under the bylaws.

So don't do that. In terms of FOIA, I've done FOIA seminars for municipal clients. This is not a FOIA seminar. I had mentioned early on that FOIA governs public meetings of public agencies and public records of public agencies. Now, the significant thing to know about FOIA is that individual members of the RPB, like individual members of a border commission or a committee of a municipality or the state have no authority, no jurisdiction, and no power to do anything on behalf of the authority or the RPB. Your superpowers come from when there's a quorum of the RPB or a quorum of a committee meeting

at a properly noticed meeting, and deliberating and voting and acting through a quorum of the RPB or a committee without a quorum, there's no power to do anything.

An individual outside of the quorum has no authority to do anything on behalf of the RPB or committee unless the RPB or the committee vote at a meeting with a quorum to delegate power, responsibility, or authority to an individual member. Talked about executive session, one comment on meetings, and this has become over the last 20 years, a real source of complaints at the FOIC and that is illegal meetings via email. The basic idea behind FOIA, the federal FOIA came out of Watergate and is referred to as the Sunshine Law. And the basic premise behind FOIA, whether it's state FOIA or federal FOIA, is that the people's business should be done in the light of day. And so it's impossible to include the world on an email trail, and therefore any substantive discussions via email, group chat or otherwise constitute an illegal meeting because it's not possible for the public to be included.

You can't have an executive session via email. You obviously can't have a public session via email. So anything other than scheduling and routine administrative tasks really can't be accomplished via email. You can send documents out, you can send attorney client communications to me, and I can respond substantively. Murtha can respond substantively without fear of creating an illegal meeting. But amongst yourselves, you can't have substantive business conducted via email.

In terms of public records, just about everything is a public record, whether it's documents that Jennifer circulates, whether it's your email sent from a personal email account, a personal voicemail, a personal text message, it's all fair game. So don't assume that anything that you say on a voicemail is not subject to FOIA. Don't assume that anything you send via email or text message is not subject to FOIA in all likelihood it is. So that was a roughly 40-minute overview of governance and FOIA and ethics, and I'm happy to answer any questions about any of it.

Stephen:

Yeah, great presentation. Thank you.

Jeff:

Sure.

Stephen:

And just to start a comment that it's amazing how this was put together and well thought out initially. To really create an organization that could function properly. It's amazing. It's held up because times change. Things change. Maybe the \$10 limit back then was what a lunch cost or something. Could be changed. But in general, it's amazing how all of this, as I was listening to it, has held up.

Jeff:

Yeah, when you think about, the enabling legislation, every corporation has articles of organization, and the enabling legislation really constitutes the equivalent of the articles of organization. Every corporation has bylaws. The bylaws of the RPB are bylaws. The rules of practice really are the meat of how you do what you do, how you accomplish what you're required to accomplish under the enabling legislation. And I think there's been a lot of really good work done over the years by management, the five member authority and the RPB to create a good set of rules of practice to act as a governing document for the RPB.

Stephen:

There's a lot of material here, and I think if you've been on the board for any length of time, you've had some of these questions. So it's nice to have this summary to go back to and refer to. I appreciate that.

Jeff:

Sure.

Stephen:

I've got a hard copy of it. Very good. Any questions from members?

Tony:

Not a question. Just a comment. Steve, this is Tony.

Stephen:

Sure.

Tony:

I've been on for quite a while, and it's amazing to me that, and it's probably because of the good work of the management and Jeff and his responsibilities, that there haven't been any issues that I'm aware of. I can't think of one where we had to say, "Hey, wait a minute, time out. That's a problem." Am I correct, Jeff?

Jeff:

Yeah. We really do not have RPB members, at least to my knowledge, that are violating confidentiality provisions, or self-dealing. We never had a vote where I sat there and said he was voting in favor or she was voting against because I think they have a personal interest. Anything's possible. Only the only people that know whether they have a conflict typically are the people that have the conflict. Yeah, I think it's just what I really try to emphasize, because I think we live in such a polarized partisan time, in my municipal travels, conflict of interest, the reaction to it is that it's such a negative thing. And what I truly really try to emphasize to people is there's nothing wrong with having a conflict in of interest. It's what you do about it. And when Connecticut's a small state, and a lot of folks live in the same general area for 50 or more years, they know a lot of people.

They interact with people in their private lives, they interact with people in their professional lives. You're going to know people. There's nothing wrong with having a conflict of interest. It's just a lot of times people don't know what to do about it. And the emphasis on this ought to be, Hey, if you have a conflict, the only person that you need to disclose it to is the chair and just recuse yourself and step away. The best example that I could give Tony, is I'm on a board with you of a construction company. They don't do any water work, so we don't worry about that. But I recently was sitting in a building committee meeting in Cheshire, and that company was picked as a finalist, and as soon as the name was mentioned, I said they're a client, I'm on their board. I'm recusing myself.

And everybody looked at me like, "Well, you're not a voting member." And I said, "But if I'm in the room when you're discussing and voting someone and you pick them," which they didn't, "someone may think that I influenced you, and I think it's important to be above the appearance of impropriety and not have anybody be able to say that." And so I went out into the hall for 15, 20 minutes, and it was that easy.

And I think a lot of times, if you err on the side of caution, you can avoid anybody feeling like the process lacked integrity. So we really haven't. I think as the authority continues to propose involvement in these non-core businesses, it's really important for people to pay attention to any potential conflicts and stay above the fray. But that's a long-winded way of saying I agree with you. So far, we really haven't had any issues,

Stephen:

But in general, there aren't a lot of opportunities, I don't think, either for conflict with, because the water company's so specific in their mission and operates to just do that one thing. I've been out a while too. The one time I had to recuse myself was an issue that involved the Greater Haven, WPCA, of which I'm a part of as well. As much as I wanted to, I just couldn't participate in that. I actually could have been helpful, but it was still to avoid the appearance of any impropriety I had to recuse myself.

Jeff:

Right. Very true.

Stephen:

Any other questions, comments? Yeah,

Suzanne:

Steve, this is Suzanne. And I had a question, but I wanted to make sure your members got their questions answered first.

Stephen:

Okay. I would say I would ask one more time, are there any questions from the Consumer Affairs members? Okay. Suzanne, please go ahead.

Suzanne:

Thanks. Hey, Jeff. Thank you very much. That was a great presentation.

Jeff:

Thank you.

Suzanne:

I have two questions. Does a non-meeting apply to the RPB?

Jeff:

Yes.

Suzanne:

Meaning they can... Okay.

Jeff:

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When you say non meeting, you mean under FOIA, there are certain types of meetings that are not meetings for FOIA purposes, right?

Suzanne:

Correct.

Jeff:

Yep, that applies. Yep.

Suzanne:

Okay. And then secondly, does the RPB, and I don't know if you would know about the RWA, but I can find out on the RWA, but does the RPB have any limitations about other positions they can hold either in their community or could they be an employee of the RWA, et cetera, et cetera?

Jeff:

RPB members cannot be employees of the authority. Per se, there's no limitation on other positions that RPB members can hold. They cannot be employed by the district. You wouldn't be able to be a member of the five member Authority and an RPB member. Other than that, it's just potential conflicts of interest. In other words, if the president or owner of a vendor was an RPB member, then potentially there'd be an awful lot of disclosure and recusal, let's say, a contractor that does a lot of pipe work, and that contractor had a principle that was appointed to the RPB.

Arguably every issuance test rate application, every project that contractor would be competing for, that member would have to recuse themselves. But in terms of not being able to hold other positions, really, it's just limited to, you can't be an employee of the authority, and you cannot be a member of the five member authority and a member of the RPB at the same time.

Suzanne:

Okay. Thank you.

Jeff:

Sure.

Stephen:

Jeff, I would think if you're an RWA employee, you'd have to recuse yourself on every specific issue. You just wouldn't-

Jeff:

Well, under the enabling legislation, to the extent that there's qualifications for an RPB member, the requirements are you have to be an elector of the city or town that you're representing. You have to be appointed by the chief elected official. You have to serve until your successor is appointed. That's Pretty much it.

Jamie:

But I know that for each town, they may actually have additional limitations based on their own charter on how individuals on that end. So I don't know, Suzanne, if that goes to your question, but for instance, in our town, we put further limitations on the selection of candidates, we put further requirements, I should say. So each town or municipality may have different rules on if you can serve simultaneously in certain rules or not. So for instance, I think in Tim Slocum's town, a first selectman could simultaneously be on the RPB, but in Killingworth, that is not the case.

Stephen:

Interesting.

Jeff:

Yeah. Typically, municipal charters, there's, in terms of incompatibility of office, there's a state statute that prohibits just a few municipal elected and appointed officials from serving in simultaneous municipal roles. You know, can't be on the Board of Finance and be the town treasurer, for example. But aside from that, as Jamie indicated, many municipal charters have their own requirements. The question that comes up more often than not, you'll say nobody can be... And many towns do not do this because of the difficulty in finding people to serve. But some charters do say that you can only serve on one elected or appointed board.

So then the question becomes whether the RPB is considered to be an appointed board of the municipality. I say, no because the board is not appointed by the legislative body. It's the chief elected official. But if you're in a town where the legislative body has to make the appointment by charter, then I would say yes. But that's just my opinion,

Stephen:

Jeff, that issue has come up in Hamden, and it's considered a regional board and not a municipal board.

Jeff:

Sure.

Stephen:

Okay. Any other questions? Jeff? Thank you once again for putting the effort into this. Appreciate it.

Jeff:

My pleasure. You bet.

Stephen:

Item four on the agenda is approval of the minutes of the May meeting. Do I have a motion?

Tony:

So moved.

Stephen:

Thanks, Tony. And second?

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Naomi:

I second it.

Stephen:

Thanks, Naomi. Are there any corrections, additions, omissions to the minutes for May? Hearing none. I'll call for a vote. All those in favor? Aye. Any opposed? Any abstentions?

Rich:

Steve, I think I have to abstain. I wasn't there.

Stephen:

Oh, thank you, Rich.

Rich:

Yes.

Stephen:

Do you have that, Jennifer?

Jennifer:

I got it. Thank you.

Stephen:

Okay, so the minutes are approved. Item five, we're back to Jeff again for a report of the OCA.

Jeff:

So now what I'm going to do is give you a presentation of the differences between...

So yeah, so what has the OCA been up to? The OCAs had a number of applications, obviously currently working on Target. Two, worked on the Derby well. Field chemical improvements, worked on the presentation to the three statutory committees. No consumer issues currently, no escalations, nothing going on in terms of consumer complaints. Haven't heard back from Department of Public Health. I submitted with the support of Rochelle and the authority a second piece of testimony to DWSRF. Concerned about LED and copper and how that's all going to be handled. Haven't heard anything back. Rochelle, have you heard any update from those folks?

Rochelle:

Not official update, but I do think that our points are getting noticed, especially as it relates to the grant cap. So I think that's a good thing. I think they are going to be issuing the final intended use plan very soon.

Jeff:

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Good. So that's obviously looming out there. It's a really significant. I'm trying to keep up to speed on anything nationally that's being discussed. I'm really hoping that eventually when enough people... I get asked about it in a couple of municipalities that have municipal water systems who don't know that I have anything to do with regional water. They just ask me if I know anything about lead and copper because they're starting to get concerned about it in the smaller systems.

So you'd like to think that it's something since it's an EPA federal mandate, eventually there becomes some federal dollars. And so it's, I think, a balancing act for the original water authority, not jumping the gun in terms of spending money before you really have to, but at the same time, not counting on the Feds to provide any substantial relief. But other than that, nothing going on.

Stephen:

Very good, Jeff. Thank you.

Jeff:

Thank you.

Stephen:

Item six is approval of the OCAs invoice for May \$6,285. Do I have a motion?

Tony:

I would move that item.

Stephen:

Thanks, Tony. And a second?

Rich:

Second.

Stephen:

Thanks, Rich. Any questions for Jeff on the bill? Any comments? Okay. All those in favor of approval? Aye. Any opposed? Any abstentions? Okay. Jeff's bill is approved, item seven on the agenda, volunteers to attend the authority meetings. Mark's going to attend in July. August and September are still open. Is there anyone that would like to volunteer for those meetings? Especially August at this time? We can take it up-

Tony:

I'll do September.

Stephen:

Okay, Tony. Thank you. I may be able to do the July meeting. I don't know at this point, but we still have July to... I mean the August meeting. We still have July to determine that, but I'll put you down for September, Tony. Thank you.

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Tony:

You got it.

Stephen:

Item eight, I just wanted to notify everyone and remind everyone that my term is up as Chairman. So the committee will be selecting another Chair as our committee gets reformed, if it does by everyone's committee selection in July. So I do have someone that's interested in being the Chairman. If you have an interest, just let me know and it'll be considered as well. Item nine is new business. Any new business? If none, just a reminder that our next regular meeting is July 17th at 5:30, and I'll entertain a motion to adjourn.

Tony:

So moved.

Naomi:

Second.

Jeff:

Thank you. Thank you, Naomi. All those in favor? Aye. Good meeting everyone. Thank you. We're adjourned.