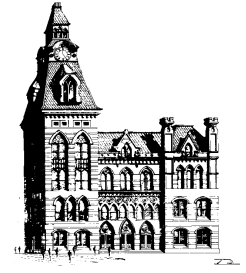


OFFICE OF THE CORPORATION COUNSEL OPINION



To: Justin Elicker, Mayor

From: Patricia A. King, Corporation Counsel *PAK*

CC: Barbara J. Montalvo, Legislative Liaison to the Board of Alders

Date: 30 January 2024

Re: New Haven Solid Waste & Recycling Authority (NHSWRA) Board Appointment - Eligibility of the Director of Climate & Sustainability

PRIVILEGED AND CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGE

Issue: Would appointment of the City's Director of the Office of Climate & Sustainability (the "Office") to the Board of Directors of the New Haven Solid Waste & Recycling Authority ("NHSWRA") create a conflict of interest such that the Director the Office would be ineligible to serve as a director of the NHSWRA?

Analysis:

Ordinances

The authority is established and created under the Ordinance of the City of New Haven to further the "... health, safety and welfare of the residents of the City of New Haven ... by exercising supervision and control over the administration of solid waste in the city, including but not limited to the existing New Haven transfer station and recycling facility which currently exists in the city." The authority is "dedicated to achieving the most environmentally sound solid waste management and resource conservation program for the people of New Haven and the surrounding communities. ..." The enabling ordinance further establishes that:

"(1) To achieve this goal, the agency will operate under the following hierarchy in order of priority:

- a. Source reduction (avoiding the creation of waste).
- b. Recycling and composting.
- c. Environmentally safe transformation or land disposal.

(2) In achieving this goal, the agency will:

- a. Provide strategic planning, research, education and technical assistance to the public, businesses, and local governments.
- b. Initiate innovative programs and facilities to maximize waste prevention, recycling, and economic development opportunities.
- c. Serve as a pro-active public policy advocate for long term solutions to our challenges.
- d. Partner with organizations with compatible goals.” (Title III, Chapter 30 ³/₄, Article II, Sec. 30³/₄-41)

Bylaws

The NHSWRA Bylaws set forth the appointing authorities. Section 2.2 of the Bylaws states that the authority shall have “seven (7) Directors, each of whom shall have one vote. Six (6) Directors shall be appointed by the Mayor of New Haven. One (1) Director shall be appointed by the Board of Aldermen of New Haven, and such appointed Director shall also be a member of the Board of Aldermen of New Haven. ... Director appointments by the Mayor of New Haven pursuant to the Ordinance shall be subject to the prior approval of the Board of Aldermen of New Haven.”

Section 2.4 of the Bylaws requires that, to be eligible to serve as directors, candidates must (i) be at least eighteen (18) years old, (ii) have training in civil or sanitary engineering, have training or experience in finance, accounting, or legal matters, or be knowledgeable concerning matters involving the environment or the handling of solid waste or recycling, and (iii) be residents of New Haven. Additionally, at least two (2) Directors shall be residents of the Ward in which the Transfer Station is located or one of the Wards downstream from the Transfer Station. Nothing in the Bylaws or the enabling legislation prohibits a City employee, who is otherwise qualified, from serving on the Board of Directors.

Office of Climate & Sustainability

According to its webpage, the Office of Climate and Sustainability works with City departments, community organizations, and New Haven residents to advance and coordinate city-wide climate and environmental sustainability policies, practices, and initiatives. The Office seeks to implement climate mitigation and adaptation solutions that intersect with and address the immediate challenges facing our residents: from finding safe and affordable housing, to accessing quality employment opportunities, to improving air quality and respiratory health. The work of the Office is particularly focused on addressing the health and economic impacts of climate change in underserved communities that have been hit the hardest by COVID-19 and are still overcoming the legacy of redlining.

Evidence of Existing

This Office has not been presented with evidence of an existing conflict of interest between the Office and the NHSWRA.

Conclusion:

The missions and goals of the NSWRA and the Office of Climate & Sustainability are neither inherently conflicting nor incompatible. In the event that a direct conflict of interest arises, any director of the NSWRA can and should disclose the conflict and take steps to recuse the director from taking action that would be in conflict.

This Office has not been presented with evidence of an existing conflict of interest and we find no inherent conflict that would prevent the Director of the Office of Climate & Sustainability from serving as a member of the NSWRA's board of directors.