

**BOARD OF ETHICS  
WASHINGTON SUBURBAN SANITARY COMMISSION**

**ADVISORY OPINION # A-09-01**

**SUBJECT: CONFLICT OF INTEREST: WHETHER A WSSC CUSTOMER WHO WORKS FOR A COMPANY THAT DOES BUSINESS WITH WSSC MAY SERVE ON WSSC'S CUSTOMER ADVISORY BOARD.**

By request dated January 29, 2009 an employee of the Washington Suburban Sanitary Commission (WSSC) who serves as liaison to WSSC's Customer Advisory Board (CAB) seeks advice as to whether a WSSC customer who holds a job with an engineering firm that does business with WSSC may serve as a member of the CAB.

According to WSSC's website, the CAB was formed by WSSC in 1989 to receive customer input on WSSC practices and policies and also to improve communication with ratepayers. The General By-Laws for the CAB state that membership consists of twenty volunteer customers selected by WSSC equally from Montgomery and Prince George's Counties. The By-Laws do not specify any additional qualifications for membership. Responsibilities of CAB members include reviewing and commenting on proposed WSSC actions that may affect the community. The purpose and scope of the CAB is set forth in Section 3 of the By-Laws:

**PURPOSE AND SCOPE**

The CAB represents a broad spectrum of WSSC ratepayers and a variety of customer interests and concerns. The purpose of the CAB is to convey community views to WSSC. Input from the CAB shall not be a substitute for an active WSSC public participation process. The CAB shall:

- a. Provide WSSC, the Commissioners, and staff with customer input on current and proposed practices and policies;
- b. Represent the perspectives of the community;
- c. Serve as liaison between the community and the Commission; and
- d. In recognition of the social significance of WSSC's activities, the CAB addresses and, of necessity, emphasizes community concerns associated with the protection of public health and water quality management.

Two WSSC customers who hold jobs with engineering firms that do business with WSSC have applied to fill vacancies on the CAB. While the CAB By-Laws do not prohibit persons who work for companies who do business with WSSC from serving, the question has been raised as to whether this would create a conflict of interest.

The Board recognizes that the specific conflict of interest provisions set forth in Article 3 of the Code of Ethics (Code) apply specifically to WSSC employees and in some circumstances to WSSC Commissioners. While these provisions do not apply to members of independent Boards at WSSC, we note that § 5-1(b) of the Code does require members of WSSC advisory boards to file financial disclosure statements each year. That section states:

Members of WSSC advisory boards or committees must file financial disclosure forms. However, the Board [of Ethics] shall limit the information required on such forms to information concerning any financial interest or gift that may create a conflict of interest between the board or committee member's personal interests and advisory duties.

The above provision clearly recognizes that a board member's personal interests and advisory duties should not conflict and requires completion of an annual financial disclosure form designed to elicit such conflicts. Section II of the financial disclosure form requires members of boards to list places of employment for themselves and certain immediate family members "if the employment was with WSSC or if the employment was with a business doing business with WSSC."

It is our opinion that holding a job with a company *doing business with WSSC* (as that phrase is defined in the Code of Ethics) creates, at a minimum, an appearance of a conflict of interest between the applicant's personal duties and the duties that are required of a CAB member. We have read the CAB By-Laws and note that representing the perspective of the community is an important and perhaps the most important purpose of the CAB. A CAB member that works for a company doing business with WSSC may gain an unfair competitive advantage for his or her employer. In addition, even if no actual conflict of interest arises, the dual roles create, in our opinion, a public perception that there is a conflict. This perception of a conflict could compromise the integrity of the CAB as a whole.

For the above stated reasons, we advise that CAB applicants who hold jobs with companies doing business with WSSC be rejected. We further advise that the CAB By-Laws be amended to incorporate the holding as stated in this advisory opinion.

On Motion by Robert Moore, seconded by George Pruden, II, the Board agreed at its meeting held on March 12, 2009 to adopt the foregoing advisory opinion.

  
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Steven J. Hausman  
Chair pro tem, WSSC Board of Ethics

3/12/2009  
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Date