

**Policies & Procurement Committee  
November 3, 2005 Meeting**

**Minutes**

Members Present: Benson Cohn, Committee Chairman  
Mark Cooper  
Raymond O'Brien

CRRA Staff Present: Tom Kirk, President  
Laurie Hunt, Director of Legal Services  
Jim Ruel, Purchasing Manager  
Donna Tracy, Executive Assistant  
Kristen Greig, Secretary to the Board/Paralegal

Chairman Cohn called the meeting to order at 9:30 a.m. and noted that there was a quorum.

Chairman Cohn requested that everyone stand for the Pledge of Allegiance whereupon the Pledge was recited.

**1. APPROVAL OF MINUTES OF THE SEPTEMBER 15, 2005 POLICIES & PROCUREMENT COMMITTEE MEETING**

Chairman Cohn requested a motion to accept the minutes of the September 15, 2005 Policies & Procurement Committee meeting. The motion made by Director O'Brien was seconded by Director Cooper.

The minutes were approved unanimously.

**2. REVIEW AND RECOMMEND FOR BOARD APPROVAL RESOLUTION REGARDING PROPOSED TELEPHONIC BOARD OF DIRECTORS MEETING POLICY AND PROCEDURE**

Chairman Cohn requested a motion regarding the above-captioned item. Director O'Brien made the following motion:

**RESOLVED:** That the Board hereby adopts the Telephone Meeting Policy and Procedure substantially as presented and discussed at this meeting.

Director Cooper seconded the motion.

Chairman Cohn informed the Committee that this policy was brought for further review because it does not address Committee meetings.

Director O'Brien referred the Committee to page 1, Section 2 of the policy and stated that he did not like the use of the word "impossible" under the second bullet. Director O'Brien stated that he would prefer the policy to indicate that "a telephone poll indicates that a quorum in person is unlikely." The Committee agreed.

Referring to the third bullet on page 2, Director O'Brien stated that the policy should state that public comment at Special meetings would be limited to comments related to the items on the agenda in accordance with the Freedom of Information Act. Director O'Brien noted that the Freedom of Information Act stated that the only items that can be discussed at a Special Meeting are those that have been noticed on the agenda and therefore comments should be limited to those topics.

Director O'Brien stated that, in the last paragraph, he would replace the words "six directors" with "quorum as defined in Section 22a-261g of the Connecticut General Statutes." Director O'Brien stated that he would explicitly state that a quorum is constituted of six directors, including two directors appointed in a municipal official capacity. Director O'Brien stated that if it is CRRA's intention to have a quorum physically present for a Regular meeting, two of the directors present must be municipal officials to meet that statutory requirement.

Director O'Brien also noted, regarding the first paragraph on page 2, that "FOI" should read "FOIA."

Director O'Brien said that he took the omission of Committee meetings in this policy to be deliberate since the legislation does not require that CRRA have committees. Director O'Brien said that Committees should be bound by requirements of public notice and public comment, but said he was not sure that the Committees should be restricted by the other requirements outlined in this policy. Director O'Brien suggested that the policy state that Committee meetings may be conducted by telephone in accordance with the Freedom of Information Act regarding public notice and public participation. Chairman Cohn agreed that the policy should not be silent on its treatment of Committee meetings and agreed that Director O'Brien's suggestion would address that issue.

Attorney Hunt reminded the Committee that this policy has been noticed for discussion at the December Board meeting.

The motion previously made and seconded was approved unanimously.

### **3. DISCUSSION REGARDING REVISIONS TO ETHICS POLICY**

Chairman Cohn stated that in his review of the policy, he noticed that the Ethics Policy generally addresses financial conflicts, but not other types of conflicts. Chairman Cohn also noted that the CRRA Board is in a special situation because the legislature has determined that the Board should be controlled by its clients, which results in a number of the members being employed by municipalities that have contracts with CRRA and which have a financial interest of the actions of the Board. Chairman Cohn said that this warrants an affirmative statement in the policy that because of that legislative determination, those Board members who also act as municipal officials do not have a conflict except where a vote may favor their municipality over

all other municipalities. Director O'Brien agreed that the explicit recognition should be added to the policy. Chairman Cohn asked Attorney Hunt to that draft language.

Director O'Brien, referring to the Preamble, stated that the CRRA policy specifically says that "CRRA supports the spirit and letter of law of the Connecticut Code of Ethics" but said that he could not find where the Code explicitly covers CRRA. Director O'Brien said that the changes to the Code seem to imply that CRRA is under the jurisdiction of the Office of State Ethics, but said he is not sure if the Office of State Ethics recognizes that jurisdiction. Director O'Brien also asked if CRRA received a letter or some other sort of written notification that Board members are required to file Statements of Financial Interest since the statutes says that statements must be filed by quasi-public agencies as required by the Governor. Director O'Brien asked how, if CRRA is not under the purview of the Office of State Ethics, one would go about getting an advisory opinion. Director O'Brien informed the Committee that he would like an advisory opinion regarding the alleged conflict regarding the Special Committee for the Bridgeport Project. Chairman Cohn stated that CRRA has always assumed that the organization is under the purview of the Office of State Ethics. Attorney Hunt agreed and stated that CRRA has received advisory opinions in the past. Attorney Hunt informed the Committee that the Office of State Ethics is still in a transition phase.

Director O'Brien suggested attaching copies of any statutes that are referenced in the policy so Directors and employees do not have to search for additional information to find out what applies to them.

Regarding to section (f) on page 2, Director O'Brien noted that there are no longer ex officio members on the Board and said that should be deleted in this and any other sections it appears in the policy. In the text following section (h), Director O'Brien stated that there should be a requirement that both new Board members and new employees undergo an ethics training session.

Director O'Brien stated that, in Section 2, "member" would cover any Board member, even if they were appointed in a public official capacity so listing "public official" was redundant. Chairman Cohn agreed that the words "public official" could be deleted from that section. With regard to subsection (a) of Section 2, Director O'Brien said that "substantial conflict" is defined in the statute and that definition should also be included in the policy to avoid having to cross-reference statutes to get that definition.

Regarding subsection (b), Director O'Brien said that it needs to be recognized in this section that there are members who are public officials that are paid by municipalities and there should be a separate definition acknowledging this. Director O'Brien stated that CRRA should not allow employees to have outside employment or, if it is allowed, employees should be required to get an advisory opinion to ensure there is no conflict. Chairman Cohn stated that, in most cases, it would be obvious if there was a conflict just by the nature of the employment. Chairman Cohn suggested defining who would review the situation in the case there might be a conflict, rather than trying to define all of the variations. Chairman Cohn said that CRRA's counsel could do an internal review of the situation for employees, and then get an advisory opinion, if necessary. Director O'Brien suggested that the review could be done in conjunction with the Organizational Synergy & Human Resources Committee. Chairman Cohn agreed that that would be effective because then everyone could be treated in the same manner.

Director O'Brien noted that the annual financial reporting requirement should also be stated explicitly in the policy.

Referencing subsection (c) of Section 2, Director O'Brien said that there should be no disclosure for any reason, so "willfully and knowingly" should be stricken. Director O'Brien noted that it was very difficult to prove willfulness. Chairman Cohn agreed that it would be more straight forward to delete "willfully and knowingly." Mr. Kirk asked if it was necessary to include "financial gain." Chairman Cohn suggested changing the language to read, "No member or employee shall disclose, for financial gain or other reason, . . ."

Under subsection (d) of Section 2, Director O'Brien said that he would like to see an exemption for other public agencies. Director O'Brien gave the example that if a Board member was a member of a town council, and that individual was invited to speak for a fee as a member of the town council, that should not be a conflict with respect to CRRA. Chairman Cohn said that he is not sure that he would change that section because by accepting a fee, a financial interest is introduced. Director O'Brien said that he had a problem with CRRA dictating what members can do when they are not working in a CRRA capacity, but said he would defer to the Chair's judgment on that matter.

Director O'Brien referred the Committee to subsection (j) on page 4 and pointed out that a report must be given to the recipient of a gift. Director O'Brien said that this did not seem to be efficient and the report should go to someone who has some sort of oversight over the report. Chairman Cohn suggested that the report could go to the Organizational Synergy & Human Resources Committee. The Committee agreed. Mr. Kirk noted that CRRA prohibits gifts and this section is requiring that someone report something that is not allowed. Chairman Cohn agreed that this is an inconsistency, which probably came about because the Code of Ethics does allow gifts under a certain value. It was determined that this subsection could be deleted.

Regarding subsection (k), Director O'Brien asked if this only applied to individuals when they are working in their CRRA capacity. Chairman Cohn suggested inserting "CRRA" before "capacity" to read "in their official CRRA capacity."

In the first paragraph on page 5, Director O'Brien said that "gross negligence" was difficult to prove and suggested deleting the word "gross" in both instances it appears in the paragraph. It was determined that the last sentence in the paragraph could be deleted.

With regard to subsection (m), Chairman Cohn stated that he felt this section had to be tied in to the acknowledgement of the employment of board members who also serve in a municipal official capacity. The Committee agreed. Attorney Hunt stated that CRRA would propose language to cover that situation.

In Section 4, subsections (c) and (d), Chairman Cohn stated that Board members who are servicing in a municipal official capacity again have to be addressed. Chairman Cohn said that the policy should state that remaining or becoming a public official does not constitute a conflict.

Under Section 5, Director O'Brien said there also needs to be a specific exemption for public agencies. Chairman Cohn suggested that the concept for this issue could be addressed in the introduction to the policy and cross-referenced throughout the policy where the exemption applies. Director O'Brien said that the exemption should apply not only to First Selectmen or Mayors but also to any individual who is elected or appointed to provide public duties.

Regarding Section 6, Director O'Brien said that, if a Member has a conflict or a perceived conflict, that Member should not only recuse himself, but should also disclose the nature of the conflict. Director O'Brien said that if the conflict is of a de minimis nature, that should also be disclosed and it should be noted that disclosure is not an absolute defense in the absence of a supporting advisory opinion.

Chairman Cohn, referring to Section 8 on page 8, noted that it is not appropriate for management to judge a Board member, so in the case that there is a potential conflict with a Board member, there are some steps that should be taken. First, the member should disclose the conflict. If the member does not disclose the conflict, management should first confront the member and then to the Organizational Synergy & Human Resources (OS & HR) Committee. That would allow the determination to be made by the Board member's peers, rather than by management. Director O'Brien added that the Chairman of the Board should also be made aware of management's concern. Chairman Cohn said that the Chairman could then decide if the OS & HR Committee should review the issue. Director O'Brien stated that if the conflict involved the Chairman of the Board, then management would bring the issue to the Vice-Chairman of the Board. Mr. Kirk said that would address management's concern regarding bring attention to potential conflicts to the Board. Chairman Cohn said that if the Board does not resolve the issue, it could then be brought to the Office of State Ethics.

Director O'Brien, referencing Section 9, said that "public official" and "member" should be omitted because he did not believe the President has the authority to discipline or direct a Board member. Director O'Brien said that the statute provides that the appointing authority has the authority to perform that duty and the Chairman of the Board should be allowed to direct or request that a member to refrain from and activities in question or the matter. The matter should be referred to the appointing authority only if the Chairman cannot resolve the issue. Director O'Brien said that the same change applies to subsection (b).

Director O'Brien asked that it be determined if CRRA is capable of getting advisory opinions from the Office of State Ethics, and, if so, that should be included in the policy.

#### **4. INFORMATIONAL**

##### **Report on Computer Data Backup Procedures**

Director O'Brien asked if the Murphy Road facility was actually a safer location for the backup tapes than Constitution Plaza. Mr. Kirk responded that having the tapes at a different location would prevent loss in the case of a flood, fire, or other catastrophic event at the Constitution Plaza location. Director O'Brien noted that the information from the Stratford and Murphy Road facilities was transmitted to Constitution Plaza. Director O'Brien said that he assumes that the information is included in the backups, but said that it does not state that. Mr.

Kirk said that he believes the information from those servers is included, but said he would confirm.

## **5. OTHER ITEMS**

Chairman Cohn informed the Committee that CRRA had received a substantial invoice from Pepe & Hazard for expenses relative to the Enron litigation. Chairman Cohn noted that the invoice is much higher than the estimates, and noted that there are still a lot of open questions. Attorney Hunt referred the Committee to the invoice and pointed out that the most significant piece of the invoice was \$298,000 for restoration of backup tapes. Attorney Hunt stated that the tapes were mainly from 2000, which were kept when the transaction fell apart. Attorney Hunt informed the Committee that the banks in the global proceeding requested all of CRRA's electronic records. Attorney Hunt stated that CRRA received three bids for restoring the tapes and the most recent estimate was \$220,000. Attorney Hunt said that the understanding is that the requesting party is responsible for a portion of the cost of the restoration under certain circumstances so it is possible that CRRA may not be responsible for all of the costs. Attorney Hunt explained that the total costs advanced on the invoice are \$306,000, but the total invoice is \$439,000 and there is no explanation for the additional \$133,000. Attorney Hunt informed the Committee that Attorney Goldstein is looking into the discrepancy, but noted that this invoice alone takes CRRA over the Board-approved amount of \$250,000 for FY06. In addition, Attorney Hunt noted that there would be upcoming invoices for Pepe & Hazard's representation of former Board members and officers in the Enron deposition. Attorney Hunt informed the Committee that this would require an increase in the Board-approved amount at the next Board meeting. Attorney Hunt stated that, in fairness to Pepe & Hazard, their budget for FY06 was approximately \$800,000. Attorney Hunt said she thought that was excessive because the matter had been moving so much slower than expected and added that she knew that the Committee would not react favorably to an \$800,000 bill. Chairman Cohn stated that CRRA would review this carefully and check the basis for the prices.

## **6. ADJOURNMENT**

Chairman Cohn requested a motion to adjourn the meeting. The motion made by Director O'Brien and seconded by Director Cooper was passed unanimously.

The meeting was adjourned at 11:15 p.m.

Respectfully submitted,

Kristen B. Greig  
Secretary to the Board/Paralegal