

Advisory Opinion No. 92-20

The Conflicts of Interest Board has been asked by the Department of Environmental Protection ("DEP") whether three employees of that agency who work at City-owned facilities in the upstate area where the City's reservoirs are located may, consistent with Chapter 68 of the City Charter, continue to hold public office in the communities where they reside, which are also in the watershed area. DEP has advised the Board that the City has no taxable property in or business dealings with the towns in issue and that the agency has no objection to these public servants' outside positions.

One public servant is a town supervisor who participates in the development of local laws, tax matters, zoning and assessment concerns, budget preparation and related matters. The second public servant is a local tax assessor who serves on the town council. The third public servant is a town justice of the peace who hears civil cases and criminal cases, which may involve alleged violations of the City's watershed regulations.

This kind of employment raises concerns because of

the possibility that holding public office in these upstate towns could conflict with the public servants' performance of their official duties. It is not a violation of Chapter 68 for these public servants to hold these local political offices because the City has no taxable property in or business dealings with these towns. These public servants must, of course, perform their outside duties at times when they are not required to perform services for the City and recuse themselves from any matters which may come before them in their elected positions which involve the City's watershed or City employees. Such recusal includes, but is not limited to, their participating in meetings or discussions with public servants and others and receiving copies of relevant documents. See Charter Section 2604(b)(2), which provides that no public servant shall engage in any private employment or have any private interest which conflicts with the proper discharge of his or her official duties.

Beryl R. Jones
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Dated: July 27, 1992