



Memorandum

DATE: April 8, 2010

TO: Chairman and Members of the Board

FROM: Kevin H. Roche, General Manager

SUBJECT: Agenda for the Audit Committee Meeting

There is an ecomaine Audit Committee Meeting scheduled for Thursday, April 15, 2010 at 3:00 p.m., third Floor of the Waste-to-Energy Facility. The agenda for this meeting is as follows:

1. Approval of the March 18, 2010 Audit Committee Meeting Minutes (*Attachment A*)
2. FY 2010 pre-audit meeting with Kathleen Tyson (of Runyon Kersteen Ouellette)
3. Conflict of Interest Policy (*Attachment B*)
4. Future Meetings:
 - Full Board Meeting: Thursday, April 15th @ 4:00PM
(*immediately following Audit Committee Meeting*)
 - Recycling Committee Meeting: Wednesday, May 5th @ 4:00PM.
 - Executive Committee Meeting: Thursday, May 20th @ 4:00PM.
 - Recycling Committee Meeting: Wednesday, June 2nd @ 4:00PM.
 - Annual Meeting: Thursday, June 17th @ 11:30AM.

The Board of Directors may wish to go into Executive Session for any of the above items under Section 405 of Title 1 of the Maine Revised Statutes ([per the following legislative website: http://janus.state.me.us/legis/statutes/1/title1ch13sec0.html](http://janus.state.me.us/legis/statutes/1/title1ch13sec0.html).)

Owner Communities

Bridgton
Cape Elizabeth
Casco
Cumberland
Falmouth
Freeport
Gorham
Gray
Harrison
Hollis
Limington
Lyman
North Yarmouth
Ogunquit
Portland
Pownal
Scarborough
South Portland
Waterboro
Windham
Yarmouth

Associate Members

Baldwin
Hiram
Naples
Parsonsfield
Porter
Saco
Standish

Recycling Members

Andover
Cornish
Monmouth
Poland
Sanford

DATE: March 22, 2010
TO: Chair and Members of the Audit Committee
FROM: Kevin H. Roche, General Manager
SUBJECT: Minutes of 3/18/10 **ecomaine** Audit Committee Meeting

The Audit Committee of **ecomaine** met on Thursday, March 18, 2010, at the Waste-to-Energy facility. The meeting was called to order at 3:02PM.

There were three items on the Agenda:

1. Approval of the February 18, 2010 Audit Committee Meeting minutes
2. **ecomaine's** "Conflict of Interest Policy"
3. Future Meetings

Item #1 – Approval of the 02/18/10 Audit Committee Meeting Minutes

Mr. Van Gaasbeek moved that "**The Audit Committee hereby approves the minutes of the February 18, 2010 Audit Committee meeting as presented**". The motion was seconded by Mr. Bobinsky and passed with a unanimous vote of the Committee.

Item #2 – ecomaine's "Conflict of Interest Policy"

Mr. Roche passed around the latest draft of the Policy and noted that he had spoken with our legal counsel, Nick Nadzo, of Jensen Baird Gardner & Henry, regarding **ecomaine's** "Conflict of Interest and Disclosure" policy. Mr. Roche provided the following answers to the questions from last month's meeting:

Q: What if an **ecomaine** Board (or Committee Member) has an interest in a company via an investment and may not be aware of it.

A: This is covered in the Disclosure Statement with the verbiage "*to my knowledge*".

Q: If a Board member from one of our municipalities hires a contractor and that same contractor submits a proposal to **ecomaine**, does this present a conflict of interest?

A. No, the Board Member should adhere to the policy set within their own municipal rules regarding this type of matter.

Q: Is there a conflict of interest in exerting his or her personal influence regarding decisions by staff on hiring and procurement?

A. Board Members should not try to influence hiring, purchasing decisions, etc.

Q: Gifts (and value limits of same).

A. No Board member of **ecomaine** should accept from anyone doing business with **ecomaine** any free property, products, materials, or services; or accept them at terms more favorable than those offered to the public.

This prohibition doesn't include promotional/advertisement items such as mugs, hats, shirts, etc., that are marked with a company logo or holiday food baskets that are shared amongst the employees and/or Board members.

Gifts given by **ecomaine**, in recognition of service to **ecomaine**, are not prohibited.

It was noted that a dollar value limit was deleted from the policy.

Q: In the event it is not entirely clear that a Conflict of Interest exists:

A. The individual shall attempt to avoid the appearance of a conflict by disclosure and by abstention (as opposed to disclosing the circumstances to the Chair and having the Chair decide whether or not there is a conflict).

A brief discussion followed regarding any possible challenge to a conflict of interest. The Committee felt that if there were a challenge as to whether or not there was a 'Conflict of Interest', it would be addressed at that time and decided by the Committee.

After Mr. Roche reviewed, with **ecomaine's** counsel, the issues that were raised regarding the confidentiality section, it was decided that this section could be eliminated.

Mr. Morton stated that he would like to have the General Manager work up some guidelines regarding the "Conflict of Interest" policy and that it be added to the policy as an addendum. Mr. Roche will work on these guidelines and e-mail them before the next Audit Committee Meeting. He will also add this to the Board Agenda for April.

The Committee also felt that all (not just new) Directors should complete a Disclosure Statement.

The Audit Committee will next meet at 3:00PM on April 15th regarding a final draft of the "Conflict of Interest" policy to be presented to the Board (*at the Board Meeting immediately following the Audit Committee Meeting that day*) for the Board's review and approval.

With no other items before the Committee, **Mr. Bobinsky then made a motion to adjourn the meeting. The motion was seconded by Mr. Van Gaasbeek. By unanimous vote of the Committee, the meeting adjourned at 3:40PM.**

PRESENT:

M. Bobinsky
G. Foster
D. Morton
L. Van Gaasbeek

ABSENT:

J. Gray
S. McGinty

Staff: E. Doane, K. Roche and L. Trufant.

Policy on Conflicts of Interest and Disclosure

This conflict of interest policy is designed to help Directors of **ecomaine** identify situations that present potential conflicts of interest and to provide **ecomaine** with a procedure that will allow a transaction to be treated as valid and binding even though a Director has or may have a conflict of interest. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in federal or state law, including without limitation 30-A M.R.S.A. Section 2605 and 13-B M.R.S.A. Section 718, the law shall control.

1. **Conflict of Interest Defined.** The following circumstances shall create Conflicts of Interest:
 - A. **Business or Employment Relationship.** An agreement or business relationship between **ecomaine** and a Director or family member of a Director, including employment of a Director or family member by **ecomaine**. Family member includes: spouse, domestic partner, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister.
 - B. **Other Pecuniary Interest.** An agreement or business relationship between **ecomaine** and a private entity in which a Director or family member has an ownership interest or has such other financial interest of any kind, including all forms of compensation, that, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Director's judgment with respect to transactions to which the entity is a party.
 - C. **Competitor.** A Director competing with **ecomaine** in the rendering of services, or serving as an agent, employee or other legal representative of an entity that competes with **ecomaine**.
 - D. **Gifts.** No Board member of **ecomaine** shall accept or receive from any person, firm or corporation doing, or attempting to do, business with **ecomaine** any free property, product, material or service; or accept from any person, firm or corporation doing, or attempting to do, business with **ecomaine** any property, product, material or service at terms more favorable than those granted to the general public. This prohibition does not include promotional/advertisement items such as mugs, hats, shirts, etc., that are marked with a company logo or holiday food baskets that are shared amongst the employees and/or Board members. Gifts given by **ecomaine**, in recognition of service to **ecomaine**, are not prohibited.
2. **Procedures.** A transaction which involves a Conflict of Interest shall not be void or voidable solely for the reason of such conflict if there has been compliance with the following procedures.
 - A. A person who has a Conflict of Interest shall not attempt to exert his or her personal influence with respect to consideration of the matter by the Board of Directors or a Committee of **ecomaine**, either at or outside of meetings of such bodies, including decisions by staff on hiring and procurement.
 - B. Before Board or Committee action on any matter involving a Conflict of Interest, a Director having a conflict shall disclose all facts material to the conflict and shall not participate in,

be permitted to hear or attempt to influence the Board's or Committee's discussion of the matter except to disclose material facts and to respond to questions. In addition, such person may not vote on the matter and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot.

Such person's disclosure and his or her abstention from discussion and voting on the matter shall be reflected in the minutes of the meeting.

- C. In the event it is not entirely clear that a Conflict of Interest exists, the individual shall attempt to avoid the appearance of a conflict by disclosure and by abstention.

3. Review of Policy.

- A. Each Director shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so.
- B. Each Director shall complete a Disclosure Statement identifying any relationships, positions, or circumstances in which the Director is involved that he or she believes could contribute to a Conflict of Interest arising. Each written statement shall be maintained by **ecomaine**, and each Director shall update the statement whenever necessary to reflect any change of information.

STATEMENT OF INDIVIDUAL BOARD MEMBER RESPONSIBILITIES¹

Just as boards of directors have basic collective responsibilities, **individual board members are also entrusted with responsibilities** as a part of board membership. The obligations of board service are considerable – they extend well beyond the basic expectations of attending meetings.

Prospective and incumbent board members should commit themselves to the following responsibilities.

General Expectations

- Report important information back to the Community that you represent.
- Become engaged and get involved with Committees.
- Know the organization's mission, purpose, goals, policies, programs, services, strengths, and needs.
- Perform duties of board membership responsibly.
- Make significant contributions to the work of the board and the organization's progress.
- Serve in leadership positions and undertake special assignments willingly and enthusiastically.
- Avoid prejudiced judgments on the basis of information received from individuals and urge those with grievances to follow established policies and procedures through their supervisors. (All matters of potential significance should be called to the attention of the executive and the board's elected leader as appropriate.)
- Follow trends in the organization's field of interest.

- Bring good will and a sense of humor to the board's deliberations.
- Disagreements among board members, and between board members and the General Manager and other staff, when discussed in public, should be addressed professionally, focused on the issues, and not personalized.

Meetings

- Prepare for and participate in board and committee meetings, including appropriate organizational activities.
- Ask timely and substantive questions at board and committee meetings consistent with your conscience and convictions, while supporting the majority decision on issues decided by the board.
- Maintain confidentiality of the board's executive sessions, and speak for the board or organization only when authorized to do so.
- Suggest agenda items periodically for board and committee meetings to ensure that significant, policy-related matters are addressed.

Relationship with Staff

- Responsibility of Board members is not to operate **ecomaine**, but to see that it is well operated. Board action is limited to policy making, planning and appraisal, leaving the administration of **ecomaine** to the General Manager or Chief Executive.
- Counsel the chief executive as appropriate and support him or her through often difficult relationships with groups or individuals.
- Avoid asking for special favors of the staff, including special requests for extensive information, without at least prior consultation with the chief executive, board, or appropriate committee chairperson. Also, avoid influencing hiring decisions, except the hiring of the Chief Executive.

Avoiding Conflicts

- Avoid even the appearance of a conflict of interest that might embarrass the board or the organization, and disclose any possible conflicts to the board in a timely fashion.
- Maintain independence and objectivity and do what a sense of fairness, ethics, and personal integrity dictate, even though not necessarily obliged to do so by law, regulation, or custom.
- Never accept (or offer) favors or gifts from (or to) anyone who does business with the organization.

Fiduciary Responsibilities

- Exercise prudence with the board in the control and transfer of funds.
- Faithfully read and understand the organization's financial statements and otherwise help the board fulfill its fiduciary responsibility.

¹Ingram, Richard T., (2003). *Ten Basic Responsibilities of Nonprofit Boards*. BoardSource Governance Series. Washington, D.C.

DISCLOSURE STATEMENT

As a member of the Board of Directors of **ecomaine**, I affirm that:

I have received and have reviewed the **ecomaine** Policy on Conflicts of Interest and Disclosure, and I understand that it is my responsibility to comply with the policy and any revisions made to it.

My business affiliations, including employment and memberships on any boards of directors of for-profit and nonprofit organizations, are as follows:

1. _____
2. _____
3. _____
4. _____

To the best of my knowledge, neither I nor any member of my family has sought, is seeking or currently has a financial or business relationship with **ecomaine**, except as noted below:

1. _____
2. _____
3. _____
4. _____

I agree to update this form as appropriate.

(Signature)

(Printed Name)

Date: _____