



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

March 12, 2014

Honorable Board of Aldermen
City Hall
Somerville, MA 02143

Dear Honorable Board Members:

Board Item 196340, 129 registered voters requesting a public hearing before the Board of Aldermen on divesting the city's pension fund from the fossil fuel industry, triggered a concern by this office as to whether conducting such a hearing may result in a conflict of interest under the state ethics laws, given that a majority of the Board of Aldermen members are in the retirement system and have a potential financial interest in the vote.

As you may recall, a similar issue was encountered when the Board addressed changing the city's health insurance coverage to the GIC.

This office has discussed this matter with David Wilson, counsel at the State Ethics Commission. He notified this office today that, in his opinion, the "Rule of Necessity" may permit the Board of Aldermen to proceed on matters in which a majority of the Board members have a financial interest. However, in order to invoke the 'Rule of Necessity', an elected board must be "legally required" to act on the matter. He opined that, under Somerville Charter Section 8, the Board of Aldermen is only "legally required" to hold a meeting. There is no requirement under Section 8 that the Board take any other official action. Therefore, according to Mr. Wilson, the meeting regarding divestment of fossil fuels may provide a forum for citizens to express themselves and exercise their constitutional right to petition the government. In Mr. Wilson's opinion, no additional official action by the Board or its members may be taken.

Please contact me if you have with any questions.

Sincerely,

Francis X. Wright, Jr.
City Solicitor