



**DRAFT MINUTES**  
Legal Affairs Committee  
June 13, 2014  
Agency Meeting  
KF:JTT:mp  
6/24/14 11:30 AM

**Legal Affairs Committee  
June 13, 2014**

The Committee convened at 10:40 AM

**Committee Members Present:**

Karen Feldman, Chair, Arthur Lussi, Richard Booth, Sherman Craig and Bradley Austin (DED)

**Other Members or Designees Present:**

Leilani Ulrich, Chairwoman, William Thomas, Dan Wilt, William Valentino, Dierdre Scozzafava (DOS) and Robert Stegemann (DEC)

**Local Government Review Board Present:**

Frederick Monroe, Executive Director

**Agency Staff Present:**

James Townsend, Counsel, Terry Martino, Executive Director, Paul Van Cott, Associate Attorney, Mary Palmer

**Counsel's Report:** Counsel noted the report on jurisdictional inquiries and FOIL requests for the month of May.

**Agency Regulatory Revision:**

Paul Van Cott presented the Board with the proposed revisions to Agency State Environmental Quality Review (SEQR) and Freedom of Information Law (FOIL) Regulations. He added that he hopes the Board will approve going forward with the revisions.

Mr. Van Cott discussed the process for filing that is required for rule making. He noted that when the process moves into the formal rule making public hearings will be conducted.

He added that the Agency will meet with DEC as they are the governing entity for SEQR, and the Committee on Open Government for the FOIL regulations. He also stated that the Agency would talk with the Local Government Review Board as well as other interested stakeholders and then bring everything back to the Board for consideration and adoption.

Mr. Van Cott explained with SEQR the Agency is looking at what changes would be needed to supplement DEC's regulations to Type I and Type II lists.

Richard Booth asked about the items proposed to be put on the Type II list. Mr. Van Cott said that the rivers projects now on the Type I list would be moved to the Type II list.

Mr. Booth commented on categorical exclusions that deal with everyday maintenance, inquiring if there is anything similar in DEC regulations. Mr. Townsend stated there are routine maintenance activities which are on the Type II list. Mr. Van Cott added that routine maintenance and infrastructure are a couple of examples that are listed.

Mr. Van Cott explained with FOIL the Agency's rules have been in place since 1979 and there have been over 10 amendments to the Public Officers Law since that time. He added in order to fulfill its responsibilities the Agency would need to identify the Records Officer and who to go to if someone has an appeal.

Mr. Townsend added that the Committee on Open Government regulations are very strict and clear, and our regulations because they had not been kept up to date differed causing some confusion. He said that by simplifying them there is little chance of conflict.

In response to a comment from Mr. Booth it was noted that there is a link on the Agency website to the Committee on Open Government.

Karen Feldman, Committee Chair, commented that this was a great idea and eliminates any errors going forward.

Ms. Feldman reminded the Board that approval of the resolutions initiates formal rule making.

By motion of Commissioner Booth, seconded by Mr. Lussi, the SEQR resolution was unanimously approved.

By motion of Mr. Lussi, seconded by Mr. Austin, the FOIL resolution was unanimously approved.

Old business: none

New business: none

The committee convened at 11:05 am.