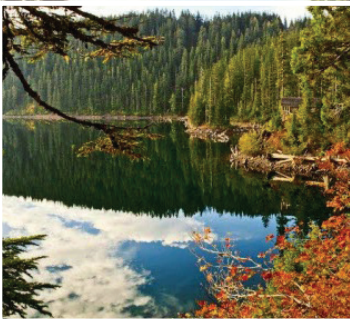




PORTLAND UTILITY OVERSIGHT BLUE RIBBON COMMISSION REPORT TO CITY COUNCIL



December 8, 2014

PORTLAND UTILITY OVERSIGHT BLUE RIBBON COMMISSION REPORT TO CITY COUNCIL

December 8, 2014

Dear Mayor Charlie Hales
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Steve Novick
Commissioner Dan Saltzman

We are pleased to present the findings and recommendations of the Portland Utility Oversight Blue Ribbon Commission you appointed to explore ways to improve oversight, transparency and accountability in the management of the City's water utilities. There is no more important role the City plays than provision of clean water and management of wastewater and stormwater. Our health, survival and the ecosystem depend on our successful environmental stewardship of the City's water resources. All of us serving on the Commission express our honor and appreciation for the opportunity to contribute to this important task.

We have been busy at work since you first dispatched us. We held ten Commission meetings and three public listening sessions, received written and oral testimony from a variety of witnesses, examined hundreds of pages of documents, and participated in a very informative and interactive work session with City Council.

Our recommendations reflect the fundamental conclusion that the people of Portland, ratepayers and the City itself will be better served by a significantly strengthened system of oversight for the work of the Portland Water Bureau (PWB) and the Bureau of Environmental Services (BES). While much of the debate and criticism of the bureaus is driven by unfunded federal mandates beyond the City's control, there are also clearly challenges -- including a history of occasional missteps from City Hall -- as well as opportunities for improvement. We recommend improving the work of the bureaus by establishing a new Portland Utility Board (PUB) that can serve as a partner with the Mayor, City Council, Commissioner-in-Charge and bureaus to help oversee and manage the work of the bureaus. The PUB will help maintain political accountability with the City Council. We also recommend continuing the role of the CUB as an independent, outside voice advocating for residential customers.

Accountability is a central objective for our work. We believe our recommendations, when implemented, will help shed light on important decisions affecting the bureaus and their budgets, helping ensure professional decision-making in a setting of political accountability. We are confident that with improved accountability and oversight, the bureaus and City Council can avoid the few expensive and unfortunate misfires that have undermined public confidence in the past.

Both PWB and BES are nationally recognized for innovative programs of environmental stewardship, including, for example, their cost-saving deployment of green infrastructure and watershed plans. We believe that our recommendations will help the bureaus continue along

this path of innovation. We also recognize the tremendous commitment of the workforce at both PWB and BES. The dedicated women and men on the front lines of environmental stewardship of water in Portland are a key asset for the bureaus. Our recommendations are intended to ensure they garner the respect and support they have earned.

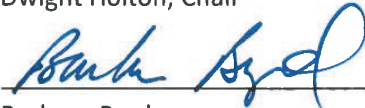
We have been consistently impressed with the professionalism and commitment to excellence that all involved with our work have brought to the mission – our fellow Commission members, the bureaus' staff, City Budget Office, City Hall staff and our tireless and patient facilitators from Cogan Owens Greene, LLC.

At the outset, Mayor Hales and Commissioner Fish promised us independence and support. For our part, we promised to do our best to identify improvements to the oversight, transparency and accountability of the PWB and BES. You and your staffs have delivered on your promise of support and independence; we hope you will agree that our recommendations deliver on our promise to you.

Respectfully submitted,



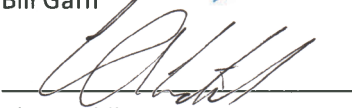
Dwight Holton, Chair



Barbara Byrd



Bill Gaffi



Chris Liddle



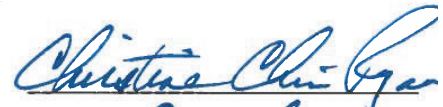
Brian Stahl



Lawrence Wallack



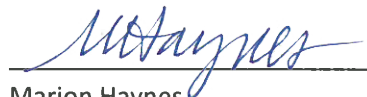
Jim Owens, Lead Facilitator
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EXECUTIVE SUMMARY

The eleven-member Portland Utility Oversight Blue Ribbon Commission (BRC) was established by Mayor Charlie Hales and Commissioner Nick Fish in July 2014 in response to concerns about oversight, transparency and accountability in the Portland Water Bureau (PWB) and the Bureau of Environmental Services (BES). The BRC was charged to ***analyze potential reforms of the oversight and accountability, focusing on streamlining communications and transparency in the rate setting process.***

The BRC convened from July 2014 through November 2014 and undertook a condensed yet extensive process to develop the findings and recommendations contained in this report to improve oversight, transparency and accountability in the management of the City's water utilities. The BRC held ten meetings and three public listening sessions, received written and oral testimony from scores of witnesses, examined hundreds of pages of documents, and presented preliminary recommendations to City Council in a November 13 work session.

These recommendations reflect the fundamental conclusion that the people of Portland, ratepayers and the City itself will be better served by a significantly strengthened system of oversight for the work of PWB and BES. They respond to the following Goals and Key Considerations:

1. Build on efforts to date, including continuing the role of the Citizens Utility Board of Oregon (CUB) as an independent consumer advocate and monitor of residential utility rates.
2. Recognize that rates are driven by multiple factors, some of which are outside of the City's control.
3. Start anew but avoid creating new bureaucracy.
4. Honor the commitment and dedication of staff and volunteers.
5. Address real and perceived issues of public concern and trust.
6. Improve transparency, communications and education.
7. Adopt new standards of practice.
8. Ensure that the oversight organization has strong public standing and accountability.
9. Provide for meaningful and consistent public involvement in decision-making.
10. Recognize that innovation requires risk and failure which should not be a deterrent to innovation.
11. Recognize the relationship of balance of authority to bond rating.

The BRC recommendations should strengthen the existing oversight of the BES and PWB and improve communications and transparency in decisions that drive the setting of rates and of the rates themselves. To address the goals and considerations identified above, the BRC recommends that:

City Council establish the Portland Utility Board (PUB) to replace the existing PURB and BACs for the two utility bureaus and authorize PUB to have an expanded role in the PWB and BES planning and budgeting processes and formal interaction with the Commissioner-in-Charge, Mayor and City Council during budget development and adoption. A summary of implementing recommendations follows (see body of report for additional details):

| Recommended Action | |
|------------------------------------|--|
| Type of Entity | Establish a permanent City board replacing PURB and BACs for PWB and BES. |
| Mission | Ensure transparency, accountability, public participation and oversight in utility system visioning, planning, environmental stewardship and financial decision-making processes for PWB and BES. |
| Nominations and Appointment | Nominations recommended by Commissioner-in-Charge to Mayor for City Council approval. The Commissioner-in-Charge should consider an outreach process to identify qualified candidates. |
| Representation | Ensure a balanced, diverse and equitable representation of highly qualified practitioners and the community-at-large, including, but not limited to: individuals with technical knowledge of water, stormwater, and sewer utility operation and issues including financial and capital improvement analysis expertise; current employment in a represented bargaining unit within PWB or BES; as well as knowledge and expertise in engineering, ecosystem science, environmental protection, political process, group process, and communications. |
| Staffing | Assign a minimum of two full-time, senior-level staff dedicated to and directed by the PUB, with hiring and administrative management by the CBO Director. |
| Financing | Fund through IGAs between CBO and PWB/BES, with CBO overhead billed on a cost-allocation basis. Funding should be sufficient to support the PUB to conduct its business including supporting committees and task forces, citizen involvement, education, and communications. |
| Roles and Responsibilities | <p>Actively partner year-round with the bureaus, Commissioner-in-Charge and City Council in developing and commenting on visions and plans for environmental stewardship and advocating for policy and budgets (CIPs, rates and annual budgets).</p> <p>Partner with the bureaus and Commissioner-in-Charge in establishing long-term missions (20-year systems plan), monitoring spending, and in evaluating the performance of the bureaus.</p> <p>Review and advise on a periodic, as-needed basis the bureaus and Commissioner-in-Charge on strategic (rather than project-specific) communications, public education and involvement, and audits. If requested, the PUB could advise on the hiring of bureau directors.</p> |

| | |
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| | <p>Actively engage, at key touch points, in budget development and adoption: as partner in budget development by bureaus and Commissioner-in-Charge; as advisor in development of Mayor's budget; and as checks-and-balances to budget changes proposed during City Council adoption process.</p> <p>At any time, identify and bring important issues and challenges to the attention of the Commissioner-in-Charge, Mayor and/or City Council.</p> <p>Ensure transparency and public engagement opportunities during the PWB and BES budget development and adoption processes and in all PUB meetings.</p> <p>Request copies, review, and respond to audits. Monitor bureau and City Council responses to and implementation of audits, in consultation with the Commissioner-in-Charge.</p> <p>Monitor City Council budget amendments, new proposal filings, and other CIP and implementing actions year-round.</p> <p>Engage citizens at any time and form task forces and working groups, also engage professionals to inform its work.</p> <p>Provide an annual report and participate with the City Council in a work session to facilitate input into upcoming budget process.</p> <p>Monitor and encourage efforts to ensure equity in jobs, services, and contracting.</p> |
| Practices | <p>The BRC recommends continuing to assign the two bureaus to one Commissioner-in-Charge. Joint assignment will ensure full consideration of the combined impact of new policies and projects at the two bureaus and foster a holistic strategic approach to ensuring the most efficient delivery of utility services.</p> <p>City Council should adopt a new set of practices, whenever possible by resolution or ordinance, to integrate the advice of the new oversight structure into their decision-making processes, especially in the budget process. This includes responding to PUB requests for a response and providing significant opportunities for PUB input through meetings, work sessions or hearings during the development of the Commissioner's and Mayor's budgets, as well as during the City Council budget adoption process.</p> <p>The Commissioner-in-Charge should institutionalize the conduct of public rate review hearings, first initiated during the 2013 budget process.</p> |

| | |
|--------------------------------------|--|
| | <p>City Council should adopt as standard practice the May 2014 direction by Commissioner Fish that any utility bureau projects over \$500,000 require Council approval as regular agenda versus consent agenda items, with opportunities for Council discussion and public testimony.</p> <p>It is the BRC's intent that, irrespective of the implementation mechanism, these recommendations become standardized practices of the bureaus, Commissioner-in-Charge and City Council.</p> |
| Implementation and Monitoring | <p>Provide opportunities for public involvement during the adoption of ordinances or other measures necessary to implement these recommendations.</p> <p>CBO, with assistance from other bureaus, should provide organization and training for new members.</p> <p>As an initial action, the PUB should establish operating procedures that define expectations for member participation and roles and address transparency in its deliberations, public information and participation, and equity.</p> <p>The Commissioner-in-Charge should convene a review body no sooner than two years and no longer than five years for the purpose of evaluating the effectiveness of the PUB and its oversight work to date. Consider including members of this BRC.</p> |
| Other | <p>Assign the solid waste collection rate-setting function to the Planning & Sustainability Commission.</p> <p>Continue designation of CUB as an independent analyst and advocate for residential ratepayers.</p> |

These proposed improvements represent a significant strengthening and restructuring of environmental stewardship, water, stormwater, and sewer utility oversight in Portland and will:

1. Elevate the value and status of the PUB as an independent oversight body to help ensure accountability, transparency and public participation in the decision-making processes for water and wastewater utility rates and budgets.
2. Establish the PUB as an oversight body with independent dedicated technical staff that can provide independent analysis of and monitoring of bureau and City Council actions.
3. Officially integrate the PUB as an oversight entity into CIP and budget development as recommendations are made at the bureau/Commissioner-in-Charge level and into deliberations by the Mayor and City Council.
4. Provide an independent perspective on how to best meet the City's utility needs.
5. Provide the PUB with the status needed to attract skilled and knowledgeable members.

REPORT TO CITY COUNCIL

A. INTRODUCTION

The Portland Utility Oversight Blue Ribbon Commission (BRC) proposes a significant strengthening and restructuring of water and wastewater utility oversight in Portland. The BRC recommends the establishment of a new oversight entity, the Portland Utility Board (PUB), that expands and replaces the oversight functions currently provided by the Portland Utility Review Board (PURB) and the Budget Advisory Committees (BACs) advising the Portland Water Bureau (PWB) and Bureau of Environmental Services (BES). With the assistance of dedicated staff and involvement year-round in strategic planning and budget development with the bureaus, the PUB should provide improved oversight for these utilities. Also, through formalized interactions with the Commissioner-in-Charge, Mayor and City Council in budget proposal and approval processes, the PUB should monitor and advise on proposed changes to recommended utility rates and budgets. The PUB should improve transparency and accountability by standardizing the practice of conducting public rate review hearings initiated by Commissioner Fish during the 2013 budget process. The BRC also proposes that the Commissioner-in-Charge should convene a review body, possibly including members from the BRC, in no sooner than two years and no longer than five years, for the purpose of evaluating the effectiveness of the PUB and its oversight work to date.

Notes:

- The use of the term “budget” encompasses capital improvement plans, rate setting and annual budgets. Rate setting is not an independent action; it occurs through capital improvement planning and budget development.
- Glossary of Terms – Please see last page of report.

Portland’s environmental stewardship is at the heart of providing healthy water and treatment of wastewater and stormwater essential for public health, a thriving economy, and healthy ecosystems. BES, in particular has responsibilities for ecosystem health under the federal Clean Water Act and the Endangered Species Act, as well as for the Portland Harbor Superfund Site.

Portland is blessed with one of the most abundant, ecosystem-based and beautiful water sources in North America, with the gravity-fed Bull Run Reservoir and related systems. PWB-managed water is sufficiently abundant to allow the City to be a water provider to other communities in the region. In addition, Portland’s relatively abundant water supply has the potential to be an important regional strategic advantage in the future, given forecasted climate change impacts on other regions.¹

Portland’s two highly respected utilities, with dedicated professional staffs, do the crucial work necessary to keep our water flowing and safe. Operation of the two utilities is consistently ranked highly by industry representatives.² Bond rating agency reports indicate prudent operating policies, a sizable but manageable debt burden, and an expectation that the City will adopt rates sufficient to meet operating and capital needs.³

¹ http://www.pdx.edu/usp/sites/www.pdx.edu.usp/files/Environmental_Migrants.pdf

² Benchmarking survey provided to BRC on July 29, 2014.

³ Moody’s Rating report, April 2013.

The City is an innovator and internationally known for its watershed planning and combination of traditional (grey) and innovative (green) stormwater management strategies that provide multiple benefits of reduced costs, ecological restoration, and aesthetic values.⁴ BES delivered the Big Pipe, one of the largest public works projects in Portland's history, on time and on budget. Other innovations include the use of bio-solids from the waste water treatment plant as soil building fertilizers and of bio-gas to power a fuel cell to provide energy to help run the wastewater treatment plant. Looking into the future, the PWB is working on a new connector across the Willamette River to provide resiliency to the water supply system in case of an earthquake.

Despite this impressive track record and national recognition, challenges and missteps – both perceived and real – have fueled concerns about oversight, transparency and accountability. These concerns led to an unsuccessful May 2014 ballot measure to transfer water and wastewater oversight and rate-setting to an elected Portland Public Water District. The Mayor, Commissioner Fish, and City Council established the BRC in July 2014 to identify potential oversight and accountability reforms for PWB and BES, including streamlining communications and transparency in the rate-setting process (see box).

The Portland City Council directs that an independent Commission convene from July to November 2014 to analyze potential reforms of the oversight and accountability of the Portland Water Bureau and Bureau of Environmental Services and then report to the City Council.

At the BRC's initial meeting, the Mayor and Commissioner Fish explained that the BRC work is part of the City's efforts to improve trust between the public and their utilities by strengthening oversight, transparency, accountability and communication. The Mayor and Commissioner supported development of recommendations, consistent with the Commission's charge, that can be implemented in the near term without changes to the City Charter.

To meet its charge, the BRC looked upstream to the decisions that ultimately drive utility rates, most notably the 20-year system plans for water and sewer systems, the bureaus' five-year capital improvement plans (CIPs), and the annual budget and rate-setting processes.

B. GOALS AND KEY CONSIDERATIONS FOR OVERSIGHT AND TRANSPARENCY

The BRC is not working with a blank slate. Rather, its recommendations build on the work of many others, including reports and analyses on utility oversight prepared by Portland City Club, Citizens' Utility Board of Oregon (CUB), City Auditor, independent consultants, and others. Presentations from PWB and BES, City Bond Manager, CUB, City Budget Office, Portland City Club, Portland Business Alliance, Planning and Sustainability Commission, and others added important analysis and factual background. Dozens of public witnesses provided key insights during public listening sessions and through written comments (Appendices D and E).

⁴ http://www.sustainablecitiesinstitute.org/Documents/SCI/Report_Guide/Guide_EPA_GICaseStudiesReduced4.pdf; http://www.nrdc.org/water/pollution/rooftopsll/files/RooftopstoRivers_Portland.pdf; <http://www.cnt.org/repository/Portland.pdf>; <http://www.epa.gov/smartgrowth/pdf/gi-guidebook/gi-guidebook.pdf>; <http://portlandtribune.com/pt/9-news/212312-70086-green-streets-function-or-frill>.

In addition, as an initial exercise, the BRC identified Shared Principles (Appendix C) to guide the development of its recommendations from both process and substantive perspectives, including:

- Provide a fresh start to the utility reform conversation while recognizing that it is important to understand other past/current reform proposals.
- Focus on helping government operate more efficiently and with more transparency.
- Clearly define bureau functions that are/are not being examined and recognize legal requirements.
- Recognize that there are topics that are outside of the Commission's scope such as amending the commission form of government or assessing superfund responsibilities.
- Develop actionable recommendations, with a clear timeline for implementation and with performance targets.
- Avoid creating more bureaucracy.
- Consider broad community benefit/value.

These Shared Principles, combined with the input the BRC has received, inform the following goals and key considerations that guide its recommendations on oversight reform.

1. Build on efforts to date

Prior to establishing the BRC, the Commissioner-in-Charge and City Council implemented a variety of important utility bureau budget and oversight reforms within the last year.⁵ The BRC recognizes these proactive efforts, and supports them. The BRC proposes that these efforts be continued and expanded on, including establishing an annual City Utility Rate Review public hearing designed to foster a transparent dialogue between community members and the Council about how utility bureau budgets are developed, and how those budget decisions drive rates. The BRC also proposes continuation of the role of CUB as an independent, outside voice advocating for residential customers that was approved by City Council earlier this year. Finally, the BRC proposes that City Council establish as standard practice the May 2014 direction by Commissioner Fish that any utility bureau projects over \$500,000 require City Council approval as regular agenda versus consent agenda items, with opportunities for City Council discussion and public testimony.

2. Recognize that rates are driven by multiple factors, some of which are outside of the City's control

Public testimony identified a wide range of concerns about the process for developing utility rates, as well as the functioning of PWB and BES. It is abundantly clear that rates are the product of multiple factors, including the need to pay for maintaining and operating the current system, Federal mandates (the Big Pipe and building new covered reservoirs), and improvements or expansions to the system to accommodate future growth. Federal mandates, in particular, have a significant role in driving rates and fuel much of the discontent voiced about PWB and BES.

3. Start anew but avoid creating new bureaucracy

The existing PURB has not been fully effective and has suffered from lack of support by City Council. The BACs advising the two bureaus are not integrated into the capital improvement planning process, rely solely on information provided by the bureaus, and have no substantive

⁵ Tab 8 in the notebook of background materials provided to the BRC. These materials are posted on the project web page at <http://www.portlandonline.com/fish/index.cfm?c=65200>.

role once the bureaus' budgets have been transmitted to the Commissioner-in-Charge. It is also clear that the ineffectiveness of PURB and the BACs cannot be traced to the dedicated volunteers who have served these bodies. Rather, a combination of structural factors (such as the lack of dedicated staff with specific utility expertise that are independent from the bureaus) and inconsistent support from City Council have been key factors. Nonetheless, reconstituting the PURB would do little to respond to the BRC's goals for oversight reform, particularly the goal of improving public confidence. To provide stronger and more consistent oversight involvement, the BRC recommends combining the budget review functions of the PURB and BACs into a single year-round entity. Ideally, the current assignment of both bureaus to a single Commissioner-in-Charge will be continued. Integration of the water, sewer and stormwater oversight functions recognizes the overlap within the two bureaus' cultures and encourages shared analytics. Bureau-specific BAC functions could be continued through member assignments or subcommittees of the new PUB.

4. Honor the commitment and dedication of staff and volunteers

It is easy in a "fix-it" process such as this to overlook the past and current involvement of bureau staff and volunteers on existing oversight groups. The bureaus' excellent workforces are the heart of the agencies and among their greatest assets. Likewise, the volunteer commitment of PURB and BAC members is an invaluable gift to the City. These assets must be sustained, much as the infrastructure and services that are provided by the bureaus. It will be critical that the PUB recognize former PURB and BAC members and the City's workforce as invaluable resources to consult with as it designs its approach to meeting its oversight responsibilities.

5. Address real and perceived issues of public concern and trust

Recent public opinion research found that confidence in management of the City's utilities is greater than that for operation of the City generally.⁶ A recent water district ballot measure was defeated by a margin of three-to-one. However, there can be no doubt that some degree of distrust lingers regarding the City Council's management of the utility bureaus. The Commissioner-in-Charge and Mayor, City Auditor reports, reports prepared by outside consultants and interest groups, and public testimony have identified a variety of utility bureau management and budgeting issues. These concerns appear to be traced to two major factors including: (1) alleged out-of-mission spending, specifically the Water House, Rose Festival Garden House, and Portland Loo (public restrooms), and (2) increasing rates that have been adopted by the City Council to finance major improvements, especially those required by Federal mandates such as the Big Pipe project. The Federal mandate for covered reservoirs has also prompted debate, but that project is outside the scope of the BRC's charge.

6. Improve transparency, communications, and education

The water, sewer, and stormwater utilities are complex systems. Being rate-funded, PWB and BES are unique agencies within the City structure. Their twenty-year systems plans, five-year capital improvement plans and budgets, annual budgets, rate setting process and debt financing are all closely interrelated and take a dedicated and well informed oversight organization with strong staff support to analyze and track. Due to fragmentation in the oversight structure, there appears to be a need for broader ongoing and coordinated citizen engagement, communications and education. Much of the bureaus' communication focuses

⁶ <http://www.portlandonline.com/auditor/index.cfm?c=64479&a=507436>.

on specific infrastructure improvement projects. The bureaus have only recently drafted communication strategies to address long-term system needs that will provide the public with the necessary context to better understand rate making decisions. Early in its deliberations, the BRC identified insufficient strategic communication about long-term system needs as a key factor in the lack of public confidence expressed to it about transparency in utility bureau spending and rate setting. That communication needs to be designed with an equity focus so that it reaches and informs all ratepayers.

7. *Adopt new standards of practice*

The BRC believes that the “tone” or commitment that City Council displays in implementing these recommendations is critical to the success of this new approach to utility oversight. City Council should adopt specific procedures that establish new standards of practice and send a clear message to the new oversight entity that City Council welcomes it as a critical partner in utility budget development, that PUB is accorded a “place at the table” during each phase of budget development, and that City Council’s interaction with and responses to the group’s recommendations go beyond the pro forma. In general, there should be a consultative partnership between the PUB and the Commissioner-in-Charge, Mayor and City Council. This standard of practice should be extended to the City Auditor, with the City Council demonstrating its genuine consideration of Auditor recommendations. The PUB should also be integrated into review and implementation of relevant audit findings, so the new organization has the opportunity to learn from audit reports.

8. *Ensure that the oversight organization has strong public standing and accountability*

Effective, sustainable oversight will be best served by a system that gives sufficiently fortified authority to the PUB to review, advise, and recommend, while at the same time vesting final authority with City Council, whose members can be held accountable directly by the voters. A new, strengthened oversight structure can more effectively identify and highlight key issues, opportunities and risks at the agencies, and thus ensure better-informed decision-making by City Council, decision-making which is thus more transparent to ratepayers. Improved accountability is needed in the decision-making on budgets and outside-of-budget spending. The new oversight entity, in turn, needs to be supported and held accountable by City Council to ensure that it is meeting its mission and oversight responsibilities.

9. *Provide for strong and consistent public involvement in decision-making*

To address the need for transparency, communications and public education, the PUB should provide for open meetings and a transparent public record, as well as continuous engagement of citizens in planning, budget and rate decisions. For example, the Rate Review hearing initiated in this past year by Commissioner Fish should be established as an ongoing practice. Public involvement efforts should be designed to engage rate payers at all socio-economic, geographic and cultural levels.

10. *Recognize that innovation requires risk and failure which should not be a deterrent to innovation*

Innovation is central to the success of the bureaus and must be fostered and not restricted in any oversight structure. For example, a BRC representative from Clean Water Services highlighted cost savings and environmental benefits to that agency and its rate payers from tree plantings instead of water refrigeration to meet regulatory requirements related to the temperature of the Tualatin River. BES is a leader in such innovations and embracing cost savings strategies that capitalize on natural processes to clean and manage stormwater and

wastewater should be the norm. Such practices reflect City, state and federal environmental objectives and Portland's commitment to improving watershed health, salmon recovery, and integration of green infrastructure into what predominantly had been a grey infrastructure, engineered approach to water management. A revamped approach to oversight must embrace innovative solutions, particularly increased reliance on green infrastructure to address serious water, wastewater and stormwater management challenges. To best appreciate and understand proposed innovation, the PUB will need to be fully integrated into the bureaus' thinking processes, thus the importance of its involvement in long-range visioning (systems plans) and both long (CIP) and short-term (annual) budget development.

11. Recognize the relationship of balance of authority to bond ratings

The balance of authority vested in a new PUB and the political responsibility vested in the City Council is underscored by its relationship to the agencies' bond rating that, in turn, influence the cost ratepayers pay to borrow money to fund capital improvements to the utility systems. Two of the key factors used to determine bond rating are: (a) willingness to make necessary infrastructure improvements; and (b) willingness to raise rates to make those improvements.⁷ If that balance is tipped either way, the City's exemplary bond rating can be affected, driving up the cost of future projects to ratepayers. For example, if the PUB is insulated too much from political accountability, there is the risk that it may advocate for capital spending that raises rates so much that it exhausts public support – and both of these key bond rating factors are undercut. On the other hand, if all authority is vested with the politically accountable City Council, this could diminish the appetite for necessary infrastructure improvements, likewise disrupting the delicate balance which is the foundation for the City's bond rating.

C. RECOMMENDATIONS

The following recommendations are designed to strengthen the existing oversight of the BES and PWB and to improve communications and transparency in decisions that drive the setting of utility rates and of the rates themselves. They have been developed by the BRC through a condensed yet extensive process that entailed ten BRC meetings and three public listening sessions conducted between mid-July and November, 2014; written and oral testimony from scores of witnesses; review of numerous technical documents and reports; and presentation of preliminary recommendations to City Council in a November 13 work session. (See Appendix A for a summary of the BRC study process and Appendix D for summaries of its meetings and public listening sessions.)

To address the goals and considerations identified above, BRC recommends:

1. City Council should establish the Portland Utility Board (PUB) to replace the existing PURB and BACs for the two utility bureaus and authorize PUB to have an expanded role in the PWB and BES environmental stewardship, planning and budgeting processes and formalized interaction with the Commissioner-in-Charge, Mayor and City Council during budget development and adoption.
2. Members should be appointed to ensure a balance, diverse and equitable representation of highly qualified practitioners and the community-at-large, including, but not limited to: individuals with technical knowledge of water, stormwater, and sewer utility operation and issues including financial and capital improvement analysis expertise; current

⁷ Moody's US Municipal Utility Revenue Debt 'Request For Comment', 2014.

employment in a represented bargaining unit within PWB or BES; as well as knowledge and expertise in engineering, ecosystem science, environmental protection, political process, group process, and communications.

3. The PUB should meet on a regular, year-round basis, with members serving in a volunteer (unpaid) status.
4. The PUB should be served by a minimum of two full-time, senior level staff housed in, selected and administratively managed by the City Budget Office (CBO) but dedicated to the PUB.
5. PUB costs should be funded through intergovernmental agreements (IGAs) between CBO and PWB/BES, with CBO overhead billed to the bureaus on a cost basis.
6. City Council should adopt a new set of practices, whenever possible by resolution or ordinance, to integrate the advice of the PUB into their decision-making processes. This includes responding to PUB requests and providing opportunities for PUB input through meetings, work sessions or hearings during the development of the Commissioner's and Mayor's budgets, as well as during the City Council budget adoption process.
7. The PUB should be empowered to engage citizens at any time and to form task forces and working groups, as well as to engage professionals in its work.
8. All PUB deliberations and actions should be transparent and well communicated.
9. The Commissioner-in-Charge should standardize the practice of public rate review hearings, first initiated during the 2013 budget process.
10. The Mayor should, ideally, continue the current assignment of both PWB and BES to a single Commissioner-in-Charge.
11. The solid waste collection rate-setting function should be assigned to the Planning & Sustainability Commission.
12. The effectiveness of these recommendations should be periodically evaluated and reported to the City Council and public.

Specifics of these recommendations follow.

STRUCTURE

The BRC recommends a three-part oversight structure that is modeled after a triangle model for effective utility oversight presented by CUB:

- a. Establish the PUB to provide oversight to both the BES and the PWB, replacing the PURB and BACs for the two bureaus.
- b. Continue to recognize CUB as an independent consumer advocate for residential customers that provides an outside review of key steps in the rate-setting process and monitors utility rates.
- c. Recognize that City Council has ultimate decision-making authority on CIPs and budgets, annual plans and budgets, and debt financing.

Independent, dedicated staffing of the new oversight entity is a critical element of the BRC's recommendations -- the PUB should not be understaffed. The BRC recommends that this staff (at least 2 FTE) be housed in CBO and selected and managed by the CBO Director, as is staff provided by CBO to other City bodies. These should be dedicated PUB positions rather than staff rotations among multiple assignments. The CBO should have the flexibility to propose more than the minimum staffing recommended if the demands of staffing the PUB exceed expectations. The BRC recommends the CBO because of its history in managing the former Utility Review Team and because the office is charged with independently serving the entire

City Council rather than any single commissioner. In response to a BRC inquiry about the potential of housing this staff in the Auditor's office, the Auditor expressed concern that the staff assignment could violate its independence and present long-term funding issues.

In recommending a maximum of 11 members for the PUB, the BRC intends this to be a maximum, recognizing that the application and nomination processes could result in fewer members being appointed by City Council. The PUB should be of adequate size to ensure a balanced, diverse, and equitable representation and that multiple disciplines and interests can be represented in order to address the broad scope and complexity of two bureaus.

Rather than identifying specific interests, the BRC recommends that, in nominating representatives to the PUB, the Commissioner-in-Charge should seek a balanced, diverse, and equitable representation and technical expertise and community interests, while ensuring that the group is not dominated by technical experts. The areas of expertise suggested by the BRC are not intended to be exclusive of other skills and experience. The City's Office of Equity should be consulted during the recruitment and selection process.

The BRC concurs with the recommendation of the CBO Director that the costs of the PUB be financed through Intergovernmental agreements (IGAs) with PWB and BES. That mechanism prevents any reallocation of the funding to other staff or projects. Funding should be sufficient to support the PUB in conducting its business, including supporting committees and task forces, citizen involvement, education and communications.

| Table 1: Recommended PUB Structure | |
|------------------------------------|---|
| Type of Entity | Permanent City Commission replacing PURB and BACs for PWB and BES |
| Name | Portland Utility Board |
| Mission | Ensure transparency, accountability, public participation and oversight in utility system visioning, planning, environmental stewardship and financial decision-making processes for PWB and BES. |
| Status | Established by City Ordinance |
| Nomination and Appointment | Nominations should be recommended by Commissioner-in-Charge to Mayor for City Council approval. The Commissioner-in-Charge should consider an outreach process to identify qualified candidates. |
| Removal | Mayor in consultation with Commissioner-in-Charge |

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| Representation | <ul style="list-style-type: none"> • Ensure a balanced, diverse, and equitable representation of highly qualified practitioners and the community-at-large, including, but not limited to: individuals with technical knowledge of water, stormwater, and sewer utility operation and issues including financial and capital improvement analysis expertise; current employment in a represented bargaining unit within PWB or BES; as well as knowledge and expertise in engineering, ecosystem science, environmental protection, political process, group process, and communications. • No greater than 11 members. • Additional ex-officio members of subcommittees and task forces may be appointed by the PUB in consultation with the Commissioner-in-Charge. |
| Terms | <p>Staggered 3-year terms. Terms should be overlapping by one and two years in order to maintain a quorum at all times. Because of the complexity of the water and sewer systems, term limits are not recommended. Members of the PUB should be able to apply for reappointment at the end of a term.</p> |
| Staffing | <p>Minimum of two full-time, senior level staff dedicated to the PUB and housed in, selected and administratively managed by CBO with support from other bureaus as needed.</p> <ul style="list-style-type: none"> • Dedicated to and directed by the PUB. • Assigned to actively monitor and advocate on behalf of PUB; provide day-to-day liaison with PWB and BES; serve as the eyes and ears for PUB, monitoring all items from bureaus before City Council, including important decision packages and budget change orders that increase or decrease spending. • Be experienced and skilled in financial analysis, utilities, and government operations within the context of environmental stewardship. • Supplemental support can be provided by the Commissioner-in-Charge. • PUB and its staff have the ability to request outside consulting help and assistance from other bureaus. |
| Financing | <p>Funded through IGAs between CBO and PWB/BES, with CBO overhead billed on a cost-allocation basis.</p> <p>Funding should be sufficient to support the PUB in conducting its business, including supporting committees and task forces, citizen involvement, education, and communications.</p> |

SCOPE OF RESPONSIBILITIES

The BRC recommends that the PUB participate in several areas of oversight with the bureaus, Commissioner-in-Charge and City Council. These include developing, commenting on and advocating for policy and budgets (CIPs, rates and annual budgets). The PUB should actively participate and advocate in the development of the bureaus' budgets and the Commissioner-in-Charge's recommended budget, review and respond to the Mayor's budget, and participate in the City Council's budget adoption process. The PUB should also partner with the bureaus and Commissioner-in-Charge in support for environmental stewardship and establishing long-term missions (20-year system plans), monitoring spending, and in evaluating the performance of the bureaus.

Additionally, the BRC recommends that the PUB provide review and advice on an as-needed basis focused at the bureau and Commissioner-in-Charge levels. Examples include strategic (rather than project-specific) communications and public education and involvement. If requested, the PUB could advise on the hiring of bureau directors.

In developing its recommendations, the BRC worked to ensure that the PUB has a significant role in crafting the PWB and BES budgets – setting the “chalk line” – without usurping the roles of the Commissioner-in-Charge and Mayor afforded by the commission form of government. A variety of considerations come into play in trying to achieve this balance and in creating a partnership between the PUB and the bureaus and Commissioner-in-Charge in developing and advocating for budgets:

- A highly-visible, influential role in rate setting and budget development will likely be critical in recruiting quality PUB members.
- The greatest influence on budgets (and ultimately rates) occurs at the earliest stages of budget development.
- Bureau directors are responsible for presenting their bureau's budgets to the Commissioner-in-Charge, who in turn is responsible for presenting proposed bureau budgets to the Mayor.
- The Commissioner-in-Charge plays a key role through his/her ownership of the budgets developed by the bureaus under his/her supervision.
- There is written documentation (e.g., change memos, decision packages) tracking all changes to the budgets initially submitted on behalf of the bureaus by the Commissioner-in-Charge.
- A written record is routinely provided of any meetings or hearings with the Mayor or City Council.

Given these considerations, the BRC proposes that structured conversations be formalized as a City practice between the PUB and: (1) the Commissioner-in-Charge prior to submitting bureau budgets to the Mayor; (2) the Mayor early in the budget process; and (3) later with City Council at the critical budget adoption stage. The BRC initially discussed recommending that the City Council provide a written explanation for any changes from the bureau's proposed budgets. The concept evolved to live joint sessions where there could be face-to-face discussions over changes the Mayor or City Council are considering to the bureaus' budget package. The joint sessions are seen as forums to highlight and obtain explanation for any changes the Mayor or City Council are contemplating to the bureaus' budgets.

Further discussion with City staff identified at least six specific opportunities or touch-points for the PUB in the budget process:

1. With the bureaus during development of their requested budgets;
2. With the Commissioner-in-Charge following submittal by the bureaus of their requested budgets and prior to the Commissioner submitting requested budgets to the Mayor;
3. As invited parties to utility rate review presentations and City Council work sessions that occur following submittal of requested budgets;
4. With the Mayor as part of development and release of the Mayor's budget;
5. As invited parties to utility rate review hearing(s) before the City Council; and
6. As invited parties to the City Council budget adoption process.

The BRC recommends that the PUB be actively involved at the most critical points in the budget process to ensure that there are no surprises in terms of changes to requested budgets, and that it be considered by the Mayor and City Council as an expert partner in budget development for the utility bureaus. Having an independent staff that can analyze and identify contemplated changes to requested budgets should facilitate PUB's involvement at key stages in the budget and rate-setting processes. Moreover, changes will be fully tracked and detailed in Change Memos and other public budget documents.

The oversight role of the City Auditor regarding Portland's public utilities has not always received adequate attention by the City Council. The BRC recommends that, as a new standard of practice, the City Council seriously considers taking actions based on Auditor reports related to the utility bureaus or more general audits with implications for the utility bureaus. The BRC further recommends that the PUB be actively involved in reviewing, recommending actions, and monitoring responses to Auditor findings related to the utility bureaus.

In response to a suggestion that PUB be involved with the Auditor's office prior to the release of audits and that it submit independent responses, the Auditor indicated that draft audits cannot be shared beyond auditees prior to the public release of reports. The Auditor further states that it would be inappropriate for a separate entity to submit an official response with the issued report. This requirement is based on the government auditing standards that the Auditor and auditing staff are required by Charter to follow to maintain the independence of the elected Auditor.

As an initial action, the PUB should establish operating procedures that define expectations for member participation and roles, including the assignment of members to track the functioning of the bureaus. For example, if a nine-member body is established, specific assignments could include assignment of four members to track PWB's CIP and annual budget, four members to track BES's CIP and annual budget, and one member to track the bureaus' communications and education programs.

The PUB's operating procedures should also:

- Ensure transparency in its deliberations, including open meetings and an accessible public record (e.g. PUB web site), as well as continuous engagement of citizens in environmental stewardship, planning, budget and rate decisions.
- Establish quorum requirements to encourage the active participation of members and timely and efficient decision-making by the group.
- Establish procedures to ensure regular public input in its proceedings.
- Ensure that innovation is encouraged, including continued promotion of green infrastructure.

- Consider equity factors in its oversight of the bureaus' work, including in employment, services, and contracting.
- Review and encourage increased use of industry benchmarking practice by PWB and BES.
- Consider the potential of using utility rate impact statements for key rate decisions.
- Recognize former PURB, BAC, and BRC members and the City's workforce as invaluable resources to consult with as it designs and evaluates its approach to meeting its oversight responsibilities.

Table 2: Recommended PUB Roles and Responsibilities

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| General Role | Oversight, Transparency, Advocacy |
| Specific Roles | <p>Be involved year-round in utility bureau visioning and environmental stewardship (mission, systems plans) and budget planning (CIP, rates, annual budgets).</p> <p>Actively engage at key touch points in budget development and adoption – as partner in budget development by bureaus and Commissioner-in-Charge; as advisor in development of Mayor's budget; and as checks-and-balances to budget changes proposed during City Council adoption process.</p> <p>At any time, identify and bring important issues and challenges to the attention of the Commissioner-in-Charge, Mayor and/or City Council at any time.</p> <p>Ensure transparency and public engagement opportunities during the PWB and BES budget development and adoption processes and in all PUB meetings.</p> <p>Request copies of audits, review, respond and monitor implementation of bureau audits in cooperation with the Commissioner-in-Charge.</p> <p>Monitor City Council budget amendments, new proposal filings, and other CIP and implementation year-round to stay on top of actions under consideration by the City Council.</p> <p>Engage citizens at any time and form task forces and working groups, also engage professionals to inform its work.</p> <p>Provide an annual report and participate with the City Council in a work session to facilitate input into upcoming budget process.</p> |

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| Areas of Oversight and Advocacy | <p>Active, year-round oversight and advocacy with bureaus, Commissioner-in-Charge and City Council</p> <ul style="list-style-type: none"> • Mission development • Environmental stewardship • Policy • Systems plans • Capital Improvement Programs • Annual budgets • Rate setting • Debt financing • Strategic (not project-specific) communications • Education • Citizen involvement plans and processes • Audit • Advise on hiring of agency directors |
| Member Responsibilities | <p>To be established in operating procedures.</p> |
| Specific Roles in Budget Process | <ul style="list-style-type: none"> • Participate in development of CIPs, rate development, and bureaus' requested budgets. <i>The timing and points of interaction with the bureaus to be defined by PUB. Specific members may be assigned to track the individual bureau's CIPs and annual budgets. In accordance with City structure and practice, the bureaus will submit their CIPs and budgets to the Commissioner-in-Charge. The PUB will advise the Commissioner of its recommendations on budget approval or adjustments. Prior to the Commissioner submitting recommended budgets to the Mayor, PUB will be accorded the opportunity to meet with the Commissioner to discuss any concerns or requested adjustments. The PUB should submit written recommendations directly to the Mayor and City Council.</i> • Participate in utility rate review presentations and City Council work sessions on requested budgets. <i>The PUB should be invited to actively participate, e.g. as a panel presenting on the bureaus' budgets and on proposed rates, in utility rate review presentations that are conducted following submittal of requested budgets.</i> • Submit recommendations/consult with Mayor during budget work sessions. <i>Any variations to the budgets presented by the Commissioner-in-Charge or to recommendations submitted by PUB should be discussed in a PUB-Mayor joint session.</i> |

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| | <ul style="list-style-type: none"> • Co-sponsor utility rate review hearings. <i>Statute requires adoption of utility rates as decisions separate from adoption of bureau budgets. PUB could serve as the sponsor or co-sponsor with City Council of the required rate review hearings.</i> • Provide input to City Council prior to budget adoption. <i>A PUB-City Council joint session or City Council hearing should be held during the City Council's budget deliberations for the PUB to present its budget recommendations and for City Council members to explain proposed deviations from the PUB recommendations.</i> • Monitor CIP and annual budgets. <i>The PUB should develop an approach to monitoring the CIP and annual budgets and implementation of major projects of the PWB and BES.</i> |
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OTHER RECOMMENDATIONS

1. The BRC recommends continuing the current assignment of both PWB and BES to a single Commissioner-in-Charge. Although the BRC strongly supports institutionalizing the assignment of both PWB and BES to a single City Commissioner, it recognizes that, as a requirement, institutionalizing such could violate the bureau assignment powers accorded to the Mayor by the Charter.
2. Assign the solid waste collection rate-setting function to the Planning & Sustainability Commission. The BRC consulted with the Bureau of Planning and Sustainability (BPS) and was informed that it conducts an annual review of rates for franchised garbage and recycling companies to charge the public for residential collection services. The rate review includes analysis by an economist and an independent CPA. The proposed rates are then reviewed by the PURB before being forwarded to City Council for approval. The BPS saw no reason why this function cannot be transferred to the Planning and Sustainability Commission.
3. Standardize the practice of conducting a public rate review hearing initiated by Commissioner Fish during the 2013 budget process.
4. Adopt as standard practice the May 2014 direction by Commissioner Fish that any utility bureau projects over \$500,000 require Council approval as regular agenda versus consent agenda items, with opportunities for Council discussion and public testimony.

IMPLEMENTATION AND MONITORING

To be responsive to the BRC process and public input, the BRC recommends that the PUB be established as quickly as possible by the Commissioner-in-Charge, supported by the Mayor, bureaus and CBO. Ideally, the proposed new oversight structure will be in place prior to the initiation of the 2015/16 budget cycle.

The BRC recognizes that not all recommendations can be adopted by ordinance or other formal mechanism. For example, integration of the PUB as recommended into certain steps in the budget process may need to be instituted as a practice rather than by ordinance. It is the BRC's intent that, irrespective of the implementation mechanism, these recommendations become standardized practices of the bureaus, Commissioner-in-Charge and City Council.

The BRC recommends that the PUB be charged with submitting an annual report to City Council that documents, at a minimum, its year-round monitoring of the CIP and budget processes and other oversight functions performed. The annual report should be submitted in September or October, rather than the end of the calendar year in order to inform the upcoming budget process. The report should be discussed with the City Council in a work session.

An implementation issue for City Council is deciding what role-, if any, the PUB should play in the administrative review committee proceedings of PWB and BES related to utility customer appeals of bureau cost assessments or other decisions. Discussion of implementation options should consider work underway by the City Ombudsman to improve the appeals process on a citywide basis.

Additionally, the BRC recommends:

- Ensure opportunities for public involvement during the adoption of ordinances or other measures necessary to implement these recommendations.
- Provide organization and training for new members. The PUB should receive an orientation and training program from the CBO that provides an overview of roles and responsibilities; key background materials and reports; information on the systems planning process, CIP, budget process, and rate setting; conflict-of-interest regulations and considerations; and other information or training needed for members to effectively participate.
- The Commissioner-in-Charge should convene a review body, for the entire City Council, (independent of the PUB) no sooner than two years and no longer than five years for the purpose of evaluating the effectiveness of the proposed oversight program. In convening this review body, the Commissioner-in-Charge, in consultation with City Council, should define specific measures of success to be evaluated and evaluation mechanisms. The review body, potentially including members of the BRC, should have the opportunity to modify these measures as needed to ensure a thorough but realistic analysis of the oversight program. Examples of potential measures of success include:
 - a. The public better understands the water and sewer system, e.g., the fact that ratepayers receive one bill for two agencies, the rationale for major projects and the basis for the rates they are paying. *Measure:* Public opinion research.
 - b. The community trusts in the quality and value of services of the BES and PWB. *Measure:* Public opinion research.
 - c. Interested Portlanders feel they have enough information and the opportunity to genuinely participate in City decisions related to the financial operation of PWB and BES. *Measure:* Public opinion research and/or key stakeholder surveys.
 - d. Qualified volunteers apply for and serve on the PUB and believe their work is meaningful and valued by City Council and the community. *Measure:* Success in recruiting; surveys of members and key stakeholders.
 - e. The Mayor and Council institute new norms of practice that integrate PUB into budget deliberations in a timely and meaningful manner. *Measure:* Institutionalized practices; survey of PUB members and Council staff.
 - f. Public involvement in utility financial decision-making is consistent, constructive and timely. *Measure:* Surveys of members, key stakeholders and other public participants.
 - g. Compliance with federal and state mandates. *Measure:* Required compliance documentation and consultation with permitting agencies.
 - h. Acceptance of PUB recommendations to the Commissioner-in-Charge, Mayor and City Council.

D. RESPONSE OF RECOMMENDATIONS TO GOALS AND KEY CONSIDERATIONS

As stated in the transmittal letter, these recommendations represent a significant strengthening and restructuring of environmental stewardship, water, sewer, and stormwater management utility oversight in Portland. These recommendations should:

1. Elevate the value and status of the PUB as an independent oversight body to help ensure accountability, transparency and public participation in the decision-making processes for water and wastewater utility rates and budgets.
2. Provide the PUB as an oversight body with independent dedicated technical staff that can provide independent analysis of and monitoring of bureau and City Council actions.
3. Officially integrate the PUB as an oversight entity into CIP and budget development as recommendations are made at the bureau/Commissioner-in-Charge level and into deliberations by the Mayor and City Council.
4. Provide an independent perspective on how to best meet the City's environmental and utility needs.
5. Elevate the status of the PUB as an oversight entity in order to attract skilled and knowledgeable members.

GLOSSARY OF TERMS

- BAC = Budget Advisory Committee
 - BES = Portland Bureau of Environmental Services
 - BRC = Portland Utility Oversight Blue Ribbon Commission
 - CBO = City Budget Office
 - CUB = Citizens Utility Board of Oregon
 - PUB = Portland Utility Board
 - PWB = Portland Water Bureau
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- Budget = For report purposes, encompasses CIP, rates and annual budget
 - CIP = A five- year plan for public works projects
 - Systems plan = 20-year plan to guide infrastructure investment throughout the City
 - Debt financing = debt issued by city to finance public works improvements over time
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- Oversight = Formal citizen input and review of important plans and budget decision impacting rates.
 - Accountability = Clear lines of authority with the Mayor and City Council, Commissioner-in-Charge, Bureaus and CBO.
 - Transparency = Transparency means processes are observable to the public including a three-step process: Step 1 clear decision making procedures and notification about decision making timing. Step 2 includes decision making steps with public access and opportunity for input. Step 3 full communication about the decision in terms of content and the process used.
 - Communications = Communications primarily are those related to information on strategies to develop and maintain the water and sewer systems, processes of engagement and transparency in budget and rate setting processes, and project focused communication with area residents and businesses impacted by utility projects.
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- Plan = Participating in creating a plan.
 - Advise = Providing input at specific predetermined points in a process.
 - Review = Reviewing and commenting on documents that are in draft form.
 - Recommend = Making specific and considered recommendations for action to the bureaus, Commissioner-in-Charge and/or the City Council.

APPENDICES

Appendices are contained in a separate document.

APPENDIX A: COMMISSION CHARTER

APPENDIX B: BRC SHARED PRINCIPLES

APPENDIX C: MEETING SUMMARIES

APPENDIX D: WRITTEN TESTIMONY

APPENDIX E: ADDITIONAL MEMBER COMMENTS