

## **Portland Utility Board**

Tuesday, December 5, 2023, 3:30 p.m.

Virtual meeting using Zoom platform

Meeting #166

### **Attendees:**

#### *PUB Members:*

Bob Sallinger  
Christopher Richard  
Heather Day-Melgar  
Karen Williams  
Lorraine Wilson  
Julia DeGraw  
Robin Castro, Chair  
Joanne Johnson, Ex-Officio  
Joe Spada, Ex-Officio  
Roslyn Gray, Ex-Officio

*Absent:* Alexis Rife \*

\*Notice of absence provided prior to meeting

#### *Staff:*

Amy Archer-Masters, Portland Utility Board Analyst, City Budget Office  
Andrew Davidson, Bureau of Environmental Services  
Annie Von Burg, Bureau of Environmental Services  
Brandon Zero, Portland Water Bureau  
Cecelia Huynh, Portland Water Bureau  
Farshad Allahdadi, Bureau of Environmental Services  
Jacq Tjaden, Office of Commissioner Mapps

#### *Public:*

Sarah Miller, Oregon Department of Environmental Quality  
Two unidentified attendees: "iPhone", "xxxxxxx808"

### **Items Discussed, Action Items, Decisions**

In these notes PWB stands for Portland Water Bureau, BES for the Bureau of Environmental Services, PUB for the Portland Utility Board and DEQ for Oregon Department of Environmental Quality.

The [video](#) of the meeting as well as supporting documents can be found here:

<https://www.portland.gov/pub/events/2023/12/5/portland-utility-board-meeting>

In the below notes the **blue timestamp** indicates the approximate place in the video where a particular topic begins as well as providing a link to that portion of the video. For example, **3:45** indicates that this topic begins at approximately 3 minutes and 45 seconds into the video. Closed captioning is available by clicking on the CC symbol in the lower right side of the video tool bar.

The Board discussed the Council’s recent Natural Resources Decision Process approving a letter documenting their feedback. The Board also received a presentation on the Proposed Columbia Slough Agreement and discussed next steps.

**I. Call to Order**

The Chair called the meeting to order at approximately 3:32pm.

**II. Disclosure of communications [~3:21](#)**

Bob Sallinger shared that he has had multiple communications regarding the rates and testified at the hearing on behalf of Willamette Riverkeeper and noted that PUB had endorsed the proposed rates. He stated that he hoped the PUB could discuss what happened at the hearing.

**III. Public Comment [~4:24](#)**

There was no public comment.

**IV. Review of Minutes [~5:07](#)**

The November 16, 2023 minutes were accepted as submitted.

**V. Brief Items and Announcements [~5:54](#)**

Recruitment Subcommittee Update

Karen Williams, member of the Recruitment Subcommittee shared that the committee convened and had a productive meeting. They drafted an announcement and agreed to open the recruitment prior to holidays but leave open until the week after MLK holiday so there is time to do outreach to communities of interest. The announcement built upon the prior year’s announcement with a goal to slim down the application and make it less intimidating by removing things like the long list of potential interest areas. They also highlighted that it is an exciting time to engage due to the change in form of government and opportunity to engage in decisions that impact the future of the City. PUB staff noted that because of time constraints staff have made changes and will need to make more changes to fit into the Civic Life format but needed the subcommittee to agree to proceed to post as quickly as possible.

- A PUB member asked for clarification of when the application will close.

- PUB staff/Amy responded that the goal is to close January 22, 2024 but it may change based on when the announcement opens to ensure good candidate pool.
- A PUB member shared support for the application and how it has advanced. They asked whether the question about stipend and whether they need money a necessary question. They shared concern about quantifying something that is more a reflection of the privilege of board members rather than the value of labor put into the board.
  - PUB staff/Amy responded that the stipend question was discussed with a goal of removing if it is not required by Civic Life anymore. The question was originally connected to serving as a pilot for stipends but may not be relevant.
- PUB staff asked if there is general agreement to proceed and received general support from subcommittee and other PUB members. Recruitment was subsequently posted [online](#).

### BES Rate Study Recommendations

PUB Staff/Amy noted that the hearing took place and opened the floor for comments.

- A PUB member shared that they attended the hearing and had learned only two days before the hearing that a decision was made to change the proposal removing overwater structures from the rate proposal. This was a topic discussed at PUB and requested that the rate study proceed. It is troubling that things change right before hearings after they have gone out for comment. It is hard for public to react to last minute changes. The houseboat community organized, received extra hearings outside the process and got the changes they wanted. Those rates will be shifted to all other ratepayers. Staff did an outstanding job documenting why those groups should pay rates. It was troubling that it was equated with affordable housing without data to back it up. Although some may be affordable, there are also some very high-end floating homes, and the rates include programs for low-income households. They shared that they considered dropping off the PUB feeling discouraged that oversight committees are asked to weigh in and repeatedly ignored. They are staying because they hope that the government transition will result in some improvement.
- PUB staff/Amy noted that the PUB did compose a letter that was provided again as part of the feedback for the hearing, but it did not have any comment about the last-minute change. The supplement to the letter was a request to Commissioner Mapps' office to be notified if changes were being considered, which they did do but it was too late in the game for PUB to comment further. The changes made do not prohibit the rates being added back it later but it is not clear what the next steps are or how PUB would engage.
  - A PUB member shared that Council stating they could revisit it is a joke. Seven years ago, they exempted this same group because the group lawyered up and opposed it. At that time Council said to go back and review, which staff have done a good job of documenting since then resulting in the original proposal. The group just organized well and got a special exception. There is no reason to

- think that it will be revisited as this was the time to revisit. It is a waste of taxpayer dollars to go through these processes if at the end it will be exempted.
- The chair shared appreciation for Bob’s engagement in this topic.

**VI. PUB Comment on Natural Resources Decision Process [~23:48](#)**

The Chair reminded that this is a continuation of prior conversations regarding Natural Resources. PUB Staff/Amy shared that one of PUB’s requests was for a joint meeting with Parks Board to receive consistent information. Staff have indicated that the Parks meeting on January 9<sup>th</sup> is a potential date for the joint meeting. The draft letter was pulled up on screen for review and discussion, reviewing the edits proposed in response to feedback from a PUB member since the last meeting. Feedback captured during the meeting and proposed edits were on screen.

- There was discussion regarding whether the focus should be on process or if there was agreement regarding opposition to the amendment. There was agreement that both were important to document, as was the lack of sufficient legal review.
- There was discussion regarding the final bullet and use of ‘...“good” or “excellent” condition...’, clarifying the reference to asset management strategy language, with edits proposed to be clearer about intent.

**VOTE**

Karen Williams made a motion to finalize the letter with edits on screen and send to City Council. Seconded by Chris Richards.

There was no further discussion or public comment.

Yes: RC, CR, HDM, KW, LW, JD

No: n/a

Abstain: BS (absence during vote)

Final version of the letter incorporating approved edits is available [online](#).

**VII. Proposed Columbia Slough Agreement [~46:46](#)**

The Chair welcomed Annie Von Burg, Environmental Remediation Manager at the Bureau of Environmental Services. Annie introduced two additional presenters including Andrew Davidson, Manager for the Columbia Slough Sediment Program and Sarah Miller, Manager of the DEQ Cleanup Program. They presented information including:

- Columbia Slough Site Overview (19 miles channel parallel to Columbia River, intense development over years resulted in widespread contamination in the sediment).
- Cleanup approach (control of pollution, cleanup of sediment, long-term monitoring of fish tissue and sediment, flexibility to modify as needed)
- City is a potential responsible party, need to shift from investigation to action.

- Proposed agreement with DEQ (consent judgement – legally binding with required workplan that settles the City’s liability, getting past the low-hanging fruit to more complex components)
- Goals to accelerate progress, bring in the community and elevate environmental justice opportunities, protect public resources, and manage future uncertainties.
- Summary of terms of the agreement. Components include City funding for in-water remedial action by DEQ, City alternative remedial measures, City’s upland pollution prevention work and Slough-wide sampling events in 2025 and 2026.
- Summary of the details of the agreement and how it provides public benefit.
- Summary of public feedback and next steps, including a plan to go to Council.

There was discussion regarding the agreement:

- A PUB member asked who does the physical cleanup funded by this agreement.
  - Annie noted that the City pays \$16 million at the beginning and DEQ would be the lead for the work.
  - Sarah indicated DEQ would do the design work, have contractors go out and do the oversight of contractors doing the work.
- A PUB member asked what precautions or information in the RFPs to ensure that the contractors/employees doing the work are protected from being impacted by the work.
  - Sarah responded that typically there would be a contaminated media management plan that describes health and safety requirements for the cleanups to ensure workers are safe.
  - The PUB member stated that it is good in theory but people may be impacted by contaminants down the line. They shared personal experience regarding a prior site and acknowledged the difficulty of reporting complaints as a whistleblower so it is important for it to be a consideration.
  - David shared prior experience as a cleanup contractor working with DEQ on cleanup and that DEQ has strong protocol for the use of correct personal protective equipment. The DEQ has a robust process, but the point is a good one.
- A PUB member asked how much money BES was spending and the timeline.
  - Annie confirmed that the funds are coming from BES including the Capital Improvement Plan (CIP) budget for the 15 storm water treatment areas (13 already budgeted in the CIP) and two additional are going through the portfolio management process and being budgeted through CIP. The cash components start with high payment of \$10.5 million in the first year and then graduated down (possibly \$8M in next and \$5M in last).
  - It was clarified that the payments are in the first 3 years but the work will take roughly 15 years. The legal protection begins once the agreement is entered but then the City must meet it’s obligations. The cost is a fixed contribution.
- A PUB member noted that the City was responsible for 209 of the outflow basins. What is the number of total outflow basins in the area?

- Andrew responded that the City owns approximately 209 as of the last count, and an additional 550 private outfalls that discharge through the slough. The responsibility question is a much deeper discussion as a lot of the contamination is from historical industrial and agricultural operations.
- A PUB member asked whether the slough is classified as a superfund site.
  - Andrew responded that it is not a superfund site. It is similar to Portland Harbor as a cleanup site and goes through similar process, but it is a state-run cleanup site.
  - Sarah confirmed stating that superfund is for federal sites but this is a state site.
- A PUB member asked for more information on how DEQ identifies the remaining remediation and restoration.
  - Sarah responded that for the last 15 years they have done a lot of identification from surrounding sloughs particularly identifying any hotspots above baseline that need to be addressed. There are some sites that are at 30% design but need additional funds to complete design and be shovel ready so these funds will allow work on priority sites. A lot of these are smaller locations and hope by combining the efforts it will be less piece-meal approach and done in batches to achieve efficiencies in the cleanup process.
- A PUB member stated that their recollection from prior budget process was the BES need for increase above forecasted rates was partially for this project and that Council did not approve. What will BES not be able to do because this is funded but Council did not approve the rate needed to fully fund it?
  - Farshad responded that the financial forecast is a long-term tool that builds capacity to fund work over a long period of time allowing rates to build more slowly. Last year BES communicated some regulatory liabilities generally that BES was budgeting and needed the 5.15% rate increase to fund those in the future so if not approved then future rates would need to be higher. BES has forecasted 5.15% moving forward and have made some short-term adjustments to meet regulatory obligations. BES will again request the 5.15% rate increase this budget period. Although adjustments were possible to respond to the Council decision, BES will need the rate increases forecasted in order to respond to issues such as this one.
- The chair asked whether there was an ask of PUB or if it was informational.
  - Annie responded that they wanted PUB to understand the agreement but BES would welcome PUB's support of the agreement when they go to Council (tentatively planned for January 17<sup>th</sup>).

## VIII. **Announcements and Next Meeting [~1:30:40](#)**

PUB Staff/Amy provided the following quick updates:

- A budget update would be provided via email with the next round of guidance from the Mayor.

- There is an inquiry on PUB's interest in a joint Parks Board meeting for January 9<sup>th</sup>, 5-7pm (responsive to PUB's request for joint and consistent information).
- Environmental Protection Agency (EPA) proposed Lead and Copper Rule Improvements (LCRI) with a public webinar on December 6<sup>th</sup> and a January 16<sup>th</sup> public hearing. Information provided to members via email.
- Reminder that next PUB meetings (12/21 and 1/2) are close to the holidays and still need information from members on availability to determine quorum and agendas. Request providing feedback to PUB staff so they can coordinate with chair on the meetings. A PUB member suggested that if a joint meeting is held, perhaps the PUB could do business 4-5pm if possible to still get some business completed without meeting separate dates.

Potential future meetings and topics to be determined.

The meeting adjourned at approximately ~5:09 p.m.