

Agenda No. ~~178~~ 195

ORDINANCE No.

Amend Portland Utility Board Code with housekeeping changes for clarity and to increase equity and inclusion (Ordinance; amend Code Chapter 3.123)

The City of Portland ordains:

Section 1. The Council finds:

1. In June 2015, Council passed Ordinance 187174, creating the Portland Utility Board (PUB) to strengthen oversight of the City's water, sewer, stormwater and watershed services provided by the Portland Water Bureau and Bureau of Environmental Services.
2. The City Code for the PUB, Chapter 3.123, has not been updated to reflect the evolution of values and practices since the board's creation.
3. The PUB has reviewed the code and bylaws in recent years and identified several housekeeping changes required to modernize archaic language and reflect current practices of the board.
4. The PUB established a board subcommittee to review the code and bylaws. The subcommittee's recommended changes have been posted on the PUB website, considered and discussed in public meetings, and approved by the PUB.
5. The PUB is requesting the amendments to City Code as provided in Exhibit A and will subsequently update bylaws to align with the code changes. The PUB will continue to review the code and bylaws for more substantive changes for future consideration.

Introduced by
Mayor Ted Wheeler

Bureau
City Budget Office

Prepared by
Amy Archer-Masters
and Eliza Lindsay

Date Prepared
March 3, 2021

Requested Council Date
March 24, 2021

Requested Agenda Type
Regular

Time Requested
10 minutes

Date Filed with Clerk
March 16, 2021

NOW, THEREFORE, the Council directs:

- a. Portland City Code Chapter 3.123 is amended as provided in Exhibit A.

Passed by Council:

MARY HULL CABALLERO

Auditor of the City of Portland

By

Deputy

Action taken: March 24, 2021 Passed to Second Reading March 31, 2021 at 9:30 am

Four Fifths Agenda	Commissioners voted as follows:		
		YEAS	NAYS
1. Rubio	1. Rubio		
2. Ryan	2. Ryan		
3. Hardesty	3. Hardesty		
4. Mapps	4. Mapps		
Wheeler	Wheeler		

Exhibit A

Chapter 3.123 - PORTLAND UTILITY BOARD

3.123.010 Created - Purpose.

A Portland Utility Board is hereby created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the ~~citizens~~ people of Portland, on the financial plans, capital improvements, annual budget development and rate setting for the City's water, sewer, stormwater, and watershed services. The Board will advise Council on the establishment of fair and equitable rates, consistent with balancing the goals of customer needs, legal mandates, existing public policies, such as protecting water quality and improving watershed health, operational requirements, and the long-term financial stability and viability of the utilities.

3.123.020 Scope.

- A.** The Portland Water Bureau and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The Board will fully participate in the bureaus' financial planning and budgeting processes. The Board will work with the bureaus to develop long-term, 20-year mission plans. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and revise the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process. The Board will actively monitor bureau spending through the fiscal year and be briefed on final fiscal year accounting including status of debt load and rate stabilization funds. The Board will monitor bureau and City Council responses to and implementation of audits, in consultation with the Commissioner(s)-in-Charge. The Board will monitor City Council budget amendments, capital improvement plans (CIP) and implementing actions throughout the fiscal year. The Board will participate in evaluating the performance of the bureaus. The bureaus will engage with the Board throughout the fiscal year when developing budgets. The Board may serve, at the Mayor's pleasure, as an advisor in the development of Mayor's budgets for the Portland Water Bureau and the Bureau of Environmental Services.
- B.** The Board will periodically consult the bureaus and the Commissioner(s)-in-Charge on strategic communications, public education and involvement, as well as review audits and other reports. The Board will identify and report to the Commissioner(s)-in-Charge, the Mayor or the Council on important issues and challenges for the Portland Water Bureau and the Bureau of Environmental Services. The Board will monitor the bureaus' efforts to achieve equity in the provision of services throughout the City.
- C.** Participate in the rate design process: The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, watershed health, and stormwater. The Board

Exhibit A

shall report on other city activities or proposed policies with significant impacts to water, sanitary sewer, and stormwater rates.

- D. When the bureaus form other advisory groups on utility matters such as facility or project specific concerns, the Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- E. Relationship to other interested parties: The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

3.123.030 Membership.

(Amended by Ordinance No. 188015, effective September 29, 2016.) The Board shall have 11 permanent members. Board members shall be appointed by the Mayor in consultation with the Commissioner(s)-in-Charge of the bureaus, and confirmed by the Council. Any Council member may submit nominations to the Commissioner(s)-in-Charge. In consultation with the Commissioner(s)-in-Charge, the Mayor shall appoint the ~~Chair~~ two Co-Chairs of the Board. Six members shall constitute a quorum of the Board. ~~Board members serve without compensation, except they may receive from their employer their regular salary during time spent on Board matters.~~

3.123.040 Appointments - Composition.

(Amended by Ordinance No. 188015, effective September 29, 2016.)

- A. General Criteria. All members must reside in or work predominantly in the city of Portland and have an interest in water, sewer, stormwater, and watershed health issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, public health, conservation, green infrastructure or the environment. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, including, but not limited to, the following factors: areas of expertise, advocacy, experience, community involvement, profession, education and/or, economic status. Preferred appointees should have a range of qualified professional and academic expertise, and community volunteer experience. Appointees will include a current employee in a represented bargaining unit with the Portland Water Bureau or the Bureau of Environmental Services. Skills that will serve the Board well include: technical knowledge of water, stormwater, and sewer utility operation and issues, accounting, civil engineering, conservation, environmental sciences, equity, health sciences, public administration, urban planning, or utility economics, financial and capital improvement analysis, ecosystem science, environmental protection, political process, group process, and communications.

Exhibit A

- B. Restrictions. No individual with any direct financial interest in either city utility other than as a rate-paying customer or as an employee of the utility bureaus.
- C. The Mayor shall, in consultation with the Commissioner(s)-in-Charge, appoint three non-voting, ex officio members annually, to engage utility bureau employees in the budget process. The ex officio members shall be one represented and two non-represented utility bureau employees, appointed to participate in the process of developing recommendations on the bureaus' annual budgets. The voting and ex officio members shall be evenly distributed between the utility bureaus. The term of ex officio members shall be for 1 year. Ex officio members may be re-appointed up to three times.

3.123.050 Terms.

- A. Board members will be appointed to serve for a term of 3 years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B. The Board may make recommendations to the Mayor regarding the reappointment of existing members. Notwithstanding the limitations of this Section, a Board member may continue to serve until his or her replacement is appointed.
- C. If any member of the Board is absent more than three regularly scheduled meetings of the Board during any 12 month period, without having notified the ~~Chair~~ Co-Chairs in advance of such absence, such member shall be deemed to have resigned from the Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.
- D. The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

3.123.060 Standing Committees.

- A. The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.
- B. The Board may designate more specific roles and responsibilities for any standing committee in the Board by-laws.

3.123.070 Staffing.

- A. The City Budget Office will provide staffing for the Board, with logistical and topic-related support from the Portland Water Bureau, the Bureau of Environmental Services, and other bureaus or agencies as may be needed. Staffing should be experienced and skilled in financial analysis, utilities, and government operations within the context of environmental stewardship.

Exhibit A

- B.** Commissioner(s)-in-Charge liaisons to the two utility bureaus shall serve as a resource to the Board and attend its meetings.

3.123.080 Meeting Schedule.

The Board shall meet at least once monthly on a regular date established by the Board. Additional meetings may also be scheduled during annual budget and rate review periods as determined by the Board ~~Chair~~ Co-Chairs. The Board ~~Chair~~ Co-Chairs, with assistance from the Board's staff, will develop meeting agendas in consultation with others including Board members, the utility bureaus, and the Commissioner(s)-in-Charge.

3.123.090 By-Laws.

- A.** The Board shall adopt by-laws to govern its procedures within the purposes of this Chapter that shall not conflict with any portion of this Chapter and which are subject to the prior review and approval of the Mayor, with approval as to legal sufficiency by the City Attorney. These by-laws shall include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters. As an initial action, the PUB will establish operating procedures that define expectations for member participation and roles and address transparency in its deliberations, public information and participation, and equity.
- B.** The by-laws shall specify procedures for public testimony, including opportunities for public comments at each Board meeting.

3.123.100 Annual Report and Work Session.

- A.** Annually, the Board shall prepare and submit to the Council a report summarizing the work performed by the Board during the previous year. The Board shall submit the annual report within the first 3 months following the beginning of each fiscal year for the utility bureaus. The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.
- B.** The Board's report will be presented to the Council in a work session. In addition, the Board will present a work plan outline for the next year and seek input from the Council on potential next steps.

IMPACT STATEMENT

Legislation title: Amend Portland Utility Board Code with housekeeping changes for clarity and to increase equity and inclusion (Ordinance; amend Code Chapter 3.123)

Contact name: Amy Archer-Masters or Eliza Lindsay

Contact phone: 503-823-8340 or 503-865-6145

Presenter name: n/a – Consent agenda item

Purpose of proposed legislation and background information:

The proposed amendments are housekeeping changes that have been identified by the PUB to modernize language and bring it in line with current board practices. The changes include removal of archaic language prohibiting compensation to allow for the possibility of stipends to continue to diversify the membership of the PUB and acknowledge the substantial work of the volunteer board members.

Financial and budgetary impacts:

The majority of changes have no financial impact. The removal of the prohibition on compensation in PCC 3.123.030 may have a minor financial impact to the PUB administration budget. This change allows for the possibility of stipends in accordance with City policy and/or guidance from Commissioner-in-Charge. Based on current estimates, with an anticipated limit of \$500 per volunteer annually, if all voting board members were eligible and requested a stipend that could result in a cost of up to \$5,500 annually. The costs for PUB are in the City Budget Office budget, covered by utility rates through interagency agreement with the Portland Water Bureau and Bureau of Environmental Services. Each of the two bureaus could be responsible for up to \$2,750, with earliest implementation expected in FY 2021-2022.

Community impacts and community involvement:

The proposed changes have impact citywide as it amends City Code for the Portland Utility Board. Some changes are simply updating code to reflect practices of the board, such as updating references to “the Chair” to “two co-chairs” to align with the current structure of the board. However, the PUB has also made changes to expand equity and inclusion with updating archaic language such as “citizens” to “people” as well as removing the prohibition of compensation for volunteer board members. The change to compensation is intended to expand the potential applicant pool for board membership. The board recognizes the current, historical, and intergenerational economic inequity impacting Black, Indigenous, People of Color (BIPOC) communities, and people living with disabilities. Economic and other inequities have kept these communities from participating in policy and budgetary matters and have led to distrust, disinvestment, and wealth disparities for these communities. The board recognizes that we are often asking diverse members to re-live trauma that is happening to them and their community. Stipends are the best way to increase a person’s ability to participate by providing economic support and recognizing

their valuable contributions. Although a stipend will not compensate for all the hours dedicated to the work, it would work towards recognition for the substantial value of the commitment.

The PUB has discussed the proposed code and bylaw changes multiple times in public meetings from July 2019 to March 2021, with the topic clearly identified on public notices and sent to interested parties on the board notification list. The board formed a subcommittee to develop recommendations and final recommendations were presented and approved in public meetings through February 2021. Public comment was received and considered during some of the meetings.

100% Renewable Goal:

Not applicable

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

City Council Meeting - Wednesday, March 24, 2021 9:30 a.m.

Agenda No.	First	Last	Zip
178	Katelynn	Nyssen	97236