

Portland Utility Board

August 15, 2019, 11:00am-1:00pm
1900 SW Fourth Avenue, 1900 Building, Room 2500C
Subcommittee Meeting: PUB Code and Bylaws

Attendees:

PUB Members: Ana Brophy, ex-officio
Brian Laurent, ex-officio
Dory Robinson, co-chair
Heidi Bullock, co-chair (left, 12:45pm)
Karen Y. Spencer
Mia Sabanovic
Micah Meskel
Robert Martineau
Sara Petrocine, ex-officio

Absent:
Gabriela Saldaña-López
Kaliska Day
Karen Williams*
Ted Labbe*

*Notice of absence provided prior to meeting

Staff: Amy Archer-Masters (PUB Analyst, City Budget Office)
Ashley Tjaden (Advisory Bodies Management Analyst, Office of Community & Civic Life)
Eliza Lindsay (PUB Coordinator, City Budget Office)
Gabe Solmer (Deputy Director, Portland Water Bureau)

Public: Carol Cushman, League of Women Voters
Rachel Whiteside, Protec 17

Synopsis of Key Issues and Action Items

The subcommittee discussed the Purpose and Definitions sections of the PUB bylaws and began to discuss the Membership section. This was a preliminary discussion. No formal votes or straw polls were taken, thus no decisions on formal recommendations to bring back to the full PUB were made.

Key issues discussed include

- Replacing term 'citizen' in Purpose section of bylaws with a more inclusive term such as 'people.'

- If and how to include in the Purpose section the function of bringing community perspectives/acting as a bridge between City and community. Perspectives on exact role and scope varied.
- Whether Purpose captures PUB's priority areas.
- Adding equity and inclusion statement to Purpose.
- Replacing "ex-officio" with a lay term and, in general, avoiding legal jargon where appropriate.
- Financial interest restriction, section III. (e). Membership which restricts service to those with no direct financial interest in either city utility, other than as a rate-paying customer or employee of either of the utility boards." Issue complex and tabled for later.
- Ex-officio length of terms and number of terms as well as purpose on the board.
- Question about PUB composition. A Pub member noted that when they joined there seemed to be an unwritten policy that on the board there should always be a hydrogeologist or a stormwater specialist or someone with other such specific skills and asked - Does this need to be written down or is it better that we leave ourselves open/general and not specify skills that may not serve us?

Action items include

- **ACTION** Review copies of BES and PWB current strategic plans vis-à-vis Purpose.
- **ACTION** PUB staff to check to see if 'non-voting member' is acceptable to City Attorney.
- **ACTION** PUB staff to look into if there are general City guidelines around conflict of interest and serving on an advisory body.
- **ACTION** Pub staff to share draft ex-officio role description.

Full Notes

I. Call to Order

The co-chair called the meeting to order. She reminded everyone that this is a subcommittee meeting of the Public Utility Board (PUB) and a public meeting.

II. Disclosure of Communications

Rob met with Mike Stuhr this morning and did not discuss anything having to do with the PUB.

Heidi has had a couple of meetings with Bureau of Environmental Services (BES) staff as it relates to Portland Harbor and community outreach.

Micah had a meeting with BES staff regarding Portland Harbor and meeting with Bureau of Planning and Sustainability regarding issues outside of PUB.

Dory had communications with Portland Water Bureau (PWB) and Bureau of Development Services regarding Administrative Review/Administrative Review Committees.

III. Introduction to Public Boards/Advisory Bodies, Ashley Tjaden, Advisory Bodies Management Analyst, Office of Community & Civic Life (Civic Life)

Presentation: <https://www.portlandoregon.gov/cbo/article/740388>

Accessible version: <https://www.portlandoregon.gov/cbo/article/740389>

There was a presentation on the City Advisory Bodies Program, policy changes, tools available to advising bodies, and an overview of bylaws purposes and best practices.

Civic Life staff asked what PUB’s interest is in reviewing the bylaws.

- PUB co-chair: It has been three years since they have been amended (2016). That’s not a bad thing, but also don’t know if they have been reviewed since then. So, I am thinking this is just a check of the entire bylaws to see if anything is missing and/or what we might want to change.
- PUB member: I am interested in some wordsmithing around composition of board, types of skills and experiences on the board and perhaps putting things like ground rules in the bylaws.
- PUB member: Equity and inclusion is implied in places and would like to make it more explicit. I am interested in adding equity and inclusion as related to the board and the board’s work.
- PUB member clarifying question: The bylaws say, “As requested the board will advise City Council...” Does that mean every year the City Council makes a formal request to the board or how does it work?
 - PUB member: There is already a clear expectation in code for the PUB to engage in budget recommendations. However, we may also have special requests from City Council to advise and if we are asked, we will engage. For example, we were asked to advise on the filtration issue and on the selling of a building at Terminal 6.
- PUB member: If there are apparent conflicts between ordinance and bylaws do, we need to resolve them or can we change the ordinance?
 - Civic Life staff: Code takes precedence. If the bylaws you want to have conflict with the ordinance, then you would need to go to City Council to ask for a code change. Anything not in code can be at greater specificity at a lower level.
- Process for changing bylaws described: Any recommendations this subcommittee makes would go back to the full PUB for decision, then any changes the full PUB wants to make would go to the City Attorney for review.
- Question about how to coordinate feedback. PUB Staff: Each individual is suggesting changes to staff so we compile and bring back to full PUB for decisions. Public opportunity to review and comment is through PUB public meeting process.
- Civic Life Staff: I recommend clumping changes into categories. If you have specific areas you’re interested in changing I can provide examples. There is also a bylaws template that may contain language for specific areas you’re interested in changing.

IV. 10 minutes to look at bylaws individually

V. 5 minute break

VI. PUB Bylaws Walk Through by Section (Discussion)

Purpose

- Discussion of changing the word ‘citizen’ in ‘I. Purpose (a)’ to something more inclusive.
 - ‘Resident’ was discussed but still felt too narrow. ‘Community’ and ‘People’ also considered. Many liked the inclusiveness of ‘people.’

- Discussion of pros and cons of trying to provide detailed specifics, a list, rather than a general term such as ‘people.’ Interest in using a more general term.
- Discussion of the fact that Purpose seems to be missing mention of current and future desire to interact with community, solicit feedback, and interact as a liaison between the bureau and community.
 - PUB member: Does ‘I. Purpose (b)’ align with efforts to build bridges with community?
 - Several PUB members echoed importance of community engagement piece, building community connections, and equity and inclusion.
 - PUB staff: Community engagement is a big job. Staff can set up logistics and structure, and still the biggest piece is the relationship-building which takes the PUB members’ time.
 - PUB member: What about adding something like “PUB’s role is to receive community input at public meetings” which emphasizes community engagement without an expansive scope?
 - PUB member: City code (e) in the final sentence gets to some of the community engagement stuff.
 - Civic Life staff: A major role of advisory bodies is bringing community insight. One pitfall of detailing your role to be that of bringing community information to the City and taking City information to the community is that if a public records request comes in and you were representing the City than your texts/notes may be considered the property of the City. Also, if someone gives you feedback with the expectation that you will bring it back to the group this can put you in a position you don’t want to be in.
- Discussion of whether the current Purpose captures the PUB’s priority areas, e.g., does it cover things like public health?
 - PUB member: ‘I Purpose (b)’ goes from big and general to specific. Does language line up with current bureau strategic plans?
 - PUB member: In ‘I Purpose (b)’ “...will advise City Council on utility policies...” suggested to add ‘bureau programs’ in addition to ‘policies’.
 - PUB staff: Briefly mentioned pros and cons of detailed versus general definition of scope of purpose. General bylaws can allow you to be nimble in responding.
 - **ACTION** Review copies of BES and PWB current strategic plans.
- Discussion of adding a clear equity and inclusion statement in Purpose.

Definitions

- Discussion of replacing jargon term, ‘ex-officio member’ with a lay term that is easily understood by all with the general idea of avoiding legal jargon where appropriate.
 - Many PUB members preferred the term ‘non-voting member.’
 - PUB member noted that in the code that created PUB the term ‘ex-officio’ is used.
 - PUB member: There is what is code and the bylaws and then the language we use when interacting with public and going forward we can model and be more inclusive and accessible in our public communications regardless of what the City Attorney decides for the bylaws and ordinance language.
 - PUB member suggested the following wording: “ ‘Ex-Officio Member’ *or non-voting* member means an employee of a utility bureau...” (Italics proposed change.)

- **ACTION** PUB staff to check to see if 'non-voting member' is acceptable to City Attorney.
- Brief discussion of purpose of 'ex-officio member.' PUB member shared that their understanding was that ex-officio members provide bureau background without swaying voting.

Membership

- Pub member suggested changing heading to "Membership and Terms" since this includes a lot of information on terms and it makes sense to keep these two together.

Discussion of 'III. Membership (e)'

- PUB member: Is there a broad City document/guideline around not serving on board if have a financial interest?
- **ACTION** PUB staff to look into if there are general City guidelines around conflict of interest and serving on an advisory body.
- Member of the public: "direct financial interest" understood broadly would include lots of things, e.g., anyone employed by a bureau has a definite financial interest. The first board had made a point of including what was classified as a large customer on the board and a large customer would have a financial interest, if indirectly. I don't think this works and would throw it out, unless required.
- PUB staff: Think intent is to allow rate payers and employees to serve.
- Civic Life staff: Generally, your bylaws are more specific and restrictive than state law and ethics.
- PUB staff: The language in (e), may be here precisely because of the issues surrounding your origins.
- Civic Life staff: Suggested tabling this topic as it is complex and coming back to it.
- Civic Life staff: Membership makeup of groups is mutual between you, bureaus, and Council. Conversation around membership is critical. Membership rules and makeup really define and make or break a group.
- PUB member: Purpose of (e) is to build public trust and avoid any potential for unethical behavior. Can we also think about it as a tool to change/correct someone's behavior? It is very hard to be an active community member, interested in and/or knowledgeable on these issues and have no financial interest if financial interest is understood broadly.
- PUB member: Consider impact or outcome if struck (e) entirely.

Discussion of 'III. Membership (h)'

- PUB member: Do we really remove people if they don't show up without notification for three times in a 12 month period?
- Civic Life staff: Attorney will require some description of how members can be removed.

Discussion of 'III. Membership (j)'

- PUB member: It is unclear exactly how many terms the ex-officio can serve. Is it 1 initial plus 3 reappointments, equaling 4? Or is it a total of 3 terms? Perhaps this should be clarified.
- PUB member: Current language limits ex-officio contribution to "...Board's **budget** process" (emphasis added). Perhaps it should be broader, perhaps simply "assist in the Board's process."

- PUB member: This might belong outside of (j). Should we spell out pathways for nomination of ex-officios, e.g., pathways for individual staff to nominate themselves to Commissioners to be considered? The process is currently murky.
 - Civic Life staff: Yes, you can spell out pathway. Careful to walk balance between enough specificity and so much specificity that it constrains you.
- Pub Member: Is a one year term for an ex-officio enough time to be of benefit?
 - Ex-officio PUB Member: I don't believe one year is enough.
 - PUB Member: There is some implication in the bylaws that they may serve for more than one year.
 - PWB Staff: Current practice is that Director does suggest someone based on feedback from management and staff but it is an official process and goes to Mayor and Council for decision.
 - PWB Staff: Would like PUB to share with both bureaus what PUB would like in an ex-officio member and also to remember it can be difficult to find the folks with the expertise you're looking for that also have the time because they're juggling lots of different commitments.
 - PUB Member: With further explanation I am okay with one year terms.
- PUB Member: If we are going to start changing terms of ex-officio, then we need to think more deeply on what their purpose is. Is it to provide information and answer questions about their experience within that bureau? Is it to provide that broader input and participate fully, except for not voting?
- PUB Member: Past staff have interpreted bylaws and ordinance to mean need to balance both ex-officio **and** one voting member across the two bureaus so is equal/even representation. Not sure the language in bylaws and code requires this.
 - PUB Member: Should we clarify?
 - PUB Members: PUB staff have a one page draft describing role, duties for ex-officio that has been shared with ex-officio. Others would like to see as well.
 - **ACTION** PUB staff to share draft ex-officio role description.
- PUB Member: Does not matter if ex-officio is represented or not; only in terms of overtime eligible and bureau not willing to pay.

General membership composition question

- PUB Member: When I joined there seemed to be an unwritten policy that on the board there should always be a hydrogeologist or a stormwater specialist or someone with other such specific skills. Does this need to be written down or is it better that we leave ourselves open/general and not specify skills that may not serve us?

VII. Wrap-up

- Co-chair: Table discussion on (e) for later and suggested to start back with membership section of bylaws.
- Next meeting: Full PUB on Tuesday, September 3rd, 3:30pm-6:30pm.

The meeting adjourned at 1:02pm.