



Independent Rates Oversight Committee (IROC)
Proposed Municipal Code Revisions

February 2012

Background:

In a February 15, 2007 press release, Mayor Jerry Sanders “announced the details of his plan to install safeguards for protecting the ratepayer funds used by the City’s water and wastewater systems.” The first of the safeguard plan’s five specific elements was “the creation of a new Independent Rates Oversight Committee.”

The City Council approved Ordinance No. O-19607 on April 10, 2007, thus creating IROC. IROC’s first meeting was held on November 5, 2007.

IROC was budgeted \$100,000 each year to pay for performance and financial audits. IROC is tasked in the Municipal Code, to complete 11 duties and functions. These include:

- Assisting “in the selection and retention of the independent firm to conduct the annual financial audit of the utility departments’ budget activity,”
- Assisting “in the selection and retention of the independent firm to conduct the annual performance audit to be set for each utility department,”
- Reviewing “independent performance audits on Water and Wastewater systems,” and
- Providing “an annual public report on the above issues to the Mayor and City Council.”

IROC, according to their Fiscal Year (FY) 2008 Annual Report, spent most of their initial year in existence attending to organizational issues such as establishing bylaws and subcommittees, as well as educating themselves on relevant issues.

In February of 2009, the Office of the City Attorney prepared a memorandum to address questions originating from Natural Resources & Culture Committee meetings. One of those questions was “whether IROC should be reviewing City policies regarding the water and wastewater utilities or be focused solely on the City’s use of ratepayer funds.” Based on the municipal code, and the understanding that IROC assumed the responsibilities of the former Public Utilities Advisory Committee, the City Attorney’s Office concluded that “The focus of IROC is oversight of water and wastewater ratepayer funds and the performance of the City utilities. IROC is also tasked with advising the Mayor and City Council on policy issues related to water and wastewater service...”

In a June 22, 2010 joint letter on behalf of several organizations to Mayor Sanders, a coalition, which included SDCTA, outlined concern over the lack of a performance audit over three years after the creation of IROC. Instead, IROC was using the Bid-to-Goal (B2G) Program report in lieu of the performance audit. Unfortunately, serious issues have been raised by the City Auditor regarding the methodology used in the B2G reports.” This substitute was designed to verify if department goals were met, and it did not adequately review ratepayer funds and department expenditures, nor was it independent as the performance audit was required to be.



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In the creation of the City of San Diego FY 2011 budget, the Audit Committee recognized the issue by recommending that the Public Utility Department fund the performance audit by transferring the \$100,000 allocated to the Office of the City Auditor. The Office of the City Auditor and IROC together determined that the first performance audit should be of the Public Utilities Department CIP process. This audit began in March 2011 and was issued in September 2011.

No financial audit has been performed. Comprehensive Annual Financial Reports are used in their place.

The City Attorney issued a report to the Audit Committee on December 23, 2011 addressing the committee's concern regarding whether IROC recommendations were outside the scope of duties described in the municipal code. The conclusion from the City Attorney was that "IROC's recommendations and findings are within its scope of duties as described in the SDMC." Additionally, the report notes that while the Audit committee does not have oversight responsibility over IROC, "it is permissible for the Audit Committee and members of the IROC to meet in the future to discuss and to coordinate efforts in areas such as performance audits..."

Relevant Municipal Code with Proposed Revisions:

The following proposed revisions should be considered open to stakeholder input, and a starting point from which an accurate, clear and effective municipal code is intended to derive.

San Diego Municipal Code Chapter 2: Government (4-2007)

Article 6: Board and Commissions

Division 20: City of San Diego Independent Rates Oversight Committee (Added 4-18-2007 by O-19607 N.S.; effective 5-18-2007.)

§26.2001 Purpose and Intent

It is the purpose and intent of the City Council to establish the Independent Rates Oversight Committee to serve as an official advisory body to the Mayor, ~~and~~ City Council, ~~and City Manager~~ on providing policy issues relating to the oversight of the City of San Diego's public utilities department ~~operations including, but not limited to, resource management, planned expenditures, service delivery methods, public awareness and outreach efforts, high quality and affordable utility services provided by the public utilities departments, including the Water and Metropolitan Wastewater Departments,~~ specifically evaluating whether ratepayer funds are being used in an accountable, cost-effective and efficient manner. In addition, the Independent Rates Oversight Committee is established to assist the City in ~~Activities shall include~~ tracking and reviewing the use of rate proceeds for operations and to advance the capital improvements projects related to ~~the rate increases packages and work programs~~ adopted by the City Council. ~~It is the vision of the~~



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~~Independent Rates Oversight Committee that a high level of public confidence in the City of San Diego's utility services is maintained because the services are provided in the most cost effective and environmentally sensitive way. Findings shall be presented to the Mayor, City Council and the public at least annually at a public hearing and within a published annual report. The Independent Rates Oversight Committee may identify potentially inadequate infrastructure investments as part of its duties to contribute to the selection of, and ensure the production of, an annual Public Utilities Department performance audit.~~

("Purpose and Intent" added 4-18-2007 by O-19607 N.S.; effective 5-18-2007.)

§26.2002 Independent Rates Oversight Committee Established

(a) There is hereby created an Independent Rates Oversight Committee to consist of eleven members, the majority of whom shall be residents of the City of San Diego, who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the City Council. Each of the ~~four~~ three ratepayer classes (single family residential, multifamily residential, and commercial and industrial, ~~and temporary irrigation and construction~~) will have one representative on the Committee. The Committee shall also include two ex-officio members, one representing and appointed by the Metropolitan Wastewater Joint Powers Authority, and one representing and appointed by the ten-member City representatives to the San Diego County Water Authority. A majority of the members of the committee shall possess expertise in one or more of the following areas: accounting, performance auditing, ~~engineering, biology or environmental science~~, finance or municipal finance, ~~law~~, and construction management.

(b) Members shall serve four year terms, and each member shall serve until a successor is duly appointed and confirmed. In accordance with City Charter section 43, members are limited to a maximum of eight consecutive years, and an interval of four years must pass before such persons can be reappointed.

Initial members shall be appointed such that the terms of not more than six members shall expire in any one year so as to allow the Committee to be staggered. For the initial appointments, five members shall be appointed to an initial term that will expire May 1, 2009, and six members shall be appointed to an initial term that will expire May 1, 2011. Initial appointments which are less than the full term of four years will be allowed to serve two full terms. The expiration date of all terms shall be May 1. Any vacancy shall be filled for the remainder of the unexpired term. Vacancy appointment recommendations will come from the original recommending body. Any vacancy replacements will be eligible to serve the remaining term of the vacant position and two full terms.

(c) For the initial year, the Mayor will designate one member as Chair. Thereafter, the Committee shall on or after May 1, select a Chair from among its members. The Chair will serve a one year term with the option of reappointment for one additional one year term, with a one year interval between consecutive terms as Chair.

(d) The Committee may adopt rules consistent with the law for the governing of its business and procedures.



(e) A conflict of interest code shall be adopted for the Committee, subject to City Council approval. The members of the Committee shall be required to complete and file statements of economic interests in accordance with the conflict of interest code.

("Independent Rates Oversight Committee Established" added 4-18-2007 by O-19607 N.S.; effective 5-18-2007.)

§26.2003 Duties and Functions

The Committee shall:

(a) Meet at least every other month with additional meetings convened as necessary and as determined by the Committee Chair, and set an attendance policy for Committee members to help ensure a quorum of members are present for all meetings.

(b) Submit an annual committee work plan to the Audit Committee and Mayor by January 31st of each year establishing committee tasks, studies, deliverables and deadlines for that year.

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~~(b-c) Review: reports from staff and an independent audit organization on rate and bond proceed expenditures:~~

- ~~(i) Reports identifying the schedule and budget statuses by project and project management phase for all projects utilizing rate and bond proceeds on at least a quarterly basis, and~~
- ~~(ii) Cumulative reports identifying the status of projects included in all rate and bond proceed expenditures at the conclusion of the study period that the relevant rate increase or bond issuance derived from.~~

(ed) Request the City Auditor to perform Review annual independent performance audits on Water and Wastewater systems and assist in the selection and retention of an independent firm to perform this audit in the case that the City Auditor does not accept the task.-

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Comment [sk1]: Review of City Attorney requested regarding whether identification of the department, or the systems is proper

(e) Review the independent performance audit.

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~~(df) Provide advice on the Report efficiencies and inefficiencies in they and expenditures, performance and management of the Public Utilities Department Water and Wastewater systems when appropriate on a regular basis.~~

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(eg) Provide advice on the future cost allocation models to be utilized in future cost-of-service studies and review all proposed actions regarding water rates including rate changes as a direct result of increases in wholesale prices.

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~~(fh) Oversee departmental savings efforts, and deposits and expenditures relating to the "Dedicated Reserve from Efficiency and Savings (DRES)" fund to be established as another part of the safeguard plan.~~

(gi) Assist in the selection and retention of the independent firm to conduct an the annual financial audit of the Public Utility and Departments' budget activity.

Comment [sk2]: Review of City Attorney requested regarding proper phrasing



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~~(h) Assist in the selection and retention of the independent firm to conduct the annual performance audit to be set for each utility department.~~

(i) Provide an annual written public report and verbal presentation on the above issues to the Mayor and City Council.

~~(j) Provide advice and review of policy and proposals as sought by department leaders and other City staff related to budget and finance, environmental issues, technology innovations, public outreach and education efforts.~~

(k) Perform such further duties as may hereafter be delegated to the Committee by resolution of the City Council.

Any duties or functions of the Independent Rates Oversight Committee that fall within the oversight responsibilities of the Audit Committee should be fully coordinated with and reported to the Audit Committee.

(“Duties and Functions” added 4-18-2007 by O-19607 N.S.; effective 5-18-2007.)

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