

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: March 15, 2007

IBA Report Number: 07-33

City Council Docket Date: March 20, 2007

Item Number: 358

Subject: Independent Rate Oversight Commission (IROC)

OVERVIEW

On February 15, 2007, prior to the public hearing on the proposed Water and Sewer rate increases, the Mayor issued a memo to the City Council stating his intention to establish an Independent Rate Oversight Commission (IROC) to provide oversight to the use of ratepayer funds. Subsequently, on February 24, 2007, the City Council approved the proposed increases to the Water and Sewer rates. The current action requests the formal implementation of the IROC.

FISCAL/POLICY DISCUSSION

According to the February 14th memo from Mayor Sanders, the IROC will replace the Public Utilities Advisory Commission (PUAC), and will assume and expand upon the role currently played by the PUAC. As specified in the Municipal Code, the primary duties and functions of the PUAC include the following:

- Provide advice and recommendations to the City on matters related to Public Utilities operations, including Water, Wastewater and any other utility services as assigned;
- Review department operations, planned expenditures and service delivery methods;
- Assist in promoting public awareness and outreach efforts to ensure that human, financial and capital resources are responsibly managed;
- Conduct investigations, studies and hearings that will aid the PUAC in effectuating its general purposes.

The Mayor's memo states that the new IROC will assume all PUAC duties related to the review of policy and proposals, and in providing advice to the Water and Wastewater departments. In addition, the IROC will "assist the City in tracking and reviewing the use of rate proceeds to advance the capital improvements promised under the rate package." The specific responsibilities proposed for the IROC are detailed on the second page of the memo.

In general, the IBA supports the concept of rate oversight and the creation of the IROC. However, we are concerned with the potential overlap with the functions and responsibilities of the City Council Audit Committee. We recommend that proposed responsibilities of the IROC in several key areas be coordinated with, and reported to, the Audit Committee. These areas are as follows:

- Review reports from staff and an independent audit organization on rate and bond proceeds expenditures;
- Review independent performance audits on Water and Wastewater systems;
- Assist the Mayor and the City's Chief Financial officer to select and retain the independent firm to conduct the annual financial audit of the departments' budget activity;
- Assist the Mayor and the Deputy Chief Operating Officer for Business and Support Services to select and retain the independent firm to conduct the annual performance audit to be set for each department.

All of these proposed IROC activities fall within the oversight responsibilities of the City Council Audit Committee. Rule 6.11.6 (c) of the Permanent Rules Establishing the Audit Committee, approved by the Audit Committee on February 26th, states the following:

The Committee shall provide independent, legislative oversight for audit work performed by and for the City. This oversight shall extend to the City's internal controls over financial reporting; the City's financial disclosures; internal financial audits; and the selection, with appropriate consultation with the Mayor, and monitoring of independent audit firms.

The Audit Committee Charter, also recently approved by the Committee, identifies seven key purposes and eight key responsibilities of the Audit Committee. A number of these purposes and responsibilities overlap with the proposed functions and responsibilities for the IROC. These areas of overlap are listed below:

Audit Committee Key Purposes:

- Review the financial reports and other financial information provided by the City;
- Assume direct responsibility, with appropriate consultation with the Mayor or his designee for the appointment, compensation, retention and where appropriate, replacement of the outside auditor to the City in preparing or issuing an audit report or related work;
- Oversee the work and independence of the outside auditor, approve all auditing services and permitted non-audit services provided by the outside auditor, and resolve any disagreements between the Mayor and the outside auditor regarding financial reporting.

Audit Committee Key Responsibilities:

- Appointment of Outside Auditor;
- Pre-approval of All Audit Services and Permitted Non-Audit Services;
- Annual Audit

All IROC activities that fall within the oversight responsibilities of the Audit Committee per the Permanent Rules or the Charter should be fully coordinated with and reported to the Audit Committee.

QUESTIONS/COMMENTS

Can the functions and responsibilities of the PUAC be expanded to accomplish the desired rate oversight?

Instead of abolishing the PUAC and instituting a new oversight commission, it would seem feasible to simply amend the Municipal Code section pertaining to the duties and functions of the PUAC (Section 26.1103) to include the additional functions and responsibilities that are proposed for the IROC. This would still provide for the desired level of ratepayer protection without the added hassle of instituting a new commission.

CONCLUSION

The City Council is being asked to amend the Municipal Code to create and implement an Independent Rate Oversight Commission in order to provide a safeguard for the use of water and sewer ratepayer funds, to ensure that such funding is used properly, and to protect the integrity of the Water and Sewer Enterprise Funds. The current proposal would abolish the Public Utilities Advisory Commission, with its current duties and functions to be assumed by the IROC.

The IBA supports the implementation of the IROC, although we believe that the desired oversight and ratepayer protection may also be achieved by simply amending the duties and functions of the PUAC. We recommend that all IROC or PUAC activities that fall within the oversight responsibilities of the Audit Committee, per the Permanent Rules or the Audit Committee Charter, should be fully coordinated with and reported to the Audit Committee.

[SIGNED]

Tom Haynes
Fiscal & Policy Analyst

[SIGNED]

APPROVED: Andrea Tevlin
Independent Budget Analyst