

Agenda Report

January 30, 2012

TO: City Council (Through Municipal Services Committee)
FROM: City Manager
SUBJECT: **CONSIDERATION OF CREATING A UTILITY ADVISORY BOARD**

RECOMMENDATION

It is recommended that the City Council review this report and provide direction to staff as appropriate.

COUNCIL COMMITTEE CONSIDERATION

MSC considered this report at their meeting of November 8, 2011 and December 13, 2011. Committee members discussed varying ideas as to how an appointed advisory board might be structured, including the size and scope of responsibilities. Although Committee members did not make a specific recommendation, such as how utility issues should be evaluated, they did recommend that the issue be brought before the full City Council for consideration and direction.

EXECUTIVE SUMMARY

The Municipal Services Committee (MSC) of the City Council currently provides oversight of policy matters pertaining to municipal utility rates and services including those provided by the Water and Power Department. After thoughtful review and discussion the Committee decided to forward this issue to the full City Council. This report responds to a request from members of the MSC to evaluate the current structure and offer a possible preferred governance structure should the City Council decide to move in a different direction.

In reviewing data from the American Public Power Association regarding municipal utility industry governance practices, the independent utility board (or commission), appointed by a City Council, is often part of the governance structure for utilities the size of Pasadena's. The City had such a commission for a number of years, before moving the oversight role back to a City Council subcommittee—Municipal Services Committee (MSC). Since 1987 utility oversight responsibilities in Pasadena have vacillated between a citizens' Utility Advisory Commission (UAC) and a City Council subcommittee (see Attachment A: Commission and Committee Timeline).

The role of utility boards and commissions varies. Some are the governing bodies, while others provide an advisory role. In other cases, the board or commission is the final authority on some matters, while the city council retains authority over rates and budgets. Key policy consideration,

development of rates, large capital outlays, and approval of long term contracts have major and enduring consequences and therefore a combination of advisory and authority functions are appropriate roles of advisor bodies.

Staff believes the current MSC structure for vetting utility related issues is currently working. The current structure benefits from the reality that utility issues tend to have transcending impacts on the overall City organization and community, and therefore having a City Council subcommittee evaluate water and power policies brings a broader perspective to the discussion.

There are also positive benefits that can be realized from the utilization of an appointed Board with relevant experience in water, power, financial, and environmental areas. If the City Council were to consider reestablishing a Utility Advisory Board, the Board could advise the City Council with regard to annual operating and capital budgets; electric and water rates; and long-term purchased power agreements. . The UAB could also provide a forum for customer input on existing and new policies, as well as act as an appeals board for customer complaints regarding the utility's application of policies to a specific set of circumstances.

Regardless of if the city continues with the MSC model or one utilizing an appointed advisory board, the day-to-day operations of the utility should remain under the authority of the General Manager reporting to the City Manager. If the City Council decides to proceed with an appointed board, the role of the Municipal Services Committee should be reviewed in order to minimize redundancies.

BACKGROUND

The governance of electric and water utilities involves a myriad of complex operational, financial, legislative and regulatory issues. As a result, many cities that operate utilities rely on an advisory or governing board to provide oversight of utility matters. As background for this report, staff reviewed the utility advisory groups from the cities of Anaheim, Burbank, Glendale, and Riverside.

For each of the comparison cities, the advisory body is defined in the municipal code and/or city charter as either a governing body or as an advisory body to the City Council on utility matters, generally including recommendations on utility budget, rate, and policy proposals. The advisory groups do not have final authority on utility budgets, rates, or policy proposals.

In Anaheim, Burbank, and Glendale the advisory groups review capital investment plans and corresponding financing. Anaheim and Burbank have authority to investigate, review, and make recommendations on operational matters. The Burbank Water and Power Board must approve contracts for services and any power contract greater than two years' duration.

Three of the advisory groups' purview includes a limited regulatory role. The Anaheim Public Utilities Board acts as a final hearing board for disputed bills; Glendale's Water and Power Commission functions as an appeals board for water conservation matters; and the Riverside Board of Public Utilities has the ability to authorize contracts and approve or disapprove the appointment of the General Manager.

Except for Burbank, the cities do not require commission/board approval on utility budget, rate, and policy proposals. In all cases the City Council and/or City Manager must approve the utility proposals in these areas. In general, the advisory body recommendations are a means to provide citizen review and comment before presenting items to the City Council.

Pasadena's Utility Advisory Commission (UAC) was formed in 1987 to advise the City Council on policy matters relating to the operation of the City's water and power utilities, including environmental issues specific to water and power. As deregulation of the electric industry became increasingly important during the mid-1990's, the City Council established a Deregulation Committee composed of three members of the City Council in 1997. This committee was later renamed the Municipal Services Committee. Over time, areas of focus for the UAC and the MSC increasingly overlapped.

Also, environmental policies affecting the City during the past 20 years have become more complex. An Environmental Charter developed in the mid-1990's and published in the city's conservation resource guide called for the City to be an environmental advocate and a leader in environmental compliance and protection. In 2007, the City Council established the Environmental Advisory Commission as an advisory body with a broad environmental emphasis that would address a variety of environmental issues impacting many of the City's programs, services and policies. At the same time, the City Council retired the UAC and assigned utility oversight solely to the Municipal Services Committee.

Over the last couple of years, the MSC has successfully steered utility policy through a number of substantive issues, including new water and electric rates; development of water and electric integrated resource plans; development of conservation initiatives, including the Water Shortage Ordinance and renewable energy sources; development of the Monk Hill Treatment Plant; plans for the replacement of local energy generation; and direction on a number of state and federal regulatory issues.

Staff believes that the current MSC model provides excellent oversight, an opportunity for detailed analysis of complex utility matters, encourages public participation through regular meetings, and direct City Council leadership to water and power services. The members are engaged in the issues and are able to provide both a committee and City Council perspective to the policy discussions. Staff supports the current model. However, should the City Council decide to explore the reestablishment of a citizen's utility advisory body, the balance of this report presents a model for the City Council to consider.

For comparative purposes, Attachment B summarizes the roles, responsibilities, and structures of the advisory bodies of Anaheim, Burbank, Glendale, and Riverside with what could be recommended for Pasadena should the City Council decide to change the current arrangement.

Commission Purpose and Function

A reconstituted Utility Advisory Board should utilize industry knowledge and experience to make advisory recommendations to the City Council on the utility matters outlined below. Furthermore, the City Council should consider delegating certain authorities to the UAB to enhance its effectiveness. It is not recommended that UAB functions would include any oversight of the utility's daily administrative or operational activities.

Advisory Functions

The Commission would provide advice to the City Council on:

1. Annual operating and capital budgets;
2. Master Plans, such as Integrated Resource Plans (IRP's);
3. Electric and water rates, with the City Council only having the authority to accept or reject proposed rates;
4. Long term purchase power agreements;
5. Rules and regulations which require action by the Council;
6. Policy matters which require Council approval; and,
7. Conduct any other activities directed by the City Council.

Authority

The commission should have the authority to: Hear appeals from customers and render decisions on the utility's application of its rules and regulations,

UAC Membership and Qualifications

The issues facing the Utility are increasingly complex as federal and regional energy and water policies and standards continue to evolve, along with legislative mandates, security concerns and rapidly changing and expensive technologies. One of the key advantages of a citizens advisory body is that the City Council could appoint individuals with specific and relevant experience to facilitate the review of complicated issues impacting our water and power policies. Commissioners advising the City Council should have suitable experience and expertise which provides an appropriate background for carrying out their advisory role. Commissioners should have experience in the utility industry, general business, or relevant profession suitable for understanding utility issues.

Membership might consist of seven members selected by the Mayor and ratified by the City Council following an application/recommendation process, which might include candidate interviews. In order to ensure representation from across the City, it is proposed that members of the Utility Advisory Board include persons who live or work within the City of Pasadena or the utility service area, and at least one from each of the customer classes noted below.

- Large business
- Small business
- Large residential
- Small residential
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In addition to the customer classes noted above, the commissioners should have experience in the following fields:

- Energy
- Water

- Environmental
- Financial
- Other

The commissioners would also be expected to meet the following requirements and obligations:

- Complete the Form 700 – Statement of Economic Interest pursuant to the city's conflict of interest code;
- Not hold a paid office or other employment with the City of Pasadena;
- Not simultaneously serve on two or more boards or commissions;
- Serve term of 4 years with no more than 2 consecutive terms, but the ability to serve again after 1 term (4 years) break.;
- Any member of the commission may be removed by the City Council; and
- All other Commission qualifications would remain the same as those listed in the Pasadena Municipal Code Chapter 2.140.

Annual Work Plan and Annual Report

The Commission would be required to develop an annual work plan consistent with its oversight role related the utility budget, rates, and policy proposals. The Commission would also be required to present an annual report to the City Council for review.

Role of the Municipal Services Committee and Environmental Advisory Commission

The reestablishment of a UAB could lead to significant overlap between the activities of the Board, Municipal Services Committee, and Environmental Advisory Commission (EAC). The role of MSC and EAC may need to be reconsidered in the event a UAB is reestablished. It is not advisable to retain MSC oversight of water and power issues and EAC oversight with regard to environmental issues associated with water and power if the UAB is reestablished as that would result in an overly cumbersome process and possibility conflicting direction.

FISCAL IMPACT

There is no fiscal impact associated with retaining the current MSC governance structure. It is unclear at this point what the fiscal impact might be if the alternative UAB was established.

Respectfully submitted,

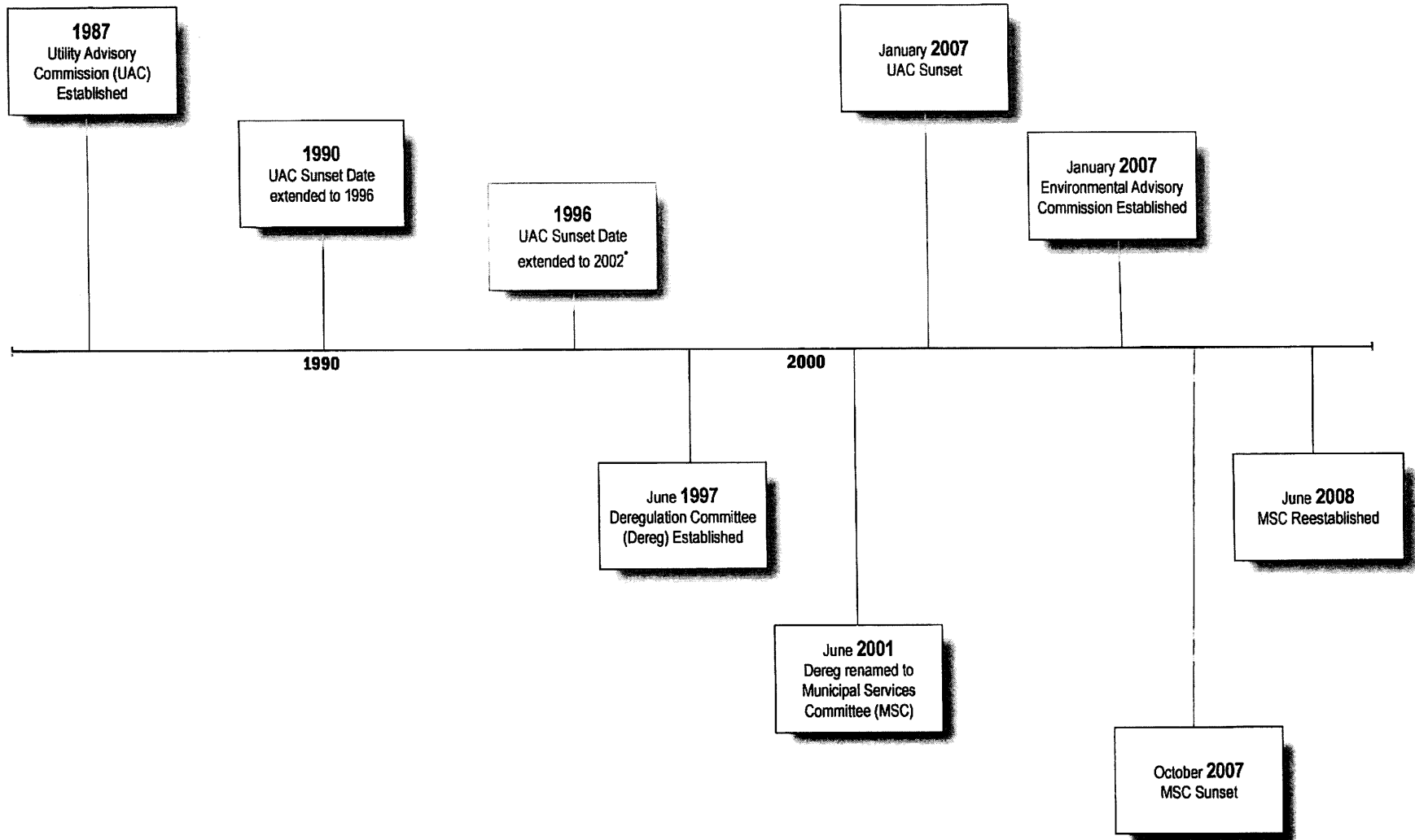


MICHAEL J. BECK
City Manager

Attachments

- A: Commission and Committee Timeline
- B: Utility Advisory Group Comparison

Commission and Committee Timeline 1987 through 2008



* UAC continued beyond sunset date.

Attachment B: Utility Advisory Group Comparison

	Anaheim Public Utilities Board	Burbank Water & Power Board	Glendale Water & Power Commission	Riverside Board of Public Utilities	Proposed Pasadena Utility Advisory Board
# Members	7	7	5	9	7
Term	4 years, max 2 consecutive terms.	4 years, max 2 consecutive terms.	3 years, max 2 consecutive terms.	4 years, max 2 consecutive terms.	4 years, max 2 consecutive terms.
Appointment Process	Appointed by City Council.	Appointed by City Council.	Appointed by City Council.	Appointed by Mayor and City Council.	Appointed by Mayor and City Council.
Compensation	None	None	None	None	None
Requirements	May not hold any paid office or employment in the City government. May not concurrently serve on 2 or more boards or commissions.		Glendale residency.	Council ward resident.	Residency: Live or Work in City or Utility Service Area. Energy, Water or Finance Industry Experience. May not hold any paid office or employment in the City government. Conflict of interest form submitted prior to nomination. Not currently serve on 2 or more boards or commissions.

	Anaheim Public Utilities Board	Burbank Water & Power Board	Glendale Water & Power Commission	Riverside Board of Public Utilities	Proposed Pasadena Utility Advisory Board
Professional Qualifications	Yes	Yes	Yes	Yes	Yes
Authority & Duties	<p>Advisory to City Council: Annual Operating and Capital budgets. Utility Capital Improvements, Operations and Management. Establishment of Rules, Regulations, and Rates. Financing, including the issuance of bonds for the electric and water utilities.</p> <p>Authority to: Act as an Appeals Board between customers and Utility. Render final decisions on disputed bills for utility services. Internally elect offices, Chair and Vice Chair.</p>	<p>Advisory to City Council: Annual Operating and Capital budget, Purchase Power Agreements, Legislative Issues, Rules, Regulations and Rates.</p> <p>Authority to: Approve all contract awards for goods, services and construction projects approved in the annual budget.</p>	<p>Advisory to City Council: Financing, Capital Improvements, Operations and Administrative Policies.</p> <p>Authority to: Appeals board between customers and utility. Internally elect offices, President, VP, etc.</p>	<p>Advisory to City Council: Annual Operating and Capital budget. Electric and Water Rates. Makes Annual Reports to Mayor and City Council.</p> <p>Authority to: Approve utility contracts with retail customers. Approve purchases under \$50,000. Require monthly financial reports of department. Internally elect offices, Chair, Vice Chair. Establish committees: Property, Finance, Marketing, Electric, Water.</p>	<p>Advisory to City Council: Annual Operating and Capital budget, Legislative Issues, Rules, Regulations, Water and Energy Rates, and Purchase Power Agreements.</p> <p>Authority to: Act as an Appeals Board between customers and Utility.</p>

SUMMARY: All Boards/Commissions function as advisory to City Council on utility issues.

2 of 4 have authority to authorize expenditures within the approved budget.

Number of members range from 5 to 9.

Terms of Service between 3 to 4 years, no longer than 2 consecutive terms.