

## Appendix B Utility Governance - City vs. Separate Entity

To: File  
From: Paul Nicklas, Assistant City Solicitor  
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Re: Utility Governance - City vs. Separate Entity

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Among the many decisions that would have to be made before a stormwater utility could be implemented for the City of Bangor are those relating to how the utility is governed. Two basic approaches exist for running a stormwater utility: the utility could be run as a department or part of a department of the City, as the City's Sewer Department is; alternatively, the utility could be set up as a separate entity, as the Bangor Water District is. Each method has its advantages.

### City Utility

The advantages to making the utility a City department or part of a City department mostly lie in the efficiency and cost-effectiveness of this approach.

Administrative costs could be shared, most likely with the Sewer Department. Property owners receiving sewer bills could receive their stormwater fee bill at the same time, and the software used for sewer billing can handle stormwater as well.

A significant amount of institutional knowledge has already been built up within the City, which will be more easily tapped if the utility is a City entity. A City utility would also have easy access to other City resources, including engineering, environmental, code, and legal resources. This could help reduce costs and give the utility another option besides seeking expensive outside assistance or going without.

On a related note, since a City utility would use existing administration in part, it would probably take less time to get the utility up and running.

Sharing of resources could extend to sharing sewer and stormwater crews, as well as Public Works crews for certain tasks. For instance, Public Works crews that are largely devoted to plowing snow in the winter could be used for expanded street sweeping in other months.

An in-house utility would allow the City to approach stormwater in a holistic manner, keeping in mind other aspects of City business that bear some relation to stormwater. Examples include the City's CSO projects, street sweeping done by Public Works, the City's stormwater maintenance ordinance, the requirements of the MS4 permit, and development going through the Planning, Engineering, and Code departments.

Finally, a utility could be set up by the City under its home rule authority. No State law currently exists that provides for separate stormwater utility districts, making the legality of such an entity in doubt unless such legislation is passed.

### Separate Entity

A potential benefit of a separate entity would be its freedom to concentrate on stormwater issues. Its governing board, as well as its entire staff, would be focused entirely on this one issue.

There might be less opportunity for any perception of political pressure swaying stormwater policy.

While any utility, City or separate, should keep funds collected through the utility clearly separate from other funds and use them only for utility purposes, the perception of separation of funds might be clearer if the utility was a separate entity.

### Summary Comparison

#### *City Department*

- Reduced administrative overhead
- Benefit from current City knowledge
- Share City resources
- Some administration already in place
- Shared sewer and SW crews
- Holistic approach
- Allowed through home rule authority

#### *Separate Entity*

- Free to concentrate on stormwater
- Less opportunity for political pressure
- Clearer perception of separation of funds

### Conclusion

The weight of factors argues for inclusion of a utility as or within a City department. Attempts should be made, however, to incorporate the advantages of a separate utility where possible. At least some of the utility's staff should be devoted entirely to stormwater, as opposed to being shared with other departments. An advisory group, potentially the existing Citizen Review Panel, should play a strong role in advising the City Council and its Committees in making stormwater decisions. Finally, information on collection and use of funds should be readily available to show that separation of funds is being maintained.