

CITY CLERK DEPT.

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ORDINANCE NO. 017167

AN ORDINANCE RELATING TO THE COMPOSITION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AND RESOLVING MATTERS INCIDENT AND RELATED THERETO.

WHEREAS, the 81st Regular Session of the Texas Legislature passed H.B. 4004 which the Governor of Texas signed into law on May 23, 2009; and

WHEREAS, H.B. 4004 amends Texas Government Code Section 1502.070 by increasing the maximum number of members that the governing bodies of certain municipalities, including the City of El Paso, Texas (the "City"), may appoint to the board of trustees charged with the management and control of a utility system on behalf of the municipality; and

WHEREAS, the El Paso Water Utilities Public Service Board (the "Board") is charged with the management and control of the water, sewer, and drainage systems of the City and members of the Board are appointed by the City Council of the City; and

WHEREAS, the City Council currently appoints five members to the Board, one of whom must be the Mayor of the City, and wishes to increase that number to seven members, one of whom must be the Mayor of the City, as provided for H.B. 4004; and

WHEREAS, the City Council has adopted recommendations for the process by which Board members will be selected and other Board governance terms which may be more specifically established by separate City Council resolution, Board bylaw or otherwise;

WHEREAS, the City Council deems the adoption of this Ordinance, the changes to the Board, the other changes set forth herein and any resulting amendments or modifications to prior ordinances to be necessary, desirable and in the best interest of the citizens and rate payers of the City and not materially adverse to the interests of the owners of previously issued and outstanding City water and sewer revenue bonds; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS THAT:

SECTION 1: The El Paso Water Utilities Public Service Board will now consist of seven members, one of whom must be the Mayor of the City as provided for by Texas Government Code Section 1502.070(a)(B).

SECTION 2: Each vacancy in Board membership whether occasioned by expiration of office or otherwise shall be filled by the City Council from three persons eligible to serve as Board members and presented to City Council. A selection committee selected by the City Council and comprised of the Board and such additional members as appointed by City Council shall agree upon and submit to City Council the names of such three eligible persons.

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SECTION 3: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 4: The provisions of this ordinance shall be incorporated into all future ordinances authorizing the issuance of the City's water and sewer revenue bonds. All prior ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby amended or modified to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein. If it is determined under applicable law, that bondholder consent is required pursuant to the terms of certain ordinances authorizing the issuance of the City's water and sewer revenue bonds prior to 2004 before certain of the provisions hereof may be effective, then the provisions of this Ordinance for which consent is required shall not be effective until such consent is obtained, such bonds are no longer outstanding or a court of competent jurisdiction or other legal authority makes a determination that such provisions are effective.

SECTION 5: This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America. References to "applicable law" herein include all applicable federal, state and local statutes, regulations, rules and ordinances.

SECTION 6: If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 7: It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 8: This Ordinance shall be effective as of the date of its adoption by City Council.

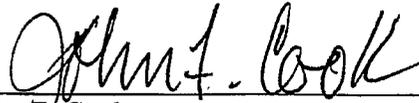
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PASSED, ADOPTED AND APPROVED on this the 11th day of August, 2009.

CITY OF EL PASO, TEXAS



John F. Cook
Mayor, City of El Paso, Texas

ATTEST:

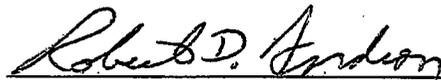


Richarda Duffy Momsen
City Clerk, City of El Paso, Texas

APPROVED AS TO FORM:



Charles McNabb
City Attorney



Robert Andron, General Counsel
El Paso Water Utilities

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