

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Municipal Clerk

AGENDA DATE: March 17, 2009

CONTACT PERSON/PHONE: Richarda Duffy Momsen, Municipal Clerk, (915) 541-4127

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Second Amendment to the Resolution providing for the 2009 Special Election in the City of El Paso for the Submission of a Measure to be held within the City on May 9, 2009, to amend paragraph 1 to restate the language of the Measure for the ballot.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

This amendment to the Resolution is presented to set forth revised ballot language prepared by outside legal counsel retained by the PSB, for the Council's reconsideration. March 17, 2009 is the last day that the Council may take action to amend the ballot language, so that the deadline can be met for the printing of the ballots for absentee voting by mail.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

The original Resolution was approved on February 10, 2009, and was amended to correct two Scribner's errors and add a revised list of polling places on March 10, 2009.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Yes, the election is budgeted.

Department	11010009	Municipal Clerk
Account	502203	Elections
Fund	01101	General Fund

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

09 MAR 12 AM 11:05

SECOND AMENDMENT TO THE RESOLUTION PROVIDING FOR THE 2009 SPECIAL ELECTION IN THE CITY OF EL PASO FOR THE SUBMISSION OF A MEASURE TO BE HELD WITHIN THE CITY ON MAY 9, 2009, TO AMEND PARAGRAPH 1 TO RESTATE THE LANGUAGE OF THE MEASURE FOR THE BALLOT.

WHEREAS, the City Council adopted a Resolution on February 10, 2009 to call a 2009 Special Election, which was amended and corrected on March 10, 2009; and

WHEREAS, except as herein amended, the Resolution dated February 10, 2009, as amended on March 10, 2009, to call the 2009 Special Election shall remain in full force and effect.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the Resolution dated February 10, 2009 to call the 2009 Special Election ("Resolution"), be amended for the purpose of adopting and incorporating a revised paragraph 1, as follows:

1. That pursuant to the Texas Election Code, as amended, a special election will be held on Saturday, May 9, 2009 in the City of El Paso for the purpose of submitting the following measure to the qualified voters. Official ballots for the election shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote for or against the measure with the ballots to contain such provisions, markings, and language required by law, and with such measure to be expressed substantially as follows:

ADOPTION OF AN ORDINANCE OF THE CITY OF EL PASO
text of the ordinance

Adoption of an ordinance titled "An ordinance of the City of El Paso, Texas, transferring the rate making authority and changing the rate of the municipal utility drainage system," and specifically providing as follows:

WHEREAS, the City of El Paso ("El Paso") previously established a Municipal Drainage Utility System via Ordinance No. 16668; and

WHEREAS, the citizens of El Paso have clearly voiced the opposition of the Municipal Drainage Utility System and the fees imposed for its operation; and

WHEREAS, the City, in deference to the views of its Citizens, wishes to restructure and reduce the fees imposed for the operation of the Municipal Drainage Utility System; and

WHEREAS, the City recognizes state law prohibits it from altogether dissolving the Municipal Drainage Utility System until it has operated substantially continuously for five years; and

WHEREAS, the City retains the authority to transfer operation of the Municipal Drainage Utility System from the Public Service Board back to City Council and to reduce the rate for the drainage utility.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section I. Definitions.

"Board" means that certain board of trustees known as the "Public Service Board" established by the City pursuant to Section 1502.070 of the Texas Government Code and charged with having complete authority and control of the management and operation of the water and wastewater system of the City, as "City" means the City of El Paso, Texas, a Texas Home Rule Municipality.

"System" means the Municipal Drainage Utility System established by Ordinance 16668 and encompasses the complete drainage system of the City as it now exists and may be improved, added to, or extended hereafter, there being included in such term all drainage facilities now or hereafter owned or operated.

Section II.

1. Section III D of Ordinance 16668 is hereby rescinded. The authority and control of the management and operation of the system is hereby transferred from the Board to the City. The System shall be operated by the City Manager subject to the control and direction of City Council.
2. No monthly stormwater fee shall be imposed on any improved parcel within the City of El Paso or on any customers of the Board until further action by the City of El Paso acting through its City Council.
3. All fees and charges of the Municipal Drainage Utility System and all fees for storm water drainage are hereby suspended until further action by the City of El Paso acting through its City Council.
4. This Ordinance shall take effect immediately upon its adoption.

CITY CLERK DEPT.
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- 5. The City Manager is authorized to execute documents and take all appropriate action to give effect to this Ordinance.

Ballot Measure

FOR () Shall the petitioner's ordinance transferring management of the City of El Paso's stormwater utility from the El Paso Water Utilities Public Service Board to the El Paso City Council be approved?
AGAINST ()

APPROVED this 17th day of March 2009.

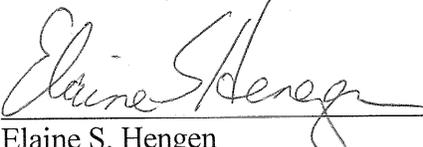
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

APPROVED AS TO FORM:

Richarda Duffy Momsen
City Clerk



Elaine S. Hengen
Senior Assistant City Attorney