

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

**DEPARTMENT:** El Paso Water Utilities Public Service Board

**AGENDA DATE:** Introduction: August 4, 2009  
Passage: August 11, 2009

**CONTACT PERSON/PHONE:** Edmund G. Archuleta, P. E., President/CEO/(915) 594-5501

**DISTRICT(S) AFFECTED:** All

**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.

An Ordinance relating to the composition of the El Paso Water Utilities Public Service Board and Resolving Matters Incident and Related Thereto. **(All Districts)** (Contact person: Edmund G. Archuleta, P.E., 594-5501)

**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?

The El Paso City Council and the El Paso Water Utilities Public Service Board ("Board") caused a governance review of the El Paso Water Utilities Public Service Board to be conducted in April and May of 2009. As a result of that review and after receiving the PSB Governance Practices Review Phase 2 Report, April 7, 2009 from Public Affairs Consulting and Prestige Consulting, the City Council and El Paso Water Utilities Public Service Board agreed upon an expansion of the Board from its current five members to seven members. In order to expand the Board numerically, an amendment to the Texas Government Code Section 1502.070 was required.

At the 81<sup>st</sup> Session of the Texas Legislature, House Bill 4004 was passed which bill was signed into law by the Governor on May 23, 2009. This bill enabled the expansion of the Board to seven members, one of whom must be the Mayor.

The Ordinance put forth for this City Council action accomplishes the expansion of the Board from five to seven members, one of whom must be the Mayor.

**PRIOR COUNCIL ACTION:**

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

No.

**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?

The impact of this item financially will be funded by the El Paso Water Utilities Public Service Board in its budget process. No budget transfer is required.

**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:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

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

WHEREAS, the 81<sup>st</sup> 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.

**ORDINANCE NO. \_\_\_\_\_**

Doc. No. 50035 v2  
Doc. Name: Ordinance/PSB Board  
Doc. Author: CMCN

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.

*[The remainder of this page intentionally left blank.]*

**ORDINANCE NO.** \_\_\_\_\_

Doc. No. 50035 v2  
Doc. Name: Ordinance/PSB Board  
Doc. Author: CMCN

PASSED, ADOPTED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 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

ORDINANCE NO. \_\_\_\_\_

Doc. No. 50035 v2  
Doc. Name: Ordinance/PSB Board  
Doc. Author: CMCN



TO: Joyce A. Wilson, City Manager  
El Paso, Texas

FROM: Robert D. Andron, General Counsel *Andron*  
El Paso Water Utilities Public Service Board

DATE: July 27, 2009

SUBJECT: Request to place Item City Council Agenda – Introduction: August 4, 2009  
Passage: August 11, 2009

An Ordinance Relating to the Composition of the El Paso Water Utilities Public Service Board and Resolving Matters Incident and Related Thereto. **(All Districts)** (Contact person: Edmund G. Archuleta, P.E., 594-5501)

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RESOLUTION INTRODUCTION AND PASSAGE – City Council Agenda – July 14, 2009

Background

The El Paso City Council and the El Paso Water Utilities Public Service Board (“Board”) caused a governance review of the El Paso Water Utilities Public Service Board to be conducted in April and May of 2009. As a result of that review and after receiving the PSB Governance Practices Review Phase 2 Report, April 7, 2009 from Public Affairs Consulting and Prestige Consulting, the City Council and El Paso Water Utilities Public Service Board agreed upon an expansion of the Board from its current five members to seven members. In order to expand the Board numerically, an amendment to the Texas Government Code Section 1502.070 was required.

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City Manager Joyce A. Wilson  
Department Memo, July 27, 2009  
Request for Item for City Council Agenda  
**Ordinance—Introduction - August 4, 2009**  
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**ACTION REQUESTED**

The City Council pass the proposed ordinance which expands the El Paso Water Utilities Public Service Board from five members, one of whom must be the Mayor to seven members, one of whom must be the Mayor in accordance with the amendment to the Texas Government Code Section 1502.070 as passed by the Texas Legislature and signed into law by the Governor on May 23, 2009.

**REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA**

Attached is a copy of the Ordinance. Upon adoption of the Ordinance, it is requested that the City Clerk provide to this office a copy of the fully executed Ordinance.

Please advise this office of the placement of this item on the City Council Agenda and my Secretary will contact the City Clerk and make arrangements to have document packets hand-delivered to the City Clerk's Office and email backup documents as noted to those listed below. If there are any questions, please call me at 594-5607 or email [bandron@epwu.org](mailto:bandron@epwu.org). Utility staff will plan to attend the City Council meeting on Tuesday, August 4, 2009 and Tuesday, August 11, 2009. Thank you for your kind attention to this matter.

Attachments

Cc: The Honorable Mayor John Cook (email)  
City Council Representatives (email)  
Pat Adata, Deputy City Manager for Building & Planning Services (email)  
Charlie McNabb, City Attorney (email)  
Theresa Cullen, Deputy City Attorney (email)  
Richarda Duffy-Momsen, City Clerk (hard copies & email)  
Nicholas J. Costanzo, Vice President of Strategic, Financial & Management Services (email)  
Marcela Navarrete, Chief Finance Officer, PSB (email)