

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

DEPARTMENT: Office of the City Attorney

AGENDA DATE: For Introduction: September 1, 2009
Public Hearing: September 8, 2009

CONTACT PERSON/PHONE: Elaine S. Hengen, City Attorney's Office, 541-4550

DISTRICT(S) AFFECTED: All

SUBJECT: Ordinance

BACKGROUND / DISCUSSION: On August 4, 2009, the City Council unanimously approved a motion directing staff to prepare and present to Council, an ordinance making the Public Service Board members subject to the Ethics Ordinance. This agenda item in brought forward in response to the Council's direction.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?
See above statement.

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION: N/A

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

LEGAL: (if required) Elaine S. Hengen **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 MAKING CHAPTER 2.92 OF THE EL PASO CITY CODE APPLICABLE TO THE MEMBERS OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AND RESOLVING MATTERS INCIDENT AND RELATED THERETO; THE PENALTY BEING AS PROVIDED IN SECTION 2.92.150 OF THE EL PASO CITY CODE.

WHEREAS, Chapter 2.92, titled “Ethics,” of the City Code of the City of El Paso, Texas (as now in effect and as hereinafter amended, the “Ethics Ordinance”) establishes the minimum standards that officers and employees of the City must meet to ethically fulfill the responsibilities of their positions; and

WHEREAS, the El Paso Water Utilities Public Service Board (the “Board”) was established in 1952 by City Ordinance and is charged with the management and control of the water, sewer, and drainage systems of the City; and

WHEREAS, members of the Board are appointed by the City Council of the City and the City Council desires such Board members to be subject to the provisions of the Ethics Ordinance; and

WHEREAS, the City Council deems the adoption of this Ordinance to be necessary, desirable and in the best interest of the citizens and rate payers of the City.

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

SECTION 1: Notwithstanding anything contained in other City ordinances to the contrary, the Board is hereby deemed a “Board” under the Ethics Ordinance and members of the Board are hereby deemed “Officers” under the Ethics Ordinance and, as such, are subject to and must comply with the provisions contained therein.

SECTION 2: The Board shall be identified on the list or lists maintained by the City Clerk to reflect that the members of the Board are subject to the various provisions contained in the Ethics Ordinance and such list or lists shall made available to the public as provided for by the Ethics Ordinance.

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 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.

ADOPTED on this the ___ day of _____, 2009.

CITY OF EL PASO, TEXAS

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Senior Assistant City Attorney