

RESOLUTION NO. 09-076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE  
ROBLES ESTABLISHING DATES FOR THE SUBMISSION OF ARGUMENTS  
REGARDING THE REFERENDUM SPECIAL ELECTION  
SET FOR NOVEMBER 3, 2009

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WHEREAS, the City Council of the City of El Paso de Robles has called a special election for the purpose of submitting a referendum to the voters of the City of El Paso de Robles, to be held on November 3, 2009; and

WHEREAS, Section 9286 of the Elections Code provides that dates be established for the submittal of arguments in favor of and against the measure.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to section 9286 of the Elections Code, the final date for the submission of primary arguments for or against the measure shall be August 12, 2009. The date for the submission of the city attorney's impartial analysis of the measure, pursuant to section 9280 of the Elections Code, shall be August 12, 2009.

SECTION 2. Pursuant to Section 9285 of the Elections Code, the final date for the submission of rebuttal arguments shall be August 21, 2009.

SECTION 3. Pursuant to section 9295 of the Elections Code, the public examination period for primary arguments and the city's attorney's impartial analysis shall be from August 13 to August 24. Pursuant to section 9295 of the Elections Code, the public examination period for rebuttal arguments shall be from August 20 to August 31.

SECTION 4. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County elections official of the County of San Luis Obispo.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 16<sup>th</sup> day of June, 2009, by the following roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco  
NOES:  
ABSTAIN:  
ABSENT:

  
\_\_\_\_\_  
Duane Picanco, Mayor

ATTEST:

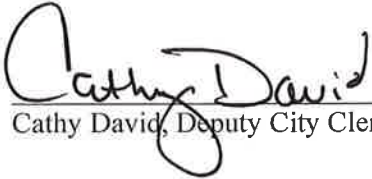
  
\_\_\_\_\_  
Cathy David, Deputy City Clerk

EXHIBIT 1

RESOLUTION NO. 09-071

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES CALLING A SPECIAL ELECTION TO BE HELD IN THE CITY ON NOVEMBER 3, 2009, FOR THE PURPOSE OF SUBMITTING A REFERENDUM TO THE VOTERS TO RATIFY OR REJECT THE CITY COUNCIL'S APPROVAL OF ADJUSTMENTS TO WATER USER FEES AS SET FORTH IN ORDINANCE NO. 953 N.S., AS ADOPTED BY THE CITY COUNCIL ON FEBRUARY 3, 2009**

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WHEREAS, pursuant to Elections Code section 9240, a petition for referendum seeking the repeal of Ordinance No. 953 N.S. was found to be sufficient, and the City Clerk certified the results of the examination to the City Council at its April 7, 2009, meeting; and

WHEREAS, pursuant to Elections Code section 9241, if the City Council does not entirely repeal the ordinance against which the petition is filed, the City Council shall submit the ordinance to the voters; and

WHEREAS, pursuant to Elections Code sections 1410 and 9241, the election shall be held at the next regular municipal election occurring not less than 88 days after the date of the order of election, or at a special election called for that purpose not less than 88 days after the date of the order of election; and

WHEREAS, the next regular municipal election is in November 2010.

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Calling of the Special Election. Pursuant to the laws of the State of California relating to municipal referenda and municipal elections, including municipal elections consolidated with other elections, the City Council of the City of El Paso de Robles hereby calls and orders held a special municipal election to be held in the City of El Paso de Robles, County of San Luis Obispo, State of California on November 3, 2009, for the purpose of placing on the ballot the following measure:

"MEASURE \_\_\_\_\_

Shall the City Council's approval of Ordinance No. 953 N.S., increasing monthly water user rates effective January 1, 2010, where the rate for water users shall be a combination of a fixed rate plus a variable rate based on consumption, and where the variable rate component shall be further adjusted every January 1, up to, and including, January 1, 2014, be ratified?

Yes: \_\_\_\_\_ No: \_\_\_\_\_"

A full and complete copy of Ordinance No. 953 N.S. is attached hereto as Exhibit 1 and incorporated herein by this reference.

SECTION 2. Said special election shall be held on November 3, 2009. In all particulars not recited in this Resolution, said special election shall be conducted as provided by law for the holding of municipal elections in the City and the consolidation of municipal elections with other elections. Said special election shall be consolidated with all other elections to be held within the City on November 3, 2009.

SECTION 3. The City Council hereby directs the County Clerk to administer the special election to be held on November 3, 2009.

SECTION 4. The City Council hereby authorizes the appropriation of \$75,000 from the City's Water Operation Fund to finance the special election.

SECTION 5. The City Council hereby directs the City Attorney to prepare an impartial analysis of the measure in accordance with section 9280 of the Election Code showing the effect of the measure on existing law and the operation of the measure.

SECTION 6. Rebuttal arguments may be submitted as provided for in section 9285 of the Elections Code of the State of California. The provisions of said section 9285 are hereby adopted and shall apply to this election.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 2nd day of June, 2009, by the following roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Duane Picanco, Mayor

ATTEST:

\_\_\_\_\_  
Cathy David, Deputy City Clerk

**EXHIBIT 2**

**ORDINANCE NO. 953 N.S.**

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING SECTION 14.04.020 OF THE CITY OF EL PASO DE ROBLES  
MUNICIPAL CODE TO ADJUST WATER USER FEES**

WHEREAS, the City Council has adopted the Integrated Water Resources Plan and approved participation in the Nacimiento Water Project to help assure a high quality and continuous supply of water to its citizens; and

WHEREAS, current water rates and water capacity charges generate revenues to provide drinking water to residents and businesses from ground water with an allowance for a portion of initial Nacimiento Water Project expenditures; and

WHEREAS, the existing water rates were set before the costs of the Nacimiento Water Project were fully known; and

WHEREAS, the water to be provided by the Nacimiento Water Project and the associated improvements to the City water system are necessary to improve quality and supplement the limited ground water supply especially during peak summertime demand periods, and also to provide adequate distribution, treatment, and water storage capacity; and

WHEREAS, the Nacimiento Water Project infrastructure is designed to have the capacity to serve both existing City water customers as well as those resulting from new development; and

WHEREAS, the City hired the firm of Kennedy/Jenks Consultants to undertake a comprehensive review of the City's water rate revenues and costs of water operations which was presented to the City Council in July 2008; and

WHEREAS, upon further consideration and study and public input, the City Council determined in September 2008 that the initially proposed water user rates would be unduly burdensome upon water customers and directed staff to consider an alternative approach; and

WHEREAS, Kennedy/Jenks presented a revised study, dated September 29, 2008, (the "Revised Water Rate Study") analyzing an alternative pay-as-you-go approach that would phase in water system improvement costs over a 17-year period rather than a 10-year period, and use other available revenues to avoid incurring the additional costs incurred with issuing bonds; and

WHEREAS, the alternative approach would help ensure that users pay for operations and improvements that serve the existing community, while new development would pay for those improvements that offset their impacts; and

WHEREAS, the Revised Water Rate Study recommends that the costs of capital improvements and water utility operating expenses be paid for with a combination of (i) water rates that are charged to existing customers and (ii) water connection fees/capacity charges that are charged for new development; and

WHEREAS, the City Council believes a combination of a fixed and variable rate structure- for water users is the most equitable method of helping pay for a reliable, well-maintained; infrastructure system and reliable water source; and

WHEREAS, the City Council, on October 21, 2008, authorized staff to mail the notices required by Proposition 218 to all property owners and water customers and set January 20, 2009 as the date for a public hearing on the proposed adoption of new water user rates; and

WHEREAS, Section 53756 of the Government Code, which took effect January 1, 2009, authorizes an agency providing water service to adopt a schedule of adjustments to fees, which schedule may be for up to a period of five (5) years; and

WHEREAS, notices were mailed to all property owners and water customers on October 27, 2008; and

WHEREAS, in light of current economic conditions, the City Council has determined that the proposed July 1, 2009 increase in water user rates should be deferred, and that existing water user rates should remain in effect until January 1, 2010; and

WHEREAS, at the public hearing on January 20, 2009, the Deputy City Clerk attested that written protests by the owners of a majority of the affected properties had not been presented; and

WHEREAS, the staff report and the Water Rate Study, and other public and written testimony presented at the public hearing are incorporated herein by reference;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Subdivision C of Section 14.04.020 of the Paso Robles Municipal Code is hereby amended to read as follows:

C. FEES—WATER USAGE RATES. The monthly rates to be charged and collected for all water consumption including bulk water delivery, or fire hydrant usage from every person, school, firm, or corporation shall be charged at rates established by ordinance of the City Council and adopted in accordance with the procedures required by law.

Commencing with the effective date of this Ordinance No. 953, the rate for water users shall be a combination of (i) a fixed rate, plus (ii) a variable rate based on consumption. The variable rate component shall be further adjusted every January 1<sup>st</sup> thereafter as set forth in the following table:

<b>Monthly Fixed Rate</b>	Existing	1/1/2010	1/1/2011	1/1/2012	1/1/2013	1/1/2014
<b>All Meters</b>	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00

**Variable Consumption Charges (\$/HCF\*)**

<b>Usage Rate (all users except as set forth below)</b>	\$1.32	\$1.75	\$2.00	\$2.25	\$2.50	\$2.75
<b>Single Family 0-5 Units*</b>	\$1.32	\$1.49	\$1.70	\$1.91	\$2.13	\$2.34

\*One Unit is equivalent to 748 gallons, or one Hundred Cubic Feet ("HCF")

The water usage fees shall further be reviewed no less than biennially in conjunction with the update of the City's budget to ensure that the water user charges then in existence do not exceed the costs of providing water service within the City."

**SECTION 3. Severability**

If any action, subsection, sentence, clause or phrase of this ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. Publication

The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California, and cause the same to be published once in a newspaper of general circulation, published and circulated in the City of El Paso de Robles.

SECTION 5. Effective Date.

This Ordinance will take effect thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council held on January 20, 2009 for first reading by the City Council of the City of El Paso de Robles, and adopted on the 3rd day of February, 2009 by the following vote:

- AYES: Gilman, Hamon, Steinbeck, Strong and Picanco
- NOES:
- ABSTAIN:
- ABSENT:

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Duane Picanco, Mayor

ATTEST:

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Cathy David, Deputy City Clerk