

To: The Honorable Mayor and City Council

From: Michael A. Etienne, Esquire, City Clerk



Date: ~~January 22, 2013~~ February 12, 2013 (Second Reading)

RE: **CONSIDERATION OF PROPOSED ORDINANCE CHANGING THE DATES OF THE RUNOFF ELECTIONS IN ACCORDANCE WITH THE CITY CHARTER AND STATE LAW**

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**RECOMMENDATION**

The City Clerk's office is recommending approval and is requesting the City Council adopt the attached Ordinance, amending Chapter 6 of the City Code of Ordinances entitled, "Elections", specifically at Article IV, entitled, "Elections Administration, and Section 6-76, entitled, "Dates of Elections" to change the dates of the runoff elections in accordance with the City Charter and state law.

**BACKGROUND**

The Supervisor of the Miami-Dade Elections Department has requested that municipalities hold general election and any run-off election a minimum of three weeks apart to provide the Elections Department with more time to prepare for the run-off election. On November 2, 2010, the question was placed on the ballot for consideration and received majority vote for adoption, to be incorporated in the City Charter. This change would benefit the City and the Elections Department in providing a more efficient and streamlined election.

**Attachments**

- 1.) Proposed Ordinance

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

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 6 OF THE CITY CODE OF ORDINANCES, ENTITLED "ELECTIONS", BY AMENDING ARTICLE IV, ENTITLED "ELECTION ADMINISTRATION" SPECIFICALLY AT SECTION 6-76, ENTITLED "DATES OF ELECTIONS" TO CHANGE THE DATES FOR RUNOFF ELECTIONS IN ACCORDANCE WITH THE CITY CHARTER AND STATE LAW; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, Article II, Section 164, of the City Charter requires that regular elections shall be held in odd-numbered years, on the second Tuesday in May, or e.g., Tuesday, May 14, 2013; and

**WHEREAS**, Article II, Section 165, of the City Charter provides that if a run-off election is necessary, the date shall be established by ordinance, not more than three (3) weeks after the regular election or a runoff election; and

**WHEREAS**, Section 6-76, of the City Code provides for the date of a run-off election, if necessary, one (1) week later, on the third Tuesday or e.g., Tuesday, May 21, 2013; and

**WHEREAS**, Section 100.3605, Florida Statutes, grants the City Council with the authority to change the dates of its election; and

**WHEREAS**, the Supervisor of the Miami-Dade Elections Department has requested that municipalities hold general election and any run-off election a minimum of three (3) weeks apart to provide the Elections Department with more time to prepare for the run-off election; and

**WHEREAS**, this change would benefit the City and the Elections Department in providing a more efficient and streamlined election; and

**WHEREAS**, the City Council desires to change the City's runoff election dates accordingly.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:**

**Section 1.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 6 of the Code of Ordinances entitled "Elections", under Article IV, entitled

“Election Administration”, specifically at Section 6-76, entitled “Dates of Elections,” to provide for the inclusion and applicability of the Code of Ordinances pursuant to statutory and municipal laws as follows:

**CHAPTER 6. ELECTIONS**

\* \* \* \* \*

**ARTICLE IV. ELECTION ADMINISTRATION**

\* \* \* \* \*

**Sec. 6-76. - Dates of elections.**

- (a) Regular elections to fill the office of mayor, city councilmember or city clerk shall be held in odd-numbered years, on the second Tuesday in May.
- (b) In the event no candidate receives a majority of the votes cast in the regular election, a runoff election between the two (2) candidates receiving the largest number of votes for a seat shall be held in odd-numbered years, on the ~~third~~ first Tuesday in ~~May~~ June. Any subsequent runoff election shall be held in exactly three (3) weeks thereafter.

**Section 2. Repeal.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 3. Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 22 day of January, 2013.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
ANDRE D. PIERRE, ESQ.  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY CLERK

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Andre D. Pierre, Esq.	_____ (Yes)	_____ (No)
Vice Mayor Marie Erlande Steril	_____ (Yes)	_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Jean R. Marcellus	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.



# MEMORANDUM

To: The Honorable Mayor and City Council

From: Stephen E. Johnson   
City Manager

RE: ELECTION RUN-OFF TIME REQUIRED FOR OTHER MUNICIPALITIES IN MIAMI-DADE COUNTY

Date: January 16, 2013

The information contained below is provided to you as a comparison regarding election run-off timeline relating to other municipalities in Miami-Dade County.

<u>Municipality</u>	<u>Election run-off time required</u>
Aventura	no run-off
Bay Harbor Islands	30 days
Biscayne Park	2 weeks
Coral Gables	no run-off
Doral	3 weeks
Florida City	3 weeks
Golden Beach	no run-off
Hialeah	2 weeks
Hialeah Gardens	2 weeks
Homestead	4 weeks
Indian Creek Village	no run-off
Miami Beach	2 weeks
Miami Gardens	August / November
Miami Lakes	no run-off
Miami Shores	works with Miami-Dade County
Miami Springs	no run-off
North Bay Village	2 weeks
North Miami Beach	2 weeks
Palmetto Bay	2 weeks
Pinecrest	2 weeks
Sunny Isles	30 days
Surfside	2 weeks
Sweetwater	2 weeks
West Miami	no run-off



**Elections**  
 2700 NW 87th Avenue  
 Miami, Florida 33172  
 T 305-499-VOTE F 305-499-8547  
 TTY: 305-499-8480

miamidade.gov

March 4, 2009

Kevin Burns, Mayor  
 City of North Miami  
 776 NE 125 Street  
 North Miami, FL 33161

Dear Mayor Burns:

As you know, the City of North Miami is currently scheduled to hold the North Miami Regular Election on May 12 and the North Miami Run-Off Election on May 19, 2009. Allowing only one week between elections does not provide adequate time for the Miami-Dade Elections Department to prepare for the Run-Off Election; and more importantly, does not provide the voters of your city adequate time to vote and return their absentee ballot by the state-mandated deadline.

My office has communicated on several occasions with Jacqie Vieira, Deputy City Clerk, regarding our position; and most recently sent a letter to Frank Wolland, City Clerk stating that the Elections Department requires three weeks between elections in order to properly serve the voters of your city. Ms. Vieira continues to verbally communicate to my staff that Mr. Wolland refuses to change the date of the potential Run-Off. I am now escalating this issue to your attention so that you too are fully aware of the hardship that your city will be placing on the Elections Department and the voters of your jurisdiction.

Now that the Elections Department utilizes the optical scan voting system, much more preparation time is required. To illustrate, below is a list of procedures that must be conducted prior to the Run-Off Election, and therefore in less than one week:

- Update voter registration records
- Code, proof and test two different voting systems (optical scan and electronic)
- Order, print, process and mail absentee ballots
- Give adequate time to voters to receive and return their absentee ballot
- Reset, reprogram, and retest all election equipment
- Prepare for and conduct the state-mandated Logic and Accuracy Test (L&A)
- Deliver paper ballots and supplies to polling locations

It is a tremendous challenge for this Department to perform all of the procedures stated above in the timeframe that currently exists. We have a responsibility to carry out these activities accurately, and one week is not sufficient.

*Delivering Excellence Every Day*

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

The greatest concern I have is in regards to your voters who take advantage of absentee voting. Presently, 2,030 voters are scheduled to receive absentee ballots for the Run-off Election. State law requires that the Elections Department mail ballots no later than the Friday before Election Day. This gives us three (3) days to code the election, and order, print, process and mail absentee ballots to these voters. Not only is this nearly impossible, the short time period may prevent voters from successfully returning the ballot to our office by the Tuesday deadline, thereby disenfranchising them.

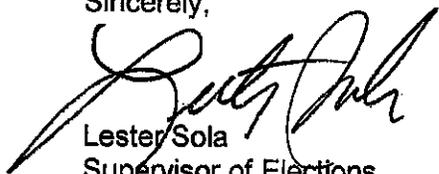
Florida Law clearly authorizes municipalities to modify election dates via ordinance; and the Charter for the City of North Miami explicitly references it. F.S. 101.75 - Municipal elections; change of dates for cause. I refer you to section (2): The date of the municipal election shall be set by the municipality by ordinance.

Therefore, I strongly urge that an ordinance be approved by your City Council moving your May 19, 2009 Run-Off Election to June 2, 2009 or beyond, giving us the three weeks that we require. We cannot compromise the integrity of any election by having to expedite procedures that require accuracy; and I believe it is our responsibility to allow voters sufficient time to vote their absentee ballots. I hope you support this position.

I would also like to mention that the Elections Department has been urging the City of North Miami to extend the timeframe between these elections since 2005. In fact, in 2005, Resolution R-2005-2 called for the elections to be held two weeks apart – May 10, 2005 with any necessary run-off election to be held on May 24, 2005. In addition, I have enclosed the letter sent to Mr. Wolland in 2007 for your reference. Thinking long term, I ask that you and your council propose to amend your charter to reflect the three weeks that the Elections Department requires to deliver thorough, complete, and accurate elections.

This letter begins and ends with our ability to provide the voters of your city with the level of service they deserve and you want to provide. Should you have any questions or require additional information, please feel free to contact me at 305-499-8509.

Sincerely,



Lester Sola  
Supervisor of Elections  
Miami-Dade Elections Department

cc: Clarence Patterson, Manager, City of North Miami  
Frank Wolland, City Clerk, City of North Miami  
Jacqie Vieira, Deputy City Clerk, City of North Miami  
Honorable Carlos Alvarez, Mayor, Miami-Dade County  
George M. Burgess, County Manager, Miami-Dade County  
Alina T. Hudak, Assistant County Manager, Miami-Dade County

Enclosure