

# Memo

To: The Honorable Mayor and Members of the Village Council

From: David M. Wolpin

Date: For August 30, 2005

Re: **Repeal of Resolution which had called an election for November 1, 2005 on the two (2) proposed Village Charter Amendments: (1) eliminating primary elections for Councilmembers; (2) revising the term of office for Councilmembers**

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## **Recommendation**

It is recommended that the Village Council determine whether to adopt the enclosed proposed Resolution which would repeal Resolution No. 2005-30. Resolution No. 2005-30 had set an election date of November 1, 2005 for submittal to the Village electors of the above-referenced proposed Village Charter amendments. If Resolution No. 2005-30 is repealed, a new election date may be determined at a later date. Alternatively, the Village Council may determine to keep the proposed Charter amendment election for the November 1, 2005 date, as a stand-alone Village special election.

A summary of alternatives is listed below on page 3 of this Memo. The selection from these alternatives is made necessary by the circumstance that the Circuit Court of Miami-Dade County has recently determined that the proposed Miami-Dade County Charter amendment (concerning the authority of the Mayor of Miami-Dade County) is not amenable to presentation to the electors of the county.

## **Background**

Pursuant to Resolution No. 2005-30, the Village Council had determined that by utilizing the special election which was then likely to be called by Miami-Dade County on the proposed amendment of the County Charter, for the propose of submitting to the Village electors the two authorized proposed amendments to the Village Charter, the Village would achieve an early determination of the decision of the electors of the Village upon the proposed Village Charter

amendments while avoiding the added cost of calling a stand-alone Village special election. However, the Memo accompanying Resolution No. 2005-30 recognized that:

If the special county election is not held, this Resolution may simply be repealed if desired by the Council.

Although the recent Circuit Court decision may be appealed, the County Supervisor of Elections office has confirmed to us that even if the uncertain course of the litigation results in a different ruling, there will not be sufficient time for the County to call a special election for November 1, 2005. Accordingly, a question arises as to whether the Village Council may still avoid the added expense of calling a Village special election, by placing the Village Charter amendments on the ballot for the **September 5, 2006** regular County election. Although use of the September 5, 2006 County election date will still enable the results of the Village Charter amendment election to be known in advance of the scheduled October 2006 Village Mayor and Council primary election, the results will not be known until after completion of the candidate qualifying process and may occur in midst of the primary election ballot preparation process. This may create confusion and uncertainty for candidates and the public.

Accordingly, it may be necessary for sometime early in 2006, to call a Village special election on the Charter amendment eliminating primaries for election of Councilmembers or to place that Charter amendment on the September 2006 regular County election ballot along with the Charter amendment revising the term of office of Councilmembers, but revising the Charter amendment eliminating primary elections so that it takes effect in 2008, rather than in 2006. That adjustment will eliminate the factor of any disruptive change occurring in the midst of the primary election ballot preparation process, as described above.

So that the Council might consider whether to continue to utilize the November 1, 2005 date for the two proposed Village Charter amendments, the Village Clerk has contacted the County Supervisor of Elections Office for an estimate of the Village's additional cost of a stand-alone Village special election.<sup>1</sup> The County's estimate should be available for the August 30, 2005 meeting.

**If the Council finds that this cost is prohibitive, the best approach may be to place the Charter amendment revising the term of office of Councilmembers on the September 5, 2006 County election ballot along with the Charter amendment on the elimination of primary elections for Councilmembers, while adjusting the latter amendment to make it effective for the 2008 election. If that approach is selected, it will be necessary to amend Ordinance 2005-11 which had provided the text and ballot language for that Charter amendment, to make that adjustment.**

Finally, in the unlikely event that something unexpected happens and the County special election is in fact held on November 1, 2005, we have included a special provision in Section 4 of this Resolution so that the later repeal of this proposed Resolution, if adopted, shall revive the

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<sup>1/</sup> Based on the experience of other cities, the added cost may be approximately \$20,000.00 - \$25,000.00.

effectiveness of Resolution No. 2005-30 and enable the Village Charter amendments to be included in any such November 1, 2005 election.

**In summary, the alternatives presented for Council consideration are, as follows:**

- 1. Retain Resolution No. 2005-30 and proceed to hold the Village Charter amendment election on November 1, 2005 as a Village special election; or**
- 2. Repeal Resolution No. 2005-30, and at a later date determine when to hold an election on the proposed Charter amendments; or**
- 3. Repeal Resolution No. 2005-30, and authorize the preparation of a Resolution, at the appropriate time, to place both of the proposed Village Charter amendments on the ballot for the regular September 5, 2006 county election, and authorize the amendment of Ordinance No. 2005-11 so as to revise the effective date of the Charter amendment (which proposes to eliminate primary elections) from a 2006 effective date to a 2008 effective date; or**
- 4. Repeal Resolution No. 2005-30, and authorize the preparation of a Resolution setting a new Charter amendment election date sometime early in 2006.<sup>2</sup>**

Please advise if there are any questions on the above matter.

Respectfully Submitted,

DWM/ajj  
103.001/Memos  
Cc: Village Manager  
Village Clerk  
Stephen J. Helfman, Esq., Village Attorney

David M. Wolpin

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<sup>2/</sup> It should be noted that as to any resolution which calls an election for the presentation of a Charter amendment of the Village, it is necessary that the resolution be adopted no later than sixty (60) days and no sooner than one hundred twenty (120) days before the election date, as required by Miami-Dade County Charter Section 5.03 governing municipal charter amendments.

Miami-Dade County Elections Department  
 2700 NW 87th Avenue  
 Miami, Florida 33172

Invoice No. KB -ESTIMATE

**INVOICE**

**Customer**

Name City of Key Biscayne  
 Address 85 W. McIntire Street  
 City Key Biscayne State FL ZIP 33149  
 Contact Conchita Alvarez - City Clerk

**Misc**

Date 8/15/2005  
 Order No.  
 Rep  
 FOB

Qty	Description	Unit Price	TOTAL
<b>COST ESTIMATE</b>			
2,000	Ballot Printing and Shipping Charges	\$ 0.28	\$ 560.00
172	Absentee Ballot Postage Charges	\$ 0.60	\$ 103.20
3	Precinct Supplies	\$ 25.00	\$ 75.00
1	Ballot Creation/Tabulation	\$ 1,100.00	\$ 1,100.00
1	Labor/Overtime (Election preparation/Election Day)	\$ 3,770.58	\$ 3,770.58
1	Labor/Overtime (Administrative Troubleshooters)	\$ 500.00	\$ 500.00
1	Labor/Overtime (Warehouse)	\$ 1,000.00	\$ 1,000.00
1	Poll Worker Training	\$ 111.28	\$ 111.28
3	Elections Specialist Phone Charges	\$ 15.00	\$ 45.00
2	Precinct Communication	\$ 30.00	\$ 60.00
1	Advertisements (Required)	\$ 1,500.00	\$ 1,500.00
1	GSA Fleet	\$ 100.00	\$ 100.00
1	Pollworker Recruitment/Salary	\$ 2,200.00	\$ 2,200.00
*estimate does not include Early Voting cost		SubTotal	\$ 11,125.06
		Shipping	
		<b>TOTAL</b>	<b>\$ 11,125.06</b>

**Payment**

Check

Tax Rate(s)

Comments Please return payment to:  
 Attention: Maria Saboya,  
 Deputy Supervisor of Elections  
 Administration and Finance

Office Use Only

Please make checks payable to: Dade County Board of County Commissioners

**RESOLUTION NO. 2005-**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, REPEALING RESOLUTION NO. 2005-30 WHICH HAD CALLED AN ELECTION FOR NOVEMBER 1, 2005 TO PRESENT TO THE ELECTORS OF THE VILLAGE THE CHARTER AMENDMENTS CONCERNING THE TERM OF OFFICE OF COUNCIL MEMBERS AND THE ELIMINATION OF PRIMARY ELECTIONS FOR COUNCIL MEMBERS, AS AUTHORIZED BY CHARTER AMENDMENT ENABLING ORDINANCES OF THE VILLAGE, TO ENABLE NEW CHARTER AMENDMENT ELECTION DATE TO BE LATER SET; PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, pursuant to Resolution No. 2005-30, the Village Council had called an election for November 1, 2005 for the two (2) proposed Village Charter amendments provided by Ordinance No. 2005-04 and Ordinance No. 2005-11 to be submitted to the Village electors; and

WHEREAS, because of recent action by the Circuit Court, Miami-Dade County, Florida, upon the proposed County Charter amendment, which was anticipated to be submitted to the electors on November 1, 2005, it now appears that the County will not be holding a county-wide special election on November 1, 2005; and

WHEREAS, in order to attempt to avoid the added expense of a stand-alone special Village election, the Village Council desires to submit the proposed Village Charter amendments at a later date.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1.     Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

**Section 2.     Resolution No. 2005-30 Repealed.** That Resolution No. 2005-30 which

had called and set a Village Charter amendment election for November 1, 2005, is hereby repealed, subject to the provisions of Section 4 herein.

**Section 3.** **Implementation.** That the Village Clerk is hereby authorized to take any action which is necessary to implement or apply this resolution.

**Section 4.** **Effective Date.** That this resolution shall be effective immediately upon adoption hereof, except that if this resolution is subsequently repealed by the Village Council, Resolution No. 2005-30 shall be revived and be effective from its July 5, 2005 date of adoption.

PASSED AND ADOPTED this 30th day of August, 2005.

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MAYOR ROBERT OLDAKOWSKI

ATTEST:

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CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY