Weiss Serota Helfman Pastoriza
Cole & Boniske, P.A.

Memo

To: The Honorable Mayor and Members of the Village Council

From: David M. Wolpin

Date: May 9, 2006

Re: **Amendment Of Village Code Concerning Candidate Qualifying Period**

Recommendation

It is recommended that the Village Council consider the adoption of the enclosed proposed Ordinance which concerns the qualifying period for Mayor and Council elections.

Background

Village Code Section 2-101 "Qualifying Period" provides that candidates for the office of Mayor or Village Council shall qualify with the Village Clerk no earlier than Noon on the 55th day and no later than Noon on the 45th day prior to the date of the election.

On April 11, 2006, the Village electors approved an amendment to Section 5.01 of the Village Charter which eliminated primary elections for the Councilmember positions, while retaining the primary election for the office of Mayor. Accordingly, it is necessary to amend Section 2-101 so as to conform with the above-referenced Charter amendment by providing for the date of the Mayoral Primary election to serve as the date from which to calculate the commencement and end of the qualifying period for both Mayoral and Village Council elections in the regular election cycle.

Additionally, while making the above-referenced amendment of the Village Code, it is appropriate to amend the Village Code to establish a simple mechanism by which the Village Council may, by resolution, provide a qualifying period for those situations in which it may be necessary to call a special election to fill any vacancy in a Mayoral or Council office which occurs during the unexpired portion of any term of office.

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

Respectfully Submitted,

David M. Wolpin

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

ORDINANCE NO. 2006-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 2-101 "QUALIFYING PERIOD" OF ARTICLE V "ELECTIONS" OF CHAPTER 2 "ADMINISTRATION" OF THE VILLAGE CODE TO AMEND AND CLARIFY EXISTING CODE PROVISIONS CONCERNING THE QUALIFYING PERIOD FOR CANDIDATES FOR THE OFFICE OF MAYOR OR VILLAGE COUNCIL SO AS TO CONFORM TO THE RECENT AMENDMENT OF SECTION 5.01 OF THE VILLAGE CHARTER, AND TO PROVIDE A MECHANISM FOR ESTABLISHING QUALIFYING PERIODS FOR ANY SPECIAL MAYORAL OR COUNCIL ELECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to vote of the electors on April 11, 2006, the Village Charter was recently amended to eliminate the necessity for primary elections for the office of Councilmember, while retaining primary elections for the office of Mayor; and

WHEREAS, it is necessary to amend Village Code Section 2-101 "Qualifying Period", so as to conform with the recent Charter amendment, and to address the matter of the qualifying period for any special election which is required for any vacancy which may occur in the future for the office of Mayor or Village Council during an unexpired term of office, as provided herein.

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

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Village Code Amended.

That the Village Code of the Village of Key Biscayne, Florida, is hereby amended by amending Section 2-101 "Qualifying Period" of Article V "Elections" of Chapter 2 "Administration", to read as follows:[1]

> **Sec. 2-101. Qualifying Period.**
>
> Candidates for the office of Mayor or Village Council shall qualify with the Village Clerk no earlier than Noon on the 55th day and no later than Noon on the 45th day prior to the date of the Mayoral primary election for the regular elections cycle of the Village in the method provided for in the Village Charter or Code, and under the rules of elections prescribed in the Florida Statutes. In those situations in which a special election is called for the purpose of filling a vacancy which occurs on the Council or in the office of Mayor during an unexpired term of office, the Council shall by resolution establish the qualifying period during which candidates for the vacant office may qualify with the Village Clerk in the method provided for in the Village Charter or Code, and under the rules of elections prescribed in the Florida Statutes.

Section 3. Severability.

That 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 4. Inclusion in Code.

That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Village of Key Biscayne; that

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[1]/ Proposed additions to existing Village Code text are indicated by underline; proposed deletions from existing Village Code text are indicated by strikethrough.

the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date.

That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 9th day of May, 2006.

PASSED AND ADOPTED on second reading this ____ day of _____, 2006.

_____
MAYOR ROBERT OLDAKOWSKI

ATTEST:

_____
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY

F:/103.001/Ordinances/Ordinance Amending Qualifying Period 4.20.06