VILLAGE OF KEY BISCAYNE

Office of the Village Clerk

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Village Clerk
Conchita H. Alvarez, *CMC*

MEMORANDUM

Date: January 15, 2008

To: Honorable Mayor and Members of the Village Council

From: Conchita H. Alvarez, Village Clerk
David M. Wolpin, Village Attorney

RE: Proposed Village Code Amendment Revising Date of Mayoral Primary Election and Revising Mayoral and Council Candidate Qualifying Periods

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RECOMMENDATION

It is recommended that the Village Council consider the adoption of the enclosed ordinance which revises the date of Village Mayoral Primary Elections from October of even-numbered years to the date of the countywide State Primary Election. This would revise the October 7, 2008 Mayoral Primary election, if one is needed, from October 7, 2008 to August 26, 2008, to coincide with the countywide State Primary Election, and would establish the State Primary Election date as the date for the Village's Mayoral Primary Election in subsequent even-numbered years. Revision of the qualifying periods for Mayoral and Council candidates is also presented for consideration as part of this proposed ordinance, as described below.

BACKGROUND

The County Supervisor of Elections (the "County") by letter of October 18, 2007, a copy of which is attached, has requested that the Council consider revising the date of the Mayoral Primary Election from early October to August 26, 2008 to coincide with the countywide State Primary Election. Pursuant to Sec. 100.061, F.S., the State Primary Election is held on the Tuesday which is ten (10) weeks prior to the General Election in even-numbered years. As explained in the County's letter, this request for change of the Mayoral Primary Election date was caused by revised State laws which now require the County to prepare and mail absentee

ballots to overseas voters well in advance of the November General Elections. Pursuant to Village Charter Sec. 5.01(c) and Sec. 100.3605(2), F.S., the Council has the authority to alter the Mayoral Primary Election date, which is provided for in the Village Charter, via ordinance. The Village Attorney has drafted this ordinance for Council consideration.

It should be noted that use of the countywide State Primary Election date for the Village Mayoral Primary Election may result in election administration cost savings for the Village.

In light of the proposed revision of the Mayoral Primary Election date to an earlier date, this ordinance also provides for the Council to revise the qualifying periods for Mayoral candidates and for Council candidates to two separate time periods. Presently, pursuant to Village Code Section 2-101, the qualifying period for both Mayoral and Council candidates starts on the 55th day prior to the Mayoral Primary Election and ends on the 45th day before the Mayoral Primary Election. Under the proposed ordinance the qualifying periods would be as follows:

(1) the Mayoral candidate qualifying period would start **55** days before the revised Mayoral Primary Election date and would end **45** days before that Mayoral Primary Election date;

(2) the Council candidate qualifying period would start **85** days before the regular Council election held at the General Election on the first Tuesday after the first Monday in November of even-numbered years and would end **75** days before the General Election.

The above described proposed candidate qualifying periods would provide sufficient time for the County to prepare, print and mail the absentee ballots to overseas electors for the General Election.

Alternatively, the single qualifying period for both the Mayoral and Council candidates may be maintained as presently provided by Village Code Section 2-101. However, that would result in a very early qualifying period for Council candidates pursuant to the proposed advanced Mayoral Primary Election date.

The regular election date for Mayoral and Council offices is not altered by this ordinance.

cc: Genaro "Chip" Inglesias, Village Manager
Stephen H. Helfman, Village Attorney

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ORDINANCE NO. 2008-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CONCERNING REVISION OF THE DATE OF VILLAGE MAYORAL PRIMARY ELECTIONS AND REVISION OF THE QUALIFYING PERIODS FOR MAYORAL CANDIDATES AND FOR COUNCIL CANDIDATES COMMENCING WITH THE 2008 ELECTION CYCLE; REVISING 2008 MAYORAL PRIMARY ELECTION DATE FROM OCTOBER 7, 2008 TO AUGUST 26, 2008, SO AS TO COINCIDE WITH THE COUNTYWIDE STATE PRIMARY ELECTION; REVISING DATE OF SUBSEQUENT MAYORAL PRIMARY ELECTIONS TO COINCIDE WITH THE STATE PRIMARY ELECTION; CREATING VILLAGE CODE SECTION 2-104 "MAYORAL PRIMARY ELECTION DATE REVISED", AND AMENDING VILLAGE CODE SECTION 2-101 "QUALIFYING PERIOD" TO REVISE THE QUALIFYING PERIODS FOR MAYORAL CANDIDATES AND FOR COUNCIL CANDIDATES AS A RESULT OF THE REVISED MAYORAL PRIMARY ELECTION DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Miami-Dade County Supervisor of Elections Office (the "County"), by letter of October 18, 2007, has requested that the Village Council consider revising the date of the Village's Mayoral Primary Elections from October of each even-numbered year to the date of the countywide State Primary Election of each even-numbered year, in order to enable the County to comply with revised State laws mandating the very early mailing of absentee ballots to overseas voters for General Elections; and

WHEREAS, the Village Council, is authorized by Village Charter Section 5.01(c) and by Section 100.3605(2), Florida Statutes, to change the dates of Village elections by ordinance, and desires to revise the date of the Village's Mayoral Primary Elections, so as to comply with the request of the County.

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.**

A. That the Village Code is hereby amended by amending Chapter 2 "Administration", at Article V. "Elections", to create Section 2-104 "Mayoral primary election date revised ", to read as follows:

Section 2-104. Mayoral primary election date revised.

(a) The date for the Village Mayoral primary election for 2008 is hereby revised from Tuesday, October 7, 2008, to Tuesday, August 26, 2008, upon which revised election date the Village's Mayoral primary election, if one is necessary, shall be held in conjunction with the countywide State Primary Election which is provided for by Sec. 100.061, Florida Statutes.

(b) The date for the Village's Mayoral primary elections subsequent to the 2008 election cycle, in each even-numbered year thereafter, shall be held on the date of the countywide State Primary Election as provided for by Section 100.061, Florida Statutes.

(c) An editorial note shall be placed in the published Village Charter immediately following the provisions of Charter Section 5.01, so as to advise of the provisions of this Section 2-104 which govern the date of the Mayoral primary election.

(d) The Village Clerk shall take any action required by the Village Charter, Village Code and applicable law concerning the Mayoral primary election, in a manner which conforms with the revised Mayoral primary election date.

B. That the Village Code is hereby amended by amending Chapter 2 "Administration", at Article V "Elections", by amending Section 2-101 "Qualifying period", 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~~, and candidates for the office of Village Council shall qualify with the Village Clerk no earlier than Noon on the 85th day and no later than Noon on the 75th day prior to the date of the regular Council election~~s 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 4. Severability. That 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.

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

Section 5. Inclusion in the 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 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 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 15th day of January, 2008.

PASSED AND ADOPTED on second reading this 12th day of February, 2008

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MAYOR ROBERT L. VERNON

ATTEST:

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CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY

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