



City of Miami

Legislation

Ordinance

City Hall
3500 Pan American
Drive
Miami, FL 33133
www.miamigov.com

File Number: 10-00385

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION SCHEDULING AN ELECTION TO FILL, THE OFFICE OF COMMISSIONER DISTRICT NO. 1, AND, SUBJECT TO DISPLACEMENT, THE OFFICE OF COMMISSIONER, DISTRICT NO. 5; SETTING NOVEMBER 2, 2010, AS THE DATE OF SUCH ELECTION, AND ESTABLISHING SEPTEMBER 3, 2010 THROUGH SEPTEMBER 18, 2010, AT 6 P.M. AS THE TIME TO QUALIFY THEREFOR; FURTHER, SCHEDULING A RUN-OFF ELECTION TO FILL THE OFFICES OF COMMISSIONER DISTRICTS NO. 1 AND NO. 5, SAID ELECTION TO BE HELD ON NOVEMBER 16, 2010, UNLESS SAID OFFICES HAVE BEEN FILLED BY THE ELECTION OF A CANDIDATE AT THE ELECTION TO BE HELD ON NOVEMBER 2, 2010; DESCRIBING PERSONS QUALIFIED TO VOTE IN SAID ELECTIONS; DESCRIBING THE REGISTRATION BOOKS AND RECORDS TO BE USED FOR THE ELECTIONS; DESIGNATING AND APPOINTING THE CITY CLERK AS THE OFFICIAL REPRESENTATIVE WITH RESPECT TO THE USE OF SUCH REGISTRATION BOOKS AND RECORDS; DIRECTING THE CITY CLERK TO GIVE NOTICE OF THE ADOPTION OF THIS ORDINANCE AND TRANSMIT A CERTIFIED COPY TO THE MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS; CONTAINING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the January 12, 2010 special election, Wifredo "Willy" Gort was elected to fill the vacancy in the Office of District 1 Commissioner created by the resignation of Commissioner Angel Gonzalez; and

WHEREAS, pursuant to Section 12 of the Charter of the City of Miami, Florida ("Charter"), the term of office for said election to fill a vacancy shall be only until his successor in office is elected and qualified at either the odd-year first regular election for Commissioners, or the even-year State of Florida general election, whichever occurs first; and

WHEREAS, on January 26, 2010, the City Commission adopted Resolution No. 10-00082a, pursuant to Section 12 of the Charter, appointing Richard P. Dunn II to fill the temporary vacancy in the Office of District 5 Commissioner created by Governor Charlie Crist's suspension of Commissioner Michelle Spence-Jones; and

WHEREAS, pursuant to Section 12 of the Charter the term of office of said appointment to fill a vacancy shall be only until his successor in office is elected and qualified at either the odd-year first regular election for Commissioners, or the even-year State of Florida general election, whichever occurs first; and

WHEREAS, such persons elected pursuant to said election would serve for the balance of Commissioner Angel Gonzalez's current term, and, for the balance of Commissioner Michelle Spence-Jones' current term, subject to possible displacement by Michelle Spence-Jones if Michelle

Spence-Jones is restored to office pursuant to Section 112.51(6), Florida Statute (2009); and

WHEREAS, the even-year State of Florida general election, which occurs first, is scheduled for November 2, 2010; and

WHEREAS, the person who receives the majority of votes in each race of said election shall be elected; however, pursuant to Section 4 of the charter, should one candidate not receive the majority of votes, a Run-off election must be held; and

WHEREAS, Section 7 of the Charter provides, inter alia: A runoff election for the election of the mayor and commissioners shall be held on the second Tuesday after the first Monday in November in odd-numbered years; and

WHEREAS, pursuant to said provision the Run-off election is to be held on the second Tuesday after the first Monday which this year would be Tuesday, November 9, 2010; and

WHEREAS, Section 100.3605(2), Florida Statutes (2009), provides: (2) The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes; and

WHEREAS, the Miami-Dade County Manager and Miami-Dade County Elections Department, wish to facilitate orderly, mutually cost-effective and coordinated elections in Miami-Dade County's municipalities and require a minimum of two weeks between the general and run-off elections to accurately program voting machines, print and test-run the run-off election ballot, and provide sufficient time for processing absentee balloting and have requested a substitute date of Tuesday, November 16, 2010, for the holding of the Run-off;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. An election to fill the District 1 Commission office and the District 5 Commission office is scheduled and the date of November 2, 2010, is set as the date of such election.

Section 3. The dates of September 3, 2010 through September 18, 2010 are set as the qualifying dates for said election. The qualifying cut-off time on September 18, 2010, shall be 6 p.m.

Section 4. A Run-off election to fill the District 1 Commission office and the District 5 Commission office is scheduled on Tuesday, November 16, 2010, unless a candidate shall have received a majority vote at the election held on November 2, 2010, for said office, in which case he or she shall be elected to the office for the balance of the current District 1 term or District 5 term, the District 5 term being subject to displacement by Michelle Spence-Jones, pursuant to Section 112.51(6), Florida Statute (2009), should she be restored to office prior to the end of said term.

Section 5. The candidates who shall receive the majority of votes in the District 1 and District 5 election or the candidates who shall receive the greatest number of votes in the Run-off election shall

serve as a Commissioners of the City of Miami from 12:00 o'clock noon five days after the canvass of the vote and the declaration of the result of the election. The District 1 candidate shall serve until his or her successor of office is elected and qualified at the odd-year first regularly scheduled election for Commissioner District 1. The District 5 candidate is subject to possible displacement by Michelle Spence-Jones if Michelle Spence-Jones is restored to office pursuant to Section 112.51(6), Florida Statute (2009), and shall serve until his or her successor of office is elected and qualified at the odd-year first regularly scheduled election for Commissioner District 5, whichever occurs first.

Section 6. The Election Clerks and Inspectors to serve at said designated polling places on said date shall be designated by the Supervisor of Elections for Miami-Dade County for such purposes.

Section 7. For the purpose of enabling persons to register who are qualified to vote in said elections and who have not registered under the provisions of the general laws of Florida and Chapter 16 of the Code of the City of Miami, Florida, as amended, or who have transferred their legal residence from one voting precinct to another voting precinct in the City, voter registration can be accomplished at such permanent branch offices as may be approved by the Supervisor and at said Supervisor 's office which will be open during the following days and time:

MIAMI-DADE COUNTY ELECTIONS DEPARTMENT
2700 Northwest 87th Avenue, Doral, Florida
Monday to Friday, inclusive: 8 A.M. to 5 P.M.

In addition to the above, said qualified persons may register at branch offices and may also use any mobile registration van for the purpose of registration in order to vote in the herein described elections during such times and on such dates as may be designated by the Supervisor.

Section 8. Said elections shall be held at the voting places in the precincts designated by the Supervisor, in conformity with the provisions of the general laws of the State. A description of the registration books and records which pertain to election precincts wholly or partly within the City and which the City is adopting and desires to use for holding such elections is as follows: All registration cards, books, records and certificates pertaining to electors of the City and established and maintained as official by the Supervisor, in conformity with the provisions of the general laws of the State, are hereby adopted and declared to be, and shall hereafter be recognized and accepted, as official registration cards, books, records and certificates of the City.

Section 9. The ballot to be used in said elections shall be so prepared that the names of the qualified candidates will appear on said ballot in alphabetical order according to surname in each group; provided however, that the ballot and its preparation shall comply with the laws of the State of Florida with respect to absentee ballots, and to the use of mechanical voting machines or the Computer Election System (CES).

Section 10. (a) In compliance with Florida Statutes, the City Clerk is authorized and directed to publish notice of the adoption of the herein ordinance and of the provisions hereof, at least twice, once in the fifth week and once in the third week prior to the week in which the aforesaid elections are to be held, in newspaper(s) of general circulation in the City of Miami, Florida, which notices shall be substantially as set forth in the following form:

NOTICE OF MUNICIPAL ELECTION

IN THE CITY OF MIAMI, FLORIDA
TO ELECT A
CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 1 AND
A CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 5
TO BE HELD ON TUESDAY, NOVEMBER 2, 2010
PURSUANT TO RESOLUTION NO. _____

A municipal election will be held on Tuesday, November 2, 2010, from 7 a.m. until 7 p.m., in the City of Miami, Florida, at the polling places in the several election precincts designated by the Miami-Dade County Supervisor of Elections, at which election the qualified electors participating therein will vote to elect one City Commissioner to the Office of District 1 and one City Commissioner to the Office of District 5 for the City of Miami, Florida.

(b) The Election Clerks and Inspectors to serve at said polling places on said dates shall be those designated by the Supervisor of Elections of Miami-Dade County for such purpose. The registration books and records for the registration of persons qualified to vote in said elections shall be those maintained by the Supervisor.

(c) The official ballot shall be in substantially the following form, to wit:

OFFICIAL BALLOT
MUNICIPAL ELECTION FOR
ELECTING A CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 1
AND
A CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 5
OF THE CITY OF MIAMI, FLORIDA
NOVEMBER 2, 2010

PRECINCT NO. _____

DISTRICT 1
FOR COMMISSIONER

Vote for one (1) only:

/_____/ _____ (Names of Candidates)

DISTRICT 5
FOR COMMISSIONER

Vote for one (1) only:

_____/_____/_____ (Names of Candidates)

(d) Tuesday, November 16, 2010, the official ballot to be used at such run-off election shall be in substantially the same form as above, except that the heading of the ballot shall be in substantially the following form, to wit:

OFFICIAL BALLOT
RUN-OFF MUNICIPAL ELECTION FOR
ELECTING A CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 1
AND
A CITY COMMISSIONER TO THE OFFICE OF
DISTRICT 5
OF THE CITY OF MIAMI, FLORIDA
NOVEMBER 16, 2010

PRECINCT NO. _____

DISTRICT 1
FOR COMMISSIONER

Vote for one (1) only:

_____/_____/_____ (Names of Candidates)

DISTRICT 5
FOR COMMISSIONER

Vote for one (1) only:

_____/_____/_____ (Names of Candidates)

(e) A run-off municipal election will be held on Tuesday, November 16, 2010, from 7 A.M. until 7 P.M., in the City of Miami, Florida, at the polling places set forth herein, at which election the qualified electors of the City of Miami participating herein will vote for the election of one Commissioner, District 1, and one Commissioner, District 5 of the City of Miami, Florida, unless a candidate from a district shall have received a majority vote in his or her district at the general municipal election on Tuesday, November 2, 2010, and the Election Clerks and Inspectors at said regular election shall be those designated by the Supervisor for such purpose. The registration books and records for the registration of persons qualified to vote in said regular municipal election shall be those maintained by the Supervisor.

Section 11. PRISCILLA A. THOMPSON, the City Clerk of the City of Miami, Florida, or her duly appointed successor, is hereby designated and appointed as the official representative of the Commission of the City of Miami, Florida, in all transactions with the Supervisor in relation to matters pertaining to the use of the registration books for the holding of the herein nonpartisan primary election

and the herein regular election.

Section 12. The City Clerk shall cause to be prepared absentee ballots for the use of absentee electors entitled to cast such ballots in said elections.

Section 13. The City Clerk is hereby directed to transmit a certified copy of this Ordinance to the Miami-Dade County Supervisor of Elections.

Section 14. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 15. This Ordinance shall become effective immediately upon its adoption.

APPROVED AS TO FORM AND CORRECTNESS:

JULIE O. BRU
CITY ATTORNEY
