



# MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** CHARTER REVIEW COMMITTEE **DATE:** May 10, 2006

**FROM:** CHARLES L. HAUCK, Sr. Assistant City Attorney

**SUBJECT:** CHANGES IN ELECTION DATES; CHANGES IN PERIOD BETWEEN ELECTION AND COMMENCEMENT OF TERM OF OFFICE

Some discussion has occurred regarding the ability of the City Commission to change the dates of elections and/or the period of time between the election and commencement of term of office (swearing in) without the necessity of a referendum.

Section 2.04(1)(d) of the Charter provides that the date of regular municipal elections shall be set by ordinance. That is, the City Commission determines each year, through the adoption of an ordinance, when the dates of the next regular election, including run-offs if necessary, will be.

Section 2.04(3) of the Charter, however, provides that the term of office for commissioners shall be from 12:00 noon of the Thursday following the first Tuesday in May of the year in which they are elected, or in the case of a run-off, from 12:00 noon of the Thursday following the third Tuesday in May of the year in which they are elected. However, shortening the period of time between the election and the commencement of the term of office could be readily accomplished simply by selecting the date of the election to be closer in time to the first or third Thursday of May. The practical limitation would be to ensure that there was sufficient time for a run-off and any challenges to be resolved.

There is another mechanism through which a change in commencement of term and election dates could be accomplished. Section 166.021, F.S., as amended in 1995 by Chapter 95-178, Laws of Florida, provides in subsection (4) thereof that "Changes in municipal charters which affect the terms of elected officers and the manner of their election, except for the selection of election dates and qualifying periods for candidates and for changes in terms of offices necessitated by such changes in election dates, may not be made without approval by referendum of the electors." (emphasis added). Thus, for example, were the City Commission to determine that elections should be held in November, section 2.04(3) of the Charter could be amended by ordinance to have terms of office commence in December. The date of election and commencement of term could be set at times which would minimize the period between the election and the commencement of the term of office. In this latter case, modifications to section 9-2 of the Code of Ordinances (which presently limits elections to the months of March or April) would need to be made, as well as setting the new commencement of term.

As an aside, a change in the length of term of office or number of consecutive terms (section 2.03 and 2.04(1)(b) and (1)(c)) could only occur by referendum.

CLH:sw