



AGENDA ITEM MEMORADUM

Town Attorney

Department

Susan L. Trevarthen

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Oct 25, 2011	Oct 14th

**Subject to Change*

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Quasi-Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> New Business |

SUBJECT TITLE: Ordinance Addressing Future Election and Qualifying Dates, Terms of Office, And Swearing In Schedule

EXPLANATION: As noted in the related agenda item setting the 2012 election, Ordinance 2007-13 (**Exhibit 2**) had comprehensively committed the Town to holding all future elections in Presidential election years in coordination with the Presidential Preference Primaries. Ordinance 2007-13 was not codified and so it was inadvertently repealed in 2010. It is permissible to make such a permanent change in the election cycles. See the attached AGO 2007-34 Legal Opinion (**Exhibit 3**).

Attached is an Ordinance (**Exhibit 1**) for your discussion which schedules the election date, qualifying period, schedule for swearing in of the newly elected officials, and terms, for future elections which could, if the Commission directs through approval of this Ordinance, be moved to coincide with future Presidential Preference Primary as permitted under Section 101.075, Florida Statutes.

Section 101.075, Florida Statutes provides that:

- (3) Notwithstanding any provision of local law or municipal charter, the governing body of a municipality may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or countywide election. The dates for qualifying for the election moved by the passage of such ordinance shall be specifically provided for in the ordinance. The term of office for any elected municipal official shall commence as provided by the relevant municipal charter or ordinance.

The statutes also provide for the moving of qualifying dates and the adjustment of terms of office which result from the rescheduling of the election.

The proposed ordinance addresses each of these issues, including allowing for the qualifying period to be set by Resolution of the Town Commission to allow for coordination with the Broward County Supervisor of Elections schedule for participation in the County-wide election.



Alternate swearing in dates

There are two alternatives for addressing the terms of office and swearing in scheduling for the Town Commissioners. As discussed in the previous agenda item, the Mayor-Commissioner's swearing-in should remain in March to avoid shortening the term of office. The two alternatives for the seating of the Town Commissioners are shown as SECTION 2 and ALTERNATE SECTION 2 in the attached Ordinance, and are similar to the two alternatives provided in relation to the 2012 Election.

- (1) The first option, SECTION 2, provides that Town Commissioners elected in a January election are sworn in the second Tuesday following the election (the Mayor-Commissioner will be sworn in March) to accommodate the Supervisor of Elections' certification of the election results under the Federal requirements.
- (2) The second option, ALTERNATE SECTION 2, is to maintain the same swearing-in schedule for all officials, regardless of when they are elected. Under this alternative, both Town Commissioners and the Mayor-Commissioner elected in a January election will be sworn in on the first Monday after the second Tuesday in March.

If the Commissioners are sworn in March 2012 (in the previous agenda item), there will be an approximately five week extension of the sitting Town Commissioners' terms for the current Seat 3 and Seat 4 Commissioners, but the terms of all Commissioners elected in the future will be placed on the same schedule. If the Commission elects to install the Commissioners in January 2012 and to conduct future swearing-in ceremonies in March, the Commissioners elected in 2012 will have an approximately four to five week term extension in 2016, and all Commissioner terms thereafter will be on the same schedule.

EXPECTED OUTCOME: Discussion of the attached Ordinance (Exhibit 1) and Decision whether to schedule for First Reading.

Exhibit 1: Ordinance 2011-xx
Exhibit 2: Ordinance 2007-13
Exhibit 3: AGO 2007-34 Legal Opinion

Reviewed by Town Attorney
 Yes No

Town Manager Initials *JB*

ORDINANCE 2011-__

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AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE II "TOWN COMMISSION" AND CHAPTER 7 "ELECTIONS" OF THE TOWN CODE OF ORDINANCES, IN ORDER TO PROVIDE FOR THE MODIFICATION OF THE TOWN'S GENERAL MUNICIPAL ELECTION DATES TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATES IN THE YEARS IN WHICH SUCH A PRIMARY IS HELD; PROVIDING FOR THE QUALIFYING PERIOD FOR THE GENERAL MUNICIPAL ELECTIONS; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE

WHEREAS, the Town Commission of the Town of Lauderdale-By-The-Sea (the "Town") recognizes it is in the Town's best interest to amend the general administrative Town Code provisions so as to provide for continued updating and legislative changes; and

WHEREAS, each separate General Municipal Election held by the Town of Lauderdale-By-The-Sea, Florida creates total election costs to the Town that in the 2012 election are estimated to be approximately \$30,000.00; however, if the Town modifies its general election date to coincide with the Presidential Preference Primaries when they occur, then the Town shall only be responsible for limited election costs resulting in a significant financial savings to the Town; and

WHEREAS, Section 101.75, Florida Statutes, provides authority for municipalities that would otherwise conduct their General Municipal Elections in March of the years in which there is a Presidential Preference Primary to move their elections to the same date as the Presidential Preference Primary by adopting an ordinance; and

WHEREAS, the Town Commission deems it to be in the best interests of the citizens

ORDINANCE 2011-

1 and residents of the Town to modify its General Municipal Election for each year subsequent
2 to 2012 that is a multiple of four (4), accordingly, to coincide with the presidential preference
3 primary; and

4 **WHEREAS**, the Town Commission desires to provide for the scheduling of
5 qualifying periods for the elections coinciding with a Presidential Preference Primary to be
6 consistent with the Broward County Supervisor Of Elections ballot preparation schedule; and

7 **WHEREAS**, the Town Commission has determined to modify the timing for the
8 swearing in of the duly elected officers.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
10 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA THAT:**

11 **SECTION 1. Recitals.** The foregoing "Whereas" clauses are hereby ratified and
12 confirmed as true and correct and incorporated herein by this reference.

13 **SECTION 2. Amendment.** Article II "Town Commission" of Chapter 2
14 "Administration" is hereby amended¹ as follows:

15 * * * * *

16
17 **Sec. 2-17. Meeting to seat new members.**

18
19 (a) On the first Monday following the regular March election at which a Town
20 Commissioner ~~or Mayor-Commissioner~~ shall be elected in accordance with Section
21 6.1 of the Town Charter, the Town Commission shall meet, at the usual place for
22 holding meetings of the legislative body of the Town, at which time the newly
23 elected Town Commissioner(s) and Mayor-Commissioner shall assume the duties
24 of his or her office.

¹ Words in ~~strike through~~ type are deletions; words in underlined type are additions.

CODING: Words in ~~struck through~~ type are deletion from existing law;
Words in underscored type are additions.

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(b) On the second Tuesday after a January election at which a Town Commissioner shall be elected in accordance with Section 7-4 of the Town Code, the Town Commission shall meet, at the usual place for holding meetings of the legislative body of the Town, at which time the newly elected Town Commissioner(s) shall assume the duties of his or her office.

(c) When a Mayor-Commissioner is elected in a January election, the Town Commission shall meet on the first Monday after the second Tuesday in March in the year elected, at the usual place for holding meetings of the legislative body of the Town, at which time the newly elected Mayor-Commissioner shall assume the duties of his or her office. If, subsequent to a January election and prior to swearing in of the new official, the occupant of the office resigns, the newly elected Mayor-Commissioner shall be sworn in as soon as possible at a properly convened Special Meeting of the Town Commission, subsequent to the certification of the election results.

* * * * *

OR

ALTERNATE SECTION 2. Amendment. Article II “Town Commission” of

Chapter 2 “Administration” is hereby amended² as follows:

* * * * *

Sec. 2-17. Meeting to seat new members.

(a) On the first Monday following the second Tuesday in March the regular in the year of an election at which a Town Commissioner or Mayor-Commissioner shall be elected in accordance with Section 7-4 of the Town Code Section 6.1 of the Town Charter, the Town Commission shall meet, at the usual place for holding meetings of the legislative body of the Town, at which time the newly elected Town Commissioner(s) and Mayor-Commissioner shall assume the duties of his or her office. If, subsequent to a January election and prior to swearing in of the new officials, the occupant of an office resigns, the official newly elected to that Seat shall be sworn in as soon as possible at a properly convened Special Meeting of the Town Commission, subsequent to the certification of the election results.

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ORDINANCE 2011-

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SECTION 3. Amendment. Chapter 7 "Elections" is hereby amended as follows:

Sec. 7-1. Qualification fees.

Candidates for any municipal office in the Town shall file such papers as set out in the Charter and pay a filing fee of \$25.00 with the Town Clerk not earlier than noon on the seventy-fifth (75th) day prior to the date of the election, nor later than noon on the sixty-first (61st) day prior to the date of the election except that the dates for the two week qualifying periods for elections subsequent to 2012, in years that are a multiple of four (4), shall be established by Resolution of the Town Commission upon receipt of election timelines and dates from the Broward County Supervisor of Elections for those elections.

Sec. 7-2. No primary elections.

There shall be no primary election in races for municipal office in the Town.

Sec. 7-3. ~~Election dates, forfeiture, vacancies, qualifications for and terms of elected municipal office.~~

~~The date of elections, forfeiture of office, method of filling vacancies, qualifications for candidates, and terms of all municipal officers shall be as provided in the Town Charter.~~

Sec. 7-4. Election DatesReserved.

Election dates shall be as set in the Town Charter except that, to the extent there is an election in the Town, in each year subsequent to 2012 that is a multiple of four (4), accordingly, elections shall be set to coincide with the Presidential Preference Primary in those years and all terms of office for those seats to be elected on the same date as the Presidential Preference Primary shall be for a term of four years or until his or her successor is elected and sworn in.

Sec. 7-5. Canvassing of votes.

All municipal elections shall be canvassed by the county canvassing board ~~with the board certifying the results to the Town Clerk within five days after the election.~~

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ORDINANCE 2011-

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SECTION 4. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-by-the-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Passed on the first reading, this ____ day of _____, 2011.

Passed on the second reading, this ____ day of _____, 2011.

Mayor Roseann Minnet

First Reading Second Reading

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ORDINANCE 2011-

1 Mayor Minnet _____
2 Vice-Mayor Dodd _____
3 Commissioner Clotney _____
4 Commissioner Sasser _____
5 Commissioner Vincent _____
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7 **Attest:**

8 _____
9 Town Clerk, June White, CMC

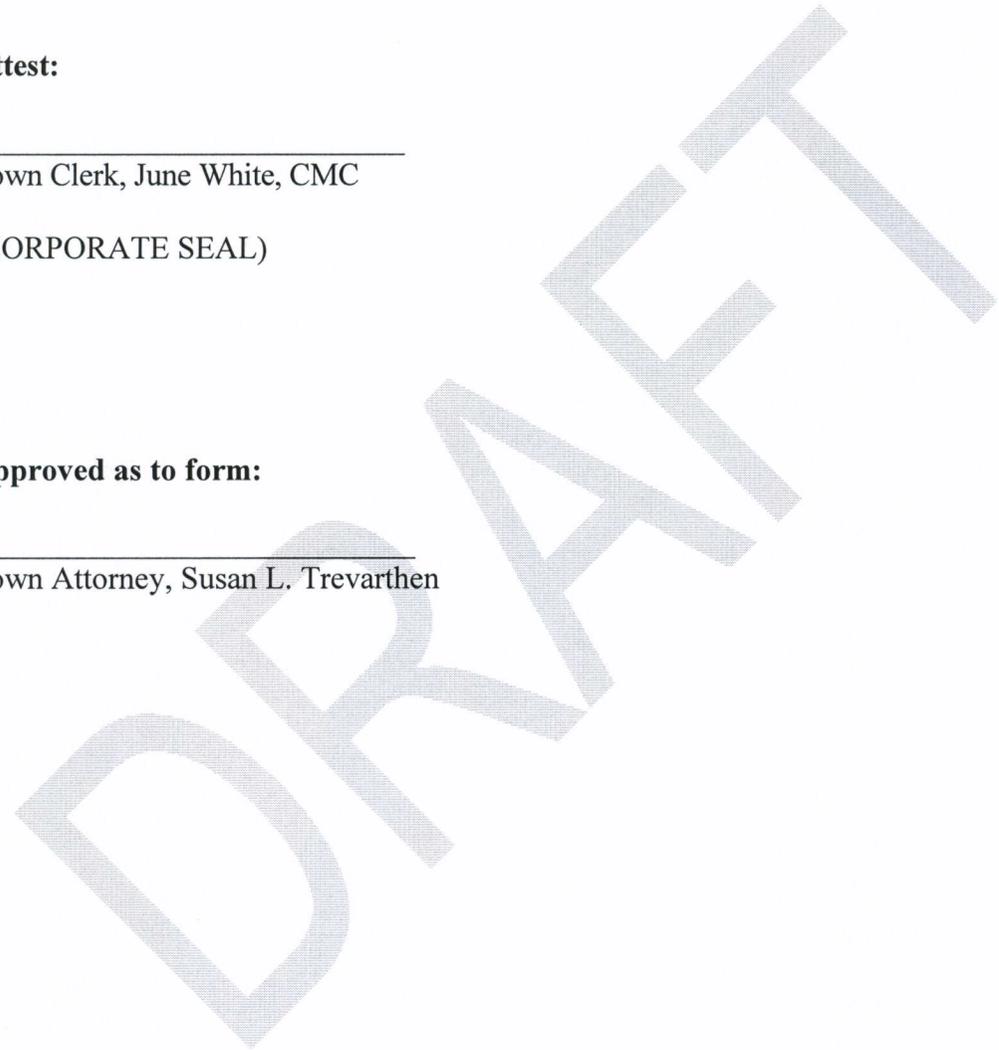
10 (CORPORATE SEAL)

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12

13 **Approved as to form:**

14 _____
15 Town Attorney, Susan L. Trevarthen



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ORDINANCE 2007-13

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AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA PROVIDING FOR THE MODIFICATION OF THE TOWN'S GENERAL MUNICIPAL ELECTION DATES TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE IN 2008 AND IN EACH SUBSEQUENT YEAR THAT IS A MULTIPLE OF FOUR (4) PURSUANT TO SECTION 101.75, FLORIDA STATUTES; SPECIFICALLY PROVIDING FOR THE 2008 GENERAL MUNICIPAL ELECTION IN THE TOWN TO OCCUR ON JANUARY 29, 2008; PROVIDING FOR THE QUALIFYING PERIOD FOR THE GENERAL MUNICIPAL ELECTIONS, AND SPECIFICALLY FOR THE QUALIFYING PERIOD FOR THE 2008 MUNICIPAL GENERAL ELECTION TO OCCUR BETWEEN NOON ON FRIDAY, NOVEMBER 2, 2007 THROUGH NOON ON FRIDAY, NOVEMBER 16, 2007; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during the 2007 Legislative Session, the Florida Legislature amended Section 101.75, Florida Statutes, to move the Presidential Preference Primary to the last Tuesday in January, which for the 2008 Presidential Election will be on January 29, 2008; and,

WHEREAS, the amendment to Section 101.75, Florida Statutes, provides authority for municipalities that would otherwise conduct their General Municipal Elections in March of the years in which there is a Presidential Preference Primary to move their elections to the same date as the Presidential Preference Primary by adopting an ordinance; and,

WHEREAS, Section 101.75, Florida Statutes, provides for the ordinance moving the

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1 Town's General Municipal Election, to establish a two-week qualifying period for the
2 election; and,

3 **WHEREAS**, the Broward County Supervisor of Elections has established dates and
4 deadlines for the January 29, 2008, election, and has established the two-week period of noon
5 on Friday, November 2, 2007 through noon, Friday, November 16, 2007 as a uniform
6 qualifying period in Broward County that would satisfy the requirements of Section 101.75
7 and the Broward Supervisor of Elections' timeline for the January 29, 2008, election; and,

8 **WHEREAS**, should the Town of Lauderdale By The Sea, Florida (hereinafter
9 referred to as the "Town") decide to hold a separate General Municipal Election in March
10 then the Town shall be responsible for the total election costs of approximately \$30,000.00;
11 however if the Town modifies its general election date to coincide with the presidential
12 preference primary then it shall only be responsible for limited election costs resulting in a
13 significant financial savings to the Town; and

14 **WHEREAS**, the Town Commission deems it to be in the best interests of the citizens
15 and residents of the Town to modify its General Municipal Election in 2008 and in each
16 subsequent year that is a multiple of four (4), accordingly, to coincide with the presidential
17 preference primary.

18 **WHEREAS**, Section 7-4 of the Town's Code of Ordinance allows for the
19 establishment of a specific day, to be decided by ordinance, on which duly-elected municipal
20 officers shall take office. The Town Commission has determined to fix a date certain for the
21 swearing in of duly elected officers ceremony in lieu of the generic reference to the "Friday

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1 following the regular election" referenced in Section 2-17 of the Code of Ordinances.

2 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
3 **THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA THAT:**

4 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
5 true and correct and incorporated herein by this reference.

6 **Section 2.** The Town Commission of the Town of Lauderdale By The Sea,
7 Florida, pursuant to the authority of §101.75, Florida Statutes, modifies the date of its General
8 Municipal Election in 2008 and, to the extent there is an election in the Town, in each
9 subsequent year that is a multiple of four (4), accordingly, to coincide with the Presidential
10 Preference Primary in those years. In 2008, the Town's General Municipal Election shall
11 occur on January 29, 2008.

12 **Section 3.** The Town Commission hereby provides that the qualifying period for
13 the 2008 General Municipal Election and the General Municipal Election in each subsequent
14 year that is a multiple of four (4), shall run for fourteen (14) calendar days. For the 2008
15 General Municipal Election, the qualifying period will be from noon on November 2, 2007
16 through noon on November 16, 2007. The dates for the two week qualifying periods for
17 future General Municipal Elections in years that are a multiple of four (4) shall be established
18 by Resolution of the Town Commission upon receipt of election timelines and dates from the
19 Broward County Supervisor of Elections for those elections.

20 **Section 4.** Municipal officers who are elected in the January 2008 election shall
21 be sworn in and assume the duties of office at the commencement of a special Commission

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1 meeting that shall be held the second day (excluding Saturday and Sunday) following the
2 certification of election results by the Supervisor of Elections. For elections conducted after
3 2008, municipal officers shall be sworn in and take office at the commencement of a special
4 Commission meeting that shall be held the second day (excluding Saturday and Sunday)
5 following the certification of election results by the Supervisor of Elections.

6 **Section 5.** All Ordinances or parts of Ordinances, Resolutions or parts of
7 Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

8 **Section 6.** If any clause, section or other part of this Ordinance shall be held by
9 any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or
10 invalid part shall be considered as eliminated and in no way affecting the validity of the other
11 provisions of this Ordinance.

12 **Section 7.** This Ordinance shall take effect immediately upon its adoption.

13 **FIRST READING** this 11th day of September, 2007.

14
15 **SECOND, FINAL READING AND PASSAGE** this 25th day of September, 2007.

16
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22 Mayor Oliver Parker

	First Reading	Second Reading
23		
24		
25 Vice-Mayor Yanni	<u>Aye</u>	<u>Aye</u>
26		
27 Mayor Pro Tem Clark	<u>Aye</u>	<u>Aye</u>
28		
29 Commissioner Silverstone	<u>Aye</u>	<u>Aye</u>

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Commissioner McIntee

 Nay Aye

Mayor Oliver Parker

 Aye Aye

Attest:

 June White
Town Clerk

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EXHIBIT 3

Florida Attorney General Advisory Legal Opinion

Number: AGO 2007-34

Date: July 24, 2007

Subject: Charter amendment, municipal elections

Mr. Robert D. Pritt
Naples City Attorney
735 Eighth Street South
Naples, Florida 34102-6796

RE: MUNICIPALITIES-CHARTERS-ELECTIONS-ORDINANCES-amendment of charter by ordinance to change date of municipal elections every four years to coincide with presidential preference primary. ss. 100.3605, 101.75, 166.021, Fla. Stat.

Dear Mr. Pritt:

On behalf of the Naples City Council, you ask substantially the following questions:

- 1) May the Naples City Council, by ordinance, amend the Naples City Charter to change the date of the regular municipal election date from the first Tuesday in February of each even numbered year to a date that corresponds with the State of Florida Presidential Primary every four (4) years?
- 2) May the Naples City Council, by ordinance, amend the Naples City Charter to provide for a special candidate qualification date in years in which there is a State of Florida Presidential Preference Primary?

As your questions are interrelated, they will be answered together.

You note that during the 2007 Regular Session, the Legislature enacted Chapter 07-30, Laws of Florida. Section 4 of the act added subsection (3) to section 101.75, Florida Statutes, to provide:

"Notwithstanding any provision of local law, for any municipality whose election is scheduled to be held in March 2008, the governing body of the municipality, notwithstanding any municipal charter provision, may, by ordinance, move the date of the general municipal election in 2008 and in each subsequent year that is a multiple of 4 to the date concurrent with the presidential preference primary. The dates for qualifying for the general municipal election moved by the passage of such an ordinance shall be specifically provided for in the

ordinance and shall run for no less than 14 days. The term of office for any elected municipal official shall commence as provided by the relevant municipal charter or ordinance, and the term of office for any elected municipal official whose term was due to expire in March 2008 shall expire as provided by the relevant municipal charter or ordinance." [1]

The above provision applies only to municipalities with elections scheduled for March. You have advised this office that the Naples city elections are held in February. Accordingly, the above provision would be inapplicable.

You state, however, the provisions of sections 100.3605 and 166.021, Florida Statutes, may provide the authority for the city to change its election date, and corresponding qualifying date. Section 100.3605(2), Florida Statutes, provides:

"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." [2]

Section 166.021(4), Florida Statutes, provides in pertinent part:

"[N]othing in this act shall be construed to permit . . . any changes in a special law or municipal charter 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 office necessitated by such changes in election dates"

The above provisions were added by Chapter 95-178, Laws of Florida. Prior to the amendment, this office had stated that a municipality was not authorized to amend its charter to provide for a change in the date on which municipal elections would be held without approval by the electorate. [3]

In Attorney General Opinion 00-61, this office stated that an examination of the legislative history of the 1995 legislation indicated an intent that municipalities would be authorized to amend their charters to change the election dates and qualifying periods for candidates, including any changes in terms of office necessitated by such amendment, without a referendum. [4] The title for Chapter 95-178, Laws of Florida, states in pertinent part:

"An act relating to municipal elections; amending s. 166.021, F.S.; authorizing amendment of a special law or municipal charter for the purpose of changing election dates and qualifying periods for candidates, including any changes in terms of office necessitated thereby, without referendum; creating s. 100.3605, F.S.; . . .

providing for change of qualifying periods and election dates by ordinance and for the orderly transition of office; providing an effective date." [5]

The title reflects an intent of the Legislature to permit municipalities to amend their charter to change the election dates and qualifying periods for candidates, including any changes in terms of office necessitated thereby, without referendum. It is not, however, as clear whether the Legislature contemplated that these statutes would be used by a municipality to amend a municipal charter by ordinance to create varying election dates within the charter. If sections 100.3605(2) and 166.021(4), Florida Statutes, already authorize a municipality to adopt such a charter change by ordinance, the amendment to section 101.75(3) by Chapter 07-39, Laws of Florida, would be unnecessary. It is a general rule of statutory construction that provisions enacted by the Legislature must be assumed to have some useful purpose as the Legislature is not presumed to have enacted useless or meaningless legislation. [6]

Notwithstanding, the language in sections 100.3605(2) and 166.021(4), Florida Statutes, is broad and does not expressly prohibit the type of action contemplated by the City of Naples. [7] Normally, when the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning. [8] Clearly under the above statutes, the governing body of a municipality could by ordinance change the dates for qualifying and for the election of municipal officers every four years and then subsequently change back the date of municipal elections by ordinance. What the city proposes to do is effectively carry out such changes in a single ordinance.

Rather than require the city to continually amend its charter to permit the election of municipal officers at the same time as a presidential preference primary every four years, I am of the opinion that sections 100.3605(2) and 166.021(4), Florida Statutes, provide sufficient authority to permit the city council, by ordinance, to amend the charter to change the date for the regular municipal election date from the first Tuesday in February of each even numbered year to a date that corresponds with the State of Florida Presidential Primary every four years. Similarly, these statutes in my opinion provide sufficient authority for the city council to amend by ordinance the city charter to provide for a special candidate qualification date in years in which there is a State of Florida Presidential Preference Primary.

Sincerely,

Bill McCollum
Attorney General

BM/tjw

[1] The Florida Senate Professional Staff Analysis and Economic Impact Statement for CS/CS/SB's 960 & 1010, which contained a similar provision to CS/HB 537, dated April 24, 2007, states that

"The bill also authorizes municipalities, by ordinance, to move municipal elections currently scheduled for March 2008 and thereafter to coincide with the new presidential preference primary date. This should provide some relief for cities with a municipal election date governed by special law or charter provision, that seek to take advantage of the cost savings associated with scheduling the municipal election to coincide with the presidential preference primary."

[2] *And see* s. 100.3605(1), Fla. Stat., stating that the Florida Election Code, Chs. 97-106, Fla. Stat., govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision and that "[n]o charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities."

[3] *See* Op. Att'y Gen. Fla. 94-31 (1994), stating that the City of Tallahassee could not amend its charter by ordinance to provide for a change in the date on which municipal elections will occur and extend the terms of the sitting officers affected by the change. This conclusion was based on the language of s. 166.021(4), Fla. Stat. (1993), which then provided that nothing in Ch. 166, Fla. Stat., the Municipal Home Rule Powers Act, was to be construed as permitting any changes in a special law or municipal charter that affect certain subject matters set forth therein, including "the terms of elected officers," without referendum approval as provided in s. 166.031, Fla. Stat.

[4] *See* House of Representatives Committee on Ethics and Elections Final Bill Analysis & Economic Impact Statement on HB 2209 (passed by the Legislature as Ch. 95-178, Laws of Fla.), dated May 10, 1995, stating:

"HB 2209 authorizes amendment of a municipal charter or special act without referendum for the purpose of changing municipal election dates and qualifying period for candidates and for the adjustment of terms of office necessitated by such date changes. . . ."

[5] *See, e.g., Parker v. State*, 406 So. 2d 1089 (Fla. 1981) (one indicator of legislature's intent is the title of the law enacting the

statute); *Carlile v. Game and Fresh Water Commission*, 354 So. 2d 362, 365 (Fla. 1977) (reference to the title of a legislative act is appropriate in determining legislative intent); *Long v. State*, 622 So. 2d 536 (Fla. 1st DCA 1993); *State, Department of Environmental Regulation v. SCM Glidco Organics Corporation*, 606 So. 2d 722 (Fla. 1st DCA 1992) (to determine legislative intent, court must consider act as whole, i.e., evil to be corrected, language of act, including its title, history of its enactment, and state of law already in existence).

[6] See, e.g., *Smith v. Piezo Technology and Professional Administrators*, 427 So. 2d 182 (Fla. 1983); *Arnold v. Shumpert*, 217 So. 2d 116 (Fla. 1968); *Neu v. Miami Herald Publishing Company*, 462 So. 2d 821 (Fla. 1985) (in construing legislation, courts should not assume Legislature acted pointlessly); *Sharer v. Hotel Corporation of America*, 144 So. 2d 813 (Fla. 1962) ("[i]t should never be presumed that the legislature intended to enact purposeless and therefore useless, legislation. Legislators are not children who build block playhouses for the purpose, and with the gleeful anticipation, of knocking them down").

[7] See generally *In re McCollam*, 612 So. 2d 572 (Fla. 1993) (when language of statute is clear and unambiguous and conveys a clear meaning, statute must be given its plain and ordinary meaning); Op. Att'y Gen. Fla. 93-47 (1993) (in construing statute which is clear and unambiguous, the plain meaning of statute must first be considered).

[8] See, e.g., *M.W. v. Davis*, 756 So. 2d 90 (Fla. 2000) (when language of statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to rules of statutory interpretation and construction as statute must be given its plain and obvious meaning); *McLaughlin v. State*, 721 So. 2d 1170 (Fla. 1998); *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984); *Osborne v. Simpson*, 114 So. 543 (Fla. 1927) (where statute's language is plain, without ambiguity, it fixes legislative intention and interpretation and construction are not needed).