

CITY OF MIAMI
OFFICE OF THE CITY ATTORNEY
MEMORANDUM

TO: Honorable Mayor Tomas Regalado
FROM: Julie O. Bru, City Attorney *JOB*
epc
DATE: June 10, 2013
RE: Interpretation of Florida Resign-to-Run Law and Method of Filling Vacancy in Office Pursuant to the City of Miami Charter

Attached please find Legal Opinion #13-003, an update to Legal Opinion #09-002 regarding the Florida Resign-to-Run Law and the City of Miami Charter, in response to your request for information regarding the timing to hold a Special Election in District 4 concurrent with the General Municipal Election scheduled for November 5, 2013.

c: Wifredo (Willy) Gort, District 1 Commissioner
Marc Sarnoff, District 2 Commissioner
Frank Carollo, District 3 Commissioner
Francis Suarez, District 4 Commissioner
Michelle Spence-Jones, District 5 Commissioner
Johnny Martinez, City Manager
Todd B. Hannon, City Clerk

Attachments

CITY OF MIAMI
OFFICE OF THE CITY ATTORNEY
LEGAL OPINION - #13-003
UPDATE TO LEGAL OPINION - #09-002

TO: Honorable Mayor and Members of the City Commission
FROM: Julie O. Bruce, City Attorney
CPL
DATE: June 10, 2013
RE: Interpretation of Florida Resign-to-Run Law and Method of Filling
Vacancy in Office Pursuant to the City of Miami Charter.

This opinion analyzes the Florida Resign-to-Run Law and the City of Miami Charter ("Miami Charter") as they relate to the General Municipal Election to be held in 2013.¹ Specifically:

1. HOW AND WHEN IS AN INCUMBENT COMMISSIONER REQUIRED TO RESIGN IN ORDER TO RUN FOR THE OFFICE OF MAYOR DURING THE GENERAL MUNICIPAL ELECTION TO BE HELD IN 2013?
2. HOW AND WHEN IS THE VACANCY CAUSED BY THE INCUMBENT COMMISSIONER'S RESIGNATION FILLED?
3. CAN THE VACANCY BE FILLED BY HOLDING A "SPECIAL ELECTION" CONCURRENTLY WITH THE GENERAL MUNICIPAL ELECTION SCHEDULED FOR NOVEMBER 5, 2013 TO ELECT CITY COMMISSIONERS FROM DISTRICT 3 AND 5 AND THE MAYOR?

ANALYSIS

Question 1

HOW AND WHEN IS AN INCUMBENT COMMISSIONER REQUIRED TO RESIGN IN ORDER TO RUN FOR THE OFFICE OF MAYOR DURING THE GENERAL MUNICIPAL ELECTION TO BE HELD IN 2013?

The Florida Resign-to-Run Law, set forth at Section 99.012, Florida Statutes (2012), requires elected or appointed officials to resign before running for another public office. In particular, Section 99.012(3)(a) states: "No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds."

¹ This opinion, along with the attachments, addresses the dates relevant to a situation in which an incumbent Commissioner, whose term is not expiring, plans to run for the Office of Mayor during the General Municipal Election to be held on November 5, 2013.

The purpose of the Resign-to-Run Law is twofold. The legislative intent for the statute is (1) to prevent an elected official or appointed official holding office to use the prestige and power of that office in seeking election to a higher or different office; and (2) to avoid the unnecessary cost of special elections occasioned by elected or appointed officials who, while holding one office, seek and obtain another elected office. *See Holley v. Adams*, 238 So. 2d 401, 407 (Fla. 1970).

Pursuant to the Resign-to-Run Law, the term of an incumbent Commissioner whose term does not expire in 2013 would run concurrently, or overlap, with the term of the newly elected Mayor. Consequently, in order to run for the Office of Mayor during the General Municipal Election in November 2013, an incumbent Commissioner must resign in accordance with the Resign-to-Run Law.

The resignation required by the Resign-to-Run Law is irrevocable. *See* § 99.012(3)(b), Fla. Stat. (2012). Further, the resignation must be submitted in writing at least ten days before the first day of qualifying for the office sought. *See* § 99.012(3)(c), Fla. Stat. (2012). Under Section 7 of the Miami Charter, “An affidavit of candidacy shall be filed not earlier than sixty (60) days and not later than forty-five (45) days prior to the date of the general municipal election[.]”

In Section 99.012(d), the Resign-to-Run Law mandates that the resignation must be effective **no later than the earlier of** the following dates:

1. The date the officer would take office, if elected; or
2. The date the officer’s successor is required to take office.

Thus, the effective date of resignation can be no later than *the earlier of* either the date the incumbent Commissioner would take office if elected to the Office of Mayor, or the date the incumbent Commissioner’s successor would take office.²

Question 2

HOW AND WHEN IS THE VACANCY CAUSED BY THE INCUMBENT COMMISSIONER’S RESIGNATION FILLED?

The Resign-to-Run Law addresses the method to fill the vacancy for the unexpired term of the resigning officer. Section 99.012(f)2, Fla. Stat. (2012), provides, in pertinent part:

With regard to an elective charter county office or elective municipal office, the vacancy created by the officer’s resignation may be filled for that portion of the officer’s unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the *effective date* of the resignation submitted by the official in his or her letter of resignation.

(Emphasis added)

Based on Section 99.012(f)2, the resulting vacancy in an elective municipal office may be filled for the unexpired term “in a manner provided by the respective charter.” Although the Florida Statute appears permissive as to the application of the Miami Charter, the Miami Charter itself is mandatory regarding the method of filling vacancies. *Cf.* Florida Division of Elections Opinion 80-16 (June 19, 1980) (requiring special election because “it is unavoidable here; it is the manner provided under the

² Under Chapter 1, General Provisions, Section 1-2 of the City of Miami Code, “In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.”

municipal charter for filling a vacancy in the Mayor's office."); Florida Division of Elections Opinion 82-20 (July 23, 1982) (same). Thus, the remaining Commissioners must fill the vacancy in accordance with the method provided in the Miami Charter.

Section 12(a) of the Miami Charter states, in pertinent part:

A vacancy on the city commission or in the office of the mayor caused by death, resignation, forfeiture or other action or causes shall be filled within ten (10) days after such vacancy occurs by a majority of the remaining city commissioners.³

Further, Section 99.012(f)2 of the Resign-to-Run Law provides that the office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation. The operation of the term "vacancy" used in the Resign-to-Run Law has been discussed by the Florida Division of Elections. In Florida Division of Elections Opinion 00-09 (August 22, 2000), the Division opined:

Although a vacancy is created or becomes operative at the time an irrevocable resignation is submitted, *Spector v. Glisson*, 305 So. 2d 777 (Fla. 1974), **the office is not "vacant" until the date a resignation becomes effective.** See *Tappy v. State ex rel. Byington*, 82 So. 2d 161 (Fla. 1955) and *State ex rel. Landis v. Baxter*, 122 Fla. 312, 165 So. 271 (Fla. 1936). The public officer's tender of a resignation before qualifying creates a vacancy in office effective at a future date, which permits persons to qualify as candidates for nomination and election to that office as if the public officer's term were otherwise scheduled to expire. **However, there is no vacancy in the office until the effective date of the resignation.** When a resignation is submitted with a future effective date, the "remainder of the term" is the term of office remaining after the effective date of the resignation.

(Emphasis added).

Under Section 12(a) of the Miami Charter, the remaining Commissioners are required to make an appointment to fill the vacancy within ten days "**after such vacancy occurs** by a majority of **the remaining city commissioners.**" (Emphasis added). This highlighted language itself indicates that the appointment will happen after the "actual" vacancy occurs; otherwise the appointment would not be made by the "remaining" commissioners. This conclusion is supported by the reasoning of the Division of Elections in the above cited opinions. Hence, the ten-day period within which to make an appointment under Section 12 of the Miami Charter is triggered by the date the incumbent Commissioner's office actually becomes vacant.

Question 3

CAN THE VACANCY BE FILLED BY HOLDING A "SPECIAL ELECTION" CONCURRENTLY WITH THE GENERAL MUNICIPAL ELECTION SCHEDULED FOR NOVEMBER 5, 2013 TO ELECT CITY COMMISSIONERS FROM DISTRICTS 3 AND 5 AND THE MAYOR?

³ As discussed further herein, under Section 12 of the Miami Charter, if the remaining Commissioners fail to appoint a person to fill the vacancy within ten days, the City must call a Special Election to fill a vacancy.

Whether a Special Election can be held concurrently with the General Municipal Election on November 5, 2013, depends on the timing of the effective date of the incumbent's resignation and the actions taken by the remaining Commissioners to fill the vacancy.⁴

Pursuant to Section 12(b) of the Miami Charter, if the Commissioners fail to appoint a replacement to fill the vacancy within ten days, a "Special Election" must be called. The Special Election must be held at a date not less than 38 and not more than 45 days after the expiration of the ten-day period and the five-day qualifying period. The qualifying period for the Special Election is for the five days, not including Saturday, Sunday, or legal holidays, before the 38th day before the date of the Special Election.⁵

On April 11, 2013, the City Commission set the General Municipal Election on November 5, 2013 to fill the Office of Commissioner for Districts 3 and 5 and the Office of Mayor. Provided that the effective date of the resignation falls within the time requirements of Section 12 of the Miami Charter, the remaining Commissioners can call for a Special Election to be held on November 5, 2013, which is the same date as the General Municipal Election.

CONCLUSION

Under the Florida Resign-to-Run Law, an incumbent Commissioner whose term is not expiring in 2013, intending to run for the Office of Mayor in 2013, is required to resign from the Office of Commissioner. The written resignation is irrevocable and must be submitted at least ten days prior to the first day of qualifying. Under the Resign-to-Run Law, the effective date of resignation can be no later than the earlier of either the date the incumbent commissioner would take office if elected to the Office of Mayor, or the date the incumbent Commissioner's successor would take office.

The vacancy created by the resignation must be filled by the procedure set forth in the Miami Charter. Under Section 12 of the Miami Charter, the remaining City Commissioners must appoint a person to the vacant office within ten days after the office becomes vacant. If the remaining Commissioners fail to fill the vacancy in office by appointment, a "Special Election" must be called. The Special Election must be held at a date not less than 38 and not more than 45 days after the expiration of the ten-day period and the five-day qualifying period. The qualifying period for the Special Election is the five days, not including Saturday, Sunday, or legal holidays, before the 38th day before the date of the Special Election.

Whether a Special Election can be held concurrently with the General Municipal Election that will be held on November 5, 2013, depends on the timing of the effective date of the incumbent's resignation and the actions taken by the remaining Commissioners to fill the vacancy.

c: Johnny Martinez, City Manager
Todd B. Hannon, City Clerk

⁴ Attached to this opinion is a calendar which sets forth the specific dates and deadlines for the General Municipal Election scheduled for November 5, 2013. The attachment also includes a calendar for each possible scenario based on the Resign-to-Run Law and the Miami Charter.

⁵ Pursuant to Section 12 of the Miami Charter, the person who receives the greatest number of votes for the Office in said Special Election is elected to fill the vacancy until whichever of the following occurs first: (1) the odd-year general municipal election for Mayor and City Commissioners, or (2) the even-year State of Florida general election, at which election national, state, and county offices are filled. There is no provision for a runoff.

The 2012 Florida Statutes
Title IX Electors and Elections
Chapter 99 Candidates

99.012 Restrictions on individuals qualifying for public office.—

(1) As used in this section:

(a) “Officer” means a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state. With respect to a municipality, the term “officer” means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter.

(b) “Subordinate officer” means a person who has been delegated the authority to exercise the sovereign power of the state by an officer. With respect to a municipality, subordinate officer means a person who has been delegated the authority to exercise municipal power by an officer.

(2) No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

(3)(a) No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.

(b) The resignation is irrevocable.

(c) The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he or she intends to seek.

(d) The resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or
2. The date the officer’s successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his or her resignation to the officer before whom he or she qualified for the office he or she holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his or her resignation to the officer or authority which appointed him or her to the office he or she holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. With regard to an elective office, the resignation creates a vacancy in office to be filled by election. Persons may qualify as candidates for nomination and election as if the public officer’s term were otherwise scheduled to expire.

2. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer’s resignation may be filled for that portion of the officer’s unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.

(g) Any officer who submits his or her resignation, effective immediately or effective on a date prior to the date of his or her qualifying for office, may then qualify for office as a nonofficeholder, and the provisions of this subsection do not apply.

(4) A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter if the person is seeking to qualify for a public office that is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(5) If an order of a court that has become final determines that a person did not comply with this section, the person shall not be qualified as a candidate for election and his or her name may not appear on the ballot.

(6) This section does not apply to:

(a) Political party offices.

(b) Persons serving without salary as members of an appointive board or authority.

(7) Nothing contained in subsection (3) relates to persons holding any federal office or seeking the office of President or Vice President.

History.—s. 1, ch. 63-269; s. 2, ch. 65-378; s. 1, ch. 70-80; s. 10, ch. 71-373; s. 1, ch. 74-76; s. 3, ch. 75-196; s. 1, ch. 79-391; s. 47, ch. 81-259; s. 1, ch. 83-15; s. 28, ch. 84-302; s. 31, ch. 91-107; s. 534, ch. 95-147; s. 1, ch. 99-146; s. 1, ch. 2000-274; s. 14, ch. 2007-30; s. 14, ch. 2008-4; s. 9, ch. 2008-95; s. 12, ch. 2011-40.

Sec. 7. Election of city commissioners and mayor.

A general municipal election for the mayor and city commissioners shall be held on the first Tuesday after the first Monday in November in odd-numbered years. A runoff election for the mayor and city commissioners shall be held on the second Tuesday after the first Monday in November in odd-numbered years. All elections held in said city shall be conducted and held according to the provisions of the general election laws of the State of Florida, except as otherwise provided for in the Charter. The name of any person qualified as provided in section 4 of this Charter shall be printed upon the ballot as a candidate for the office of mayor or city commissioner upon paying to the City of Miami the sum as prescribed by ordinance to be accepted by the city clerk as a qualifying fee along with the sum for election assessment as prescribed by state law during the qualifying period as prescribed in this Charter prior to the date of such general municipal election or special election to fill a vacancy. Any person qualified to run for mayor or city commissioner shall file an affidavit of candidacy in the form provided by the city clerk including his or her name, address, occupation and willingness to serve if elected, accompanied by the requisite documents and fees as provided in state law and section 7 of this Charter. An affidavit of candidacy shall be filed not earlier than 60 days and not later than 45 days prior to the date of the general municipal election or during the qualifying period for a special election to fill a vacancy.

All such qualifying documents and fees shall be deposited with the city clerk no later than 6:00 pm. on the forty-fifth day prior to the general municipal election or the last day for qualifying in a special election to fill a vacancy.

(Laws of Fla., ch. 15339(1931); Laws of Fla., ch. 19974(1939); Laws of Fla., ch. 21387(1941); Laws of Fla., ch. 22395(1943); Laws of Fla., ch. 23408(1945); Char. Amend. No. 1, 3-14-72; Char. Amend. No. 6, 11-6-73; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

Editor's note—

Res. No. 01-843, § 1, adopted August 9, 2001, amended § 7 in its entirety to read as herein set out. Formerly, § 7 pertained to regular and primary elections of commissioners. The historical notation has been retained for reference purposes.

Sec. 12. Filling vacancies for mayor and commission.

- (a) A vacancy on the city commission or in the office of mayor caused by death, resignation, forfeiture or other action or causes shall be filled within ten days after such vacancy occurs by a majority of the remaining city commissioners. The person appointed must meet the qualifications of the office as required in section 4 of this Charter. The term of office of the person so appointed shall be until the successor in office is elected and qualified at whichever of the following occurs first:
- (1) the odd-year general municipal election for mayor and city commissioners held pursuant to section 4 of the Charter, or
 - (2) the even-year State of Florida general election, at which election national, state and county offices are filled,

The candidates for such election shall be qualified as provided in section 4 of this Charter and the qualifying period and requirements for such election shall be as provided in section 7 of this Charter.

- (b)

If the remaining city commissioners shall fail or refuse to fill such vacancy within ten days after it occurs, as provided herein, the city commission shall call a special election to fill the vacancy to be held at a date not less than thirty-eight or more than forty-five days after the expiration of the ten-day period and the five day qualifying period. The qualifying period for such special election shall be for the five days not including Saturday, Sunday or legal holidays before the thirty-eighth day before the date of the election and the procedure for the election not otherwise provided for in this section shall be as provided in section 7 of this Charter. The person who receives the greatest number of votes for the office in said special election is elected to fill the vacancy until the election as provided in subsection (a) (1) or (2) of this section.

- (c) If the city commissioners shall fail to comply with their duties as set forth in this section, then, and in that event, the court is hereby empowered and authorized to enforce compliance with this act or to call an election itself to fill such vacancy or vacancies on the city commission or in the office of mayor.

(Laws of Fla., ch. 22393(1943); Laws of Fla., ch. 27724(1951); Ord. No. 8287, 11-5-74; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

2013 - General Municipal Election

JANUARY							FEBRUARY							MARCH						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
	1	2	3	4	5	6					1	2	3					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28				25	26	27	28	29	30	31
10	Commission Meeting						7	Commission Meeting						14	Commission Meeting					
24	Commission Meeting						21	Commission Meeting						28	Commission Meeting - 1st Reading Ord. to call election and change Runoff Date					
	Holiday																			
APRIL							MAY							JUNE						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
1	2	3	4	5	6	7			1	2	3	4	5						1	2
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23
29	30						27	28	29	30	31			24	25	26	27	28	29	30
11	Commission Meeting - 2nd Reading Ord. to call election and change Runoff Date						9	Commission Meeting						13	Commission Meeting					
25	Commission Meeting						23	Commission Meeting						27	Commission Meeting					
JULY							AUGUST							SEPTEMBER						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
1	2	3	4	5	6	7				1	2	3	4							1
8	9	10	11	12	13	14	5	6	7	8	9	10	11	2	3	4	5	6	7	8
15	16	17	18	19	20	21	12	13	14	15	16	17	18	9	10	11	12	13	14	15
22	23	24	25	26	27	28	19	20	21	22	23	24	25	16	17	18	19	20	21	22
29	30	31					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						
11	Commission Meeting						27	Resign-to-Run Deadline 10 d prior to Qualifying 70 d prior to Election Day						6	1st day of Qualifying (60 d prior)					
25	Commission Meeting													12	Commission Meeting					
														21	Last day of Qualifying (45 d prior)					
														26	Commission Meeting					
OCTOBER							NOVEMBER							DECEMBER						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
	1	2	3	4	5	6					1	2	3							1
7	8	9	10	11	12	13	4		6	7	8	9	10	2	3	4	5	6	7	8
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15
21	22	23	24	25	26	27	18		20	21	22	23	24	16	17	18	19	20	21	22
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29
														30	31					
10	Commission Meeting						2	Last day of Early Voting						12	Commission Meeting					
24	Commission Meeting							Election Day						26	Commission Meeting					
26	1st day of Early Voting						12	Charter Runoff Election Day												
							13	5 d after canvass of Election Day												
								Proposed Runoff Election Day												
							21	Commission Meeting												
							28	5 d after canvass of Runoff												

**2013 - Proposed District 4 Special Election
RESIGNATION EFFECTIVE IN TIME FOR CONCURRENT ELECTION
AND COMMISSION SUCCESSFULLY APPOINTS INTERIM**

JULY						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

11 Commission Meeting
25 Commission Meeting
 Holiday

AUGUST						
M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

27 Resign-to-Run Deadline
 10 d prior to Qualifying
 70 d prior to Election Day

SEPTEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

6 60 d prior
12 Commission Meeting - Appoint
13 1st day of Qualifying
21 Last day of Qualifying (45 d prior)
26 Commission Meeting

OCTOBER						
M	T	W	T	F	S	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

10 Commission Meeting
24 Commission Meeting
26 1st day of Early Voting

NOVEMBER						
M	T	W	T	F	S	S
				1	2	3
4		6	7	8	9	10
11	12	13	14	15	16	17
18		20	21	22	23	24
25	26	27	28	29	30	

2 Last day of Early Voting
11 Election/Special Election Day
12 Charter Runoff Election Day
13 5 d after canvass of Election Day
14 Proposed Runoff Election Day
21 Commission Meeting
27 5 d after canvass of Runoff

DECEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

12 Commission Meeting
26 Commission Meeting

If the Commissioner resigning to run for another office, declares his/her resignation to be effective 60 DAYS OR MORE before the General Municipal Election AND the remaining Commissioners SUCCESSFULLY make an appointment of a person to the vacant Commission seat, WITHIN 10 DAYS of the effective date of the resignation, prospective candidates would have at least 5 days in which to qualify for a SPECIAL ELECTION to be held concurrently with the General Election and the APPOINTEE would serve until the winner of the concurrent special election takes office and the WINNER would serve until the next General Municipal Election.

City Attorney Legal Opinion #09-002

NOVEMBER - 2015						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

2 Miami General Municipal Election
11 Miami Runoff Election

**2013 - Proposed District 4 Special Election
RESIGNATION EFFECTIVE AFTER GENERAL MUNICIPAL ELECTION
AND COMMISSION SUCCESSFULLY APPOINTS INTERIM**

JULY							AUGUST							SEPTEMBER						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
1	2	3	4	5	6	7				1	2	3	4							1
8	9	10	11	12	13	14	5	6	7	8	9	10	11	2	3	4	5	6	7	8
15	16	17	18	19	20	21	12	13	14	15	16	17	18	9	10	11	12	13	14	15
22	23	24	25	26	27	28	19	20	21	22	23	24	25	16	17	18	19	20	21	22
29	30	31					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						
11	Commission Meeting						27	Resign-to-Run Deadline 10 d prior to Qualifying 70 d prior to Election Day						6	60 d prior					
25	Commission Meeting													12	Commission Meeting - Appoint					
	Holiday													13	1st day of Qualifying					
														21	Last day of Qualifying (45 d prior)					
														26	Commission Meeting					

OCTOBER							NOVEMBER							DECEMBER						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
	1	2	3	4	5	6					1	2	3							1
7	8	9	10	11	12	13	4		6	7	8	9	10	2	3	4	5	6	7	8
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15
21	22	23	24	25	26	27	18		20	21	22	23	24	16	17	18	19	20	21	22
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29
														30	31					
10	Commission Meeting						2	Last day of Early Voting						12	Commission Meeting					
24	Commission Meeting							Election/Special Election Day						26	Commission Meeting					
26	1st day of Early Voting						12	Charter Runoff Election Day												
							13	5 d after canvass of Election Day												
							19	Proposed Runoff Election Day												
							21	Commission Meeting												
							27	5 d after canvass of Runoff												

If the Commissioner resigning to run for another office, declares his/her resignation to be effective AFTER THE CANVASS OF THE VOTE of the General Municipal Election or the Runoff Election AND the remaining Commissioners SUCCESSFULLY make an appointment of a person to the vacant Commission seat, WITHIN 10 DAYS of the effective date of the resignation, the APPOINTEE would serve until the winner of the next special election concurrent with a General Election takes office and the WINNER would serve until the next General Municipal Election.

City Attorney Legal Opinion #09-002

NOVEMBER - 2014							NOVEMBER - 2015						
M	T	W	T	F	S	S	M	T	W	T	F	S	S
					1	2	1		3	4	5	6	7
3		5	6	7	8	9	8	9	10	11	12	13	14
10	11	12	13	14	15	16	15	16	17	18	19	20	21
17	18	19	20	21	22	23	22	23	24	25	26	27	28
24	25	26	27	28	29	30	29	30					
7	Countywide General Election						7	Miami General Municipal Election					
13	Miami Runoff Election						13	Miami Runoff Election					

**2013 - Proposed District 4 Special Election
RESIGNATION EFFECTIVE IN TIME FOR CONCURRENT ELECTION
BUT COMMISSION FAILS TO APPOINT INTERIM**

JULY						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST						
M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SEPTEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

11 Commission Meeting
25 Commission Meeting
 Holiday

27 Resign-to-Run Deadline
10 d prior to Qualifying
70 d prior to Election Day

6 60 d prior
12 Commission Meeting - Appoint
13 1st day of Qualifying
21 Last day of Qualifying (45 d prior)
26 Commission Meeting

OCTOBER						
M	T	W	T	F	S	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER						
M	T	W	T	F	S	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

10 Commission Meeting
24 Commission Meeting
26 1st day of Early Voting
 38-45 d after expiration of
10 period & 5 day qualifying

2 Last day of Early Voting
3 Election/Special Election Day
12 Charter Runoff Election Day
13 5 d after canvass of Election Day
19 Proposed Runoff Election Day
21 Commission Meeting
27 5 d after canvass of Runoff

12 Commission Meeting
26 Commission Meeting

If the Commissioner resigning to run for another office declares his/her effective date of resignation falls specifically on either the 58th, the 59th or the 60th day prior to the General Municipal Election, and the remaining Commissioners FAIL to make an appointment of a person to the vacant Commission seat, within 10 days of the effective date of the resignation, prospective candidates would have 5 days in which to qualify for a Special Election to be held concurrently with the General Municipal Election and the vacant seat would remain vacant until the winner of the Special Election takes office and that winner would serve until the next State/County General Election.

City Attorney Legal Opinion #09-002

NOVEMBER - 2015						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

2013 - Proposed District 4 Special Election
RESIGNATION EFFECTIVE AFTER GENERAL MUNICIPAL ELECTION
BUT COMMISSION FAILS TO APPOINT INTERIM

JULY						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST						
M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SEPTEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

11 Commission Meeting
 25 Commission Meeting

27 Resign-to-Run Deadline
 10 d prior to Qualifying
 70 d prior to Election Day

6 60 d prior
 12 Commission Meeting - Appoint
 13 1st day of Qualifying
 21 Last day of Qualifying (45 d prior)
 26 Commission Meeting

□ Holiday

OCTOBER						
M	T	W	T	F	S	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER						
M	T	W	T	F	S	S
				1	2	3
4		6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER						
M	T	W	T	F	S	S
						1
2	3	4	5	6		8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

10 Commission Meeting
 24 Commission Meeting
 26 1st day of Early Voting

2 Last day of Early Voting
 Election/Special Election Day
 12 Charter Runoff Election Day
 13 5 d after canvass of Election Day
 19 Proposed Runoff Election Day
 21 Commission Meeting fail to appoint
 27 5 d after canvass of Runoff
 5 day qualifying period

10 d after 27th vac. Com. must mee
 5 day qualifying period
 12 Commission Meeting

If the Commissioner resigning to run for another office declares his/her effective date of resignation to be OTHER THAN the 58th, the 59th or the 60th day prior to the General Municipal Election, AND the remaining Commissioners FAIL to make an appointment of a person to the vacant Commission seat, within 10 days of the effective date of the resignation, prospective candidates would have 5 days in which to qualify for a STAND-ALONE Special Election and the vacant seat would remain vacant until the winner of the Special Election takes office and that winner would serve until the next State/County General Election.

City Attorney Legal Opinion #09-002

JANUARY - 2014						
M	T	W	T	F	S	S
		1	2	3	4	5
6		8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

NOVEMBER - 2014						
M	T	W	T	F	S	S
				1	2	
3		5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

NOVEMBER - 2015						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

38-45 d after Nov 29 qualifying
 Tuesday Special Election
 38-45 d after Dec 13 Qualifying
 Tuesday Special Election

Countywide General Election
 Miami Runoff Election

Miami General Municipal Election
 Miami Runoff Election