

CITY OF SARASOTA
Sarasota, Florida

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City Auditor & Clerk

Inter-Office Memorandum

August 2, 2018

TO: Pamela M. Nadalini, MBA, CMC, City Auditor & Clerk

FROM: Robert M. Fournier, City Attorney *RMF*

RE: Ordinance No. 18-5254
Election Date Change

Enclosed for execution is the original of the ordinance referred to above which was adopted on second reading by the City Commission at a regular City Commission meeting of July 16, 2018.

Thank you for your attention to the above.

/lg

enc.: a/s

ORDINANCE NO. 18-5254

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, CALLING A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY FOR THE PURPOSE OF DETERMINING WHETHER THE CITY CHARTER SHALL BE AMENDED TO PROVIDE THAT THE GENERAL ELECTION FOR THE OFFICE OF CITY COMMISSIONER SHALL BE HELD ON THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER IN ALL EVEN NUMBERED YEARS; WITH A FIRST ELECTION TO BE HELD TEN WEEKS BEFORE THE GENERAL ELECTION WHEN THREE OR MORE CANDIDATES QUALIFY FOR A DISTRICT COMMISSION SEAT OR WHEN FOUR OR MORE CANDIDATES QUALIFY FOR THE TWO AT LARGE COMMISSION SEATS; STATING THE REFERENDUM QUESTION AND TITLE; STATING THE TEXT OF THE PROPOSED CHARTER AMENDMENT; STATING THE DATE ON WHICH THE REFERENDUM WILL BE HELD; PROVIDING A SCHEDULE FOR IMPLEMENTATION OF THE CHARTER AMENDMENT, IF APPROVED; PROVIDING FOR THE READING OF THIS ORDINANCE BY TITLE ONLY; PROVIDING FOR THE SEVERABILITY OF THE PARTS HEREOF AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article X, Section 1(a)(2) of the Charter of the City of Sarasota provides that amendments to the City Charter may be initiated by a written petition to the City Commission setting forth the full text of the proposed amendment and signed by qualified electors of the City equal to at least ten percent (10%) of the total number of qualified electors registered to vote at the preceding regular at-large city election; and,

WHEREAS, Article X, Section 1(a)(2) of the City Charter further provides that a copy of the written petition initiated pursuant to this provision must be submitted to the Office of the City Auditor and Clerk prior to or on the date that the first signature is affixed and that if the required number of signatures is affixed within one hundred eighty (180) days thereafter, then the fully signed petition may be subsequently submitted to the office of the City Auditor and Clerk, who shall place the petition on a regular or special meeting agenda for presentation to the City Commission; and,

WHEREAS, on December 12, 2017, the City Auditor and Clerk confirmed in writing that her office was in receipt of a Petition for Amendment to the Charter of the City of Sarasota proposed by Decide the Date Sarasota and entitled "Change in Date of Election of City Commissioners;" and,

WHEREAS, on May 18, 2018, the Sarasota County Supervisor of Elections advised the City Auditor and Clerk that the signatures submitted by Decide the Date Sarasota for the citizens' initiative petition entitled "Change in Date of Election of City Commissioners" had been checked and verified by the Supervisor of Elections Office; and,

WHEREAS, on May 18, 2018, the Supervisor of Elections further advised the City Auditor and Clerk that he was able to certify that there were a total of 4,732 signatures accepted as valid on the petition from electors residing in the City of Sarasota and that this met the required number of signatures (3,736 or 10% of the total number of qualified electors registered to vote in the preceding at large election) within the 180 day period commencing on December 12, 2017; and,

WHEREAS, the City Auditor and Clerk has placed the above described citizens' initiative petition to amend the City Charter on the City Commission agenda for its regular meeting of June 4, 2018 as required by the City Charter; and,

WHEREAS, at the regular City Commission meeting of June 4, 2018 the written petition proposing an amendment to the City Charter entitled "Change in the Date of Election of City Commissioners" was presented to the City Commission by representatives of Decide the Date Sarasota; and,

WHEREAS, in accordance with Section 166.031(1) *Florida Statutes* and Article X, Section 1(b) of the Charter of the City of Sarasota, the City Commission has the duty to place the question of whether to adopt the Charter amendment proposed in the petition on the ballot at referendum by the adoption of an ordinance; and,

WHEREAS, Article X, Section 1(b) of the City Charter further requires that such ordinance shall: (1) provide for the date of the referendum (which shall be no earlier than ninety (90) days following its adoption and no later than the next general election to be held in the City); (2) provide for the language to appear on the ballot at referendum; (3) provide for the effective date of the Charter amendment in the event same is approved; and,

WHEREAS, this Ordinance no. 18-5254 is intended to comply with the above referenced provisions of Article X, Section 1(b) of the City Charter by submitting the above described proposed Charter amendment entitled "Change in the Date of Election of City Commissioners" to the qualified electors of the City of Sarasota at referendum; and,

WHEREAS, applicable state law restricts the explanatory statement or summary of the proposed amendment to appear on the ballot to a maximum of 75 words and restricts the ballot title or caption to a maximum of 15 words.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA:

Section 1. The proposed amendment to the Charter of the City of Sarasota (hereafter City Charter) set forth herein shall be submitted to the vote of the qualified electors of the City for approval at a referendum to be held on November 6, 2018. Said referendum will propose amendments to Article III, Section 7 of the City Charter and to Article IX, Section 5 of the City Charter as more fully set forth in Section 2 and Section 3 below.

Section 2. The full text of the proposed amendment to Article III, Section 7 of the City Charter is set forth below: (Proposed new text shown in underline and proposed deleted text shown in ~~strike through~~.)

"Sec. 7. Mayor, vice mayor and acting mayor.

(a) On the Friday following the ~~second~~ first Tuesday after the first Monday in May November of each year, or thereafter when necessary to fill a vacancy, the city commission shall elect one (1) of its members as mayor and another of its members as vice-mayor of the city. In case the members of the City Commission are unable to agree upon the selection of the mayor and/or the vice-mayor within five (5) days after the time fixed herein or within five (5) days after any vacancy occurs, such offices shall be chosen by lot, conducted by the city auditor and clerk, who shall certify the result of such lot in the minutes of the city commission.

(b) In the event of illness, disability, death or absence of the mayor, the vice-mayor shall act as mayor and have all the powers, duties and authority of the mayor; and in the event the vice-mayor signs any instrument in place of the mayor, then it shall be presumed without further proof that the mayor was either ill, disabled, deceased or absent from the city.

(c) In the event of illness, disability or absence from the city of both the mayor and the vice-mayor, a quorum of the city commission may appoint an acting mayor for such length of time or for such particular purpose as may be necessary.

Section 3. The full text of the proposed amendment to Article IX, Section 5 of the City Charter is set forth below: (Proposed new text shown in underline and proposed deleted text shown in ~~strike through~~.)

"Sec. 5. Elections

(a) *District seats.*

(1) When ~~two (2)~~ three (3) or more persons qualify as candidates for one (1) of the three (3) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the ~~second Tuesday in March, ten weeks prior to the general election (as defined below),~~ to be known as the first election and to coincide with the primary election prescribed by Florida Statutes. ~~With respect to each district seat, the candidate who is supported by a majority of the voters shall be declared elected.~~

~~If no candidate is supported by a majority of the voters in the first election, with respect to any district seat, a~~ A second election shall be held on the second first Tuesday after the first Monday in May November of each even numbered year, to be known as the general election and as currently required by Florida Statutes for the purpose of choosing a successor to each elective federal, state, county and district officer whose term will expire before the next general election. The two candidates receiving the highest number of votes cast in the first election shall have their names placed on the ballot for the ~~second~~ general election. The candidate receiving the support of a majority of the voters in the ~~second~~ general election, in his or her respective district, shall be declared elected.

(2) When only two (2) persons qualify as candidates for one (1) of the three (3) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the first Tuesday after the first Monday in November of each even numbered year, to be known as the general election and the first election shall not be held. The candidate receiving the support of a majority of the voters in the general election, in his or her respective district, shall be declared elected.

~~(2)(3)~~ (3) When only one (1) person qualifies as a candidate for a district seat on the city commission the name of such person shall not appear on the ballot, and such person shall be declared elected and shall assume office at the same time and in the same manner as if elected in the ~~regular city~~ general city election.

(b) *At-large seats.*

(1) When ~~three (3)~~ four (4) or more persons qualify as a candidate for the office of city commissioner for the two (2) at-large seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election held on the ~~second Tuesday in March, ten weeks prior to the general election~~ to be known as the first election and to coincide with the primary election prescribed by Florida Statutes. ~~The two (2) candidates receiving the highest number of votes cast in the first election who have also received the support of the majority of the voters shall be declared elected.~~

~~If no candidate receives the support of a majority of the voters in the first election, a~~
A second election shall be held, on the second first Tuesday after the first Monday in
May, November, to be known as the general election and as currently required by
Florida Statutes for the purpose of choosing a successor to each elective federal, state,
county and district officer whose term will expire before the next general election, to fill
the two (2) at large seats. The three (3) candidates receiving the highest number of
votes in the first election shall have their names placed on the ballot for the second
general election.

~~In the event that only one (1) candidate receives the support of a majority of the voters~~
~~in the first election, the second election shall be held to fill one (1) at-large seat. The~~
~~two candidates receiving the support of the second and third highest number of voters~~
~~in the first election shall have their names placed on the ballot for the second election.~~

~~In the second election any at-large seat that has not been filled by the election of a~~
~~candidate who receives the support of a majority of the voters in the second election~~
~~The two at-large seats shall be filled by declaring the candidate or candidates elected~~
~~who have received the highest number of votes cast in the second general election.~~

(2) When only three (3) persons qualify as candidates for the two (2) at large
seats on the city commission, the qualifiers shall have their names placed on the ballot
for the city election to be held on the first Tuesday following the first Monday in
November of each even numbered year, to be known as the general election. The two
candidates who receive the highest number of votes in the general election shall be
declared elected.

~~(2)(3)~~ When only one (1) or two (2) persons qualify as candidates for an at-large
seat on the city commission, the names of such persons shall not appear on the ballot,
and such persons shall be declared elected and shall assume office at the same time
and in the same manner as if elected in the first general election.

~~The minimum number of votes required for a candidate for an at-large seat to receive~~
~~the support of a majority of the voters, as required herein, shall be a number which is~~
~~equal to half the number of persons voting (as indicated by valid ballots cast) plus one~~
~~(1).~~

(c) *Commencement and length of term.* Persons elected to the city commission shall
assume office on the ~~third day~~ Friday following the ~~second~~ first Tuesday after the first
Monday in May November of each even numbered year. Each person elected shall
hold office for four (4) years.

Section 4. The entire text of the proposed new Article III, Section 7 of the City
Charter and the entire text of the proposed new Article IX, Section 5 of the City Charter
shall be published in black line format not less than thirty (30) days nor more than sixty

(60) days prior to the date of the referendum referenced in Section 1 above in a newspaper of general circulation in the City.

Section 5. The question pertaining to an amendment to the City Charter regarding a proposed change in the date of election of City Commissioners shall be submitted to the qualified electors of the City in the following form, which shall be printed on the ballot:

TITLE:

Charter Amendment: Change in Date of Election of City Commissioners

SUMMARY:

Changes City Commission elections from March and May in odd numbered years to August and November in even numbered years to coincide with federal, state and county elections. No candidate shall be elected in the August election. The August election shall occur only when required by the number of qualifying candidates. Otherwise, the November election shall be the only election. Changes Commission appointment of Mayor and Vice Mayor to coincide with election dates.

_____ YES, for the Amendment

_____ NO, against the Amendment

Section 6. Description of proposed Charter amendment: The proposed amendment to the current City Charter would provide for elections for City Commission to be held in November of even numbered years so as to coincide with federal, state, county and district general and primary elections as provided for by Florida Statutes.

For district elections, in the event that three (3) or more persons qualify as candidates for a district seat, the qualifying candidates will be on the ballot for a city election known as the first election which would be held at the same time as the primary

election, which by Florida Statute, takes place on the Tuesday ten weeks prior to the general (November) election. The two (2) candidates receiving the highest number of votes in the first election shall have their names placed on the ballot for the general (November) election. A candidate receiving a majority of the votes cast in the first election would still have his or her name placed on the ballot for the general (November) election.

For at-large elections, in the event that four (4) or more persons qualify as candidates for the two (2) at-large Commission seats, the qualifying candidates will be on the ballot for a city election known as the first election which would be held at the same time as the primary election, which by Florida Statute, takes place on the Tuesday ten weeks prior to the general (November) election. The three (3) candidates receiving the highest number of votes in the first election shall have their names placed on the ballot for the general (November) election. A candidate receiving a majority of the votes cast in the first election would still have his or her name placed on the ballot for the general (November) election.

No City Commissioners would be elected in the first election held ten weeks prior to the general (November) election. All City Commissioners would be elected during the general election which, by Florida Statute, takes place on the first Tuesday after the first Monday in November of each even numbered year.

Section 7. If a majority of the qualified electors of the City of Sarasota voting on the referendum question vote for approval of the proposed amendment regarding a change in the date of election of City Commissioners; then the approved amendment shall go into effect as follows:

A. The terms of the three (3) incumbent district City Commissioners now set to expire in May 2019 would be extended for eighteen (18) months or until November 2020. The next election to fill the three district seats would be held in November 2020 with district Commissioners elected to four (4) year terms to expire in November 2024.

B. The terms of the two (2) incumbent at-large City Commissioners now set to expire in May 2021 would be extended for eighteen (18) months or until November 2022. The next election to fill the two at-large seats would be held in November 2022 with at-large Commissioners elected to four (4) year terms to expire in November 2026.

Section 8. If a majority of the qualified electors of the City voting on the referendum question vote for approval of the proposed amendment; the City Commission shall thereafter amend Article III of Chapter 12 of the City Code regarding the candidate qualifying period to be consistent with Sec. 99.061(2) Florida Statutes regarding the candidate qualifying period.

Section 9. It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses, phrases and attachments of and to this ordinance be deemed severable; and if any section, phrase, clause, sentence, paragraph, section or attachment of or to this ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections or attachments of or to this ordinance.

Section 10. This ordinance shall take effect immediately upon adoption, except that the proposed amendment to the City Charter regarding a change in municipal election dates shall be phased into effect as provided in Section 7 above.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida, this 2nd day of July, 2018.

PASSED on second reading and finally adopted this 16th day of July, 2018.

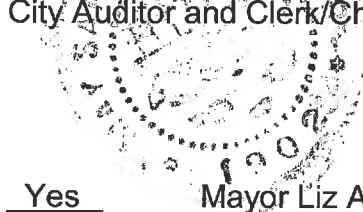
CITY OF SARASOTA, FLORIDA


Liz Alpert, Mayor

ATTEST:



Pamela M. Nadalini, MBA, BBA, CMC
City Auditor and Clerk/Chief Audit Executive



- Yes Mayor Liz Alpert
- No Vice Mayor Jen Ahearn-Koch
- Yes Commissioner Hagen Brody
- Yes Commissioner Shelli Freeland Eddie
- No Commissioner Willie Charles Shaw