

RESOLUTION 21-R68

A RESOLUTION CALLING FOR AND SCHEDULING OF THE SPECIAL ELECTION TO FILL THE VACANCY OF MAYOR, CREATED BY THE RESIGNATION OF THE HONORABLE GREGORY J. ORAVEC AS MAYOR OF PORT ST. LUCIE; SETTING THE DATE FOR A PRIMARY ELECTION; SETTING THE DATE FOR THE GENERAL ELECTION; ESTABLISHING THE QUALIFYING PERIOD; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mayor Gregory J. Oravec was elected to serve his second term as Mayor on or about November 6, 2018, such term scheduled to end upon certification of the results from the general election scheduled for November 8, 2022; and

WHEREAS, Mayor Oravec has submitted a resignation from his Mayoral Office for the purpose of accepting employment as the Village Manager of Islamorada, Village of Islands, located in Monroe County, Florida; and

WHEREAS, Mayor Oravec's last day in office will be June 30, 2021, leaving the Mayor's Seat vacant as of July 1, 2021; and

WHEREAS, pursuant to the requirements of the Charter of the City of Port St. Lucie and the Florida Elections Code, most recently amended by the enactment of Senate Bill 90 (2021), a Special Election is required to fill the Seat of Mayor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT ST. LUCIE, FLORIDA:

Section 1. The City Council hereby calls for a Special Election for the Mayor's Seat.

Section 2. The Special Election shall be administered by the Honorable Gertrude Walker, Supervisor of Elections for St. Lucie County, pursuant to the terms of the City Charter, unless rendered inapplicable by the Florida Elections Code, in which case state law shall apply.

Section 3. Due to the time frames required pursuant to the Florida Elections Code, and otherwise by Florida law, a Special Election shall take place on Tuesday, September 21, 2021, or, if not possible for any reason, as soon thereafter as the Supervisor of Elections can so administer the Special Election.

Section 4. In the event more than two candidates qualify to run for elected office, the Special Election set forth in Section 3 shall serve as a Primary Election, as required by Section

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3.09(c)(2) of the City Charter, with a Special General Election taking place on Tuesday, December 7, 2021, or, if not possible for any reason, as soon thereafter as the Supervisor of Elections can so administer the Special General Election.

Section 5. The Qualifying Period for this Special Election shall run from noon on Monday, July 12, 2021, through noon on Friday, July 16, 2021.

Section 6. Because this is a Special Election solely for the purposes required by the City of Port St. Lucie, the cost of the Special Election shall be borne by the City of Port St. Lucie.


Section 7. The provisions of this Resolution are intended to be severable. If any part of this Resolution is determined to be void or is held to be illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect and this Resolution shall nevertheless stand and be construed as if the illegal or invalid part or portion had not been included herein.

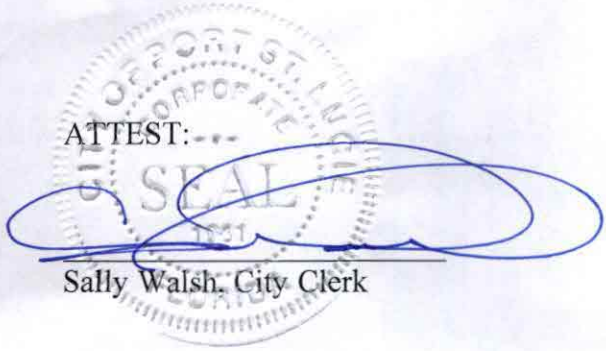
Section 8. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this 14th day of June, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE


ATTEST: ---

By:  _____
Gregory J. Oravec, Mayor



Sally Walsh, City Clerk

APPROVED AS TO FORM:

 _____
James D. Stokes, City Attorney



Agenda Summary
2021-499

Agenda Date: 6/14/2021

Agenda Item No.: 11.e

Placement: Resolutions

Action Requested: Motion / Vote

Resolution 21-R68, A Resolution Calling for a Special Election to fill the Mayor's Seat, setting Election Dates and setting a Qualifying Period.

Submitted By: James D. Stokes, City Attorney

Strategic Plan Link: The City's Goal of a high-performing city government organization.

Executive Summary (General Business): Pursuant to the City's Charter and the principles of good government, the vacancy in the Mayor's Seat must be filled by a Special Election.

Presentation Information: The City Attorney and City Clerk are available to answer questions as needed.

Staff Recommendation: Move that the Council adopt the Resolution and direct the City Clerk to work with the Supervisor of Elections in the scheduling and administration of a Special Election.

Alternate Recommendations:

1. Move that the Council amend the recommendation and adopt the resolution.
2. Move that the Council not adopt the resolution and provide direction.

Background: The Mayor has submitted a Letter of Resignation which will take effect at midnight on June 30, 2021. Pursuant to the City Charter, the Florida Elections Code, and the principles of good government, the Mayor's Seat needs to be filled by a Special Election. In the event more than two individuals qualify to run for Mayor, a Special Primary Election will also be necessary. After consultation between the City Attorney's Office, the City Clerk's Office, the Supervisor of Elections' Office and the Secretary of State, Division of Elections' Office, a schedule has been proposed which provides for a Qualifying Period from noon on Monday, July 12, 2021 through noon on Friday, July 16, 2021; with a Special Election on Tuesday, September 21, 2021 and, if needed, a Special General Election on Tuesday, December 7, 2021. The cost of this election shall be borne by the City of Port St. Lucie.

Issues/Analysis: See attached memorandum from the City Attorney.

Financial Information: The cost of a Special Election is estimated between \$220,000 and \$320,000 per election, dependent upon options selected by the Council. The Supervisor of Elections has stated that this is an estimate and that the City will only be responsible for actual costs associated with this Special Election.

Special Consideration: N/A

Location of Project: Citywide.

Attachments:

- Resolution
- City Attorney Memorandum
- Supervisor of Elections Letter & Cost Estimate

NOTE: All of the listed items in the "Attachment" section above are in the custody of the City Clerk. Any item(s) not provided in City Council packets are available upon request from the City Clerk.

Internal Reference Number: 6701

Legal Sufficiency Review:

Reviewed by James D. Stokes, City Attorney. Approved as to Legal form and sufficiency by James D. Stokes, City Attorney.

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WHEREAS, Mayor Oravec has submitted a resignation from his Mayoral Office for the purpose of accepting employment as the Village Manager of Islamorada, Village of Islands, located in Monroe County, Florida; and

WHEREAS, Mayor Oravec's last day in office will be June 30, 2021, leaving the Mayor's Seat vacant as of July 1, 2021; and

WHEREAS, pursuant to the requirements of the Charter of the City of Port St. Lucie and the Florida Elections Code, most recently amended by the enactment of Senate Bill 90 (2021), a Special Election is required to fill the Seat of Mayor.

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Section 4. In the event more than two candidates qualify to run for elected office, the Special Election set forth in Section 3 shall serve as a Primary Election, as required by Section 3.09(c)(2) of the City Charter, with a Special General Election taking place on Tuesday, December 7, 2021, or, if not possible for any reason, as soon thereafter as the Supervisor of Elections can so administer the Special General Election.

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Section 5. The Qualifying Period for this Special Election shall run from noon on Monday, July 12, 2021, through noon on Friday, July 16, 2021.

Section 6. Because this is a Special Election solely for the purposes required by the City of Port St. Lucie, the cost of the Special Election shall be borne by the City of Port St. Lucie.

Section 7. The provisions of this Resolution are intended to be severable. If any part of this Resolution is determined to be void or is held to be illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect and this Resolution shall nevertheless stand and be construed as if the illegal or invalid part or portion had not been included herein.

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CITY COUNCIL
CITY OF PORT ST. LUCIE

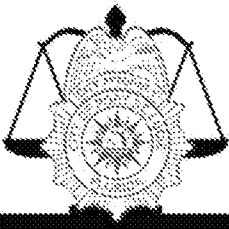
ATTEST:

By: _____
Gregory J. Oravec, Mayor


Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney



MEMORANDUM

TO: Honorable Mayor & Members of the City Council
FROM: James Stokes, City Attorney 
COPY TO: Russ Blackburn, City Manager
Sally Walsh, City Clerk
SUBJECT: Requirements for Special Election
DATE: June 10, 2021

The Memorandum is intended to address the vacancy being created by the resignation of Mayor Gregory Oravec as the Mayor of the City of Port St. Lucie, as well as the potential for an additional vacancy on the Council in the event a Council Member chooses to seek election to the Mayor's Seat. The City's Charter has a codified provision for filling of vacancies. Specifically, it is contained within Section 3.09 of the City's Charter. That provision states as follows:

A vacancy of the council shall be filled in one of the following ways:

- (2) If there are more than six (6) months remaining in the unexpired term or more than six (6) months remain before the next regularly scheduled election, the city council will schedule a special election to be held no earlier than thirty (30) days and not later than ninety (90) days following the date the vacancy occurred. Should a primary election become necessary, it shall be scheduled not fewer than fifteen (15) nor more than forty (40) days before the special election. Should at any time the council membership be reduced to less than a quorum, the remaining council members will appoint additional members to serve, subject to filling the vacancies as described above.

While this language appears clear on its face, the reality is that the timeframes provided for in the Charter conflict with the ever-changing requirements of the Florida Elections Code. With the advent of expanded Vote-By-Mail, Early Voting, drop-box provisions, and the protracted canvassing which has been required in many circumstances, the Legislature has seen, not only to amend and expand many areas of the Florida Elections Code, but to usurp local government from relying upon conflicting provisions which already exist, and completely preempt prospective local provisions.

Specifically, the Florida Elections Code provides:

All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by s. 100.3605.

Section 97.0115, Florida Statutes [underscore added].

Regarding the administration of municipal elections, the Florida Elections Code provides:

- (1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No 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.
- (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.

Section 100.3605, Florida Statutes [underscore added].

While this statute gives safehaven for previously existing local provisions, it requires that those provisions be "applicable". Supervisor Walker has indicated in her letter of June 7, 2021, that the Division of Elections has indicated that, because our Charter provision conflicts with the time requirements of state law, that our Charter provision is not applicable. Thus, pursuant to Section 100.3605, Florida Statutes, the Florida Elections Code will control.

MAYOR'S SEAT

The Resolution presented to the City Council on June 14, 2021, is a necessary action to formally call for the Supervisor of Elections to administer a Special Election for the vacant Mayor's Seat. Based upon the required, as well as the recommended, functions and time periods, it is recommended that the Qualify Period for the Mayor's Seat be from **Monday, July 12, 2021 at noon through Friday, July 16, 2021 at noon**. The Special Election will take place on **Tuesday, September 21, 2021** or **Tuesday, December 7, 2021**, dependent on whether a primary election is required for this seat or any other Council seat up for election.

These dates have been coordinated with Supervisor Walker who concurs with the scheduling. The cost of the special election is listed below.

RESIGN-TO-RUN: COUNCIL MEMBER

In the event any current Council member wishes to run for the Mayor's Seat, that Council member must submit an irrevocable resignation ten (10) days prior to the first day of the qualifying period; in this case, on or before Friday, July 2, 2021. [Section 99.012(1)(c), Florida Statutes] Pursuant to our City Charter, as well as the Florida Elections Code, any vacant Council seat will then need to be filled by a Special Election as well.

It is in the City's best interest to anticipate a Council Seat vacancy in order to proceed as efficiently as possible. A Special Election for any vacant Council Seat can be called upon the receipt of a Resign-to-Run letter. Because it will not be possible for the provisions of City Charter 3.09 to be applied in such a case, the provisions of the Florida Elections Code will apply.

The City Council will be asked to call for the Special Election of any prospectively vacant Council Seat by Ordinance, as opposed to the current Resolution. The reason is because this second-called Special Election will need to be moved for the purpose of running concurrently with the Mayor's Seat, as allowed by Section 100.3605(2), Florida Statutes ("*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”).

It is expected that this Ordinance can be submitted for First Reading on June 28, 2021, with Second Reading on July 12, 2021. The Qualifying Period for any vacant Council Seat will run concurrently with the Qualifying Period for the Mayor’s Seat: **Monday, July 12, 2021 at noon through Friday, July 16, 2021 at noon**. The Special Election will take place on **Tuesday, September 21, 2021** or **Tuesday, December 7, 2021**, dependent on whether a primary election is required for this seat or any other Council seat up for election.

For economy’s sake, if neither seat requires a Primary Election, both Seats will be determined on September 21, 2021. If either Seat requires a Primary Election, the December 7, 2021 election will be deemed the Special General Election.

PROPOSED TIMELINE:

June 14, 2021	Resolution calling for Special Election for Mayor.
June 15, 2021 - July 5, 2021	Petition Period for Mayor Seat & Council Seat.
June 28, 2021	Ordinance calling for Special Election for Council Seat (<i>First Reading</i>): (1) Required if Resign-to-Run received by any Council Member; (2) Acknowledging Resign-to-Run as irrevocable resignation; (3) Declaring prospective vacancy in Council Seat to be filled by Special Election; <i>and</i> (4) Establishing date of Special Election for Council Seat to run concurrent with Mayor election as allowed by Section 100.3605(2), Florida Statutes.
July 6, 2021 - July 9, 2021	Verification Period for Petitions by SoE
July 12, 2021	Ordinance calling for Special Election for Council Seat (<i>Second Reading</i>).
July 12, 2021 - July 16, 2021	Qualifying Period for Mayor’s Seat & Council Seat (<i>noon Monday to noon Friday</i>).
July 19, 2021 - July 23, 2021	Period to Set-up Ballot by SoE.
July 24, 2021 - August 12, 2021	Printing time required for Ballots.
August 13, 2021	Vote-By-Mail Ballots mailed (<i>at least 33 days required for return of ballots</i>).
September 21, 2021	Election Day
September 22, 2021 - October 3, 2021	Canvassing / Certification of Results by SoE.
October 4, 2021 - October 8, 2021	Period to Set-up Ballot by SoE.
October 9, 2021 - October 28, 2021	Printing time required for Ballots.
October 29, 2021	Vote-By-Mail Ballots mailed (<i>at least 33 days required for return of ballots</i>).
December 7, 2021	Election Day.
December 8, 2021 - December 19, 2021	Canvassing / Certification of Results by SoE.

OPTIONS TO BE SELECTED:

Pursuant to the cost estimate provided by the Supervisor of Elections, there are several items which are optional. As the City is paying for the entire election, any options included will increase the cost of the election. It is necessary that these optional items be either selected or rejected, and we will include a determination of those items on June 28, 2021, when the Ordinance is brought forward addressing election items.

However, in order for Council to have time to consider these items, they are listed below. The following are options (with estimated costs):

- ✓ Early Voting period (3 locations). Approximate cost for staffing: **\$45,000**
- ✓ Sample Ballots. Approximate cost for printing: **\$25,000**
- ✓ Sample Ballots. Approximate cost for postage: **\$15,000**
- ✓ VBM Drop Boxes. Approximate cost of staff monitoring: **\$6,000**
- ✓ Legal Services. Approximate cost if election is litigated: **\$7,000**

ESTIMATED COSTS:

Attached is correspondence from the Supervisor of Elections, which includes an estimate of costs, with or without the optional items listed above. The cost of an election will be approximately **\$220,000** to approximately **\$320,000** dollars for a single election. If the City requires a primary election followed by a general election, these costs will roughly double. If the City runs a subsequently vacated Council Seat separate from the election for the Mayor's Seat, the quoted price could potentially quadruple (primary/general; primary/general). This is why the more efficient path is running any potentially vacated Council Seats concurrent with the Mayor's Seat.

CONCLUSION:

It is recommended that the current Resolution be approved. The Ordinance for any prospectively vacated Council Seat will be brought on June 28, 2021. If there are any questions, my Office and the City Clerk's Office remains available at all times to provide assistance.



9
Gertrude Walker
Supervisor of Elections
St. Lucie County

4132 Okeechobee Road • Fort Pierce, FL 34947-5412 • (772) 462-1500 • Fax (772) 462-1439

June 7, 2021

Sally Walsh, CMC
City Clerk, City of Port Saint Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984

Dear Ms. Walsh:

Pursuant to our recent discussions regarding the proposed special election to fill a vacancy in the City of Port Saint Lucie Mayor's seat, I have reviewed the City Charter and Code of Ordinances in conjunction with Florida's election laws to assist your office in determining a schedule for the election. As we discussed, there appear to be several areas in conflict both from a statutory and practical perspective; namely, the election schedule for filling vacancies in Section 2.09 of the Charter, the qualifying period set forth in Section 33.02 of the Code or Ordinances, and the mailing period required for vote-by-mail ballots under Section 101.62, Florida Statutes. Due to these conflicts, the Division of Elections has determined the election must be conducted utilizing F.S. 101.3605:

100.3605 Conduct of municipal elections.—

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No 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.

(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.

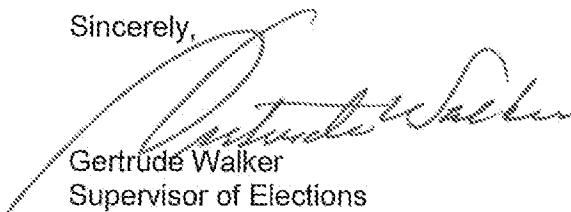
History.—s. 2, ch. 95-178.

For these reasons, the Council may wish to consider holding one election within ninety (90) days of the vacancy rather than both a primary and general election.

You have also requested a cost estimate to conduct the special election. Based upon past elections and the number of voters currently registered in the City, the estimated cost for an election is \$350,000. This amount can be greatly reduced based upon the options chosen by the City Council.

If you require further information, please do not hesitate to contact me.

Sincerely,



Gertrude Walker
Supervisor of Elections

250 NW Country Club Drive • Port St. Lucie, Florida 34986 • (772) 871-5410
1664 SE Walton Road • Port St. Lucie, Florida 34952 • (772) 337-5323
10264 SW Village Parkway • Port St. Lucie, Florida 34987 • (772) 448-5172
www.slcelections.com • e-mail: elections@slcelections.com

2021 City of Port St. Lucie - Special Election(s)

Estimated Cost of Election and Statute Reference

Item	Florida Statute(s)	Estimated Cost
Poll Workers - Election Day		\$ 55,000
Part Time Workers - Canvassing, etc.		\$ 7,000
Polling Place Rental - Various Precincts		\$ 7,000
Early Voting Staffing - 3 Locations	FS 101.657(e) - Providing Early Voting is Optional . FS 101.69 – Increased cost due to SB 90 result in required staff monitoring Drop Boxes during hours of operation	\$ 45,000
Ballots - Official & Test	FS 101.21	\$ 38,000
Sample Ballots	FS 101.20 - Producing and mailing sample ballots is optional . Sample ballots could be provided in a newspaper publication	\$ 25,000
Sample Ballot Postage	FS 101.20 - Optional	\$ 15,000
Ballot on Demand Materials		\$ 3,000
Communications - Cell Phones, etc.		\$ 5,000
Advertising - Newspapers, Radio - Optional	FS 101.20 & FS 101.5612	\$ 15,000
Vote by Mail Ballots		\$ 27,000
Vote by Mail Ballot Postage		\$ 12,000
Vote by Mail Ballots – Office Drop Box Monitoring	FS 101.69 -- Increased cost due to SB 90 result in required staff monitoring Drop Boxes during hours of operation - Optional	\$ 6,000
Professional Services / Attorney	- Optional	\$ 7,000
Election Support - Equipment		\$ 8,000
Security - Sherriff Deputies		\$ 6,000
Temporary Staffing - Call Center, Support, etc.		\$ 15,000
Moving Company - Equip. Transport		\$ 8,000
Supplies & Miscellaneous		\$ 15,000
Estimated Total		\$ 319,000

Excluding Estimated Options

\$	-98,000
\$	221,000