

ORDINANCE NO. 2007-21

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, CREATING A NEW SECTION ENTITLED "VILLAGE CANVASSING BOARD;" DELINEATING BOARD MEMBERSHIP; SPECIFYING THE BOARD CHAIRMAN; PROVIDING THE DUTIES OF THE BOARD; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in past Village Commission elections, the Village Clerk, as the supervisor of elections, has acted as the Village Canvassing Board; and

WHEREAS, the Village Commission has determined that it is both appropriate and proper to officially establish a "Canvassing Board" for future Village Commission elections;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

Section 1. A new Section, entitled "Village Canvassing Board," is hereby created to read as follows:

Village Canvassing Board.

(A) Board Membership. The Village Canvassing Board shall be composed of the Village Clerk, Village Manager and the Miami-Dade Supervisor of Elections, or designee. In the event that any Board member is unable to serve, such member shall be replaced as follows:

1. The Acting Village Clerk, or designee, shall serve as the replacement for the Village Clerk.
2. The Acting Village Manager, or designee, shall serve as the replacement for the Village Manager.
3. The Miami-Dade Supervisor of Elections shall designate a replacement official.

4. If any of the foregoing Board replacement members shall be unable to serve, the Village shall request as many substitute Board members as shall be required from the Miami-Dade Supervisor of Elections Office. The Supervisor of Elections for Miami-Dade County shall then select the required number of substitute Board members after ensuring that each substitute member is not an active participant in the campaign or candidacy of any candidate in the election.

5. The Village Chief of Police, or his designee, if a sufficient number of Miami-Dade Supervisor of Election office officials are unable to serve.

(B) Board Chairman. The Village Clerk shall serve as the Chairman of the Board. If the Clerk is unavailable to serve, then the members of the Board shall select a Chairman.

(C) Board Duties. The Village Canvassing Board shall have the following duties:

1. The Board shall meet in a Village building which is accessible to the public at a time and place to be designated by the Village's Supervisor of Elections to publicly canvass the absentee elector ballots.

a. Public notice of the time and place at which the Board shall meet to canvass the absentee elector ballots shall be given at least forty eight (48) hours prior thereto.

b. The required public notice shall be given by publication once in a newspaper of general circulation in the Village and by posting notice in at least two (2) Village buildings.

2. Following the canvassing of the absentee elector ballots, the Board shall then proceed to publicly canvass the votes cast in the elector ballots for each candidate, ballot question, or other measure submitted to the electorate of the Village, as shown by the returns then in the possession of the Miami-Dade Supervisor of Elections.

a. The canvass of the votes cast in the election shall be made from the returns and signed certificates of the election inspectors filed with the Miami-Dade Supervisor of Elections.

b. The Board shall not change the number of votes cast for any candidate, ballot question, or other measure submitted to the electorate of the Village for any polling place as shown by the returns in the possession of the Miami- Dade Supervisor of Elections.

- c. All returns are required to be submitted to the Board as soon as possible following the closing of the polls.
3. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the Canvassing Board shall order a recount of the returns from such precinct. Before canvassing such returns, the Canvassing Board shall examine the counters on the machines or the tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.
4. If the returns for any office reflect that a candidate was defeated or eliminated by one half (1/2) of a percent or less of the votes cast for such office, or that a measure appearing on the ballot was approved or rejected by one half (1/2) a percent or less of the votes cast on such measure, the Board shall order a recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one half (1/2) a percent or less of the votes cast for such office request in writing that a recount not be made. The Canvassing Board responsible for conducting a recount shall examine the counters on the machines or the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.
5. The Canvassing Board may employ such clerical help to assist with the work of the Board as it deems necessary, with at least one (1) member of the Board present at all times, until the canvass of the returns is completed. The clerical help shall be paid from the same fund as the inspectors and other necessary election officials.
6. Following the canvassing of all absentee elector ballots and the elector ballots cast in the election, the Canvassing Board shall then prepare certifications of the results of the election which shall be filed with the Village Clerk, Miami-Dade Supervisor of Elections, Department of State, and the Division of Elections for the State of Florida.
7. At the same time that the results of the elections are certified to the Department of State, the Canvassing Board shall file a report with the

Division of Elections on the conduct of the election. The report shall contain information relating to any problems incurred as a result of equipment malfunctions either at the precinct level or at a counting location, any difficulties or unusual circumstances encountered by the Canvassing Board, and any other additional information which the Canvassing Board feels should be made a part of the official election record.

Section 2. Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

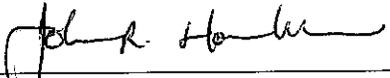
Section 3. Severability. Should any section, provision, paragraph, sentence, clause or word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall be considered as eliminated and shall not affect the validity of the remaining portions or applications of this Ordinance.

Section 4. Codification. It is the intention of the Village Commission of the Village of Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or other word or phrase in order to accomplish such intention.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

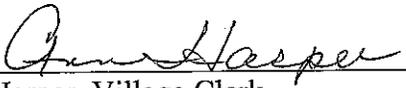
The foregoing Ordinance was offered by Commissioner Bernard, who moved its adoption. The motion was seconded by Comm. Morris and upon being put to a vote, the vote was as follows:

**The foregoing ordinance upon
being put to a vote, the vote was as
follows:**



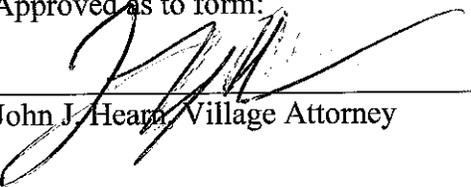
John Hornbuckle, Mayor

Attest:



Ann Harper, Village Clerk

Approved as to form:



John J. Heam, Village Attorney

Mayor Hornbuckle: yes
Vice Mayor Anderson: yes
Commissioner Bernard: yes
Commissioner Morris: yes
Commissioner Mallette: ABSENT

1st Reading – November 6, 2007
2nd Reading – November 27, 2007