

ORDINANCE 2014-03

AN ORDINANCE OF THE CITY OF POLK CITY, FLORIDA; PROVIDING FOR PROCEDURE WHEN A CITY CANVASSING BOARD MEMBER IS A CANDIDATE FOR ELECTION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Polk City, Florida ("City") is authorized and empowered by its Charter to conduct municipal elections ; and,

WHEREAS, Section 100.3605(1), Florida Statutes, provides that 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.; and,

WHEREAS, the City Charter provides in Section C-28 that the City Council shall meet as a canvassing board and duly canvass the election returns prior to the regular second Tuesday of April monthly Council meeting.; and,

WHEREAS, the City has its own set of election rules, including rules that apply to a City Canvassing Board; and,

WHEREAS, while Section 101.161, Florida Statutes, provides criteria applicable to county canvassing boards, it does not address city canvassing boards ; and,

WHEREAS, the City Charter mandates that the Canvassing Board be comprised of the City Council; and,

WHEREAS, the City wishes to adopt a standard to avoid the appearance of any conflict of interest that may arise were a sitting city council member to vote to certify the results of their own election; and,

WHEREAS, the statute applicable to county canvassing boards, if applied, would create a situation where the Charter provision requiring that the City Council be the Canvassing Board would be thwarted; and,

WHEREAS, the City needs to modify the temporary contract to provide for an interim rate increase to the temporary hauler; and,

WHEREAS, the City has determined the need to adopt an ordinance to clarify its requirements when a sitting city council member stands for reelection such that each such council member shall be prohibited from voting to certify the results of his or her own election, but can vote on the certification of other city elections or referenda.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS. The above recitals represent the legislative findings of the City of Polk City, Florida, relative to the provisions of this Ordinance and are incorporated herein by reference.

SECTION 2. PROHIBITED VOTING CONFLICT ON CITY CANVASSING BOARD. Pursuant to state law and based upon the Legislative Findings set forth in the above-stated Recitals, the City Council of the City of Polk City hereby adopts the following ordinance. By virtue of a pending election and the harm to public health and safety by virtue of the lack of a specific prohibition on a sitting city council member being able to vote to certify his or her own

election, it is necessary for the City to amend its Code of Ordinance. The City Council hereby determines that a sitting city council member who is running for reelection against another candidate may continue to sit upon the city canvassing board, but shall not vote to certify the results of the election in which that city council member is seeking to be reelected. Any city council member may vote upon the issue of certification of election results in any race or election in which they themselves are not a candidate for reelection. The purpose of this prohibition is to avoid the appearance of a conflict of interest by the members of the City Canvassing Board.

SECTION 3. SEVERABILITY. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

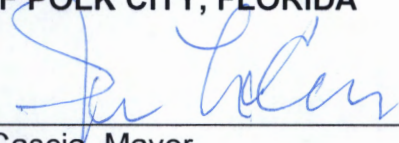
SECTION 4. CONFLICTS WITH OTHER ORDINANCES. That portion of any Ordinance which may be in conflict with this Ordinance is hereby repealed with the adoption of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING this 17th day of February, 2014.

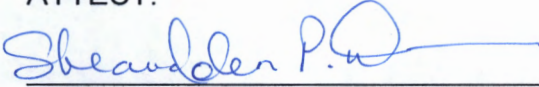
PASSED ON SECOND READING this 17th day of March, 2014.

CITY OF POLK CITY, FLORIDA



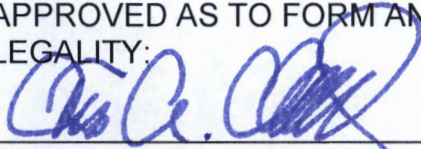
Joe LaCascia, Mayor

ATTEST:



Sheandolen P. Dunn, Deputy City Clerk

APPROVED AS TO FORM AND
LEGALITY:



Thomas A. Cloud, Esquire
City Attorney