DE 82-17-July 15, 1982

RESIGN-TO-RUN S. 99.012, F.S. (1981)

To: Mr. Steven W. Effman, Attorney at Law, Envirwood Executive Plaza, Suite 307, 5950 West Oakland Park Boulevard, Lauderhill, Florida 33313

Prepared By: Division of Elections

This is in response to your letter in which you request an opinion on the following question:

> Can I postdate my letter of resignation, (to be filed with my qualifying papers in July, 1982 pursuant to F.S. 99.012 Resign-to-Run law), so that the effective date of that resignation could be November, 1982?

You indicated in your letter that you are presently a city councilman in the City of Sunrise, Broward County, Florida, with an expiration date on your current term of office being March 15, 1985. You further expressed the desire to run for the newly-created single member State House District 90 seat.

Section 99.012(2) states:

> ". . . .no individual may qualify as a candidate for public office who holds another elective or appointive office, whether state, county or municipal, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify without resigning from such office not less than 10 days prior to the first day of qualifying for the office he intends to seek. <u>Said resignation shall be effective not later than the date upon which he would assume office, if elected to the office which he seeks to qualify, the expiration date of the term of the office which he presently holds, or the general election day at which a successor is elected, whichever occurs earliest</u>."

Based upon the above statutory language, and unless you give an immediate unconditional resignation, it appears that the earliest effective date of your resignation would be the date on which you would assume office, if elected to the office to which you qualified November 2, 1982.

We are in receipt of portions of the City of Sunrise Municipal code. However, because the resign-to-run law is a matter requiring an interpretation of state law, an interpretation of the municipal code is determined to be unnecessary.