

CITY OF HOLLYWOOD, FLORIDA
INTEROFFICE MEMORANDUM
Office of the City Attorney

DATE: May 11, 2016

TO: Mayor, Vice-Mayor, and City Commissioners

FROM: Denise Manos
Assistant City Attorney

VIA: Jeffrey P. Sheffel
City Attorney

SUBJECT: Creation of a Special Residential Neighborhood Improvement District or Dependent Special District in Emerald Hills

Section 163.503, Florida Statutes, defines "Safe neighborhood improvement district," "district," or "neighborhood improvement district" as a "district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations. Nothing in this section shall preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations."

Section 163.511, Florida Statutes, sets forth the guidelines and regulations for the creation of special neighborhood improvement districts. "After a local planning ordinance has been adopted authorizing the creation of special neighborhood improvement districts, the governing body may declare the need for and create special residential or business neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

- (a) Conditions the implementation of the ordinance on the approval of a referendum (of the residents in the proposed District) "Referendum", as provided in Section 163.511(2), Florida Statutes. Section 163.511(2) requires that the Referendum to implement a special residential neighborhood improvement district (SRNID)

must be held within 120 days after the occurrence of one of the following:

- (1) The City Commission declares, by enactment of the separate ordinance, that there is a need for the SRNID to function within a proposed area (Section 163.511(2)(a), Florida Statutes); or
- (2) A petition containing the signatures of 40% of the electors of a proposed SRNID area is presented to the City Commission. The petition shall define the proposed area and shall state that it is for the purpose of calling a Referendum to determine whether a SRNID should be created in such proposed area. (Section 163.511(2)(b), Florida Statutes).

Within 45 days from the date the City Commission enacts an ordinance establishing the need for a SRNID, or the City Commission is presented with a petition, "the city clerk or supervisor of elections, whichever is appropriate, shall certify such ordinance or petition and compile a list of the names and last known addresses of the electors in the proposed special residential neighborhood improvement district from the list of registered voters of the county as of the last day of the month preceding that in which the ordinance was enacted or the petition was presented, and the same shall constitute the registration list for the purposes of the Referendum required under this subsection, except as provided in this subsection." (Section 163.211(3)(b), Florida Statutes).

Further, "within 45 days from the compilation of the voter registration list, the city clerk or supervisor of elections shall notify each such elector of the general provisions of this section, including the taxing authority and the date of the upcoming Referendum." (Section 163.511(3)(c), Florida Statutes). Notification is by mail, in addition thereto, by publication one time in a newspaper of general circulation. This registration list remains open for 75 days after the enactment of the ordinance or presentation of the petition as any resident of the district whose name does not appear on the list compiled by the City Clerk may register to vote as provided by law.

The city clerk or supervisor of election is required to send a ballot to each elector at his or her last known address by

first class mail within 15 days after the closing of the registration.

- (b) Authorizes the special neighborhood improvement district to levy an ad valorem tax on real personal property of up to 2 mills annually.
- (c) Authorizes the use of special assessments to support planning and implementation of district improvements, including community policing innovations.
- (d) Specifies the boundaries, size, and name of the district.
- (e) Authorizes the district to receive a planning grant from the Department of Legal Affairs.
- (f) Provides for the appointment of a 3 member board of directors for the district.
- (g) May authorize the SRNID to exercise the power of eminent domain.
- (h) May prohibit the use of any district power authorized by Section 163.514, Florida Statutes.
- (i) Requires the district to notify the Department of Legal Affairs and the Department of Community Affairs in writing of its establishment within 30 days.
- (j) May authorize a SRNID to develop and implement community policing innovations in consultation with the local law enforcement agency having jurisdiction within the district boundaries.”

SNID Powers, Section 163.514, Florida Statutes:

“Unless prohibited by ordinance, the board of any district shall be empowered to:

- (1) Enter into contracts and agreements and sue and be sued as a body corporate.
- (2) Have and use a corporate seal.
- (3) Acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title and grant and acquire licenses, easements, and options with respect thereto.

- (4) Accept grants and donations of any type of property, labor, or other thing of value from any public or private source.
- (5) Have exclusive control of funds legally available to it, subject to limitations imposed by law or by any agreement validly entered into by it.
- (6) Cooperate and contract with other governmental agencies or other public bodies.
- (7) Contract for services of planning consultants, experts on crime prevention through community policing innovations, environmental design, environmental security, or defensible space, or other experts in areas pertaining to the operations of the board of directors or the district.
- (8) Contract with the county or municipal government for planning assistance, and for increased levels of law enforcement protection and security, including additional personnel.
- (9) Promote and advertise the commercial advantages of the district so as to attract new businesses and encourage the expansion of existing businesses.
- (10) Promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district.
- (11) Improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.
- (12) Undertake innovative approaches to securing neighborhoods from crime, such as crime prevention through community policing innovations, environmental design, environmental security, and defensible space.
- (13) Privatize, close, vacate, plan, or replan streets, roads, sidewalks, and alleys, subject to the concurrence of the local governing body and, if required, the state Department of Transportation.
- (14) Prepare, adopt, implement, and modify a safe neighborhood improvement plan for the district.
- (15) Identify areas with blighted influences, including, but not limited to, areas where unlawful urban dumping or graffiti are prevalent, and develop programs for eradication thereof.

(16) (a) Subject to Referendum approval, make and collect special assessments pursuant to ss. 197.3632 and 197.3635 to pay for improvements to the district and for reasonable expenses of operating the district, including the payment of expenses included in the district's budget, subject to an affirmative vote by a majority of the registered voters residing in the district. Such assessments shall not exceed \$500 for each individual parcel of land per year. Notwithstanding the provisions of s. 101.6102, the Referendum to approve the special assessment shall be by mail ballot.

(b) In order to implement this subsection, the city clerk or the supervisor of elections, whichever is appropriate, shall compile a list of the names and last known addresses of the electors in the neighborhood improvement district from the list of registered voters of the county as of the last day of the preceding month. The same shall constitute the registration list for the purposes of a Referendum. Within 45 days after compilation of the voter registration list, the city clerk or the supervisor of elections shall notify each elector of the general provisions of this section, including the taxing authority and the date of the upcoming Referendum. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(c) Any resident of the district whose name does not appear on the list compiled pursuant to paragraph (b) may register to vote as provided by law. The registration list shall remain open for 75 days after the notification required in paragraph (b).

(d) Within 15 days after the closing of registration, the city clerk or the supervisor of elections shall send a ballot to each elector at his or her last known mailing address by first-class United States mail. The ballot shall include:

1. A description of the general provisions of this section applicable to the neighborhood improvement district; and
2. Immediately following said information, the following:

“Do you favor the imposition of a special assessment of not greater than \$500 for each individual parcel of land per year to pay for the expenses of operating the neighborhood improvement district?”

Yes, for the special assessment.

No, against the special assessment.”

(e) Ballots shall be returned by United States mail or by personal delivery.

(f) All ballots received within 60 days after the closing of registration shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city governing body or county commission no later than 5 days after said 60-day period.

- (17) Exercise all lawful powers incidental to the effective and expedient exercise of the foregoing powers.”

Alternately, the City could create a dependent special district. A special district means ". . . a unit of local government created for a special purpose, as opposed to a general-purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." (Section 189.012(6), Florida Statutes)

“Dependent special district” means a special district that meets at least one of the following criteria:

- (a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- (b) All members of its governing body are appointed by the governing body of a single county or a single municipality.
- (c) During their unexpired terms, members of the special district’s governing body are subject to removal at will by the governing body of a single county or a single municipality.
- (d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

The ordinance creating the dependent special district, pursuant to Section 189.02(4), must include the following:

- (1) A status statement referencing the special district's dependent status
- (2) Its purpose, powers, functions, and duties
- (3) Its geographic boundary limitations
- (4) Its authority
- (5) A statement explaining why the special district is the best alternative
- (6) The membership, organization, compensation, and administrative duties of the governing board
- (7) The applicable financial disclosure, noticing, and reporting requirements
- (8) The methods for financing the special district

(9) A declaration that the creation of the special district is consistent with the approved local government comprehensive plans

Within 30 days after its creation date, the district must notify the Special District Accountability Program (the "Program") of its existence by filing the following documents and information:

- (1) The district's special creation document
- (2) A written status statement that includes a reference to the status as dependent
- (3) A map of the special district clearing showing the district's boundaries
- (4) If known, the registered agent's name, addresses, telephone, fax, and email.

Within 30 days of receiving the document, the Program will do the following:

- (1) Review the creation documents to verify its status
- (2) Add the special district to the Official List of Special Districts Online
- (3) Notify the special district of the status determination
- (4) Send the Annual Special District Fee Invoice and Update Form to the special district.

Within 30 days after the first meeting of its governing board, each special district must designate a registered agent and a registered office then provide that information to the Program and the local governing authority. (Section 189.014, Florida Statutes.)

Special districts must begin to comply with all applicable reporting requirements immediately. For example, each newly created district must comply with its Annual Financial Report requirement starting with the fiscal year it was created, even if the special district has no revenues and expenditures and even if the special district was created on the last day of the fiscal year.

By the end of the first full fiscal year after its creation, each special district must maintain an official website and must submit its web address to the Program.

Special districts may levy special assessments only when expressly granted the power to do in the ordinance which outlines the methods for financing the special district. A special assessment is like a tax in that it is an enforced contribution from the property owner. It is imposed upon the theory that that portion of the community which is required to bear it receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special

assessment. The cost of the improvement is allocated among the properties which have been benefitted in accordance with the respective degree of benefit each parcel has received.