

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

**DATE:** April 12, 2017

**TO:** Jeffrey P. Sheffel, City Attorney

**FROM:** Denise Manos, Assistant City Attorney

**SUBJECT:** Creation of a proposed Dependent Special District in Emerald Hills

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On April 5, 2017 the City Commission considered an item on second reading for the creation of an Emerald Hills Safety Enhancement District, a dependent special district created under the City's Home Rule Powers and Chapter 189, Florida Statutes. Several concerns were voiced by some of the residents of the proposed District. Victor Olshansky, a resident, outlined several statutes which he believed the City was acting in violation of, including the City Charter. Below I address each of the provisions:

**Article 4, City Charter**

Article 4, entitled "Initiative" addresses citizen demands for the adoption of ordinances. The City was not conducting an initiative under the Charter in the creation of the proposed District. The preparation of this ordinance (and its placement on a City Commission agenda) was done pursuant to a motion and a second made by the City Commission on September 21, 2016. This provision is inapplicable.

**Section 101.6102, Florida Statutes**

Section 101.6102, entitled "Mail ballot elections; limitations" addresses the circumstances under which an election may be conducted by mail ballot. Under the present circumstances, an election was not conducted. There was merely a "straw ballot" to gauge residential interest in the creation of the District. This statutory provision is inapplicable.

**Section 163.514, Florida Statutes**

Section 163.514, entitled "Powers of neighborhood improvement districts" addresses the powers of Safe Neighborhood Improvement Districts created under Chapter 163, Florida Statutes. The proposed District is being created under the City's Home Rule Power and Chapter 189, Florida Statutes. The attached memo outlines each of the aforementioned types of districts. This statutory provision is inapplicable.

**Section 163.506, Florida Statutes**

Section 163.506, entitled “Local government neighborhood improvement districts; creation; advisory council; dissolution” again concerns a Safe Neighborhood Improvement District created under Chapter 163, Florida Statutes. The proposed District is being created under the City’s Home Rule Power and Chapter 189, Florida Statutes.

One distinction between the two districts is the taxing authority. A Chapter 163 District may levy an ad valorem tax on real personal property of up to 2 mills annually. Under a Chapter 189 District, the City Commission completely dictates the powers of the district, including the taxing authority. Under the proposed District, the District shall have non-ad valorem assessment authority, which shall be limited to the sum of Two Hundred and Fifty Dollars (\$250.00) per year, per property.

Another distinction between the two types of districts is the power structure. Under a Chapter 163 District, the powers are defined in Section 163.514, Florida Statutes (see attached Memo). Under a Chapter 189 District, the powers are limited to those granted to it by the City Commission as outlined in Section 4 of the Ordinance. Again, this statutory provision is inapplicable.

**Section 197.3623, Florida Statutes**

Section 197.3623, entitled “Uniform method for the levy, collection, and enforcement of non-ad valorem assessments” would apply at the point in time in which the District sought to impose a non-ad valorem assessment. At this point in time, this statutory provision is inapplicable.

The proposed District is intentionally being created under the City’s Home Rule Power and Chapter 189, Florida Statutes.