

MIAMIBEACH

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission

Date: June 6, 2018

From: Raul J. Aguila
City Attorney



Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA APPROVING, FOLLOWING A DULY NOTICED PUBLIC HEARING PURSUANT TO SECTIONS 170.07 AND 170.08, FLORIDA STATUTES, THE FINAL ASSESSMENT ROLL FOR THE SPECIAL ASSESSMENT DISTRICT KNOWN AS THE WASHINGTON AVENUE BUSINESS IMPROVEMENT DISTRICT, AND CONFIRMING SUCH ASSESSMENTS AS LEGAL, VALID, AND BINDING FIRST LIENS UPON THE PROPERTY AGAINST WHICH SUCH ASSESSMENTS ARE MADE UNTIL PAID.

A. Background

Chapter 170, Florida Statutes, authorizes any municipality, subject to the approval of a majority of the affected property owners, to "levy and collect special assessments against property benefited for the purpose of stabilizing and improving . . . (a) [r]etail business districts, (b) [w]holesale business districts, or (c) nationally recognized historic districts, or any combination of such districts, through promotion, management, marketing, and other similar services"

On October 18, 2017, the Mayor and City Commission adopted Resolution No. 2017-30065, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the Washington Avenue Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve the Washington Avenue retail business district, which is located within a nationally recognized historic district, through promotion, management, marketing, and other similar services.

On January 17, 2018, the Mayor and City Commission adopted Resolution No. 2018-30150, which called for a special mail ballot election (the "Election") to be held from March 8, 2018 to April 20, 2018, to determine whether a majority of the affected property owners approved the creation of the District. The affected property owners approved the creation of the District, as follows: 67 ballots were cast in favor of the creation of the District, 12 ballots were cast in opposition to the creation of the District, 5 ballots were rejected as improperly cast, and 26 ballots were not returned.

Following the Election, and on April 25, 2018, the Mayor and City Commission adopted Resolution No. 2018-30287, adopting the Official Election Certificate of the Canvassing Board, and setting, pursuant to Sections 170.07 and 170.08, Florida Statutes, a public hearing on June

6, 2018, for the owners of the property to be assessed or any other interested persons to appear before the Mayor and City Commission and be heard as to the propriety and advisability of making such improvements and providing such services (and funding them with special assessments on property), as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved.

B. Requirement of a public hearing, pursuant to Chapter 170, Florida Statutes, to levy the special assessments and approve the final assessment roll

Pursuant to Sections 170.07 and 170.08, Florida Statutes, a public hearing is scheduled to be held on June 6, 2018, at 2:30 p.m., for the owners of the property to be assessed or any other interested persons to appear before the Mayor and City Commission and be heard as to the propriety and advisability of making such improvements and providing such services (and funding them with special assessments on property), as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved.

Following the public hearing, the Mayor and City Commission shall make a final decision on whether to levy the special assessments. At that time, the Mayor and City Commission shall also serve as an "equalizing board" to hear and consider any and all complaints as to the special assessments, and shall adjust and equalize the assessments on a basis of justice and right.

When so equalized, and approved by Resolution of the Mayor and City Commission, a final assessment roll shall be filed with the City Clerk, and the special assessments (as set forth in the final roll) shall stand confirmed and remain legal, valid, and binding liens upon the property against which such assessments are made, until paid. The preliminary assessment roll is attached to the proposed Resolution as Exhibit "A".

C. Memorandum of Understanding

On January 11, 2017, the Mayor and City Commission adopted Resolution No. 2017-29719 which, in pertinent part, authorized the Offices of the City Manager and City Attorney to work with the Steering Committee of a group of Washington Avenue property owners, for the purpose of establishing the District. Since that time, the property owners have filed articles of incorporation to create "Washington Ave BID Inc," a Florida non profit corporation (the "BID").

The Office of the City Attorney is in the process of negotiating a Memorandum of Understanding ("MOU") with the BID, to set forth, among other things, the obligations of the BID to administer the District, as well as the rights and obligations of the City to collect the special assessments, conduct an annual review of the BID's budget and activities, and audit the BID. The MOU will require that the BID comply with Chapter 170, Florida Statutes; the requirements of the Uniform Special District Accountability Act, set forth in Chapter 189, Florida Statutes; and Florida Sunshine Law, including, without limitation, Chapter 286, Florida Statutes. Additionally, the MOU will authorize the City Manager to appoint an Authorized Representative as a non-voting, *ex officio* member of the Board of Directors and, if applicable, Executive Committee of the BID.