



MEMORANDUM

Agenda Item No. 5(A)
(Public Hearing 3-20-12)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

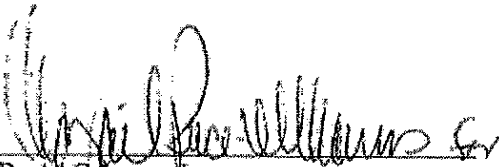
DATE: February 7, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance granting petition of HPT
Holdings, LLC, for establishment of
a community development district

Ordinance No. 12-18

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Lynda Bell.



R. A. Cuevas, Jr.
County Attorney

RAC/up



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 20, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(A)
3-20-12

ORDINANCE NO. 12-18

ORDINANCE GRANTING PETITION OF HPT HOLDINGS, LLC, ("PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING HEMINGWAY POINT COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; ACCEPTING PROFFERED DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING SEVERABILITY; EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

WHEREAS, Article VIII, Section 6(1) of the Florida Constitution provides for exclusive County Charter authority to establish all governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

WHEREAS, HPT Holdings, LLC, ("Petitioner") has petitioned for the establishment of the Herringway Point Community Development District (the "District"); and

WHEREAS, a public hearing has been conducted by the Miami-Dade County Board of County Commissioners in accordance with the requirements and procedures of Section 190.005(2)(b), Florida Statutes, and the applicable requirements and procedures of the Miami-Dade County Home Rule Charter and Code; and

WHEREAS, the District will constitute a timely, efficient, effective, responsive and

economic way to deliver community development services in the area, thereby providing a solution to the County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the County and its taxpayers; and

WHEREAS, the Board of County Commissioners finds that the statements contained in the Petition are true and correct; and

WHEREAS, the creation of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the Miami-Dade County Comprehensive Development Master Plan; and

WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community; and

WHEREAS, the creation of the District is the best alternative available for delivering community development facilities and services to the area that will be served by the District; and

WHEREAS, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; and

WHEREAS, the area that will be served by the District is amenable to separate special-district government; and

WHEREAS, the owner of the property that is to be developed and served by the community development services and facilities to be provided by the District has submitted an executed declaration of restrictive covenants pledging among other things to provide initial purchasers of individual residential units with notice of liens and assessments applicable to such parcels, with certain remedial rights vesting in the purchasers of such parcels if such notice is not provided in a timely and accurate manner; and

WHEREAS, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by

Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 190, Florida Statutes; and

WHEREAS, the Miami-Dade County Board of County Commissioners finds that the District shall have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the District have such powers,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the Hemingway Point Community Development District over the real property described in the Petition attached hereto, which was filed by HPT Holdings, LLC, a Florida limited liability company, on January 12, 2012, and which Petition is on file at the Office of the Clerk of the Board, is hereby granted. A copy of the Petition is attached and incorporated herein as Exhibit Attachment 1.

Section 3. The external boundaries of the District shall be as described in the certified metes and bounds legal description attached hereto and incorporated herein as Exhibit Attachment 2.

Section 4. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit Attachment 3.

Section 5. The initial members of the Board of Supervisors shall be as follows:

Charles B. Morris, III
Jose R. Milan
Marvin J. Abarca
Donald David Deka, Jr.
Shellaine Ramkishun

Section 6. The name of the District shall be the "Hemingway Point Community Development District."

Section 7. The Hemingway Point Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter.

Section 8. Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the Hemingway Point Community Development District shall be Sections 190.006 through 190.041, Florida Statutes.

Section 9. The Miami-Dade County Board of County Commissioners hereby grants to the Hemingway Point Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers.

Section 10. The Miami-Dade County Board of County Commissioners hereby grants to the Hemingway Point Community Development District the special powers authorized pursuant to Section 190.012 (1), Florida Statutes and Sections 190.012 (2) (a) (d) and (f), (except for powers regarding waste disposal), Florida Statutes and Section 190.012 (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such special powers; provided that the District's exercise of power under Section 190.012(1)(b), Florida Statutes, pertaining to water, waste water and reuse water services shall be pursuant to that Declaration of Restrictive Covenants submitted to the Board of County Commissioners in connection with the petition.

Section 11. All bonds issued by the Hemingway Point Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 12. No bond, debt or other obligation of the Hemingway Point Community Development District, nor any default thereon, shall constitute a debt or obligation of

6

Miami-Dade County, except upon the express approval and agreement of the Miami-Dade Board of County Commissioners.

Section 13. Notwithstanding any power granted to the Hemingway Point Community Development District pursuant to this Ordinance, neither the District nor any real or personal property or revenue in the district shall, solely by reason of the District's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, or special taxing districts special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 14. Notwithstanding any power granted to the Hemingway Point Community Development District pursuant to this Ordinance, the District may exercise the power of eminent domain outside the District's existing boundaries only with the prior specific and express approval of the Board of County Commissioners of Miami-Dade County.

Section 15. This Board hereby accepts that Declaration of Restrictive Covenants proffered by the owners of the lands within the jurisdiction of the Hemingway Point Community Development District, in connection with the petition submitted by HPT Holdings, LLC, and approved herein.

Section 16. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 17. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County.

Section 18. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: **March 20, 2012**

Approved by County Attorney as
to form and legal sufficiency:

APW
JRA 10/15/11

Prepared by:

Gerald T. Heffernan

Prime Sponsor: Commissioner Lynda Bell