



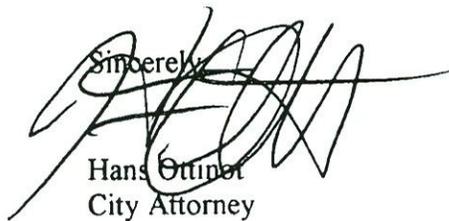
A voter initiative petition was recently presented to the City which appears to conflict with the City's constitutional "home rule" power. Specifically, the initiative petition seeks to impose a \$500,000 spending cap on capital projects where the cap can only be exceeded by referendum. While Section 166.031, Florida Statutes, provides municipal voters with the right to amend any part of a municipal charter except for that part describing the municipal boundaries, the proposed spending cap initiative appears to conflict with the City's home rule power.

Indeed, a cap on capital spending will seriously compromise the City's ability to meet its public service and safety obligations as required by the Municipal Home Rules Power Act. It is crucial for a city such as Sunny Isles Beach, a small coastal barrier island, to be able to provide essential government services during periods of emergencies, including hurricanes. Notably, the City spent over \$500,000.00 in clean up costs following Hurricane Wilma. The proposed voter initiative, if successful, would prevent the City from performing future emergency clean up following a hurricane or any type of emergency public works projects.

A capital spending cap would limit critical services from being provided to residents and businesses and would also limit the City from meeting the demands of increased public services resulting from this increased growth in the City. Finally, a spending cap would greatly affect the City's ability to raise matching funds for federal and state grants or fund economic development infrastructure needs. For example, the City was able to commence a necessary road improvement project by providing matching funds to a state grant.

Because this proposed voter initiative presents an issue of great public importance, I would greatly appreciate an advisory legal opinion.

Sincerely,



Hans Ottinot
City Attorney

W/Encl:

cc: Honorable City Commission

A. John Szerlag, City Manager

Fernando Amuchastegui, Assistant City Attorney