



OFFICE OF COMPTROLLER

INTEROFFICE MEMO

ORANGE COUNTY FLORIDA

Martha O. Haynie, CPA
County Comptroller
Finance and Accounting Department
Special Assessments
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Orlando, FL 32802
Telephone: 407-836-5770
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Date: April 19, 2016

04-20-16 11:10 RCVD

To: Katie Smith, Deputy Clerk

Through: Cheryl Gillespie, Agenda Development

04-20-16 11:06 RCVD

From: Margaret A. McGarrity, Chief Deputy Comptroller

Contact: Ann Troutman, 407-836-5770

Subject: Request Number M16-048 for an MSBU for Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2

Applicant: Andrew S Eitingon
Shutts & Bowen LLP
Developer

Type of Hearing: To establish a Municipal Service Benefit Unit (MSBU) for the maintenance of retention ponds.

Hearing Required by F. S.# Florida Statute Sections 125.01 (01) (q) and 197.3632. This public hearing may be scheduled any time prior to May 31, 2016. The resolution must be approved by May 31, 2016 to be included on the November 2016 real estate tax bill.

Advertising Requirements / Timeframe: Publish only one (1) time and must be published at least twenty (20) days prior to the public hearing with the tentative advertisement date as Sunday, May 1, 2016.

Notify Abutters: Special Assessments will mail public hearing notices to all of the affected property owners.

Estimated Time Required: One (1) minute

District: Commissioner Boyd, District 1

Hearing Controversial: No.

Handwritten note: May 24, 2016 with initials and 'CPM'

Katie Smith, Deputy Clerk
Request for Summerport Village Center Parcel CB-8 and
Summerport Village Center Parcel CB-8 Phase 2
April 19, 2016
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Report: The estimated cost for this MSBU is \$77.00 per parcel for the first year. This MSBU would be effective November 1, 2016.

Materials being submitted as backup for public hearing request:

1. Resolution – one (1) copy of the proposed resolution for maintenance of retention pond(s)

ADDITIONAL SPECIAL INSTRUCTIONS TO CLERK:

1. Notify Special Assessments Section / Finance and Accounting Department of public hearing date(s) to prepare public hearing notice. Special Assessments will e-mail the public hearing notice to the Clerk.
2. Copy distribution is noted on file folder(s) containing resolution(s) and / or agreement(s).
3. Mail the following documents to the Tax Collector, Property Appraiser, and Department of Revenue:
 - a. Certified copy of the adopted resolution(s)
 - b. Copy of the newspaper advertisements (entire page)
 - c. Certification or proofs of publication showing the dates of publication on form DR-413
4. **Send the original adopted resolution to the Special Assessments Section / Finance and Accounting Department.**

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
ESTABLISHING A
MUNICIPAL SERVICE BENEFIT UNIT
FOR MAINTENANCE OF
RETENTION PONDS
IN

**Summerport Village Center Parcel CB-8
and Summerport Village Center
Parcel CB-8 Phase 2
11/2016**

**with County Dedicated Ponds
with Commercial Association Dedicated Easements
with Commercial Association Dedicated Ponds
with County Dedicated Easements**

WHEREAS, Section 125.01 (01) (q), Florida Statutes, grants Orange County the power to establish Municipal Service Benefit Units (hereinafter known as the "MSBU") for any part of the unincorporated areas of Orange County; and

WHEREAS, Section 197.3632, Florida Statutes, authorizes the levy, collection, and enforcement of non-ad valorem special assessments in the same manner as ad valorem taxes; and

WHEREAS, the Board of County Commissioners of Orange County, Florida, (hereinafter known as the "Board") is the governing board of Orange County, Florida (hereinafter known as the "County") pursuant to its charter; and

WHEREAS, the County has received a request, in writing, from Andrew S Eitingon (hereinafter known as the "Developer"), of Shutts & Bowen LLP for the establishment of such an MSBU in that portion of the unincorporated area of Orange County to be known as Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2 subdivisions and which are more fully described below and as shown in Exhibit "A" of this resolution; and

WHEREAS, the Board has determined that the establishment of an MSBU as requested by the Developer, the purpose of which is to provide for minimum maintenance of the county-dedicated retention ponds and to provide for minimum maintenance of Tracts **CB-8B, CB-8C, and CB-8D** of Summerport Village Center Parcel CB-8 and Tracts **CB-8E, C-4 and CV-2** of Summerport Village Center Parcel CB-8 Phase 2; Public Records of Orange County, Florida. As stated in the dedication of Plat Book 70, Page 76, for Summerport Village Center Parcel CB-8 "**Tracts "CB-8B", "CB-8C", and "CB-8D" are Stormwater Tracts...all are dedicated in fee simple to Orange County, Florida**" and in the Surveyor's Notes in Plat Book 70, Page 76 "**Surveyor's Notes:**" " 6. "**Tracts "CB-8B", "CB-8C", and "CB-8D" are Stormwater Tracts owned by Orange County with an easement for maintenance purposes only dedicated to the Commercial Association. The Commercial Association is responsible for all above ground aesthetic maintenance associated with these tracts including, but not limited to mowing, landscaping, recreational amenities,**

RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS

etc.”. Also as stated in the dedication of Plat Book 82, Page 91 “do hereby dedicate said lands and plat...public drainage easements shown hereon to the perpetual use of the public” and in the Surveyor’s Notes in Plat Book 82, Page 91 “Surveyor’s Notes” “4. An emergency access easement over the private storm drainage conveyance system within Tracts CB-8E, C-4 and CV-2 and over the drainage easements shown hereon is hereby dedicated to Orange County for emergency maintenance purposes in the event inadequate maintenance of the storm drainage system created a hazard to the public’s health, safety, and general welfare. The emergency easement granted above does not impose any obligation, burden, responsibility or liability upon Orange County to enter upon the subject property and take any action to repair or maintain the private drainage system.” Together with this information and the other information pertaining to the operation of the proposed MSBU submitted therewith, the Board has determined that the establishment of an MSBU to be feasible, necessary to facilitate the services desired, and in the public interest, and that the properties within Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2 as shown in Exhibit “A” of this resolution will be benefited, now and in the future, and that the proposed MSBU should be created; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

1. The foregoing "WHEREAS" clauses are presumed to be true and correct and are hereby incorporated into the text of the resolution.
2. There is hereby established and created the **Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2 11/2016 MSBU**, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes, the boundaries of which appear on the recorded plats of **Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2** subdivisions, Plat Book 70, Pages 76 through 83 for Summerport Village Center Parcel CB-8 and Plat Book 82, Pages 91 through 94 for Summerport Village Center Parcel CB-8 Phase 2, Sections 14, 15, 22 and 23, Township 23, Range 27, and Parcels as shown in Exhibit "A" of this resolution, Public Records of Orange County, Florida. The purpose of such MSBU is to provide for collection and disbursement by the County of such funds to be used by the County as may be necessary for the payment of administrative costs and appropriate reserves for cash balance and the minimum maintenance services to be performed on the retention ponds located on Tracts **CB-8B, CB-8C and CB-8D of Summerport Village Center Parcel CB-8** subdivision, which ponds have been dedicated to Orange County with Commercial Associated Dedicated Easements on the plats thereof and constructed in accordance with standards approved by the Orange County Public Works Division and on the pond located on Tract **CB-8E** and for Tracts **C-4 and CV-2 (emergency access easement) of Summerport Village Center Parcel CB-8 Phase 2**, which ponds and tracts are owned by the Association and have easements dedicated to Orange County on the plats thereof and constructed in accordance with standards approved by the Orange County Public Works Division. The Developer and the Association understands that this MSBU is created solely for the purpose of maintaining the retention ponds located on Tracts CB-8B, CB-8C and CB-8D of Summerport Village Center Parcel CB-8 and Tract CB-8E of Summerport Village Center Parcel CB-8 Phase 2 subdivisions, and that no other ponds or infrastructure improvements located within the Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2 subdivisions may be maintained, constructed, reconstructed, improved, or repaired with the non-ad valorem special assessments collected from this MSBU and used by the County.

3. The County shall perform or cause to be performed minimum maintenance services on Tracts **CB-8B, CB-8C and CB-8D of Summerport Village Center Parcel CB-8** subdivision, which ponds have been dedicated to Orange County with an easement for maintenance purposes only dedicated to the Commercial Association on the plat for the retention pond areas, which maintenance shall be limited to mowing, weed control, mosquito control, maintenance and repair of the structural integrity of control devices, and periodic major repairs and improvements to the retention ponds. Such maintenance shall not include curb and paved roadway maintenance and repair, signage maintenance and repair, or maintenance of or replacement of landscaping improvements. The County may subcontract with any party for the performance of the maintenance services described herein.

4. The County shall perform or cause to be performed minimum maintenance services on Tract **CB-8E of Summerport Village Center Parcel CB-8 Phase 2** subdivision, which pond is owned by the Commercial Association and has an emergency access easement over the private storm drainage conveyance system with Tracts CB-8E, C-4 and CV-2 and over the drainage easements shown on the plat dedicated to Orange County in the retention pond areas, which maintenance may include but not limited to mowing, weed control, mosquito control, maintenance and repair of the structural integrity of control devices, and periodic major repairs and improvements to the retention area, and/or equipment/tools and their maintenance and replacement needed for services described herein. Such maintenance shall not include curb and paved roadway maintenance and repair, signage maintenance and repair, or maintenance of or replacement of landscaping improvements. The County may subcontract with any party for the performance of the maintenance services described.

5. Upon completion of construction of the retention ponds and the placement of those ponds into operation, the Board shall determine the estimated non-ad valorem special assessment amount required to pay the expense of maintaining and operating the retention ponds in the MSBU. This non-ad valorem special assessment is levied for the first time as of **November 1, 2016**, and will be levied each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the non-ad valorem special assessment by twenty percent (20%) each and every year thereafter to any affected property based on the benefit, which the Board will provide or has provided to the property with the revenues generated by the non-ad valorem special assessments. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem special assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad valorem special assessments. One and one half dollars (\$1.50) for each lot or parcel of land shall be added by the Board to cover the costs of administering the MSBU and the total amount so determined shall be specially assessed against the real property of the freeholders in the MSBU as provided hereafter. Additional amounts will be added to provide for reimbursement of necessary administrative costs incurred by the Property Appraiser and Tax Collector for the collection of non-ad valorem special assessments subject to the provision of Section 197.3632, Florida Statutes, and for the establishment and maintenance of a reserve for cash balance for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenue for that year are expected to be available and a cash reserve for periodic major repairs and improvements to the retention ponds. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming. The County may spend from its general fund, such sums as may be necessary to operate, maintain, and administer the MSBU hereby created and the County will be reimbursed to such extent at such time as such non-ad valorem special assessments have been collected. The estimated annual cost of operating, maintaining, and administering the MSBU, including the establishment and maintenance of an appropriate reserve for cash balance and periodic major repairs and improvements as needed on a rotation basis established by Public Works, is **\$770.00**, and the estimated annual non-ad valorem special assessment to each freeholder is **\$77.00**. Proceeds of collection of such non-ad valorem

special assessments as provided hereinafter are to be put into a special revenue fund of the County to the credit of the MSBU, and are to be used only by the district as provided herein.

6. Upon completion of construction of the retention ponds and the placement of those ponds into operation, and for each and every year thereafter, a non-ad valorem special assessment roll setting forth a description of each lot or parcel of land subject to the non-ad valorem special assessments in the MSBU as provided herein, including homesteads, shall be prepared by the Property Appraiser and delivered to the Board, which shall levy a non-ad valorem special assessment upon such lots or parcels as may be necessary to pay the estimated expense of the maintenance of the retention ponds and the administration of the MSBU. Such sums shall be assessed against the real property of each individual freeholder on a pro rata basis, and not on an ad valorem basis, so that each freeholder shall, at all times, pay an equal amount toward such maintenance. After the adoption of the non-ad valorem special assessment roll by the Board, the Property Appraiser shall extend the non-ad valorem special assessments upon the non-ad valorem special assessment roll, which roll shall be fully completed prior to the time said Board sits as the Board of Tax Adjustment, during which time such non-ad valorem special assessment may be protested, reviewed, equalized, and adjusted to conform to the provisions of Sections 197.3632 and 197.3635, Florida Statutes. After adjournment as the Board of Tax Adjustment, said Board shall certify said non-ad valorem special assessment roll in the same manner and at the same time as the County Tax Roll is certified and delivered to the Tax Collector, and the non-ad valorem special assessments shall be collected in the same manner and shall have the same priority rights, discounts for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for non-payment, and be subject to the same delinquent interest and penalties, and be treated in all respects the same as County ad valorem taxes. From the proceeds of said non-ad valorem special assessments, the Board shall pay the costs of having a non-ad valorem special assessment roll made and extended. The Tax Collector's office shall receive all fees and costs of sale as provided by law for the collection of ad valorem taxes, advertising, sale of lands, and issuance and sale of certificates. The Uniform Method for the levy, collection, and enforcement of non-ad valorem special assessments, Section 197.3632, Florida Statutes, shall be used.

7. The Board intends that non-ad valorem special assessments authorized by this resolution be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes. The Board authorizes utilization of this Uniform Method of collection for all affected parcels. The non-ad valorem special assessment will be listed on the non-ad valorem special assessment roll for all affected parcels and will be included in the notice of proposed property taxes and the tax notice for each affected parcel. These non-ad valorem special assessments will be subject to all collection provisions applicable to ad valorem taxes, including discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, issuance of and sale of tax certificates and tax deeds for non-payment, and commissions of the Property Appraiser and the Tax Collector, as provided by Florida Law. If a contract is signed between a subcontractor for maintenance service and Orange County, the effective date of enactment of the contract will coincide with the receipt of the collection of the MSBU non-ad valorem special assessments.

8. In the event of division or splitting of any of the tax parcels or lots assessed herein, any such newly subdivided or split parcels shall be included in the MSBU non-ad valorem special assessments.

9. Each property owner affected by this resolution has been provided first class mail notice of the potential for loss of his or her title when the Uniform Method of collection is used and that all affected property owners have a right to appear at the hearing and to file written objections with the Board. Each property owner affected by this resolution has been provided first class mail notice of the time

and place of the public hearing at which this resolution was adopted. However, under Section 119.07, Florida Statutes, certain records may be noted as exempt and confidential. This public record exemption may cause certain property owners not to receive the above first class mail notice, however, a public hearing notice conforming to the provisions of Section 197.3632, Florida Statutes, has been published in a newspaper of general circulation within Orange County.

10. It is understood and agreed between the County and the Developer that (if applicable) as the Summerport Village Center Parcel CB-8 and Summerport Village Center Parcel CB-8 Phase 2 subdivisions expand, the additional Additions, Phases, Sections, Units, and/or etc., as the case may be, may be permitted to join into this Resolution under the same terms and conditions as represented herein, by presenting an appropriate amendatory resolution to the Board for consideration.

11. The Board of County Commissioners shall be the governing board of this Municipal Service Benefit Unit.

ADOPTED THIS _____ DAY OF _____, 2016

ORANGE COUNTY, FLORIDA

BY: _____
ORANGE COUNTY MAYOR

DATE: _____

ATTEST: Martha O. Haynie, County Comptroller
as Clerk of the Board of County Commissioners

BY: _____
DEPUTY CLERK

Exhibit "A"
Summerport Village Center Parcel CB-8
Plat Book: 70 Pages 76-83 pertain to parcels listed below

Parcel	Property Owner	Description	Tract	Assessment
15-23-27-8444-00-002	Orange County BCC	Lift Station	B	N/C
15-23-27-8444-02-001	Orange County BCC	Bike Path	BP-1	N/C
15-23-27-8444-03-010	HARBCO Development LLC	Future Development	C-1	1
15-23-27-8444-12-001	Summerport Village Center Residential LLC	Lake Speer	L-1	N/C
15-23-27-8444-12-002	Summerport Village Center Residential LLC	Lake Caruso	L-2	N/C
15-23-27-8444-16-001	Summerport Commercial Property Owners Association Inc.	Park	P-1	N/C
15-23-27-8444-16-002	Summerport Village Center Residential LLC	Park	P-2	N/C
15-23-27-8444-16-003	Summerport Village Center Residential LLC	Park	P-3	N/C
15-23-27-8444-18-050	Windermere Property Owner LLC	Future Development	R-5	1
15-23-27-8444-22-030	Summerport Village Center Residential LLC	Future Development	CV-3	1
15-23-27-8444-23-001	Summerport Village Center Residential LLC	Conservation	W-1	N/C
15-23-27-8444-23-002	Summerport Village Center Residential LLC	Conservation	W-2	N/C
15-23-27-8444-23-003	Summerport Village Center Residential LLC	Conservation	W-3	N/C
15-23-27-8444-32-082	Orange County BCC	Stormwater	CB-8B	N/C
15-23-27-8444-32-083	Orange County BCC	Stormwater	CB-8C	N/C
15-23-27-8444-32-084	Orange County BCC	Stormwater	CB-8D	N/C

Summerport Village Center Parcel CB-8 Phase 2
Plat Book: 82 Pages 91-94 pertain to parcels listed below

Parcel	Property Owner	Description	Tract	Assessment
15-23-27-8446-03-002	Summerport Village Center Commercial LLC	Future Development	C-2	1
15-23-27-8446-03-003	Summerport Village Center commercial LLC	Future Development	C-3	1
15-23-27-8446-03-004	Summerport Village Center commercial LLC	Future Development	C-4	1
15-23-27-8446-03-005	Summerport Village Center commercial LLC	Future Development	C-5	1
15-23-27-8446-03-221	Summerport Commercial Property Owners Association Inc.	Future Development	CV-1	N/C
15-23-27-8446-03-222	Summerport Village Center Residential LLC	Future Development	CV-2	N/C
15-23-27-8446-18-002	Gateway Windermere LLC	Apt Complex	R-2	1
15-23-27-8446-18-003	Gateway Windermere LLC	Apt Complex	R-3	1
15-23-27-8446-18-004	Gateway Windermere LLC	Apt Complex	R-4	1
15-23-27-8446-32-025	Summerport Village Center Residential LLC	Stormwater Private Drainage	CB-8E	N/C
		Total Tracts Assessed		10