



Received on March 30, 2023
Deadline: April 4, 2023
Publish: April 9, 2023

OFFICE OF COMPTROLLER

INTEROFFICE MEMO

ORANGE
COUNTY
FLORIDA

Phil Diamond, CPA
County Comptroller
Finance and Accounting Department
Special Assessments
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Date: March 15, 2023
To: Keith Nowlin, Assistant Comptroller
Through: Cheryl Gillespie, Agenda Development
From: Eric Gassman, Chief Deputy Comptroller
Contact: Ann Dawkins, 407-836-5770
Re: Request Number **M23-025** to establish a MSBU for **Lake Gibson**

Applicant: Elizabeth R. Johnson
Environmental Protection Division (EPD)

Type of Hearing: To establish the Municipal Service Benefit Unit (MSBU) for general lake cleaning, water quality improvement, maintenance and aquatic plant control services. The establishment would provide legal description of properties for the metes and bounds parcels, and subdivisions within the boundaries of the Lake Gibson MSBU.

Hearing Required by F. S.# Florida Statute Sections 125.01 (01) (q) and 200.066 and 200.071. This public hearing may be scheduled any time prior to May 31, 2023. **The resolution must be approved by May 31, 2023 to be included on the November 2023 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, April 9, 2023.**

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

Estimated Time Required: One (1) minute

District: Commissioner Uribe, District 3

Hearing Controversial: No.

Legislative File 23-536

May 2, 2023 @ 2 p.m.

Report: At the request of Elizabeth Johnson of EPD (Environmental Protection Department), staff recommends the establishment of an MSBU for Lake Gibson to include parcels / lots in **Island Club at Rio Pinar Lakes, Rio Pinar Lakes Unit Two, Phase One, Rio Pinar Lakes Unit Two, Phase Two, Rio Pinar Lakes Unit Two, Phase Three, Rio Pinar Lakes Unit Two, Phase Three Replat of Lots 45D, 46A, 46B 46C, 46D, 47D & 48A and Rio Pinar Lakes - Unit 4** to provide an Exhibit for the metes and bounds parcels and subdivisions for the boundaries of the Lake Gibson MSBU. The establishment provides a legal description of properties within the boundaries for the MSBU which will be effective November 2023.

One hundred and eight ballots were mailed to the property owners to determine majority opinion. The 87% of the ballots returned were in favor of the establishment of the MSBU. The ballot results are as follows:

In favor of the MSBU	33
Not in favor of the MSBU	5
Returned undeliverable	2
Received after deadline	0
No ballots submitted	<u>68</u>
Total ballots distributed	108

The estimated cost for the establishing MSBU is **\$135.82** per parcel, per lot, per year. The establishing MSBU would be effective **November 1, 2023**.

Materials being submitted as backup for public hearing request:

1. Resolution – one (1) copy of the proposed establishing resolution.

ADDITIONAL SPECIAL INSTRUCTIONS TO CLERK:

1. Notify Special Assessments Section / Finance and Accounting Department of public hearing date to prepare public hearing notice. Special Assessments will e-mail the public hearing notice to the Clerk.
2. **Send the original adopted resolution to the Special Assessments Section / Finance and Accounting Department.**
3. Send one (1) certified copy of the adopted resolution to the Special Assessments Section / Finance and Accounting Department.
4. Send one (1) tearsheet, one (1) proof of publication, and one (1) DR-413 of the public advertisement to the Special Assessments Section / Finance and Accounting Department

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
ESTABLISHING
A MUNICIPAL SERVICE BENEFIT UNIT
FOR GENERAL LAKE CLEANING, WATER QUALITY
IMPROVEMENT, MAINTENANCE
AND AQUATIC PLANT CONTROL SERVICES FOR

**Lake Gibson
11/2023**

WHEREAS, Section 125.01 (01) (q), Florida Statutes, grants Orange County ("County") the power to establish Municipal Service Benefit Units ("MSBU") for any part of the unincorporated area 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 ("Board") is the governing board of Orange County, Florida ("County") pursuant to its charter; and

WHEREAS, the Board of County Commissioners of Orange County has received a request, from the Orange County Environmental Protection Division ("EPD") for the establishment of such an MSBU for the purpose of general lake cleaning, water quality improvement, maintenance and aquatic plant control services in that portion of the unincorporated area of Orange County to be known as **Lake Gibson** and depicted on the map attached hereto as **Exhibit "B"** and which subdivisions are more fully described below; and

WHEREAS, the Board has determined on the basis of the information submitted with such request from EPD that the provision of general lake cleaning, water quality improvement, maintenance and aquatic plant control services in that portion of Orange County known as **Lake Gibson** and as shown on **Exhibit "B"** will specially benefit the real property located within the boundaries of the **Lake Gibson**; and

WHEREAS, the Board has determined, that the establishment of an MSBU for the purpose of general lake cleaning, water quality improvement, maintenance and aquatic plant control services is a reasonable and necessary method to finance such services and in the public interest, and the real property located within the boundaries of the **Lake Gibson** MSBU will be specially 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 hereby incorporated into the text of the resolution.
2. There is hereby established and created the **Lake Gibson 11/2023** MSBU, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes, the boundaries which appear on portions of the recorded plat of the **Lake Gibson** subdivision Plat Book, Pages, Section, Township, Range and Lots as shown in **Exhibit "A"**, in the Public Records of Orange County, Florida.

RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS

The purpose of such MSBU is to provide for the collection and disbursement by the County of such funds as may be necessary for the payment of administrative costs and appropriate reserves for cash balance and the general lake cleaning, water quality improvement, maintenance and aquatic plant control services to be performed on such lake. This MSBU is created solely for the purpose of general lake cleaning, water quality improvement, maintenance and aquatic plant control services and related governmental inspection and staff support expenses, collection and administrative expenses.

3. The County shall perform or cause to be performed general lake cleaning, water quality improvement, maintenance and aquatic plant control services. The County may subcontract with any party for the performance of the maintenance services described herein.

4. Any maintenance outside the scope of the services described in Section 3 shall not be funded with MSBU revenues.

5. Upon approval of this MSBU, the Board shall determine the estimated non-ad valorem special assessment amount required to pay the expense of general lake cleaning, water quality improvement, maintenance and aquatic plant control services for the MSBU. This non-ad valorem special assessment is levied for the first time as of **November 1, 2023**, 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 authorized by Section 197.3632, Florida Statutes, 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 specifically assessed against the real properties located within the boundaries of the MSBU as provided hereafter. Additional amounts will be added to provide for reimbursement of necessary administrative costs incurred by Orange County for inspections, the Property Appraiser and Tax Collector for the collection of non-ad valorem special assessments in accordance with the provisions 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 revenues for that year are expected to be available, and a cash reserve for periodic major improvements to the such lake. Administrative costs shall include, but not be limited to those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming. The estimated annual cost of operating and administering the MSBU, including the establishment and maintenance of an appropriate reserve for cash balance, is **\$14,668.56**, and the estimated annual non-ad valorem special assessment to each freeholder is **\$135.82**. Proceeds from the collection of the 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 as provided herein.

6. Upon approval of this MSBU, 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 assessment 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 general lake cleaning, water quality improvement, maintenance and aquatic plant control services of such lake and the administration of the MSBU. The Board hereby determines that a fair and reasonable method of assessing the costs of such services among the properties specially benefitted by such services is a flat per lot or per parcel basis, and not an ad valorem basis, so that each parcel or lot, shall be assessed an equally 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 assessment upon the non-ad valorem special assessment roll, which roll shall be fully completed prior to the time the 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, the Board shall certify the 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. Proceeds from the collection of the non-ad valorem special assessments shall be deposited in such depository as designated by the Board to the credit of the MSBU, and are to be used only as provided herein. From the proceeds of the 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, for all affected parcels. The non-ad valorem special assessment will be listed on the 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 payments, issuance 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.

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 and assessed non-ad valorem special assessments, unless any such newly subdivided parcel shall, in the written determination of EPD, no longer continue to receive a special benefit from the services financed and provided through this MSBU. In the event of a determination by EPD that a parcel or parcels will no longer receive a special benefit from general lake cleaning, water quality improvement, maintenance and aquatic plant control services on such lake, the Property Appraiser and the Tax Collector shall be notified that such parcels shall be removed from the assessment rolls for this MSBU. In the event that newly subdivided parcels shall receive a lower benefit from such services than the assessment method for the MSBU shall be modified on the assessment rolls for the next ensuing year in order to continue to provide a fair and reasonable apportionment of the cost of the services provided for herein among the properties that receive the benefit of such services.

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 four times preceding the public hearing.

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

ADOPTED THIS _____ DAY OF _____, 2023

ORANGE COUNTY, FLORIDA

BY: _____
ORANGE COUNTY MAYOR

DATE: _____

ATTEST: Phil Diamond, County Comptroller
as Clerk of the Board of County Commissioners

BY: _____
DEPUTY CLERK

Lake Gibson
Subdivisions
Exhibit "A"

Subdivisions	Plat Book / Pages	Section Township Range	Lot Number(s)	Lot Count
Island Club at Rio Pinar Lakes	29/69-70	02-23-30	Lots 29 – 48 Lots 83 – 86	24
Rio Pinar Lakes Unit Two, Phase One	10/130-131	02-23-30	Lots 8A – 11D	16
Rio Pinar Lakes Unit Two, Phase Two	12/12-13	02-23-30	Lots 23A – 31D	36
Rio Pinar Lakes Unit Two, Phase Three	12/77	02-23-30	Lots 43A – 44D Lots 45A – 45C Lots 47A – 47C Lots 48B – 48D	13
Rio Pinar Lakes Unit Two, Phase Three Replat	15/90-91	02-23-30	Lot 45D Lots 46A – 46D Lot 47D Lot 48A	7
Rio Pinar Lakes - Unit 4	25/96-97	02-23-30	Lots 104 – 115	12
			TOTAL LOTS	108

Exhibit "B"

