



OFFICE OF COMPTROLLER

INTEROFFICE MEMO

ORANGE  
COUNTY  
FLORIDA

Phil Diamond, CPA  
County Comptroller  
Finance and Accounting Department  
Special Assessments  
P O Box 38  
Orlando, FL 32802  
Telephone: 407-836-5770  
Fax: 407-836-5753

Date: March 10, 2020  
To: Katie Smith, Deputy Clerk  
Through: Cheryl Gillespie, Agenda Development  
From: Eric Gassman, Chief Deputy Comptroller  
Contact: Ann Dawkins, 407-836-5770  
Subject: Request Number **M20-008** for an MSBU for **Hamilton Gardens**

Applicant: Rudy Newell  
Independence Parkway Development, LLC  
Developer

Type of Hearing: To establish a Municipal Service Benefit Unit (MSBU) for streetlighting and 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, 2020. **The resolution must be approved by May 31, 2020 to be included on the November 2020 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, February 16, 2020.**

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

Estimated Time Required: One (1) minute

District: Commissioner VanderLey, District 1

Hearing Controversial: No.

Katie Smith, Deputy Clerk  
Request for Hamilton Gardens  
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Report: The estimated cost for the establishing MSBU for streetlighting is \$136.00 per lot, per year. The establishing MSBU would be effective November 1, 2020. The estimated cost for establishing MSBU for maintenance of retention pond is \$78.00 per lot, per year.

Materials being submitted as backup for public hearing request:

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

**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. **Send the original adopted resolution to the Special Assessments Section / Finance and Accounting Department.**

Send 1 (one) certified copy of the 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 STREETLIGHTING  
FOR

**Hamilton Gardens  
11/2020**

WHEREAS, Section 125.01 (1) (q), Florida Statutes, grants Orange County, Florida ("County") the power to establish Municipal Service Benefit Units ("MSBU") for any part of the unincorporated areas of the County; and

WHEREAS, Section 197.3632, Florida Statutes, authorizes the levy, collection, and enforcement of non-ad valorem 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 the County; and

WHEREAS, the County has received a request, in writing, from Rudy Newell ("Developer") of Independence Parkway Development, LLC for the establishment of such an MSBU in that portion of the unincorporated area of the County to be known as Hamilton Gardens subdivision and which is more fully described below; and

WHEREAS, the Board has determined that the establishment of an MSBU, the purpose of which is to provide for streetlighting as requested by the Developer, together with the other information pertaining to the operation of the proposed MSBU submitted therewith, to be feasible, necessary to facilitate the services desired, and in the public interest, and that the properties within Hamilton Gardens subdivisions 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 **Hamilton Gardens 11/2020** MSBU, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes, the boundaries of which appear on the recorded plat of **Hamilton Gardens** subdivision, Plat Book **98**, Pages **79 through 84**, Sections **17 and 20**, Township **23**, Range **27**, Lots **1 through 154**, **Tract "A" and Tract "B" Future Development**, Public Records of Orange County, Florida. The purpose of such MSBU is to provide for collection and disbursement by the County of such funds as may be necessary to pay the annual expense of standard operation and maintenance of streetlighting equipment within the MSBU, including energy charges, streetlighting fixtures, poles, wires, conduits, and all appurtenances necessary for such streetlighting, electrical services, and current used in their operations, and for payment of administrative costs and appropriate reserves for cash balance. It is the understanding of the County that **Duke Energy Florida, Inc.** is to construct, or has constructed in accordance with standards approved by the Orange County Public Works Department, all necessary streetlighting

**RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS**

equipment at no expense to the County, prior to or during construction of those portions of Hamilton Gardens subdivision and that Duke Energy Florida Inc. will assume standard maintenance and operation of such equipment, subsequent to such construction, including computation of the annual and monthly charges for such standard maintenance and operation. Such equipment is to include **39 - 70 watt LED (light emitting diode) decorative open post top (acorn) fixtures at \$23.09 per fixture, per month and 39 - 16 foot colonial poles at \$8.99 per pole, per month for a yearly rate of \$15,403.41**, which includes energy costs and excludes the cost of administering the district as set out below, or at a rate or rates as may be set by the properly constituted legal authorities who control, govern and set the rates for Duke Energy Florida Inc. for the services described herein. It is further understood by the County that the Duke Energy Florida Inc. may construct such streetlighting equipment only in those portions of the MSBU as may be necessary concurrent with the development of Hamilton Gardens subdivision and that the streetlighting district created herein will be operated only in such portions of the MSBU until such construction is completed in other portions of the MSBU; provided that if such construction is only to be in portions of such MSBU, a complete legal description of the portion or portions developed be filed with the Clerk of the Board of County Commissioners. After presentation and approval by the Board, it is understood and agreed between the County and the Developer that (if applicable) as Hamilton Gardens subdivision expands 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. **It is further understood that the contract between Orange County and Duke Energy Florida, Inc. will not be effective until November 1, 2020.** Streetlights installed prior to this date are the responsibility of the developer and not the County. It is further understood that only 39 - 70 watt LED (light emitting diode) decorative open post top (acorn) fixtures at \$23.09 per fixture, per month and 39 - 16 foot colonial poles at \$8.99 per pole, per month are approved for this MSBU. Any additional streetlighting will be the responsibility of the developer.

3. Upon completion of construction of such streetlighting equipment and the placement of such equipment into operation, the Board shall determine the estimated non-ad valorem assessment amount required to pay the standard expense of maintaining and operating the streetlighting equipment in the MSBU. This non-ad valorem assessment is levied for the first time as of **November 1, 2020** and will be levied each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the 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 revenue generated, by the assessment. The property owners within Hamilton Gardens subdivision shall pay any cost exceeding standard operating and maintenance expense as determined by the Board. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad valorem 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 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. 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 assessments have been collected. The estimated

annual cost of operating, maintaining, and administering such streetlighting equipment, including the establishment and maintenance of an appropriate reserve for cash balance, is **\$20,944.00** and the estimated annual charge to each individual freeholder is **\$136.00**. Proceeds of collection of such 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.

4. Upon completion of construction of such streetlighting equipment and the placement of such equipment 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 owned by individual freeholders, according to the recorded plat of Hamilton Gardens subdivision, Plat Book 98, Page 79 through 84, such sums as shall be necessary to pay the estimated expense of the annual operation and maintenance of such streetlighting equipment and administration of the district and appropriate reserves for cash balance for paying expenses, provided that 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 towards such cost. After the adoption of the non-ad valorem special assessment by the Board, the Property Appraiser shall extend the assessment upon the non-ad valorem 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 assessments 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 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 said 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. Said non-ad valorem special assessments, when collected by the Tax Collector shall be remitted to the Board, who shall deposit the same in such depository as shall be designated by the Board who shall apply the same to monthly bills rendered by Duke Energy Florida Inc., related administrative costs, and to the establishment and maintenance of an appropriate reserve for cash balance. From the proceeds of said non-ad valorem special assessments, the Board shall pay the costs for 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 assessments, Section 197.3632, Florida Statutes, will be used.

5. 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 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.

6. 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 assessments.

7. Each property owner affected by this resolution has been provided first class mail notice of the potential 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.

8. The Board of County Commissioners shall be the governing board of said Municipal Service Benefit Unit.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020

ORANGE COUNTY, FLORIDA

BY: \_\_\_\_\_  
ORANGE COUNTY MAYOR

DATE: \_\_\_\_\_

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

BY: \_\_\_\_\_  
DEPUTY CLERK

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

**Hamilton Gardens  
11/2020**

WHEREAS, Section 125.01 (01) (q), Florida Statutes, grants Orange County, Florida the power to establish Municipal Service Benefit Units ("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 ("Board") is the governing board of the County ("County"); and

WHEREAS, the County has received a request, in writing, from Rudy Newell ("Developer") of Independence Parkway Development, LLC for the establishment of such an MSBU in that portion of the unincorporated area of Orange County to be known as Hamilton Gardens subdivision and which is more fully described below; and

WHEREAS, the Board has determined that the establishment of an MSBU, the purpose of which is to provide for minimum maintenance of the county-dedicated retention ponds as requested by the Developer, together with the other information pertaining to the operation of the proposed MSBU submitted therewith, to be feasible, necessary to facilitate the services desired, and in the public interest, and that the properties within Hamilton Gardens subdivision(s) 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 **Hamilton Gardens 11/2020 MSBU**, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes, the boundaries of which appear on the recorded plat of **Hamilton Gardens** subdivision, Plat Book **98**, Pages **79 through 84**, Sections **17 and 20**, Township **23**, Range **27**, Lots **1 through 154**, **Tract "A" and Tract "B" Future Development**, Public Records of Orange County, Florida. The purpose of such MSBU is to provide for collection and disbursal by the County of such funds 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 **Tract "D-1", Tract "D-2", and Tract "D-3"** of **Hamilton Gardens** subdivision, which ponds have been dedicated to Orange County on the plat thereof and constructed in accordance with standards approved by the Orange County Public Works Department. The Developer understands that this MSBU is created solely for

the purpose of maintaining the retention ponds located on Tracts: Tract "D-1", Tract "D-2", and Tract "D-3" of Hamilton Gardens subdivision, and that no other ponds or infrastructure improvements located within the Hamilton Gardens subdivision may be maintained, constructed, reconstructed, improved, or repaired with the non-ad valorem special assessments collected from this MSBU.

3. The County shall perform or cause to be performed minimum maintenance services in 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. 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, 2020**, 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, is **\$12,012.00**, and the estimated annual non-ad valorem special assessment to each freeholder is **\$78.00**. 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.

5. 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 assessments 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.

6. 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.

7. 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.

8. 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.

9. It is understood and agreed between the County and the Developer that (if applicable) as the Hamilton Gardens subdivision expands, 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.

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

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020

ORANGE COUNTY, FLORIDA

BY: \_\_\_\_\_  
ORANGE COUNTY MAYOR

DATE: \_\_\_\_\_

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

BY: \_\_\_\_\_  
DEPUTY CLERK