



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

7/12/2022

Subject:

Approval of amendment to North Merritt Island Wastewater Transmission System No. 1 - Ordinance 88-48.

Fiscal Impact:

Reduction of the capital recovery boundary from Ordinance 88-48 to eliminate any overlap from the North Merritt Island Transmission Systems Phase 2 & 3 Capital Recovery (Ordinance 20-02 and 20-06) will reduce revenue by \$47,560 over the life of the North Merritt Island Capital Recovery Phase 1-3.

Dept/Office:

Utility Services Department

Requested Action:

Request approval of amendment to modify the boundary of Ordinance 88-48 for the North Merritt Island Wastewater Transmission System Phase 1.

Summary Explanation and Background:

North Merritt Island Wastewater Transmission System No. 1 - Ordinance 88-48 capital recovery boundary was created to encompass the entire north Merritt Island area, north of the canal to fund a force main from the Sykes Creek Wastewater Treatment Plant, along North Courtenay to Hall Road. The Board, in 2020, approved the North Merritt Island Transmission System - Phase 2 & 3 capital recovery to fund the force main extension along North Courtenay from Hall Road to North Tropical Trail.

During a department review of the limits of each capital recovery boundary it was observed that any new development in Phase 2 and 3 would be also within the current Phase 1 boundary. By allowing this Department to advertise the amendment to North Merritt Island Wastewater Transmission System No. 1 - Ordinance 88-48 would correct this overlap.

Per North Merritt Island Wastewater Transmission System No. 1 - Resolutions 91-402, the capital recovery fee for a 1-3 bedroom is \$40. No new sewer connections have been made to the North Courtenay force main since the North Merritt Island Transmission Systems Phases 2 & 3 Capital Recovery ordinances have been adopted.

The amended Ordinance is attached which includes an Exhibit A of the proposed amended capital recovery boundary. Since only a boundary revision of the Ordinance is being requested there is no need for the Resolution to be amended.

Clerk to the Board Instructions:

E-mail Clerk Memo to rose.lyons@brevardfl.gov <<mailto:rose.lyons@brevardfl.gov>> and mail original to Utility

Services, Attention: Rose Lyons

Kimberly Powell

From: Lyons, Rose A <Rose.Lyons@brevardfl.gov>
Sent: Wednesday, July 13, 2022 8:52 AM
To: Kimberly Powell
Cc: Donna Scott
Subject: RE: Item H.2 . Amendment to NMI Wastewater transmission System

Good Morning,

I was told only one hearing by County Attorney.

Rose

*Rose Lyons, Administrative Assistant to
Edward Fontanin, PE, Director
Brevard County Utility Services Department
2725 Judge Fran Jamieson Way, A-213
Viera, FL 32940-6602
Tel: 321.633.2091 Ext. 58372
Fax: 321.633.2095
email: rose.lyons@brevardfl.gov*

From: Kimberly Powell <Kimberly.Powell@brevardclerk.us>
Sent: Wednesday, July 13, 2022 8:49 AM
To: Lyons, Rose A <Rose.Lyons@brevardfl.gov>
Cc: Donna Scott <donna.scott@brevardclerk.us>
Subject: Item H.2 . Amendment to NMI Wastewater transmission System

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Morning, Rose.

I have a question.

Does this item need two public hearings, or did the action at last evening's meeting adopt the ordinance?

Look forward to hearing from you.

Kim

*Kimberly Powell
Clerk to the Board
(321) 637-2001
Kimberly.powell@brevardclerk.us*

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July 13, 2022

M E M O R A N D U M

TO: Eddie Fontanin, Utility Services Director Attn: Rose Lyons

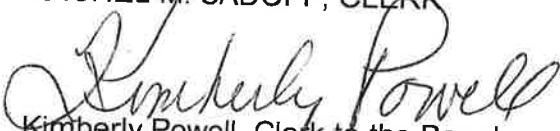
RE: Item H.2., Ordinance Approving Amendment to North Merritt Island Wastewater Transmission System No.1, Ordinance 88-48

The Board of County Commissioners in regular session on July 12, 2022, held a public hearing and adopted Ordinance No. 22-18, approving amendment to modify the boundary of Ordinance No. 88-48 for the North Merritt Island Wastewater Transmission System Phase 1. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance
Budget



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

July 15, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 22-18, which was filed in this office on July 14, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

ORDINANCE NO. 22-18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING ORDINANCE 88-48, WHICH ESTABLISHED CAPITAL RECOVERY CHARGES FOR CONNECTION TO THE WASTEWATER AND TRANSMISSION FACILITIES KNOWN AS THE "NORTH MERRITT ISLAND WASTEWATER TRANSMISSION SYSTEM NO. 1," TO MODIFY THE BOUNDARY; PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR RATIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Brevard County Board of County Commissioners established the North Merritt Island Wastewater Transmission System No. 1 by Ordinance Number 88-48, which provided for the acquisition and construction of the wastewater collection and transmission facilities and other appurtenances thereof, and for financing the cost of such projects for the system; and

WHEREAS, Ordinance 88-48 also defined the capital recovery boundary of the North Merritt Island Wastewater Transmission System No. 1 in a legal description attached to Ordinance 88-48 as Exhibit A;

WHEREAS, in 2020, the Brevard County Board of County Commissioners enacted Ordinances 20-02 and 20-06, creating Phase 2 and Phase 3 of the North Merritt Island Wastewater Transmission System capital recovery fee; and

WHEREAS, the Utility Services Department reviewed the boundaries of the three phases and discovered that Phases 2 and 3 were inadvertently drawn entirely within the boundary of Phase 1; and

WHEREAS, at this time, Exhibit A, the legal description of the boundary of the wastewater collection and transmission facilities and other appurtenances for the North Merritt Island Wastewater Transmission System No. 1, needs to be amended in order to modify the boundary so that the three phases no longer overlap; and

WHEREAS, the Board of County Commissioners now desires to amend Ordinance Number 88-48 to correct the overlap in the boundaries of the three phases.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are incorporated by reference into this Ordinance.

OFFICIALLY FILED WITH SECRETARY OF STATE ON JULY 14, 2022.

SECTION 2. Section 2 of Ordinance 88-48 establishing the North Merritt Island Transmission System No. 1 is hereby amended as follows:

Exhibit A is deleted in its entirety and replaced with a map of the North Merritt Island Transmission System No. 1, attached hereto as Exhibit A.

SECTION 3. Ratification. All other provisions of Section 2 of Ordinance 88-48 establishing the North Merritt Island Transmission System No. 1 are hereby ratified, confirmed and shall remain in full force and effect.

SECTION 4. Severability. If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision and shall not be affected by such holding.

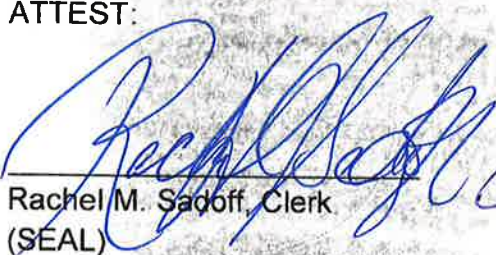
SECTION 5. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing pursuant to law.

DONE, ORDERED AND ADOPTED, in Regular Session, this 12th day of July 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA


Rachel M. Sadoff, Clerk
(SEAL)


Kristine Zonka, Chair

As approved by the Board on 7/12/2022

Reviewed for legal form and content:


Assistant County Attorney

RECEIVED

DEC 20 1988

UTILITY SERVICES

ORDINANCE NO. 88- 48

AN ORDINANCE ESTABLISHING CHARGES FOR CONNECTION TO SEWAGE TRANSMISSION FACILITIES, TO BE KNOWN AS THE "NORTH MERRITT ISLAND WASTEWATER TRANSMISSION SYSTEM NO. 1"; PRESCRIBING THE BOUNDARIES OF SAID SYSTEM TO CONSIST OF CERTAIN PROPERTY CONTAINED WITHIN TOWNSHIP 24 SOUTH, RANGE 36 EAST, SECTIONS 1, 2 & 3; TOWNSHIP 23 SOUTH, RANGE 36 EAST, SECTIONS 22, 23, 24, 25, 26, 27, 34, 35, 36; AUTHORIZING THE CONSTRUCTION OF SAID SYSTEM; AUTHORIZING THE COLLECTION OF CHARGES IN SUBSTANTIALLY THE SAME MANNER AS PROVIDED IN CHAPTER 67-1145, LAWS OF FLORIDA (1967); PRESCRIBING THE PROCEDURE FOR THE FIXING OF AN INITIAL SCHEDULE OF RATES, FEES OR OTHER CHARGES FOR THE USE OF THE SERVICES AND FACILITIES TO BE FURNISHED BY SAID SYSTEM; PROVIDING FOR PROCEDURES FOR REVISIONS TO SAID SCHEDULE OF RATES, FEES AND CHARGES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and Sections 125.01 and 125.66, Florida Statutes, the Board of County Commissioners of Brevard County, Florida has powers of local self-government to perform County functions and to render services in a manner not inconsistent with general law, and such power may be exercised by the enactment of County ordinances; and

WHEREAS, it is necessary for the public health, safety and general welfare of the County and its citizens that provision be made for the acquisition and construction of force mains, lift stations, and pressurized lines, and other wastewater collection facilities and appurtenances thereto, and for financing the cost of such projects; and

WHEREAS, Section 7 of Chapter 67-1145, Laws of Florida (1967), prescribes the procedure for the fixing of an initial schedule of rates, fees or other charges for the use of a sewer system of Brevard County and for revising said schedule of rates, fees and charges.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA as follows:

Section 1. Definitions. As used in this Ordinance, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

- (A) The word "County" shall mean Brevard County, Florida
- (B) The word "Board" shall mean the Board of County Commissioners of Brevard County, Florida
- (C) The word "Project" shall mean force mains, lift stations,

Officially filed with the
Secretary of State
December 12, 1988

pressurized lines, and all other wastewater collection facilities and appurtenances thereto, including all property rights easements, rights-of-way, and franchises related thereto, and deemed necessary for the acquisition, construction, re-construction, improvement, extension, enlargement, equipment, repair, operation or maintenance thereof.

- (D) The word "System" shall mean the North Merritt Island Wastewater Transmission System No. 1, herein created and established.

Section 2. North Merritt Island Wastewater Transmission System No. 1

There is hereby created and established the North Merritt Island Wastewater Transmission System No. 1. The System area shall consist of that certain real property in the unincorporated area of Brevard County, and described in Exhibit "A", which is attached hereto and incorporated herein by this reference.

Section 3. Transmission System. The System is created for the purpose of constructing or otherwise providing and maintaining force mains, lift stations, pressurized lines, and other wastewater collection facilities within the boundaries of said System.

Section 4. Powers. For the purpose of providing the services and facilities described in this Ordinance within the System, the County shall have the following authority and powers:

- (A) To own, acquire, construct, re-construct, improve, extend, enlarge, equip, repair, operate and maintain the Project or any phase thereof within the System.
- (B) To collect charges against building units connecting to the System. The charges will be based on the formulas contained in Exhibit "B", which is attached hereto and incorporated herein by this reference. The charges will be collected at the time of the issuance of the Certificate of Occupancy. Specific rates to be charged for the initial year, and ensuing years shall be established by the Board by rate resolution.
- (C) To acquire in the name of the County, either by purchase or the exercise of the right of eminent domain by the County, such lands and rights and interest therein, including lands under water and riparian rights, and to acquire such

personal property as may be deemed necessary in connection with the acquisition, construction, re-construction, improvement, extension, equipment, repair, operation or maintenance of the Project.

- (D) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Ordinance, and to employ such consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may, in the judgment of the Board, be deemed necessary or convenient, and to fix compensation therefore.
- (E) To request, receive and accept from any Federal or State agency grants for, or in aid of the planning, construction, re-construction, or financing of the Project, and to receive and accept aid or contributions, from any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes of which such grants and contributions may be made.
- (F) To provide, within the discretion of the Board, for the implementation and construction of the Project, or any portion thereof, with personnel, equipment, and supplies of the County. Nothing contained in Chapter 170, Florida Statutes, shall be interpreted or construed to require public bidding of any contract for the implementation or construction of the Project.
- (G) To exercise any and all powers of the County not above specifically enumerated, for the purpose of providing services and benefits of the type herein prescribed.

Section 5. Purchase and Assignment of Projects. The Board is hereby authorized to acquire by purchase, assignment or otherwise, whenever it shall deem such acquisition expedient, any Project as hereinabove defined, or any such Project, wholly or partially constructed, and any franchise, easements, permits and contracts for the construction of any such Project, upon such terms and at such prices as may be reasonable and can be agreed upon between the Board and the owner thereof, title to such project to be taken in the name of the County.

Section 6. Disposition of Proceeds From Collection of Charges.

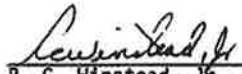
Those funds obtained from the collection under the terms hereof of connection charges on all connected building units located within the boundaries of said System shall be maintained in a separate account and used solely for the purpose of providing the facilities and services specified in Section 3 of this Ordinance within the boundaries of said System for the payment of any bonds issued to finance the cost of such Projects, pursuant to Section 4 (C) of this Ordinance, issued by the System, the County, or any other political subdivision.

Section 7. Effective Date. This Ordinance shall take effect immediately upon its adoption and filing pursuant to law.

DONE AND ADOPTED IN REGULAR SESSION, this 6th day of

December, 1988.

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


R. C. Winstead, Jr., Clerk

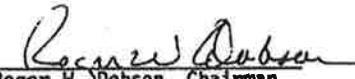
BY: 
Roger W. Dobson, Chairman



EXHIBIT A

Legal Description of the System Area "North Merritt Island Wastewater Transmission System No. 1":

Beginning at the south west corner of Section 3, Township 24 South, Range 36 East, thence east to the east bank of the Indian River, thence north to the boundary line of the Kennedy Space Center, thence south and east, along the boundary line of the Kennedy Space Center to the north east corner of Section 24, Township 23 South, Range 36 East, thence south to the south east corner of Section 1, Township 24 South, Range 36 East, thence east to the point of beginning.

EXHIBIT B

Proposed formula for the "North Merritt Island Wastewater Transmission System No. 1":

The charge for each unit within the area served by the system will be based on the total cost of the system, including construction, engineering, bond interest and administrative costs, divided by the total number of units projected to be completed within twenty (20) years.

Each year the unit charge will increase a fixed percentage based on the annual cost of the supporting Bond Issue.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on July 12, 2022 at 5:00 p.m., in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance:

ORDINANCE NO. 2022-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING ORDINANCE 88-48 WHICH ESTABLISHED CAPITAL RECOVERY CHARGES FOR CONNECTION TO THE WASTEWATER AND TRANSMISSION FACILITIES KNOWN AS THE "NORTH MERRITT ISLAND WASTEWATER TRANSMISSION SYSTEM NO. 1" TO MODIFY THE BOUNDARY; PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR RATIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

All persons for or against said ordinance can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to such hearing or meeting, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the Public Hearing is contacted at least 48 hours prior to the public meeting hearing by any person wishing assistance. The sponsoring department is the Utility Services Department, 321-633-2091.

A copy of the ordinance may be requested from the Utility Services Department or the County Manager's Office.

By order of the Board of County Commissioners of Brevard County, Florida.