



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

8/6/2024

Subject:

Permission to advertise for the repeal of Ordinance 89-29 - State Road 46 Water Extension #1 (District 1).

Fiscal Impact:

No further connections are anticipated, thus no fiscal impact to this Department.

Dept/Office:

Utility Services

Requested Action:

It is requested that the Board of County Commissioners authorize permission for staff to advertise for the repeal of Brevard County Ordinance 89-29.

Summary Explanation and Background:

In 1989, the Utility Services Department received Board approval for capital recovery Ordinance 89-29 (Exhibit 'A'), for the expansion of water service along State Road 46 as shown in Exhibit 'B'. This was subsequently followed in 1990 by the Board approving Resolution 90-143 (Exhibit 'C') which provided the fee structure referenced in Ordinance 89-29. This capital recovery ordinance provides for an additional fee when new water connections are made with the intent to use the funds collected for the expansion of water main within the designated area (Exhibit 'B').

Since 1989 and 1990, when the Board approved both the ordinance and the resolution associated with the capital recovery ordinance, the project has been completed, and no further water expansion in this area is anticipated. This Department is currently in the process of reviewing/updating/repealing ordinances associated with Utility Services., and this ordinance was identified as being no longer needed.

Clerk to the Board Instructions:

E-mail Clerk Memo to karina.perez@brevardfl.gov and mail original memo to Utility Services Department.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

August 7, 2024

M E M O R A N D U M

TO: Edward Fontanin, Utility Services Director

RE: Item F.6., Permission to Advertise for the Repeal of Ordinance 89-29 – State Road 46 Water Extension #1

The Board of County Commissioners, in regular session on August 6, 2024, granted permission for you to advertise for the repeal of Brevard County Ordinance 89-29 – State Road 46 Water Extension #1.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

UTILITY SERVICES

AN ORDINANCE ESTABLISHING CHARGES FOR CONNECTION TO WATER TRANSMISSION FACILITIES, TO BE KNOWN AS THE "STATE ROAD 46 WATER MAIN EXTENSION #1"; PRESCRIBING THE BOUNDARIES OF SAID SYSTEM TO CONSIST OF CERTAIN PROPERTY CONTAINED WITHIN TOWNSHIP 21 SOUTH, RANGE 34 EAST, THE WEST 1/2 OF SECTION 14, SECTIONS 15 & 16; 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 water mains and other 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 water mains and appurtenances thereto including all property rights easements, rights-of-way, and franchises related thereto, and deemed necessary for the

Officially filed with the
Secretary of State
June 26, 1989

acquisition, construction, re-construction, improvement, extension, enlargement, equipment, repair, operation or maintenance thereof.

- (D) The word "System" shall mean the State Road 46 Water Main Extension # 1, herein created and established.

Section 2. State Road 46 Water Main Extension # 1

There is hereby created and established the State Road 46 Water Main Extension # 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 water mains and other water 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 connection to the water system. 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, reconstruction, 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 20th day of
June, 1989.

ATTEST:

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 "State Road 46
Water Main Extension # 1":**

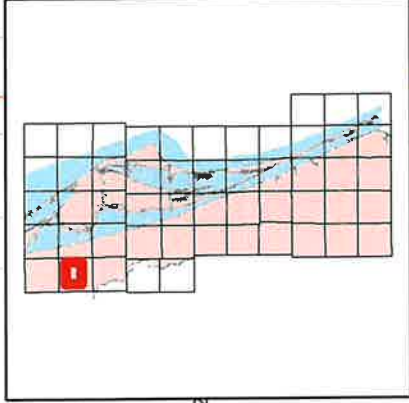
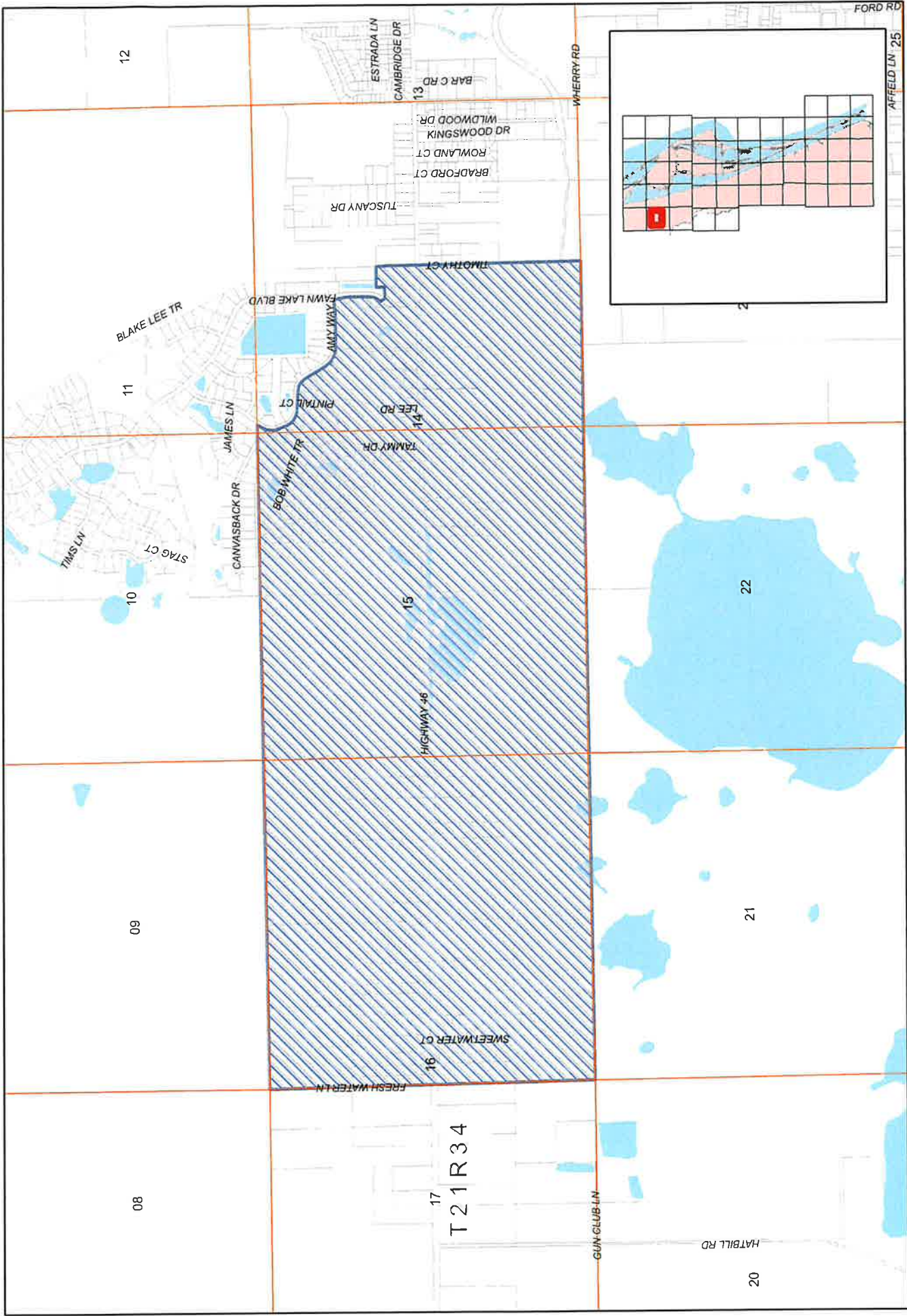
**The west 1/2 of Section 14, Township 21 South, Range
34 East; Section 15 and 16, Township 21 South, Range
34 East.**

EXHIBIT B

Proposed formula for the "State Road 46 Water Main Extension # 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.



State Road 46 Water Main Extension

RESOLUTION NO. 90 - 143

**RESOLUTION ESTABLISHING THE SCHEDULE OF SPECIAL
CONNECTION FEES, FOR THE WATER SYSTEM SERVED
BY THE STATE ROAD 46 WATER MAIN EXTENSION NO.1
IN THE UNINCORPORATED AREA OF BREVARD COUNTY.**

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 the services and facilities to be furnished by any water or sewer system of Brevard County and for revising said schedule of rates, fees and charges; and

WHEREAS, on March 6, 1990, the Board directed that notice be published setting forth the proposed rates, fees and charges and such notice was given by publication on March 10 and March 17, 1990, in the FLORIDA TODAY Newspaper, published in Brevard County, Florida; and

WHEREAS, a public hearing was held on March 26, 1990, at the North Brevard Public Library, 2121 So. Hopkins Ave, Titusville, Florida, for the purpose of establishing the schedule of rates, fees, and charges.

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

1. The rates, fees and charges set forth in the Schedule attached as Exhibit "C" to that certain Resolution dated December 1, 1987, is hereby amended to add the Schedule attached as Exhibit "A" hereto, and is hereby adopted as an additional schedule of fees for the water system served by the State Road 46 Water Main Extension No.1 in the unincorporated area of Brevard County described in Exhibit "B" (attached).

2. Said Schedule of special connection fees shall not be construed or interpreted to be established or fixed for the water system maintained by Brevard County in any other areas.

3. Said Schedules of rates, fees and charges shall become effective upon adoption.

4. A copy of said schedules of rates, fees and charges shall be kept on file in the Office of the Clerk to the Board and shall be open for public inspection.

DONE, ORDERED AND ADOPTED, in Regular Session, this 17th day of April, 1990.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


R.C. WINSTEAD, JR., CLERK


CAROL SENNE, CHAIRMAN

STATE OF FLORIDA
COUNTY OF BREVARD

This is to certify that the foregoing is a
true & correct copy of Resolution
No. 90-143 witness my hand

and official seal this 18th day of

April 19 90

R. C. WINSTEAD, JR.
Clerk Circuit Court

BY Shuley Down U.C.

EXHIBIT A

**SPECIAL CONNECTION CHARGES FOR WATER FOR THE
AREA SERVED BY SR 46 WATER MAIN EXTENSION #1
AS DESCRIBED IN EXHIBIT "B".**

Special Connection Fees, effective March 26, 1990

Single Family Residential	\$ 270.00
Condominium Unit (each)	226.00
Apartment Unit (each)	226.00
Mobile Home (each)	226.00
Travel Trailer Park (per space)	68.00
Motel & Hotel (per room)	135.00
Restaurants (per seat)	27.00
Cocktail lounges (per seat)	11.00
Laundry facilities (per washing machine)	91.00

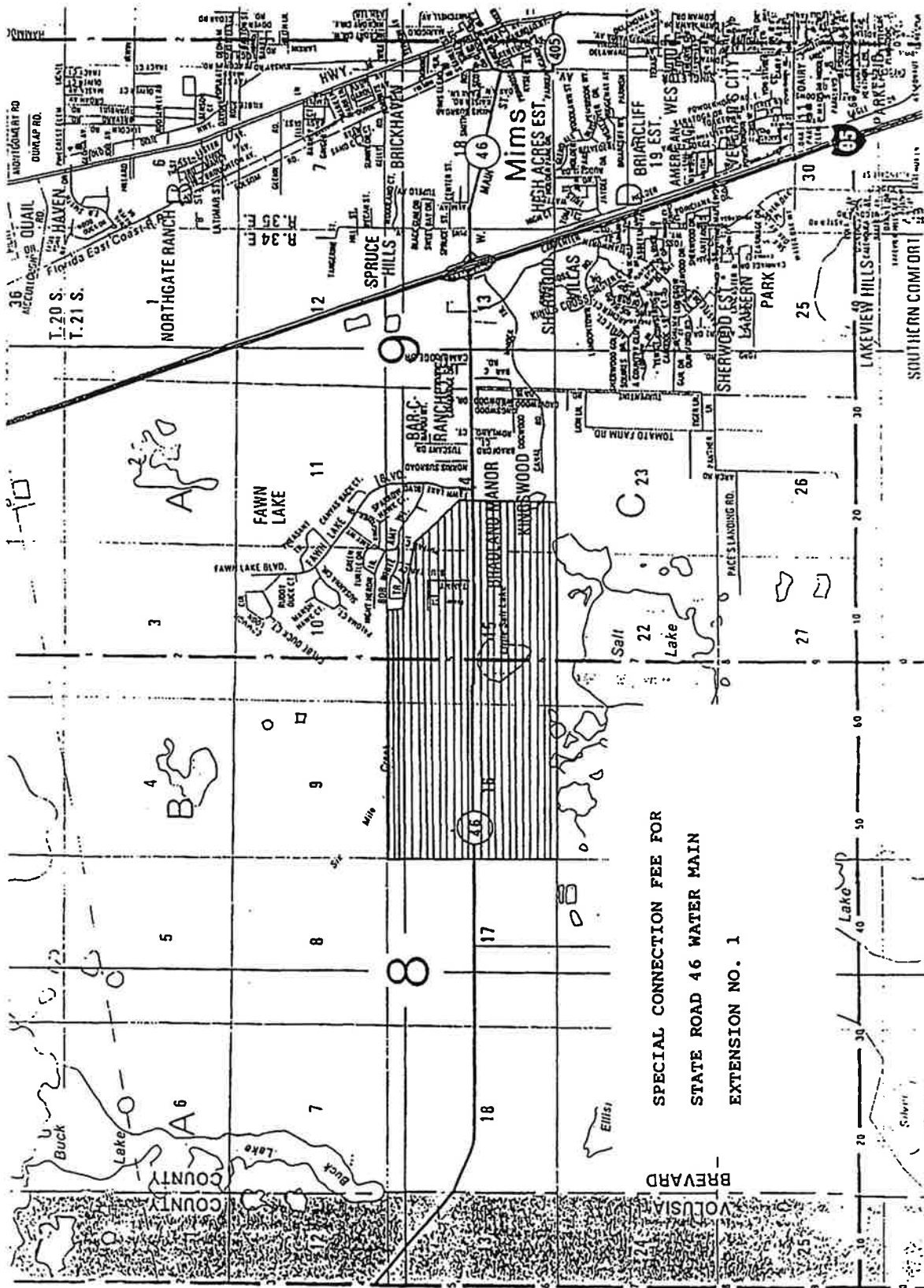
1. Other commercial to be determined by dividing the actual or estimated daily flow by the established residential equivalent of 200 gallons per day to determine the number of equivalents to the nearest tenths. Equivalent and fraction thereof will be multiplied by \$ 270.00. The Utility Services Director shall estimate the gallons per day for commercial units not otherwise specified above.

2. Connection charges shall be payable prior to the issuance of a building permit for a new building or prior to connection of an existing building to the system or at such other time as established by the Board of County Commissioners of Brevard County by ordinance.

EXHIBIT B

**Legal Description of the system area "State
Road 46 Water Main Extension # 1":**

**The west 1/2 of Section 14, Township 21 South,
Range 34 East; Section 15 and 16, Township 21
South, Range 34 East.**



ORDINANCE NO. 24-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, REPEALING ORDINANCE 89-29 THAT ESTABLISHED CAPITAL RECOVERY CHARGES FOR CONNECTION TO THE WASTEWATER AND TRANSMISSION FACILITIES KNOWN AS THE STATE ROAD 46 WATER MAIN EXTENSION #1; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Brevard County Board of County Commissioners established the State Road 46 Water Main Extension #1 by Ordinance Number 89-29 of the Brevard County Code of Ordinances for the acquisition and construction of the water collection and transmission facilities and other appurtenances thereof, and for the financing of the cost of such projects for the system; and

WHEREAS, at this time, the acquisition and construction of the water collection and transmission facilities and other appurtenances for the State Road 46 Water Main Extension #1 have been completed and the schedule of rates, fees or other charges associated with Ordinance 89-29 are no longer required for the financing of the system; and

WHEREAS, the Board of County Commissioners now desires to repeal Ordinance Number 89-29.

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.

SECTION 2. Repeal. Ordinance 89-29 of the Brevard County Code of Ordinances is hereby repealed.

SECTION 3. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

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. Effective Date. This Ordinance shall take effect upon adoption and filing pursuant to law. 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.

DONE, ORDERED AND ADOPTED, in Regular Session, this _____ day of _____, 2024.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk
(SEAL)

Jason Steele, Chair

As approved by the Board on _____

Reviewed for legal form and content:

Assistant County Attorney