

Meeting Date
5/7/15



ADD ON	
AGENDA	
Section	Public Hearings
Item No.	III C

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING RE: ORDINANCE AMENDING CHAPTER 98, ARTICLE IV PERTAINING TO THE NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT POWERS & DUTIES (DISTRICT 2)
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT

Requested Action:

It is requested that the Board conduct a public hearing to adopt the attached ordinance clarifying the duties and powers of the North Merritt Island Dependent Special District Board.

Summary Explanation & Background:

On March 3, 2015, the Board granted legislative intent and permission to advertise changes to Section 98-145 which outlines the powers, functions and duties of the North Merritt Island Dependent Special District Board (NMI Board). This section currently provides for the following powers and duties:

1. Review and provide the Board of County Commissioners with a recommendation for rezoning applications within their district boundaries, in lieu of the Planning & Zoning Board.
2. Review and provide the Board of County Commissioners recommendations on site specific applications requesting a change in the Future Land Use Map in lieu of the applicable CRG.
3. Review and provide the Board of County Commissioners recommendations on issues referred to the District by the BCC.
4. Adopt bylaws setting forth procedures for conducting business.

Based upon Board direction to ensure consistency with Ch. 163.3174, F.S. detailing the membership and duties of Local Planning Agencies, the ordinance will clarify the role of the NMI Board and confer upon them the authority to offer advisory recommendations, as follows, to:

- The Local Planning Agency (LPA) on Comprehensive Plan amendments
- The Planning & Zoning Board (P&Z) on density increases; and
- The Board of County Commissioners on all other rezoning requests.

The Building Construction Advisory Committee met on April 8<sup>th</sup>, 2015 and unanimously recommended that it be approved. On April 15, 2015, the NMI Board met to discuss this ordinance and expressed their support for the changes. On April 20, 2015, the LPA considered this ordinance and also unanimously recommended that it be approved.

Clerk to the Board instruction: Chairman to sign ordinance and file certified version with the State.

Exhibits Attached: Strike through/underline version and clean copy versions of the ordinance.

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
------------------------------------	-----------------------------	-----	--------------------------	----	--------------------------	----	--------------------------

County Manager  Stockton Whitten	Assistant County Manager  Mel Scott, AICP	Department Director / Extension  Robin M. Sobrino, AICP 5-2069
--	---	---



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972

May 8, 2015

MEMORANDUM

TO: Robin Sobrino, Planning and Development Director

RE: Item III.C., Ordinance Amending Chapter 98, Article IV, North Merritt Island Dependent Special District

The Board of County Commissioners, in regular session on May 7, 2015, adopted Ordinance No. 15-11, amending Chapter 98, Article IV, pertaining to the North Merritt Island Dependent Special District Powers and Duties. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

Encl. (1)

ORDINANCE NO. 2015- 11

AN ORDINANCE AMENDING CHAPTER 98, ARTICLE V, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, RELATING TO THE NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT; SPECIFICALLY AMENDING SECTION 98-145, POWERS, FUNCTIONS AND DUTIES, BY CLARIFYING THE NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT'S REVIEW AUTHORITY FOR COMPREHENSIVE PLAN AMENDMENTS AND REZONINGS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

WHEREAS, the Board of County Commissioners, on March 3, 2015, directed preparation of an amendment to Chapter 98, Special Districts, of the Brevard County Code of Ordinances, as it relates to the North Merritt Island Dependent Special District; and

WHEREAS, Section 98-145(1), Brevard County Code of Ordinances, provides that the North Merritt Island Dependent Special District shall review rezoning applications within the boundaries of the district in lieu of the planning and zoning board, which also functions as the local planning agency of the county; and

WHEREAS, Section 98-145(2), Brevard County Code of Ordinances, provides that the North Merritt Island Dependent Special District shall review applications requesting a change in designation on the county future land use map within the boundaries of the district; and

WHEREAS, Section 163.3174(1), Florida Statutes, requires a representative of the school board to serve on the local planning agency, or equivalent agency, that reviews comprehensive plan amendments and rezonings that would, if approved, increase residential density; and

WHEREAS, Section 163.3174(4)(a), Florida Statutes, provides that the local planning agency shall be the agency responsible for reviewing and making final recommendation regarding comprehensive plan amendments to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners desires to provide clarity regarding the powers, functions and duties of the North Merritt Island Dependent Special District, and reconcile any apparent or potential conflict with state law.

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

**SECTION 1. Chapter 98, Article V, Section 98-145,** Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

**Sec. 98-145. - Powers, functions and duties.**

The governing board of the dependent special district shall have the power and duty to:

- (1) In lieu of the planning and zoning board, review and provide the board of county commissioners with a recommendation upon rezoning applications made for property located within the boundaries of the dependent special district, when such application, if approved, would not increase residential density on the property that is the subject of the application;
- (2) Review and provide the planning and zoning board with an advisory recommendation upon rezoning applications made for property located within the district, when such application, if approved, would increase residential density on the property that is the subject of the application;
- (3) Review and provide recommendations to the board of county commissioners on any issue or subject referred to the governing body of the district by the county commission which matters may include the priority, location, maintenance, and use of public improvements or infrastructure provided within the district of Brevard County;
- (4) Review and provide the local planning agency with an advisory recommendation upon site-specific applications requesting a change in designation on the county future land use map.

The provisions of this section establishing a review process shall supersede and replace any conflicting review procedure set forth in any other ordinance.

**SECTION 2. Conflict with State Law.** Nothing in this ordinance is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and express conflict between this ordinance and either the Florida Constitution or the Florida Statutes, the the provisions of the Florida Constitution or Florida Statutes, as applicable, control.

**SECTION 3. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid

provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 4. Area Encompassed.** This ordinance shall take effect only in the geographical boundaries of the North Merritt Island Dependent Special District as described in Exhibit A to Ordinance No. 98-64, on file with the county clerk.

**SECTION 5. Effective Date.** A certified copy of the 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 as required by law.

**SECTION 6. Inclusion in Code.** It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.


**DONE, ORDERED AND ADOPTED**, in regular session, this 7<sup>th</sup> day of May, 2015.

Attest:

  
\_\_\_\_\_  
Scott Ellis, Clerk

( S E A L )

BOARD OF COUNTY  
COMMISSIONERS OF BREVARD  
COUNTY, FLORIDA

  
\_\_\_\_\_  
Robin Fisher, Chairman  
(as approved by the Board on \*) May 7, 2015

Reviewed for legal form and content by: \_\_\_\_\_



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

May 13, 2015

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Ms. Ashley Folsom, Recording Secretary

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2015-11, which was filed in this office on May 13, 2015.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb