



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

5/5/2020

Subject:

Public Hearing: Ordinance to create the North Merritt Island Transmission System - Phase 3 Capital Recovery Fee

Fiscal Impact:

Cost of Advertisement

Dept/Office:

Utility Services

Requested Action:

It requested that the Board conduct a Public Hearing and consider approval of an Ordinance creating the North Merritt Island Transmission System - Phase 3 Capital Recovery Fee

Summary Explanation and Background:

On April 7, 2020 the Board approved Legislative Intent and granted Permission to Advertise an Ordinance to create the North Merritt Island Transmission System - Phase 3 Capital Recovery Fee. The North Merritt Island Transmission System Phase 3 will be installed along North Courtenay Parkway from Church Street to North Tropical Trail. This 6-inch force main serves as the regional wastewater transmission system connection for all parcels in Merritt Island between the 2 streets mentioned.

Regional wastewater infrastructure needs which improve or extend the County's system are "pre-paid" with Water and Wastewater Capital Reserves, with prorated repayment by users at the time of connection. An ordinance is used to formally establish the service area and requires payment of a capital recovery fee at the time of connection. Specific fees are established by resolution when construction is completed. The Capital Recovery system has been used to extend the regional water and sewer service in all of the County's service areas. This differs from the MSBU process in that fees are recovered at the time of connection to the system instead of completion of the project.

The anticipated Equivalent Residential Connections (E R C) for Phase 3 is anticipated to be 379. The Phase 3 Capital Recovery Fee will be submitted to the Commission for approval, via Rate Resolution, upon completion of the project.

This item has been reviewed by the County Attorney's Office and advertised in Florida Today on April 23, 2020.

Clerk to the Board Instructions:

E-mail Clerk Memo to Rose Lyons at: rose.lyons@brevardfl.gov <<mailto:rose.lyons@brevardfl.gov>> and mail original to Utility Services, Attention: Rose Lyons.

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May 6, 2020

M E M O R A N D U M

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

RE: Item H.4., Public Hearing for Ordinance to Create the North Merritt Island Transmission System – Phase 3 Capital Recovery Fee

The Board of County Commissioners, in regular session on May 5, 2020, conducted a public hearing and adopted Ordinance No. 20-06, creating the North Merritt Island Transmission System – Phase 3 Capital Recovery Fee. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell, Deputy Clerk

Encl. (1)

cc: County Manager



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

May 6, 2020

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

Attention: Deborah Thomas

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. 20-06, which was filed in this office on May 6, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 20-06

AN ORDINANCE OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING CAPITAL RECOVERY CHARGES FOR CONNECTION TO WASTEWATER COLLECTION AND TRANSMISSION FACILITIES, TO BE KNOWN AS THE NORTH MERRITT ISLAND TRANSMISSION SYSTEM - PHASE 3, PRESCRIBING THE BOUNDARIES OF SAID SYSTEM TO CONSIST OF CERTAIN PROPERTY CONTAINED WITHIN TOWNSHIP 23, RANGE 36, SECTIONS 22-27; 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 CAPITAL RECOVERY CHARGES FOR THE USE OF THE FACILITIES TO BE FURNISHED BY SAID SYSTEM; AND PROVIDING FOR 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 wastewater collection and transmission facilities 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 and 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 meaning, unless some other meaning is plainly intended:

- A. The word "County" shall mean Brevard County, Florida.

Officially filed with the Secretary of State on May 6, 2020.

- B. The word "Board" shall mean the Board of County Commissioners of Brevard County, Florida.
- C. The word "Project" shall mean wastewater collection and transmission facilities appurtenances thereto including all property rights easements, rights-of-way, and franchises related thereto, and deemed necessary for the acquisition, construction, reconstruction, improvement, extension, enlargement and equipment necessary for the North Merritt Island Transmission System – Phase 3.
- D. The word "System" shall mean the North Merritt Island Transmission System – Phase 3, herein created and established.

Section 2. The North Merritt Island Transmission System – Phase 3 Creation and Establishment:

There is hereby created and established the North Merritt Island Transmission System – Phase 3 area that shall consist of that certain real property in the unincorporated area of North Merritt Island within Brevard County as described in Exhibit "A", which is attached hereto and incorporated herein by this reference.

Section 3. North Merritt Island Transmission System – Phase 3 Purpose:

The system is created for the purpose of construction otherwise providing and maintaining wastewater collection and transmission facilities and other wastewater facilities within the boundaries of said system area.

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, reconstruct, 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 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 judgement 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.
- 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. Collection of Capital Recovery Charges: All properties connecting to or otherwise using the system shall pay, in addition to any other Connection, Impact or Capital Recovery Fee, a North Merritt Island Transmission System – Phase 3 Capital Recovery Fee in accordance with Exhibit "B" and in an amount established by resolution. All such Capital Recovery Fees are due prior to or at the time of connection to the system.

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 5th day of May 2020.

ATTEST:

A blue ink signature of Scott Ellis, consisting of a stylized 'S' and 'E'.

Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

BY: 
Bryan Lober, Chair

As approved by the Board on: May 5, 2020

Reviewed for legal form and content:
(Assistant) County Attorney

A blue ink signature of the Assistant County Attorney, appearing as a stylized 'A' followed by a long horizontal stroke.

EXHIBIT A

NORTH MERRITT ISLAND TRANSMISSION SYSTEM – PHASE 3 **CAPITAL RECOVERY CHARGE – Area Map**

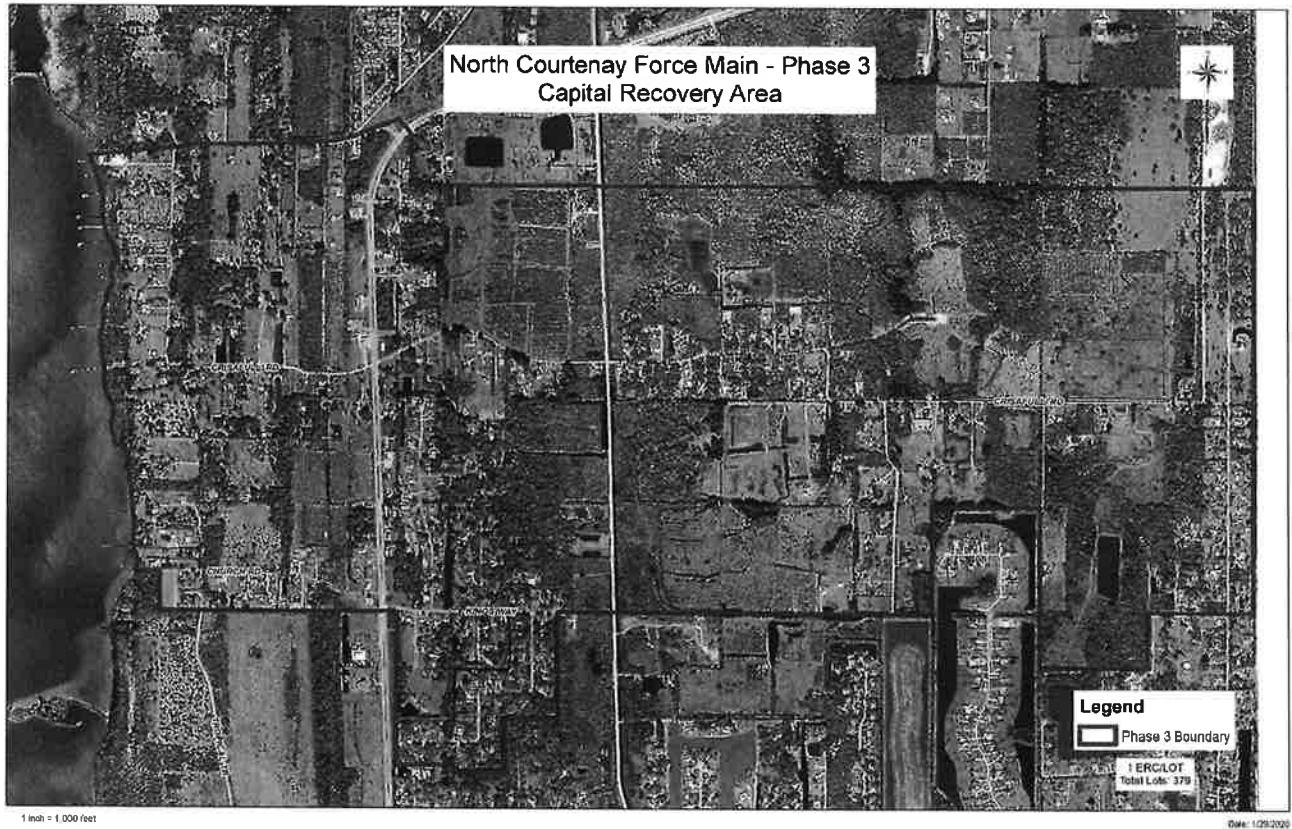


EXHIBIT B

NORTH MERRITT ISLAND TRANSMISSION SYSTEM – PHASE 3

BASIS OF CAPITAL RECOVERY CHARGES

A Capital Recovery Charge Fee, as herein described, is hereby established upon completion of construction and system activation. The Capital Recovery Fee shall be collected from all users of the system, at the time of connection to the system.

The Capital Recovery Charge shall be calculated on an Equivalent Residential Connection (ERC) basis as the quotient of the Total Cost of system construction divided by the Total Projected ERC's contained within the North Merritt Island Transmission System – Phase 3 area.

The Total cost of system construction shall include all engineering and testing services, permitting fees, property acquisition, legal, administrative and construction costs.

The Total ERC's contained within the system area is projected to be 379.