

RESOLUTION 79-28

WHEREAS, the City Commission of the City of Fernandina Beach, Florida, adopted a Resolution on September 4, 1979, under the authority of Florida Statutes, Section 125.01(6) (a) identifying certain services that are asserted in said resolution to be rendered specially or exclusively for the benefit of the property or residents in the unincorporated areas of Nassau County; and

WHEREAS, this Resolution is adopted by the Board of County Commissioners of Nassau County, Florida, in response to said Resolution adopted by the City of Fernandina Beach on September 4, 1979, and mailed on or about September 10 and received on or about September 13, 1979.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, THAT:

1. Article VIII, Section 1(h) of the Florida Constitution provides:

"Property situate within municipalities shall not be subject to taxation for services rendered by the County exclusively for the benefit of the property or residents in unincorporated areas."

The Florida Supreme Court has construed this novel provision in the 1968 Florida Constitution to mean that county taxation of municipal property is barred only when county services provided no "real and substantial benefit" to residents or property located within a municipality. See Alsdorf v. Broward County, 333 So2d 457 (1976); Burke v. Charlotte County, 286 So2d 199 (1973); City of St. Petersburg v. Briley, Wild & Associates, Inc., 239 So2d 665 (1970); and Alsdorf v. Broward County, 373 So2d 695 (Fla App 1979).

2. The degree of "benefit" received by the residents of and property within each municipality from services provided by the Board of County Commissioners varies within each municipality. Such degree of "benefit" can be determined only by examining the type of services provided by each municipality and the reliance by each municipality and its residents and property on services provided the County.

3. The degree of "benefit" received by the residents of and property within each municipality varies with the particular service provided by the Board of County Commissioners. In many instances, the residents of and property within the municipality receive greater "benefit" than the unincorporated area from particular county services. This is particularly true where the "benefit" from the county services is directly related to population.

4. As to the specific service identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "Nassau County Building and Planning and Zoning Department" the following is submitted in response:

a. The residents of and property within the City of Fernandina Beach receive real and substantial benefit from the services provided by the Nassau County Building and Planning and Zoning Department within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the Nassau County Planning and Zoning Department that provide real and substantial benefit to residents of and property within the City of Fernandina Beach:

(1) Coordination in the preparation of land use plans in the unincorporated areas with municipal land use plans to insure compatibility and appropriate land use controls.

(2) Coordination of overall Economic Development program to qualify all areas of Nassau County for Economic Development Administration Federal funding.

(3) Coordination of Environmental, Community Housing Facilities and Utility Expansion Development and Planning for all areas of Nassau County.

(4) Supplying of In Kind Services on Coastal Energy Impact Funding Grant which affects primarily the areas contained within City of Fernandina Beach.

All of the above is supplied notwithstanding the fact that adequate monies are provided to pay these expenditures other than those dollars

derived from sources within the City of Fernandina Beach, Florida.

5. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "Nassau County Engineering and Road and Bridge Department" the following is submitted in response:

a. The residents of and property within the City of Fernandina Beach receive real and substantial benefit from services provided by the Nassau County Engineering Department within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the Nassau County Engineering Department that provide real and substantial benefit to the residents of and property within the City of Fernandina Beach:

(1) Design services to provide design criteria and drainage for traffic patterns, county road and drainage projects.

(2) Coordination of the maintenance and construction of all county roads.

(3) Coordination of the maintenance and construction of all county drainage.

(4) Administration and review of the Florida Department of Transportation's application of the secondary road budget.

(5) Coordination of the acquisition of all drainage and road right-of-way acquisitions.

6. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "Nassau County Fire Control Department", the residents of and property within the City of Fernandina Beach receive real and substantial benefit from such services within the fact pattern of Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the Nassau County Fire Control

Department that provide real and substantial benefit to residents of and property within the City of Fernandina Beach:

a. All fire protection within Nassau County is a cooperative effort and one department is obliged to mutually assist all others in time of need in that two of the largest tax-payer citizens of Nassau County, i. e., ITT Rayonier and Container Corporation of America, have the greatest potential for fire disaster. This is particularly important to the citizens of the City of Fernandina Beach, notwithstanding the fact that adequate monies are provided to pay for these expenditures other than those dollars derived from sources within the City of Fernandina Beach.

7. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach, as "Nassau County Parks and Recreation Department and Division", the residents of and property within the City of Fernandina Beach receive real and substantial benefit from such services within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the Nassau County Parks and Recreation Department and Division:

a. Primarily all monies expended are expended on services rendered on the Beaches adjacent to the City of Fernandina Beach and are used principally by those citizens.

8. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "Animal Control Division of the Health and Welfare Department", the residents of and property within the City of Fernandina Beach receive real and substantial benefit from such services within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the

Animal Control Division of the Health and Welfare Department that provide real and substantial benefit to residents of and property within the City of Fernandina Beach; notwithstanding the fact that monies primarily are received from other than City tax revenue:

a. Pick up of animals when requested to do so by citizens on an as needed basis.

b. Control animals on the borders of the City of Fernandina Beach.

9. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "County Library System and County Libraries" the residents of and property within the City of Fernandina Beach receive real and substantial benefit from such services within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and the Alsdorf v. Broward County case. The following are some, but not all, of the services provided by the County Library System and County Libraries that provide real and substantial benefit to residents of and property within the City of Fernandina Beach:

a. The largest and only permanent facility and headquarters of the system is housed within the City of Fernandina Beach.

b. The greatest percentage of usage is available conveniently to the citizens of the City of Fernandina Beach.

10. As to the specific services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach as "Patrol Service of the Nassau County Sheriff's Department" and "Criminal Investigations", the following is submitted in response:

a. Under the provisions of the Florida Statutes, Section 30.15 and the Florida Constitution, the Sheriff is the chief law enforcement officer within a county.

b. The Sheriff is an independent constitutional officer and is not subject to the direction and control of the Board of County

Commissioners. Any method of separating a portion of the budget of the Sheriff obtained from the levy of taxes within a municipal service taxing unit for use solely in the unincorporated areas is subject to agreement by the Sheriff.

c. Florida Statutes, Section 30.49, sets forth the review and approval process of the budget of the Sheriff by the Board of County Commissioners.

d. The residents of and property within the City of Fernandina Beach receive real and substantial benefit from the services provided by the Patrol Service and Criminal Investigations of the budget of the Sheriff and from the School Crossing Guards within the fact pattern of the Burke v. Charlotte County case, the City of St. Petersburg v. Briley, Wild & Associates case and Alsdorf v. Broward County case. As to the Patrol Service of the budget of the Sheriff, the following are some, but not all, of the services provided by the Patrol and Criminal Investigations that provide real and substantial benefit to the residents of and property within the City of Fernandina Beach;

(1) Assistance to municipal police departments in law enforcement activities.

(2) Providing traffic control and crime prevention in the unincorporated areas to insure the safety of residents of municipalities in the use of the roads and other facilities within the unincorporated areas.

(3) Assistance to civil deputies in service and enforcement of any court order.

(4) Increased visibility of police by the presence of Sheriff's vehicles in the City.

11. Based upon the statements of law and findings of fact set forth herein, the Board of County Commissioners of Nassau County hereby deny the petition of the City of Fernandina Beach incorporated in its Resolution adopted on September 4, 1979.

DONE, ORDERED and ADOPTED, in Regular Session, this 11th day
of December , 1979.

BOARD OF COUNTY COMMISSIONERS OF
NASSAU COUNTY, FLORIDA

Attest:

By: John F. Claxton
John F. Claxton, Chairman

D. O. Oxley
D. O. Oxley, Clerk

