

RESOLUTION 82-25

WHEREAS, the City Commission of the Town of Hilliard, Florida, adopted a Resolution on December 3, 1981, under the authority of Florida Statutes, Section 125.01(6)(a) identifying certain services that are asserted in said Resolution to be rendered specifically or exclusively for the benefit of the property or residents in the unincorporated areas of Nassau County; and

WHEREAS, a representative of the Board of County Commissioners held meetings with representatives of the Town of Hilliard on or about February 1982 to discuss and attempt to resolve the concerns of the Town of Hilliard, and

WHEREAS, this Resolution is adopted by the Board of County Commissioners of Nassau County, Florida, in response to said Resolution adopted by the Town of Hilliard on December 3, 1981, and mailed on or about February 23, 1982, and received on or about February 25, 1982.

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 Town of Hilliard 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 Hilliard 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 Town of Hilliard.

(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.

All of the above is supplied notwithstanding the fact

that adequate moneys are provided to pay these expenditures other than those dollars derived from sources within the Town of Hilliard, Florida.

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

(a) The residents of and property within the Town of Hilliard 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 Town of Hilliard:

(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 Town of Hilliard as "Nassau County Fire Control Department", the residents of and property within the Town of Hilliard 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. 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 Town of Hilliard.

(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. This is particularly important to the citizens of the Town of Hilliard, notwithstanding the fact that adequate moneys are provided to pay for these expenditures other than those dollars derived from sources within the Town of Hilliard.

7.) As to the specific services identified in its Resolution adopted by the City Commission of the Town of Hilliard, as "Nassau County Parks and Recreation Department and Division", the residents of and property within the Town of Hilliard 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.

8.) As to the specific services identified in its Resolution adopted by the City Commission of the Town of Hilliard as "Animal Control Division of the Health and Welfare Department", the residents of and property within the Town of Hilliard 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 Town of Hilliard, notwithstanding the fact that moneys 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 Town of Hilliard.

9.) As to the specific services identified in its Resolution adopted by the City Commission of the Town of Hilliard as "County Library System and County Libraries" the residents of and property within the Town of Hilliard 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 Town of Hilliard.

(a) There is a facility located in the Town of Hilliard.

10.) As to the specific services identified in its Resolution adopted by the City Commission of the Town of Hilliard 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 Town of Hilliard 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 Town of Hilliard.

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 Town of Hilliard incorporated in its Resolution adopted on December 3, 1981.

DONE, ORDERED and ADOPTED in regular session, this 22nd day of JUNE, 1982.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

By: Douglas Hodges
Douglas Hodges
Its: Chairman

By: T. J. Greason
T. J. Greason
Its: Ex-Officio Clerk

JACOBS & MULLIN

ATTORNEYS AT LAW

ARTHUR J. JACOBS
MICHAEL S. MULLIN

June 18, 1982

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MAILING ADDRESS
POST OFFICE DRAWER I
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(904) 261-3693
JACKSONVILLE DIRECT 355-6070

Mrs. Lynda Watson
Town Clerk
Town of Hilliard
Hilliard, FL 32046

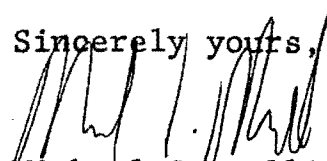
Re: Town of Hilliard -vs- Nassau County

Dear Mrs. Watson:

Enclosed please find a copy of the County's Resolution responding to the Town of Hilliard's Resolution.

I will see to it that you receive a formal copy by separate mailing.

Sincerely yours,


Michael S. Mullin

MSM/mco

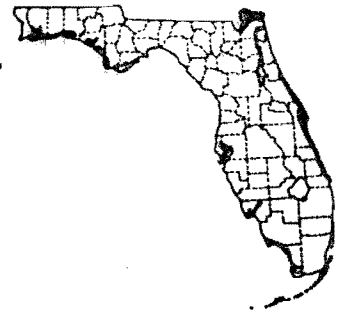
Enclosure

cc: ✓ T. J. Greeson, Clerk



NASSAU COUNTY

BOARD OF COUNTY COMMISSIONERS



P. O. Box 1010 - Fernandina Beach, Florida 32034

DOUGLAS J. HODGES
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Dist. No. 4 Hilliard

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Vice Chairman
Dist. No. 1 Fernandina Beach

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JOHN F. ARMSTRONG, SR.
Dist. No. 5 Callahan

T. J. GREESON
Ex-Officio Clerk

ARTHUR I. JACOBS
Attorney

June 24, 1982

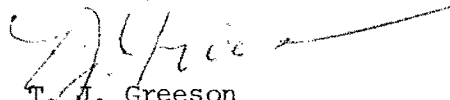
Mrs. Lynda Watson
Town Clerk
Town of Hilliard
Post Office Box 247
Hilliard, FL 32046

Dear Mrs. Watson:

The Board of County Commissioners has instructed this office to forward to you the enclosed certified copy of Resolution No. 82-25 in answer to the Town of Hilliard's petition on Double Taxation.

If we can be of any further assistance, please notify us.

Sincerely,


T. J. Greeson
EX - Officio Clerk

TJG:jmt

Enclosure