

ORDINANCE 2004 - 14

AN ORDINANCE AMENDING ORDINANCE 87-17, AS AMENDED, KNOWN AS THE "NASSAU COUNTY IMPACT FEE ORDINANCE"; SPECIFICALLY AMENDING SECTION 9, USE OF FUNDS; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED this 12th day of April, 2004, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 87-17, as amended, shall be further amended as follows:

1. **SECTION 9. Use of funds.**

(a) Any fees collected under this article are expressly designated for the accommodation of impacts reasonably attributable to the proposed development as hereinafter provided in this section.

(b) There is hereby established the Nassau County Impact Fee Ordinance Trust Fund for the purpose of insuring that the fees collected pursuant to this article are designated for the accommodation of impacts reasonably attributable to the proposed land development activity. The trust fund shall be divided into seven (7) trust accounts, one for the transportation component, one for the recreation and parks component, one for the law enforcement component, one for the fire rescue component, one for the education component, and one for the administrative component of the

fee. Said impact fee trust fund shall be administered by the clerk.

(c) The board shall be entitled to retain ten (10) percent of all impact fee funds it collects as an administrative fee to offset the costs of administering this article. An accounting of retained fees shall be provided to the board for review and appropriation every six (6) months.

(d) Proceeds collected from the road impact component of the fee and ail interest accrued on such funds shall be used solely for the purpose of capital improvements to and expansion of transportation facilities associated with the arterial, major collector, and minor collector road network in Nassau County, within the benefit district from which the fees have been collected, and in a manner consistent with the principal set forth in *Contractors & Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976), *Hollywood, Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4<sup>th</sup> DCA 1983) cert. denied 440 So. 2d 352 (Fla. 1983), and *Homebuilders and Contractors Association of Palm Beach v. Board of County Commissioners of Palm Beach County*. 446 So. 2d 1-1-0 (Fla. 4<sup>th</sup> DCA 1984) cent. Denied, 451 So. 2d 848 (Fla. 1984), and otherwise consistent with

all requirements of the Constitution of the United States and State of Florida and all applicable laws. Transportation impact fees shall be collected in the unincorporated portions of the benefit districts shown in Exhibit "B", except Benefit District 501, and the transportation impact fees shall be collected within the district, which is the incorporated City of Fernandina Beach.

(1) No funds shall be used for periodic or routine maintenance as defined in Florida Statutes, Section 334.03(24).

(2) The transportation fee collected within Benefit District 501 as delineated on the attached Exhibit "B" shall be collected as follows: The City of Fernandina Beach shall insure that the person or entity required to pay the transportation impact fee provides the form to the County Building Department, pays the fee, and provides the information necessary for the determination of the fee and payment of the fee(s) to the County of Fernandina Beach. At least monthly, the City of Fernandina Beach shall provide to the county building official: a list of each fee collected, or if not collected, the reason(s) for non-collection; the permit number issued; and documentation of the square footage of the proposed development and the

calculation of the fee in such amounts as customarily charged by the county for such transportation impacts; as well as the remittance of all such fees collected to be then deposited by the building official in the Nassau County Impact Fee Ordinance Trust Fund.

The education impact fee, if adopted, shall be collected in the incorporated and unincorporated areas within benefit districts. The cities shall collect said fees as set forth in the article, and said fees shall be paid to the board.

The rescue impact fee shall be collected in the unincorporated areas within Benefit Districts 502, 503, 504, and 505.

(e) The regional park and community park impact fees shall be collected in the unincorporated areas within Benefit Districts 502, 503, 504, and 505. Proceeds collected from the regional park impact fees and all interest accrued on such funds shall be used only for regional parks. Proceeds collected from the community park impact fees and all interest accrued on such funds shall be used for community parks of benefit to the benefit district in the unincorporated area in which the development is located, except that the community park

impact fee funds collected in a Benefit District may be used in an adjacent Benefit District based upon the shared use of community park facilities upon the recommendation of the Planning Director or his/her designee and the approval of the Board of County Commissioners. In locating and constructing recreation facilities within each benefit district, the county shall be guided by the standards of the Nassau County Comprehensive Plan. The benefit districts are those shown on the map attached hereto as Exhibit "B" and made a part hereof.

(f) Proceeds collected from the law enforcement, education, and administrative facilities components of the fee and all interest accrued on such proceeds shall be used for capital facilities intended to meet law enforcement, education, and administrative facilities needs respectively within each benefit district from which the fee is collected. Benefit districts are those shown on Exhibit "B". Proceeds collected from the fire and rescue component of the fee and all interest accrued on such proceeds, may be used for capital facilities intended to meet fire and rescue needs outside of the particular benefit district within which it is collected. The use of said proceeds outside of the district shall be approved by the Board of County

Commissioners upon recommendation of the Fire Chief or his/her designee and the ~~concurrency~~ concurrence of the County Attorney. Proceeds collected from the law enforcement and administrative facilities components of the fee and all interest accrued on such proceeds, may be used to meet law enforcement and administrative facilities needs outside of the particular benefit district within which they are collected. The use of said proceeds outside of the district shall be approved by the Board of County Commissioners upon recommendation of the Sheriff or his/her designee for the law enforcement impact fees and the County Administrator or his/her designee for the administrative facilities impact fees and the concurrence of the County Attorney.

~~(g) The law enforcement and administrative impact fees shall be collected from the respective benefit district, and said funds shall be used for law enforcement and administrative costs within the benefit district in which the development is located. These fees shall be collected within the unincorporated areas within the respective benefit districts.~~

~~(h)~~ (g) Any proceeds in each of the trust accounts on deposit, not immediately necessary for expenditure, shall

be invested in interest bearing assets. All income derived from these investments shall be retained in the applicable trust account.

~~(i)~~ (h) Each year, at time(s) designated by the Board of County Commissioners, the County Administrator or designee of the Board of County Commissioners, after consultation with the various agencies, including the cities (if applicable), shall propose appropriations to be spent from the trust accounts to the Board of County Commissioners. The proposal for appropriations shall be in written form and a copy of said proposal shall be submitted to the appropriate official or officials in the cities. Said written proposal shall be submitted to the appropriate officials prior to the County Administrator's or his/her designee's submitting the proposal to the board. The City of Fernandina Beach, through the city manager, shall be notified as to when the board will formally consider the proposal, and the city shall have a right to be heard as to the proposal for expenditure of transportation funds and may submit independent analysis. After review of the County Administrator's or his/her designee's recommendations, the Board of County Commissioners shall either approve, modify, or deny the recommended expenditures of the trust account monies. Any amounts not appropriated from the

trust accounts together with any interest earnings shall be carried over in the specific trust account to the following fiscal period.

~~(j)~~ (i) Any fees collected shall be returned to the fee payer or his successor in interest if the fees have not been spent within six (6) years from the date the building permit or move-on permit for the development was issued, along with federal rate interest. Provided, however, that the Board of County Commissioners may by resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three year period, specified capital improvements are planned and evidenced by the adoption and incorporation into a capital improvement plan, that the improvements are reasonably attributable to the fee payer's land development activity, and that the fees collected which have not been spent are committed for capital improvements which shall be constructed within the next three (3) years. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund of fees shall be undertaken through the following process:

(1) A refund application shall be submitted within one (1) year following the end of the sixth (6<sup>th</sup>) year from the date on which the building permit or move-on permit was issued on the proposed development. If the time of refund has been extended pursuant to section 76-159, the refund application shall be submitted within one (1) year following the end of this extension. The refund application shall include the following information:

a. A copy of the dated receipt issued for payment of the fee;

b. A copy of the building permits;

c. A copy of the receipt issued by the county for payment of the fee; and, if applicable;

d. Evidence that the applicant is the successor in interest to the fee payer.

(2) Within twenty (20) days of receipt of the refund application, the clerk or his designee shall determine if it is complete. If the clerk determines the application is not complete; he shall send a written statement specifying the deficiencies by mail to the person submitting the application. Unless the deficiencies are corrected, the clerk shall take no further action on the refund application.

(3) When the clerk or his designee determines the refund application is complete, he shall review it within twenty (20) days, and shall approve the proposed refund if he determines the fee payer or his successor in interest has paid a fee which the county has not spent within the period of time permitted under this section. The refund shall include the fee paid plus federal rate interest.

(4) Any fee payer or his successor in interest may appeal the clerk's decision on a refund application by filing a petition with the Board of County Commissioners within thirty (30) days of a decision by the clerk.

(k) Funds shall be used exclusively for capital improvements or expansion within the road impact fee district, including district boundary roads, as identified in Exhibit "B" hereof; from which the funds were collected or for projects in other road impact districts which are of benefit to the road impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

2. **EFFECTIVE DATE:** This Ordinance shall become effective upon its being filed in the Office of the

# NASSAU COUNTY

## CENSUS TRACTS

### IMPACT FEE BENEFIT DISTRICTS/PLANNING DISTRICTS

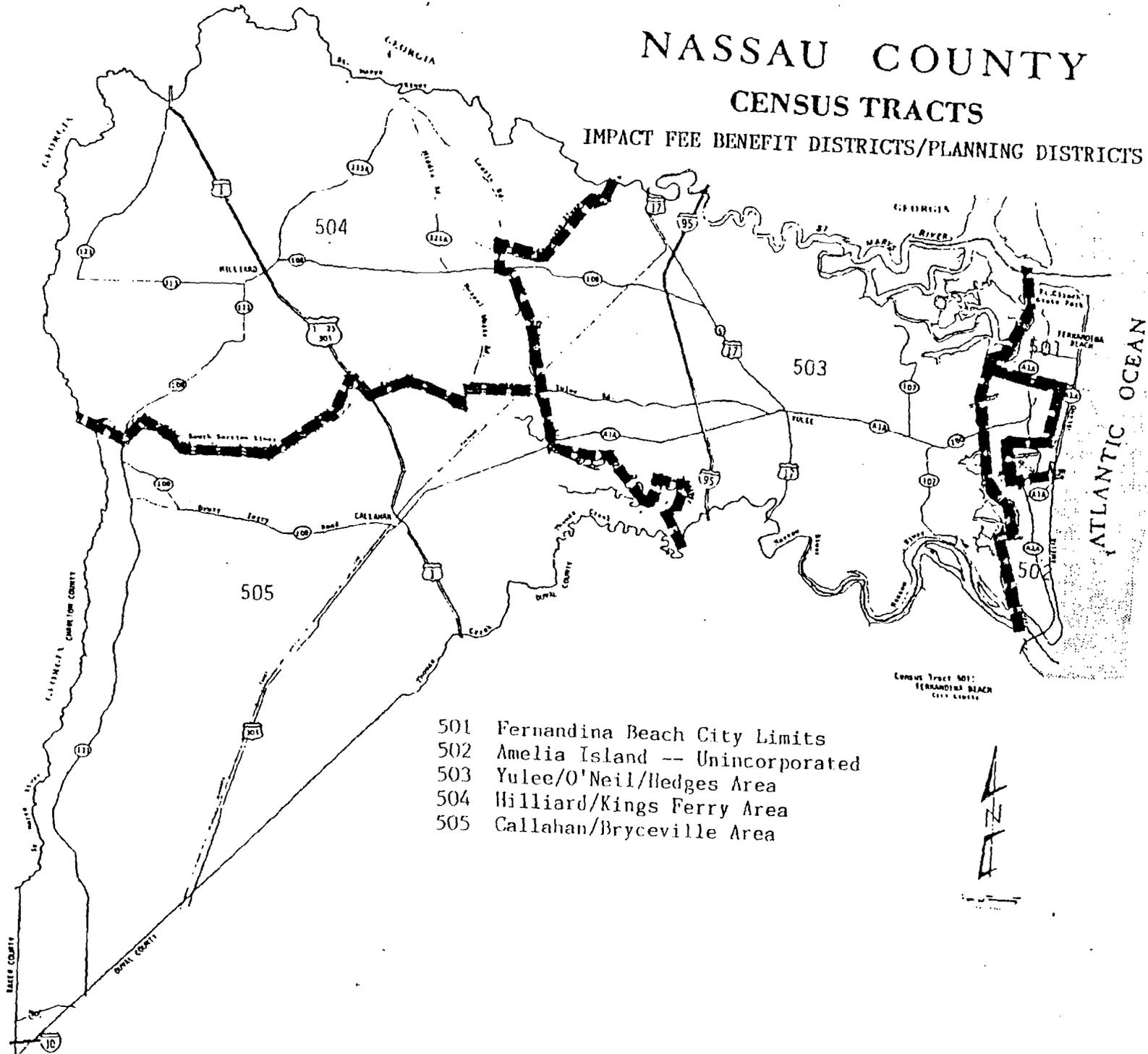


EXHIBIT "B"

Secretary of State.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
FLOYD L. VANZANT  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

  
\_\_\_\_\_  
MICHAEL S. MULLIN

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