

ORDINANCE NO. 2015- 08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2013-10, WHICH AMENDED THE NASSAU COUNTY CODE OF ORDINANCES, CHAPTER 29, ARTICLE VII, TO CREATE A NEW ARTICLE, EAST NASSAU COMMUNITY PLANNING AREA MOBILITY NETWORK, ESTABLISHING THE EAST NASSAU COMMUNITY PLANNING AREA MOBILITY NETWORK FUND AND THE PURPOSES THEREOF, PROVIDING FOR THE FUNDING OF MOBILITY IMPROVEMENTS FROM TAX INCREMENT REVENUES, PROVIDING FOR AUTHORIZED EXPENDITURES FROM THE MOBILITY NETWORK FUND, PROVIDING FOR EXCLUSION FROM ROLLED-BACK RATE CALCULATION AND PROPERTY APPRAISER CERTIFICATION; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; SPECIFICALLY AMENDING SECTION 2, DEFINITIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2013-10 was adopted by the Board of County Commissioners of Nassau County, Florida, on June 24, 2013; and

WHEREAS, the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement is attached as Exhibit "A" to Ordinance No. 2013-10; and

WHEREAS, it has been determined that it is necessary to amend said agreement; and

WHEREAS, the Amendment, generally, proposes to update the East Nassau Community Planning Area ("ENCPA") Proposed Transportation Improvements and Mobility Fee Agreement to reflect the updated ENCPA Mobility Network and the Transportation Impact Analysis Methodology applicable to the ENCPA mixed use project; and

WHEREAS, it has been determined that it is necessary to amend Ordinance No. 2013-10, which Ordinance provisions have been codified in the Nassau County Code of Ordinances, Chapter 29, Article VII, to eliminate references to the ENCPA Proposed Transportation Improvements and Mobility Fee Agreement Original date of June 24, 2013, and to provide a location in the County in which this agreement, and any amendments, is available for inspection.

NOW, THEREFORE, BE IT ORDAINED that Ordinance No. 2013-10, shall be amended as follows:

SECTION 1. FINDINGS AND DECLARATION OF NECESSITY.

The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

(1) It is hereby found and declared that the tools and techniques identified and encouraged by the State Legislature in Chapter 2011-139, Laws of Florida, and identified by the Board of County Commissioners in the Nassau County Comprehensive Plan will substantially advance the public purposes of job creation and public safety. It is further found and declared that applicable law provides that: revenue sources other than those deriving from mobility fees may be utilized for the development of transportation facilities allowing for land development which results in job creation and compact, mixed-use, energy efficient development; and utilizing tax increment revenues for such purposes serves a legitimate public purpose.

(2) It is further found and declared that there is a need within the ENCPA for improved roads, bridges, traffic and travel corridors, bicycle/pedestrian facilities, and other means of access to facilitate mobility for current and future residents of Nassau County and the ENCPA; access to the recreation, vacation and tourism destinations and attractions within the area; and the attraction of high paying jobs sufficient to provide economic diversification necessary to sustain a stable tax base through seasonal or business cycles.

(3) It is further found and declared that the preparation for evacuation from storms and other emergencies plays a vital role in the area economy by assuring the safety of the residential, workforce, and consumer base within the area, and that it is therefore in the public interest and the interest of the citizens and residents of the County to provide for the development of the ENCPA Mobility Network.

(4) It is further found and declared that the powers conferred by this Ordinance are for public uses and purposes for which public money may be expended and the power of eminent domain and police power may be exercised, and the necessity for the provisions herein enacted is hereby declared as a matter of legislative determination.

(5) It is further found and declared that the preservation or enhancement of the tax base from which the County realizes tax revenues is essential to its existence and financial health; that the preservation and enhancement of such tax base is implicit in the purposes for which the County is established; that the use of tax increment revenues generated within the East Nassau Community Planning Area Mobility Network Fund to fund the development of the ENCPA Mobility Network is an effective method of achieving such preservation and enhancement, because the tax base can not reach its potential due to inadequate transportation infrastructure; that economic development afforded by the ENCPA Mobility Network, when complete, will enhance such tax base through the increase in the number of homes and businesses and the value of properties and provide increased tax revenues to affected taxing authorities, thereby increasing their ability to accomplish their other respective purposes; and that the preservation and enhancement of the tax base in such areas through the use of tax increment revenues, the levying of taxes by such taxing authorities, and the appropriation of funds to the East Nassau Community Planning Area Mobility Network Fund bears a substantial relationship to the purposes of the County and is for lawful purposes and concerns.

(6) It is further found and declared that the ENCPA Mobility Network is “essential infrastructure”, and that this Ordinance is intended to create a dedicated funding source for such infrastructure, thus qualifying the tax increment funding adopted by this Ordinance as “dedicated increment value” for purposes of Section 200.001(8)(h), Florida Statutes.

(7) The findings contained in the preambles hereof are true and correct.

SECTION 2. DEFINITIONS.

The following terms, whenever used or referred to in this part, have the following meanings:

“Base Taxable Valuation” shall mean the Taxable Valuation from the Property Appraiser’s 2014 tax roll and which will be utilized to determine Nassau County’s ad valorem tax revenues.

“Detailed Specific Area Plan (DSAP)” shall mean any of multiple Detailed Specific Area Plans to be adopted pursuant to Section 163.3245, Florida Statutes, for parcels within the ENCPA of generally more than 1,000 acres.

“Mobility Fee” or “Mobility Fees” shall mean the mobility fee provided for in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement as set forth in an approved development agreement between Nassau County and TerraPointe LLC, and the Other Landowners. ~~other Owners of Record dated June 24, 2013.~~

“ENCPA Mobility Network” shall mean the improvements that are referred to as the “ENCPA Mobility Network” in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement as set forth in an approved development agreement between Nassau County and TerraPointe LLC, and the Other Landowners, ~~other Owners of Record dated June 24, 2013,~~ as it may be amended, and depicted in Exhibit “A” to this Ordinance.

“ENCPA Mobility Network Fund” shall mean the fund, including sub-accounts for each DSAP, established herein and in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement as set forth in an approved development agreement between Nassau County and TerraPointe LLC, and the Other Landowners. ~~other Owners of Record dated June 24, 2013.~~

“Mobility Fee Agreement” shall mean a development agreement between Nassau County and TerraPointe LLC, and the Other Landowners. ~~other Owners of Record dated June 24, 2013.~~ A copy of such agreement, and any amendments, is available for inspection in the office of the Ex-Officio Clerk and the office of Planning and Economic Opportunity.

“ENCPA Mobility Revenue Allocation Subsidy” shall mean the amount of Tax Increment Funds to be transferred into the ENCPA Mobility Network Fund on or before January 1 of each year. Any Tax Increment generated outside an approved DSAP shall be transferred into the ENCPA Mobility Fund and distributed pro rata based on the acreage of approved DSAPs.

“East Nassau Community Planning Area (ENCPA)” means approximately 24,000 acres located near Yulee in Nassau County, Florida, as described in Ordinance 2012-39, including any approved DSAPs within the ENCPA.

“Taxable Valuation” shall mean the final non-school taxable value of all real property within the ENCPA, including any approved DSAPs within the ENCPA, as determined by the Nassau County Property Appraiser.

“Tax Increment Funds” or “TIF” means an amount equal to those certain incremental amounts of ad valorem property taxes of the County for the properties within the ENCPA and the DSAPs therein, and deposited in the ENCPA Mobility Network Fund.

“Tax Increment” shall mean the ad valorem tax revenues generated by applying Board of County Commissioners’ County-wide millage rate in effect for the current fiscal year, exclusive of any debt service millage, to twelve percent (12%) of the difference between the current Taxable Valuation and the Base Taxable Valuation, subject to adjustment as provided in Section 3(4) [subsection 29-173(d) of the Code] below or as otherwise approved by the Board of County Commissioners.

Editor’s Note – Exhibit “A” is incorporated herein by reference as if fully set out in length, a copy of Exhibit “A”, and any amendments, is available for inspection in the office of the Ex-Officio Clerk and the office of Planning and Economic Development.

SECTION 3. ENCPA MOBILITY NETWORK FUND.

(1) There is hereby established an ENCPA Mobility Network Fund, a capital projects fund. Revenues placed into this fund shall consist of:

(a) Mobility fees paid to the County pursuant to the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement approved in the Mobility Fee Agreement, together with any interest earned thereon; and

(b) The ENCPA Mobility Revenue Allocation Subsidy as provided herein with any interest earned thereon.

(2) Beginning on January 1, 2016, the Tax Increment shall be transferred annually into the ENCPA Mobility Network Fund. The first fiscal year in which a Tax Increment shall be calculated pursuant to this ordinance shall be the fiscal year commencing October 1, 2015, based upon an application of the millage rate in effect for the fiscal year commencing October 1, 2015, to twelve percent (12%) of the

difference between the Taxable Valuation for the fiscal year commencing October 1, 2015, and the Base Taxable Valuation, subject to adjustment as provided in Section 3(4) [subsection 29-173(d) of the Code] below. The Tax Increment shall be calculated for the ENCPA and separately for each approved DSAP therein. The Tax Increment for each DSAP is a subset of, and not in addition to, the Tax Increment for the ENCPA, and the Tax Increment Funds for each approved DSAP shall be placed under separate sub-account numbers within the ENCPA Mobility Network Fund. The amount of the Tax Increment transferred annually into the ENCPA Mobility Network Fund shall be referred to as the ENCPA Mobility Revenue Allocation Subsidy.

(3) As provided in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement approved in the Mobility Fee Agreement, the ENCPA Mobility Network Fund shall be used solely to fund the ENCPA Mobility Network and the actual costs of the County's administration of the ENCPA Mobility Network Fund pursuant to the mechanisms provided in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement.

(4) The ENCPA Mobility Network is to be funded by the ENCPA Mobility Network Fund, which is funded by mobility fees established in the Mobility Fee Agreement and the ENCPA Mobility Revenue Allocation Subsidy. Any mobility fee system, transportation impact fee, or similar exaction which may be established by Nassau County for lands outside the ENCPA (referred to in this Section as "Non-ENCPA Mobility Fee") shall be implemented independent of the mobility fee within the ENCPA. If the County adopts or amends a Non-ENCPA Mobility Fee which is less than ninety percent (90%) of the mobility fees established in the Mobility Fee Agreement or waives, suspends, or otherwise ceases the assessment and collection of a Non-ENCPA Mobility Fee, then the Board of County Commissioners shall consider legislation adjusting the Tax Increment established herein.

SECTION 4. TERMINATION.

The ENCPA Mobility Network Fund and the annual transfer of the ENCPA Mobility Revenue Allocation Subsidy shall cease upon the completion of construction, dedication, and acceptance of all of

the ENCPA Mobility Network improvements and other conditions as described in the East Nassau Community Planning Area Proposed Transportation Improvements and Mobility Fee Agreement.

SECTION 5. EXCLUSION FROM ROLLED-BACK RATE CALCULATION AND PROPERTY APPRAISER CERTIFICATION.

The Tax Increment created by this ordinance shall be dedicated, paid and applied to finance essential transportation infrastructure, and shall be considered "dedicated increment value" pursuant to Section 200.001(8)(h), Florida Statutes. As dedicated increment value, the Tax Increment Funds shall be excluded from the calculation of the maximum ad valorem millage rate (the rolled-back rate) required by Sections 200.065 and 200.185, Florida Statutes. Pursuant to Section 200.001(8)(h), Florida Statutes, on or before July 1, 2013, Nassau County shall certify to the Nassau County Property Appraiser the boundaries of the ENCPA as of January 1, 2014, and the Base Taxable Valuation date. If the boundaries of the ENCPA change, Nassau County shall update the Property Appraiser certification required by Section 200.001(8)(h), Florida Statutes. Any change in the certification to the Property Appraiser provided after March 31 of any year shall not be used for the current year's certification. Similarly, on or before March 31, of each year, Nassau County shall certify to the Nassau County Property Appraiser the boundaries of any DSAP approved as of January 1, of each year. If the boundaries of any approved DSAP change, Nassau County shall update the Property Appraiser. Any change in the certification to the Property Appraiser provided after March 31 of any year shall not be used for the current year's certification.

SECTION 6. REPEALER.

All ordinances and resolutions or parts thereof of the County in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 7. SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then such holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 8. INCLUSION IN THE CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance, amending Ordinance 2013-10, shall become and be made a part of the Nassau County Code of Ordinances in Chapter 29, Article VII; and that the sections of this Ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "division", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 9. EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon filing with the Department of State.

ADOPTED this 22nd day of June, 2015.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



PAT EDWARDS
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the Nassau County
Attorney:

MES
6-24-15


MICHAEL S. MULLAN



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 26, 2015

Honorable John A. Crawford
Clerk of the Circuit Court
Nassau County
76347 Veteran's Way, Suite 456
Yulee, Florida 32097

Attention: Brenda Linville, Clerk Services

Dear Mr. Crawford:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Nassau County Ordinance No. 2015-08, which was filed in this office on June 26, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb