

RESOLUTION NO 81-23

WHEREAS, the City Commission of the City of Fernandina Beach, Florida, adopted a Resolution on June 24, 1980, 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, various meetings were held during the time subsequent to passage of that Resolution between The Board of County Commissioners of Nassau County and the City Commission of Fernandina Beach; and

WHEREAS, on or before September 20th, the County Commission of Nassau County responded in a Resolution answering the City Commission of Fernandina Beach the allegations regarding dual taxation; and

WHEREAS, various conferences were held between the representatives of and the members of the City Commission of Fernandina Beach and the County Commission of Nassau County at various times and places to resolve those matters: and

WHEREAS, the County Commission in response to a letter written October 1, 1980 from the City Commission of Fernandina Beach, a copy of which is attached hereto and made a part hereof as Exhibit "A", met and discussed those proposals with the members of the City Commission of Fernandina Beach; and

WHEREAS, the Board of County Commissioners of Nassau County, responded in writing on November 11, 1980, a copy of which is attached hereto and made a part hereof as Exhibit "B", to the City Commission of Fernandina Beach in response to their request basically fulfilling each and every one of the matters as listed in said written request; and

WHEREAS, The City Commission of Fernandina Beach, by and through its City Manager, forwarded to the County Commission of Nassau County, on March 19, 1981, a Resolution, dated March 17, 1981, which was received by the Board of County Commissioners

on March 24, 1981, basically the same Resolution, although entitled number 637, which they had sent the year previous; and

WHEREAS, The letter of transmittal, dated March 19th, 1981, states that notwithstanding the fact that all the old allegations are listed that the two outstanding items which have not been satisfactorily addressed, according to the City, are the Patrol Division of the Sheriff's budget and the County's Road and Bridge Fund; 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 March 17, 1981, and received on or about March 24th, 1981,

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

1. Article VII, 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 any 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 services identified in its Resolution adopted by the City Commission of the City of Fernandina Beach on March 17th, 1981, it would appear that each one of those would be nullified based upon the admissions against interest by the City Manager on behalf of the City of Fernandina Beach, in the letter dated March 19th, 1981. However, for the two items which are admitted to be in dispute by that certain letter of transmittal, the following is submitted in response:

a. As to the Patrol Division of the Nassau County Sheriff's Department under the provisions of the Florida Statutes Section 30.15 in the Florida Constitution, the Sheriff is the chief law enforcement officer within a County.

(1) The Sheriff as an independent constitutional officer 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.

(2) Florida Statutes, Section 30.49 sets forth the review and approval process of the budget of the Sheriff by the Board of County Commissioners. The residents of and property within the City of Fernandina Beach receive real and substantial benefit from the services provided by the Patrol Service of the budget of the Sheriff, and 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 that provide real and substantial benefit to the residents of and property within the City of Fernandina Beach.

(a) Assistance of municipal police departments and law enforcement activities

(b) 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.

(c) Assistance to civil deputies in the service and enforcement of a court order

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

(e) As stated in pages 18 and 22 of the Southern-Kelton and Associates report, which was funded by the City of Fernandina Beach, fines and forfeitures are considered to be non-county-wide revenues. The County has therefore accounted for these fines and forfeitures in the Municipal Service Fund of their budget. The County has agreed in a letter, dated November 11, 1980, which is attached hereto as Exhibit "B" to transfer an equivalent amount of the Sheriff's budget from the Fine and Forfeiture Fund to the Municipal Service Fund. This action was taken to clearly demonstrate that even though the County considers that real and substantial benefits are provided to all County citizens by the Sheriff's Department that the substantial amount of the revenues needed to fund the Sheriff's Department is derived from non-county wide sources.

5. It is unclear from the conflict between the letter of transmittal, dated March 19, 1981, from the City Manager and from Resolution number 637 as to what the dispute might be regarding the Road and Bridge ie County Engineering Office

from the allegations as contained in both, particularly when read in the context of the October 1, 1980 request from the City of Fernandina Beach, which was a written statement of the consummation of negotiations on this issue, especially since these wishes were acquiesced to by the Board of County Commissioners in their letter of November 11, 1980. Therefore, The Board of County Commissioners would state that they have complied with all requests of the City Commission of Fernandina Beach and further would state that the allegations as contained in Resolution number 637 as ameliorated by the transmittal letter of March 19, 1981, have been complied with and would further state that the Road and Bridge Department, County Engineer's office and all matters relating thereto are of real and substantial benefit to the citizens of the City of Fernandina Beach.

6. Based upon the statements of law and findings of fact set forth herein The Board of County Commissioners of Nassau County hereby denies the Resolution ie Petition from the City of Fernandina Beach, Inc. in its Resolution adopted on March 17th, 1981.

DONE, ORDERED AND ADOPTED in regular session this 16th day of June, 1981.

BOARD OF COUNTY COMMISSIONERS OF
NASSAU COUNTY, FLORIDA

By: John F. Armstrong Sr.

Attest: J J Dreeson
Ex-officio Clerk
By Sue Davis
deputy Clerk

11 10/14/80
City of Fernandina Beach

Florida 32034

October 1, 1980

Honorable John Claxton
Chairman, Nassau County Board of Commissioners
Nassau County Courthouse
Fernandina Beach, FL 32034

Dear Mr. Claxton:

3/17/81
In reference to the question of double taxation, the City Commission of the City of Fernandina Beach respectfully requests the County Commission accept the financial responsibility for the following divisions of activity as listed:

Road and Bridge: The City Commission hereby requests that the County Commission perform the street construction within the City limits of the City of Fernandina Beach during the time period as listed below:

In the year 1980-81 the City requests that Citrona Drive to Jasmine Street and Jasmine Street from Citrona Drive west to the 14th Street Shopping Center be paved. You will note that Jasmine Street has been paved by the City from 14th Street east beyond the Shopping Center. This will be an additional egress-ingress to the High School. In fiscal year 1981-82 - pave Jasmine Street from Citrona Drive east to South Fletcher. This will give another main thoroughfare from the 8th and 14th Street areas to the beaches. In fiscal year 1982-83 - reconstruct 8th Street from Atlantic Avenue to Franklin Street to conform to State road standards. This street apparently was constructed for a residential street and under its present structure will never stand up under the heavy traffic of the big trucks going in and out of Container Corporation. Also, reconstruct Gum Street from 8th Street to the railroad crossing going into I.T.T. Rayonier. This street has the same problem as previously mentioned with the one going into Container Corporation. In fiscal year 1983-84, extend Jean Lafitte Blvd. from the Women's Club southward to Jasmine Street. This will include acquisition of right-of-way. In fiscal year 1984-85, continue Jean Lafitte Blvd. from Jasmine Street to Sadler Road. This also includes right-of-way acquisition. The City also feels that the above named streets should then become a part of the County's responsibility for perpetual maintenance.

ON THE ISLE OF EIGHT FLAGS
Exhibit "A"

City of Fernandina Beach

Honorable John Claxton
October 1, 1980
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Library: As you know, this was one of the areas pointed out by Mr. Kelton as being double taxation. In addition to the federal grant received by the City to construct the building, the citizens of Fernandina Beach did expend in excess of \$100,000 for the property involved. However, since the library is constructed in the City, the Commission feels that the present arrangement for financing is satisfactory. We do not request any change.

Federal Revenue Funds: The Commission feels that since the population of the City as well as the County determine the amount of Federal Revenue Sharing funds received in the County, the areas inside the City limits should get a pro-rated benefit therefrom.

The City Commission respectfully requests that the City be furnished a functional breakdown of the County's budget in all departments that expend revenues that are collected by the County on a County wide basis.

If an agreement can be reached on the above, then we will have come a long way toward establishing a feeling within the citizenry of the City of Fernandina Beach that they are no longer being double taxed.

We would appreciate an answer from you at the earliest time possible.

Sincerely,

CITY OF FERNANDINA BEACH

Ronnie Sapp
Ronnie Sapp, Mayor

Charles L. Albert, Jr.
Charles L. Albert, Jr., Vice Mayor

LARRY M. Boatwright
Larry M. Boatwright, Commissioner

J. C. Mottayaw, Jr.
J. C. Mottayaw, Jr., Commissioner

Ben Sorensen
Ben Sorensen, Commissioner

GWC/mjl

Sheriff's Department: The City Commission feels that the County should bear the following expense as a County wide taxing agency:

- 1) Cost of keeping prisoners in the County jail that has been charged by the City police.
- 2) Furnish one investigator to make all investigations necessary inside the City limits or reimburse the City for investigative services. Investigations do not stop at the city limit lines. The City should have the same investigative services as do the other portions of the County.
- 3) The City feels that the Sheriff's deputy should patrol the City the same as the other portions of the County but we are not sure what type of complications this might create. We respectfully request that the County agree to add whatever financial assistance necessary to establish this patrol if an agreement can be worked out with the Sheriff that will be satisfactory to all concerned.

Animal Control: The Commission feels that either one of the two following proposals be adhered to:

- 1) Eliminate County wide animal control.
- 2) Make available to the City the same services being rendered to the rest of the County.

Possibly an agreement could be reached whereby the Animal Warden would pick-up dogs at the City's dog pound.

Fire Service: We highly recommend that the County consider one of the three alternatives listed below:

- 1) Eliminate all County expenditures on fire control.
- 2) Create fire districts with the tax of each district going to its own fire control.
- 3) Contract with the City for County service and give the City credit for a portion of funds raised within the City of Fernandina Beach.

Of the above, the Commission feels that tax districts is the answer but would like to have a clear understanding as to how the system would work before committing to support such an arrangement.

County Building and Zoning: The City Commission feels that we have two alternatives in this department.

- 1) Make the department self sustaining by service charges to the customers served, thus eliminating any burden on the general fund of the County.
- 2) Pay the cities that furnish their own service within the County a pro-rated amount based on the overall population of valuation of the County.

Parks and Recreation: We respectfully request that the County give assistance in the construction of a softball complex which is presently designated to be constructed on the airport property in the 5 Points area.

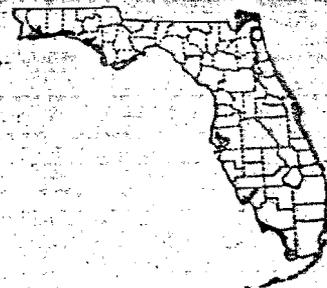
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NASSAU COUNTY

BOARD OF COUNTY COMMISSIONERS

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



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Chairman
Dist. No. 3 Yulee

JOHN F. ARMSTRONG, SR.
Vice Chairman
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D. O. OXLEY
Ex-Officio Clerk

ARTHUR JACOBS
Attorney

RICHARD L. KING, P.E.
County Engineer

November 11, 1980

Honorable Ronnie Sapp
Mayor
City of Fernandina Beach
P. O. Box 668
Fernandina Beach, Florida 32034

Dear Mr. Sapp:

The Board of County Commissioners, in its November 11, 1980, special meeting, instructed this office to notify you that in answer to your correspondence of October 1, 1980, they have agreed to the following action being taken:

1.) Regarding your Road and Bridge request, they have agreed to your request for paving Citrona Drive to Jasmine Street and Jasmine Street from Citrona Drive West to the 14th Street Shopping Center. However we cannot guarantee that it will be done in the 1980-81 fiscal year. If it cannot be done in the 1980-81 fiscal year then it will be given high priority in the 1981-82 budget. As to the 1981-82 to 1984-85 requests, the Board would like to have these submitted each year for the Board's consideration, due to the fact, they cannot obligate funds beyond the current year's budget.

2.) Beginning with the 1980-81 fiscal year, the Board has established a "Municipal Service Fund". This fund will be used to account for funds that are received on a non-county wide basis (unincorporated areas) and to account for expenditures that are made on a non-county wide basis (unincorporated areas). The Board feels that, even though some benefits are derived by the incorporated areas whenever Board funds are expended, the incorporated areas of the county do not receive real and substantial benefits from expenditures made for the Animal Control, Fire Services, Planning, and Building and Zoning. These functions will therefore be accounted for through the use of this Municipal Service Fund. The revenues to fund these expenditures will be derived from non-county wide sources as explained by the Southern-Kelton and Associates, Inc. October 1979 Double Taxation Study (Pages 18 to 22). If these revenues are not adequate enough to support the Municipal Service Fund expenditures, then the Board will either impose a tax on the unincorporated areas through the use of a Municipal Services Taxing District or it will transfer from the General Fund sufficient revenues to cover these expenditures. If transfers are made from the General Fund, then the Board will remit to all the municipalities in the county their pro-rata share of that transfer based upon assessed valuation.

An Affirmative Action/Equal Opportunity Employer

EXHIBIT "B"

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Honorable Ronnie Sapp
November 11, 1980

The County feels that the expenditures of the Sheriff's Department do provide all citizens of the county real and substantial benefits. As stated on pages 18 and 22 of the Southern-Kelton and Associates Report, Fines and Forfeitures are considered to be non-county wide revenues. The county will therefore account for these fines and forfeitures in the Municipal Service Fund. Further, the county will transfer an equivalent amount of the Sheriff's budget from the fine and forfeiture fund to the Municipal Service Fund. This action is being taken to more clearly demonstrate that even though the county considers that real and substantial benefits are provided to all Nassau County citizens by the Sheriff's department, a substantial amount of the revenues needed to fund the Sheriff's department is derived from non-county wide sources.

3.) The Board will recommend to the Sheriff that he not charge the municipalities for housing city prisoners.

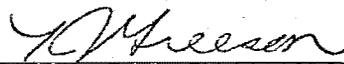
The Board of County Commissioners trust that the above action will be in agreement with the City Commission of Fernandina Beach and express the Board's willingness to work with the City in resolving any discrepancies they feel that might exist.

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

Sincerely,

D. O. Oxley
Ex-Officio Clerk
Board of County Commissioners
Nassau County

By:



T. J. "Jerry" Greeson
Chief Deputy Clerk

DDC/TJG:ma