

ORDINANCE NUMBER 70 - 3

INTRODUCED BY: COMMISSIONER MICKLER

An ordinance of the County of St. Johns, State of Florida, hereinafter referred to as "County", granting to Frank D. Usina and John F. Usina, d/b/a North Beach Water Service, hereinafter referred to as "Grantee", an exclusive franchise to erect and maintain a water system to supply water to the public for consumption and all lawful purposes in the following described area, situate, lying and being in the County of St. Johns, State of Florida, to wit:

(See Schedule A attached hereto and made a part hereof).

and providing for inspection, fees, and rates; providing standards, rules and regulations; and an effective date.

Be it ordained by the Board of County Commissioners of St. Johns County, Florida; subject to written acceptance by the said grantee within fifteen (15) days after the passage, approval and publication of this ordinance.

SECTION I

The right, privilege and franchise of erecting, constructing and maintaining a water system consisting of a plant of machinery, mains, pipes and other apparatus and appliances, in so many and in such parts of the public highways, streets and roads of the following described land, situate, lying and being in the County of St. Johns, State of Florida, to wit:

(See Schedule A attached hereto and made a part hereof).

as the Grantee of said right, privilege, and franchise, its successors and assigns, may elect to use for the purposes hereinafter specified, and of using such water system for the purpose of transmitting, conveying, distributing and supplying water to the public for consumption and all lawful purposes,

are hereby granted by said county of St. Johns to Frank D. Usina and John R. Usina, d/b/a North Beach Water Service, its successors and assigns.

SECTION II

All of said plant of machinery, mains, pipes, and other apparatus and appliances which shall be constructed and used under and pursuant to the provisions of this ordinance and in the exercise of the right privilege and franchise herein granted shall be erected and constructed in a good workmanlike manner under the direction of the County engineer of said county, and shall be maintained in compliance with all valid laws, ordinances and regulations from time to time in force.

SECTION III

The grantee of said right, privilege and franchise, its successors and assigns, shall, immediately upon erecting, constructing, replacing or repairing the said plant of machinery, mains, pipes and other apparatus and appliances, or any part thereof, at its own cost and expense, place said highways, streets and roads, or so much thereof as may have been damaged thereby, in as good order and condition as that in which they were before being disturbed or excavated for the purpose of erecting, constructing, replacing or repairing said waterlines or any part thereof. The said grantee shall at all times prevent the creation of any obstructions or conditions which are or may become dangerous to the traveling public.

SECTION IV

All water delivered to consumers hereunder shall be measured by meters of standard make and sufficient size, such meters to be installed by the grantee. In case the county shall at any time question whether any meter or meters are registering correctly, the county shall have the right, upon making a written request to the grantee, to have such meter or meters tested, and if as a result of such test,

such meter or meters shall be found to be substantially inaccurate, the same shall be restored to an accurate condition or a new meter or meters shall be installed at the cost of the grantee.

SECTION V

The grantee will install and maintain all necessary mains, pipes and other apparatus and appliances, including all meters and meter boxes, to deliver water to the consumer at or near the property line. All such mains, pipes, apparatus and appliances, meters and meter boxes shall remain the property of the grantee, and shall at all times be accessible to it and under its control. The service line from the discharge side of the meter to the consumer's premises shall be laid and maintained by the consumer at his own cost.

SECTION VI

The said County reserves the right to inspect and pass upon the machinery and appurtenances used to furnish water and, at the commencement of each period of one year, shall require that all such machinery and appurtenances be in good condition and of such approved designs as shall efficiently and properly produce water of the required standard as set by the Florida State Board of Health.

SECTION VII

The grantee of said right, privilege and franchise, its successors and assigns, shall have the right to maintain, repair and replace any or all of such mains, pipes and other apparatus and appliances from time to time as may be necessary and proper.

SECTION VIII

The grantee shall be under no obligation to extend its mains, pipes and facilities to any part of the heretofore described area until there shall have been filed with

the grantee a sufficient number of applications for service by prospective customers or by agreement with an owner of land, to afford the grantee in its reasonable opinion a fair and reasonable rate of return upon the investment required to extend the grantee's facilities to such area. Prior to any extension of its facilities, the grantee may require a cash deposit or other assurance from prospective consumers applying for such extension.

SECTION IX

The grantee of said right, privilege and franchise, its successors and assigns, shall hold the said county free and harmless from all damages, costs and expenses that may arise by reason of the negligence, carelessness or misconduct of such persons or their agents or employees, in erecting, maintaining or operating said plant; or because of the placing of the said machinery, mains, pipes and other apparatus and appliances used in connection therewith.

SECTION X

The grantee of said right, privilege and franchise, its successors and assigns, shall have the right to charge, demand, collect and receive for its service just and reasonable rates, charges, or compensation as follows:

Tapping fee:	\$ 90.00
Water Deposit:	<u>20.00</u>
Total:	110.00
Minimum monthly bill (up to 3,500 gallons):	4.90
3,501 to 17,000 gallons at \$.069 per hundred	
17,001 to 40,000 gallons at \$.064 per hundred	
40,001 to 100,000 gallons at \$.06 per hundred	
All over 100,000 gallons at \$.055 per hundred	

In cases of delinquency, water is subject to be cut off 15 days from date of bill. A fee of \$1.00 for cutting off, and \$1.00 for cutting on shall be collected.

The rates, charges or deposits herein shall be subject to amendment and change, one year from the effective date hereof and at the end of every successive period of one year thereafter. Either the grantee or the county may, if

they deem it necessary to amend or change said schedule of rates, charges, or deposits, give the other party notice in writing at least thirty (30) days before the expiration of any one year period, with the reason for said amendments or changes. Within thirty (30) days after notice as aforesaid, the county or the grantee shall render a decision whether they agree to such proposed changes; they deny such proposed changes; or they recommend a change other than that proposed. If the parties hereto fail to reach an agreement within thirty (30) days after a decision is rendered under the foregoing provisions, the question of amendment or change shall be submitted to arbitration as follows: The said grantee and said county shall within ten (10) days each name one representative, who shall jointly select a third. In the event the two representatives cannot agree upon a third, the senior Circuit Judge of St. Johns County, Florida, may appoint the third representative. A decision of any two or more of such arbitrators shall be final and binding on both the grantee and the county. Upon failure to give written notice of any proposed amendment or change at least thirty (30) days before the expiration of any one year period, or if the aforementioned representatives shall fail to reach a decision within sixty (60) days after they are appointed, then in that event, the rates then in effect shall continue and be in force as to each succeeding one year period as above fixed.

SECTION XI

The grantee, its successors and assigns, shall during the term for which said right, privilege and franchise is granted, pay to the said county, annually, an amount which when added to the amount of all taxes, licenses, and fees and other impositions levied or imposed by the county upon the grantee's property, business or operation for the preceeding tax year shall not exceed one percent (1%) of the grantees revenue from the sale of water, excluding tapping fees and deposits; provided, however, that nothing herein shall preclude

said county from collecting the amount of all taxes, licenses and fees and other impositions levied or imposed by the county upon the grantee's property, business or operation for the preceeding tax year where in any year the amount of said taxes, licenses and fees and other impositions levied or imposed by said county exceed one percent (1%) of the grantee's revenue from the sale of water, excluding tapping fees and deposits.

SECTION XII

The term of this franchise shall commence with the effective date hereof, and continue and remain in full force and effect until such time as the grantee hereof, its successors or assigns, shall surrender or abandon same or this franchise shall be forfeited for noncompliance with its terms, or the said county, or other public corporation thereunto duly authorized, shall purchase or shall condemn and take under the power of eminent domain in accordance with then existing law, all property actually used and useful in the exercise of this franchise.

SECTION XIII

At the end of one year from the effective date hereof and at the end of every successive period of one year thereafter, if the said county or other public corporation thereunto duly authorized, shall determine to purchase the property, assets, and franchise of the grantee, hereof, said grantee will then sell and convey the same upon payment of a just and fair compensation, which said compensation, shall be based upon an appraised value to be determined as follows: By giving at least thirty (30) days prior notice thereof to the grantee, the county may appoint a qualified appraiser to act as an appraiser along with a qualified appraiser appointed by the grantee. The County's appraiser and the grantee's appraiser shall jointly select a third qualified appraiser who shall be a duly registered engineer of the state of Florida, which three appraisers shall make an appraisal of the value

of the water facilities and the appraised value arrived at by these three appraisers shall be the price at which the grantee agrees to sell to the county of St. Johns. As soon as the county sends written notice to the grantee of the name of the appraisers selected by the county, the grantee shall have ten (10) days in which to select its appraiser and the two appraisers so selected shall have ten (10) days in which to select the third engineer appraiser. In the event the two appraisers cannot agree upon the engineer appraiser, the senior Circuit Judge of St. Johns County, Florida, may appoint the engineer appraiser. The appraisal shall be completed within sixty (60) days after the three appraisers are appointed and the county shall have a reasonable time, not to exceed six (6) months, in which to accept same, it being understood that the appraisal figure will be adjusted to include facilities added from the date of appraisal to the date of the closing of the sale. If the county does not exercise its rights to purchase within the time allowed herein, then it shall pay all costs and fees incident to said appraisal. If the county does elect to purchase under the provisions herein, then all costs and fees incident to the appraisal are to be borne equally by the county and the grantee.

SECTION XIV

The franchise granted hereby shall be exclusive.

SECTION XV

In the event the grantee of said right, privilege and franchise, its successor and assigns, shall violate or fail to conform substantially to any of the conditions and requirements contained in this ordinance, after receiving notice and reasonable time therefore, then it shall, at the option of said county, forfeit to the said county all rights and franchises acquired under this ordinance.

SECTION XVI

The said right, privilege and franchise are granted under and pursuant to the provisions of the laws of the state of Florida which relate to the granting of rights,

privileges and franchises by counties.

SECTION XVII

This ordinance shall take effect immediately upon receipt of official acknowledgment by the office of the Secretary of State, to the Clerk of the Board of County Commissioners, that same has been filed.

Passed by the County Commission of the County of St. Johns, State of Florida, this 14th day of April, A. D. 1970.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: *M. P. McDiels*
Chairman

ATTEST: *Olevis Lantz*
Clerk

SCHEDULE A

All that part of Lot 1, Section 32, Township 6 South, Range 30 East, lying East of State Road A-1-A and North of the property described in Deed Book 204, page 87 of the public records of St. Johns County, Florida.

ALSO all that part of Lot 1, Section 32, Township 6 South, Range 30 East, lying West of the right of way of State Road A-1-A and North of the following described line: Beginning at a point on the West line of State Road A-1-A 300 feet North of the North line of a 30 feet County Road described in Deed Book 155, pg. 572, from said point of beginning run West 800 feet to the North east corner of land described in Deed Book 156, page 302, public records of St. Johns County, Florida; run thence Westerly in a straight line 1770 feet more or less to a point on the East margin of the North River to the Northwest corner of land described in Deed Book 156, page 38, public records of St. Johns County, Florida, EXCEPT so much thereof as lies within the following description: Part of Government Lot One (1), Section Thirty-Two (32), Township Six (6) South, Range Thirty (30) East: Beginning at the intersection of the East line of Block "K" of North Beach, according to plat recorded in Plat Book 3, page 28 of the public records of St. Johns County, Florida, with the North line of the aforesaid Government Lot 1; run thence Southerly along the Southerly extension of said East line of Block "K" to its intersection with the Westerly extension of the North line of 23rd Street as shown on said plat; run thence Westerly along the Westerly extension of the North line of 23rd Street, to the waters of the North River; run thence Northerly along the waters of the North River to the North line of the aforesaid Government Lot 1; run thence Easterly along the North line of the aforesaid Government Lot 1, to the point of beginning. Also EXCEPTING that part of said Lot 1, lying North of the Westerly extension of the North line of 23rd Street and East of the Southerly extension of the West line of said Block "K".

ALSO all of North Beach, as recorded in Map Book 3, page 28, a subdivision of U. S. Lots 2 and 3, of Section 29, all of fractional Section 30, and all of Section 44 (Joseph Arnau Grant), all in Township 6 South, Range 30 East.

DATE April 7 1970 10313

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Board Of County Commissioners
St. Johns County, Florida
H.L. Wiles, Chairman
W.F. Byrd
Richard L. (Dick) Parks, Jr.
H.F. (Fred) Green
Dan F. Mickler

Copy mailed by S.S. PO
to each of 5 commissioners
City given a min. fee for
Clock of Beach to state
Hibert W. Carcaba

Gentlemen;

Ref: Ordinance Number 70 -
Schedule "A"

As described in Legal Notice
The St. Augustine Record
March 14-15, 1970

An ordinance of the County of
St. Johns, State of Florida,
granting to Frank D. Usina and
John F. Usina d-b-a, North Beach
Water Service, etc....

The description of property as presented in the above described
notice is NOT CORRECT. If you will examine deeds as stated in Schedule
"A" and illustrated in the accompanying sheet it will be found, this
infringes into property of Fitzgerald and Carcaba.

You are respectfully requested to give this your consideration
before further action is taken.

Please do not TRESPASS on our ownership.

Respectfully Yours

Steve O. Fitzgerald

Steve O. Fitzgerald

Hibert W. Carcaba

Hibert W. Carcaba

30 feet road,	Deed Book # 155
	page 572
300 x 800 x 342 x more or less	
Carcaba	Deed Book #204
	page 87
Perez	Deed Book # 156
	page 302
Fitzgerald	Deed Book # 208
	page 253
Carcaba (on River)	Deed Book # 156
	page 38

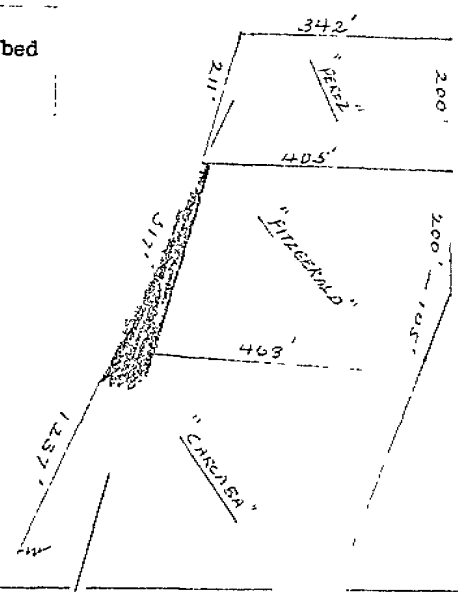
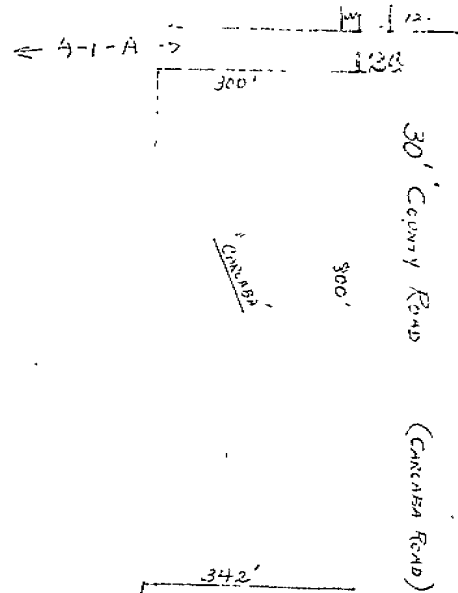
Carcaba contends his North Line of (A-1-A) property is more than 800 feet

(Deed Book # 204, page 87).

Fitzgerald and Carcaba contend their properties are being incorrectly described

(Deed Book # 208 page 253)

(Deed Book # 156 page 38)



Line as advertised in Legal Notice...
 Showing how infringement has taken place
 drawing not to scale, for illustration only


April 11, 1970

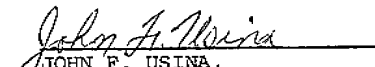
Mr. Hubert W. Carcarba
Mr. Steve O. Fitzgerald
St. Augustine, Florida

Re: North Beach Water Service
County Franchise

Dear Mr. Carcarba and
Mr. Fitzgerald:

This letter is to inform you that the franchise to be granted by the Board of County Commissioners to Frank D. Usina and John F. Usina, d/b/a North Beach Water Service, to erect and maintain a water system over certain lands situate, lying and being in the County of St. Johns, State of Florida, will not in any way grant the right to trespass or encroach upon any lands owned by Hubert W. Carcarba and Steve O. Fitzgerald for any purposes without the express written permission of the aforementioned property owners.


FRANK D. USINA


JOHN F. USINA,
d/b/a North Beach Water
Service

Apr. 14, 1970
 44

The St. Augustine Record

PUBLISHED EVERY AFTERNOON EXCEPT SUNDAY
 ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA, }
 COUNTY OF ST. JOHNS. }

Before the undersigned authority personally appeared _____
W. W. Wilson who on oath says that he is
Advertising Director of the St. Augustine Record, a
 daily newspaper published at St. Augustine in St. Johns County, Florida;
 that the attached copy of advertisement, being a Legal Notice
Passage of Ordinance at Meeting of County
Commissioners in the matter of _____

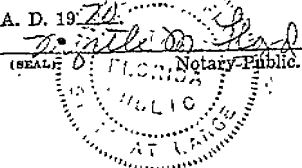
_____ in the _____ Court,
 was published in said newspaper in the issues of _____
March 18, 1970

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper has heretofore been continuously published in said St. Johns County, Florida, each day, except Sundays, and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me
 this 9th day of March

A. D. 1970

W. W. Wilson
 Notary Public.



My Exp. 12-31-71
 Bonded by 10-1-70

NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AT ITS REGULAR MEETING ON APRIL 14th, 1970, WILL CONSIDER THE PASSAGE OF THE FOLLOWING ORDINANCE: An ordinance of the County of St. Johns, State of Florida, relating to Frank D. Usina and Jonu E. Usina d/b/a North Beach Water Service, an exclusive franchise to erect and maintain a water system to supply water to the public for consumption and all lawful purposes in the following described area, situated, lying and being in the County of St. Johns, State of Florida, to wit: All that part of Lot 1, Section 22, Township 8 South, Range 30 East, lying east of State Road A-1-A and North of the property described in Deed Book 156, page 37 of the public records of St. Johns County, Florida.

ALSO all that part of Lot 1, Section 22, Township 8 South, Range 30 East, lying West of the right of way of State Road A-1-A and North of the following described line: Beginning at a point on the West line of State Road A-1-A 300 feet North of the North line of a 20 foot County Road described in Deed Book 156, pg. 37, from said point of beginning run West 300 feet to the North east corner of land described in Deed Book 156, page 302, public records of St. Johns County, Florida; run thence Westerly in a straight line 1770 feet more or less to a point on the East margin of the North River to the Northwest corner of land described in Deed Book 156, page 38, public records of St. Johns County, Florida, EXCEPT so much thereof as lies within the following description: Part of Government Lot One (1), Section Thirty-two (32) Township Six (6) South, Range Thirty (30) East; Beginning at the intersection of the East line of Block 'K' of North Beach, according to plat recorded in Plat Book 3, page 28 of the public records of St. Johns County, Florida, with the North line of the aforesaid Government Lot 1; run thence Southerly along the Southerly extension of said East line of Block 'K' to its intersection with the Westerly extension of the North line of 23rd Street as shown on said plat; run thence Westerly along the Westerly extension of the North line of 23rd Street, to the waters of the North River, run thence Northerly along the waters of the North River to the North line of the aforesaid Government Lot 1; run thence Easterly along the North line of the aforesaid Government Lot 1, to the point of beginning. Also EXCEPTING that part of said Lot 1, lying North of the Westerly extension of the North line of 23rd Street and East of the Southerly extension of the West line of said Block 'K'.

ALSO all of North Beach, as recorded in Map Book 3, page 28, a subdivision of U. S. Lots 2 and 3, of Section 29, and all of fractional section 30, and all of Section 44 (Joseph Arnau Grant), all in Township 8 South, Range 30 East, and providing for inspection, fees and rates, providing standards, rules and regulations; and an effective date.

A COMPLETE COPY OF SAID ORDINANCE IS ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF ST. JOHNS COUNTY, FLORIDA, AS CLERK OF THE BOARD OF COUNTY COMMISSIONERS OF SAID COUNTY, AND IS OPEN TO PUBLIC INSPECTION DURING THE REGULAR BUSINESS HOURS OF SAID OFFICE.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,
 By Oliver Lawton,
 Its Clerk

M18-L741-Adv.



TOM ADAMS
SECRETARY OF STATE

Secretary of State

STATE OF FLORIDA
THE CAPITOL
TALLAHASSEE 32304

1970 APR 17 11 4 10

CLARENCE HANTON
CLERK

April 16, 1970

Honorable Oliver Lawton
Clerk and Auditor
St. Johns County
Saint Augustine, Florida 32084

Dear Mr. Lawton:

Pursuant to the provisions of Chapter 69-32, Laws of Florida, Regular Session 1969, this will acknowledge your letter of April 15 and certified copy of St. Johns County Ordinance No. 70-3, which was officially filed in this office on April 16, 1970.

Trusting that you will feel free to call upon us whenever we may be of service, I remain

Sincerely,

TOM ADAMS
Secretary of State

By *William L. Griffin*
William L. Griffin, Chief
Bureau of Laws and
Administrative Code

WLG/lc