

RESOLUTION 99- 92

A RESOLUTION OF ST. JOHNS COUNTY, FLORIDA EXEMPTING THE LANDS AND DEVELOPMENT LOCATED WITHIN THE BOUNDARIES OF THE CITY OF ST. AUGUSTINE, AS SUCH BOUNDARIES EXISTED ON OCTOBER 29, 1987, FROM PAYMENT OF THE COUNTY'S EDUCATIONAL FACILITIES IMPACT FEES; SUCH EXEMPTION TO APPLY ONLY TO RESIDENTIAL DEVELOPMENT FOR WHICH PERMITS ARE APPLIED FOR SUBSEQUENT TO MARCH 14, 1999; MAKING FINDINGS; AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE CITY AND THE SCHOOL BOARD PERTAINING TO THE COLLECTION OF THE COUNTY'S EDUCATIONAL FACILITIES IMPACT FEES BY THE CITY IN THE REMAINING PORTIONS OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA on behalf of the County:

Section 1. It is hereby found and determined by the County as follows:

- A. The County's recently enacted educational facilities impact fee ordinance requires collection of the County's educational facilities impact fees in all areas of the County except for such incorporated areas that are exempted by a County resolution that finds or determines that substantially all of the projected development within the County that will create the need for educational facilities falls or will occur outside the exempted area.
- B. Based in part upon the information contained in the attached Exhibit A (the letter from the School Board's attorney, Tracy Wilson Upchurch, to the County Attorney, Jim Sisco, and the memorandum with exhibits included therewith), the County hereby finds and determines that substantially all of the development projected to occur subsequent to March 14, 1999 within the County that will create the need for educational facilities will fall or will occur outside the boundaries of the City of St. Augustine as such boundaries existed on October 29, 1987.
- C. It is in the best interests of the County that the County, the School Board, and the City of St. Augustine enter into the interlocal agreement, a copy of which is attached hereto as Exhibit B.

Section 2. The lands and development within the boundaries of the City of St. Augustine, as such boundaries existed on October 29, 1987 are, effective March 15, 1999, exempt from the payment of the County's educational facilities impact fees. This exemption shall only apply to residential development within such area for which applicable permits are applied for subsequent

to March 14, 1999.

Section 3. The County officers indicated on the attached interlocal agreement pertaining to the collection of the County's educational facilities impact fees within the non-exempt portions of the City of St. Augustine are hereby authorized to execute the interlocal agreement.

Section 4. The County Administrator is directed to file the County's original executed interlocal agreement with the Clerk of the Circuit Court as required by Section 163.01(11), Florida Statutes and to deliver duplicate originals to the City and the School Board.

Section 5. This resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 1<sup>st</sup> day of June, 1999.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Marc A. Jacalone  
Marc A. Jacalone, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: Yvonne King  
Deputy Clerk

Effective Date: June 1, 1999

UPCHURCH, BAILEY AND UPCHURCH, P. A.

ATTORNEYS AT LAW  
ESTABLISHED 1925

780 NORTH PONCE DE LEON BOULEVARD  
SAINT AUGUSTINE

JOHN D. BAILEY, JR.  
FRANK D. UPCHURCH, III  
TRACY WILSON UPCHURCH  
SIDNEY F. ANSBACHER  
KATHERINE GAERTNER JONES  
MICHAEL A. SIRAGUSA  
STEPHEN A. FAUSTINI

PLEASE REPLY TO  
POST OFFICE DRAWER 0007  
SAINT AUGUSTINE, FLORIDA 32085-3007

TELEPHONE (904) 829-9066  
FAX (904) 825-4862

HAMILTON D. UPCHURCH  
FRANK D. UPCHURCH, JR.  
OF COUNSEL

FRANK D. UPCHURCH  
(1894-1986)

May 14, 1999

Jim Sisco, Esquire  
St. Johns County Attorney  
4020 Lewis Speedway  
St. Augustine, Florida 32095

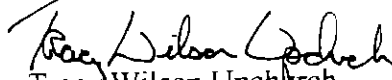
Re: Educational Impact Fee  
Inter-local Agreement

Dear Jim:

Enclosed please find a copy of the memorandum that I prepared for the School Board to establish a factual basis for the above referenced inter-local agreement. The facts demonstrate the *de minimis* impact of residential development in the 1987 City of St. Augustine on the need for educational facilities. These facts were considered by the School Board prior to the adoption of the agreement.

Please advise if you require anything further. With kind personal regards,

Sincerely yours,

  
Tracy Wilson Upchurch

TWU:ru  
Enclosure

cc: Mark Knight, AICP, Director of Planning & Building  
City of St. Augustine

EXHIBIT A

UPCHURCH, BAILEY AND UPCHURCH, P. A.

ATTORNEYS AT LAW  
ESTABLISHED 1925

780 NORTH PONCE DE LEON BOULEVARD  
SAINT AUGUSTINE

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**MEMORANDUM**

TO: Thomas L. Allen, Jr., Chair  
Robert E. Burton, Vice Chair  
Joseph S. Gordy  
Judith M. Ham  
Judy S. Krug  
School Board Members

FROM: Tracy Wilson Upchurch  
School Board Attorney

DATE: May 4, 1999

RE: Proposed Inter-local Agreement between the City of St. Augustine, County of St. Johns, and School Board concerning the Educational Facilities Impact Fee

As you are aware, the City Commission of the City of St. Augustine adopted a proposed inter-local agreement under which the City would collect the Educational Facilities Impact Fee on future development in those portions of the City annexed since October 27, 1987. Stated in the converse, the pre-1987 City would be exempted from the imposition of the impact fees. The agreement grandfathers all development in all parts of the City prior to March 15, 1999.

This approach is contemplated by the Florida Supreme Court in St. Johns County v. Northeast Florida Builders Association, 583 So. 2d 635 (Fla. 1991), which reviewed the constitutionality of the educational impact fee imposed by the St. Johns County Commission on October 20, 1987. In that case, the court ruled:

“As a consequence, we hold that no impact fee may be collected under the ordinance until such time as substantially all of the population of St. Johns County is subject to the ordinance.” *Id at 629.*

Memo to the School Board Members  
Re: Inter-local Agreement  
May 4, 1999  
Page Two

The court then provided a footnote to the above quoted sentence:

“We do not foreclose the possibility that the ordinance could also meet the second prong of the dual rational nexus test by a showing, based on land use plans and demographic and other statistics, that substantially all of the projected development for the county falls within those areas which are subject to the impact fee.” *Id.*

Therefore, it is necessary for the parties to acknowledge that substantially all of the population of St. Johns County is subject to the ordinance and/or substantially all of the projected development for the county falls within those areas which are subject to the impact fee.

The City has developed the following facts to substantiate their position that the pre-October 20, 1987 City falls within this exception.

1. Exhibit A contains two pages that show the City's population as compared to the county's and the rate of growth in the City's population. You will note that in 1980, 23.36% of the county's population were city residents, by 1990 that percentage had declined to 13.95%, and based upon projected populations, by 2000 it is estimated that 8.8% of the county residents will also be city residents. You will also note that the City's rate of growth has been minimal at best.
2. Exhibit B is a letter from Mark Knight, the City's Planning and Building Director dated February 15, 1999 that examines building permits issued by the City since 1987 in the "pre-1987 city limits." The letter demonstrates that there was a net increase of 56 residential units since 1987, which equals a rate of 7 units per year over this eight year period.
3. Exhibit C is a letter from Mr. Knight dated April 30, 1999. In this letter he attempts to identify vacant developable land inside the pre-October 20, 1987 City limits that could be developed for residential units and thus have an impact on the School District. He has identified 2176 acres of vacant land of which 457 acres are developable land. He reduces this figure by an additional 89 acres that are zoned for commercial development. While a commercial zoning is not a complete bar to residential development, it is both a legal impediment and practical argument against it. In the first instance it requires the City Commission to rezone the property to residential use and in the second instance, the economics of the development and the

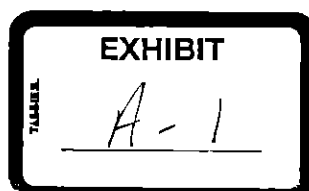
Memo to the School Board Members  
Re: Inter-local Agreement  
May 4, 1999  
Page Three

nature of the surrounding uses would indicate a commercial as opposed to resident use of such property.

4. Exhibit D is the one page document prepared by the St. Johns County Building and Planning Department and discussed at the joint School Board and County Commission meeting held on April 14, 1999. You will recall that this document only attempted to report Developments of Regional Impact (those having 800 or more residential units) north of State Road 16. The total acreage in the approved DRIs is approximately 15,778 acres. An additional 3304 acres (estimated) are in the review process. For comparison purposes, the City's 457 acres is 2.89% to 2.39% of the acreage in existing DRI's and those in review. If "sub-DRI's" (those developments of less than 800 residential units) and development in the southern part of the county are considered, the percentage of developable land in the City decreases further.

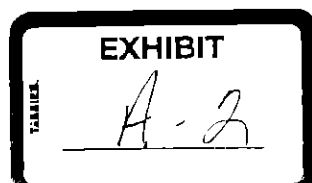
CITY OF ST. AUGUSTINE, FLORIDA  
HISTORICAL POPULATION

YEAR	CITY POPULATION	COUNTY POPULATION
1930	12,111	n/a
1940	12,090	20,012
1950	13,555	24,998
1960	14,734	30,034
1970	12,111	31,035
1980	11,985	51,303
1990	11,692	83,829
1995 Estimated	11,933	94,758
1998 Estimated	12,149	94,758
2000 Projected	12,269	138,500



CURRENT AND PROJECTED POPULATION CHANGE IN ST. AUGUSTINE, 1900-2000			
Table 5			
Year		Population	Change Number Percent
1900		4,272	
1910		5,494	1,222 28.60%
1920		6,192	698 12.70%
1930		12,111	5,919 95.20%
1940		12,090	-21 -0.20%
1950		13,555	1,465 12.10%
1960		14,734	1,179 8.70%
1970		12,352	-2,382 -16.20%
1980		11,985	-367 -3.00%
1985 Estimate		11,891	-94 -0.78%
1986		11,809	-82 -0.68%
1987		11,782	-27 -0.22%
1988		11,973	191 1.62%
1989		11,902	-71 -0.59%
Projections			
1990	Low	11,554	-384 -2.92%
	Medium	11,685	-217 -1.82%
	High	12,240	338 2.84%
1995	Low	11,558	4 0.03%
	Medium	11,685	224 1.92%
	High	13,041	801 6.54%
2000	Medium	11,801	-81 -0.68%

Source: U.S. Census Bureau, 1960, 1970 and 1980 Census of Population and Housing; and Populations Projectors, 1990 and 1995, Planning and Building Division; revised 1990, Bureau of Business and Economic Research and Planning and Building Division.







# City of St. Augustine



St. Augustine, Florida

Planning/Building

February 15, 1999

Jimmy D. Crawford  
Richey & Crawford, P.A.  
1009 North 14<sup>th</sup> Street  
Post Office Box 492460  
Leesburg, FL 34749-2460

RE: City of St. Augustine Impacts on the St. Johns County School System

Dear Jimmy:

We have reviewed nearly six thousand (6,000) building permits issued by the City since 1987, as well as building permit activity reports published by the Department, in order to determine the impacts of the City of St. Augustine (1987 City limits) on the St. Johns County School Board. A summary of the permits having an impact (positive and negative) on the School Board are presented below for your review:

1. New SFR: 209
2. Demolition of SFR: 159 units lost
3. Conversion of SFR to nonresidential: 5 units lost
4. New multi-family (MF) dwelling units: 30
5. Conversion of two (2) MF units to one (1) MF unit: 1 unit lost
6. Conversion of 4-plex to duplex: 2 units lost
7. Conversion of twelve (12) unit MF to hostel: 12 units lost
8. Demolition of 4-plex: 4 units lost

The above referenced permits do not include permits issued for property that has been annexed by the City since 1987. As you can see, based only on building permits, there has

EXHIBIT

B



# City of St. Augustine



St. Augustine, Florida

Planning/Building

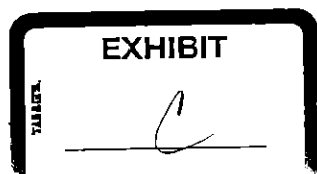
April 30, 1999

Tracy Wilson Upchurch  
Upchurch Bailey and Upchurch, P.A.  
780 North Ponce De Leon Boulevard  
St. Augustine, Florida 32085-3007

Dear Mr. Upchurch:

I appreciate you stopping by my office on Friday and helping me ascertain a way to best represent the analysis of vacant land in the City of St. Augustine as of October, 1987. As we discussed, I have taken the vacant land analysis presented in Table 2 of the Evaluation and Appraisal Report (EAR), attached to this letter, and calculated the number of acres presented in Table 2 that have been annexed since October, 1987. The annexed acreage is presented below by land use classification for your review.

Commercial Low Intensity	0
Commercial Medium Intensity	78
Historic Preservation	0
Industrial	0
None	0
Open Land	715
Public/Semi-public	38
Recreation/Open Space	0
Residential Low Density	42
Residential Low Density Mixed Use	0
Residential Medium Density	0
Residential Medium Density Mixed Use	35
Total	908

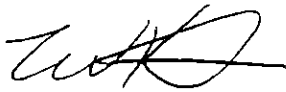


Hence, 908 acres of the 3,111 acres of vacant land presented in Table 2 can be associated with the area subject to educational facilities impact fees pursuant to the proposed interlocal agreement. Additionally, approximately 25 acres of the Commercial Low Intensity vacant land presented in Table 2 can no longer be considered vacant, as the Bella Vista project, located at the intersection of U.S. 1 and San Marco, is currently under construction.

In summary, the proposed interlocal agreement would exclude the collection and imposition of educational facilities impact fees on approximately 2,178 acres of vacant land within the City of St. Augustine, of which, 1,719 acres are undevelopable (or **459 acres of vacant developable land**). Based on the future land use designations assigned to each vacant parcel, not more than 370 of the 459 acres are anticipated to be developed for residential purposes.

If you have any questions or need additional information, please let me know.

Sincerely,



Mark Knight, AICP  
Director, Planning and Building

cc: Wm B. Harriss, City Manager  
James P. Wilson, City Attorney

## Vacant Land Analysis 1997

Citywide

EAR Table 2

Land Use Classification	Total	Vacant	Vacant
	Vacant	Developable	Undevelopable
	Acres	Acres	Acres
Commercial Low Intensity	74	74	0
Commercial Medium Intensity	94	94	0
Historic Preservation	5	4	1
Industrial	50	39	11
None	17	11	6
Open Land	2,342	11	2,331
Public/Semi-public	38	0	38
Recreation/Open Space	2	0	2
Residential Low Density	262	260	2
Residential Low Density Mixed Use	4	4	0
Residential Medium Density	159	115	44
Residential Medium Density Mixed Use	66	66	0
Total	3,111	679	2,434

### APPROVED DEVELOPMENTS OF REGIONAL IMPACT

	Total Acres	Residential	Commercial	Office	Industrial	School
Caballos del Mar* 1975	app. 3,670	5,274 dus	475,000 sf	NA**	0	44.5 acres
Julington Creek 1982	app. 4,150	6,400 dus	351,950 sf	40,000 sf	0	46.3 acres
Saint Johns 1985	app. 6,300	7,200 dus	562,000 sf ***	2,493,000 sf	2,464,000 sf	88 acres
St. Augustine Centre 1997	app. 315	614 dus	1,828,864 sf	0	540,000 sf	0
Marshall Creek 1998	app. 1,343	2,642 dus	300,000 sf	600,000 sf	0	Future Agreement TBD ****

### PROPOSED DEVELOPMENTS OF REGIONAL IMPACT

	Total Acres	Residential	Commercial	Office	Industrial	School
Westbourne in review	app. 1,299	1,800 dus	80,000 sf	20,000 sf	0	TBD
Eastbourne in review	app. 2,005	2,500 dus	300,000 sf	100,000 sf	0	TBD
Riverton pre-application	app. 4,300	7,500 dus	500,000 sf	500,000 sf	0	TBD
Bartram Park pre-application	app. 4,773 *****	6,012 dus	1,173,000 sf	4,700,000 sf	0	TBD

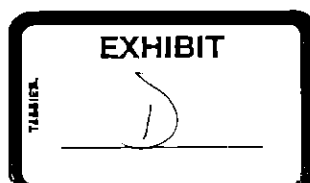
\* All numbers are approximate, due to the nature of this project. Caballos del Mar was separated in 1983 to include both the Players Club PUD and Marsh Landing PUD. School acres have been modified throughout the years. School acres also included within Community Support uses, allowed within the DRI.

\*\* Office and Commercial uses are combined.

\*\*\* Does not include the World Golf Village PGA Hall Fame and Tour Productions which includes 75,000 sf.

\*\*\*\* To Be Determined.

\*\*\*\*\* Approximately 100 acres in St. Johns County. All proposed development in St. Johns County are commercial uses. The remainder of the property is in Duval County.



UPCHURCH, BAILEY AND UPCHURCH, P. A.

ATTORNEYS AT LAW  
ESTABLISHED 1925

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HAMILTON D. UPCHURCH  
FRANK D. UPCHURCH, JR.  
OF COUNSEL  
FRANK D. UPCHURCH  
(1894-1966)

May 10, 1999

**BY HAND DELIVERY**

Mr. Ben Adams, Administrator  
St. Johns County  
St. Johns County Administration Building  
4020 Lewis Speedway  
St. Augustine, Florida 32095

Re: Educational Facilities Impact Fee  
Interlocal Agreement  
Our File No. 9-96-445

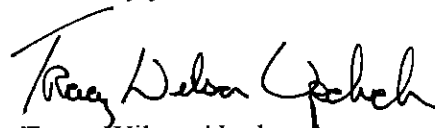
Dear Ben:

Enclosed for the County Commission's consideration is the Interlocal Agreement between the City of St. Augustine, St. Johns County and the St. Johns County School Board concerning the collection of the Educational Impact Fee in the City. The School Board approved and adopted it on May 4, 1999.

If it meets the County's approval, please have the three duplicate originals signed by the appropriate county officials and return one to me on behalf of the School Board and one to the City Clerk.

Should you have any questions, please do not hesitate to call me. With kind personal regards, I am,

Sincerely yours,

  
Tracy Wilson Upchurch

TWU/nam  
Enclosures

xc: James Sisco, Esquire, County Attorney  
Mark Knight, A.I.C.P., Director Planning & Building, City of St. Augustine