

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 96-8

96-8

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH,
FLORIDA REMOVING THE PRESUMPTION OF PREJUDICE FROM
EX-PARTE COMMUNICATIONS WITH LOCAL PUBLIC OFFICIALS;
PROVIDING DEFINITION; ACCESS PERMITTED; PROCEDURES;
AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a municipality may adopt a resolution removing the
presumption of prejudice from ex-parte communications with local
public officials by establishing a process to disclose ex-parte
communications with such officials pursuant to Section 286.0115,
Florida Statutes; and,

WHEREAS, it is in the best interests of the citizens of Fort
Myers Beach to permit discussions with any local public official
the merits of any matter on which action may be taken by any board
or commission on which the local public official is a member.

NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS
BEACH, FLORIDA as follows:

1. DEFINITION.--As used in this section, the term "local
public official" means any elected or appointed public official
holding a county or municipal office who recommends or takes
quasi-judicial action as a member of a board or commission. The
term does not include a member of the board or commission of any
state agency or authority.

2. ACCESS PERMITTED.--Any person not otherwise prohibited by
statute, charter provision, or ordinance may discuss with any local
public official the merits of any matter on which action may be
taken by any board or commission on which the local public official

is a member.

3. PROCEDURES.--Adherence to the following procedures shall remove the presumption of prejudice arising from ex-parte communications with local public officials.

(a) The substance of any ex-parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

(b) A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action and such written communication shall be made a part of the record before final action on the matter.

(c) Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

(d) Disclosure made pursuant to paragraphs (a), (b), and (c) must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary

to those expressed in the ex-parte communication are given a reasonable opportunity to refute or respond to the communication.

4. This resolution shall become effective immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ADOPTED this _____ day of March, 1996.

ATTEST:

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney