

RESOLUTION 95- 126

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY PROVIDING FOR ACCESS TO COUNTY PUBLIC OFFICIALS BY ALLOWING CERTAIN EX-PARTE COMMUNICATIONS WITH SUCH PUBLIC OFFICIALS; AUTHORIZING INVESTIGATIONS AND RECEIPT OF INFORMATION; REQUIRING DISCLOSURE OF EX-PARTE COMMUNICATION; PROVIDING LOCAL RULES AND PROCEDURES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, government in Florida is conducted in the sunshine pursuant to Chapter 286, Florida Statutes; and

WHEREAS, the public should be able to voice its opinions to county public officials; and

WHEREAS, county public officials are presumed to perform their duties in a lawful and proper manner; and

WHEREAS, quasi-judicial decision making must be based on competent, substantial evidence of record; and

WHEREAS, county public officials have been obstructed or impeded from the fair and effective discharge of their sworn duties and responsibilities due to expansive interpretations of Jennings v. Dade County, a decision rendered by the Third District court of Appeal; and

WHEREAS, Section 5, Article I of the State Constitution gives the people the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances; and

WHEREAS, Section 286.0115 Florida Statutes, (1995) provides that certain ex-

parte communications may be received by local quasi judicial officials if such communications are properly disclosed.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA that:

Section 1. DEFINITION. As used in this section, the term “county public official” means any elected or appointed public official of St. Johns County, Florida who holds a county office or is a member of a St. Johns County board, agency, authority or commission who recommends or takes quasi-judicial action as a member of such county board, agency, authority or commission.

Section 2. Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any county public official the merits of any matter on which action may be taken by any St. Johns County board, agency, authority or commission on which the county public official is a member.

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

(a) The substance of any ex-parte communication with a county 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 communicating took place are disclosed and made a part of the record before final action on the matter.

(b) A county public official may read a written communication from any

person. However, a written communication that relates to quasi-judicial action pending before a county public official shall not be presumed prejudicial to the action if such written communication shall be made a part of the record before final action on the matter in accordance with subsection (d).

(c) County public officials may conduct investigations and site visits and may receive ex-parte 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 in accordance with subsection (d).


(d) Disclosure made pursuant to subsections (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. This section shall not subject county public officials to part II of Chapter 112 Florida Statutes (Code of Ethics) for not complying with this section.

Section 4. The Board of County Commissioners of St. Johns County may by resolution establish additional rules and procedures relating to such ex-parte communications.

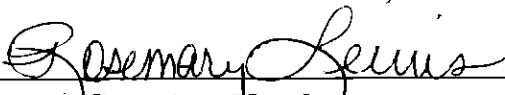
Section 5. This resolution shall take effect upon passage.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 11th day of July, 1995.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
Its Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: 
Deputy Clerk