

ORDINANCE NO. 95 - 15

AN ORDINANCE, PURSUANT TO FLORIDA STATUTES 286.0115, WHICH PROVIDES PROCEDURES FOR EX-PARTE COMMUNICATIONS REGARDING ANY PROPOSED QUASI-JUDICIAL DECISION REGARDING ANY NASSAU COUNTY PUBLIC OFFICIAL; PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, elected and public officials are required to conduct quasi-judicial hearings; and

WHEREAS, Jennings v. Dade County, 589 So. 2d 1337 (Fla. 3rd DCA 1991), created a presumption of prejudice if a decisionmaker is contacted about a quasi-judicial decision in any forum other than a public hearing; and

WHEREAS, Florida Statutes, Section 286.0115, authorizes a local government to adopt an ordinance which removes the presumption of prejudice from an ex-parte communication by establishing disclosure procedures.

NOW, THEREFORE, BE IT ORDAINED this 24th day of July, 1995, by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION 1. AUTHORITY

(1) This Ordinance is pursuant to Florida Statutes, Section 286.0115.

SECTION 2. DEFINITIONS

(1) "Local Public Official" - shall mean any elected or appointed public official holding a County office who recommends or takes quasi-judicial action as a member of a Board or Commission.

SECTION 3. ACCESS PERMITTED

(1) Any person not otherwise prohibited by statute or ordinance may discuss with any local public official the merits of any matter which relates to a quasi-judicial action on which action may be taken by any Board or Commission on which the local public official is a member. Adherence to the following procedures shall remove the presumption of prejudice arising from ex-parte communication 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 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 communications are given a reasonable opportunity to refute or respond to the communication. This section does not subject local public officials to part III of Chapter 112 for not complying with this subsection.

SECTION 4. RULES

(1) This Section shall not restrict the authority of any Board or Commission to establish rules or procedures governing public hearings or contacts with local officials.

SECTION 5. EFFECTIVE DATE

This Ordinance shall become effective upon its being filed in the Office of the Secretary of State.

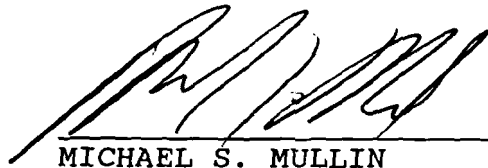
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


JIMMY L. HIGGINBOTHAM
Its: Chairman

ATTEST:


T. J. GREESON
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

6/b:ex-parte.ord