

Resolution 2015-31

WHEREAS, Florida Statute 286.0115 allows the City of Mexico Beach (“the City”) to adopt a resolution as specified by subsection (2) of the statute to remove the presumption of prejudice for ex parte communications in a quasi-judicial proceeding on local government land use matters; and

WHEREAS, subsection (2) of the statute provides the language the resolution must state; and

WHEREAS, Florida Statute 286.0115 allows the City to adopt a resolution as specified by subsection (1) of the statute to remove the presumption of prejudice for ex parte communications for other quasi-judicial proceedings; and

WHEREAS, subsection (1) of the statute suggests language for a resolution, which if adopted, is sufficient to remove the presumption of prejudice for ex parte communications; and

WHEREAS, the City desires to adopt the procedures as stated by the statute and remove the presumption of prejudice in quasi-judicial proceedings.

NOW THEREFORE, BE IT RESOLVED by the City of Mexico Beach.

1. The following rules apply to quasi-judicial proceedings:

(a) As used in this subsection, the term “local public official” means any elected or appointed public official holding a municipal office who recommends or takes quasi-judicial action as a member of a board or commission.

(b) Adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. 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.

2. 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.

3. 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.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. 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 subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

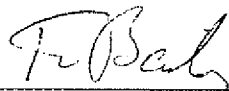
II. The following procedures and provisions apply to quasi-judicial proceedings on local government land use matters notwithstanding the provisions of Section I above:

(a) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decision making body who is not a party or party-intervenor shall be allowed to testify before the decision making body, subject to control by the decision making body, and may be requested to respond to questions from the decision making body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decision making body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(b) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decision making body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decision making body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decision making body. All decisions of the decision making body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

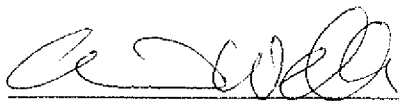
RESOLVED this 15th day of December 2015 by the City Council of the City of Mexico Beach.

CITY OF MEXICO BEACH, FLORIDA



Tom Bailey, Mayor

ATTEST:



Adrian Welle, City Clerk