

RESOLUTION NO. 09-07

A RESOLUTION OF THE TOWN OF ST. LEO, FLORIDA PERTAINING TO QUASI-JUDICIAL PROCEEDINGS AND EX-PARTE COMMUNICATIONS BY MEMBERS OF THE TOWN COMMISSION ON PENDING QUASI-JUDICIAL MATTERS; EXEMPTING EX-PARTE COMMUNICATIONS FROM A PRESUMPTION OF PREJUDICE; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has enacted Sec. 286.0115, Fla. Stat., pertaining to access to local public officials; and,

WHEREAS, Sec. 286.0115, Fla. Stat., provides that a Town may adopt a resolution removing the presumption of prejudice from ex-parte communications with elected or appointed public officials who recommend or take quasi-judicial action as members of a Commission or Board; and,

WHEREAS, it is the intent of the Town of St. Leo by the adoption of this resolution to allow each Commission member or appointed Board member to have the option of receiving ex-parte communications, provided the process contained in this resolution is adhered to, and nothing herein shall be construed so as to obligate any such Commission or Board member to have such ex-parte communications; and,

WHEREAS, the purpose of this Resolution is to establish a process to disclose ex-parte communications as required by Sec. 286.0115, Fla. Stat., and thereby exclude ex-parte communications from a presumption of prejudice.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF ST. LEO OF THE TOWN OF ST. LEO, FLORIDA THAT:

Section 1. The findings set forth in the preamble above are hereby adopted as findings of the Town Commission and incorporated herein by reference.

Section 2. A member of the Town Commission or member of a Board may discuss with any person the merits of any matter on which action may be taken by the Commission or Board with respect to a quasi-judicial action. The following requirements shall apply:

A. If the ex-parte communication takes the form of a written communication, the written communication shall be provided to the Town Clerk, after receipt by the Commissioner or Board member, and shall be made a part of the record before final action is taken on the quasi-judicial matter.

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B. If the communication is oral, the Commissioner or Board member shall identify the subject of the communication and identity of the person, group or entity with whom the communication took place before final action on the quasi-judicial matter.

C. If a Commissioner or Board member conducts investigations, makes a site visit or receives expert opinions, then the existence of the investigation, site visit or expert opinion shall be made a part of the record before final action on the quasi-judicial matter.

D. The disclosures required hereby shall be made before or during the public meeting at which the vote is taken on the matter 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.

Section 3. It is hereby declared to be the intention of the Town Commission that the sections, paragraphs, sentences, clauses and phrases of this Resolution be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution.

9th PASSED, ADOPTED AND APPROVED IN REGULAR SESSION ON THIS
DAY OF March, 2009.

TOWN OF ST. LEO FLORIDA

By: James Hallett, O.S.B.
James Hallett, O.S.B. - Mayor

ATTEST:

By: Joan Miller
Joan Miller, C.M.C. - Town Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Patricia A. Petruff
Patricia A. Petruff, Esq. - Town Attorney

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Patricia A. Petrucci
Patricia A. Petrucci, Esq. - Town Attorney