

ORDINANCE NO. 07-08

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING THE PROVISIONS OF SECTION 286.0115, FLORIDA STATUTES, TO ESTABLISH A PROCEDURE GOVERNING EX PARTE COMMUNICATIONS WITH LOCAL PUBLIC OFFICIALS CONCERNING QUASI-JUDICIAL MATTERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, Florida (the "Town") desires to implement Section 286.0115(1) Fla. Stat., by establishing a process to disclose ex parte communications (communications made on behalf of one side only without the presence of the other side) with local public officials; and

WHEREAS, the Town Council finds that adoption of these regulations is in the best interest and welfare of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated into this ordinance by this reference.

Section 2. Communications with The Town Council. Communications with local public officials [as defined in Sec. 286.0115(1)(b), Fla. Stat. (1997)], regarding quasi-judicial matters [as defined in Board of County Commissioners of Brevard County v. Snyder, 627 So.2d 469 (Fla. 1993)], including the adjudication of the rights of persons and the application of a general rule or policy to a specific individual, property, interest or activity shall be governed by the following procedure:

A. Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official representing the Town the merits of any matter on which action may be taken by any board, council or commission on which the local public official is a member. Such communication shall not raise any presumption of prejudice provided that the following process of disclosure occurs:

1. The subject and substance of any ex parte communication with a local public official representing the Town which relates to quasi-judicial action pending or impending before the official, as well as 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 is taken on the matter.

2. A local public official representing the Town may read a written communication from any person; however, a written communication that relates to quasi-judicial action pending or impending before such official shall be made a part of the record before final action is taken on the matter.

3. A local public official representing the Town may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending or impending before him or her, provided that such activities and the existence of such investigations, site visits, or expert opinions is made a part of the record before final action is taken on the matter.

4. Disclosure made pursuant to paragraphs (1), (2) and (3) above 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.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town Code and that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 21st day of February, 2007.

PASSED AND ADOPTED on second reading this 21st day of March, 2007.

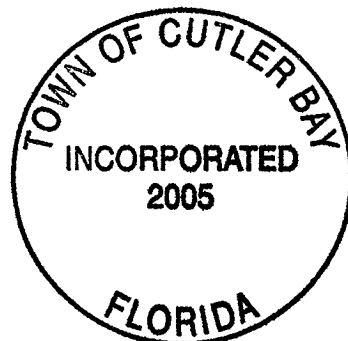


PAUL S. VROOMAN, Mayor


Attest:



ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:



WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

Moved by: Councilmember Sochin
Seconded by: Vice Mayor MacDougall

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	<u>NO</u>
Vice Mayor Edward P. MacDougall	<u>YES</u>
Councilmember Peggy R. Bell	<u>YES</u>
Councilmember Timothy J. Meerbott	<u>YES</u>
Councilmember Ernest N. Sochin	<u>YES</u>