

Florida's Government in the Sunshine says public meetings have to be in the open. With public notice for when the meeting's going be. And no backroom scripting beforehand.

Easy so far. Now here's a new question: Is it still an open meeting if the public is only allowed to listen in silence?

One court has said, sure it is. Now another court is pondering the question.

In Volusia and Flagler counties, we have a tradition of give and take at government meetings. Most government meetings attract their own regular speakers who seem part of the political scene.

So it feels wrong to hear a court declaring that we only have the right to hear and not to be heard. Still, that's what one appellate court ruled.

In that case, a Pensacola nonprofit board overseeing the construction of a waterfront park complex on public land refused to allow the plan's opponents to speak at its meetings. This is a project with a lot of critics. Even now, five years after voters approved bonds for the project, it's not finished.

A small, obscure board flat-out refused to let critics speak. An arrogant and outrageous policy, but a legal one.

And last year, the Florida Supreme Court refused to review the appellate court ruling. That means the ruling stands as the law in counties within the 1st District Court of Appeal's district.

But here in Volusia, we're included in the 5th District Court of Appeal's district. So while that ruling has weight, it doesn't decide things.

The St. Johns River Water Management District also is in this district. And it had public meetings two years ago about Seminole County's permit to suck 5.5 million gallons of water a day from the St. Johns River.

At the April 2009 meeting, hundreds attended and the crowd overflowed from the meeting room.

The district's board heard from people -- mostly critics -- for more than two hours but limited some from speaking.

Among the people who couldn't speak was Stetson Kennedy, a nonagenarian activist and author, who died last August, and his wife. They sued and last week the case had oral arguments before the 5th DCA.

This may not have been the strongest case to use to fight that earlier decision, since, hey, two hours of public comment is a lot of public commenting.

Which makes the case less about the public's right to be heard than about the logistics and methods for letting the public speak. Is a right to public participation necessarily a right for absolutely everyone to get a shot at the microphone?

If this decision comes down along the lines of the last decision -- something that seems rather likely -- it should be a signal to get moving on legislation to explicitly safeguard citizens' ability to be heard at meetings.

Otherwise, once politicians suspect it's legal to turn off the public microphone, expect microphones around the state to go dead.