BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 21, 2006 ___ Division: County Attorney

Bulk Item: Yes _X_ No ____ Department: County Attorney

Staff Contact: Suzanne A. Hutton

AGENDA ITEM WORDING:
Approval to advertise a public hearing for an ordinance amending *Sec. 2-609(c)* of the *Monroe County Code* increasing mileage reimbursement to 44.5 cents per mile.

ITEM BACKGROUND:
Ordinance No. 004-2004 establishes per diem, meals and mileage reimbursements in excess of the rates established for State agencies by statute. Due to the escalation of gasoline prices, the State Legislature enacted *Session Law 2006-41,* approved by the Governor, increasing rates for State agencies. Given the unique demographics of Monroe County, this amendment will increase County mileage reimbursement from .40 cents to .44.5 cents per mile.

PREVIOUS RELEVANT BOCC ACTION:
On 2/18/2004, the BOCC approved *Ordinance 004-2004* establishing County per diem, meals and mileage reimbursements.

CONTRACT/AGREEMENT CHANGES:
NA

STAFF RECOMMENDATIONS:
Approval to advertise.

TOTAL COST: N/A_____ **BUDGETED:** Yes ____ No ___

COST TO COUNTY: _____ **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes ___ No __ **AMOUNT PER MONTH**____ **Year** ____

APPROVED BY: County Atty _X_ OMB/Purchasing __ Risk Management __

DIVISION DIRECTOR APPROVAL: _____ 6/14/06
SUZANNE A. HUTTON, COUNTY ATTORNEY

DOCUMENTATION: Included _X_ To Follow_____ Not Required_____

DISPOSITION:_____ **AGENDA ITEM #**_____

Revised 2/27/01

ORDINANCE NO. _____ -2006

AN ORDINANCE AMENDING SECTION 2-609(c), MONROE COUNTY CODE; PROVIDING FOR INCREASE IN MILEAGE REIMBURSEMENT TO 44.5 CENTS PER MILE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Monroe County Code Chapter 2, Article XXVI sets forth provisions governing travel reimbursements for of Monroe County; and

WHEREAS, the Board of County Commissioners passed Ordinance No. 004-2004 pursuant to Section 112.061(14), Florida Statutes allowing counties to provide for per diem, meals and mileage reimbursements in excess of the rates established for state agencies by that statute; and

WHEREAS, Session Law 2006-41 has been enacted by the State Legislature and approved by the governor increasing those rates for state agencies; and

WHEREAS, Session Law 2006-41 provides a higher mileage reimbursement rate than Ordinance No. 004-2004 due to the escalation of gasoline prices; now therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Section 2-609(c), Monroe County Code, shall be amended to read as follows:

(c) The use of privately owned vehicles for official travel in lieu of publicly owned vehicles or common carriers may be authorized by the county administrator or his or her designee. Whenever travel is by privately owned vehicle, the traveler shall be entitled to a mileage allowance at a fixed rate of ~~forty~~ forty-four and one-half cents ($0.4~~0~~ 445) per mile or the common carrier fare for such travel, as determined by the county administrator. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on public business and reimbursement is made pursuant to this paragraph, except as provided in subsection (8).

Section 2. SEVERABILITY. If any portion of this ordinance is for any reason held invalid or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

Section 3. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. INCLUSION IN CODE OF ORDINANCES. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. EFFECTIVE DATE. This ordinance shall take effect when a copy has been accepted by the postal authorities of the Government of the United States for special delivery by certified mail to the Department of State.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, 2006.

Mayor Charles "Sonny" McCoy ____
Mayor Pro Tem Dixie Spehar ____
Commissioner George Neugent ____
Commissioner Glenn Patton ____
Commissioner David P. Rice ____

(Seal)

Attest: DANNY L. KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:_____
Deputy Clerk

BY:_____
Mayor Charles "Sonny" McCoy

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
SUZANNE A. HUTTON
COUNTY ATTORNEY
Date 6/14/06

Board of County Commissioners

ORDINANCE NO. 004 - 2004

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, PURSUANT TO SEC. 112.061(14), FLORIDA STATUTES, CREATING CHAPTER 2, ART. XXVI, MONROE COUNTY CODE, ADOPTING A TRAVEL, PER DIEM, MEALS, AND MILEAGE POLICY FOR MONROE COUNTY COMMISSION MEMBERS AND COUNTY OFFICERS AND EMPLOYEES; FURTHER ESTABLISHING TRAVEL REIMBURSEMENT RATE FOR PER DIEM AT $100 PER DAY, BREAKFAST AT $6.50, LUNCH AT $13.50, DINNER AT $27.00, AND MILEAGE AT $.40 PER MILE WHEN USING PRIVATE VEHICLES ON COUNTY BUSINESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the reimbursement amounts allowed County Commissioners, officers and employees under Sec. 112.061, FS, when traveling on County business have remained the same for many years;

WHEREAS, as a result those reimbursement amounts no longer bear any reasonable resemblance to the amounts a County Commissioner, County officer or employee must spend on meals and mileage when traveling on County business thus requiring the official traveler to spend his or her funds with only partial reimbursement; and

WHEREAS, Sec. 112.061(14), FS, was recently adopted by the Legislature in order to allow the various county commissions to increase reimbursement amounts for county commissioners and county officers and employees beyond the otherwise mandatory statutory amounts to remedy the situation just described;

WHEREAS, the Monroe County Board of County Commissioners desires to utilize the authority granted in Sec. 112.061(14), FS; now, therefore

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Chapter 2, Article XXVI, Monroe County Code, is hereby created to read as follows:

Sec. 2-604. Definitions. For the purposes of this ordinance, the following words shall have the meanings indicated:

(a) "Agency" or "public agency" shall mean Monroe County, Florida.

(b) "Agency head" or "head of the agency" shall mean the County Administrator

(c) "County officer" or "public officer" shall mean a County Commissioner

(d) " Employee" or "public employee" shall mean an individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to the County Administrator. The term shall also include the County Attorney and any Assistant County Attorney.

(e) "Authorized person" shall mean:

1. A person other than a public officer or employee as defined herein who is authorized by the agency head to incur travel expenses in the performance of official duties.
2. A person who is called upon by the County, pursuant to a written agreement, to contribute time and services as consultant or adviser.
3. A person who is a candidate for an executive or professional position, which position is identified as such by County policy.

(f) "Traveler" shall mean a public officer, public employee, or authorized person, when performing authorized travel.

(g) "Travel expense", "traveling expenses", "necessary expenses while traveling", "actual expenses while traveling", or words of similar nature shall mean the usual ordinary and incidental expenditures necessarily incurred by a traveler.

(h) "Common carrier" means a train, bus, commercial airline operating scheduled flights, or rental cars of an established rental car firm.

(i) "Travel day" means a period of 24 hours consisting of four quarters of 6 hours each.

(j) "Travel period" means a period of time between the time of departure and time of return.

(k) "Class A travel" means continuous travel of 24 hours or more away from official headquarters.

(l) "Class B travel" means continuous travel of less than 24 hours which involves overnight absence from official headquarters.

(m) "Class C travel" means travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

(n) "Foreign travel" means travel outside the United States.

(o) "Official headquarters" means the building or site in which the public officer or employee performs his or her job duties or in which he or she has been assigned an office or work space.

Sec. 2-605. AUTHORITY TO INCUR TRAVEL EXPENSES.

(a) All travel must be authorized and approved by the County Administrator, or his or her designated representative.

(b) Travel expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the County and must be within the limitations prescribed by this ordinance.

(c) Travel by public officers or employees serving temporarily in behalf of another agency or partly in behalf of more than one agency at the same time, or authorized persons who are called upon to contribute time and services as consultants or advisers, may be authorized by the County Administrator.

(d) Travel expenses of public employees for the sole purpose of taking merit system or other job placement examinations, written or oral, shall not be allowed under any circumstances, except that upon prior written approval of the County Administrator or the Board of County Commissioners candidates for executive or professional positions may be allowed travel expenses pursuant to this section.

(e) The County Administrator, or a designated representative, may pay by advancement or reimbursement, or a combination thereof, the costs of per diem of travelers and authorized persons for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)" and incidental expenses as provided in this section.

(f) A traveler who becomes sick or injured while away from his or her official headquarters and is therefore unable to perform the official business of the County may continue to receive subsistence as provided in subsection (6) during this period of illness or injury until such time as he or she is able to perform the official business of the County or returns to his or her official headquarters, whichever is earlier. Such subsistence may be paid when approved by the County Administrator or his or her designee.

Sec. 2-606. OFFICIAL HEADQUARTERS LOCATION. The official headquarters location of an officer or employee assigned to an office shall be the geographical area in which the office is located. For purposes of this ordinance, geographical area shall mean either the Lower Keys, the Middle Keys, or the Upper Keys.

Sec. 2-607. COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT. For purposes of reimbursement and methods of calculating fractional days of travel:

(a) The travel day for Class A travel shall be a calendar day (midnight to midnight). The travel day for Class B travel shall begin at the same time as the travel period. For Class A and Class B travel, the traveler shall be reimbursed one-fourth of the authorized rate of per diem for each quarter, or fraction thereof, of the travel day included within the travel period. Class A and Class B travel shall include any assignment on official business outside of regular office hours and away from official headquarters when it is considered reasonable and necessary to stay overnight and for which travel expenses are approved.

(b) A traveler shall not be reimbursed on a per diem basis for Class C travel, but shall receive subsistence as provided in this section, which allowance for meals shall be based on the following schedule:

1. Breakfast--When travel begins before 6 a.m. and extends beyond 8 a.m.
2. Lunch--When travel begins before 12 noon and extends beyond 2 p.m.

3. Dinner--When travel begins before 6 p.m. and extends beyond 8 p.m., or when travel occurs during nighttime hours due to special assignment.

No allowance shall be made for meals when travel is confined to the geographical area of the official headquarters, except travelers will be entitled to the appropriate meal allowance as follows:

1. If the official headquarters location of the traveler is in the Lower Keys, and the traveler goes beyond the flashing traffic signal on Sugarloaf Key (approximately Mile Marker 17).
2. If the official headquarters location of the traveler is in the Middle Keys, and the traveler goes beyond the south end of the Spanish Harbor Bridge, or the traveler goes beyond the north end of the Long Key Bridge.
3. If the official headquarters location of the traveler is in the Upper Keys, and the traveler goes beyond Mile Marker 76 on Lower Matecumbe Key, or the traveler goes beyond the south city limits of Florida City in Dade County.

Sec. 2-608. RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE. For purposes of reimbursement rates and methods of calculation, per diem and subsistence allowances are divided into the following groups and rates:

(a) All travelers shall be allowed for subsistence when traveling to a convention or conference or when traveling within or outside the state in order to conduct bona fide state business, which convention, conference, or business serves a direct and lawful public purpose with relation to the public agency served by the person attending such meeting or conducting such business, either of the following for each day of such travel at the option of the traveler:

1. One Hundred dollars per diem; or
2. If actual expenses exceed $100, the amounts permitted in paragraph (b) for meals, plus actual expenses for lodging at a single-occupancy rate to be substantiated by paid bills therefor.

When lodging or meals are provided at a state institution, the traveler shall be reimbursed only for the actual expenses of such lodging or meals, not to exceed the maximum provided for in this subsection.

(b) All travelers shall be allowed the following amounts for subsistence while on Class C travel on official business as provided in paragraph (5)(b):

1. Breakfast	$ 6.50
2. Lunch	$13.50
3. Dinner	$27.00

(c) No one, whether traveling out of state or in state, shall be reimbursed for any meal or lodging included in a convention or conference registration fee paid by the state.

Sec. 2-609. TRANSPORTATION.

(a) All travel must be by a usually traveled route. In case a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler; and reimbursement for expenses shall be based only on such charges as would have been

incurred by a usually traveled route. The County Administrator or his or her designee shall designate the most economical method of travel for each trip, keeping in mind the following conditions:

1. The nature of the business.
2. The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation, and per diem or subsistence required). When it is more efficient and economical to either the traveler or the agency head, jet service offered by any airline, whether on state contract or not, may be used when the cost is within an approved threshold determined by the County Administrator or his or her designee.
3. The number of persons making the trip and the amount of equipment or material to be transported.

(b) Transportation by common carrier when traveling on official business and paid for personally by the traveler, shall be substantiated by a receipt therefor. Federal tax shall not be reimbursable to the traveler unless the state and other public agencies are also required by federal law to pay such tax. In the event transportation other than the most economical class as approved by the County Administrator is provided by a common carrier on a flight check or credit card, the charges in excess of the most economical class shall be refunded by the traveler to the County.

(c) The use of privately owned vehicles for official travel in lieu of publicly owned vehicles or common carriers may be authorized by the County Administrator or his or her designee. Whenever travel is by privately owned vehicle, the traveler shall be entitled to a mileage allowance at a fixed rate of 40 cents per mile or the common carrier fare for such travel, as determined by the County Administrator. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on public business and reimbursement is made pursuant to this paragraph, except as provided in subsection (8).

2. All mileage shall be shown from point of origin to point of destination and, when possible, shall be computed on the basis of the current map of the Department of Transportation. Vicinity mileage necessary for the conduct of official business is allowable but must be shown as a separate item on the expense voucher.

(e) Transportation by chartered vehicles when traveling on official business may be authorized by the County Administrator when necessary or where it is to the advantage of the agency, provided the cost of such transportation does not exceed the cost of transportation by privately owned vehicle pursuant to paragraph (d).

(f) The County Administrator or his or her designee may grant monthly allowances in fixed amounts for use of privately owned automobiles on official business in lieu of the mileage rate provided in paragraph (d). Allowances granted pursuant to this paragraph shall be reasonable, taking into account the customary use of the automobile, the roads customarily traveled, and whether any of the expenses incident to the operation, maintenance, and ownership of the automobile are paid from funds of the agency or other public funds. Such allowance may be changed at any time, and shall be made on the basis of a signed statement of the traveler, filed before the allowance is granted or changed, and at least annually thereafter. The statement shall show the places and distances for an average typical month's travel on official business, and the amount that would be allowed under the

approved rate per mile for the travel shown in the statement, if payment had been made pursuant to paragraph (d).

(g) No contract may be entered into between a public officer or employee, or any other person, and the County in which a depreciation allowance is used in computing the amount due by the agency to the individual for the use of a privately owned vehicle on official business.

(h) No traveler shall be allowed either mileage or transportation expense when gratuitously transported by another person or when transported by another traveler who is entitled to mileage or transportation expense. However, a traveler on a private aircraft shall be reimbursed the actual amount charged and paid for the fare for such transportation up to the cost of a commercial airline ticket for the same flight, even though the owner or pilot of such aircraft is also entitled to transportation expense for the same flight under this subsection.

Sec. 2-610. OTHER EXPENSES.

(a) The following incidental travel expenses of the traveler may be reimbursed:

1. Taxi fare.
2. Ferry fares; and bridge, road, and tunnel tolls.
3. Storage or parking fees.
4. Communication expense.
5. Convention registration fee while attending a convention or conference which will serve a direct public purpose with relation to the County. A traveler may be reimbursed the actual and necessary fees for attending events which are not included in a basic registration fee that directly enhance the public purpose of the participation of the County in the conference. Such expenses may include, but not be limited to, banquets and other meal functions. It shall be the responsibility of the traveler to substantiate that the charges were proper and necessary. However, any meals or lodging included in the registration fee will be deducted in accordance with the allowances provided in subsection (6).

Sec. 2-611. RULES. The County Administrator may adopt such rules, including, but not limited to, the general criteria to be used by the agency to predetermine justification for attendance by officers and employees and authorized persons at conventions and conferences, and prescribe such forms as are necessary to effectuate the purposes of this ordinance. The County Administrator may also adopt rules prescribing the proper disposition and use of promotional items and rebates offered by common carriers and other entities in connection with travel at public expense.

Sec. 2-612. FRAUDULENT CLAIMS. Claims submitted pursuant to this section shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any provision of this ordinance shall contain a statement that the expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and shall be verified by a written declaration that it is true and correct as to every material matter.

(a) Any person who willfully makes and subscribes any such claim which he or she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under the

provisions of this ordinance of a claim which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, is guilty of a misdemeanor of the second degree as provided by statute, punishable as provided in s. 775.082 or s. 775.083., and whoever shall receive an allowance or reimbursement by means of a false claim shall be civilly liable in the amount of the overpayment for the reimbursement of the public fund from which the claim was paid pursuant to the provisions of Section 112.061, Florida Statutes.

(b) Any person who willfully makes and subscribes any such claim which he or she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under the provisions of this ordinance of a claim which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, and whoever shall receive an allowance or reimbursement by means of a false claim, shall be subject to discipline, up to and including termination of employment. The amount involved shall not be material to the discipline to be imposed.

Sec. 2-613. TRAVEL VOUCHER FORMS. The County Administrator shall furnish a uniform travel voucher form which shall be used by all travelers and authorized persons when submitting travel expense statements for approval and payment. No travel expense statement shall be approved for payment unless made on the form prescribed and furnished by the County Administrator. The travel voucher form shall provide for, among other things, the purpose of the official travel and a certification or affirmation, to be signed by the traveler, indicating the truth and correctness of the claim in every material matter, that the travel expenses were actually incurred by the traveler as necessary in the performance of official duties, that per diem claimed has been appropriately reduced for any meals or lodging included in the convention or conference registration fees claimed by the traveler, and that the voucher conforms in every respect with the requirements of this section.

Sec. 2-614. ADVANCEMENTS. Notwithstanding any of the foregoing restrictions and limitations, the County Administrator or his or her designee may make, or authorize the making of, advances to cover anticipated costs of travel to travelers. Such advancements may include the costs of subsistence and travel of any person transported in the care or custody of the traveler in the performance of his or her duties.

Sec. 2-615. DIRECT PAYMENT OF EXPENSES BY AGENCY. Whenever the County requires an employee or public officer to incur either Class A or Class B travel on emergency notice to the traveler, such traveler may request the agency to pay his or her expenses for meals and lodging directly to the vendor, and the agency may pay the vendor the actual expenses for meals and lodging during the travel period, limited to an amount not to exceed that authorized pursuant to this section. In emergency situations, the County Administrator or his or her designee may authorize an increase in the amount paid for a specific meal, provided that the total daily cost of meals does not exceed the total amount authorized for meals each day. The County Administrator or his or her designee may also grant prior approval to make direct payments of travel expenses in other situations that result in cost savings to the agency.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 18th day of February, 2004.

Mayor Nelson	Yes
Mayor Pro Tem Rice	Yes
Commissioner McCoy	Yes
Commissioner Neugent	Yes
Commissioner Spehar	No

Seal

Attest: DANNY L. KOLHAGE, Clerk

By _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Mayor/Chairperson

FILED FOR RECORD
2004 FEB 23 PM 1:56
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

ROBERT N. WOLFE
CHIEF ASSISTANT COUNTY ATTORNEY
Date 1-16-04