**BOARD OF COUNTY COMMISSION**
**AGENDA ITEM SUMMARY**

Meeting Date: 9/21/05 - MAR  Division County Attorney's Office

Bulk Item: Yes ___ No X  **** PUBLIC HEARING 3:00 P.M. ****

Staff Contact Person: Susan Grimsley

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**AGENDA ITEM WORDING:**
A Public Hearing to consider the adoption of an Ordinance of the Board of County Commissioners of Monroe County, Florida amending Section 263, Chapter 2, Monroe County Code, providing authority to the County Attorney to settle claims and lawsuits, to correct scrivener's errors and/or to clarify payment of settlement amounts for claims or lawsuits under certain circumstances.

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**ITEM BACKGROUND:**
*Ordinance No. 039-2004* was enacted to provide authority to the County Attorney to settle claims and lawsuits under certain circumstances without prior approval by the Board but language was incorrectly included in the Ordinance which still requires the County attorney to obtain approval from the Baord on settlement amounts in excess of $25,000.

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**PREVIOUS RELEVANT BOCC ACTION:**
Approval of *Ordinance No. 039-2004* enacted 12/15/2004.
BOCC approval on 8/17/05 to advertise for one public hearing to be held September 21, 2005 in Marathon.

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**CONTRACT/AGREEMENT CHANGES:**

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**STAFF RECOMMENDATIONS:**
Approval

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**TOTAL COST:** N/A  **BUDGETED:** Yes ___ No ___

**COST TO COUNTY:** N/A  **SOURCE OF FUNDS:** _____

**REVENUE PRODUCING:** Yes ___ No X  **AMOUNT PER MONTH** ___ **Year** ___

**APPROVED BY:** County Atty ___ OMB/Purchasing ___ Risk Management ___

**DIVISION DIRECTOR APPROVAL:** John R. Collins 08/24/05
JOHN R. COLLINS, COUNTY ATTORNEY

**DOCUMENTATION:** Included ___ Not Required ___

**DISPOSITION:** _____  **AGENDA ITEM #** _____

Revised 2/05

**County Attorney**

**ORDINANCE No. ____ - 2005**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AMENDING CHAPTER 2 OF THE MONROE COUNTY CODE ENTITLED "ADMINISTRATION" BY AMENDING SEC. 2-363 TO ALLOW THE COUNTY ATTORNEY TO AGREE TO SETTLEMENTS OF CLAIMS AND LITIGATION ON BEHALF OF MONROE COUNTY UNDER CERTAIN CIRCUMSTANCES WHEN THE COUNTY IS THE BENEFICIARY OF THE SETTLEMENT OR THE RECIPIENT OF FUNDS; AMENDING SEC. 2-363(3) IN ORDER TO CORRECT A SCRIVENER'S ERROR AND CLARIFYING THAT PAYMENT OF SETTLEMENT AMOUNTS FOR CLAIMS OR LAWSUITS ARE PAID BY THE COUNTY AND NOT BY THE COUNTY ATTORNEY; 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**

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**WHEREAS**, Ordinance No. 039-2004 was enacted to provide authority to the County Attorney for Monroe County to settle claims and lawsuits under certain circumstances; and

**WHEREAS**, Ordinance No. 039-2004 gave authority to the County Attorney to settle claims and lawsuits when Monroe County paid the settlement funds, but not when Monroe County received the settlement funds; and

**WHEREAS**, Ordinance No. 039-2004 states incorrectly that the County Attorney has authority to settle claims and lawsuits with approval of the Board of County Commissioners where the settlement amount to be paid by the County Attorney is in excess of twenty-five thousand dollars; and

**WHEREAS**, the County Attorney does not pay settlements from his funds or budget and the word "Attorney" was inserted in error; and

**WHEREAS**, after codification of Ordinance No. 039-2004, Section 2-363(3) of the Monroe County Code of Ordinances reflects this incorrect wording;

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

Section 1. Sec. 2-363 of the Monroe County Code is hereby amended as follows*:

**Sec. 2-363. Settlement of claims and litigation.**

The County Attorney shall have the authority to settle any claim made by or against the County and settle on behalf of the County any lawsuit in which the County is a party. Settlement authority may be exercised under the following conditions:

(1) By the County Attorney, in his or her judgment, when the settlement value or amount to be paid or received by the County does not exceed fifteen thousand dollars ($15,000.00).

(2) By the County Attorney, with the written concurrence of the County Administrator, when the settlement value or amount to be paid or received by the County is in excess of fifteen thousand dollars ($15,000.00) and does not exceed twenty-five thousand dollars ($25,000.00).

(3) By the County Attorney, with prior approval of the Board lawfully authorized at a public meeting of the Board, where the settlement value or amount to be paid or received by the County ~~Attorney~~ is in excess of twenty-five thousand dollars ($25,000.00).

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 if necessary, 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.

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*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

**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 _____, 2005.

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| Mayor Dixie M. Spehar | ____ |
| Mayor Pro Tem Charles "Sonny" McCoy | ____ |
| Commissioner Murray Nelson | ____ |
| Commissioner George Neugent | ____ |
| Commissioner David Rice | ____ |

(SEAL)
Attest: DANNY L.KOLHAGE, Clerk

By _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By_____
Mayor Dixie M. Spehar

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
JOHN R. COLLINS
COUNTY ATTORNEY
Date 08/01/05