



ORDINANCE NO. 97- 20

AN ORDINANCE ESTABLISHING A POLICY OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, REGARDING THE PAYMENT OF ATTORNEY'S FEES FOR THE DEFENSE OF LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES CHARGED WITH AN ETHICS VIOLATION OR NAMED AS AN INDIVIDUAL DEFENDANT IN LITIGATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, Florida, believes it is in the best interest of the citizens of the county to have a specific written policy regarding the payment of attorney's fees for legal defense of local government officials and employees; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA this 11th day of August, 1997 as follows:

*SECTION 1.*

As used in the balance of this policy, the words "successfully defend or prevail" shall apply to individual counts, charges, and/or allegations, and shall mean the dismissal, the finding of not guilty, or a verdict in favor of the persons covered herein as set forth in Sections 3 and 4 below. A failure to successfully defend or prevail against one or more counts, charges or allegations shall not necessarily affect the application of this policy to other counts, charges, and/or allegations which were

successfully defended or against which the officer or employee prevailed.

*SECTION 2.*

"Reasonable attorney's fees" shall mean fees earned by an attorney and/or attorneys licensed to practice law in the State of Florida, based on the customary per hour rate charged in Nassau County, Florida, for similar work performed by attorneys within the county.

*SECTION 3.*

The Nassau County Board of County Commissioners may, pursuant to the procedures set forth herein, reimburse their present employees, for the reasonable attorney's fees and costs that such persons have incurred when they successfully defend or prevail in civil, criminal, and/or ethical investigations and/or actions that arise out of and in connection with their scope of county employment or county function and while serving a public purpose. The recommendation to make such payment shall be made by the County Attorney to the Board of County Commissioners.

*SECTION 4.*

The Nassau County Board of County Commissioners may reimburse "sitting" county commissioners and former county commissioners for the first twelve months after the expiration of their term for the reasonable attorney's fees and costs that a commissioner has

incurred when they successfully defend or prevail in civil, criminal, and/or ethical investigations and/or actions that arise out of and in connection with their scope as a county commissioner or county function and while serving a public purpose. The request shall be made to the County Attorney and shall include the information in Section 5. The County Attorney shall forward the request and information to an attorney designated by him, who shall make a recommendation to the Board of County Commissioners. The commissioner making the request shall not participate in the vote or discussion unless asked specific questions regarding the information in Section 5.

*SECTION 5.*

Any employee who believes that he or she is allowed or entitled to payment for reasonable attorney's fees and costs pursuant to the provisions of this policy shall file a written request for such fees and costs with the County Attorney which request shall at the minimum state:

- a. the name and current address of the person making the request;
- b. a description of the entity conducting the investigation or proceeding;
- c. the case number of the number of the investigation or proceeding, if known;
- d. a description of each count, charge and/or allegation made or being investigated, and copies of all pleadings;
- e. the date(s) that the alleged wrongful incidents are alleged to have occurred;
- f. the person's office or position of employment with the

county on the dates described in (e) above;

- g. a narration of the reasons why such person believes that the request meets the criteria set forth in this policy and that his or her attorney's fees and costs should be reimbursed by the county;
- h. the names(s), address, and telephone number of the attorney(s) representing such person against the counts, charges and/or allegations described in (d) above;
- i. a description of the fee arrangement or agreement between the person and his or her attorney(s); the amount of attorney's fees and costs paid to the date of the written request for attorney's fees and costs for defense against the counts, charges, and/or allegations described in (d) above; and the total balance due, if any, of all attorney's fees and costs that have been incurred in defense against the counts, charges and/or allegations described in (d) above; and
- j. such other information as the Board of County Commissioners and/or the County Attorney may reasonably require.

#### *SECTION 6.*

The Board of County Commissioners shall expeditiously be advised of the written request described in Section 5 above, within a reasonable time following receipt by the County Attorney of the written request, and the County Attorney shall either request additional relevant information from the applicant, conduct whatever investigation is necessary and, in the case of an employee, make the recommendation to the Board or if it is a County Commissioner take the actions necessary as set forth in Section 4.

#### *SECTION 7.*

Upon receipt of the written request the County Attorney shall also communicate with the County's "insurance" providers to

determine and advise the Board whether such "insurance" providers will indemnify the County for any attorney's fees and costs incurred by the applicant in defense against such counts, charges, or allegations. The Board of County Commissioners may consider this in their decision regarding the payment of attorney's fees for a commissioner or employee.

*SECTION 8.*

Any attorney's fees or portion thereof that is paid shall be paid at the conclusion of the proceeding.

*SECTION 9.*

The County Coordinator or his designee shall ensure that all employees are made aware of this Ordinance and the procedures herein.

*SECTION 10.*

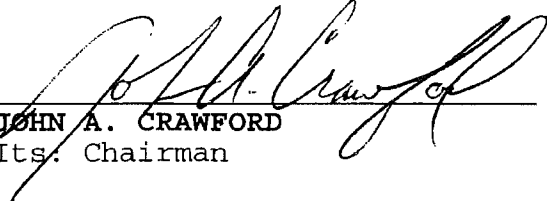
If the County Attorney believes that any legal costs or fees that are paid pursuant to this Ordinance are as a result of a frivolous complaint, then the County Attorney may recommend to the Board of County Commissioners that they authorize the County Attorney to pursue any and all remedies available for a frivolous complaint.

*SECTION 11.*

This policy shall take effect as soon as the Ordinance is

acknowledged by the Secretary of State's Office.

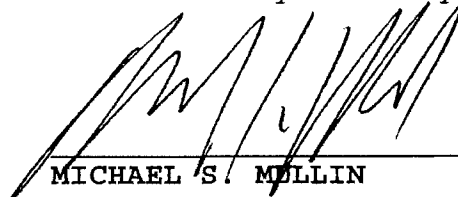
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
JOHN A. CRAWFORD  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

  
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MICHAEL S. MOLLIN