

**RESOLUTION NO. 2007- 65**

**A RESOLUTION OF NASSAU COUNTY, FLORIDA, DIRECTING ONGOING PAYMENT OF SALARY AND BENEFITS TO THE NASSAU COUNTY ADMINISTRATOR, PURSUANT TO HIS CONTRACT, PENDING A DECLARATORY JUDGMENT REGARDING THE AMENDED AGREEMENT DATED OCTOBER 12, 2005 BETWEEN THE BOARD OF COMMISSIONERS OF NASSAU COUNTY AND MICHAEL G. MAHANEY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on October 12, 2005, the Board of County Commissioners of Nassau County, Florida (the "Board") and the Nassau County Administrator, Michael G. Mahaney, entered into an employment contract titled the "Amended Agreement"; and

WHEREAS, the County Attorney, Mike Mullin, has stated that Section 2.3 of the Amended Agreement does not appear, based upon the verbatim Minutes to have been discussed or voted on at the meeting on October 12, 2005; and

WHEREAS, the Clerk of the Circuit Court of Nassau County (the "Clerk") has expressed personally and through counsel his concern about continuing to authorize payments under the Amended Agreement in light of its implications on his duties and personal liabilities as Ex-Officio Custodian, Recorder, and Auditor of county funds; and

WHEREAS, the Clerk has been advised by his counsel that if Section 2.3 was in fact entered into in violation of the Sunshine Law, whether through mistake or otherwise, the Amended Agreement is void *ab initio*, rendering payment thereunder unlawful; and

WHEREAS, on Tuesday, January 23, 2007, the Board resolved to seek a declaratory judgment as to the legality of the Amended Agreement, including as to the legality of Section 2.3; and

WHEREAS, a declaratory judgment will in all probability not be issued for several months, leaving the Clerk in the position of issuing payments on a contract that the County Attorney has indicated contains Paragraph 2.3 that was not discussed or voted on; and

WHEREAS, such continued payments, based upon the contract, reasonably implicate the Clerk's duties and liabilities; and


WHEREAS, the Board has the authority to direct payment of the County Administrator's salary and benefits as long as he continues performing his duties and pending an Order of the Court.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:**

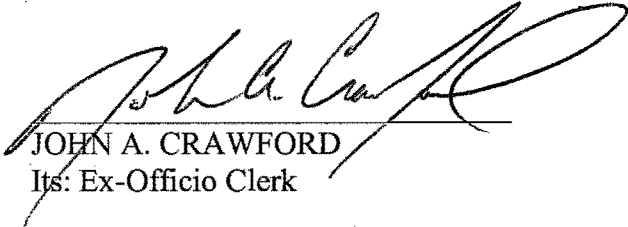
The Board hereby authorizes and directs payment of continued salary and benefits based upon this resolution and the County Administrator's anticipated continued services while the Board awaits a declaratory judgment on the Amended Agreement. Such payments should be in the amount and frequency of the most recent salary payment to the County Administrator. This Resolution is effective as of Friday, January 26, 2007, and will remain in effect until such time as the Board re-addresses payment pursuant to the Amended Agreement after issuance of the declaratory judgment with respect thereto.

PASSED AND ADOPTED by the Board on this 26<sup>th</sup> day of January, 2007.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
JIM B. HIGGINBOTHAM  
Its: Chairman

ATTEST:

  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

  
MICHAEL S. MULLIN

z/amyers/res/Mahaney-salary