BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 19, 2008

Division: County Attorney

Bulk Item: Yes X No ___

Department: County Attorney

Staff Contact Person: Cynthia Hall

AGENDA ITEM WORDING: Approval to file Petition for Writ of Certiorari in the Third District Court of Appeal, to review a decision of the Circuit Court in the case of *Mattson v. Monroe County*.

ITEM BACKGROUND: In October 2007, the Special Magistrate found the property owners to be in violation of Monroe County's floodplain management ordinance by having an illegal lower enclosure below their home. The property owners filed a Notice of Appeal in the Circuit Court in November 2007. On March 10, 2008, the Circuit Court issued an order allowing the property owners to stay the appeal and file a complaint within the appeal, alleging that Monroe County's floodplain ordinance is unconstitutional. The County Attorney's Office believes that Florida law does not allow for the filing of a complaint within an appeal and the ruling could be used by other counsel as precedent to file complaints within their appeals in other Code Enforcement actions. This could have the effect of unnecessarily delaying the code enforcement appellate process. The County Attorney's Office therefore recommends filing a Petition for Writ of Certiorari, to ask the Third District Court of Appeal to opine on whether correct procedure was followed.

PREVIOUS RELEVANT BOCC ACTION: None.

CONTRACT/AGREEMENT CHANGES: Not applicable.

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: $300 **BUDGETED:** Yes xx No ___

COST TO COUNTY: $300 **SOURCE OF FUNDS: Ad valorem**

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

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

DOCUMENTATION: Included ___ To Follow_____ Not Required_____

DISPOSITION:_____ **AGENDA ITEM #**_____