

**BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: March 19, 2008

Division: Growth Management

Bulk Item: Yes  No

Department: \_\_\_\_\_

Staff Contact Person: Susan Grimsley

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**AGENDA ITEM WORDING:**

A public hearing to adopt an ordinance by the Monroe County Board of County Commissioners amending the Land Development Regulations Section 9.5-45 concerning noticing provisions.

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**ITEM BACKGROUND:**

The Planning Department is proposing an amendment to the notice provisions of the code. Currently all notices for any public hearing on conditional uses, text amendments or any other required public hearings in Chapter 9.5 (Land Development Regulations) require a large ad in all three newspapers in the Keys. Text amendments and zoning map changes will still require a large ad. Other ads may be smaller, similar to those seen for the municipalities within the keys. Since some advertisements must be in a newspaper of paid general circulation in the County published 5 days per week, for consistency in noticing the public, the 5 day per week newspaper will be used. The BOCC by resolution may use other papers for smaller ads. At its meeting of March 4, 2008, the Planning Commission voted 2-2 to advance the ordinance to the BOCC. This should provide a savings of \$65,000 this year.

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**PREVIOUS RELEVANT BOCC ACTION:** N/A

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**CONTRACT/AGREEMENT CHANGES:** N/A

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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  **AMOUNT PER MONTH** \_\_\_\_\_ **Year** \_\_\_\_\_

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

**DOCUMENTATION:** Included  Not Required \_\_\_\_\_

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_

**MEMORANDUM**  
**MONROE COUNTY GROWTH MANAGEMENT DIVISION**

*We strive to be caring, professional and fair*

To: Board of County Commissioners

Through: Townsley Schwab, Acting Planning Director  
Andrew Trivette, Director of Growth Management

From: Susan Grimsley, Assistant County Attorney

Date: March 4, 2008

RE: Amendment to Notice Requirements Section 9.5-45



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Quarter page or larger ads have been used for all text changes, land use map changes and other public hearings for many years. They are published, along with other notices for specific projects that require public hearings, in all three Keys newspapers. By statute, the quarter page ads are really necessary only for text changes that amend a permitted, conditional or prohibited use, or where the County is requesting a land use district (zoning) map change. These ads must be in **one** newspaper published 5 days a week with paid general circulation. By local ordinance, the Planning Department currently is required to use three newspapers with quarter page ads for all notices.

Staff is proposing an amendment to the notice provisions of the Code that would allow the use of one newspaper for the large ads that are required in certain circumstances, as well as for other text amendments even though not required, in order to give adequate notice to the public. However, fiscal constraints are changing the ability to gratuitously provide more than the requisite notice. Over \$65,000.00 can be saved by eliminating the non-required ads in two newspapers and by using the one newspaper which has publications five days per week. At the January 25, 2008 BOCC Special meeting the Board removed the funding for continued advertising in two of the three local newspapers.

The proposed ordinance allows the Board of County Commissioners to direct staff by resolution to use reduced ads that simply give notice of the meeting in the other papers instead of eliminating them. In general, public hearings are required at most Planning Commission meetings and BOCC meetings for ordinances and will be adequately advertised. The use of smaller ads and the availability of the internet should still provide notice to the public of public hearings. In the future, if ordered by the BOCC, use of the three newspapers for full size advertisement may be reinstated. However, at this time, the County is expending a large sum of money for advertising that is not required.

The Planning Commission held a public hearing on March 4, 2008. The ordinance is being moved forward to the Monroe County Board of Commissioners by a vote of 2 - 2.

Staff recommends approval.

ORDINANCE \_\_\_\_\_ 2008

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTION 9.5 -45 OF THE MONROE COUNTY CODE CONCERNING PUBLIC NOTICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR FORWARDING TO THE SECRETARY OF STATE AND DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the requirements for notice of public meetings and public hearings on land use matters are set forth in the Florida Statutes; and

**WHEREAS**, Monroe County has for many years exceeded the statutory requirements by advertising in more than one newspaper in the County, by placing ads larger than required and giving more time for notice than required; and

**WHEREAS**, due to severe budgetary constraints, it is necessary to reduce the spending for advertising by the Growth Management Division; and

**WHEREAS**, calendars, schedules and agendas are available online along with all materials applicable to each item; and

**WHEREAS**, despite the fiscal issues, it is desirable for the Board of County Commissioners to retain flexibility in its advertising protocol in order to disseminate as much notice to the public as possible;

**WHEREAS**, the Planning Commission held a public hearing on March 4, 2008 and forwarded the ordinance to the BOCC with a 2-2 vote;

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

**Section 1.** Section 9.5-45 shall be amended as follows:

**Sec. 9.5-45. Notice.**

(a) *Content of Notice:* Every required notice shall include the date, time and place of the hearing, the address of the site where known, a description of the site of the proposed development to identify it for others to locate with reference to the closest mile marker, a summary of the proposal to be considered, and identification of the board, committee, or body conducting the hearing.

(b) Advertisements for amendments to the land use district map shall be captioned, "NOTICE OF CHANGE TO LAND USE ~~MAP REGULATIONS~~" in eighteen (18) point type and shall contain a geographic location map which clearly indicates the area covered by the proposal, shall include major street names as a means of identification of the area and shall state in a brief form the nature of the amendment to be considered by ordinance title.

( c) Advertisements for amendments to the text of the Land Development Regulations shall be captioned "NOTICE OF CHANGE TO LAND DEVELOPMENT REGULATIONS" in eighteen (18) point type and shall be advertised by ordinance title. The advertisements in this

subsection and subsection (b) above may be combined by title and content with other advertisements required by this section.

~~(b)~~ (d) Publication of Land Use District Map (Zoning) Changes or Text Amendments to Land Development Regulations : Notice of public hearings for Land Use District Map Changes or Land Development Regulations shall be given at least fifteen (15) days in advance of the hearing date by publication in the non-legal section of a local newspaper of greatest general paid circulation in the Lower, Middle, and Upper Keys of Monroe County. The newspaper shall be of general interest and readership in the community. ~~and whenever possible,~~ The advertisement shall appear in a newspaper that is published five (5) days a week. ~~unless the only newspaper in the community is published less than five (5) days a week.~~ The advertisements shall be no less than ~~one quarter page~~ two columns wide by 10 inches long in a standard size or tabloid size newspaper and the headline in the advertisements shall be in a type no smaller than eighteen (18) point. If directed by Resolution of the Board of County Commissioners, advertisements may be put in additional newspapers published less frequently than five days a week in the legal advertising or non-legal section prior to the hearing without the same specification as to size or timeframe, or as a NOTICE OF PUBLIC MEETING with the agenda available from the Planning Department.

(e) Publication for Other Required Notices : Notice of public hearings required by the land development regulations other than land use district map or text changes shall be published in a newspaper of paid general circulation at least 15 days prior to the public hearing in the non-legal section of the paper, and shall be captioned "Notice of Public Hearing". In addition to the usual information concerning location, date and time, the body of the advertisement shall describe the matter(s) on which the public may be heard. This advertisement may be combined with the advertisements listed above if the hearings are scheduled for the same meeting.

~~(d)~~ (f) Posting of Notice: At least fifteen (15) days prior to any public hearing, all applicants, excluding governmental agencies, shall post the property that is the subject of the hearing with a waterproof signs(s) provided by the Planning Department which are so located that the notices shall be easily visible from all public streets and public ways abutting the property. Failure to provide proper notice as per the Monroe County Code or other reason resulting in a delayed hearing shall result in the re-noticing and rehearing of the original proposal and which shall be at the expense of the applicant and which shall be an amount equal to double the appropriate application fee. The applicant shall remove the posted notice within ten (10) days after completion of the hearing.

~~(e)~~ (g) Mailing of Notice: Notice of a public hearing to consider a major conditional use shall be mailed by the county to all owners of real property located within three hundred (300) feet of the property proposed to be developed as a major conditional use, including any residents of the parcel proposed for development, at least fifteen (15) days prior to a public hearing. A list of such owners, as shown by the latest available records in the Monroe County Property Appraiser's Office, shall be provided by the applicant with an application for development approval.

~~(f)~~ (h) Other Notice: Notice of all public hearings shall be posted on the Monroe County Website as soon as is practical. Failure to post notice on the Monroe County Website shall not constitute grounds for the cancellation of any public hearing nor shall it constitute grounds for the cancellation of any action taken by a board at such a meeting.

~~(e)~~ (i) *Affidavit and Photograph of Notice*: An affidavit and photographic evidence shall be provided by the applicant at the public hearing that the applicant has complied with the notice required by this section.

**Section 2. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 3. Repeal of Conflicting Provisions.** The provisions of the Monroe County Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

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

**Section 5. Approval by the State Department of Community Affairs.** The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the Director of Planning or Growth Management for the County is authorized to forward a copy of this Ordinance to the State Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes and the Monroe County Clerk shall send it to the Secretary of State for the State of Florida, as required.

**Section 6. Effective Date.** This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Mayor Charles "Sonny" McCoy \_\_\_\_\_  
Mayor Pro Tem Mario DiGennaro \_\_\_\_\_  
Commissioner George Neugent \_\_\_\_\_  
Commissioner Sylvia J. Murphy \_\_\_\_\_  
Commissioner Dixie Spehar \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY \_\_\_\_\_  
Mayor Charles "Sonny" Mc Coy

(SEAL)  
ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
DEPUTY CLERK

